

REPORT ON THE LEGISLATIVE AND OVERSIGHT ACTIVITIES
OF THE
COMMITTEE ON WAYS AND MEANS
DURING THE
108TH CONGRESS

COMMITTEE ON WAYS AND MEANS
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LETTER OF TRANSMITTAL

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
Washington, DC, 20515
January 3, 2005

The Honorable Jeff Trandahl
Office of the Clerk
U.S. House of Representatives
H-154, The Capitol
Washington, D.C. 20515

Dear Mr. Trandahl:

I am herewith transmitting, pursuant to House Rule XI, clause 1(d), the report of the Committee on Ways and Means on its legislative and oversight activities during the 108th Congress.

Sincerely,

BILL THOMAS
Chairman

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FOREWORD

Clause 1(d) of Rule XI of the Rules of the House, regarding the rules of procedure for committees, contains a requirement that each committee prepare a report at the conclusion of each Congress summarizing its activities. The 104th Congress added subsections on legislative and oversight activities, including a summary comparison of oversight plans and eventual recommendations and actions. The full text of the Rule, as recodified in the 108th Congress, follows:

(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year a report on the activities of that committee under this rule and rule X during the Congress ending at noon on January 3 of such year.

(2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee under clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.

(4) After an adjournment sine die of the last regular session of a Congress, the chairman of a committee may file an activities report under subparagraph (1) with the Clerk at any time and without approval of the committee, provided that **B**

(A) a copy of the report has been available to each member of the committee for at least seven calendar days; and

(B) the report includes any supplemental, minority, or additional view submitted by a member of the committee.

The jurisdiction of the Committee on Ways and Means during the 108th Congress is provided in Rule X, clause 1(s), as follows:

(s) Committee on Ways and Means.

(1) Customs, collection districts, and ports of entry and delivery.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to the insular possessions.

(5) Bonded debt of the United States, subject to the last sentence of clause 4(f).

(6) Deposit of public monies.

(7) Transportation of dutiable goods.

(8) Tax exempt foundations and charitable trusts.

(9) National social security (except health care and facilities programs that are supported from general revenues as opposed to payroll deductions and except work incentive programs).

The general oversight responsibilities of committees are set forth in clause 2 of Rule X.

The 104th Congress also added the requirement in clause 2 of Rule X that each standing committee submit its oversight plans for each Congress. The text of the Rule, as recodified in the 108th Congress, in pertinent part, follows:

2. (a) The various standing committees shall have general oversight responsibilities as provided in paragraph (b) in order to assist the House in **B**

(1) its analysis, appraisal, and evaluation of **B**

(A) the application, administration, execution, and effectiveness of Federal laws; and

(B) conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation; and

(2) its formulation, consideration, and enactment of changes in Federal laws, and of such additional legislation as may be necessary or appropriate.

(b)(1) In order to determine whether laws and programs addressing subjects within the jurisdiction of a committee are being implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated, each standing committee (other than the Committee on Appropriations) shall review and study on a continuing basis **B**

(A) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction;

(B) the organization and operation of the Federal agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction;

(C) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction (whether or not a bill or resolution has been introduced with respect thereto); and

(D) future research and forecasting on subjects within its jurisdiction.

(2) Each committee to which subparagraph (1) applies having more than 20 members shall establish an oversight subcommittee, or require its subcommittees to conduct oversight in their respective jurisdictions, to assist in carrying out its responsibilities under this clause. The establishment of an oversight subcommittee does not limit the responsibility of a subcommittee with legislative jurisdiction in carrying out its oversight responsibilities.

(c) Each standing committee shall review and study on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.

(d)(1) Not later than February 15 of the first session of a Congress, each standing committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plans for that Congress. Such plan shall be submitted simultaneously to the Committee on Government Reform and to the Committee on House Administration. In developing its plan each committee shall, to the maximum extent feasible **B**

(A) consult with other committees that have jurisdiction over the same or related

laws, programs, or agencies within its jurisdiction with the objective of ensuring maximum coordination and cooperation among committees when conducting reviews of such laws, programs, or agencies and include in its plan an explanation of steps that have been or will be taken to ensure such coordination and cooperation;

(B) review specific problems with Federal rules, regulations, statutes, and court decisions that are ambiguous, arbitrary, or nonsensical, or that impose severe financial burdens on individuals;

(C) give priority consideration to including in its plan the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and

(D) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdiction are subject to review every 10 years.

To carry out its work during the 108th Congress, the Committee on Ways and Means had six standing Subcommittees, as follows:

Subcommittee on Trade;
Subcommittee on Oversight;
Subcommittee on Health;
Subcommittee on Social Security;
Subcommittee on Human Resources; and
Subcommittee on Select Revenue Measures.

The membership of the six Subcommittees of the Committee on Ways and Means in the 108th Congress is as follows:

SUBCOMMITTEE ON TRADE
PHILIP M. CRANE, Illinois, *Chairman*

E. CLAY SHAW, Jr., Florida
AMO HOUGHTON, New York
DAVE CAMP, Michigan
JIM RAMSTAD, Minnesota
JENNIFER DUNN, Washington
WALLY HERGER, California
PHIL ENGLISH, Pennsylvania
JIM NUSSLE, Iowa

SANDER M. LEVIN, Michigan
CHARLES B. RANGEL, New York
RICHARD E. NEAL, Massachusetts
WILLIAM J. JEFFERSON, Louisiana
XAVIER BECERRA, California
JOHN S. TANNER, Tennessee

SUBCOMMITTEE ON OVERSIGHT
AMO HOUGHTON, New York, *Chairman*

ROB PORTMAN, Ohio
JERRY WELLER, Illinois
SCOTT McINNIS, Colorado
MARK FOLEY, Florida
SAM JOHNSON, Texas
PAUL RYAN, Wisconsin
ERIC CANTOR, Virginia

EARL POMEROY, North Dakota
GERALD D. KLECZKA, Wisconsin
MICHAEL R. McNULTY, New York
JOHN S. TANNER, Tennessee
MAX SANDLIN, Texas

SUBCOMMITTEE ON HEALTH
NANCY L. JOHNSON, Connecticut, *Chairman*

JIM MCCRERY, Louisiana
PHILIP M. CRANE, Illinois
SAM JOHNSON, Texas
DAVE CAMP, Michigan
JIM RAMSTAD, Minnesota
PHIL ENGLISH, Pennsylvania
JENNIFER DUNN, Washington

FORTNEY PETE STARK, California
GERALD D. KLECZKA, Wisconsin
JOHN LEWIS, Georgia
JIM McDERMOTT, Washington
LLOYD DOGGETT, Texas

SUBCOMMITTEE ON SOCIAL SECURITY
E. CLAY SHAW, Jr., Florida, *Chairman*

SAM JOHNSON, Texas
MAC COLLINS, Georgia
J. D. HAYWORTH, Arizona
KENNY C. HULSHOF, Missouri
RON LEWIS, Georgia
KEVIN BRADY, Texas
PAUL RYAN, Wisconsin

ROBERT T. MATSUI, California
BENJAMIN L. CARDIN, Maryland
EARL POMEROY, North Dakota
XAVIER BECERRA, California
STEPHANIE TUBBS JONES, Ohio

SUBCOMMITTEE ON HUMAN RESOURCES
WALLY HERGER, California, *Chairman*

NANCY L. JOHNSON, Connecticut
SCOTT McINNIS, Colorado
JIM McCRERY, Louisiana
DAVE CAMP, Michigan
PHIL ENGLISH, Pennsylvania
RON LEWIS, Georgia
ERIC CANTOR, Virginia

BENJAMIN L. CARDIN, Maryland
FORTNEY PETE STARK, California
SANDER M. LEVIN, Michigan
JIM McDERMOTT, Washington
CHARLES B. RANGEL, New York

SUBCOMMITTEE ON SELECT REVENUE MEASURES

JIM McCRERY, Louisiana, *Chairman*

J. D. HAYWORTH, Arizona
JERRY WELLER, Illinois
RON LEWIS, Georgia
MARK FOLEY, Florida
KEVIN BRADY, Texas
PAUL RYAN, Wisconsin
MAC COLLINS, Georgia

MICHAEL R. McNULTY, New York
WILLIAM J. JEFFERSON, Louisiana
MAX SANDLIN, Texas
LLOYD DOGGETT, Texas
STEPHANIE TUBBS JONES, Ohio

The Committee on Ways and Means submits its report on its legislative and oversight activities for the 108th Congress pursuant to the above stated provisions of the Rules of the House. Section I of the report describes the Committee's legislative activities, divided into six sections as follows: Legislative Review of Tax, Trust Fund, and Pension Issues; Legislative Review of Trade Issues; Legislative Review of Health Issues; Legislative Review of Social Security Issues; Legislative Review of Human Resources Issues; and Legislative Review of Debt Issues.

Section II of the report describes the Committee's oversight activities. It includes a copy of the Committee's Oversight Agenda, adopted in open session on January 29, 2003, along with a description of actions taken and recommendations made with respect to the oversight plan.

The report then discusses additional Committee oversight activities, and any recommendations or actions taken as a result. Finally, the report includes four appendices with Committee information. Appendix I is an expanded discussion of the Jurisdiction of the Committee on Ways and Means along with a revised listing and explanation of blue slip resolutions and points of order under House Rule XXI 5(a). Appendix II is a brief Historical Note on the origins of the Committee; Appendix III is a Statistical Review of the Activities of the Committee on Ways and Means; and Appendix IV is a listing of the Chairmen and Membership of the Committee from the 1st - 108th Congresses.

REPORT ON THE LEGISLATIVE AND OVERSIGHT ACTIVITIES OF
THE COMMITTEE ON WAYS AND MEANS DURING THE
108th CONGRESS

Chairman Thomas, from the Committee on Ways and Means,
Submitted the following

REPORT

I. Legislative Activity Review

A. LEGISLATIVE REVIEW OF TAX, TRUST FUND, AND PENSION ISSUES

1. BILLS ENACTED INTO LAW DURING THE 108TH CONGRESS

a. *Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27)*

On February 4 and 5, 2003, the Committee held hearings to discuss the President's fiscal 2004 budget proposals, including the President's economic growth proposals. On February 27, 2003, Chairman Thomas introduced H.R. 2, the "Jobs and Growth Reconciliation Tax Act of 2003," which contained the President's economic growth proposals. On the same day, Senator Nickles introduced an identical bill, S. 2 in the Senate.

On March 4, 5, 6, and 11, 2003, the Ways and Means Committee held hearings to discuss H.R. 2 and the economic growth proposals contained in the President's Fiscal Year 2004 budget. The Committee ordered favorably reported H.R. 2, as amended, on May 6, 2003. The bill, as amended, passed the House on May 9, 2003, by a vote of 222-203, and passed the Senate with an amendment on May 15, 2003, by a vote of 51-49. The conference report on H.R. 2 passed the House by a vote of 231-200 vote, and it passed the Senate on May 23, 2003, by a vote of 51-50. The bill was signed into law by the President on May 28, 2003 (P.L. 108-27).

The President made the following economic: to accelerate the child credit increase to \$1,000, provide marriage penalty relief by accelerating the 15-percent individual income tax bracket expansion and standard deduction expansion for married persons filing joint returns to twice that of single persons filing individually, accelerate the 10-percent individual tax rate bracket expansion, accelerate the implementation of the 15-percent, 25-percent, 33-percent, and 35-percent regular tax rates, provide individual alternative minimum tax relief, increase the amount that small businesses can deduct under Internal Revenue Code (Code) section 179 from \$25,000 to \$75,000, and eliminate the double taxation of corporate earnings by eliminating the tax on certain dividends paid to individuals.

The House-passed bill contained temporary accelerations of the President's individual income tax proposals, increased the amount that small businesses can deduct under Code section 179 from \$25,000 to \$100,000 on a temporary basis, replaced the President's dividends proposal with a reduction of the individual dividend and capital gains tax rates to 15 percent (5 percent for

the lowest two individual income tax brackets), added an increase and extension of the 30-percent bonus depreciation to 50 percent, and added a provision to extend the carryback of net operation losses from 2 to 5 years.

The Senate-passed bill contained phased-in and temporary accelerations of the President's individual income tax proposals, the President's Code section 179 expensing proposal, a phased-in version of the President's dividend proposal that expired after three years, and over 80 miscellaneous provisions and revenue raisers.

The bill signed by the President largely adopted the House passed bill and is summarized as follows:

Title I of the Conference Agreement on H.R. 2 increases the amount of the child credit from \$600 to \$1,000 for 2003 and 2004. For 2003, the increased amount of the child credit (\$400) was delivered in rebate checks that were mailed to eligible taxpayers during the 2003 calendar year to the greatest extent possible. For 2003 and 2004, the bill provides marriage penalty relief by increasing the standard deduction for married taxpayers filing jointly to twice that of an individual filing a single return and by increasing the size of the 15-percent regular income tax bracket for married taxpayers filing joint returns to twice that of single taxpayers. The bill accelerates scheduled individual income tax rate reductions for 2003 and 2004 by expanding the 10-percent regular income tax bracket for individuals from \$6,000 to \$7,000 and for married persons from \$12,000 to \$14,000. The bill also accelerates, to 2003, the implementation of the reduced 15-percent, 25-percent, 33-percent and 35-percent regular tax rates. Finally, for 2003 and 2004, the bill increases the alternative minimum tax exemption amount for married taxpayers filing jointly to \$58,000, and for single taxpayers to \$40,250.

Title II of the bill provides growth incentives for businesses. The bill extends the additional 30-percent first year depreciation deduction provided by the "Job Creation and Workers Assistance Act of 2002" for one year, through December 31, 2004. The additional 30-percent first year depreciation was increased to 50 percent for property acquired after May 5, 2003, and before January 1, 2005. Additionally, for 2003, 2004, and 2005, the bill increases from \$25,000 to \$100,000 the maximum dollar amount that may be deducted under Code section 179. The bill also doubles the eligible capital expenditures amount from \$200,000 to \$400,000. Both the maximum deduction amount and the capital expenditure threshold are indexed for inflation.

Title III of the bill, for taxable years after 2002 and before 2009, reduces the 10-percent and 20-percent tax rates on capital gains to 5 and 15 percent, respectively. The 5-percent rate is reduced to zero in 2008. For taxable years after 2002 and before 2009, dividends received by individuals are taxed at the new capital gains rates of 5 (zero in 2008) and 15 percent. The lower capital gains and dividend tax rates apply to both regular tax and alternative minimum tax (AMT).

Title IV of the Act provides relief to the states by establishing a temporary fund to provide \$10 billion divided among the states to be used for essential government services, and \$10 billion for Medicaid.

Title V of the Act provides that 25 percent of the estimated corporate tax payments that were due on September 15, 2003, are not required to be paid before October 1, 2003.

b. *Surface Transportation Extension Act of 2003 (P.L. 108-88)*

Representative Don Young introduced H.R. 3087, the “Surface Transportation Extension Act of 2003,” on September 16, 2003. On September 24, 2003, the House passed the bill, as amended, under suspension of the rules. On September 26, 2003, the Senate passed H.R. 3087, without amendment, by unanimous consent. The President signed the bill into law on September 30, 2003 (P.L. 108-88).

The bill included an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century (TEA-21). Although it is a transportation bill, there are two tax-related provisions in the bill. The bill extends funding for projects to curb highway-use tax evasion until March 1, 2004. The bill also extends authorization of the use of the Highway Trust Fund, the Mass Transit Account (a separate account in the Highway Trust Fund), and the Aquatic Resources Trust Fund for obligations under TEA-21 before March 1, 2004.

c. *Military Family Tax Relief Act of 2003 (P.L. 108-121)*

Chairman Thomas introduced H.R. 878, the “Armed Forces Tax Fairness Act of 2003,” on February 25, 2003. The bill was favorably reported by the Committee, by voice vote on February 27, 2003. On March 18, 2003, Chairman Thomas introduced H.R. 1307, which included provisions similar to those found in H.R. 878. The bill passed the House under suspension of the rules on March 20, 2003. On April 8, 2003, Chairman Thomas introduced H.R. 1664, which included many provisions from H.R. 878 and H.R. 1307. H.R. 1664 passed the House under suspension of the rules by voice vote on April 9, 2003. Representative Renzi introduced H.R. 3365 on October 21, 2003. H.R. 3365 contained many of the provisions from H.R. 878 and H.R. 1664. H.R. 3365 was passed by the House under suspension of the rules by a vote of 413-0. The Senate passed the bill by unanimous consent on November 3, 2003. The President signed the bill into law on November 11, 2003 (P.L. 108-121).

H.R. 3365, the “Military Family Tax Relief Act of 2003,” provides tax benefits for military personnel and their families. Under present law, individual taxpayers may exclude up to \$250,000 (\$500,000 in the case of joint return filers) of the capital gain on the sale or exchange of a principal residence. The taxpayer must have owned and used the residence as a principal residence for at least two of the five years ending on the sale or exchange. The bill allows taxpayers in the uniformed services or the Foreign Service of the United States to expand the five-year ownership test period to ten years.

The bill increases the amount of certain death gratuity payments under Title 10 of the United States Code to \$12,000, and it provides for an exclusion from gross income for such death gratuity payments up to \$12,000. Another exemption from gross income is provided for amounts received from the Department of Defense Homeowners Assistance Program. The bill expands combat zone filing rules for contingency payments and modifies membership requirements for the

tax exemption of certain veterans' organizations. The bill clarifies that members of the uniformed services may exclude from gross income, as a qualified military benefit, dependent-care assistance provided under a dependent-care assistance program.

Under present law, the earnings portion of a distribution from an education savings account or a qualified tuition program that is includable in income is generally subject to an additional 10 percent tax. Under the bill, this additional tax does not apply to distributions made as a result of the attendance of the beneficiary at the United States Military Academy, the United States Naval Academy, the United States Coast Guard Academy, the United States Air Force Academy, or the United States Merchant Marine Academy.

H.R. 3365 suspends the tax-exempt status of an organization that is exempt under Code section 501(a) for any period in which the organization is designated or identified by U.S. Federal authorities as a terrorist organization or supporter of terrorism. The bill also allows a deduction from gross income for overnight travel expenses of National Guard and Military Reserve members. The bill extends income tax relief, the exclusion of death benefits and estate tax relief to astronauts who lose their lives on a space mission. Finally, the bill extends customs user fees through March 1, 2005.

d. *Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173)*

H.R. 1, the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" was signed by the President on December 8, 2003 (P.L. 108-173). The bill focused on the Medicare program. However Title XII of the bill did contain a few tax provisions to provide health savings incentives. (H.R. 1 is discussed in further detail below in Section C: Legislative Review of Health Issues.)

Title XII of H.R. 1 provides for the creation of Health Savings Accounts. Health Savings Accounts allow individual taxpayers to set up accounts, similar to individual retirement arrangements, from which medical expenses on behalf of the taxpayer and their spouse and dependents may be paid. The bill also adds special subsidy payments to the list of income sources that are excluded from income. Finally, the bill provides an exception to information reporting requirements for flexible spending arrangements and health reimbursement arrangements that are treated as employer-provided coverage.

e. *Vision 100—Century of Aviation Reauthorization Act (P.L. 108-176)*

Representative Don Young introduced H.R. 2115, the "Vision 100—Century of Aviation Reauthorization Act," on May 15, 2003. The bill passed the House by vote of 418–8 on June 11, 2003. The version passed by the House included an extension of expenditure authority from the Airport and Airway Trust Fund. The Senate passed H.R. 2115 with an amendment by a vote of 94–0. The conference report to accompany H.R. 2115 passed the House on October 30, 2003, by vote of 211–207, and it passed the Senate by unanimous consent on November 21, 2003. The President signed the bill into law on December 12, 2003 (P.L. 108-176).

Title IX of H.R. 2115 extended expenditure authority from the Airport and Airway Trust Fund from October 1, 2003, to October 1, 2007. With respect to the airline ticket tax, which is indexed for inflation, the bill clarifies that for amounts paid for transportation before the beginning of the year in which the transportation is to occur, the rate of tax is the rate in effect for the calendar year in which the amount is paid.

f. *Social Security Protection Act of 2003 (P.L. 108-203)*

H.R. 743, the “Social Security Protection Act of 2003,” was introduced by Representative Clay Shaw on February 12, 2003. A motion to suspend the rules and pass the bill failed on March 5, 2003. H.R. 743, as amended, was reported favorably out of the Committee on March 13, 2003. The bill passed the House on April 2, 2003, and it passed the Senate on December 9, 2003. The bill was signed into law by the President on March 2, 2004 (P.L. 108-203).

H.R. 743 clarifies that self-employment income of an individual shall be exempt from Federal Insurance Contribution Act (FICA) and Self-employment Contributions Act (SECA) to the extent that such self-employment income is subject exclusively to the laws applicable to the social security system of a foreign country in cases covered by an agreement with such country. The only other tax-related provisions of the bill make technical corrections to outdated references in the Code. This bill is described in greater detail in the Social Security section of this report.

g. *Surface Transportation Extension Act of 2004 (P.L. 108-202)*

Representative Don Young introduced H.R. 3850, the “Surface Transportation Extension Act of 2004,” on February 26, 2004. The same day, the House passed the bill without objection. The Senate passed H.R. 3850 without amendment by unanimous consent the next day. The President signed the bill into law on February 29, 2004 (P.L. 108-202).

The bill provides an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century (TEA-21). There are two tax-related provisions in the bill. The bill extends funding for expenditures to curb highway use tax evasion until May 1, 2004. The bill also extends authorization of the use of the Highway Trust Fund, the Mass Transit Account, and the Aquatic Resources Trust Fund for obligations under TEA-21 before May 1, 2004.

h. *Pension Funding Equity Act of 2004 (P.L. 108-218)*

Representative John Boehner introduced H.R. 3108, the “Pension Funding Equity Act of 2003,” on September 17, 2003. The bill included provisions similar to those contained in (1) H.R. 1776, which was approved by the Committee on July 18, 2003, and (2) H.R. 3521, which passed the House on November 20, 2003. H.R. 3108 passed the House on October 8, 2003. The conference report was agreed to by the House on April 2, 2004, and by the Senate on April 8, 2004. The bill was signed by the President on April 10, 2004 (P.L. 108-218).

The bill amends the Internal Revenue Code and the Employee Retirement Income Security Act of 1974 (ERISA) to temporarily replace the 30-year Treasury rate with a more

accurate interest rate based on conservatively invested long-term corporate bonds. The temporary replacement of the 30-year Treasury rate is put in place for two years to give Congress time to find a permanent replacement in the context of comprehensive funding reform.

Under prior law, employers were required to use the interest rate on 30-year Treasury securities to calculate their current liability for pension funding and deduction purposes and in determining variable premium payments to the Pension Benefit Guaranty Corporation (PBGC). The rate on these securities had fallen dramatically after they were discontinued in 2001. Use of the artificially low rates made pension plans appear underfunded, requiring companies to make inflated pension contributions and PBGC premium payments.

The bill also requires multi-employer plans to provide annual funding notices to participants, union representatives, and the PBGC informing them of the plan's financial status, the rules governing insolvent plans, and a description of the benefits guaranteed by the PBGC and the limits on such guarantees.

In addition, the bill provides funding relief for single- and multi-employer pension plans. The bill allows alternative deficit reduction contributions for airlines, steel companies, and a certain 501(c)(5) pension plan. It provides a 2-year extension of transitional funding rules for an interstate bus company. It allows certain multi-employer pension plans to defer for up to two years a portion (up to 80 percent) of certain charges that would otherwise be made to the funding standard account in order to amortize net operating losses for 2002.

In addition, H.R. 3108 permanently repealed Code section 809 relating to the taxation of mutual life insurance companies. It extended for five years the ability to transfer excess pension assets from a defined benefit pension plan to retiree health accounts. It modified the definition of insurance company for property and casualty insurance company rules. Finally, it modified the requirements for a property and casualty insurance company to be eligible for tax-exempt status under Code section 501(c)(15).

i. *Surface Transportation Extension Act of 2004, Part II (P.L. 108-224)*

On April 27, 2004, Representative Thomas Petri introduced H.R. 4219, the "Surface Transportation Extension Act of 2004, Part II." The next day, the House passed the bill on a motion to suspend the rules by a vote of 410-0. The Senate passed H.R. 4219, without amendment, by unanimous consent on April 29, 2004. The President signed the bill into law on April 30, 2004 (P.L. 108-224).

The bill provides an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act of the 21st Century (TEA-21). There are two tax related provisions in the bill. The bill extends funding for expenditures to curb highway use tax evasion until July 1, 2004. The bill also extends authorization of the use of the Highway Trust Fund, the Mass Transit Account, and the Aquatic Resources Trust Fund for obligations under TEA-21 before July 1, 2004.

j. *Surface Transportation Extension Act of 2004, Part III (P.L. 108-263)*

On June 22, 2004, Representative Don Young introduced H.R. 4635, the “Surface Transportation Extension Act of 2004, Part III.” The next day, the House passed the bill under suspension of the rules by a vote of 418-0, and the Senate passed it, without amendment, by unanimous consent. The President signed the bill into law on June 30, 2004 (P.L. 108-263).

The bill provides an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act of the 21st Century (TEA-21). There are two tax-related provisions in the bill. The bill extends funding for expenditures to curb highway use tax evasion until August 1, 2004. The bill also extends authorization of the use of the Highway Trust Fund, the Mass Transit Account, and the Aquatic Resources Trust Fund for obligations under TEA-21 before August 1, 2004.

k. *Surface Transportation Extension Act of 2004, Part IV (P.L. 108-280)*

On July 22, 2004, Representative Don Young introduced H.R. 4916, the “Surface Transportation Extension Act of 2004, Part IV.” The same day, the House passed the bill, without objection, and the Senate passed it, without amendment, by unanimous consent. The President signed the bill into law on July 30, 2004 (P.L. 108-280).

The bill provides an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act of the 21st Century (TEA-21). There are two tax-related provisions in the bill. The bill extends funding for expenditures to curb highway use tax evasion until October 1, 2004. Also, the bill extends authorization of the use of the Highway Trust Fund, the Mass Transit Account, and the Aquatic Resources Trust Fund for obligations under TEA-21 before October 1, 2004.

l. *Surface Transportation Extension Acts of 2004, Part V (P.L. 108-310)*

On September 29, 2004, Representative Don Young introduced H.R. 5183, the “Surface Transportation Extension Acts of 2004, Part V.” The next day, the House passed the bill by a vote of 409-8, and the Senate passed H.R. 5183, without amendment, by unanimous consent. The President signed the bill into law on September 30, 2004 (P.L. 108-310).

The bill provides an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act of the 21st Century (TEA-21). There are two tax-related provisions in the bill. The bill extends funding for expenditures to curb highway use tax evasion until June 1, 2005. The bill also extends authorization of the use of the Highway Trust Fund, the Mass Transit Account, and the Aquatic Resources Trust Fund for obligations under TEA-21 before June 1, 2005.

m. *Working Families Tax Relief Act of 2004 (P.L. 108-311)*

On March 18, 2003, Chairman Thomas introduced H.R. 1308, the “Working Families Tax Relief Act of 2004,” and the next day the bill passed the House by voice vote on a motion to suspend the rules. The Senate passed the bill, as amended, on June 5, 2003, by voice vote. In the House, 20 motions to instruct conferees were offered. One was passed, 18 failed, and 1 was vitiated when the conference report was filed. The conference report was passed by the House on September 23, 2004, by a vote of 339-65 and by the Senate by a vote of 92-3. The bill was signed into law by the President on October 4, 2004 (P.L. 108-311).

The conference agreement for H.R. 1308, the “Working Families Tax Relief Act of 2004,” included provisions similar to those contained in H.R. 4359, the “Child Credit Preservation and Expansions Act of 2004,” introduced by Representative Porter; H.R. 4275, a bill that would permanently extend the 10-percent individual income tax bracket introduced by Representative Sessions; and H.R. 4227, the “Middle-Class Alternative Minimum Tax Relief Act of 2004,” introduced by Representative Simmons. The House passed all of these bills in May 2004.

The conference agreement contained titles addressing the extension of family tax provisions, the uniform definition of a child, extensions of certain expiring provisions, and tax technical corrections.

The family tax provisions title of the bill increases the child credit to \$1,000 for taxable years 2005 through 2009. In doing so, H.R. 1308 ensures that the child credit stays at the \$1,000 level through 2010. The bill increases the basic standard deduction for married couples filing a joint return to an amount twice that for single filers effective for taxable years 2005 through 2008. As such, the standard deduction for married couples will remain twice that of single taxpayers through 2010. The bill increases the size of the 15-percent tax bracket for married couples filing a joint return to twice the size of the 15-percent bracket for single taxpayers for taxable years 2005 through 2007. As such, the 15-percent bracket for married couples will remain twice the size of that for single taxpayers through 2010. The bill also expands the size of the 10-percent bracket through tax year 2010. The child credit is refundable by an amount equal to a given percentage of earned income in excess of \$10,750 (as indexed). The child credit refundability percentage was 10 percent and was scheduled to increase to 15 percent in 2005. The bill accelerates this increase of the percentage to 15 percent for tax year 2004 instead of 2005. In addition, taxpayers may elect to include all of their combat pay, which is otherwise excluded from income and not subject to tax, in the calculation of earned income for purposes of the refundability portion of the child credit.

Title II of the conference version of H.R. 1308 contains a provision to establish a more uniform definition of a child that was included in the Senate-passed version of H.R. 1308. The provision addresses the various definitions of a child and other dependents for purposes of determining eligibility for the dependency exemption, the child credit, the earned income credit, the dependent care credit, and the head of household filing status. The separate criteria for determining eligibility included the relationship the child or dependent bears to the taxpayer, whether the child or dependent lives with the taxpayer, whether the child or dependent provides for their own support, and the age of the child. A child or dependent that qualified the taxpayer

to claim one benefit did not necessarily allow the same child or dependent to be claimed by the taxpayer for another benefit. H.R. 1308 mitigates this situation.

As a result of H.R. 1308, in general the taxpayer may claim a qualified child if the child satisfies four tests: (1) the child lives in the same residence with the taxpayer for at least one-half of the taxable year; (2) the child has a specified relationship with the taxpayer (e.g. son, daughter, grandchild, etc.); (3) the child does not provide over one-half of their own support; and (4) the child has not attained a certain age.

The age test still varies with each benefit. In general, a child must not have attained the age of 19 by the end of the taxable year (or 24 in the case of a full-time student). For purposes of the child credit, the child must not have attained the age of 17, and for the dependent care credit, the child must be under the age of 13. No age limit applies to children who are totally and permanently disabled (except in the case of the child credit). The support test does not apply in the case of the earned income credit. A legally adopted child or a child who has been legally placed with the taxpayer by an authorized placement agency for adoption by the taxpayer satisfies the relationship test.

Title II of H.R. 1308 specifies that a dependent may be a qualifying child as defined above, or a qualifying relative. In general, as long as a taxpayer provides over one-half of the support for the relative, and the relative does not have gross income in excess of the dependency exemption amount, the taxpayer may be eligible to claim the relative as a dependent. An individual may not be treated as a dependent of any taxpayer if such individual has filed a joint return with the individual's spouse for the taxable year. A dependent must be an individual who is a U.S. citizen or national, or a resident of the United States, Canada or Mexico. This rule does not apply to adopted children as long as the adopted child lives in the same residence with the taxpayer as a member of the taxpayer's household, and the taxpayer is a citizen or a national of the United States.

Title III of the bill extends many expired and expiring provisions. Similar extensions were included in H.R. 3521, which previously passed the House under suspension of the rules by voice vote, and in the House-passed version of H.R. 4520 (discussed below). H.R. 1308 generally extends the following provisions through December 31, 2005, without modification: the credit for increasing research activities; parity in the application of certain limits to mental health benefits; the work opportunity tax credit; the welfare-to-work credit; the credit to holders of qualified zone academy bonds; the cover over of the excise tax on distilled spirits to Puerto Rico and the Virgin Islands; the enhanced deduction for qualified computer donations; the exclusion of certain expenses of elementary and secondary school teachers from gross income; authority to issue New York Liberty Zone bonds (extended through December 31, 2009); tax incentives for investment in the District of Columbia; expensing of environmental remediation costs in connection with the abatement or control of hazardous substances at qualified sites; authority for any State to participate in a combined Federal and State employment tax reporting program; the allowance for nonrefundable personal credits to be applied against the alternative minimum tax; the credit for electricity produced from certain renewable resources; the suspension of the 100-percent net income limitation on percentage depletion in the case of oil and gas from marginal wells; the Indian employment credit; accelerated depreciation for business property on Indian reservations; the disclosure of return information related to carrying out income-contingent repayment of

student loans; the credit for qualified electric vehicles; the deduction for qualified clean-fuel vehicle property; disclosure authority relating to terrorist activities; the availability of Archer medical savings accounts; and the joint review of the strategic plans and budget for the IRS.

Finally, Title IV of H.R. 1308 contained a number of technical corrections to prior tax legislation.

n. *Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005*
(P.L. 108-375)

Representative Hunter introduced H.R. 4200, the “Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005,” on April 22, 2004, to authorize appropriations for military activities, military construction, defense activities, and for other purposes. The Committee on Armed Services favorably reported an amended version of the bill on May 13, 2004. H.R. 4200 passed the House on May 20, 2004. The Senate passed its defense authorization bill, S. 2400, on June 23, 2004, and the conference agreement was passed on October 9, 2004. H.R. 4200 was signed by the President on October 28, 2004 (P.L. 108-375).

The bill, as passed by the House, contained a provision granting the Department of Defense authority to accept donations of frequent flier miles to facilitate rest and recuperation travel of deployed members and their families. The Senate included a similar provision in S. 2400. This provision, creating the “Operation Hero Miles” program, would clarify that any such donation would not be treated as income to the recipient, and would not be treated as a deductible contribution by the donor. The conference version of H.R. 4200 included an amended version of “Operation Hero Miles.” In this final version, the bill did clarify that any such donation would not be included in the gross income of the recipient, but the bill remained silent on the deductibility of the donation for the donee.

o. *American Jobs Creation Act of 2004* (P.L. 108-357)

On October 22, 2004, the President signed the “American Jobs Creation Act of 2004” into law (P.L. 108-357). The law removes up to \$4 billion of annual trade sanctions against U.S. exports to the European Union, reduces taxes on U.S. manufacturing income, modernizes and makes competitive the U.S. taxation of global income, provides various tax reductions for small businesses and other job creators, provides a Federal tax deduction for State and local sales taxes, repeals the tobacco quota program, and shuts down individual and corporate tax abuses. The history of the legislation is summarized below.

I. Hearings (107th Congress.)

On February 27, 2002, the Ways and Means Committee held a hearing to examine the January 14, 2002, decision of the World Trade Organization (WTO) that the Extraterritorial Income (ETI) regime is a prohibited export subsidy. Subsequently, the Subcommittee on Select Revenue Measures held hearings on April 10, May 9, and June 13, 2002, to examine possible legislative solutions to bring the tax code into compliance with the WTO’s decision. The Subcommittee examined: (1) whether adjustments could be made to the existing ETI regime to bring it into compliance, (2) whether fundamental reform of the current corporate tax system is a

viable alternative to the ETI regime, and (3) proposals to modify the tax code to promote the competitiveness of U.S. companies while meeting international obligations under the WTO.

II. The American Competitiveness and Corporate Accountability Act of 2002 (H.R. 5095, 107th Congress.)

On July 11, 2002, Chairman Thomas introduced H.R. 5095, the “American Competitiveness and Corporate Accountability Act of 2002.” The bill would have repealed the ETI regime and prevented the imposition of sanctions against U.S. exports to the European Union, improved and simplified the U.S. international tax system, increased the competitiveness of U.S. companies, and shut down individual and corporate tax abuses.

III. The American Jobs Creation Act of 2003 (H.R. 2896).

On July 25, 2003, Chairman Thomas introduced H.R. 2896, the “American Jobs Creation Act of 2003.” On October 28, 2003, the bill, as amended, was ordered favorably reported by the Committee by a vote of 24-15. The bill, as amended, would have repealed the extraterritorial income tax regime and would have provided manufacturing and international tax relief to ensure the competitiveness of U.S. businesses and their workers.

In particular, the bill, as amended, would have reduced the corporate tax rate on U.S. manufacturing and production income from 35 percent to 32 percent, cut to 32 percent the top corporate tax rate for all corporations with less than \$20 million of annual taxable income, extended the Code section 179 small business expensing relief contained in the “Jobs and Growth Tax Relief Reconciliation Act of 2003” (P.L. 108-27) for an additional two years, reduced the depreciable lives of leasehold and restaurant improvements from 39 years to 15 years, provided significant corporate alternative minimum tax (AMT) relief, including removing the provision that limits the use of net operating losses and foreign tax credits against AMT and increasing the size of small businesses exempt from corporate AMT from \$7.5 million to \$20 million of gross receipts, and reformed and simplified the tax treatment of subchapter S corporations.

The bill also would have simplified and made competitive the U.S. international tax rules that currently place U.S. companies and their workers at a substantial competitive disadvantage when attempting to compete in global markets. In particular, the bill would have reformed the interest allocation rules, reduced the number of foreign tax credit baskets from nine to two, reformed the overall domestic loss rules, treated the European Union as one country for purposes of the foreign base company sales and services rules, provided look-through treatment for payments between controlled foreign corporations, repealed the anti-deferral foreign shipping income rules, and reformed and simplified various other uncompetitive international tax provisions.

Finally, the bill would have adopted the President’s tax shelter proposals that require increased disclosure of potentially abusive transactions and imposed increased penalties for those that enter into abusive transactions, tightened the individual and corporate expatriation rules (including tightening the rules that provide an advantage to foreign companies operating in the United States through the excessive use of deductible debt payments to their foreign parents),

protected employee benefits by tightening the deferred compensation rules, shut down various tax avoidance schemes, and extended customs user fees.

IV. The American Jobs Creation Act of 2004 (H.R. 4520).

On June 4, 2004, Chairman Thomas introduced H.R. 4520, the “American Jobs Creation Act of 2004.” On June 14, 2004, the bill, as amended, was ordered favorably reported by the Committee by a vote of 27-9. The bill passed the House on June 17, 2004, by a vote of 251-178. The Senate passed the bill, as amended, by voice vote on July 15, 2004. The conference report passed the House on October 7, 2004, by a vote of 280-141 and passed the Senate on October 11, 2004, by a vote of 69-17. The bill was signed into law by the President on October 22, 2004 (P.L. 108-357).

a. The House bill.

The House bill contained seven titles which are summarized below:

Title I. *Repeal ETI and cut corporate tax rates on domestic manufacturing and small businesses.*

This section: (1) repealed ETI with a two year phase-out ending on December 31, 2006, and grandfathered binding contracts entered into prior to and in existence on January 14, 2002; (2) reduced the top corporate tax rate from 35 percent to 32 percent on broadly-defined U.S. manufacturing activity that includes property manufactured, produced, grown, or extracted in the United States, software, architectural and engineering services, movie production, and construction; and (3) reduced the top corporate rate on all businesses with less than \$20 million of taxable income to 32 percent.

Title II. *Other incentives for manufacturers, small businesses and farmers.*

This section: (1) extended for two years (through 2007) the enhanced Code section 179 expensing so that small businesses can immediately expense up to \$100,000 (indexed for inflation) of new capital investments; (2) reduced the depreciable lives of restaurant and leasehold improvements from 39 years to 15 years; (3) provided 11 reforms and simplifications to the taxation of S corporations; (4) reduced the negative impact of the corporate AMT by repealing the 90-percent limitation on the use of foreign tax credits against AMT, removing more small-sized and medium-sized business from the corporate AMT by increasing the AMT exemption from \$7.5 million of gross receipts to \$20 million of gross receipts, and providing that farmers that use the income-averaging method are not improperly subject to the AMT; (5) clarified that incentive stock options and employee stock purchase plans are excluded from wages; (6) provided that companies can, for a one-year period, bring back to the United States foreign earnings at a reduced 5.25-percent tax rate; and (7) included 16 additional provisions to cut tax liabilities and provide incentives to small businesses.

Title III. *Tax reform and simplification for U.S. businesses.*

This section included 16 provisions to simplify and make competitive the tax rules that apply to U.S. businesses operating in global markets. In particular, the bill reformed the interest allocation rules, reduced the number of foreign tax credit baskets from nine to two, reformed the overall domestic loss rules, provided look-through treatment for payments between controlled foreign corporations, repealed the anti-deferral foreign shipping income rules, and reformed and simplified various other uncompetitive international tax provisions.

Title IV. *Extension of expiring provisions.*

This section extends, generally, 22 expired tax provisions including, the research and development tax credit, the work opportunity and welfare-to-work tax credits, and the allowance of nonrefundable personal credits against the regular and alternative minimum tax liability.

Title V. *Deduction for State and local sales taxes.*

This section contains a temporary two-year provision that allows taxpayers an election to deduct State and local sales taxes against their Federal income tax instead of taking a deduction for State and local income taxes.

Title VI. *Revenue provisions.*

This section contains numerous revenue raising provisions that crack down on individual and corporate tax abuses or, otherwise, raise revenue. Some of the major provisions include: (1) provisions to stop corporate and individual expatriation; (2) provisions to stop individual and corporate tax shelters by requiring increased disclosure of certain transactions and by increasing penalties for entering into or not reporting certain potentially abusive transactions; (3) provisions to shut down tax abuses outlined in the Joint Committee on Taxation Report of Investigation of Enron Corporation and Related Entities Regarding Federal Tax and Compensation Issues, and Policy Recommendations; (4) provisions to shut down abusive leasing transactions involving tax-exempt entities; (5) provisions to cut down on fuel tax evasion; (6) provisions to clarify the tax treatment of non-qualified deferred compensation plans; and (7) various other provisions, including the extension of IRS and Customs user fees, provisions to shut down charitable contribution abuses, and a provision to allow for the private collection of Federal tax debts.

VII. *Market reform for tobacco growers.*

This section would terminate the tobacco quota program and provide a buyout for active tobacco producers and quota holders.

VIII. *Trade provisions.*

This section temporarily would suspend the duty on ceiling fans and nuclear steam generators.

b. Conference Report for the American Jobs Creation Act of 2004 (H.R. 4520).

As outlined below, the Conference Report produced a revenue neutral bill that largely adopted the House bill with some modifications.

Title I. *Repeal ETI and cut corporate tax rates on domestic manufacturing.*

The Conference report: (1) adopts the House provision that repeals ETI with a two year phase-out ending on December 31, 2006, and grandfathers binding contracts entered into prior to and in existence on September 18, 2003, and (2) adopts the House's broad definition of U.S. manufacturing and adopts the Senate's structure of delivering roughly a three-percent tax rate cut through the mechanism of a phased-in nine-percent deduction on manufacturing income that applies to C corporations, S corporations, cooperatives, sole proprietorships, partnerships, estates and trusts, and limited liability companies. The Senate provision that limits the deduction to no more than 50 percent of W-2 wages also was adopted. Finally, a provision was adopted to ensure that businesses received the full benefit of the manufacturing deduction by providing that the manufacturing deduction was not recaptured by the AMT.

Title II. *Other incentives for manufacturers, small businesses and farmers.*

The Conference report adopts most of the House incentive provisions, such as, (1) extending for two years (through 2007) the enhanced Code section 179 expensing so that small business can immediately expense up to \$100,000 (indexed for inflation) of new capital investments; (2) reducing the depreciable period for restaurant and leasehold improvements from 39 years to 15 years for property placed in service after October 22, 2004, and before January 1, 2006; (3) including ten provisions that simplify the tax treatment of S corporations and make it easier for businesses to qualify as S corporations; (4) reducing the negative impact of the AMT by repealing the 90 percent limitation on the use of foreign tax credits against AMT and providing that farmers and fisherman that use the income-averaging method are not improperly subject to the AMT; (5) clarifying that incentive stock options and employee stock purchase plans are excluded from wages; and (6) adopting a slightly modified version of the House repatriation provision that permits companies, for a one-year period, to bring back to the United States foreign earnings at a reduced 5.25-percent tax rate.

The Conference Report also includes numerous additional provisions contained in the House and/or Senate bills to cut taxes and provide incentives to small businesses, energy producers, and agriculture. Some of the provisions include: phasing out the 4.3-cent fuel excise tax on railroads and barges; reforming the movie income forecast accounting method for films and allowing taxpayers to immediately deduct up to \$15 million of costs incurred for domestic film and television production (up to \$20 million if the expenses are incurred in certain distressed areas); providing a 50-percent tax credit for railroad track maintenance (through 2007); suspending (through 2008) the special occupational tax; allowing taxpayers to pay tax on their international shipping income on a tonnage basis; extending ethanol subsidies (the Volumetric Ethanol Excise Tax Credit (VEETC)) through 2010; creating new biodiesel tax subsidies through 2006; increasing the reinvestment period for livestock sold as a result of drought from two years to four years; providing capital gains treatment on the outright sale of timber by a landowner; allowing distributions from publicly-traded partnerships to be treated as qualified

income for mutual funds; providing a tax credit of up to \$3 per barrel to maintain marginal well oil production when prices are low; increasing the number of small manufacturers eligible for Industrial Development Bond financing; changing the tax treatment of arrows to ensure that overseas arrow manufacturers cannot evade the arrow excise tax; reducing the excise tax on tackle boxes from 10 percent to 3 percent; allowing a tax deduction (up to \$10,000) for expenses related to Native American subsistence whaling; permitting small business refiners to expense up to 75 percent of the costs paid to comply with the Environmental Protection Agency's sulfur regulations; modifying the tax treatment of naval shipbuilding contracts; authorizing the issuance of \$2 billion of tax-exempt facility bonds to finance the construction of certain green buildings and sustainable design projects; expanding the Code section 45 electricity production credit to include open-loop biomass, geothermal and solar energy, small irrigation power, landfill gas, trash combustion, and refined coal production; allowing a deduction for attorney's fees and court costs incurred in connection with an unlawful discrimination claim; providing seven-year depreciation for racetrack facilities, suspending Code section 815 for two years; allowing seven-year depreciation for certain Alaskan natural gas pipelines and extending the enhanced oil recovery credit to Alaskan gas treatment plants; modifying the minimum cost requirements for transfers of excess pension assets to retiree health accounts; and including primary and secondary medical strategies for individuals with sickle cell disease as medical assistance under Medicaid.

Title III. Tax reform and simplification for U.S. businesses.

The Conference Report adopts 13 of the 14 identical international tax reform and competitiveness provisions contained in both the House and Senate bills, including reforming the interest allocation rules, reforming the overall domestic loss rules, and providing look-through treatment for the sale of partnership interests. The Conference Report does not adopt the provision contained in both the House and Senate bills that would have provided look-through treatment for payments between related controlled foreign corporations.

The Conference Report adopts the House provisions to reduce the number of foreign tax credit baskets from nine to two and the provision to repeal the subpart F shipping rules. The Conference Report adopts the Senate provisions to modify the treatment of certain real estate investment trust (REIT) distributions attributable to gain from sales of exchanges of U.S. real property interests, exclude from gross income of nonresident aliens winnings from wagers on certain horse and dog races, and reduce the U.S. withholding tax on Puerto Rican corporations. The Conference Report also adopts a slightly modified Senate provision to increase the foreign tax credit carryforward from 5 to 10 years and reduce the foreign tax credit carryback from 2 years to 1 year.

Title IV. Extension of expiring provisions.

The Conference Report did not include the extension of expiring provisions as the expiring provisions were extended in the Working Families Tax Relief Act of 2004 (P.L. 108-311).

Title V. *Deduction for State and local sales taxes.*

The Conference Report adopts the House provision to allow taxpayers to elect to deduct State and local sales taxes in lieu of State income taxes for 2004 and 2005.

Title VI. *Revenue provisions.*

The Conference Report adopts the House revenue raiser provisions including, (1) provisions to stop corporate and individual expatriation; (2) provisions to stop individual and corporate tax shelters by requiring increased disclosure of certain transactions and by increasing penalties for entering into or not reporting certain potentially abusive transactions; (3) provisions to shut down tax abuses outlined in the Joint Committee on Taxation Report on Investigation of Enron Corporation and Related Entities Regarding Federal Tax and Compensation Issues, and Policy Recommendations; (4) provisions to shut down abusive leasing transactions involving tax-exempt entities; (5) provisions to cut down on fuel tax evasion; (6) provisions to shut down abusive non-qualified deferred compensation plans; and (7) various other provisions including, extension of IRS and Customs user fees, provisions to shut down charitable contribution abuses, and a provision to allow for the private collection of Federal tax debts.

The Conference Report also included several additional revenue-raising provisions from the Senate bill including: (1) conforming the class lives for utility grading costs; (2) modifications to recognize cancellation-of-indebtedness income realized on the satisfaction of debt with a partnership interest; (3) recapture of overall foreign losses on sale of a controlled foreign corporation; and (4) modified provisions to stop tax abuses in the U.S. possessions, limit employer deductions for certain entertainment expenses, and limit deductions on leases of tax-exempt property with a fixed price purchase option.

The Conference Report does not contain: (1) a provision to codify the economic substance doctrine; (2) retroactive application of the tax-exempt leasing and corporate inversion provisions; and (3) provisions to modify the deductibility of fines and penalties.

VII. *Market reform for tobacco growers.*

The Conference Report repeals the government-run tobacco quota program. The program is not replaced with any kind of price support program or production licensing system. Tobacco farmers and quota holders will receive transitional assistance payments over 10 years. The payments are fully financed with a quarterly assessment on tobacco importers and manufacturers of tobacco products. The cost of the program is capped at \$10.14 billion.

VIII. *Trade provisions.*

The Conference Report contains the House provisions to temporarily suspend the duty on ceiling fans and nuclear steam generators.

p. *Miscellaneous Trade and Technical Corrections Act (P.L. 108-429)*

Representative Philip Crane introduced H.R. 1047, the “Miscellaneous Trade and Technical Corrections Act of 2003,” on March 4, 2003. The bill passed the House under suspension of the rules on March 5, 2003. The conference report for the bill passed the House on October 8, 2004, and passed by the Senate on November 19, 2004. The President signed the bill on December 3, 2004 (P.L. 108-429).

The bill includes tax technical corrections relating to (1) safeguarding taxpayer return information when such information is released to any agency, office, body, commission or person, and (2) the tax treatment of cellar wines.

q. *YMCA Retirement Fund (P.L. 108-476)*

On November 16, 2004, Representative English introduced H.R. 5365, to treat certain arrangements maintained by the Young Men’s Christian Association (YMCA) Retirement Fund as church plans. The bill passed the House, by voice vote, under suspension of the rules on November 19, 2004. The Senate passed H.R. 5365 by unanimous consent on December 7, 2004. The bill was signed into law by the President on December 21, 2004 (P.L. 108-476).

The YMCA Retirement Fund has operated as a church plan throughout its 80 year history. This type of plan must meet certain rules under the Internal Revenue Code to retain its tax-qualified status. H.R. 5364 would ensure that the retirement plans maintained by the YMCA Retirement Fund would continue to be treated as church plans.

r. *Modification to the Taxation of Arrow Components (P.L. 108-493)*

On November 19, 2004, Representative Paul Ryan introduced H.R. 5394, a bill to amend the Internal Revenue Code of 1986 to modify the taxation of arrow components. The House passed the bill, by voice vote, on December 6, 2004, and the Senate passed the bill by unanimous consent on December 8, 2004. The bill was signed into law by the President on December 23, 2004 (P.L. 108-493)

The reforms contained in H.R. 3652 that were enacted as part of H.R. 4520 would have an unintended consequence on many small archery retailers, forcing these small businesses to engage in a great deal of record keeping in order to collect a relatively small amount of tax. In order to lift the burden from these small businesses while preventing domestic arrow companies from being uncompetitive, H.R. 5394 would further amend the law to place the tax on finished arrows and shafts rather than other components. H.R. 5394 would impose a flat tax of 39 cents on the sale by the manufacturer, producer, or importer of any arrow shaft, whether sold separately or as part of an assembled arrow.

2. TAX RELIEF PROPOSALS

a. *Armed Forces Tax Fairness Act of 2003*

H.R. 878, the “Armed Forces Tax Fairness Act of 2003,” was introduced by Chairman Thomas on February 25, 2003. The bill would provide tax relief to families of the armed forces, including the exclusion of gain from the sale of a principal residence and would restore the tax-exempt status of death gratuity payments to members of the uniformed services, and for other purposes. The bill, as amended, was favorably reported by the Committee on February 27, 2003. No further action was taken in the House. Related provisions were included in H.R. 1307, H.R. 1664. Related provisions were also included in H.R. 1308 as introduced; however, these were removed in conference (as discussed above).

On March 18, 2003, Chairman Thomas introduced H.R. 1307, the Armed Forces Tax Fairness Act of 2003. This bill was substantially the same as H.R. 878, except for provisions allowing an above-the-line deduction for National Guard and military reserve members for certain travel expenses and the inclusion of tax relief for astronauts who lose their lives on space missions. H.R. 1307 was passed by the House on March 20, 2003, under suspension of the rules by a vote of 422-0. It passed the Senate, as amended, on March 27, 2003, but no further action was taken.

H.R. 1664, the “Armed Forces Tax Fairness Act of 2003,” was introduced by Chairman Thomas on April 8, 2003. It was similar to H.R. 1307. It passed the House under suspension of the rules, by voice vote, on April 9, 2004. It was referred to the Senate Committee on Finance where no further action was taken.

b. *Guardsmen and Reservists Financial Relief Act of 2003*

Representative Beauprez introduced H.R. 1779, the “Guardsmen and Reservists Financial Relief Act of 2003,” on April 11, 2003. On April 21, 2004, the bill passed the House under suspension of the rules by vote of a 415-0. On October 11, 2004, the bill was discharged from the Senate Finance Committee by unanimous consent and was passed by the Senate, as amended, by unanimous consent. No further action was taken on the bill.

As passed by the House, the bill would allow for penalty-free withdrawals from retirement plans of individuals called to active duty before September 12, 2005.

c. *Charitable Giving and Tax-Exempt Organizations*

On May 7, 2003, Representative Blunt introduced H.R. 7, the “Charitable Giving Act of 2003,” which would provide charitable giving incentives and address issues relating to tax-exempt organizations. The Committee ordered favorably reported, as amended, by voice vote on September 9, 2003. The House passed the bill on September 17, 2003, by a vote of 408-3. On February 27, 2003, Senator Charles Grassley introduced and reported S. 476, the “CARE Act of 2003,” to the Senate. S. 476 also addressed charitable giving and tax-exempt organizations. On April 9, 2003, this bill passed the Senate by a vote of 95-5. H.R. 7 and S. 476 were not considered by a conference committee.

In summary, H.R. 7 as introduced would provide larger allowances for the deductibility of charitable donations for individuals and corporations. Title I would allow taxpayers that do not itemize their deductions to deduct charitable contributions exceeding \$250 (\$500 in the case of a joint return) but not exceeding \$500 (\$1,000 in the case of a joint return). It would permit tax-free distributions from individual retirement plans for charitable purposes. Corporations would benefit from a phase-in of an increase in the percentage limitation on corporate charitable deductions, from 10 to 20 percent by 2012, of the taxpayer's taxable income. The bill would extend to any taxpayer engaged in a trade or business, whether or not a C corporation, the ability to claim an enhanced deduction for donations of food inventory. For private foundations, the bill would reduce from 2 to 1 percent the maximum excise tax on their net investment income thus replacing two present law excise tax rates with one rate.

Under present law, private non-operating foundations are required to pay out a minimum amount each year as qualifying distributions. A qualifying distribution is an amount paid to accomplish one or more of the organization's exempt purposes, including administrative expenses. The introduced bill would have disqualified administration expenses as a qualifying distribution for an exempt purpose. It also would increase the self-dealing excise tax on such foundations from 5 to 25 percent and modify provisions concerning the excise tax for the failure of such foundations to distribute income.

The introduced bill would revise rules concerning unrelated business taxable income of charitable remainder trusts and impose an excise tax equal to the amount of any unrelated business taxable income. The excise tax would be in lieu of removing the income tax exemption of a charitable remainder trust for any taxable year in which the trust has any unrelated business taxable income.

Title I of H.R. 7 as introduced would also modify the self-constructed property rule that applies to certain charitable contributions of scientific property used for research. The bill would allow the reduction of a shareholder's basis in the stock of an S corporation as a result of the donation of such stock to charity to equal the shareholder's pro rata share of the basis of the contributed property.

Title II of the introduced bill addresses tax reform and improvements relating to charitable organizations and programs. The bill would suspend the tax-exempt status of an organization that is exempt from tax for any period during which the organization is designated or identified by U.S. Federal authorities as a terrorist organization or supporter of terrorism. The bill would clarify the definition of church tax inquiry and extend declaratory judgment procedures to tax-exempt organizations not defined in Code section 501(c)(3). It would exclude from income certain landowner incentive program payments and simplify the lobbying expenditure limitation. The bill would modify rules concerning interest, rent, annuity, or royalty payments made by a controlled entity to a tax-exempt organization such that any payment made in excess of an arm's-length standard must be recognized as unrelated business income by the controlling organization. The bill also would simplify the lobbying expenditure limitation by eliminating the separate limitation for grass-roots lobbying expenditures. Electing charities remain subject to the overall limitation on lobbying expenditures, which does not change, but electing charities are not required to limit grass-roots expenditures as a percentage of overall lobbying.

Under present law, a private foundation (and its related private foundations) is not treated as having excess business holdings if it owns no more than 2 percent of the voting stock and no more than 2 percent of the value of all outstanding shares of all classes of stock in that corporation. The introduced bill would permit holdings of up to 5 percent of the vote or value of a corporation's outstanding stock where the corporation is publicly traded and publicly controlled.

Title III of the introduced bill would create a fund to support and replicate promising social service programs as part of the Social Security Act. The bill would also extend the Individual Development Account program through Fiscal Year 2008, and it would add maternity group homes to the list of shelters eligible for Transitional Living Project grants.

H.R. 7, as passed by the House, included most provisions from the introduced version of the bill. Two provisions from the introduced bill that were not included in the House-passed bill were the removal of administration expenses from the list of qualifying distributions to accomplish a foundation's exempt purpose and the proposed change in the permitted holdings of private foundations where the corporation is publicly traded and publicly controlled.

The House-passed version would also provide larger allowances for the deductibility of charitable donations for individuals and corporations. Title I would allow taxpayers that do not itemize their deductions to deduct charitable contributions exceeding \$250 (\$500 in the case of a joint return) but not exceeding \$500 (\$1,000 in the case of a joint return). It would permit tax-free distributions from individual retirement plans for qualified charitable distributions. Corporations would benefit from a phase-in of an increase in the percentage limitation on corporate charitable deductions, from 10 to 20 percent, of the taxpayer's taxable income. The bill would extend to any taxpayer engaged in a trade or business, whether or not a C corporation, the ability to claim an enhanced deduction for donations of food inventory. For private foundations, the bill would reduce from 2 to 1 percent the maximum excise tax on their net investment income while replacing two present law excise tax rates with one rate. It also would increase the self-dealing excise tax on such foundations from 5 to 25 percent and modify provisions concerning the excise tax for the failure of such foundations to distribute income.

The bill would revise rules concerning unrelated business taxable income of charitable remainder trusts and impose an excise tax equal to the amount of any unrelated business taxable income. The excise tax would be in lieu of removing the income tax exemption of a charitable remainder trust for any taxable year in which the trust has any unrelated business taxable income.

H.R. 7 would modify the self-constructed property rule that applies to certain charitable contributions of scientific property used for research. The bill would allow the reduction of a shareholder's basis in the stock of an S corporation as a result of the donation of such stock to charity to equal the shareholder's pro rata share of the basis of the contributed property.

The bill, as passed by the House, would permit charitable organizations to make collegiate housing and infrastructure grants and exempt from unrelated business income tax the income of a charitable organization certain games of chance, as long as the net proceeds are used for the organization's charitable purpose. The bill would also exempt qualified blood collection organizations from paying certain excise taxes. The bill also would extend from 4 years to 11 years the nonrecognition replacement period for the gain on sales of property by social clubs organized under Code section 501(c)(7). The bill also would grant a limited exception for certain

bonds from Federal guarantee prohibitions if the proceeds are used are used to finance continuing care facilities.

Title II of the bill addresses tax reform and improvements relating to tax-exempt organizations and programs. The bill would suspend the tax-exempt status of an organization that is exempt from tax for any period during which the organization is designated or identified by U.S. Federal authorities as a terrorist organization or supporter of terrorism. The bill would clarify the definition of church tax inquiry and extend declaratory judgment procedures to tax-exempt organizations not defined in Code section 501(c)(3). It would exclude from income certain landowner incentive program payments and simplify the lobbying expenditure limitation. The bill would modify rules concerning interest, rent, annuity, or royalty payments made by a controlled entity to a tax-exempt organization such that any payment made in excess of an arm's-length standard must be recognized as unrelated business income by the controlling organization. The bill would also simplify the lobbying expenditure limitation by eliminating the separate limitation for grass-roots lobbying expenditures. Electing charities remain subject to the overall limitation on lobbying expenditures, which does not change, but electing charities are not required to limit grass-roots expenditures as a percentage of overall lobbying. The bill would also expand private activities eligible for financing with tax-exempt private activity bonds to include qualified forest conservation bonds that are an obligation of the state of Washington or any political subdivision thereof. Income derived from the harvesting of timber on land purchased with such bonds by a qualified organization would be exempt from Federal tax.

Title III of the bill would create a fund to support and replicate promising social service programs as part of the Social Security Act. The bill would also extend the Individual Development Account program through Fiscal Year 2008 and it would add maternity group homes to the list of shelters eligible for Transitional Living Project grants. Finally, it maintains the 10-percent limit for transfers from the Social Services block grant.

d. *Energy Tax Incentives*

On April 1, 2003, Representative McCrery introduced H.R. 1531, the "Energy Tax Policy Act of 2003." The Committee favorably reported the bill, as amended, by a vote of 24-12 on April 3, 2003. H.R. 1531 would provide tax incentives to encourage energy conservation, energy reliability, and energy production.

The provisions of H.R. 1531 were incorporated into H.R. 6, the "Energy Policy Act of 2003," a broad-based energy bill introduced by Representative Tauzin on April 7, 2003. The bill passed the House on April 11, 2003, and passed the Senate with amendment on July 31, 2003. A conference report was agreed to in the House on November 18, 2003, by a vote of 246-180. The conference report was considered in the Senate, but cloture on the conference report was not invoked. On June 15, 2004, the House subsequently passed the text of H.R. 6 as reintroduced by Representative Barton in H.R. 4503. The bill was approved on final passage by a vote of 244-178 after the House rejected a motion to recommit the bill with instructions, by a vote of 192-230. H.R. 4503 was received by the Senate on June 17, 2004. No further action was taken on the bill.

H.R. 1531, as passed by the House, contained four sections: conservation, reliability, production, and corporate inversions.

The conservation portion of the bill would provide a personal tax credit for the purchase of qualified photovoltaic property and qualified solar water heating property equal to 15 percent of qualified investment up to a maximum credit of \$2,000 for solar water heating property and \$2,000 for rooftop photovoltaic property. It would extend the placed-in-service date for the Code section 45 production tax credit for wind and closed-loop biomass facilities placed in service after December 31, 1993 (December 31, 1992, in the case of closed-loop biomass facilities) and before January 1, 2007. However, it would not extend the present law credit for poultry waste. The bill added three new types of qualifying facilities: open-loop biomass, landfill gas facilities (electricity created by burning methane gas derived from the biodegradation of municipal solid waste), and electricity produced by burning municipal solid waste. It would provide a nonrefundable 10-percent credit for the purchase of fuel cell power plants for businesses and individuals, not to exceed \$1,000 per half-kilowatt of capacity. The bill would provide a 20-percent non-refundable credit, up to \$2,000 per dwelling, for the purchase of qualified energy efficiency improvements to residences including: (1) insulation materials, (2) exterior windows (including skylights) and doors, and (3) metal roofs with appropriate pigmented coating to reduce the heat loss or gain. It would provide a credit to an eligible contractor (up to \$2,000 per dwelling) equal to the aggregate adjusted basis of all energy property installed in a qualified new energy-efficient home during construction, provided the home is at least 30 percent more efficient than a reference model. It would provide a 10-percent credit for the purchase of combined heat and power property (CHP), defined as one which (1) generates electricity and useful thermal energy in a single, integrated system, and (2) produces at least 20 percent of its total useful energy in the form of thermal energy and at least 20 percent in the form of electrical or mechanical power (or a combination thereof). Nonbusiness energy credits would be allowed against both regular tax and the alternative minimum tax (AMT). The 4.3-cents-per-gallon General Fund excise tax rates on diesel fuel used in trains and fuel used in barges operating on the designated inland waterways system would be repealed. The bill would reduce the Federal excise tax rate on water-diesel emulsions from 24.3 cents per gallon to 19.66 cents per gallon so as to not tax the water content of the emulsions. It would also repeal the phased-down reduction in the electric vehicle credit for 2004, 2005, and 2006. The bill would also repeal the phased-down reduction in the allowable clean-fuel vehicle deduction for 2004, 2005, and 2006, and it would add new tax credits for fuel cell and advanced lean burn vehicles.

The reliability portion of the bill would allow a 7-year cost recovery period for natural gas gathering lines, a 15-year cost recovery period for natural gas distribution pipelines, and a 15-year cost recovery period for electricity transmission lines. The bill would permit small business refiners to expense up to 75 percent of the costs incurred in complying with the Highway Diesel Fuel Sulfur Control Requirements issued by the Environmental Protection Agency (EPA) in 2001. Small refiners would be allowed to claim a 5-cents credit for each gallon of low-sulfur diesel fuel produced. The small refiner exception to oil depletion deduction would be increased to an average daily refinery run of 75,000 barrels. The bill would provide tax relief for utilities selling transmission assets in response to Federal Energy Regulatory Commission (FERC) Order 2000. The limitation permitting only rate-regulated utilities to deduct contributions to nuclear decommissioning funds would be repealed. The present law provision which does not allow deductions for pre-1984 decommissioning costs would also be repealed. The bill would exclude income received by a rural electric cooperative from any "open access transaction" or from any "nuclear decommissioning transaction" in determining whether a rural electric cooperative

satisfies the 85-percent test (IRC section 501(c)(12)) for tax exemption. The bill would allow income received by a rural electric cooperative from a "load loss transaction" to be treated as income collected from members for the purpose of meeting the 85-percent test. It would clarify recently issued U.S. Department of the Treasury regulations on the use of tax-exempt bonds by municipal gas agencies to secure a long-term prepaid supply of natural gas. The bill would create a safe harbor for prepayments equal to a community's recent average annual consumption, establish a procedure allowing gas agencies to seek a higher safe harbor amount from the Treasury Department when significant population growth and/or gas consumption is not reflected in historic averages, and allow coal companies that are part of a controlled group to prefund their coal premium liabilities.

The production portion of the bill would create a \$3-per-barrel credit for crude oil and a credit of \$0.50 per 1,000 cubic feet of natural gas from marginal wells. The bill would suspend for taxable years beginning after December 31, 2003, and before January 1, 2007, the present law provision which limits percentage depletion deductions to no more than 65 percent of the taxpayer's overall taxable income. It would extend through January 1, 2007, the present law provision which permits taxpayers to take deductions in excess of 100 percent of the net income from a single marginal well. It would allow delay rental payments incurred in connection with the development of oil or gas within the United States to be amortized over two years. Geological and geophysical costs incurred in connection with oil and gas exploration in the United States would be expensed over two years. Taxpayers would be able to claim a credit for the production of nonconventional fuels produced at wells placed in service after the date of enactment and before January 1, 2007. The bill would allow landfill gas sold to a third party from facilities placed in service after June 30, 1998, and before January 1, 2007, to be eligible for the credit for five years from the date of enactment or the date the facility is placed in service (whichever is later). The bill would make the minimum tax limitation inapplicable to the new business energy credits added by the bill. Intangible drilling costs (IDC) would be removed as an AMT preference item for taxable years beginning after December 31, 2003, and beginning before January 1, 2007. The bill would provide a 15-percent tax credit for certain tertiary recovery methods used on oil and gas property within the United States. The bill would also allow the Code section 43 enhanced oil recovery credit to be taken against AMT in taxable years beginning in 2003, 2004, and 2005.

The corporate inversion provision imposed a two-year moratorium on corporate inversions where the corporation has done little more than change its corporate residence for tax purposes. A corporate inversion is disregarded for U.S. tax purposes when 80 percent or more of the shareholders of the new foreign corporation were shareholders in the U.S. corporation. (After the inversion, the new foreign corporation would be taxed as a U.S. corporation.) The provision would apply to inversions that occur between March 4, 2003, and December 31, 2004.

The tax title to the conference report of H.R. 6, as passed by the House, contained three sections: conservation, reliability, and production.

The conservation portion of the bill would allow a 15-percent tax credit (up to \$2,000) for residential solar hot water heaters, photovoltaics, and wind property. It would extend the tax credit for producing electricity (currently 1.8 cents per kilowatt/hour indexed for inflation for a 10-year production period) from wind and closed-loop biomass (including closed-loop biomass

co-fired with coal). It would add new qualifying sources, including open-loop biomass, landfill gas, “trash to steam,” geothermal, solar, small irrigation facilities, and animal waste nutrients and set the credit at 1.2 cents per kilowatt/hour indexed for inflation for a five-year production period. The bill would set the solar and geothermal facilities credit at 1.8 cents per kilowatt/hour for five years. The bill would reduce the credit, up to 50 percent, if the facility receives tax-exempt financing or government grants, except co-fired biomass. Taxpayers would be allowed to choose between Code section 45 production tax credits or Code section 48 investment tax credits, with respect to geothermal and solar facilities. The bill would add a credit of 1.8 cents per kilowatt/hour for nuclear reactors approved by the Nuclear Regulatory Commission (NRC) capped at 6,000 MW. It would allow a 20-percent credit for residential and business fuel cells capped at \$500 per one-half kilowatt of capacity. The bill would provide tax credits for fuel savings (as compared to baseline vehicles) for the purchase of certain fuel-efficient passenger cars and trucks, including fuel cell vehicles, hybrid vehicles, alternative fuel vehicles, and advanced lean burn vehicles. The bill would define hybrid cars and light trucks as vehicles that meet a 4-percent maximum available power (MAP) threshold. Tax credits for medium and heavy duty hybrid trucks would be allowed. The bill would clarify that the lessor/owner gets the credits and the lessor cannot be a tax-exempt entity. The amount that taxpayers may expense for certain refueling infrastructure would be increased, including new hydrogen infrastructure. The bill would allow a business credit for the manufacturing of highly efficient appliances. It would provide a 20-percent credit, up to \$2,000, for the purchase of energy-efficient building envelope components meeting 2000 IECC standards as supplemented on the date of enactment, including insulation, windows, and roofing systems and allow a tax credit to the builders of new energy-efficient homes. The bill would add a deduction, up to \$1.50 per square foot, for upgrades to new or existing business property which reduce lighting, heating, cooling, or hot water costs by 50 percent compared to a baseline standard. It would allow a three-year cost recovery period for electricity “smart meters” and allow a 10-percent tax credit for the business purchase of certain systems that use both mechanical and heat power. Taxpayers would not have the benefits from the new credits in the bill recaptured by the AMT. Excise taxes on diesel-water emulsions that are calculated by taxing mixture based on the British Thermal Unit (BTU) value of the fuel would be reduced. The bill would expand the small-producer ethanol credit and create a new excise tax credit for ethanol (which is 52 cents/gallon dropping to 51 cents/gallon under current law). The bill would extend Code section 40 ethanol credit through 2010 and create a biodiesel excise tax credit at one dollar per gallon for soybeans and 50 cents per gallon for other feedstocks, effective through the end of 2005. The bill would defer the 2.5-cents-per-gallon transfer and repeal of ethanol excise tax exemption to highway legislation. It would also repeal the 4.3-cent excise tax on diesel fuel used by rail and barge.

The reliability portion of the bill would allow a seven-year cost recovery period for natural gas gathering lines and a provision ensuring that the tax benefits are not recaptured by the AMT. The bill would allow a 15-year cost recovery period for natural gas distribution lines and a 15-year cost recovery period for new electric transmission lines (defined as 69 kilovolts or greater by the FERC). Small refiners would be able to expense 75 percent of the costs of making upgrades to produce low-sulfur fuel and a production credit of five cents per gallon up to 25 percent of the capital costs of those upgrades. The definition of a small refiner would be redefined from one who runs no more than 50,000 barrels on any given day to one with 67,500 barrels or less of average daily production for a taxable year. The bill would allow taxpayers who sell their transmission assets as advocated by FERC Order 2000 to pay the resulting tax ratably over 8

years, but only if the taxpayer reinvests the proceeds in other utility property. It would repeal the present law “cost of service requirement” allowing utilities to deduct pre-1984 contributions to a qualified fund (upon transfer of the fund the seller takes the deductions, not the purchaser) and would allow utilities to deduct contributions made after the estimated useful life of the plant. The bill also would clarify that tax-exempt entities can transfer a qualified fund to taxable entities. The bill would allow cooperatives to exclude certain income derived from “open access” transactions (such as wheeling income from opening transmission or distribution facilities) from the 85-percent test and allow income from certain “loss load” transactions to be treated as income from members for purpose of meeting the 85-percent test. It would clarify that excluded income also includes income from open access distribution services, but only with respect to electric energy furnished to end users served by distribution facilities other than those owned by the cooperative. A safe harbor would be set for prepaid gas contracts equal to historical usage and the bill would clarify that Code section 141(d) does not apply to such contracts. The bill would add a 17.5-percent investment tax credit for construction of advanced clean coal power plants. Five-year depreciation for Integrated Gasification Combined Cycle coal plants would be allowed. Five-year cost recovery period for post-1975 coal plants installing pollution control equipment and three-year cost recovery period for pre-1976 coal plants installing pollution control equipment would be allowed. The bill would also allow a 15-percent investment tax credit for clean coal and add a seven-year cost recovery period for natural gas transmission lines 42 inches or more in diameter, including the proposed Alaska natural gas pipeline.

The production portion of the bill would add a \$3-per-barrel credit for production of crude oil or natural gas from marginal wells, with the credit phasing out as the price of oil or gas rises from \$15 to \$18 per barrel. The 65-percent overall income limitation and the 100-percent net income limitation for small oil and gas producers would be suspended through the end of 2004. The bill would allow delay rental payments to be amortized over two years, beginning on the date of enactment. Geological and Geophysical (G&G) expenses would be amortized over two years, beginning on the date of enactment as a result of the bill. The bill would extend the Code section 29 credit for certain existing facilities for 4 years at \$3 per barrel or barrel equivalent and allow a \$3-per-barrel credit for 4 years for new facilities placed in service after the date of enactment and before January 1, 2007. It would provide for a \$3 per barrel credit for 5 years for landfill gas facilities placed in service after June 30, 1998, and before January 1, 2007 (facilities subject to New Source Performance Standards receive a credit of \$2 per barrel). A \$3-per-barrel equivalent credit would be provided for *all* coke facilities for 4 years (for existing plants from the date of enactment and for new facilities from the date placed in service), with facilities placed in service after December 31, 1992, and before July 1, 1998 continuing to receive the present law credit amount. The bill would allow a \$3-per-barrel equivalent credit for lignite facilities for four years capped at 200,000 cubic feet (35 barrels) produced per day for all projects eligible. Code section 29 would be added to the list of credits treated as a general business credit. Coalmine methane, refined coal, including coal using the Fischer-Tropsch method and compression of animal carcasses through thermal depolymerization would be new qualifying fuels for tax incentives from production of non-conventional sources. Taxpayers would be able to take business credits against the AMT as well as against the regular tax. The AMT preference for intangible drilling costs (IDCs) for independent producers would be repealed. Taxpayers would be able to claim the enhanced oil and recovery (EOR) credit against the AMT. The bill would expand the EOR credit to include natural gas processing facilities that re-inject CO₂ for tertiary recovery, with the credit

only applying to new facilities capable of processing one trillion British thermal units of natural gas per day.

Other provisions in the bill included accelerated depreciation for energy projects on Indian lands, allowing mutual funds to treat income from publicly traded partnerships as qualifying income, reducing taxes on cooperatives passing patronage dividends through to patrons, tax-exempt financing for certain energy-efficient developments on former “Brownfields” (Green bonds), a 2-year suspension of duties on imported ceiling fans, and a suspension of duties on nuclear vessel heads and steam generators.

The conference report on H.R. 1308, the “Working Families Tax Relief Act of 2004,” which is discussed in greater detail above, extended several energy-related tax laws through 2005. The extended provisions included the Code section 45 production tax credit for electricity produced using wind, closed-loop biomass and poultry waste, the suspension of the 100-percent of taxable income limitation on percentage depletion from marginal wells, the tax credit for electric vehicles and the deduction for clean fuel vehicles. The conference report was approved on September 23, 2004, in the House by a vote of 339-65 and in the Senate on the same day by a vote of 92-3. H.R. 1308 was signed by the President on October 4, 2004 (P.L. 108-311).

Some provisions similar to those contained in the House bill (H.R. 1531) or the conference agreement to H.R. 6 (which was not enacted) were enacted as part of H.R. 4520, the “American Jobs Creation Act,” discussed above. These provisions include the repeal of the 4.3-cents-per-gallon General Fund excise tax rates on railroad diesel fuel and fuel used in barges operating on the designated inland waterways system, allowing rural electric cooperatives to participate in open access transactions, an expansion of the Code section 45 production tax credit to open-loop biomass and municipal solid waste, the “green bonds” proposal, allowing Code sections 40 and 45 credits to offset AMT liability, Alaskan natural gas incentives, the reduction in taxes on cooperatives passing patronage dividends through to patrons, treating income from publicly traded partnerships as qualifying income for mutual funds, the suspension of customs duties on ceiling fans and nuclear vessel heads, and a provision to discourage corporate inversions. H.R. 4520 was signed into law by the President on October 22, 2004 (P.L. 108-357).

e. *Taxpayer Protection and IRS Accountability*

Representative Portman introduced H.R. 1528, the “Taxpayer Protection and IRS Accountability Act of 2003,” on April 1, 2003. On April 3, 2003, the Committee ordered favorably reported, H.R. 1528, as amended, by voice vote. The bill passed the House by a vote of 252-170 on June 19, 2003. A companion bill was passed by the Senate, but the House and Senate versions of the bill were not considered by a conference committee.

The bill, as passed by the House, contained provisions regarding tax administration, penalties and interest, the Tax Court, confidentiality and disclosure.

The tax administration provisions include a provision that would extend the due date for filing and paying individual income taxes to April 30, provided that the taxpayer files an electronic return and pays the balance of the liability by the due date. Most taxpayers that choose to file electronically would have to use an intermediary and would be unable to file directly with the IRS.

The bill also would require the Commissioner of the IRS to issue guidelines for determining appropriate disciplinary action, including termination, for employees that violate certain rules. The bill would increase the authorization for low-income taxpayer clinics and permit the National Taxpayer Advocate to appoint a counsel that would report directly to the National Taxpayer Advocate. The bill also would instruct the IRS to revise their published instructions and require the Treasury to conduct a study of the practices of the IRS concerning their application of liens and levies. There are provisions that would direct the Treasury Inspector General for Tax Administration to report allegations of serious IRS employee misconduct with a summary of complaints by category, and to publish annually statistics on awards of costs and certain fees in administrative and court proceedings. The bill also would require the Treasury Inspector General for Tax Administration to report annually to the Congress on the abatement of penalties and the reasons for such abatements, and to issue a report evaluating better means of communicating with taxpayers such as electronic mail or fax. The statutory requirement that the Joint Committee on Taxation conduct annual reviews of the IRS would be extended through 2009. The bill would allow State-based health insurance to meet the definition of qualified health insurance for purposes of the tax credit available to individuals receiving a trade adjustment allowance. The bill also would require motor fuels tax refunds to be paid by electronic funds transfer if elected by the recipient. A recontribution of amounts attributable to an improper levy on an individual retirement account (IRA) would be treated as a rollover under the bill. The declaratory judgment procedures available to charities would be extended to other tax-exempt organizations. The bill would allow the IRS to recognize a joint venture whose only members are husband and wife filing a joint return to be treated as a sole proprietorship instead of as a partnership.

The penalty and interest provisions of the bill would change the rules relating to the penalty provisions related to the individual's estimated payments, including raising the penalty threshold from \$1,000 in liability to \$1,600. Interest payments resulting from unreasonable IRS errors or delays would be abated and interest netting would be expanded for individual taxpayers. The bill would exclude from gross income interest paid to individuals on overpayments of Federal income tax. The taxpayer would earn interest on amounts deposited with the IRS for the purpose of suspending interest on potential underpayments. The bill would expand the penalty provisions related to the submission of frivolous tax returns, including increasing the amount of the IRS-imposed penalty from \$500 to \$5,000. Waivers of certain penalties for unintentional minor errors would be granted for individuals with a history of tax compliance.

H.R. 1528 would modify the jurisdiction of the United States Tax Court. In certain cases where the Tax Court does not have jurisdiction over the underlying tax liability, appeals of collection due process determinations are brought in the district court of the United States. The bill would provide that all such cases would be brought to the Tax Court.

H.R. 1528 includes provisions relating to the confidentiality and disclosure of taxpayer returns. Former spouses would no longer be required to make a written request for disclosure of collection activities with respect to a joint return and would permit such disclosures pursuant to an oral request. The bill clarifies that the IRS may not inspect the return of a taxpayer's representative solely on the basis of such representative's relationship to the taxpayer. Disclosures of tax return information for judicial or administrative tax proceedings would be limited to the portions of the return information that directly relate to the resolution of an issue in such proceedings.

The bill would prohibit taxpayer identification numbers to be disclosed on publicly available summaries of accepted offers-in-compromise. The bill also would require Federal, State and local governments to conduct on-site safeguard reviews of contractors and other agents receiving Federal tax return information. Standards relating to requests for tax return disclosures and consent to tax return disclosures would be raised. Unauthorized disclosures and consents would be punishable by criminal penalty. The IRS would be required to notify a taxpayer if the taxpayer's return or return information was willfully disclosed or inspected without authorization. Such unauthorized disclosures and inspections would be reported annually by the IRS to the Joint Committee on Taxation. The bill would extend present law permitting disclosure of tax return information to law enforcement officials to include circumstances involving imminent danger of death or physical injury to an individual. The bill also would allow the IRS to use additional means of contacting taxpayers, including the internet, regarding undelivered refunds. Information eligible for disclosure by the IRS to State officials related to Code section 501(c) organizations would be expanded. The bill would provide that the Office of the Taxpayer Advocate would be permitted to withhold confidential communications between itself and taxpayers from the IRS and the Department of Justice.

The conference agreement for H.R. 4520, the "American Jobs Creation Act of 2004," included the provision from H.R. 1528 that would allow taxpayers to earn interest on amounts deposited with the IRS for the purpose of suspending interest on potential underpayments. As noted above, H.R. 4520 was signed by the President on October 22, 2004 (P.L. 108-357).

f. *Employee Benefits Proposals*

On May 5, 2004, Representative McCrery introduced H.R. 4279, the "Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2004." On May 12, 2004, the House approved the bill by a vote of 273-152. No further action was taken in the Senate. As passed by the House, the bill would allow up to \$500 of unused funds remaining in a health Flexible Spending Account (FSA) to be (1) carried forward in the FSA for use during the next year, or (2) contributed to a Health Savings Account (HSA). Under current law, unused funds in an FSA at the end of the year are forfeited to the employer. This incentive to quickly spend unused funds before the end of the year leads to excess health care consumption. The ability to roll funds over into the next year would encourage more employees to participate in FSAs without fear of losing money at the end of the year and would reduce end-of-the-year excess spending and overuse of health care services. The Senate did not act on the bill.

On May 17, 2004, Representative Cantor introduced H.R. 4372, the "Working Families Assistance Act of 2004," which incorporated an FSA rollover provision similar to H.R. 4279. On June 22, 2004, the House approved the bill by a voice vote under suspension of the rules. No further action was taken on the legislation. As passed by the House, the bill would allow up to \$500 of unused dependent care funds in a dependent care Flexible Spending Account (FSA) to be carried forward in the FSA for use during the next year. Under current law, unused funds in an FSA at the end of the year are forfeited to the employer. This incentive to quickly spend unused funds before the end of the year leads to excess dependent care consumption. The ability to roll funds over into the next year would encourage more people to participate in FSAs without fear of

losing money at the end of the year and would reduce end-of-the-year excess spending and overuse of dependent care services. The Senate did not act on the bill.

g. *Expiring Provisions*

H.R. 3521, the “Tax Relief Extension Act of 2003,” included several extensions of expiring provisions which were later included in the House-passed version of H.R. 4520 and enacted by the “Working Families Tax Relief Act of 2004” (P.L. 108-311). H.R. 3521 was introduced by Chairman Thomas on November 19, 2003, and it was passed the following day by the House under suspension of the rules by voice vote. The Senate took no action on the bill.

The bill, as passed by the House, would extend, without modification, the following present-law provisions by one year, generally through December 31, 2004: parity in the application of certain limits to mental health benefits; the work opportunity credit; the welfare-to-work credit; the credit to holders of qualified zone academy bonds; the cover over of the excise tax on distilled spirits to Puerto Rico and the Virgin Islands; the enhanced deduction for qualified computer donations; the exclusion of certain expenses of elementary and secondary school teachers from gross income; expensing of environmental remediation costs in connection with the abatement or control of hazardous substances at a qualified contaminated site; disclosure authority relating to terrorist activities; the availability of Archer medical savings accounts; authority to issue New York Liberty Zone bonds; tax incentives for investment in the District of Columbia; authority for any State to participate in a combined Federal and State employment tax reporting program; and the allowance for nonrefundable personal credits to be applied against the alternative minimum tax.

As discussed above, each of these provisions was enacted into law by H.R. 1308, the “Working Families Tax Relief Act of 2004” (P.L. 108-311), each with a two-year extension through December 31, 2005 (through December 31, 2009, in the case of the authority to issue New York Liberty Zone bonds), without modification of the underlying provision.

H.R. 3521 also extended for one year the special rules under Code section 809 for life insurance companies and the five-year carryback rule for certain net operating losses.

h. *The Death Tax Repeal Permanency Act of 2003*

On June 12, 2003, Representative Dunn introduced H.R. 8, the “Death Tax Repeal Permanency Act of 2003.” On June 18, 2003, the House approved the bill by a vote of 264-163. As passed by the House, the bill would repeal the sunset of Section V of the Economic Growth and Tax Relief Reconciliation Act of 2001, relating to estate, gift, and generation-skipping transfer taxes. The Senate took no action on the bill.

i. *Highway Trust Fund and Excise Taxes*

Transportation Equity Act: A Legacy for Users

Representative Don Young introduced H.R. 3550, “the Transportation Equity Act: A Legacy for Users Act,” on November 20, 2003. The House passed the bill by a vote of 357-65 on

April 2, 2004. The Senate substantially amended H.R. 3550 and passed the bill by unanimous consent. The bill went to the conference committee but was not reported out of that committee.

The bill would, among other things, authorize funds for highways, highway safety programs, and transit programs. Although primarily a transportation bill, the bill contains a number of tax provisions. Title I of the bill contains a provision that would extend funding for expenditures made for projects to reduce highway use tax evasion before October 1, 2009. Title IX of the bill contains a number of tax provisions. Many of these provisions (in identical or similar form) were enacted into law as part of H.R. 4520, the “American Jobs Creation Act of 2004” (P.L. 108-357). The provisions that were enacted as part of H.R. 4520 follow in the next four paragraphs.

The bill would repeal the reduced tax rate on sales of gasoline for blending with alcohol as well as the reduced tax rate on sales of alcohol fuel. The bill would provide an excise tax credit, in place of the reduced tax rate on gasoline, for certain blenders of alcohol fuel mixtures. The bill would provide that all alcohol fuels excise tax credits and payments are paid from the General Fund. The bill would provide outlay payments to producers of alcohol fuel mixtures, and would also transfer the full amount of alcohol fuel excise taxes to the Highway Trust Fund.

The bill includes a number of provisions designed to prevent fuel fraud. The bill would tax jet fuel at the terminal rack, would require fuel to be dyed mechanically instead of manually, and would expand the authority of the IRS to inspect records at sites where fuel is produced or stored. In addition, the bill would require pipeline or vessel operators to register with the Secretary of the Treasury in order for their bulk transfers of taxable fuel to a terminal to be exempt from tax. The bill also would require pipeline or vessel operators to display such registration or be subject to a penalty. The bill also would provide for penalties for failure to register and failure to comply with the requirement to report certain information concerning the movement of fuel to the IRS.

The bill also would conform the procedure for obtaining refunds on sales of gasoline to tax-exempt users to the procedure used for diesel fuel and kerosene—the registered ultimate vendor claims the refund. The bill would permit two registered parties to switch position holder status with respect to fuel within a registered terminal if certain conditions are met. The bill would dedicate amounts from certain penalties related to fuel to the Highway Trust Fund. The bill would make certain modifications to the heavy vehicle use tax, including eliminating the reduced rate of tax for Canadian and Mexican vehicles.

The bill would extend enhanced Code section 179 expensing so that small businesses can immediately expense up to \$100,000 of new investments through 2007. The bill would provide alternative minimum tax relief by repealing the 90-percent limitation on the use of foreign tax credits against the alternative minimum tax, and by allowing the tax benefits generated by farmer income averaging to be used in computing the alternative minimum tax.

A discussion of the provisions of the bill that were not enacted in H.R. 4520 follows. The bill would extend Highway Trust Fund and Aquatic Resources Trust Fund excise taxes through September 30, 2011, and would extend the expenditure authority for these funds through September 30, 2009. The bill would transfer the full amount of motorboat fuel taxes and certain

small engine fuel taxes to the Aquatic Resources Trust Fund. The bill would permit collection of fuel excise taxes against the bond posted by the importer with the Customs Service if any other person that is not registered with the Secretary of the Treasury is liable for such tax and the tax is not paid on time. The bill would limit ultimate vendor refund claims for diesel fuel or kerosene used for farming to 250 gallons per farmer per claim period. The bill would phase out the 90-percent limitation on the use of net operating loss deductions against the alternative minimum tax. The bill would expand the exemption from the alternative minimum tax for corporations with average annual gross receipts for the prior three years of not more than \$20 million.

Surface Transportation Extension Act of 2004

Representative Don Young introduced H.R. 3783, the “Surface Transportation Extension Act of 2004,” on February 10, 2004. The House passed the bill the following day by a vote of 421-0. The bill was sent to the Senate, which took no action on the bill. Provisions similar to those in H.R. 3783 (with different dates) were enacted in H.R. 3850, also named the “Surface Transportation Extension Act of 2004” (P.L. 108-202). H.R. 3783 would provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century (TEA-21). There are a couple of tax-related provisions in the bill. The bill would extend funding for expenditures made on projects to curb highway use tax evasion before July 1, 2004. The bill would extend authorization of the use of the Highway Trust Fund, the Mass Transit Account, and the Aquatic Resources Trust Fund for obligations under TEA-21 before July 1, 2004.

j. *Expansion of Renewal Communities*

On April 22, 2004, Representative Ernest Istook introduced H.R. 4193, a bill to amend the Internal Revenue Code of 1986 to allow for the expansion of areas designated as renewal communities based on 2000 census data and to treat certain census tracts with low populations as low-income communities for purposes of the new markets tax credit. The bill passed the House under suspension of the rules by voice vote on May 17, 2004. A modified version H.R. 4193 was included in H.R. 4520, the “American Jobs Creation Act of 2004” (P.L. 108-357).

Renewal communities include census tracts that have: (1) a poverty rate of at least 20 percent, (2) if in an urban area, at least 70 percent of households below 80 percent of the median household income within the local jurisdiction, (3) an unemployment rate of at least 1.5 times the national unemployment rate, and (4) pervasive poverty, unemployment, and general distress. Population and poverty rates are based on 1990 census data.

H.R. 4520, as discussed above, authorizes the Secretary of Housing and Urban Development to expand a designated renewal community based on 2000 census data to include certain contiguous census tracts that have increased poverty rates using in the 2000 data as compared to 1990, meets certain population and poverty rate requirements, or is an area of general distress.

k. *Simple Tax for Seniors Act*

Representative Max Burns introduced H.R. 4109, the “Simple Tax for Seniors Act,” on April 1, 2004. The bill passed the House under suspension of the rules by a vote of 418–0 on June 2, 2004. The Senate did not act on the bill.

H.R. 4109, as passed by the House, would require the IRS to offer a simplified tax form for individuals age 65 and older. The form would be designated “Form 1040S” and would be similar to Form 1040EZ. The IRS would be instructed to make the form available regardless of the individual’s receipt of Social Security benefits or any distributions from retirement plans, their receipt of interest and dividends, the amount of their capital gains and losses, and their taxable income.

l. *Tax Simplification for Americans Act of 2004*

On July 15, 2004, H.R. 4841, the “Tax Simplification for Americans Act of 2004” was introduced by Representative Max Burns. The bill, as amended, passed the House under suspension of the rules by voice vote on July 21, 2004. The Senate did not act on the bill.

The bill, as passed by the House, would change the name of the Head of Household filing status to Single Head of Household. It would also direct the IRS to expand access to the Form 1040EZ and Form 1040 by allowing taxpayers with up to \$100,000 in taxable income to use these forms. It would also permit taxpayers with more than \$1,500 in interest income to use Form 1040EZ. Finally, the bill would eliminate a series of outdated or “deadwood” provisions from the Code. The provision from the introduced bill that would treat an individual as having attained an age on the date of the anniversary of such individual’s birth which corresponds to such age was dropped prior to floor action.

m. *Tax Simplification for America’s Job Creators Act of 2004*

Representative Phil Crane introduced H.R. 4840, the “Tax Simplification for America’s Job Creators Act of 2004,” on July 15, 2004. The bill passed the House under suspension of the rules by a vote of 424-0 on July 21, 2004. The Senate did not act on the bill.

The bill would extend for two years (through 2007) the enhanced Code section 179 small business expensing tax relief included in the “Jobs and Growth Tax Relief Reconciliation Act of 2003.” As a result, the amount small businesses can expense (immediately deduct) will remain at \$100,000 instead of dropping to \$25,000. The amount that can be expensed and the phase-out threshold will continue to be indexed for inflation. The bill would also enable many small corporations to continue using the less complex cash method of accounting by indexing for inflation the threshold for using the cash method of accounting, which is currently set at \$5 million gross receipts. The bill would also eliminate a series of outdated or “deadwood” provisions from the Code.

n. *Adoption Tax Relief Guarantee Act*

On March 4, 2003, Representative DeMint introduced H.R. 1057, the “Adoption Tax Relief Guarantee Act.” The bill passed the House under suspension of the rules on September 23, 2004, by a vote of 414-0. The Senate did not act on the bill.

The bill would repeal the sunset of the “Economic Growth and Tax Relief Reconciliation Act of 2001” with respect to the expansion of the adoption credit. Under the bill, the adoption credit would remain at \$10,000 (as indexed) after the December 31, 2010 sunset. The bill also would retain the \$150,000 higher income cap for a taxpayer to be eligible to claim the credit after the sunset.

o. *Bows and Arrows Archery Revenue Reform and Opportunity for Workers Act*

On December 8, 2003, Representative Paul Ryan introduced H.R. 3652, the “Archery Revenue Reform and Opportunity for Workers Act”. The Committee on Ways and Means was discharged and the bill passed without objection on December 8, 2003. H.R. 3652 was sent to the Senate and was referred to the Finance Committee, which did not report the bill. H.R. 3652, as passed by the House (with a modified effective date), was enacted into law as part of H.R. 4520, the “American Jobs Creation Act of 2004” (P.L. 108-357). The bill would impose an excise tax of 12 percent on the sale of arrows, defined as shafts with components attached. The bill would impose an excise tax of 11 percent on the sale of certain broadhead arrow points, instead of the 12.4 percent tax that applies to other arrow components.

3. OTHER TAX MATTERS

a. *House Resolutions Expressing the Sense of the House*

The House passed resolutions on tax related matters during the 108th Congress.

On April 8, 2003, Representative Jack Kingston introduced H. Con. Res. 141, a concurrent resolution expressing the sense of the Congress that the Internal Revenue Code should be fundamentally reformed to be fairer, simpler, and less costly and to encourage economic growth, individual liberty, and investment in American jobs. The House agreed to the resolution under suspension of the rules on April 10, 2003.

On July 7, 2004, Representative Phil English introduced H. Res. 705, a resolution urging the President to resolve the disparate treatment of direct and indirect taxes presently provided by the World Trade Organization. The House agreed to the resolution under suspension of the rules on July 14, 2004.

b. *Foreign Operations, Export Financing and Related Appropriations Act, 2005*

The conference report to H.R. 4818, the “Foreign Operations, Export Financing, and Related Appropriations Act, 2005,” passed the House and the Senate on November 20, 2004. This appropriations bill included a provision to allow agents, designated by the Chairmen of the House or Senate Committees on Appropriations, access to IRS facilities and any tax returns or

return information. This provision was removed from the bill before the bill was sent to the President.

c. Budget Hearings

On Tuesday February 4, 2003, the full Committee held a hearing on the President's Fiscal Year 2004 budget with the Honorable John Snow, Secretary, U.S. Department of the Treasury. The focus of the hearing was to discuss the details of the President's budget proposals that are within the Committee's jurisdiction.

On Wednesday February 5, 2003, the full Committee held a hearing on the President's Fiscal Year 2004 budget with the Honorable Mitch Daniels, Director, Office of Management and Budget. The focus of the hearing was for the Director to discuss the details of the President's proposals that are within the Committee's jurisdiction.

On Thursday February 6, 2003, the full Committee held a hearing on the President's Fiscal Year 2004 budget with the Honorable Tommy G. Thompson, Secretary, U.S. Department of Health and Human Services. The focus of the hearing was to review the President's Fiscal Year 2004 budget proposals for Health and Human Services.

On Wednesday March 12, 2003, the full Committee held a hearing on the President's Fiscal Year 2004 budget with the Honorable Elaine L. Chao, Secretary, U.S. Department of Labor. The focus of the hearing was the Department of Labor proposals in the President's Fiscal Year 2004 budget that are within the Committee's jurisdiction.

On Tuesday February 3, 2004, the full Committee held a hearing on the President's Fiscal Year 2005 budget with the Honorable John Snow, Secretary, U.S. Department of the Treasury. The focus of the hearing was to discuss the details of the President's budget proposals that are within the Committee's jurisdiction.

On Tuesday February 10, 2004, the full Committee held a hearing on the President's Fiscal Year 2005 budget with the Honorable Tommy G. Thompson, Secretary, U.S. Department of Health and Human Services. The focus of the hearing was to review the President's Fiscal Year 2005 budget proposals for the U.S. Department of Health and Human Services.

On Wednesday February 11, 2004, the full Committee held a hearing on the President's Fiscal Year 2005 budget with the Honorable Pamela F. Olson, Assistant Secretary for Tax Policy, U.S. Department of the Treasury; accompanied by Gregory F. Jenner, Deputy Assistant Secretary for Tax Policy. The Treasury official discussed the details of the tax proposals in the President's budget.

On Wednesday February 11, 2004, the full Committee held a hearing on the President's Fiscal Year 2005 budget with the Honorable Joshua B. Bolten, Director, Office of Management and Budget. The Director discussed the details of the tax proposals in the President's budget.

On Thursday March 4, 2004, the full Committee held a hearing on the President's Fiscal Year 2005 budget with the Honorable Elaine L. Chao, Secretary, U.S. Department of Labor. The

focus of the hearing was on Department of Labor proposals in the President's Fiscal Year 2005 budget within the Committee's jurisdiction.

d. *President's Economic Growth Proposals*

On March 4, 5, 6, and 11, 2003, the full Committee held hearings on the President's economic growth proposals. The witnesses for the March 4, 2003, hearing were the Honorable John W. Snow, Secretary, U.S. Department of the Treasury; accompanied by the Honorable Pamela F. Olson, Assistant Secretary for Tax Policy, and the Honorable Richard H. Clarida, Assistant Secretary for Economic Policy.

The witnesses for the March 5, 2003, and March 6, 2003, hearing were experts from the business and academic sectors. The witnesses for the March 11, 2003, hearing were Members of Congress.

e. *Pension Plan Funding Hearing*

On Wednesday, April 30, 2003, the Subcommittee on Select Revenue Measures held a hearing on pension plan funding. The hearing focused on funding rules related to defined benefit pension plans and evaluated proposals for replacing the 30-year Treasury rate that is used in pension plan calculations.

f. *Hearing on S Corporation Reforms*

On Thursday, June 19, 2003, the Subcommittee on Select Revenue Measures held a hearing on S Corporations. The focus of the hearing was to explore the manner in which we regulate S corporations and the approaches to reform that would allow S corporations greater flexibility to access capitol markets.

g. *Hearing on Pension Security and Defined Benefit Plans*

On Tuesday, July 15, 2003, the Subcommittee on Select Revenue Measures held a joint hearing with the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce. The focus of the hearing was to examine the Administration's proposal to replace the 30-year Treasury rate with a yield curve discount rate and to implement other pension funding reforms.

h. *Hearing on Free Electric Filing and the National Taxpayer Advocate Annual Report*

On Thursday, February 13, 2003, the Subcommittee on Oversight held a hearing on free electronic filing and the National Taxpayer Advocate Annual Report. The hearing focused on the IRS Free Filing initiative, electronic tax administration, and the National Taxpayer Advocate's Annual Report.

i. *Hearing on the Use of Private Collection Agencies to Improve IRS Debt Collection*

On Tuesday, May 13, 2003, the Subcommittee on Oversight held a hearing on the use of private collection agencies to improve IRS Debt Collection. The hearing focused on the Administration's proposal to use private collection agencies to support the IRS's collection efforts.

j. *Hearing on IRS Efforts to Modernize its Computer Systems*

On Thursday, February 12, 2004, the Subcommittee on Oversight held a hearing on IRS efforts to modernize its computer systems. The hearing focused on the IRS's efforts to modernize its computer systems and independent reviews ordered by IRS Commissioner Mark Everson to assess the IRS's Business Systems Modernization program.

k. *Tax Simplification Hearing*

On Tuesday, June 15, 2004, the Subcommittee on Oversight held a hearing on tax simplification. Proposals to simplify the tax laws that were discussed included: the Houghton simplification package which includes bills that would repeal the Alternative Minimum Tax, H.R. 4135, the "Taxation of Minor Children Simplification Act," H.R. 4136, the "Education Tax Credit Simplification Act," H.R. 4137, the "Small Business Tax Modernization Act," H.R. 4138, the "Personal Holding Company Tax Repeal Act," and H.R. 4139, the "State Business Law Tax Conformity Act."

l. *First in a Series of Hearings on Tax Exemption: Pricing Practices of Hospitals*

On Tuesday, June 22, 2004, the Subcommittee on Oversight held a hearing on pricing practices of hospitals. The focus of the hearing examined the lack of transparency in the current hospital pricing system. Consumers, including the uninsured, do not have access to such information on the costs of medical treatment across hospitals.

m. *Hearing on the IRS Enforcement of the Reporting of Tip Income*

On Thursday, July 15, 2004, the Subcommittee on Oversight held a hearing to review the IRS enforcement of the reporting of tip income. The hearing focused on IRS enforcement of tip reporting, the progress of the Tip Reporting Determination Agreement (TRDA), Tip Reporting Alternative Commitment (TRAC), and Employer-designed Tip Reporting Alternative Commitment (EmTRAC) agreements, proposed legislation addressing the restaurant and salon industries, and solutions to increase compliance from employers and employees in the service industries.

n. *Hearing on Select Tax Issues*

On Thursday, September 23, 2004, the Subcommittee on Select Revenue Measures held a hearing on select tax issues. The hearing allowed Members of the House who do not sit on the committee on Ways and Means to testify on discrete tax legislation in which they are interested.

B. LEGISLATIVE REVIEW OF TRADE ISSUES

1. BILLS CONSIDERED UNDER TRADE PROMOTION AUTHORITY (TPA)

a. Legislation

i. United States–Chile Free Trade Agreement Implementation Act

On July 10, 2003, the Committee informally approved draft legislation to implement the United States–Chile Free Trade Agreement, by voice vote, without amendment. The Committee conducted this informal markup in order to provide advice to the Administration on the implementing bill and Statement of Administrative Action. On July 15, 2003, Majority Leader DeLay introduced (by request) H.R. 2738, the “United States–Chile Free Trade Agreement Implementation Act.” On July 17, 2003, the Committee held a formal mark-up session to consider H.R. 2738. The Committee approved the bill and favorably reported H.R. 2738, without amendment, by a recorded vote of 33-5. On July 24, 2003, the House passed the bill by a recorded vote of 276-152. On July 31, 2003, the Senate passed H.R. 2738, without amendment, by a recorded vote of 65-32. The President signed the bill into law on August 3, 2003 (P.L. 108-77).

ii. United States–Singapore Free Trade Implementation Act

On July 10, 2003, the Committee informally approved draft legislation to implement the United States–Singapore Free Trade Agreement, by voice vote, without amendment. The Committee conducted this informal markup in order to provide advice to the Administration on the implementing bill and Statement of Administrative Action. On July 15, 2003, Majority Leader DeLay introduced (by request) H.R. 2739, the “United States – Singapore Free Trade Agreement Implementation Act.” On July 17, 2003, the Committee held a formal mark-up session to consider H.R. 2739. The Committee approved the bill and favorably reported H.R. 2739, without amendment, by a recorded vote of 32-5. On July 24, 2003, the House passed the bill by a recorded vote of 272-155. On July 31, 2003, the Senate passed H.R. 2739, without amendment, by a recorded vote of 66-32. The President signed the bill into law on August 3, 2003 (P.L. 108-78).

iii. United States–Australia Free Trade Implementation Act

On June 23, 2004, the Committee informally approved draft legislation to implement the United States–Australia Free Trade Agreement, by voice vote, without amendment. The Committee conducted this informal markup in order to provide advice to the Administration on the implementing bill and Statement of Administrative Action. On July 6, 2004, Majority Leader DeLay introduced (by request) H.R. 4759, the “United States–Australia Free Trade Agreement Implementation Act.” On July 8, 2004, the Committee held a formal mark-up session to consider H.R. 4759. The Committee approved the bill and favorably reported H.R. 4759, by voice vote, without amendment. On July 14, 2004, the House passed the bill by a recorded vote of 314-109, 1 Present. On July 15, 2004, the Senate passed H.R. 4759, without amendment, by a recorded vote of 80-16. The President signed the bill into law on August 3, 2004 (P.L. 108-286).

iv. United States–Morocco Free Trade Implementation Act

On July 14, 2004, the Committee informally approved draft legislation to implement the United States–Morocco Free Trade Agreement, by a roll call vote of 23-1, with one Member voting present, without amendment. The Committee conducted this informal markup in order to provide advice to the Administration on the implementing bill and Statement of Administrative Action. On July 15, 2004, Majority Leader DeLay introduced (by request) H.R. 4842, the “United States–Morocco Free Trade Agreement Implementation Act.” On July 20, 2004, the Committee held a formal mark-up session to consider H.R. 4842. The Committee approved the bill and favorably reported H.R. 4842, without amendment, by a recorded vote of 26-0. On July 22, 2004, the House passed the bill by a recorded vote of 323-99. On July 22, 2004, the Senate passed H.R. 4842, without amendment, by unanimous consent. The President signed the bill into law on August 17, 2004 (P.L. 108-302).

b. Hearings

i. On June 10, 2003, the Subcommittee held a hearing on implementation of the United States bilateral free trade agreements with Chile and Singapore. The Chile and Singapore Free Trade Agreements (FTAs) were the first trade agreements considered by the Congress under the procedures outlined in TPA. Witnesses at the hearing included Deputy United States Trade Representative Peter Allgeier and representatives from the business community, labor unions, and non-governmental organizations. The hearing focused on Congressional consideration of the Chile and Singapore FTAs and the benefits that both agreements bring to American businesses, farmers, workers, and the U.S. economy.

ii. On June 16, 2004, the Committee held a hearing on implementation of the United States bilateral free trade agreement with Australia. The agreement was signed on May 18, 2004, by Ambassador Zoellick and Australian Trade Minister Mark Vaile. Witnesses at the hearing included Deputy United States Trade Representative Josette Sheeran Shiner and Chief Agricultural Negotiator in the Office of the United States Trade Representative, Allen Johnson, as well as representatives from the business community. The hearing focused on Congressional consideration of the United States–Australia FTA and the benefits that the agreement brings to American businesses, farmers, workers, consumers, and the U.S. economy.

iii. On July 7, 2004, the Committee held a hearing on implementation of the United States bilateral free trade agreement with Morocco. The United States–Morocco FTA was the fourth trade agreement considered by the Congress under the procedures outlined in TPA. Witnesses at the hearing included Deputy United States Trade Representative Peter Allgeier and representatives from the business community and non-governmental organizations. The hearing focused on Congressional consideration of the United States–Morocco FTA and the benefits that the agreement brings to American businesses, farmers, workers, and the U.S. economy.

c. Reports

In June 2003, the Committee received from the International Trade Commission (ITC) the report entitled “U.S.-Chile Free Trade Agreement: Potential Economywide and Selected Sectoral Effects” (Investigation No. TA-2104-5 (Publication 3605; June 2003)). The ITC found that the

FTA's most important benefits address non-tariff barriers and thus are not easily quantified or observed. The ITC predicted that the reduction of both tariffs and non-tariff barriers under the FTA could result in increased U.S. exports of construction and mining machinery, motor vehicles, and telecommunications equipment, and increased U.S. imports of avocados, prepared and preserved fruit, and methanol.

In June 2003, the Committee received from the ITC the report entitled "U.S.-Singapore Free Trade Agreement: Potential Economy Wide and Selected Sectoral Effects" (Investigation No. TA-2104-6 (Publication 3603; June 2003)). The ITC found that the FTA's most important benefits address non-tariff barriers and, thus, are not easily quantified or observed.

In August 2003, the Committee received from the ITC the report entitled "The Impact of Trade Agreements: Effect of the Tokyo Round, U.S.-Israel FTA, U.S.-Canada FTA, NAFTA, and the Uruguay Round on the U.S. Economy" (Investigation No. TA-2111-1 (Publication 3621; August 2003)). This report was required by section 2111 of the Trade Act of 2002.

In May 2004, the Committee received from the ITC the report entitled "U.S.-Australia Free Trade Agreement: Potential Economywide and Selected Sectoral Effects" (Investigation No. TA-2104-11 (Publication 3697; May 2004)). The ITC found that the FTA's quantifiable benefits are related to the immediate reciprocal tariff elimination on a large number of agricultural and manufacturing goods and on virtually all manufactured goods. The ITC also observed that the FTA includes specific obligations in areas such as intellectual property, services, investment, and telecommunications, which may cause U.S. companies to be more likely to use Australia as their base for expanded Asian operations. The ITC predicted that the FTA would increase the overall U.S. welfare in the range of \$434.8 million to \$639.4 million; exports are estimated to increase by \$1.5 billion and imports would increase by \$1.2 billion, with a minimal impact on employment and output.

In June 2004, the Committee received from the ITC the report entitled "U.S.-Morocco Free Trade Agreement: Potential Economywide and Selected Sectoral Effects" (Investigation No. TA 2104-14 (Publication 3704)). The ITC found the quantifiable benefits of the U.S.-Morocco FTA are related to the immediate reciprocal tariff elimination, including the immediate elimination of duties on more than 90 percent of the value of current bilateral trade in consumer and industrial products. In addition, the ITC found it likely that the competitiveness of U.S. manufacturers and farmers will increase in the Moroccan market especially in comparison to suppliers from the European Union – with which Morocco already has a reciprocal trade agreement. Furthermore, the ITC estimated U.S. exports to Morocco are likely to increase by \$740.0 million, and U.S. imports from Morocco are likely to increase by \$198.6 million after full implementation of the FTA, with a minimal impact on U.S. employment and output.

In August 2004, the Committee received from the ITC the report entitled "U.S.-Central America-Dominican Republic Free Trade Agreement: Potential Economywide and Selected Sectoral Effects" (Investigation No. TA 2104-13 (Publication 3717)).

In October 2004, the Committee received from the ITC the report entitled "U.S. Bahrain Free Trade Agreement: Potential Economywide and Selected Sectoral Effects" (Investigation No. TA-2104-15 (Publication 3726)).

2. WORLD TRADE ORGANIZATION (WTO)

a. Cancun CodeI (September 10-13, 2003)

On September 10–13, 2003, Chairman Thomas led a bipartisan delegation of Members of Congress to Cancun to monitor the WTO’s Cancun Ministerial Conference, consult with U.S. trade officials during the negotiations, and discuss trade issues with foreign delegates and WTO officials. Members met with delegations from Australia, New Zealand, the European Union, Ecuador, Africa, and Brazil. An important objective of the meetings was to highlight the importance that Members of Congress place on trade and especially on the need for trade liberalization in the agricultural sector.

b. Geneva Staffdel (February 17-21, 2003)

On February 17–21, 2003, a bipartisan delegation of staff from the Committee on Ways and Means and the Senate Committee on Finance participated in an oversight trip to the WTO headquarters in Geneva, Switzerland. The delegation met with foreign representatives to the WTO from various countries including China, Chile, Australia, Lesotho, Mexico, New Zealand, India, and Singapore, and with various WTO officials. The staff delegation discussed matters related to the September WTO Ministerial scheduled for Cancun and the trade positions of various countries in the negotiations in the Doha Round.

c. Reports

On July 30, 2003, the Committee received from the General Accounting Office (GAO)¹ the report entitled “World Trade Organization: Standard of Review and Impact of Trade Remedy Rulings” (GAO-03-824). The GAO report found that the WTO generally rejected members’ decisions to impose trade remedies in the 25 trade remedy disputes resolved from 1995 through 2002. Overall, the GAO found that WTO rulings resulted in few changes to members’ laws, regulations, and practices but had a relatively greater impact on those of the United States. U.S. agencies stated that WTO rulings have not yet significantly impaired their ability to impose trade remedies. Of the legal experts the GAO consulted, a majority concluded that the WTO has properly applied standards of review and correctly ruled on major trade remedy issues. However, a significant minority strongly disagreed with these conclusions. Nonetheless, the experts almost unanimously agreed that the WTO was not treating the United States any differently than other members.

Section 2105 of the Trade Act of 2002 required the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of the Treasury, the Attorney General, and the United States Trade Representative, to transmit to the Congress a report setting forth the strategy of the executive branch to address concerns of the Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations, or diminished rights, of the United

¹ Effective July 7, 2004, the GAO's legal name became the Government Accountability Office, in accordance to the “GAO Human Capital Reform Act of 2004,” P. L. 108-271, 118 Stat. 811 (2004).

States, as described in section 2101(b)(3) of the Act. This report was submitted to the Congress on December 30, 2002. The report found that the WTO dispute settlement system has worked to the benefit of the United States, providing a means to enforce U.S. rights and contributing to greater compliance by WTO Members. The system has generally handled disputes expeditiously and with professionalism. At the same time, however, certain aspects of the dispute settlement system have raised concerns, including those identified by the Congress in connection with decisions involving U.S. trade remedies and safeguards.

In January 2004, the Committee received from the GAO the report entitled “World Trade Organization: Cancun Ministerial Fails to Move Global Trade Negotiations Forward; Next Steps Uncertain” (GAO-04-250). Consistent with the views of most observers of the Ministerial, the GAO reported on the sharp divisions among the participants on many issues, particularly on agriculture. The GAO noted factors leading to the impasse at Cancun such as (1) the complexity of the agenda, (2) demands by some participants to add new, divisive issues such as investment, trade facilitation, government procurement, and competition, (3) inadequate willingness of some participants to cut agricultural subsidies, and (4) demands for special and differential treatment by broad groups of countries. The GAO informally reported to the Committee on the significant progress made in the negotiations during early 2004 that produced a framework agreement for further negotiations in August 2004. The GAO continues to monitor negotiations for the Committee and will produce an interim status report in May 2005.

3. BILATERAL AND REGIONAL ISSUES

a. Africa (See discussion ahead in Free Trade Agreements section)

i. H.R. 4103, the “AGOA Acceleration Act of 2004”

On April 1, 2004, Chairman Thomas introduced H.R. 4103, the “AGOA Acceleration Act of 2004,” together with Representatives Crane, Rangel, Houghton, Dunn, Weller, K. Brady, McDermott, Neal, Jefferson, Royce, and Payne. The bill extends the existing AGOA program until 2015, extends third-country fabric benefits for lesser developed countries until 2007 with a phase-down in year three, and encourages the President to support African development in transportation, energy, agriculture, and telecommunications infrastructure. The bill also improves the rules of origin for AGOA beneficiaries by permitting use of certain third-country components and increasing the de minimis threshold from seven percent to ten percent. The Committee favorably reported H.R. 4103 to the House on May 5, 2004.

Chairman Hyde wrote to Chairman Thomas on May 19, 2004, regarding a provision within the jurisdiction of the Committee on International Relations that would provide certain assistance to certain African nations; Chairman Hyde stated that his committee would forgo any action on the bill to expedite the bill’s consideration by the House. Chairman Thomas responded by acknowledging the jurisdictional claim stated by Chairman Hyde. The House passed the bill, as amended, on June 14, 2004, by voice vote. The Senate passed the bill without amendment by unanimous consent on June 24, 2004, and the President signed the bill into law on July 13, 2004 (P.L. 108-274).

ii. Hearings

On April 29, 2004, the Subcommittee on Trade held a hearing on trade with sub-Saharan Africa and H.R. 4103, the “AGOA Acceleration Act of 2004.” Representatives from several African nations testified as witnesses at the hearing in support of H.R. 4103. Other witnesses included representatives from businesses and other non-government organizations involved in trade with Africa. The hearing explored the impact of the AGOA law on trade and development in Africa, past administrative problems with implementing the law, and ideas to encourage infrastructure improvements and to generally accelerate the goals of the program. In addition, the hearing explored provisions of H.R. 4103, the AGOA Acceleration Act.

iii. Africa Codel (January 12-23, 2003)

On January 12–23, 2003, Chairman Thomas led a bipartisan delegation of Members of Congress to an international forum established in the Africa Growth and Opportunity Act (AGOA) which was signed into law in 2000 (P.L. 106-200). The delegation visited Namibia, South Africa, Madagascar, and Mauritius and toured several new firms established as a result of the trade benefits created by AGOA. The delegation participated in several speaking and discussion events at the AGOA forum in Mauritius. In January 2003, the Committee filed its “Report on Trade Mission to Sub-Saharan Africa” (WMCP: 108-2).

iv. Reports

As required by title I of the Trade and Development Act of 2000, the President submitted to the Committee on Ways and Means his annual report on U.S. Trade and Investment Policy Toward sub-Saharan Africa on May 2, 2003. The report gives an economic and trade overview of sub-Saharan African countries and identifies efforts by the U.S. Government to provide trade capacity building and technical assistance to these countries. The report also provides an analysis of the impact of the AGOA legislation on each of the sub-Saharan countries.

b. Free Trade Area of the Americas

i. GAO reports

On April 11, 2003, the Committee received from the GAO the report entitled “Free Trade Area of the Americas: Negotiations Progress, but Successful Ministerial Hinges on Intensified U.S. Preparations” (GAO-03-560). The GAO found that USTR, which is responsible for co-chairing the Free Trade Area of the Americas (FTAA) negotiations and hosting the November 2003 ministerial meeting, faces challenges to its readiness to assume these responsibilities. The GAO also concluded that during the final negotiating phase, achieving improved market access for the 34 nations is paramount, but it may be difficult for countries to make ambitious offers to lower tariffs and other trade barriers. Another challenge involves how to deal with agriculture subsidies, which is being negotiated at the WTO.

On May 13, 2003, the Committee received from the GAO the report entitled “Free Trade Area of the Americas: United States Faces Challenges as Co-Chair of Final Negotiating Phase and Host of November 2003 Ministerial” (GAO-03-700T). The GAO found that the United States

faces several challenges as co-chair of the final phase of FTAA negotiations. First, USTR, which was responsible for co-chairing the negotiations and hosting the November 2003 ministerial, had not added appreciably to its staff despite the sharply increased workload. Second, the goals of the final phase—such as achieving improved market access for the 34 nations—are ambitious and require serious, substantive trade-offs. Finally, the negotiations are proceeding on the same timeline as several other complex trade negotiations involving the United States.

ii. Miami Staffdel

On November 18-21, 2003, a bipartisan delegation of staff from the House Committees on Ways and Means and Agriculture and the Senate Committee on Finance traveled to Miami to monitor and consult with U.S. trade officials during the 8th Ministerial meetings for the Free Trade Area of the Americas negotiations and to discuss trade issues with foreign delegates. Staff met with delegations from Brazil, Colombia, Peru, and Panama. An important objective of the meetings was to highlight the importance that Members of Congress place on a comprehensive and ambitious FTAA.

c. Free Trade Agreements

i. Completed Agreements

Chile

Negotiations for the U.S.–Chile Free Trade Agreement were concluded in December 2002. As noted above, the President signed the implementing legislation into law on August 3, 2003 (P.L. 108-77).

Singapore

Negotiations for the U.S.–Singapore Free Trade Agreement were concluded in January 2003. As noted above, the President signed the implementing legislation into law on August 3, 2003 (P.L. 108-78).

Australia

Negotiations for the U.S.–Australia Free Trade Agreement were concluded in February 2004. As noted above, the President signed the implementing legislation into law on August 3, 2004 (P.L. 108-286).

Morocco

Negotiations for the U.S.–Morocco Free Trade Agreement were concluded in March 2004. As noted above, the President signed the implementing legislation into law on August 17, 2004 (P.L. 108-302).

Central America Free Trade Agreement

On October 1, 2002, Ambassador Zoellick notified the Congress of his intention to initiate free trade agreement negotiations with the five member countries of the Central American Economic Integration System (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua). On December 17, 2003, USTR announced completion of an agreement with El Salvador, Guatemala, Honduras, and Nicaragua. On January 25, 2004, USTR announced completion of negotiations to include Costa Rica in the Central America Free Trade Agreement (CAFTA). On May 28, 2004, the agreement was signed.

Dominican Republic

On August 4, 2003, Ambassador Zoellick notified the Congress of his intention to initiate free trade agreement negotiations with the Dominican Republic and to integrate the agreement with the Dominican Republic into the agreement the United States is negotiating with Central America. USTR planned to present the Congress one free trade agreement covering both the Dominican Republic and Central America. On March 15, 2003, USTR announced completion of negotiations to integrate the Dominican Republic into the CAFTA. On May 28, 2004, the CAFTA was signed by Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the United States. On August 5, 2004, an agreement integrating the Dominican Republic into the CAFTA was signed by Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, and the United States. In October 2004, the Dominican Republic passed legislation that imposed a 25 percent tax on beverages made with high fructose corn syrup. On November 16, 2004, Ambassador Zoellick notified the House Ways and Means Committee that he was taking steps to take Congressional action on the CAFTA without the Dominican Republic, if necessary, including preparing a text that excludes the Dominican Republic and requesting that the International Trade Commission assess the likely economic impact of the CAFTA.

Bahrain

In 2001, the United States and Bahrain signed a Bilateral Investment Treaty that provides assurances to investors of both countries that their property rights will be respected. In 2002, the United States and Bahrain began working to promote closer economic ties through a bilateral Trade and Investment Framework Agreement (TIFA). On August 4, 2003, Ambassador Zoellick notified the Congress of his intention to initiate free trade agreement negotiations with Bahrain. This agreement is designed to advance economic reforms and openness in the Middle East and make progress towards a Middle East Free Trade Area, building on an existing free trade agreement with Jordan and negotiations underway for a free trade agreement with Morocco. Negotiations were launched on January 26, 2004, and concluded on May 27, 2004. The agreement was signed on September 14, 2004.

On July 22, 2004, the National Commission on Terrorist Attacks Upon the United States (the "9-11 Commission"), an independent, bipartisan commission created by legislation, released its report. The Commission mentioned the free trade agreement with Bahrain as a potential part of a comprehensive strategy to counter terrorism, stating:

The U.S. government has announced the goal of working toward a Middle East Free Trade Area, or MEFTA, by 2013. The United States has been seeking comprehensive free trade agreements (FTAs) with the Middle Eastern nations most firmly on the path to reform. The U.S.-Israeli FTA was enacted in 1985, and Congress implemented an FTA with Jordan in 2001. Both agreements have expanded trade and investment, thereby supporting domestic economic reform. In 2004, new FTAs were signed with Morocco and Bahrain, and are awaiting congressional approval. These models are drawing the interest of their neighbors. Muslim countries can become full participants in the rules-based global trading system, as the United States considers lowering its trade barriers with the poorest Arab nations. Recommendation: A comprehensive U.S. strategy to counter terrorism should include economic policies that encourage development, more open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future.

ii. Ongoing Negotiations

Southern African Customs Union

Pursuant to Sense of Congress language in the Africa Growth and Opportunities Act of 2000, Ambassador Zoellick notified Congress on November 4, 2002, of the Administration's intent to enter into free trade agreement negotiations with the SACU countries (South Africa, Lesotho, Swaziland, Botswana, and Namibia). Negotiations between the United States and the SACU countries were launched on June 2, 2003 in Pretoria, South Africa.

Andean Countries (Bolivia, Colombia, Ecuador, and Peru)

On November 18, 2003, Ambassador Zoellick formally notified Congress, on behalf of President Bush, of the Administration's intent to initiate negotiations for a free trade agreement with Bolivia, Colombia, Ecuador, and Peru. FTA negotiations began in May 2004 with Colombia, Ecuador, and Peru. Bolivia is an observer in the negotiations.

Panama

On November 18, 2003, Ambassador Zoellick formally notified the Congress, on behalf of President Bush, of the Administration's intent to initiate free trade agreement negotiations with Panama. Negotiations were launched on April 26, 2004, and could conclude in early 2005.

Thailand

On February 12, 2004, Ambassador Zoellick formally notified Congress of the Administration's intent to negotiate an FTA with Thailand. The first round of negotiations was held in June 2004.

Oman

The United States signed a Trade and Investment Framework Agreement (TIFA) with Oman on July 7, 2004. On November 15, 2004, following a visit by a bipartisan delegation of Members of Congress led by Chairman Thomas to Oman (see discussion below), Ambassador

Zoellick formally notified the Congress of the Administration's intention to initiate free trade agreement negotiations with Oman. A free trade agreement with Oman is part of the goal announced by the President to form a Middle East Free Trade Area by 2013. Negotiations are expected to begin in February or March of 2005.

United Arab Emirates (UAE)

The United States signed a Trade and Investment Framework Agreement (TIFA) with the UAE on March 15, 2004. On November 15, 2004, Ambassador Zoellick formally notified the Congress of the Administration's intention to initiate free trade agreement negotiations with the UAE. A free trade agreement with the UAE is part of the goal announced by the President to form a Middle East Free Trade Area by 2013. Negotiations are expected to begin in February or March of 2005.

iii. Codel to North Africa and the Middle East (November 4-12, 2004)

On November 4-12, 2004, Chairman Thomas led a bipartisan delegation of Committee Members to Tunisia, Jordan, Oman, and Egypt. The focus of the delegation's trip included trade, investment, and security issues in the region. The delegation held meetings with government officials and members of the business community and toured facilities that had received assistance from USAID and facilities relying on Free Trade Agreement or Qualified Industrial Zone benefits. In December 2004, the Committee filed its "Report on Trade Mission to Tunisia, Jordan, Oman, and Egypt."

a. China

i. Resolution

On October 28, 2003, Representative Phil English introduced H.Res. 414, a bill to encourage the People's Republic of China to fulfill its commitments under international trade agreements, support the United States manufacturing sector, and establish monetary and financial market reforms. The resolution, which was referred to the Committee, urged Chinese leaders to modernize China's financial system, establish a more flexible exchange rate, and comply with China's trade agreement obligations. On October 29, 2003, the House suspended the rules, and the bill was passed by a recorded vote of 411-1.

On March 24, 2004, Representative Diane Watson introduced H. Res. 576, a bill to encourage the People's Republic of China to improve the protection of intellectual property rights. The bill contained provisions in the jurisdiction of the Committee. The resolution was amended to omit these provisions, and H. Res. 576, as amended, passed the House on July 14, 2004, by a recorded vote of 416-3.

ii. Hearing

On October 30 and October 31, 2003, the Committee held a two-day hearing on United States-China economic relations and China's role in the economy. During the hearing, the Committee received testimony from witnesses from the Administration, the International Trade

Commission, the GAO, the Congressional Budget Office, and private sector interests. The hearing focused on (1) implementation of China's WTO accession commitments; (2) trade relations between the United States and China; (3) China's currency management; and (4) the relationship between trade with China and the U.S. economy.

iii. GAO activities

On March 31, 2003, the Committee received from the GAO a report entitled "World Trade Organization: First-Year U.S. Efforts to Monitor China's Compliance" (GAO-03-461), as requested by Chairman Thomas. GAO reported that the U.S. Trade Representative and the U.S. Departments of Agriculture, Commerce, and State made various changes to monitor China's efforts to comply with its WTO obligations. These agencies reorganized or established intra-agency teams to coordinate oversight of China's compliance, increased staff in China-related units, and identified these changes in performance and strategic plans. GAO identified the challenges of monitoring China's complex and technical new obligations and the limited results of the WTO's initial trade policy review of China.

On June 13, 2003, the Committee received from the GAO a report entitled "GAO's Electronic Database of China's World Trade Organization Commitments" (GAO-03-797R), as requested by Chairman Thomas. GAO reported on the public release of its new electronic database with search capabilities on over 700 individual commitments made by China in its WTO Accession Agreement.

On October 30, 2003, the Committee received from the GAO a report entitled "World Trade Organization: Ensuring China's Compliance Requires a Sustained and Multifaceted Approach" (GAO-04-172T), as requested by Chairman Thomas. GAO reported on the compliance challenges associated with the scope and complexity of China's WTO commitments and the efforts to date of key players involved in ensuring China's compliance with its WTO obligations including the executive branch, Congress, the private sector, and the WTO and its members.

On October 2004, the Committee received from the GAO a report entitled "U.S.-China Trade: Opportunities to Improve U.S. Government Efforts to Ensure China's Compliance with World Trade Organization Commitments" (GAO-05-53), as requested by Chairman Thomas. The GAO reported on the Administration's use of high-level bilateral engagement to address trade disputes, its effective interagency coordination on policy, the need for agencies' improvement in training personnel engaged in compliance activities, and the need for improvements in agencies' tracking results.

The State Department responded to these recommendations by the GAO in a letter to Chairman Thomas on December 7, 2004. The State Department will implement new performance goals and reporting guidelines, and the next State Department Mission Performance Plan will reflect these new guidelines. In addition, the State Department acknowledges the need to improve monitoring of China's WTO commitments through improved staff management.

In March 2004, the Committee received from the GAO a report entitled "World Trade Organization: U.S. Companies' Views on China's Implementation of its Commitments" (GAO-

04-508), as requested by Chairman Thomas. The GAO surveyed U.S. companies that had a presence in China and summarized the findings. The GAO found that two-thirds of U.S. companies had a positive view of China's implementation of its commitments while about 30 percent of companies saw little or no impact. About two percent had a negative reaction to China's implementation. The key areas of China's actions that are of importance to U.S. companies are: (1) standards, certifications, registration, and testing requirements; (2) customs procedures and inspection practices; (3) intellectual property rights protections; (4) lowering tariffs, fees, and charges as required by China's WTO Accession Agreement; and (5) consistent application of laws, regulations, and practices.

b. Armenia

On February 4, 2003, Representatives Joe Knollenberg and Frank Pallone, Jr., co-Chairmen of the Congressional Caucus on Armenian Issues, introduced H.R. 528, a bill to authorize the extension of nondiscriminatory treatment (permanent normal trade relations, or PNTR) to the products of Armenia. On March 5, 2003, Trade Subcommittee Chairman Crane requested written public comments for the record from all parties interested in the extension of PNTR treatment to products from Armenia. On November 19, 2003, Chairman Thomas introduced H.R. 3521, the "Tax Relief Extension Act of 2003," a bill to extend certain expiring provisions. The bill contained a provision granting PNTR treatment to products from Armenia. The House passed H.R. 3521 on November 20, 2003, by voice vote, and the bill was received by the Senate and referred to the Senate Committee on Finance. A provision granting PNTR to products from Armenia was included in the conference report for H.R. 1047, the "Miscellaneous Trade and Technical Corrections Act of 2004," which was signed by the President on December 3, 2004 (P.L. 108-429). See below for further discussion of P.L. 108-429.

c. Moldova

On March 5, 2003, Trade Subcommittee Chairman Crane requested written public comments for the record from all parties interested in the extension of permanent normal trade relations (PNTR) treatment to products from Moldova. No further action was taken.

d. Laos

Laos did not receive Normal Trade Relations (NTR) status because it is included in the Harmonized Tariff Schedule (HTS) of the United States in General Note 3(b) on the list of countries whose products are subject to column 2 (non-NTR) tariff rates. On March 5, 2003, Trade Subcommittee Chairman Crane requested written public comments for the record from all parties interested in the extension of permanent normal trade relations (PNTR) treatment to products from Laos. A provision granting NTR to products from Laos was included in the conference report for H.R. 1047, the "Miscellaneous Trade and Technical Corrections Act of 2004," which was signed by the President on December 3, 2004 (P.L. 108-429). See below for further discussion of P.L. 108-429.

e. Burma (Myanmar)

On June 4, 2003, Representative Lantos introduced H.R. 2330, the “Burmese Freedom and Democracy Act of 2003,” to sanction the ruling Burmese military junta, strengthen Burma's democratic forces, and support and recognize the National League of Democracy as the legitimate representative of the Burmese people. On July 8, 2003, Chairman Thomas sent a letter to International Relations Committee Chairman Hyde asserting the jurisdiction of the Committee on Ways and Means over certain of these provisions and agreeing to forego consideration of the bill because provisions sought by the Committee had been included in the Manager's Amendment to the bill. On July 15, 2003, H.R. 2330 was approved under a suspension of the rules by a recorded vote of 418–2, with 1 present vote. On July 16, 2003, the bill passed the Senate, without amendment, by a recorded vote of 94–1. The President signed H.R. 2330 into law on July 28, 2003 (P.L. 108-61).

Among other things, the legislation prohibits the importation into the United States of any article that is a product of Burma (Myanmar) until the President determines and certifies to Congress that Burma has met certain conditions, including that: (1) the State Peace and Development Council (SPDC) has made substantial and measurable progress to end violations of internationally recognized human rights; (2) the SPDC has made measurable and substantial progress toward implementing a democratic government; and (3) Burma has not been designated as a country that has failed demonstrably to make substantial efforts to adhere to its obligations under international counter-narcotics agreements and to take other effective counter narcotics measures. The law authorizes the President to waive such requirements if it is in the U.S. national interest. The import restrictions expire one year after enactment unless renewed by Congress with a joint resolution meeting certain requirements.

On June 3, 2004, Representatives Lantos and Thomas introduced H.J. Res. 97 to approve the renewal for one year of import restrictions contained in P.L. 108-61. On June 14, 2004, H.J. Res. 97 was approved by the House under a suspension of the rules by a recorded vote of 372–2. On June 24, 2004, the bill passed the Senate without amendment by a recorded vote of 96–1. The President signed H.J. Res. 97 into law on July 7, 2004 (P.L. 108-272). The import restrictions contained in P.L. 108-61 expire completely after three years.

f. Micronesia

On July 8, 2003, Representative Leach introduced H.J. Res. 63, the “Compact of Free Association Amendments Act of 2003.” This measure, which was the authorizing and implementing language for the partially renegotiated Compacts of Association between the United States and the Federated States of Micronesia and the Republic of the Marshall Islands, contained provisions within the jurisdiction of the Committee on Ways and Means. On September 24, 2003, Chairman Thomas and International Relations Committee Chairman Hyde exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means over these provisions and agreeing to forego the Committee on Ways and Means' consideration of the bill. On October 28, 2003, H.J. Res. 63 was approved under suspension of the rules by voice vote. The Senate approved H.J. Res. 63, with amendments, on November 6, 2003. On November 20, 2003, the House approved the Senate amendments under suspension of the rules by a recorded vote of 417–2. The President signed the measure into law on December 17, 2003 (P.L. 108-188).

g. Haiti

i. Legislation

Haiti is currently eligible for trade preferences under the Caribbean Basin Economic Recovery Act (P.L. 98-67, P.L. 106-200, and P.L. 107-210). Several bills were introduced in the House and Senate in the 108th Congress to grant additional trade preferences to Haiti, including H.R. 1031, the “Haiti Economic Recovery Opportunity Act of 2003,” H.R. 4889, the “Haiti Economic Recovery Opportunity Act of 2004,” S. 489, the “Haiti Economic Recovery Opportunity Act of 2003,” and S. 2261, the “Haiti Economic Recovery Opportunity Act of 2004.” On July 16, 2004, the Senate passed by unanimous consent S. 2261. No further formal action was taken.

ii. Hearing

On September 22, 2004, the Subcommittee held a hearing on possible expansions of trade preferences for Haiti. Witnesses at the hearing included Senators DeWine and Graham, as well as representatives from the retail, textile and apparel, and auto parts sectors and a labor union. The hearing focused on whether to provide additional trade preferences for Haiti and the impact on trade and development in Haiti and on the United States and regional textile and apparel industries.

4. STEEL

Section 201 of the Trade Act of 1974 allows the President to take action, including import relief, to assist a domestic industry seriously injured by imports to make a positive adjustment to import competition. On March 5, 2002, the President announced safeguard measures on ten categories of steel imports and imposed tariffs ranging from 8 to 30 percent. Slab imports were subject to a Tariff Rate Quota. The President excluded from the remedy imports from free trade agreement partners (Canada, Mexico, Jordan, and Israel) and certain developing countries that ship less than 3 percent of total imports for each product category. The safeguard measures took effect on March 20, 2002, and were to be phased down over three years and one day. On December 4, 2003, pursuant to section 204(b) of the Trade Act of 1974, the President determined that the effectiveness of the safeguard action had been impaired by changed economic circumstances, and he repealed the tariffs.

a. Hearing on the Impact of the Steel Safeguard Action

On March 26, 2003, the Subcommittee on Trade held a hearing on the impact of the section 201 safeguard actions on certain steel products. The hearing focused on changes in employment, wages, profitability, sales, productivity, and capital investment of steel consuming industries as a result of the safeguard action, whether the safeguard remedies affected steel prices and availability in the United States, and the effects of the safeguard on the domestic steel industry and the industry’s efforts to restructure. Witnesses included representatives from small and large steel consuming businesses, U.S. steel producers, economic and financial analysts knowledgeable on the steel industry, and unions.

b. U.S. International Trade Commission Reports on the Steel Safeguard Action

When a section 201 safeguard action is taken, section 204 of the Trade Act of 1974 requires the U.S. International Trade Commission (ITC) to monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition. Because the safeguard remedy on steel was scheduled to be in effect for three years and one day, the ITC was required to conduct a mid-term review, hold a hearing, and include in the review: (1) a report on the monitoring mentioned above; and (2) its judgment as to the probable economic effect on the industry concerned of any reduction, modification, or termination of the action taken.

In order to provide a comprehensive assessment of the impact of the steel safeguard measures on the U.S. economy, on March 18, 2003, Chairman Thomas requested the ITC to institute an investigation under section 332 of the Tariff Act of 1930 as to the current competitive conditions facing the steel consuming industries in the United States with respect to the tariffs imposed by the President on March 5, 2002, and to foreign competitors not subject to such measures. As requested by Chairman Thomas, the ITC submitted the results of this review, along with the ITC's section 204 report, to the President and Congress in a single document in September 2003 (Steel: Monitoring Developments in the Domestic Industry (Investigation No. TA-204-9) and Steel-Consuming Industries: Competitive Conditions with Respect to Steel Safeguard Measures (Investigation No. 332-452) (Publication 3632; September 2003)).

5. CONGRESSIONAL OVERSIGHT GROUP

a. Trade Act of 2002

Section 2017 of the Trade Act of 2002 (P.L. 107-210) establishes the Congressional Oversight Group (COG), to be co-chaired by the Chairmen of the Ways and Means and Finance Committees and to be comprised of the Chairman and Ranking Member of those Committees of the House and Senate which would have jurisdiction over provisions of law affected by trade agreement negotiations during each Congress. The purpose of the COG is to provide the President and the United States Trade Representative with advice regarding the formulation of specific objectives, negotiating strategies and positions, the development of trade agreements, and compliance and enforcement of negotiated commitments under trade agreements.

b. Operation of the COG

On January 7, 2003, Chairman Thomas convened an organizational meeting of the COG. The next meeting of the COG was hosted by the Senate and held on April 11, 2003, to provide Members with a general update on the Chile and Singapore negotiations. On July 24, 2003, Chairman Thomas convened a sub-group of the House COG to discuss the prospect for free trade negotiations with Bahrain, as well as the possible addition of the Dominican Republic to the Central American Free Trade Agreement once those negotiations are concluded. Chairman Thomas invited the House COG subgroup to a meeting hosted by the Senate on November 6, 2003, to discuss possible free trade agreements with certain Andean nations and Thailand and to brief Members before the Miami ministerial meeting of the Free Trade Area of the Americas

(FTAA). Chairman Thomas invited the House COG subgroup to a meeting hosted by the Committee on May 6, 2004, to consult with Ambassador Zoellick on three free trade agreements (Australia, Morocco, and the Central American countries plus the Dominican Republic). The last meeting of the COG in the 108th Congress occurred on September 8, 2004, and was hosted by the Senate. The purpose of that meeting was to consult with Ambassador Zoellick on the outcome of the WTO Geneva meeting and on Middle East trade policy.

6. MISCELLANEOUS TRADE LEGISLATION

Miscellaneous Trade and Technical Corrections Act of 2004

On March 4, 2003, Trade Subcommittee Chairman Crane introduced H.R. 1047, the “Miscellaneous Trade and Technical Corrections Act of 2003,” a bill to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes. The bill was based in large part on H.R. 5385 from the 107th Congress, which had been passed by the House on October 7, 2002, but was not considered by the Senate. One notable difference between the bills was that H.R. 1047 did not include provisions related to establishment of a Qualified Industrial Zone for Turkey.

H.R. 1047 contained two parts. The first part included legislation relating to: (1) temporary duty suspensions; (2) review of protests against Customs Service decisions; and (3) miscellaneous provisions. The duty suspension provisions of the first part of H.R. 1047 related mostly to products (largely chemical) for which there is no U.S. domestic manufacturer. Other duty suspension articles included rubber riding boots and high performance loud speakers.

The second part of H.R. 1047 contains provisions relating to: (1) changes to the duty drawback statutes; (2) ship repair record-keeping elimination (the bill reverses Customs regulations written in April 2001 and eliminates onerous record-keeping requirements for repairs made by regular crew on American ships while on the high seas, without change to current law requiring duties for foreign ship repairs); (3) GSP benefits for certain hand-made rugs (the primary beneficiary is Pakistan; other countries that would benefit from the bill include Turkey, Nepal, Egypt, Afghanistan, and Morocco); and (4) other technical amendments to the Trade Act of 2002.

On April 5, 2003, the House suspended the rules, and the bill was passed by a recorded vote of 415–11. On March 21, 2003, the Senate read the bill a second time and placed it on the Senate Legislative Calendar under general orders. The Senate took no further action during the first session. The House then largely incorporated the bill into H.R. 3521, the “Tax Relief Extension Act of 2003,” which Chairman Thomas introduced on November 19, 2003. The bill included the provisions in H.R. 1047 in addition to other provisions, such as PNTR for Armenia. The House passed H.R. 3521 on November 20, 2003, by voice vote, and the bill was received by the Senate and referred to the Senate Committee on Finance. The Senate did not act on H.R. 3521 during the 108th Congress.

The Senate subsequently passed H.R. 1047, with an amendment, on March 4, 2004, and a House-Senate conference was held on October 8, 2004. The conference report renamed the bill the “Miscellaneous Trade and Technical Corrections Act of 2004” and included most of the

provisions in the House and Senate versions of H.R. 1047. In addition, the report included provisions to give NTR to Laos, to give PNTR to Armenia, to repeal the Antidumping Act of 1916, and to extend certain AGOA textile benefits to Mauritius for one year. The House agreed to the conference report by unanimous consent on October 8, 2004, and the Senate agreed by unanimous consent on November 19, 2004, after adopting a motion for cloture on the report by a recorded vote of 88 to 5. The President signed H.R. 1047 on December 3, 2004 (P.L. 108-429).

7. WTO DISPUTE SETTLEMENT MATTERS IN WHICH THE COMMITTEE TOOK ACTION

a. Foreign Sales Corporation

On January 14, 2002, the WTO Appellate Panel issued its report finding the United States Extraterritorial Income Exclusion Act (ETI) rules to be a prohibited export subsidy, marking the fourth and final time in 2 ½ years that the United States lost this issue: twice in the Foreign Sales Corporation (FSC) case and twice in the ETI case. On August 30, 2002, a WTO Arbitration Panel authorized the EU to apply trade sanctions in the amount of \$4 billion against U.S. exports to the EU.

On July 25, 2003, Chairman Thomas introduced H.R. 2896, the American Jobs Creation Act of 2003, to put the United States in compliance with its WTO obligations and to address competitiveness and corporate accountability issues. On October 28, 2003, the Committee ordered the legislation favorably reported by a recorded vote of 24-15, but Congress took no further action on the bill.

On December 8, 2003, the EU member states approved legislation allowing the European Commission to impose retaliatory tariffs on U.S. exports starting on March 1, 2004. The European Union began applying retaliatory tariffs of five percent on a wide range of U.S. exports to the EU and incrementally increased the rate on a monthly basis. Chairman Thomas subsequently introduced a second version of the bill, H.R. 4520, that was signed into law on October 22, 2004 (P.L. 108-357), after moving through a House and Senate conference. A fuller discussion of this legislation is located in the tax section of this report.

Although the EU announced that it would suspend the retaliatory tariffs effective January 1, 2005, as a result of the U.S. repeal of FSC, the EU formally requested consultations on November 10, 2003, with the United States over the transitional features of the repeal, which the EU claims to be inconsistent with U.S. trade obligations under the WTO. Consultations will be held in early 2005.

b. The Antidumping Act of 1916

In response to a decision of the WTO Appellate Body on August 28, 2000, that found the Antidumping Act of 1916 to be inconsistent with WTO obligations, Chairman Sensenbrenner of the House Judiciary Committee, together with Chairman Thomas, introduced H.R. 1073 on March 4, 2003, to repeal the Antidumping Act of 1916. No action was taken on the bill during the 108th Congress. However, the text of the bill was included in the conference report to H.R. 1047, the “Miscellaneous Trade and Technical Corrections Act of 2004,” which was signed into law by the President on December 3, 2004 (P.L. 108-429).

8. TRADE AGENCY AUTHORIZATION

The Committee on Ways and Means has adopted a two-year authorization process to provide U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), the Office of the United States Trade Representative (USTR), and the International Trade Commission (ITC) with guidance as they plan their budgets and to provide Committee guidance in the appropriations process. Funding for the former U.S. Customs Service, USTR, and the ITC was authorized through FY 2004 in the Trade Act of 2002 (P.L. 107-210).

On November 25, 2002, the President signed into law legislation (P.L. 107-296) creating a new Department of Homeland Security (DHS). This law transferred the U.S. Customs Service to the Department of Homeland Security under the authority of the Under Secretary for Border and Transportation Security. Authority for customs revenue functions is retained by the Secretary of the Treasury, administered by the Commissioner of U.S. Customs and Border Protection under the terms of an executive delegation of authority order.

On March 1, 2003, the former U.S. Customs Service was divided into two new agencies within DHS. Customs inspectors, canine enforcement officers, and import specialists were merged with immigration inspectors, border patrol agents, and agriculture inspectors to create CBP. Customs investigators and personnel in the air and marine operations were merged with immigration investigators, Federal air marshals, and members of the Federal protective service to create ICE.

a. Hearing

On June 17, 2004, the Subcommittee on Trade held a public hearing on Customs budget authorizations and other customs issues. The hearing focused on issues surrounding the transfer of the former U.S. Customs Service to the Department of Homeland Security, customs modernization, customs user fees, and cost accounting systems. Witnesses included the Honorable Robert Bonner, Commissioner, U.S. Customs and Border Protection; the Honorable Michael Garcia, Assistant Secretary for U.S. Immigration and Customs Enforcement; and representatives of the business community and labor unions. On June 22, 2004, Trade Subcommittee Chairman Crane sent a letter to Commissioner Bonner submitting questions for response and inclusion in the Subcommittee record, requesting responses by July 6, 2004. On September 13, 2004, the Subcommittee received responses.

b. Authorization legislation

On May 20, 2004, Trade Subcommittee Chairman Crane introduced H.R. 4418, the "Customs Border Security Act of 2004," a bill to authorize appropriations for fiscal years 2005 and 2006 for CBP, ICE, USTR, and ITC. On June 24, 2004, the Subcommittee held a formal mark up session and ordered favorably reported to the full Committee H.R. 4418, the "Customs Border Security and Trade Agencies Authorization Act of 2004," as amended, by voice vote. On July 8, 2004, the Committee held a formal mark up session on H.R. 4418, as amended by the Subcommittee. Chairman Thomas offered an amendment in the nature of a substitute, which was agreed to by voice vote. The Committee then ordered favorably reported H.R. 4418, as amended, by a recorded vote of 33-0. On July 14, 2004, the legislation passed the House by a recorded

vote of 341–85. On July 15, the bill was received in the Senate and referred to the Committee on Finance. The Senate took no further action.

c. Report

On January 23, 2004, as required by the Trade Act of 2002, the Committee received from the GAO a report entitled “U.S. Customs and Border Protection Faces Challenges in Addressing Illegal Textile Transshipment” (GAO-04-345). GAO reported on CBP’s system for preventing the use of false country-of-origin information for imported goods to evade U.S. textile quotas and customs duties.

9. MISCELLANEOUS TRADE ISSUES

i. Customs User Fees

On October 21, 2003, Congressman Rick Renzi introduced H.R. 3365, the “Military Family Tax Relief Act,” which contained no trade provisions. On October 29, 2003, the House suspended the rules and passed the bill by a recorded vote of 413-2. On November 3, 2003, the Senate passed H.R. 3365 with an amendment that provided for an 11-month extension of Customs user fees. On November 5, 2003, the House concurred in the Senate amendment by unanimous consent. The President signed the bill into law on November 11, 2003 (P.L. 108-121).

On September 10, 2004, the Senate accepted an amendment to H.R. 4567, the Homeland Security Appropriations bill for 2005 to extend Customs User fees for less than one year in order to raise \$700 million in additional revenue. Chairman Thomas wrote Appropriations Committee Chairman Young on September 29, 2004, in opposition to the provision, noting that it constituted a revenue measure originating in the Senate contrary to the Origination Clause of the Constitution. Chairman Thomas asked that the provision be removed during the conference on the bill. The provision was subsequently removed during conference.

H.R. 4520, “the American Jobs Creation Act of 2004,” included a provision to extend all Customs user fees until September 30, 2014. The provision also clarified that user fees should be reasonably related to the cost of the customs service provided to importers. The provision also commissioned a study by the Department of Homeland Security to analyze all fees charged to importers and to recommend changes. As described above, H.R. 4520 was signed into law by the President on October 22, 2004 (P.L. 108-357). A fuller discussion of this legislation is located in the tax section of this report.

ii. Conflict Diamonds

There were a number of legislative proposals in Congress during the 107th Congress seeking to address the trade in conflict diamonds. Such diamonds generally come from mines controlled by rebel forces and are traded for arms to fuel civil war in Africa. Some of the proposals included banning diamonds imported from specified countries and requiring a certification of where the imported diamond was mined. Member interest in these proposals remained high in the 108th Congress owing to recent completion of international negotiations.

On April 3, 2003, Congressman Amo Houghton introduced H.R. 1584, the “Clean

Diamond Trade Act,” to implement U.S. obligations pursuant to the Interlaken Declaration on the Kimberley Process Certification Scheme for Rough Diamonds of November 5, 2002. The Declaration addresses the problem of the use of diamonds from mines controlled by African rebel forces to trade for arms in order to fuel civil war in Africa. On April 8, 2003, the House passed the bill by a recorded vote of 419-2. On April 10, 2003, the Senate passed H.R. 1584, with amendment, by unanimous consent. On April 11, 2003, the House agreed to the Senate amendment by unanimous consent. The President signed the bill into law on April 25, 2003 (P.L. 108-19). The law restricts the import and export of diamonds from countries with inadequate controls against the trade in conflict diamonds.

On August 25, 2004, the Committee received a report on the performance of the United States Kimberley Process Authority (USKPA) from the State Department. The report described and reviewed the practices, standards, and procedures of the USKPA. The Committee continues to monitor implementation of the Kimberly Process.

iii. Other Select ITC Reports Received by the Committee

In August 2003, the Committee received from the ITC the report entitled “The Year in Trade 2002: Operation of the Trade Agreements Program” (Publication 3630).

In September 2003, the Committee received from the ITC the report entitled “The Impact of the Andean Trade Preference Act (Ninth Report 2002)” (Investigation 332-352 (Publication 3637)).

In September 2003, the Committee received from the ITC the report entitled “The Impact of the Caribbean Basin Economic Recovery Act (Sixteenth Report 2001-2002)” (Investigation 332-227 (Publication 3636)).

In December 2003, the Committee received from the ITC the report entitled “U.S. Trade and Investment with Sub-Saharan Africa: Fourth Annual Report” (Publication 3650).

In July of 2004, the Committee received from the ITC the report entitled “The Year in Trade 2003: Operation of the Trade Agreements Program” (Publication 3700).

In September 2004, the Committee received from the ITC the report entitled “The Impact of the Andean Trade Preference Act (Tenth Report 2003)” (Investigation 332-352 (Publication 3725)).

iv. Medicare Legislation

On June 25, 2003, Speaker Hastert introduced H.R. 1, the “Medicare Prescription Drug and Modernization Act of 2003,” an act to amend title XVIII of the Social Security Act to provide for a voluntary prescription drug benefit under the Medicare program and for other purposes.

On November 22, 2003, the House agreed to the conference report by a recorded vote of 220-215. On November 25, 2003, the Senate agreed to the conference report by a recorded vote of 54-44. The President signed the bill into law on December 8, 2003 (P.L. 108-173).

Section 1123 of P.L. 108-173 provides for a study and report on issues related to trade in pharmaceuticals. The conference report further specifies that the nine-month study and report shall examine the drug pricing practices of countries that are members of the Organization for Economic Cooperation and Development and whether those practices utilize non tariff barriers with respect to trade in pharmaceuticals. The study is to include an analysis of the use of price controls, reference pricing, and other actions that affect the market access of United States pharmaceutical products. The study was transmitted to Congress on December 21, 2004.

v. Trade Provisions in Energy Legislation

On April 7, 2003, Energy and Commerce Committee Chairman Tauzin introduced H.R. 6, the “Energy Policy Act of 2003,” a bill to enhance energy conservation and research and development, provide for security and diversity in the energy supply for the American people, and for other purposes. On April 11, 2003, the House passed H.R. 6 by a recorded vote of 247–175.

On July 31, 2003, Senator Frist offered Senate Amendment 1537 in the nature of a substitute, which contained language similar to that proposed by the Senate to H.R. 6 of the 107th Congress. Senate Amendment 1537 added a provision to prohibit direct or indirect import of Iraqi-origin oil 30 days after enactment of the Act. The ban would remain in effect until the President certifies to Congress that: (1) Iraq is in compliance with United Nations Security Council resolutions on destruction of weapons of mass destruction and the food-for-oil program, and Iraq stops compensating families of Palestinian suicide bombers; or (2) resuming imports of oil from Iraq would not be inconsistent with the national security and foreign policy interests of the United States. The Senate amendment also included a sense of the Senate that the President should ensure that humanitarian needs of Iraqi people are not affected by this Act and encourage humanitarian assistance to Iraq. Senate Amendment 1537 also included section 2504, providing that any gasoline or diesel fuel sold at a duty-free sales enterprise would be considered to be entered for consumption into the customs territory of the United States. The Senate accepted Senate Amendment 1537 by unanimous consent on July 31, 2003. The Senate passed H.R. 6 as amended by a yeay-nay vote of 84–14 on July 31, 2003.

In conference, the Senate receded from its position on both the Iraqi oil ban and the provision on the sale of fuel at duty-free sales enterprises. Conferees agreed to extend a current temporary duty suspension for nuclear steam generators until December 31, 2008. Conferees further agreed to temporarily suspend the duties on nuclear vessel heads for column 1 countries until December 31, 2007. Conferees also provided for the temporary duty suspension for certain ceiling fans until 2007. The House passed the conference report to H.R. 6 on November 18, 2003, by a recorded vote of 246–180. However, the Senate cloture motion on the bill failed by recorded vote of 57–40 on November 21, 2003, thus terminating Senate action in the 108th Congress. No further activity occurred on H.R. 6 during the 108th Congress, but the trade provisions were later incorporated into H.R. 4520, the “American Jobs Creation Act of 2004.”

vi. Marlin

On July 25, 2003, Representative Saxton introduced H.Con. Res. 268, expressing the sense of the Congress regarding the imposition of sanctions on nations that are undermining the effectiveness of conservation and management measures for Atlantic highly migratory species,

including marlin, adopted by the International Commission for the Conservation of Atlantic Tunas and that are threatening the continued viability of United States commercial and recreational fisheries. The bill contained provisions within the jurisdiction of the Committee on Ways and Means. On October 27, 2003, Chairman Thomas and Committee on Resources Chairman Pombo exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and agreeing to forgo the Committee on Ways and Means' consideration of the bill because the Committee on Resources had made changes to relevant provisions ensuring that new sanctions were not authorized. On October 28, 2003, the legislation was favorably reported by the Committee on Resources and passed the House by voice vote. On October 29, 2003, the bill was received in the Senate and referred to the Committee on Commerce, Science, and Transportation for further consideration. No further action was taken in the Senate.

vii. Trade Agreement Provisions on Entry of Foreign Nationals into the United States

On September 5, 2003, Senator Gregg introduced S. 1585, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004. The bill contained provisions within the jurisdiction of the Committee on Ways and Means. Specifically, Section 214 (the "Feinstein" amendment) would have proscribed relevant executive agencies from expending funds to discuss or enter into trade agreements if those agreements contained provisions pertaining to the entry of foreign nationals into the United States. On October 28, 2003, Chairman Thomas sent a letter to Committee on Appropriations Chairman Young and Subcommittee on Commerce, Justice, States, Judiciary and Related Agencies Chairman Wolf expressing opposition to including this provision in this or any related appropriations legislation. This Commerce, State, Justice appropriations bill was eventually incorporated into the Consolidated Appropriations Act for FY2004 (H.R. 2673). A conference report on the omnibus bill was filed on November 25, 2003 and did not include the "Feinstein amendment." The House passed the conference report for H.R. 2673 on December 8, 2003, by a recorded vote of 242-176. On January 22, 2004, the Senate passed the conference report for H.R. 2673 by a recorded vote of 65-28. The President signed the bill into law on January 23, 2004 (P.L. 108-199).

viii. The Continued Dumping and Subsidy Offset Act

a. Legislation

The Continued Dumping and Subsidy Offset Act (CDSOA) was enacted into law in October 2000 and requires the annual disbursement of antidumping and countervailing duties to qualified petitioners and interested parties in the underlying trade remedy proceedings (P.L. 106-387). On January 16, 2003, the WTO's Appellate Body issued a final adverse ruling against the CDSOA, finding that it is inconsistent with United States obligations to the WTO. On November 28, 2004, the WTO authorized approximately \$143 million in retaliation against the United States for FY2003 CDSOA disbursements. Under the methodology set by the WTO to determine the appropriate amount of retaliation, the level may change annually and is set at 72 percent of CDSOA disbursements for the previous year. FY2004 CDSOA disbursements of \$285 million were issued to recipients on November 30, 2004.

On September 5, 2003, the Senate Appropriations Committee reported S. 1585, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related

agencies for the fiscal year ending September 30, 2004. The bill included a provision requiring negotiations to be conducted within the WTO to recognize the right of members to distribute monies collected from antidumping and countervailing duties. This Commerce, State, Justice appropriations bill was eventually incorporated into the Consolidated Appropriations Act for FY2004 (H.R. 2673). A conference report on the omnibus bill was filed on November 25, 2003 and included the provision on the Continued Dumping and Subsidy Offset Act. The House passed the conference report for H.R. 2673 on December 8, 2003, by a recorded vote of 242-176. On January 22, 2004, the Senate passed the conference report for H.R. 2673 by a recorded vote of 65-28. The President signed the bill into law on January 23, 2004 (P.L. 108-199). This provision was also included in the conference report to H.R. 4814, the Consolidated Appropriations Act for FY 2005. The House passed the conference report for H.R. 4818 on November 20, 2004, by a recorded vote of 344-51, with one Member voting present. The Senate passed the conference report for H.R. 4818 on November 20, 2004, by a recorded vote of 65-30. On March 10, 2004, Representatives Ramstad and Crane introduced H.R. 3933 to repeal the CDSOA. No further action was taken.

b. Reports

On March 2, 2004, the Committee received from the Congressional Budget Office (CBO) an economic analysis of the Continued Dumping and Subsidy Offset Act of 2000, as requested by Chairman Thomas. In the analysis, CBO reported that the law subsidizes the output of some firms at the expense of others, leading to inefficient use of capital, labor, and other resources of the economy. CBO further concluded that the law discourages settlement of antidumping and countervailing duty cases by U.S. firms and will lead to increased expenditure of economic resources on administration, legal representation of parties, and various other costs associated with the operation of the antidumping and countervailing duty laws. CBO also noted that the WTO Appellate Body has ruled that the CDSOA violates the WTO agreement, leaving the United States vulnerable to retaliation against its exports. CBO estimated that distributions under CDSOA will total \$3.85 billion from 2005 through 2014.

On April 30, 2004, Trade Subcommittee Chairman Crane requested the GAO to carry out a comprehensive review of the CDSOA and its impact on recipient industries, including an analysis of how CDSOA funds have been used by recipient companies. The GAO's report is expected to be issued in 2005.

ix. Transportation, Treasury, and Independent Agencies Appropriations Act, 2004

On July 30, 2003, Representative Istook introduced H.R. 2989, making appropriations for the Departments of Transportation and Treasury for the fiscal year ending September 30, 2004. The bill contained provisions within the jurisdiction of the Committee on Ways and Means. Specifically, section 631 would have waived section 302(a)(1) of the Trade Agreements Act of 1979, which prohibits the United States government from acquiring information technology products from countries that are not parties to reciprocal international government procurement agreements. On August 3, 2003, Chairman Thomas sent a letter to Committee on Rules Chairman Dreier requesting that the rule for consideration of H.R. 2989 not include a waiver of Rule XXI of the Rules of the House with respect to the two portions of section 631 of the legislation within the jurisdiction of the Committee on Ways and Means. On September 3, 2003 H. Res. 351, providing for the consideration of H.R. 2989, was introduced and reported favorably

by the Committee on Rules. H. Res. 351 did not include a waiver of Rule XXI with respect to the provisions within the jurisdiction of the Committee on Ways and Means. H. Res. 351 passed the House by a recorded vote of 235–178. On September 4, 2003 when H.R. 2989 was considered by the House, a point of order was raised against the provisions and the Chair sustained the point of order, thus stripping the provisions from the bill.

x. Express Delivery-ITC Study

On June 30, 2003, Chairman Thomas requested that the ITC institute a Section 332 study on the international competitive conditions facing express deliver services. The study was issued by the ITC in April 2004. The ITC study examined the composition of the global industry, the impact of government monopolies, and other trade impediments facing express delivery firms. The ITC concluded that U.S. firms face anticompetitive monopoly practices by foreign governments such as foreign postal firms' use of profits derived from monopoly-protected services to support non-protected services that compete against U.S. service firms.

xi. Overview and Compilation of U.S. Trade Statutes 2003

On July 8, 2003, Chairman Thomas announced the publication of the Committee's Trade "Blue Book," the 2003 edition of the "Overview and Compilation of U.S. Trade Statutes" (WMCP: 108-5). The Blue Book contains a description and history of trade laws as well as the text of the statutes themselves. This edition also includes current updates to trade laws due to the significant legislation accomplished by the Committee during the 107th Congress, such as Trade Promotion Authority, Trade Adjustment Assistance, Generalized System of Preferences, Customs Reauthorization, and the Andean Trade Preference Act.

xii. Sudan

On September 9, 2004, Senate Lugar introduced S. 2781, the Comprehensive Peace in Sudan Act. On September 23, 2004, S. 2781 passed the Senate by unanimous consent. The bill contained provisions within the jurisdiction of the Committee on Ways and Means. On November 18, 2004, Chairman Thomas and International Relations Committee Chairman Hyde exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and agreeing to forgo the Committee on Ways and Means' consideration of the bill because the Committee on International Relations had made changes to relevant provisions ensuring that the law regarding sanctions was not authorized. On November 19, 2004, the legislation, as amended, passed the House by voice vote.

xiii. Brown Tree Snakes

On November 11, 2003, Representative Bordallo introduced H.R. 3479, to provide for the control and eradication of the brown tree snake on the island of Guam and to prevent the introduction of the brown tree snake to other areas of the United States. The bill contained provisions within the jurisdiction of the Committee on Ways and Means. The Committee on Resources made changes to relevant provisions to take them out of the jurisdiction of the Committee on Ways and Means. On September 28, 2004, the legislation passed the House by voice vote. On October 10, 2004, the bill passed the Senate by unanimous consent. On October 30, 2004, the President signed the bill into law (P.L. 108-384).

xiv. Overtime for U.S. Customs and Border Protection Employees

On June 15, 2004, Representative Rogers introduced H.R. 4567, making appropriations for the Department of Homeland Security for fiscal year 2005. The bill contained provisions within the jurisdiction of the Committee on Ways and Means. On June 15, 2004, Chairman Thomas and Subcommittee on Homeland Security Chairman Rogers exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and agreeing to forgo the Committee on Ways and Means' consideration of the bill. On October 18, 2004, the legislation passed the House by a recorded vote of 400-5. On September 14, 2004, the bill passed the Senate with an amendment by a vote of 93-0. On October 9, 2004, the conference report to H.R. 4567 passed the House by a recorded vote of 368-0. On October 11, 2004, the conference report passed the Senate by voice vote. It was signed into law by the President on October 18, 2004 (P.L. 108-334).

xv. Specialty Crops Competitiveness Act

On October 2, 2003, Congressman Ose introduced H.R. 3242, the "Specialty Crops Competitiveness Act of 2004," which contained a provision authorizing a position within the U.S. Trade Representative's office dedicated to handling specialty crops. Chairman Thomas wrote to Chairman Goodlatte of the Committee on Agriculture on October 4, 2004, stating that the Committee on Ways and Means would forgo action on the bill because the provision was removed from the bill. H.R. 3242, as amended, passed the House on October 7, 2004, and no further action occurred on the bill during the 108th Congress.

xvi. Jurisdiction of the Committee on Ways and Means

On November 19, 2004, Chairman Thomas wrote Chairman Dreier of the Committee on Rules to make recommendations for changes to House Rules in the 109th Congress. Chairman Thomas proposed to modify the jurisdiction of the Committee on Ways and Means as stated in House Rule X from "(1) Customs, collections districts, ..." to "(1) Customs revenue functions, collection districts,..." This change would conform the Committee's jurisdiction to the revenue authority defined in the Homeland Security Act of 2002. No action on this proposal occurred during the 108th Congress.

C. LEGISLATIVE REVIEW OF HEALTH ISSUES

1. MEDICARE REGULATORY AND CONTRACTING REFORM ACT OF 2003 (H.R. 810)

The Subcommittee on Health held a hearing on February 13, 2003, on the regulatory burden on Medicare's providers and beneficiaries. On the same day, Subcommittee Chairman Johnson and Ranking Member Stark introduced H.R. 810, the "Medicare Regulatory and Contracting Reform Act of 2003." The bill streamlines the regulatory bureaucracy to create a more collaborative working relationship with providers. It creates time frames for issuance of new regulations, prohibits retroactive application of the issuance of new regulations, improves beneficiary and provider education, improves appeals, reform recovery of overpayments, and improves new technology integration. In addition, the bill reforms Medicare's contracting system by consolidating contracting functions for Part A and Part B, requiring competition and providing for more flexibility among contractors.

The Health Subcommittee approved H.R. 810, as amended, by a voice vote on March 20, 2003. This was followed by full Committee approval by a vote of 19-13 on April 2, 2003. The Committee on Energy and Commerce reported the bill on April 29, 2003. Provisions of H.R. 810 were included in H.R. 1 (P.L. 108-173), the "Medicare Prescription Drug, Improvement and Modernization Act of 2003."

2. PATIENT SAFETY IMPROVEMENT ACT OF 2003 (H.R. 877)

Chairman Johnson and Ranking Member Stark introduced the Patient Safety Improvement Act on February 25, 2003. The legislation would promote voluntary and confidential reporting of errors to newly created Patient Safety Organizations (PSOs) certified by the U.S. Department of Health and Human Services (HHS). The PSOs would analyze reported mistakes, provide feedback designed to prevent future accidents to providers, and forward non-identifiable information to HHS, which would be the focal point of Administration policy on patient safety. The HHS would administer a new medical errors database of non-identifiable information that researchers would use to identify national trends and encourage best practices to prevent errors and improve health quality.

The Secretary of HHS would publish, within 24 months, voluntary standards of computer interoperability to promote integration of health information systems in hospitals and other facilities. The bill would establish a new technology advisory board to provide expert advice to the Secretary of HHS in creating these standards. Because clinical and administrative efficiencies would accrue by facilitating communication between computer systems, this provision would be expected to save significant resources across all medical providers, including in the Medicare program.

The bill would make clear that no State law mandating reporting would be preempted or affected by the legislation. The Secretary of HHS would provide technical assistance to the States in maintaining or implementing State-reporting systems.

The Full Committee reported the bill by voice vote on February 27, 2003. The legislation was subsequently referred to the Committee on Energy and Commerce which reported a similar

bill solely in their jurisdiction (H.R. 663) that was passed by the House on March 12 by a vote of 418-6. No conference committee was convened prior to the end of the 108th Congress.

3. MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND MODERNIZATION ACT (H.R. 1, H.R. 2473)

In 2003, the Committee on Ways and Means and its Health Subcommittee continued its series of hearings on the state of the Medicare program and how it needs to be modernized, holding seven hearings in 2003. These hearings included an extensive review of many aspects of the Medicare program. Specifically, the hearings addressed Medicare's solvency and overall sustainability (February 5, 2003), the Bush Administration's priorities on Medicare (February 6, 2003), the regulatory burden on providers and beneficiaries (February 13, 2003), the Medicare Payment Advisory Commission's (MedPAC) report on Medicare provider payment policies (March 6, 2003), the need to integrate a prescription drug benefit into Medicare (April 9, 2003), modernizing beneficiary cost-sharing and reforming Medigap (May 1, 2003), and the need to eliminate waste, fraud and abuse in the Medicare program (July 17, 2003). These hearings provided the foundation for the comprehensive Medicare Prescription Drug, Improvement and Modernization Act (H.R. 2473 and H.R. 1).

H.R. 2473 was introduced June 16, 2003, and was reported out of the Committee on Ways and Means June 17, 2003, by a vote of 25-15. On June 27, the House passed H.R. 1, which included provisions of H.R. 2473, by a vote of 216-215. In addition, H.R. 2596, the Health Savings and Affordability Act of 2003, was included as part of H.R. 1 through a self-executing rule. The Senate passed similar legislation on June 27, 2003, by a vote of 76-21. The bills were conferenced, reported favorably, and the House passed the Conference Report on November 22, 2003, by a vote of 220-215. The Senate also passed the Conference Report by a vote of 54-44 on November 25, 2003, and the legislation was signed into law December, 8, 2003 (P.L. 108-173).

The Medicare Prescription Drug, Improvement and Modernization Act establishes new voluntary prescription drug coverage under a new Part D of Title XVIII of the Social Security Act. Effective January 1, 2006, beneficiaries can purchase prescription drug coverage under a number of options under a new Part D of Medicare. Beneficiaries will be able to purchase either "standard coverage" or alternative coverage with actuarially equivalent benefits. In 2006, "standard coverage" will have a \$250 deductible, 25 percent coinsurance for costs between \$251 and \$2,250, and catastrophic coverage after out-of-pocket expenses of \$3,600. Once the beneficiary reaches the catastrophic limit, the program will pay all costs except for nominal cost-sharing. Low-income subsidies will be provided for persons with incomes below 150 percent of poverty. Low-income individuals (below 135 percent of poverty) will have no gap in coverage, pay no premium, and have \$1 to \$2 copayments for generics and \$3 to \$5 copayments for preferred drugs. Seniors with incomes between 135 percent and 150 percent of poverty will pay reduced premiums, a \$50 deductible and 15 percent coinsurance below the catastrophic limit. Coverage will be provided through competing prescription drug plans or integrated Medicare Advantage plans, which cover all Medicare benefits, including prescription drugs. The program will rely on private plans to provide coverage and to bear some of the financial risk for drug costs; Federal subsidies will be provided to encourage participation. Plans will determine premiums through a bid process and will compete based on premiums, quality, and negotiated prices. On average, federal subsidies will cover approximately 75 percent of premium costs.

Plans have incentives and flexibility to aggressively negotiate with pharmaceutical manufacturers, pharmacies, and others in the distribution chain to lower prescription drug costs.

In order to encourage employers and others to retain and enhance retiree health coverage, the law provides \$87 billion over ten years in tax-free subsidies to employer and union plans that offer at least the actuarial value of the Medicare benefit.

Prior to the new benefit being implemented, a temporary program is established to provide prescription drug discount cards to eligible Medicare beneficiaries. This program provides access to prescription drug discounts through card sponsors to persons who voluntarily enroll in the program. Each card sponsor provides each enrollee with access to negotiated prices. The program also provides \$600 per year (in 2004 and 2005) in transitional assistance funds for certain low-income persons enrolled in the discount card. The Health Subcommittee held a hearing on the implementation of the drug discount card program on April 1, 2004.

The law provides a number of quality improvements and beneficiary protections, including electronic prescribing, formulary appeals, the ability to visit any pharmacy, and medication therapy management programs. The Health Subcommittee held hearing on the use of health information technology and electronic prescribing on June 17, and July 22, 2004, respectively.

The law also provided for the establishment of a pilot program to test various approaches to the management of chronic conditions among Medicare beneficiaries. The Health Subcommittee held a hearing on the implementation of the Chronic Care Improvement Program (CCIP) on May 11, 2004.

The new Medicare law permits seniors who already have prescription drug coverage through privately purchased Medigap coverage to keep that coverage if they do not want to enroll in the new Medicare drug benefit. However, maintaining Medigap coverage and delaying enrollment in Part D will likely result in a premium penalty as Medigap coverage is not as generous as Part D coverage. It also instructs the National Association of Insurance Companies (NAIC) to create two high deductible Medigap plans.

The law increases payments to Medicare+Choice plans by paying plans at least the fee-for-service rate and tying payment updates to fee-for-service growth. The program is renamed Medicare Advantage. In 2006, Medicare Advantage will initiate a competitive approach to encourage beneficiaries to select more efficient plans. When plans bid below a benchmark in their area, savings will be split between the beneficiary (75 percent) and taxpayers (25 percent). The law includes incentives for private preferred provider organizations (PPOs) to operate regionally, beginning in 2006. In 2010, a pilot program will be established to test a weighted average bidding formula where traditional Medicare will compete directly with private plans. Seniors will be protected from possible premium volatility with a 5 percent cap on premium variation.

The law blocks the significant payment cuts to physicians and provides 2 years of modest payment increases. It increases payments to rural and suburban hospitals by equalizing the standardized amount, increasing Medicare disproportionate share (DSH) funding for small hospitals, improving the critical access hospital program, and increasing payments to areas with low wage costs. In addition, the law provides temporary increases to indirect medical education payments while retaining the freeze on hospitals with extraordinarily high direct graduate medical

education. Dialysis facilities receive a payment increase in 2005. Payments to laboratories are frozen for five years and the caps on outpatient therapy benefits are lifted for two years. Durable medical equipment providers are subject to a freeze followed by a competitive bidding program.

The average wholesale pricing system for currently covered Medicare prescription drugs is fundamentally reformed to end abuses in the current system that had been highlighted in numerous GAO and HHS Office of the Inspector General reports and in Congressional hearings. While overpayments for drugs are reduced, payments for drug administration are substantially increased.

In order to keep seniors healthy, the law adds other new benefits for Medicare beneficiaries including an initial preventive physical examination for new beneficiaries, coverage of diabetes screening tests for individuals at high risk and coverage of cardiovascular screening blood tests once every 2 years.

When Medicare was enacted, the Part B premium paid for nearly 50 percent of a senior's costs. Today, the senior's premium covers only 25 percent of those costs for Part B services. The law decreases subsidies to Part B premiums for seniors with incomes above \$80,000. In addition, the Part B deductible is indexed to growth in Medicare's costs. When Medicare was enacted, this deductible comprised 45 percent of costs; today it reflects just 3 percent of those costs. Every year it was not adjusted, taxpayer obligations increased.

The entire regulatory reform bill, H.R. 810, as modified in conference was included in the legislation to streamline the regulatory process and modernize Medicare's contracting functions.

4. THE HEALTH SAVINGS AND AFFORDABILITY ACT OF 2003 (H.R. 2596)

H.R. 2596, the Health Savings and Affordability Act of 2003, was reported from the full committee on June 19, 2003, by a vote of 23 to 16. The legislation was included as part of H.R. 1 through a self-executing rule, and was signed into law on December 8, 2003 (P.L. 108-173).

The Subcommittee worked with the Department of Treasury to ensure that technical guidance issued by the Department was consistent with legislative intent.

The law creates health savings accounts (HSAs) which provide for tax-favored savings for health care expenses in conjunction with a high deductible health policy. In general, an HSA is a tax-exempt trust or custodial account created exclusively to pay for the qualified medical expenses of the account holder and his or her spouse and dependents. The minimum deductible is \$1,000 for a self policy and \$2,000 for a family policy. Contributions to an HSA are deductible if made by an eligible individual and are excludable from gross income and wages for employment tax purposes if made by the employer of an eligible individual. Family members may also make nondeductible contributions to an HSA on behalf of an eligible individual. Distributions from an HSA for qualified medical expenses are not includible in gross income. Tax-free distributions are allowed for health care needs not covered by the insurance policy, and can also be made for continuation coverage required by Federal law (i.e., COBRA), health insurance for the unemployed, and long-term care. Distributions that are not for qualified medical expenses are subject to taxation and to an additional 10 percent tax. The additional 10 percent tax does not apply after the individual attains age 65, dies or becomes disabled.

The individual owns the account. The savings follow the individual from job to job and into retirement. Catch-up contributions during peak saving years allow individuals to develop equity to pay for retiree health needs. Once fully phased in, catch-up contributions allow a married couple to save an additional \$2,000 annually if both spouses are at least 55.

D. LEGISLATIVE REVIEW OF SOCIAL SECURITY ISSUES

1. SOCIAL SECURITY PROTECTION ACT OF 2003

On February 12, 2003, Subcommittee Chairman Shaw introduced H.R. 743, the “Social Security Protection Act of 2003.” The bill was referred to the Committee on Ways and Means. On March 5, 2003, the bill, as amended, was considered by the House under suspension of the rules. The bill did not receive the needed two-thirds votes of approval, and failed by a vote of 249-180. On March 24, the Committee on Ways and Means favorably reported the bill, as amended, by a vote of 35-2. On April 2, 2003, the House passed the bill, as amended, by a vote of 396-28. In the Senate, H.R. 743 was referred to the Senate Committee on Finance, which favorably reported the bill with an amendment in the nature of a substitute on October 29, 2003. On December 9, 2003, the Senate considered and passed the Committee substitute, as amended, by unanimous consent. On February 11, 2004, H.R. 743, as passed by the Senate, was considered by the House, and passed by a vote of 402-19. President Bush signed the bill into law on March 2, 2004 (P.L. 108-203).

H.R. 743 protects vulnerable Social Security recipients from representative payees who misuse benefits by: enhancing oversight of representative payees; disqualifying fugitive felons or persons convicted and imprisoned more than a year from serving as representative payees; creating a new civil monetary penalty for representative payees who misuse funds; requiring representative payees who misuse funds to forfeit their fees; holding representative payees liable for repayment of misused funds through the overpayment recovery process; authorizing the re-issuance of benefits misused by certain representative payees; and requiring representative payees who are delinquent in filing annual accounting reports to collect the individual’s benefits in person at a local Social Security office.

H.R. 743 protects the Social Security program by: withholding Social Security benefits from those who flee prosecution, or custody or confinement after conviction of a felony, or who violate probation or parole; imposing a civil monetary penalty against persons who withhold material facts in order to obtain or increase benefits; requiring individuals who provide Social Security Administration (SSA)-related services for a fee to explain that the SSA may provide services free of charge; increasing overpayment collection by authorizing recovery across Old-Age, Survivors, and Disability Insurance and Supplemental Security Income (SSI) program lines; preventing overpayments by requiring the SSA to issue a receipt when a person receiving disability benefits reports work or changes in earnings; imposing fines on persons who intimidate, impede, or threaten a person carrying out the administration or duties of the Social Security Act (P.L. 74-271); and allowing Federal courts to order a person who breaks the law relating to Social Security to make restitution to the individual, the trust funds, or the general fund as appropriate.

The legislation improves Social Security and SSI applicants' access to representation by extending withholding of attorney fee payments to SSI claims for 5 years, coinciding with a 5-year nationwide demonstration project to extend fee withholding to qualified non-attorney representatives for the first time. To ensure enough attorneys and representatives remain available to help applicants, the 6.3 percent assessment on an attorney's approved fee is capped at \$75 (adjusted annually for inflation) in both Social Security and SSI claims.

H.R. 743 enhances opportunities for individuals with disabilities to return to work by improving the effectiveness of programs established under the Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170), including clarifying that the Work Opportunity Tax Credit is available to employers who hire a disabled beneficiary referred from an employment network (not just the State rehabilitation agency); and extending certain demonstration projects, as well as benefits planning and advocacy programs. The legislation also enables individuals receiving disability benefits based on a parent's earnings due to a childhood disability to work without fear of losing the ability to restart those benefits if they must later stop working.

The legislation improves and simplifies the SSI program by: enabling children of military parents stationed overseas to receive benefits if the child is born or becomes disabled while outside the United States; improving benefits for children and spouses of military personnel by eliminating disparities in how cash and non-cash military compensation is treated; establishing uniform treatment of interest and dividend income and time frames for exclusion of assets in determining eligibility and benefit amount; simplifying program administration; and amending rules for students receiving SSI to encourage work.

Finally, the legislation corrects, clarifies, and modifies various technical aspects of the law, including closing a loophole in the law that exempted State and local workers who do not pay Social Security taxes from the Government Pension Offset, improving public education on Social Security provisions affecting benefits for government workers not subject to Social Security taxes, adding Kentucky and Louisiana to the list of states allowed to have a divided retirement system, and technical changes to the Railroad Retirement and Survivors' Improvement Act of 2001 (P.L. 107-90).

2. SOCIAL SECURITY NUMBER PRIVACY AND IDENTITY THEFT PREVENTION ACT OF 2003

On July 25, 2003, Subcommittee Chairman Shaw introduced H.R. 2971, the "Social Security Number Privacy and Identity Theft Prevention Act of 2003." The bill was referred to the Committee on Ways and Means, Financial Services, Energy and Commerce, and Judiciary. The bill, as amended, was ordered reported by the Committee on Ways and Means on July 21, 2004, by a vote of 33-0. Other Committees of jurisdiction did not act on the bill.

However, sections 104 and 201-205 from the bill were included in H.R. 10, the "9-11 Recommendations Implementation Act." These sections of the bill removed SSNs from drivers' licenses and motor vehicle registrations and improved the integrity of the process for issuing SSNs and SSN cards. They were included in H.R. 10 to address the 9-11 Commission's recommendation in its *Final Report of the National Commission on Terrorist Attacks on the United States* to set standards for the issuance of sources of identification. H.R. 10 was passed by the House on October 8, 2004, by a vote of 282-134. The Senate passed S. 2845, the "National Intelligence Reform Act of 2004," on October 6, 2004, by a vote of 96-2. The House substituted the language from H.R. 10 for the language in S. 2845, and passed S. 2845, as amended, on

October 16, 2004, pursuant to H. Res. 827. The conference report on S. 2845 was agreed to by the House on December 7, 2004, by a vote of 336-75 and by the Senate on December 8, 2004, by a vote of 89-2. The President signed the bill into law on December 10, 2004 (P.L. 108-458).

Sections 7213 and 7214 of the Conference Report on S. 2845 included sections 104 and 202 from H.R. 2971, which removed SSNs from drivers' licenses and motor vehicle registrations and improved the process of issuing SSNs to newborns. In addition, section 7213 of the Conference Report contained language similar to sections 201 and 204 from H.R. 2971, which required the SSA to independently verify birth records with the issuing agency and to limit issuance of replacement SSN cards. Section 7213 of the Conference Report also contained other provisions to prevent fraud and misuse with respect to SSNs: requiring the SSA to establish minimum standards for verification of documents submitted to obtain an original or replacement SSN card; requiring the SSA to add death and fraud indicators to SSN verification services provided to employers, State drivers' license agencies, and others; and requiring the Commissioner of Social Security, in consultation with the Secretary of Homeland Security, to form an interagency task force to establish requirements for further improving the security of SSN cards and numbers. Finally, sections 7211 and 7212 of the Conference Report prohibited Federal agencies (including the SSA) from accepting for official purposes birth certificates and drivers' licenses not meeting certain minimum standards.

H.R. 2971 would have prevented the sale, purchase, and display to the general public of SSNs in the public and private sectors (with certain exceptions for law enforcement, national security, and other limited situations). The legislation would have permitted the United States Attorney General to authorize the sale, purchase, or display to the general public of SSNs in limited circumstances, after considering the costs and benefits to the public, government, and businesses, and providing for restrictions to prevent fraud, crime, deception, identity theft, and risk of harm. The bill would have prevented businesses from demanding an individual's SSN as a condition of providing a product or service, unless the SSN is required under Federal law. Also, the bill would have afforded the SSN the same privacy protection as information in a full consumer report under the *Fair Credit Reporting Act* (15 U.S.C. 1681 et. seq.).

In addition, the legislation would have tightened controls on the issuance of SSNs, including independent verification of birth records, improvements in the process of issuing SSNs to newborns, and restricting issuance of replacement SSN cards. The bill also would have strengthened enforcement by creating new criminal and civil penalties for violations of the law relating to the sale, purchase, display to the general public, and misuse of SSNs, and would have enhanced prison sentences for SSN misuse associated with repeat offenders, drug trafficking, violent crimes, and terrorism. In addition, H.R. 2971 would have created new criminal and civil penalties for SSA employees who fraudulently sell or transfer SSNs or SSN cards.

E. LEGISLATIVE REVIEW OF HUMAN RESOURCES ISSUES

1. WELFARE REFORM

a. *Reauthorization of the Temporary Assistance for Needy Families Program*

H.R. 4, the "Personal Responsibility, Work, and Family Promotion Act of 2003," would extend and modify the Temporary Assistance for Needy Families (TANF) and related programs

including child care, child support, and child protection. The TANF program, first authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), provides cash assistance to 2 million low-income families through a program of temporary cash benefits, work supports, and other assistance. The 1996 welfare reform law authorized the TANF program through September 30, 2002. After being extended twice in the 107th Congress, six short-term TANF extension bills were passed in the 108th Congress. The most recent extension runs through March 31, 2005. See the section on *Extensions of the Temporary Assistance for Needy Families Program* below for more detailed information.

Titles I and II of H.R. 4 would extend the authorization of the TANF block grant through fiscal year 2008, with block grant funding for States and territories maintained at the current level of \$16.6 billion per year, and would increase funding for the Child Care and Development Block Grant. Title I also would amend the purposes of TANF, including by adding an overarching purpose of improving child well-being. The legislation would focus additional funding specifically on promoting healthy marriage, including by replacing the current \$100 million bonus fund rewarding States with decreases in out-of-wedlock birth ratios with an annual \$200 million program of healthy marriage promotion grants (composed of \$100 million in Federal funds with an equal State matching requirement). The bill also would provide for the creation of a \$102 million fund for research, demonstrations, and technical assistance, to be used primarily for promoting healthy marriage programs; \$2 million of this fund would be reserved for improving Native American child protection programs. The legislation would authorize a new \$20 million per year fatherhood program designed to promote closer involvement between fathers and their families. The legislation would convert high performance bonus funds into a new \$100 million per year bonus fund to reward employment achievement.

H.R. 4 would increase mandatory funds for the Child Care and Development Block Grant under the Committee on Ways and Means' jurisdiction from \$2.717 billion in 2003 to \$2.917 billion for each of fiscal years 2004 through 2008, for a total increase of \$1 billion over the 5-year period. The legislation would increase from 30 percent to 50 percent the share of TANF funds that States may transfer to the Child Care and Development Block Grant and Social Services Block Grant; of this, States could transfer no more than 10 percent of TANF funds to the Social Services Block Grant in each of fiscal years 2004 through 2008. Separately, the legislation would increase the authorization for discretionary funding under the Child Care and Development Block Grant by a total of up to \$3 billion through 2008.

H.R. 4 would specify universal engagement and self-sufficiency plan requirements for all families receiving cash assistance. It would eliminate the option for individuals to receive benefits for up to 2 years without participating in work or other activities and specify certain conditions under which States must provide for a full check sanction for families receiving TANF. Further, H.R. 4 gradually would increase the overall State work participation rate requirement to 70 percent by fiscal year 2008 and would raise the total number of required hours in certain activities. The legislation would eliminate the separate and higher State work participation rate requirement that currently applies to two-parent families, and would update the credit for net caseload reduction used in calculating the effective work rate that States must achieve to satisfy Federal standards.

Title III of H.R. 4 would amend the child support program to provide matching Federal funds to States that pass through a limited amount of child support to families receiving cash

welfare benefits, allow States to distribute all child support collected to former welfare families, and impose a \$25 annual user fee on certain child support cases. In addition, the legislation would require a report on undistributed child support payments, reduce the amount of past-due child support that would trigger passport denial, specify that the Federal income tax refund offset program could be used for collection of past-due child support when a child is no longer a minor, expand the Federal administrative offset program for certain past-due child support, allow for limited withholding of veterans' disability benefits for child support purposes, and revise technical funding formulas related to technical assistance. A provision in H.R. 4 that would have provided access to the child support program's National Directory of New Hires to improve the administration of State unemployment benefit programs was included in H.R. 3463, which became P.L. 108-295. (See Child Support Enforcement section below for additional information on this provision.)

Title IV of H.R. 4 would extend and expand waiver authority for Federal child protection programs administered under Title IV-E of the Social Security Act.

Title V of H.R. 4 would amend Title XVI of the Social Security Act to require review of a specified share of State agency disability benefit eligibility determinations before making benefit payments under the Supplemental Security Income program.

Title VI of H.R. 4 would authorize a demonstration grant program to allow States flexibility to coordinate multiple Federal programs that provide assistance to low-income families.

Titles VII and VIII would reauthorize the abstinence education and transitional medical assistance programs through fiscal year 2008.

H.R. 4 was introduced by Representative Pryce on February 4, 2003, with Subcommittee Chairman Herger and full Committee Chairman Thomas as original cosponsors. The legislation was passed in the House on February 13, 2003, by a vote of 230-192. On October 3, 2003, the Senate Committee on Finance reported the bill to the Senate with an amendment in the nature of a substitute. H.R. 4 was considered in the Senate on March 31, and April 1, 2004; a motion to invoke cloture on the bill and proceed to final passage of the legislation failed to receive sufficient support. No further action on H.R. 4 was taken in the 108th Congress.

b. Extensions of the Temporary Assistance for Needy Families Program

H.J. Res. 2, a Joint Resolution making consolidated appropriations for the fiscal year ending September 30, 2003, included a section extending TANF block grants for States, supplemental grants, mandatory child care, child protection waiver authority, transitional medical assistance, and abstinence education, at corresponding fiscal year 2002 levels, through June 30, 2003. The resolution was introduced on January 7, 2003, and passed the House by voice vote on January 8, 2003. After passing, as amended, in the Senate on January 23, 2003, both the House and Senate passed a conference report on the bill on February 13, 2003. The bill became P.L. 108-7 on February 20, 2003.

H.R. 2350, the "Welfare Reform Extension Act of 2003," extended TANF and related programs through the remainder of fiscal year 2003. The bill was introduced by Subcommittee Chairman Herger on June 5, 2003, and passed under suspension in the House on June 11, 2003,

by a vote of 406-6. The Senate agreed to the resolution under unanimous consent on June 27, 2003, and the bill was signed by the President on June 30, 2003 (P.L. 108-40).

Title I of H.R. 3146 extended through March 31, 2004, TANF and related programs. H.R. 3146 was introduced on September 23, 2003, by full Committee Chairman Thomas and was passed by the House under suspension by voice vote on September 24, 2003. On September 30, 2003, the Senate passed the legislation with an amendment by unanimous consent and the House agreed to the Senate amendment under a unanimous consent agreement. The bill became P.L. 108-89.

S. 2231, the “Welfare Reform Extension Act of 2004,” extended TANF and related programs, this time through June 30, 2004. The bill was introduced by Senate Finance Committee Chairman Grassley on March 25, 2004, and passed the Senate by unanimous consent that same day. The House agreed to the bill under suspension by voice vote on March 30, 2004, after which it was signed by the President on March 31, 2004 (P.L. 108-210).

H.R. 4589, the “TANF and Related Programs Continuation Act of 2004,” introduced by Subcommittee Chairman Herger on June 16, 2004, extended TANF and related programs through September 30, 2004. Under suspension and by voice vote, the measure passed the House on June 22, 2004. The Senate passed the bill under unanimous consent on June 23, 2004, and the President signed the legislation on June 30, 2004 (P.L. 108-262).

H.R. 5149, the “Welfare Reform Extension Act, Part VIII,” was introduced on September 24, 2004, by Subcommittee Chairman Herger to extend TANF and related programs through March 31, 2005. The House considered the measure on September 29, 2004, and it passed by a vote of 416-0 on September 30, 2004. The Senate passed H.R. 5149 by unanimous consent and the President signed the legislation on September 30, 2004 (P.L. 108-308).

2. CHILD CARE

H.R. 4 would have increased mandatory funds for the Child Care and Development Block Grant under the Committee on Ways and Means’ jurisdiction from \$2.717 billion in 2003 to \$2.917 billion for each of fiscal years 2004 through 2008, for a total increase of \$1 billion over the 5-year period. Additional information about H.R. 4 and child care is provided in the review of TANF reauthorization above.

3. CHILD SUPPORT ENFORCEMENT

Title III of H.R. 4, the “Personal Responsibility, Work, and Family Promotion Act of 2003,” would amend the child support program to provide matching Federal funds to States that pass through a limited amount of child support to families receiving cash welfare benefits, allow States to distribute all child support collected to former welfare families, and impose a \$25 annual user fee on certain child support cases, among other changes. Additional information regarding H.R. 4 is provided in the review of TANF reauthorization above.

A provision amending the Social Security Act allowing for limited information sharing between the child support program’s National Directory of New Hires and certain housing assistance programs in order to determine the employment and income of housing program participants was included in H.R. 2673, a consolidated appropriations bill for fiscal year 2004.

The bill was introduced July 9, 2003, passed in the House by a vote of 347-64 on July 14, 2003, and passed, as amended, in the Senate on November 6, 2003, by a vote of 93 to 1. After a conference report passed the House on December 8, 2003, by a vote of 242-176, and the Senate on January 22, 2004, by a vote of 65-28, the President signed the bill into law on January 23, 2004 (P.L. 108-199).

Section 3 of H.R. 3463 provided access to the child support program's National Directory of New Hires for administration of State unemployment programs. H.R. 3463, "the SUTA Dumping Prevention Act," became P.L. 108-295 on August 9, 2004. See the Unemployment Compensation section below for more detail on H.R. 3463.

The child support program's National Directory of New Hires was further amended by a provision in the final omnibus appropriations bill for fiscal year 2005, H.R. 4818. The provision allows the Secretary of the Treasury to use information in the New Hire database to help in the Federal debt collection process. H. Con. Res. 528 directed the Clerk of the House of Representatives to make corrections to H.R. 4818 and include the National Directory of New Hires provision which amends Title IV of the Social Security Act. H. Res. 866, a resolution that passed in the House on November 20, 2004, by a vote of 233-158, included language providing for the adoption of H. Con. Res. 528. H. Con. Res. 528 passed in the Senate, with an amendment, by unanimous consent that same day. The House passed the amended version of H. Con. Res. 528 on the suspension calendar by a vote of 381-0 on December 7, 2004, and President Bush signed the corrected version of H.R. 4818 into law on December 8, 2004 (P.L. 108-477).

4. SUPPLEMENTAL SECURITY INCOME

Title V of H.R. 4 would amend Title XVI of the Social Security Act to require review of a specified share of State agency disability benefit eligibility determinations before making benefit payments under the Supplemental Security Income program. See the TANF reauthorization section above for more detailed information on H.R. 4.

H.R. 743, the "Social Security Protection Act of 2003," amended the Social Security Act to enhance program protections for disabled Social Security and Supplemental Security Income recipients. The legislation protected recipients from misuse of benefits by their representative payees, prevented fraudulent use of Social Security programs, improved the attorney fee payment system to help individuals with disabilities gain access to representation, encouraged more individuals with disabilities to return to work, and clarified Social Security law. After House and Senate passage, H.R. 743 was signed into law by the President on March 2, 2004 (P.L. 108-203). For further discussion of H.R. 743, see the Subcommittee on Social Security section above.

A provision prescribing penalties for knowingly transferring, possessing, or using, without lawful authority, a means of identification of another person during and in relation to specified felony convictions, including violations related to the Supplemental Security Income program law, was included in H.R. 1731, the "Identity Theft Penalty Enhancement Act." Introduced on April 10, 2003, the bill passed in the House by a voice vote under suspension of the rules on June 23, 2004, and passed in the Senate on June 25, 2004, by unanimous consent. The President signed the legislation into law on July 15, 2004 (P.L. 108-275).

5. CHILD PROTECTION, FOSTER CARE, AND ADOPTION

H.R. 3182, the “Adoption Promotion Act of 2003,” reauthorized the Adoption Incentives program under part E of Title IV of the Social Security Act. This legislation reauthorized the program at \$43 million per year for fiscal years 2004 through 2008 while retaining the current incentive awards provided to States to promote adoption and updating the incentive award calculation process. Adoption of older children is encouraged by an additional incentive award to States of \$4,000 per child age 9 or older adopted above prior year levels. H.R. 3182 also reauthorized the original \$10 million authorization of appropriations for technical assistance for fiscal years 2004 through 2006; requested a report from HHS highlighting State efforts to promote adoption for children; and gave HHS authority to impose small financial penalties on States that do not submit timely and complete foster care and adoption data.

A Subcommittee hearing on April 8, 2003, reviewed the implementation of the 1997 Adoption and Safe Families Act (P.L. 105-89) and examined the Adoption Incentives program prior to its reauthorization. Representatives from HHS, the GAO, and the National Conference of State Legislatures, as well as program administrators and policy experts presented testimony at the hearing.

H.R. 3182 was introduced by Representative Camp, a member of the Subcommittee on Human Resources, on September 25, 2003. The House agreed to the legislation on October 8, 2003, under suspension of the rules by voice vote. The Senate passed the bill on November 14, 2003, by unanimous consent. On December 2, 2003, the bill was signed by the President and became P.L. 108-145.

H.R. 4504, the “Safe and Timely Interstate Placement of Foster Children Act of 2004,” was introduced by Majority Leader DeLay and Subcommittee Chairman Herger on June 3, 2004.

H.R. 4504, as amended, passed the House on October 5, 2004, under suspension of the rules by voice vote.

Following eight Subcommittee hearings on child protection issues, H.R. 4856, the “Child Safety, Adoption, and Family Enhancement (Child SAFE) Act of 2004,” was introduced by Subcommittee Chairman Herger on July 19, 2004. No further action was taken on H.R. 4856 in the 108th Congress.

6. UNEMPLOYMENT COMPENSATION

a. Temporary Extended Unemployment Compensation

S. 23, legislation to amend the Temporary Extended Unemployment Compensation (TEUC) Act of 2002 which was Title II of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), extended eligibility for TEUC benefits through June 1, 2003, with a phase out continuing the availability of benefits through August 30, 2003. The legislation passed the Senate by voice vote on January 7, 2003, and passed in the House by a vote of 416-4 on January 8, 2003. The President signed the legislation on January 8, 2003 (P.L. 108-1).

H.R. 1559, the “Emergency Wartime Supplemental Appropriations Act, 2003” signed into law on April 16, 2003 (P.L. 108-11), further amended the TEUC Act of 2002 (P.L. 107-147)

to provide additional temporary extended unemployment compensation benefits to certain eligible displaced airline industry related workers through December 2004.

H.R. 2185, the “Unemployment Compensation Amendments of 2003,” extended eligibility for TEUC benefits through December 31, 2003, with a phase-out continuing the availability of benefits through March 31, 2004. H.R. 2185 was introduced by Representative Dunn, a member of the full Committee, on May 21, 2003, and passed in the House by recorded vote of 409-19 on May 22, 2003. The Senate agreed to the bill, without amendment, by unanimous consent on May 23, 2003, and the President signed the legislation on May 28, 2003 (P.L. 108-26).

b. SUTA Dumping Prevention Act

On June 19, 2003, the Subcommittees on Human Resources and Oversight held a joint hearing on SUTA (State Unemployment Tax Act) dumping. The Subcommittees heard testimony from the U.S. Department of Labor, the GAO, program administrators, and employers on the issue of SUTA dumping and possible solutions to the problem. Subcommittee Chairman Herger, along with Ranking Member Cardin and other Committee Members, introduced H.R. 3463, the “SUTA Dumping Prevention Act of 2003,” on November 6, 2003. The House passed H.R. 3463, as amended, by voice vote on July 14, 2004, under suspension of the rules. The measure passed the Senate, without amendment, by unanimous consent on July 22, 2004, and was signed by the President on August 9, 2004 (P.L. 108-295).

7. CHARITABLE CHOICE AND INDIVIDUAL DEVELOPMENT ACCOUNTS

H.R. 7, the “Charitable Giving Act of 2003,” included a provision that would extend the authorization of the Individual Development Account (IDA) demonstration program for 5 years through fiscal year 2008. The bill also would make several technical changes to ease program administration, such as encouraging “financial literacy activities,” expanding certain income criteria for determining eligibility, and providing more flexibility in spending IDA funds for educational and other expenses. Other sections of H.R. 7 would create a new \$150 million compassion capital grant fund to support and replicate promising social service programs, and restore the 10 percent annual limit on State transfers from the Federal Temporary Assistance for Needy Families program to the Social Services Block Grant program.

H.R. 7 was introduced by Representative Blunt on May 7, 2003. The bill was reported, as amended, by the Committee on Ways and Means on September 16, 2003, by voice vote and the Committee on Education and the Workforce discharged the bill on September 16, 2003. The House passed the legislation on September 17, 2003, by a vote of 408-13.

Provisions related to H.R. 7 were passed in the Senate as part of S. 1786, which was introduced on October 28, 2003, by Senator Lamar Alexander. On February 12, 2004, S. 1786 passed the Senate, with an amendment, by unanimous consent.

No further action was taken on either H.R. 7 or S. 1786 in the 108th Congress.

8. TEMPORARY STATE FISCAL RELIEF

H.R. 2, introduced as the “Jobs and Growth Tax Act of 2003,” on February 27, 2003, was reported, as amended, from the Committee on May 8, 2003, by a vote of 24-15. The legislation passed the House on May 9, 2003, by a vote of 222-203. On May 15, 2003, the Senate amended the bill to include items such as temporary State aid and passed it by a vote of 51-49. Section 401 of the bill amended the Social Security Act to provide temporary funding for State fiscal relief in fiscal years 2003 and 2004. State and local governments received a total of \$10 billion in flexible funding assistance, along with an estimated \$10 billion in enhanced Medicaid funding during fiscal years 2003 and 2004. The House and Senate agreed to the conference report on H.R. 2 on May 23, 2003, by votes of 231-200 and 51-50, respectively. The President signed the legislation on May 28, 2003 (P.L. 108-27).

F. LEGISLATIVE REVIEW OF DEBT ISSUES

On March 21, 2003, the House approved H. Con. Res. 95 setting forth the Congressional budget for the United States Government for fiscal year 2004, revising the budget for fiscal year 2003, and setting forth appropriate budgetary levels for each fiscal year 2005 through 2013. The House agreed to the Conference Report on H. Con. Res. 95 on April 11, 2003. As a result of the adoption of H. Con. Res. 95 by the House and the Senate, H.J. Res. 51, a bill to amend Title 31 of the U.S. Code to increase the public debt limit, was deemed to pass the House pursuant to House Rule XXVII.

On May 23, 2003, H.J. Res. 51 passed the Senate and the President signed the bill into law on May 27, 2003 (P.L. 108-24). The bill increased the public debt limit from \$6.4 trillion to \$7.4 trillion.

On November 16, 2004, Senator Bill Frist introduced S. 2986, a bill to amend title 31 of the U.S. Code to increase the public debt limit. The bill passed the Senate on November 17, 2004. The House passed the bill on November 18, 2004, and the President signed the bill into law on November 19, 2004 (P.L. 108-414). The bill increased the public debt limit from \$7.4 trillion to \$8.2 trillion. The bill does not violate the origination clause of the Constitution of the United States because increasing the debt limit is not a revenue measure.

II. Oversight Review

A. OVERSIGHT AGENDA

COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C.

January 29, 2003

Hon. TOM DAVIS,
*Chairman, Committee on Government Reform, 2157 Rayburn House Office Building,
Washington, D.C. 20515*

Hon. ROBERT W. NEY,
*Chairman, Committee on House Administration, 1309 Longworth House Office Building,
Washington, D.C. 20515*

DEAR CHAIRMAN DAVIS AND CHAIRMAN NEY:

In accordance with the requirements of Clause 2 of Rule X of the rules of the House of Representatives, the following is a list of oversight hearings and other oversight-related activities, which the Committee on Ways and Means and its Subcommittees plan to conduct during the 108th Congress.

Full Committee

1. Rules, Regulations, Statutes and Court Decisions. On an ongoing basis, the Committee and its Subcommittees will review specific problems within the Committee's jurisdiction with Federal rules, regulations, statutes and court decisions that are ambiguous, arbitrary, or nonsensical, or impose a severe financial burden on individuals.
2. Tax Reform. The full Committee will hold hearings to examine proposals by President Bush to reform Federal taxation.
3. Medicare Reform. The full Committee will hold hearings to examine proposals by President Bush to reform Medicare.

Subcommittee on Oversight

1. Tax Simplification. In cooperation and coordination with the full Committee and the Subcommittee on Select Revenue Measures, the Subcommittee will continue its efforts from the 105th, 106th, and 107th Congresses to examine areas of complexity in Federal tax law. Following the recommendations of the Joint Committee on Taxation, Chairman Houghton and other Members have introduced legislation that would fundamentally reform and simplify the Internal Revenue Code. The Treasury Department and a variety of groups interested in tax administration also have proposed tax simplification measures.

2. IRS Budget and Filing Season. The Subcommittee will hold hearings in both 2003 and 2004 to review the Administration's budget request and the tax filing season. The Subcommittee will review how the IRS is improving customer service, modernizing its computer systems, managing the IRS restructuring, and carrying out its tax examination and collection functions.

3. National Taxpayer Advocate and Free Filing. The Subcommittee will hold a hearing to evaluate the legislative recommendations of the National Taxpayer Advocate and the leading problems faced by taxpayers, as described in the Taxpayer Advocate's Annual Report. In addition, the Subcommittee will hear testimony from IRS officials concerning the IRS Free Filing initiative. Free Filing, a partnership with private sector firms, is a model for future business-IRS cooperation.

4. The Appropriate Role of Tax-Preferred Organizations. The Subcommittee has received reports of tax-preferred organizations that may be operating beyond the scope of their charitable status. Tax-exempt groups are required by law to engage primarily in activities that meet their charitable or stated purpose, and the IRS is charged with reviewing the activities of tax-preferred groups. The Oversight Subcommittee will review the current law, adequacy of IRS oversight and reporting requirements, and suggestions for improvement.

5. Reporting Requirements of Tax-Exempt Groups. During the 106th and 107th Congresses, legislation was enacted (P.L. 106-230, P.L. 107-276) to ensure that Internal Revenue Code Section 527 political organizations are accountable to the public through disclosure requirements, including a database of contributions and expenditures that is accessible and searchable on the Internet. The Subcommittee will review the reporting done by other tax-exempt groups, both to the Internal Revenue Service and other agencies, to determine the need for similar reporting to ensure appropriate oversight and disclosure.

6. Tax Incentives for Low-Income Individuals and Distressed Communities. The Subcommittee will continue its efforts from the 107th Congress to review the benefits of and make recommendations for improvement to various tax incentives that help Americans with minimal or no jobs skills to move into the work force and encourage economic development in areas of need, including the Work Opportunity Tax Credit, Welfare-to-Work Tax Credit, New Markets Tax Credit, and Renewal Communities program.

7. IRS Computer Modernization. The Subcommittee will continue to monitor the progress of the IRS in modernizing its computer systems. Assuring a successful conclusion to this multi-billion dollar upgrade will be the major focus of the ongoing review. Success of the business systems modernization project is critical to the IRS' ability to provide enhanced service to taxpayers.

8. Improving IRS Administration of Tax Laws. The Subcommittee will review proposals to improve the quality and efficiency of IRS tax administration, including proposals to improve IRS debt collection procedures and enhance Earned Income Credit (EIC) compliance. The Subcommittee will review the proposed IRS National Research Program as well as the overall IRS audit and compliance rates, including a review of the appropriate audit rates across income levels and possible tax avoidance schemes.

9. Taxpayer Rights. The Subcommittee will continue to monitor the implementation of taxpayer rights provisions in the landmark IRS Reform and Restructuring Act (RRA '98) and evaluate new proposals to enhance taxpayer rights.

10. IRS Tax Data Sharing for Government Statistical Purposes. The "Confidential Information Protection and Statistical Efficiency Act of 2002," Title V of the "E-Government Act of 2002" (P.L.107-347), allows for sharing of non-tax business data among certain statistical agencies. In order to further improve the quality and quantity of available statistical data for government decision makers, the Subcommittee will examine whether the Internal Revenue Code should be amended to allow Internal Revenue Service tax data to be shared with other agencies for statistical purposes.

11. IRS Individual Taxpayer Identification Numbers. Reports have indicated that illegal aliens and third parties are using Internal Revenue Service's Individual Tax Identification Numbers (ITIN) for non-tax purposes, such as obtaining drivers' licenses and opening bank accounts. The Subcommittee will review the IRS ITIN program, as well as its efforts to identify the fraudulent use of Social Security numbers on tax documents.

12. Department of the Treasury's Bureau of Tax and Trade. "The Homeland Security Act of 2002" (P.L. 107-296) transferred the law enforcement functions of the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms (BATF) to the Department of Justice. However, the revenue administration and revenue enforcement functions of BATF were retained at Treasury as the Bureau of Tax and Trade. The Subcommittee will review the status of this transition, as well as any new issues facing the Bureau of Tax and Trade.

13. Oversight of Drug Interdiction Efforts. The Oversight Subcommittee will hold a hearing to review activities undertaken by the Departments of Treasury and Homeland Security to address federal drug interdiction efforts using laws relating to cash transaction reporting, money laundering, foreign tax havens, and national security laws administered by the IRS, U.S. Customs Service, and other entities.

14. Field Investigations and Hearings. The Subcommittee will conduct such field investigations and hearings as Committee staffing and budget resources permit, and as are necessary for purposes of evaluating the effectiveness of and compliance with the programs and laws under the jurisdiction of the Committee on Ways and Means.

Subcommittee on Trade

1. Bush Administration Trade Policy. The Subcommittee will hold a hearing to give the Administration an opportunity to describe its trade policy since the passage of Trade Promotion Authority and respond to Member questions.

2. Preparations for the 2003 World Trade Organization Ministerial. The Subcommittee will hold hearings on United States preparations for the 2003 WTO Ministerial in Cancun, Mexico (September 2003) and progress in the ongoing negotiations on the Doha Development

Agenda, particularly with respect to agriculture, services, industrial tariffs, and development issues.

3. Bilateral Free Trade Agreements with Singapore and Chile. The Subcommittee will continue its oversight of the negotiations for bilateral free trade agreements with Singapore and with Chile. Now that these negotiations have concluded, the Subcommittee will continue to consult with the Administration and will hold hearings to on the agreements and will consider implementing legislation under TPA processes.

4. Free Trade Area of the Americas. In preparation for the Miami Ministerial meeting scheduled for late 2003, the Subcommittee will hold a hearing on the status of negotiations to establish a Free Trade Area of the Americas, with a focus on market access offers and the role of the United States and Brazil as co-chairs of the process until the conclusion of negotiations in 2005.

5. Negotiation of Bilateral Free Trade Agreements. The Subcommittee will continue its oversight and hold hearings to assess the status of negotiations for free trade agreements with countries for which the Administration has notified Congress of its intent to negotiate: Morocco; the members of the Central American Economic Integration System (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua); the South African Customs Union (Botswana, Lesotho, Namibia, South Africa and Swaziland); and Australia. In addition, the Subcommittee will explore whether other countries may be appropriate candidates for free trade agreements. Finally, the Subcommittee will consider the impact of free trade agreements on multilateral negotiations.

6. Relationship between Trade and National Security. On several occasions during the 107th Congress, the Administration asked the Committee to consider certain trade benefits for national security reasons. The Committee intends to continue its examination of such issues, including an assessment of the national security benefits and the impact on affected U.S. industries and workers.

7. Miscellaneous Duty Suspensions and Technical Corrections to U.S. Trade Laws. The House passed legislation in the 107th Congress to temporarily suspend duties on a wide range of noncontroversial products and to make technical corrections to U.S. trade laws. The Senate, however, did not act on this legislation. The Subcommittee intends to reconsider this legislation and perhaps consider an additional bill later in the new Congress.

8. U.S. Trade Remedy Laws. The Subcommittee will continue to review the application of U.S. antidumping, countervailing duty, and safeguard laws including the impact of these remedies on the injured domestic industries as well as the effect of trade remedies on downstream users of products subject to these actions. The Subcommittee will hold a hearing on the impact of the tariffs imposed by the President on March 20, 2001, as a result of a section 201 investigation on certain steel products, which is scheduled for a mid-term review in September 2003. At the hearing, the Committee will seek testimony on the impact of the tariffs on steel producers, users, and the U.S. economy; the progress of dispute settlement proceedings in the World Trade Organization (WTO); and whether the action should be reduced, modified, or terminated. The Subcommittee will continue to monitor the status of World Trade Organization

negotiations, consultations, panel proceedings, and decisions concerning U.S. trade remedy laws and their application, and will work with the Administration to assure compliance with U.S. WTO obligations.

9. Authorizations for the U.S. Customs Service, the Office of the United States Trade Representative (USTR), and the U.S. International Trade Commission (ITC). The Subcommittee will hold hearings on authorizations for the trade agencies for FY 2004 and 2005 and work towards passage of authorization legislation. The Subcommittee will review funding for the Customs Automated Commercial Environment (ACE), the Customs Cyber-smuggling Center, drug enforcement efforts, and the International Trade Data System (ITDS). In particular, the Subcommittee will examine the scope of the authorization for Customs given its incorporation into the new Department of Homeland Security and will conduct oversight of that reorganization and its impact on the collection of revenue and trade facilitation.

In addition, the Subcommittee will follow up on Customs' efforts to streamline the entry process and implement the entry Revision Project. Also, in light of a GAO study requested by Chairman Crane, which found that the Office of Regulations and Rulings at the U.S. Customs Service did not issue rulings in a timely manner, the Subcommittee will continue its oversight to ensure that Customs is making the changes needed to address this concern.

10. User Fees. The Subcommittee will continue its oversight of Customs user fees, including the amount of the fees and their relationship to the actual cost for providing services. The Subcommittee will also consider reauthorization of the fees, which expire on September 30, 2003. The Subcommittee will examine issues surrounding the Consolidated Omnibus Reconciliation Act of 1985 (COBRA) account, especially whether the account contains sufficient resources to fund inspectional services and whether revised fee collections are appropriate. Significant issues to consider will be the entire nature of fees for customs operations within a much larger non-trade organization of the Department of Homeland Security. The Subcommittee will examine a study on user fees undertaken by the General Accounting Office and will consider whether Customs is implementing requirements of the Trade Act of 2002 to provide cost accounting of customs services for which fees are collected.

11. Trade Adjustment Assistance (TAA). The Subcommittee will continue its oversight of the general TAA programs for workers and firms in light of the substantial revisions made by the Trade Act of 2002.

12. Trade Relations with China. The Subcommittee will continue to monitor China's compliance with its WTO obligations and will examine the adequacy of U.S. technical assistance programs to promote the rule of law in China.

13. Permanent Normal Trade Relations with Russia and Other Jackson-Vanik Countries. The Subcommittee will hold hearings and consider legislation on the application of and potential graduation from Jackson-Vanik for these countries, particularly Russia, at the appropriate time. The Subcommittee will continue to monitor the progress of these countries in negotiating their accession to the WTO.

14. Trade and Development Act of 2000. The Subcommittee will hold a hearing or request public comment on the Trade and Development Act of 2000 (Africa/Caribbean Basin Initiative), the enhancement to these programs contained in the Trade Act of 2002, and the Andean Trade Preferences Act to ensure that the legislation is being implemented in a manner consistent with Congressional intent. The Committee will also consider whether any changes, enhancements, or extensions to these programs are appropriate.

15. Conflict diamonds. During the 107th Congress, the House passed legislation prepared and approved by the Committee to address trade in so-called “conflict diamonds” and implementation of the international Kimberly Process negotiations. The Senate, however, did not consider the legislation. The Committee intends to consider such legislation again in light of the additional progress made in the Kimberly Process.

16. Jackson- Vanik Waiver and Extension of Normal Trade Relations to the Socialist Republic of Vietnam. The Subcommittee’s annual review of Vietnam’s Jackson- Vanik waiver will begin in June with a Presidential determination of that country’s status for the upcoming year. The effect of the President’s waiver is to grant conditional normal trade relations (NTR) status to products from Vietnam and to make U.S. exporters eligible for certain export credit guarantees in doing business with Vietnam. If a resolution of disapproval is introduced with respect to the President’s Jackson-Vanik determination for Vietnam, the Subcommittee plans to hold a hearing and consider the issue.

17. Normal Trade Relations with the Lao People’s Democratic Republic. The Subcommittee will continue its oversight of bilateral relations between the United States and Laos. Laos does not currently receive normal trade relations (NTR) status because it is included in the Harmonized Tariff Schedule (HTS) of the United States in General Note 3(b) on the list of countries whose products are subject to column 2 (non-NTR) tariff rates. In 1997, the United States and the Lao People’s Democratic Republic concluded a bilateral commercial agreement which calls for a reciprocal extension of normal trade relations, but that agreement has not yet entered into force. The only action required to grant permanent NTR status to Laos is for Congress to enact legislation amending the HTS to strike Laos permanently from General Note 3(b).

18. Sanctions Reform. In response to the dramatic growth in the imposition of unilateral economic sanctions and their impact on U.S. trade and competitiveness in international markets, the Subcommittee will continue its oversight on the use and effectiveness of U.S. unilateral trade sanctions, in particular whether any proposed sanction will achieve its intended objectives and whether the achievement of those objectives outweigh any likely costs to United States foreign policy, national security, economic, and humanitarian interests.

19. Rules of Origin and Country of Origin Marking. The Subcommittee will continue to review and consult with the Administration and the trade community on the status of rules of origin negotiations underway in the World Customs Organization; update rules of origin and country of origin marking to implement those negotiations so they reflect current business production, sales, and distribution practices; review whether U.S. law and U.S. Customs enforcement efforts are effective in preventing unlawful transshipment; and review the

implementation labeling requirements by United States and its trading partners with respect to meat, fresh produce, and genetically modified products.

20. Trade Relations with Japan. The Subcommittee will continue its oversight of U.S.-Japan trade relations, focusing on the necessity for Japan to implement broad structural reforms, including deregulation of its economy, reform of its banking system, improved transparency, and the opening of its distribution system to eliminate exclusionary business practices.

21. Asia Pacific Economic Cooperation Forum. The Subcommittee will continue to review the status of U.S. trade policy objectives in Asia, particularly in the Asia Pacific Economic Cooperation Forum negotiations.

Subcommittee on Health

1. Regulatory and Contracting Reform. The Subcommittee will hold a hearing to evaluate the management of the Centers for Medicare and Medicaid Services (CMS) oversight over the Medicare program and to explore changes that could be made to improve its efficiency and its interactions with beneficiaries and the providers that serve them.

2. MedPAC Report and Recommendations. The Subcommittee will hold a hearing on the Medicare Payment Advisory Commission's (MedPAC) 2003 recommendations to Congress regarding Medicare payment policies. Every year, MedPAC's panel of health care experts makes recommendations to Congress and its Committees with jurisdiction over the program.

3. Medicare's Cost-sharing and Supplemental Coverage. The Subcommittee will hold a hearing to explore Medicare's cost-sharing structure and the adequacy and supplemental Medigap coverage which fills in gaps in coverage.

4. Prescription Drug Coverage. The Subcommittee will hold a hearing on the need for an out-patient prescription drug benefit. The hearing will examine benefit design considerations.

5. Health Care Quality. The Subcommittee will hold a hearing to examine health care quality issues. In particular the Subcommittee will examine ideas to reduce medical errors. The Committee will also examine new ways to deliver care, such as disease management programs.

6. Medicare Waste, Fraud and Abuse. The Subcommittee will examine enforcement of laws to combat waste, fraud and abuse in the Medicare program and what steps might be taken to improve their application.

7. Medically Uninsured. The Subcommittee will hold a hearing on options to reduce the number of individuals and families without health insurance. That hearing will include an examination of tax credits.

8. Graduate Medical Education. The Subcommittee will examine how Medicare pays teaching hospitals to train and educate physicians and explore options for reform.

9. Medicare Modernization. Examine proposals to make Medicare more efficient and responsive.

10. Other Issues. Further hearings will be scheduled as time permits to examine certain additional aspects of Medicare program management.

Subcommittee on Human Resources

1. Welfare Reform. The Subcommittee will continue working to reauthorize the Temporary Assistance for Needy Families (TANF) and related programs created and amended under the 1996 welfare reform law. The Subcommittee also will conduct oversight hearings on TANF and related programs. Issues of particular interest to the Subcommittee are the impact of welfare reform on children and families and the use of welfare funds to strengthen families and promote healthy marriage, as well as efforts to support increased work by welfare recipients, further reduce poverty, and improve child well-being.

2. Child Care. Child care funding has increased substantially since enactment of the 1996 welfare reform law. The Subcommittee will examine State use of mandatory and matching grant portions of the Child Care and Development Block Grant, as well as other funding sources used to support child care needs, including the TANF and Social Service Block Grants.

3. Child Support Enforcement. Child support payments have become increasingly important to low-income families as they leave and stay off welfare and begin moving up the economic ladder. The Subcommittee will hold hearings to review changes to the program made in 1996 and subsequent reform laws, as well as proposals for further system improvement.

4. Supplemental Security Income (SSI). For the past several years the SSI program has been on the General Accounting Office's list of programs at high risk of waste, fraud, and abuse. The Subcommittee will review various proposals to reduce this risk and improve the program. The Subcommittee also will continue oversight of changes made to the SSI program in the 1996 welfare reform law and subsequent laws.

5. Child Protection. In preparation for reauthorization of the Adoption Incentive Payments program, which provides bonuses to States for increasing the number of adoptions of children from foster care over the previous year's level, oversight hearings will review both the program and improvement proposals. In addition, the Subcommittee will conduct oversight hearings on the broader operation of the Nation's child welfare system, including under the Safe and Stable Families program and other program changes made through the Adoption and Safe Families Act of 1997.

6. Unemployment Compensation. The Subcommittee will conduct hearings on the Nation's unemployment compensation system. Several issues, including improving the program to better promote work and savings, reducing extended unemployment and assessing the benefits, costs and consequences of providing extended benefits, improving program integrity, and increasing State flexibility in designing and administering benefits and assisting in returns to work, will be examined in these hearings.

Subcommittee on Social Security

1. Social Security's financial challenges. The Subcommittee will hold hearings to examine various issues affecting the well being of individual recipients, the financial challenges facing Social Security programs, and options to address those challenges. In addition, the Subcommittee will examine work incentives and tax burdens for seniors, impacts of global aging, and Social Security coverage issues.

2. Use of the Social Security Number (SSN). The Subcommittee will continue its examination of the use of the SSN as an identifier and the degree to which such use contributes to identity theft and Social Security program fraud. The integrity of the SSN enumeration process and the crediting of workers' wages will also be examined. The Subcommittee will also review legislative options to enhance SSN privacy in both the public and private sectors.

3. Disability program improvements and oversight. The Subcommittee will continue to examine service delivery provided by the Social Security Disability Insurance program, including the Social Security Administration's (SSA's) implementation of the *Ticket to Work and Work Incentives Improvement Act* as well as SSA's disability program management and efforts to improve workload processing at both the initial application and appeals levels. The Subcommittee will continue to review the degree to which Social Security disability programs address the challenges faced today by those whose disabilities prevent them from working.

4. Stewardship of the Social Security programs. The Subcommittee will conduct oversight hearings to examine the management of the Social Security programs, assess their potential vulnerability to fraud, and to explore legislative remedies.

5. Service delivery. The Subcommittee will continue its ongoing oversight of SSA's service delivery as the agency prepares to address the service needs of aging baby boomers while facing the loss of one half of its workforce due to retirement. The Subcommittee will address the agency's management of information technology, efforts to modernize service delivery to meet the changing expectations of today's customers, plans to recruit and retain new workers, and initiatives to educate the public on Social Security programs and the challenges they face.

Subcommittee on Select Revenue Measures

As directed by the Chairman of the full Committee, the Subcommittee on Select Revenue Measures will conduct hearings and develop legislation on a variety of tax issues.

This list is not intended to be exclusive. The Committee anticipates that additional oversight activities will be scheduled as issues arise and/or as time permits.

Best regards,

BILL THOMAS, *Chairman*

B. ACTIONS TAKEN AND RECOMMENDATIONS MADE WITH RESPECT TO OVERSIGHT PLAN

Full Committee

1. Rules, Regulations, Statutes and Court Decisions.

Actions taken: On an ongoing basis, the Committee reviewed specific problems within the Committee's jurisdiction, of Federal rules, regulations, statutes and court decisions that impose a severe financial burden on individuals. The Committee held a hearing on July 17, 2003, to investigate waste, fraud, and abuse of taxpayer monies within the Social Security and Medicare programs. The Committee has also taken legislative action on a number of measures to modernize these Federal Government programs to ensure that they provide the best service to taxpayers. The findings of the Committee were submitted to the Committee on the Budget in accordance with the H. Con. Res. 95, the Concurrent Resolution of the Budget for Fiscal Year 2004.

In addition, the Committee continued its work with the Joint Committee on Taxation (JCT) to review and improve methodologies for estimating the impact of tax policy changes on tax receipts and the overall economy. As a result of a change in the House Rules in the 108th Congress, the JCT provided a detailed analysis of the macroeconomic impact of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27) in the Committee Report (Report No. 108-94).

2. Tax Reform.

Actions taken: The Committee held hearings on various tax reforms suggested in the President's FY 2004 and FY 2005 budgets during the 108th Congress. Hearings to receive testimony from Administration officials and private sector witnesses on the FY 2004 budget were held in February and March of 2003, while hearings to receive testimony from Administration witnesses on the FY 2005 budget were held in February 2004. As a result of information received during these hearings, tax legislation reflecting proposals for individual and business reforms were included in a series of bills during the 108th Congress. Proposals for individual and family tax relief were included in both the Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27) and in the Working Families Tax Relief Act of 2004 (P. L. 108-311). In addition, other tax relief proposals developed by the Committee on the basis of budget proposals were enacted as part of the American Jobs Creation Act of 2004 (P.L. 108-357) or included in other proposals considered by the House of Representatives, including the conference report on energy legislation (H.R. 6) and H.R. 7, the "CARE Act."

3. Medicare Reform.

Actions taken: The full Committee held hearings on prescription drugs and reform in Medicare on February 10, 2003, when it heard testimony on the President's FY 2004 Budget with the U.S. Department of Health and Human Services, and on April 9, 2003, when it heard testimony on expanding prescription drug coverage under Medicare. Testimony taken at these hearings helped form the basis of legislation considered by the Committee.

H.R. 2473, the “Medicare Prescription Drug and Modernization Act,” was introduced June 16, 2003, and was reported out of the Committee on Ways and Means on June 17, 2003, by a vote of 25-15. On June 27, 2003, the House passed H.R. 1, the “Medicare Prescription Drug, Improvement, and Modernization Act,” (MMA) which included provisions of H.R. 2473, by a vote of 216-215. The Senate passed similar legislation on June 27, 2003, by a vote of 76-21. The bills were confereced, reported favorably, and the House passed the Conference Report on November 22, 2003, by a vote of 220-215. The Senate also passed the Conference Report by a vote of 54-44 on November 25, 2003, and the legislation was signed into law December 8, 2003 (P.L. 108-173).

The law reforms the Medicare program by adding a new prescription drug benefit; instituting reforms that will reduce the prices of prescription drugs; reforming the Medicare Advantage program by increasing competition among plans and introducing a new regional preferred provider organization (PPO) option; instituting cost containment measures to ensure the long-term solvency of the program; reducing fraud and abuse in the program, including reforms to the Medicare Secondary Payer system, payments for drugs covered under Part B of the program and payments for durable medical equipment, thereby ensuring adequate reimbursement for services while reducing beneficiary cost sharing; instituting a new chronic care improvement program to better manage the care of beneficiaries with multiple chronic diseases; requiring hospitals to report on quality measures; reforming Medicare supplementary insurance; and providing for reform of the administrative and contracting functions of the program.

Subcommittee on Oversight

A. Subcommittee Hearings for 108th Congress.

1. National Taxpayer Advocate Report and Free Filing.

Actions taken: The Subcommittee held a hearing on February 13, 2003, on Free Electronic Filing and the National Taxpayer Advocate’s 2002 Annual Report. The hearing evaluated the legislative recommendations of the National Taxpayer Advocate and the leading problems faced by taxpayers, as described in the Annual Report. In addition, the Subcommittee heard testimony from Internal Revenue Service (IRS) officials concerning the IRS Free Filing initiative. Free Filing, a partnership with private sector consortium of electronic tax preparers is designed to allow up to 60 percent of taxpayers to file online for free.

2. Private Collection Agencies.

Actions taken: The Subcommittee held a hearing on May 13, 2003, on the Administration’s proposal to use private collection agencies (PCAs) to support the IRS debt collection efforts. Each year, the IRS collects over \$2 trillion in tax revenue from all sources. A small percentage of this amount is assessed, but not collected. Over the past decade, the total inventory of unpaid tax assessments has more than doubled from \$130 billion in 1992 to over \$280 billion in March of 2003. The IRS estimates that about \$78 billion is collectible. The IRS issued a Request for Information that appeared in the Federal Register in January of 2002, on

how PCAs could assist the IRS with its collection efforts, while preserving important taxpayer protections in existing law. Using this information, the Administration developed a proposal that appeared in the fiscal year 2004 budget request for the IRS. Chairman Houghton introduced legislation, H.R. 1169, which would implement the Administration's proposal. Later, a modified version of the proposal was enacted into law as part of H.R. 4520, the "American Jobs Creation Act" (P.L. 108-357).

3. IRS Fiscal Year 2004 Budget/2002-2003 Tax Return Filing Season.

Actions taken: The Subcommittee held a hearing on April 8, 2003, to evaluate the President's 2004 Budget proposal for the IRS and the 2003 filing season. The hearing reviewed the IRS reorganization, the modernization of IRS computer systems, and the re-alignment of the IRS's mission towards customer service. A major aspect of the hearing was the Free Filing Initiative that was proposed as part of President Bush's FY 2003 budget. The IRS total budget request for FY 2004 was \$10.4 billion. The IRS Oversight Board has requested a slightly higher budget for the IRS. In the end, Congress approved \$10.26 billion in IRS funding.

4. Review of the Non-Profit Credit Counseling Organizations.

Actions taken: The Subcommittee held a hearing on November 20, 2003, on the status of the non-profit credit counseling industry. The hearing explored the potential abuse by tax-exempt credit counseling organizations. In recent years, some consumer credit counseling organizations have moved away from providing counseling and educational services. Instead, these groups have focused on enrolling consumers in Debt Management Plans (DMPs), for which they receive fees. Credit counseling groups have become more aggressive in marketing DMPs to individuals, through telemarketing, Internet solicitations, and television commercials. At the hearing, the Subcommittee heard from the IRS and the Federal Trade Commission (FTC) about the consumer alert they issued on October 14, 2003, to remind consumers to be careful when seeking assistance from tax-exempt credit counseling organizations. The IRS indicated that it has increased its enforcement efforts, including the number of examinations, and is giving more scrutiny to credit counseling applications before granting tax-exempt status.

On November 21, 2003, Oversight Subcommittee Chairman Houghton wrote to the IRS and FTC to request that they report back to Subcommittee in six months with the results of their increased compliance efforts. The FTC reported back to the Subcommittee that they increased efforts to protect consumers from credit counseling abuses through litigation and education. The FTC continued a lawsuit against AmeriDebt, one of the country's largest credit counseling organizations, its former service provider, and its owner. The FTC filed an emergency petition to intervene in a nationwide class action suit against AmeriDebt aimed at compensating AmeriDebt victims.

The IRS reported back to the Subcommittee that the first proposed revocation of the tax-exempt status of a credit counseling organization had taken place and that more are expected to follow. IRS audit resources have been refocused and more than 50 tax-exempt credit counseling organizations have been identified for examination. The examinations will include some of the largest credit counseling firms and more than 50 percent of the total revenue filed by credit counseling organizations will be under active examination. To better track and monitor these

organizations, the IRS has revised the annual reporting Form 990 and added questions to the tax-exempt application Form 1023 to more easily evaluate credit counseling organizations.

5. IRS Computer Modernization.

Actions taken: Subcommittee held a hearing on November 4, 2003, to evaluate the IRS efforts to modernize its computer systems and hear the outcome of recent independent reviews of the IRS Business Systems Modernization (BSM) program requested by IRS Commissioner Mark Everson. Following the hearing the IRS scaled back the scope of the BSM program and made management changes to increase the success of continuing projects. During 2004, the IRS rolled out the first release of the Customer Account DATA Engine (CADE).

6. Unemployment Fraud and Abuse.

Actions taken: On June 19, 2003, the Subcommittee on Oversight, and the Subcommittee on Human Resources held a joint hearing to review the problem of State Unemployment Tax Act (SUTA) dumping or “SUTA dumping.” SUTA dumping has been used to undermine the Nation’s unemployment compensation (UC) system. Companies engage in SUTA dumping by establishing shell companies to evade accountability for laid off employees. SUTA dumping results in lost contributions to State UC funds. Unless each employer pays its fair share, States can be shortchanged millions of dollars in tax payments and tax rates may increase for all employers. SUTA dumping undermines a fundamental premise of UC system since its inception in the 1930s, that employer taxes should be experience rated. On November 6, 2003, Human Resources Subcommittee Chairman Herger introduced H.R. 3463 the “SUTA Dumping Prevention Act of 2003” to help stop abusive SUTA dumping practices. On July 14, 2004, the House passed the bill, and the Senate passed the bill with an amendment on July 27, 2004. The bill was signed by the President on August 9, 2004. (P.L. 108-295).

7. Implementation of the IRS Restructuring and Reform.

Actions taken: The Internal Revenue Service Restructuring and Reform Act of 1998 required the Chairman of the Joint Committee on Taxation to convene a joint review of the strategic plans and budget of the IRS each year until 2003. On May 20, 2003, the Subcommittee helped to convene the Joint Review that was convened in the Committee’s hearing room. The Joint Review focused on the long-term objectives and strategic plans of the IRS, the steps the IRS has taken and will take to achieve those objectives and plans, and the extent to which the Administration’s budget supports those objectives and plans. The Joint Review was extended for one year by the Families Tax Relief Act (P.L. 108-311).

8. Social Security Number and Individual Taxpayer Identification Number Mismatches and Misuse.

Actions taken: On March 10, 2004, the Oversight Subcommittee and Social Security Subcommittee held a hearing to review taxpayer identification numbers used for Federal tax purposes: Social Security numbers (SSNs) assigned by the SSA, and Individual Taxpayer Identification Numbers (ITINs) issued by the IRS. Neither number was originally created to serve as a form of identification but they have been used for that purpose by both government

agencies and the private sector. As a result, many have called the SSN a *de facto* national identifier. Likewise, use of ITINs as an identifier for those who cannot legally obtain a SSN has rapidly increased during its short period of existence. To date, the IRS has issued more than 7.3 million ITINs.

The Subcommittees will continue to review how ITINs are being used for non-tax purposes. This includes exploring the vulnerabilities of the ITIN as a breeder document for identity fraud and terrorism. Reports have indicated that illegal aliens and third parties are using ITIN for non-tax purposes, such as obtaining drivers' licenses and opening bank accounts. The Subcommittee will review the IRS ITIN program, as well as its efforts to identify the fraudulent use of SSNs on tax documents.

9. 2004 Tax Return Filing Season and the IRS Budget for Fiscal Year 2005.

Actions taken: The Subcommittee held a hearing on March 30, 2003, to review the 2004 tax return filing season and the IRS budget for fiscal year 2005. American taxpayers filed more than 130 million returns between the filing season dates, January 1st to April 15th, including more than 50 million e-filed returns.

The Administration's budget requested \$10.67 billion to fund the IRS for fiscal year 2005. Congress and the President ultimately approved \$10.2 billion in the Omnibus Appropriations Bill (P.L. 108-447). This level of funding will support over 100,000 employees who will collect an estimated \$1.7 trillion in taxes (net of funds), according to Administration estimates.

10. Tax Simplification.

Actions taken: The Subcommittee held a hearing on June 15, 2004, to review legislative proposals to simplify the Internal Revenue Code (IRC). On April 2, 2004, Chairman Houghton introduced a package of ten simplification bills to relieve the burden on individual and small business taxpayers in a revenue neutral manner. Committee Member, Representative Rob Portman (R-OH) earlier introduced a comprehensive tax simplification bill in the 107th Congress, the "Tax Simplification Act of 2002" (H.R. 5166).

The Houghton simplification package includes bills that would repeal the Alternative Minimum Tax (AMT), reducing the number of AMT taxpayers by 114 million, and saving approximately 463 million hours of tax return preparation time; establish a uniform definition of a child that is based on residence, relationship, and age; and change the term "Head of Household" filing status, a term that is less likely to cause a mistake in choosing a filing status. Other Houghton proposals that would simplify the tax laws include: the "Taxation of Minor Children Simplification Act" (H.R. 4135), the "Education Tax Credit Simplification Act" (H.R. 4136), the "Small Business Tax Modernization Act" (H.R. 4137), the "Personal Holding Company Tax Repeal Act" (H.R. 4138), and the "State Business Law Tax Conformity Act" (H.R. 4139). With the exception of AMT repeal, all of the foregoing proposals are low-cost or revenue-neutral. Chairman Houghton also introduced a House resolution to require all future tax bills to contain a simplification title.

11. First Hearing in a Series on Tax Exemption: Pricing Practices of Hospitals.

Actions taken: The Subcommittee held a hearing on June 22, 2004, to review the pricing practices of tax-exempt hospitals. Although hospitals represented a small proportion (1.9 percent) of total reporting charitable 501(c)(3)s, in 2001, they constituted 41 percent (\$337 billion) of total expenditures. Due to the lack of transparency, the uninsured are liable for charges which are inflated. This pricing policy combined with the subsidy from their tax-exempt status raises questions. To increase revenue from private payers and Medicare, hospitals argue that the higher pricing is needed to cover the costs of indigent medical care. But taxpayers subsidize the \$22 billion in costs of the indigent through \$23 billion a year in special Medicare Part A payments and other government subsidies.

12. IRS Enforcement of the Reporting of Tip Income.

Actions taken: The Subcommittee held a hearing on June 15, 2004, to review IRS tip income reporting programs. Over the last decade there has been significant growth in the service industry. In 1994, tip wages reported to the IRS totaled \$8.52 billion, and in 2003, this number grew to just over \$18 billion. Despite the increase in reported income, the IRS estimates that unreported tip income may exceed \$9 billion annually. The IRS first addressed the issue of compliance with its creation of the Tip Reporting Determination/Education Program (TRD/EP) in 1993. The TRD/EP was designed to educate employers and employees in the service industry about tip reporting laws in order to increase compliance. The Subcommittee evaluated the effectiveness of the programs and will continue to work with IRS in order to increase efficiency.

Legislation was introduced in the 108th Congress to address some of the problems surrounding audits and the IRS aggregate estimation method Representative Herger introduced the "Tip Tax Fairness Act of 2003" (H.R. 2034), which would require an accurate evaluation of unreported tips by the IRS. In addition, the bill would bar the IRS from conducting employer-only aggregate assessments for the purpose of determining Federal Insurance Contribution Act (FICA) taxes on underreported tip income. Representative Nancy L. Johnson introduced H.R. 2133, the "Cosmetology Tax Fairness and Compliance Act of 2003," which would extend to the cosmetology industry the income tax credit for Social Security taxes paid on employee cash tips that meet Federal minimum wage requirements.

Subcommittee on Trade

1. Bush Administration Trade Policy.

Actions taken: On February 26, 2003, the Committee held a hearing on President Bush's trade agenda for 2003. The sole witness was United States Trade Representative Robert Zoellick. The hearing examined current trade issues such as: (1) implementation, under Trade Promotion Authority (TPA) procedures, of the Chile and Singapore free trade agreements (FTAs); (2) other free trade agreements, including those notified by the President (Morocco, the Central American countries, Australia, and the Southern African Customs Union) and the Free Trade Area of the Americas; (3) prospects for trade expansion in agriculture, industrial goods, and services through multilateral negotiations in the World Trade Organization (WTO); (4) compliance with WTO dispute settlement decisions; (5) status of Russia and other former

Soviet Republics under the Jackson-Vanik amendment; (6) other bilateral trade issues; and (7) legislation to implement U.S. obligations in the Kimberley Process (concerning rough diamonds) in a WTO-consistent manner.

On March 11, 2004, the Committee held a hearing on President Bush's trade agenda for 2004. The sole witness was United States Trade Representative Robert Zoellick. The hearing examined current trade issues, including: (1) the recently concluded FTAs with Australia, the Central American countries, and Morocco; (2) other free trade agreements currently being negotiated or which have been notified by the President; (3) prospect for trade expansion in agriculture, industrial goods, and services through multilateral negotiations in the WTO; (4) compliance with WTO dispute settlement decisions; (5) potential extension and enhancement of AGOA; and (6) other trade issues.

Throughout the duration of the 108th Congress, USTR and the Committee consulted on trade policy issues.

2. Preparations for the 2003 World Trade Organization Ministerial.

Actions taken: On September 10–13, 2003, Chairman Thomas led a bipartisan delegation of Members of Congress to Cancun to monitor the WTO's Cancun Ministerial Conference, consult with U.S. trade officials during the negotiations, and discuss trade issues with foreign delegates and WTO officials. Members met with delegations from Australia, New Zealand, the European Union, Ecuador, Africa, and Brazil. An important objective of the meetings was to highlight the importance that Members of Congress place on trade and especially on the need for trade liberalization in the agricultural sector.

On February 17–21, 2003, a bipartisan delegation of staff from the Committee on Ways and Means and the Senate Committee on Finance participated in an oversight trip to the WTO headquarters in Geneva, Switzerland. The delegation met with foreign representatives to the WTO from various countries including China, Chile, Australia, Lesotho, Mexico, New Zealand, India, and Singapore, and with various WTO officials. The staff delegation discussed matters related to the September WTO Ministerial scheduled for Cancun and the trade positions of various countries in the negotiations in the Doha Round.

On April 22, 2003, the Committee requested that the GAO study the WTO negotiations. On July 30, 2003, the Committee received from GAO the report entitled "World Trade Organization: Standard of Review and Impact of Trade Remedy Rulings" ([GAO-03-824](#)).

In January 2004, the GAO issued a report entitled "World Trade Organization: Cancun Ministerial Fails to Move Global Trade Negotiations Forward; Next Steps Uncertain" ([GAO-04-250](#)). The report highlighted the many factors leading to the impasse at Cancun in September 2003. Following up on this report, GAO continued to monitor negotiations at the WTO and brief the Committee on the progress in reaching a framework for future negotiations. GAO will provide an interim status report in May 2005.

Concurrent with the final work by WTO members on a framework agreement for future WTO negotiations, Chairman Thomas wrote Ambassador Zoellick on July 26, 2004, urging that

the United States oppose efforts to single out and reach an early agreement to reduce cotton supports. Ambassador Zoellick replied on September 7, 2004, confirming that cotton supports would be negotiated in the WTO only as part of a broader discussion to reduce all domestic supports of agricultural products.

Throughout the 108th Congress, USTR consulted frequently with the Committee and the Congressional Oversight Group (COG) about the negotiations and U.S. positions.

3. Bilateral Free Trade Agreements with Singapore and Chile.

Actions taken: As part of its oversight of bilateral trade agreement negotiations, USTR consulted frequently with the Committee on the conduct of the Chile and Singapore negotiations and the U.S. negotiating position. On June 10, 2003, the Committee held a hearing on the implementation of the United States bilateral free trade agreements with Chile and Singapore. On July 10, 2003, the Committee informally approved draft legislation to implement the Chile and Singapore agreements, by voice vote, without amendment. The Committee conducted this informal markup in order to provide advice to the Administration on the implementing bills and Statements of Administrative Action. On July 17, 2003, the Committee formally approved H.R. 2738 and H.R. 2739, legislation to implement these agreements, under the procedures of the Bipartisan Trade Promotion Authority Act of 2002. On July 24, 2003, the House passed both bills, and the Senate followed suit on July 31. The President signed the bills into law on August 3, 2003 (P.L. 108-77 and 108-78).

4. Free Trade Area of the Americas.

Actions taken: USTR consulted frequently with the Committee and the COG about the negotiations and the U.S. position. In addition, on November 18-21, 2003, a bipartisan delegation of staff from the House Committees on Ways and Means and Agriculture and the Senate Committee on Finance traveled to Miami to monitor and consult with U.S. trade officials during the 8th Ministerial meetings for the Free Trade Area of the Americas negotiations and to discuss trade issues with foreign delegates. Staff met with delegations from Brazil, Colombia, Peru, and Panama. An important objective of the meetings was to highlight the importance that Members of Congress place on a comprehensive and ambitious FTAA.

On March 17, 2003, the Committee requested that GAO review the status of the FTAA negotiations. On April 11, 2003, the Committee received from GAO the report entitled "Free Trade Area of the Americas: Negotiations Progress, but Successful Ministerial Hinges on Intensified U.S. Preparations" ([GAO-03-560](#)). On May 13, 2003, the Committee received testimony from the GAO entitled "Free Trade Area of the Americas: United States Faces Challenges as Co-Chair of Final Negotiating Phase and Host of November 2003 Ministerial" ([GAO-03-700T](#)). The GAO continues to monitor the status of FTAA negotiations, and a new GAO report on the FTAA is expected in January 2005.

5. Negotiation of Bilateral Free Trade Agreements.

Actions taken: On November 13, 2002, U.S. Trade Representative Robert Zoellick formally notified Congress of the President's intent to launch negotiations with Australia for a

free trade agreement. Negotiations began in March 2003 and concluded in February 2004. The Committee consulted heavily with USTR throughout the negotiations on the status of the talks and on the U.S. negotiating position. On November 4, 2003, Chairman Thomas and Senate Finance Committee Chairman Grassley sent a joint letter to President Bush expressing their concern regarding the Administration's plans to exclude investment agreements from access to investor-state arbitration in the FTA. Both Chairmen emphasized their support for including strong investor protections in all FTAs, including access to investor-state arbitration. On January 28, 2004, Chairman Thomas sent a letter to President Bush iterating his expectation that all FTAs put before the Congress for consideration should be comprehensive and liberalize completely all sectors and products. Chairman Thomas noted that exclusions in FTAs could jeopardize the United States' ability to conclude and implement agreements because allowing an exception for one industry creates enormous pressure to do the same for other industries. The United States – Australia FTA was signed on May 18, 2004. On June 16, 2004, the Committee held a hearing on implementation of the FTA. On June 23, 2004, the Committee informally approved draft legislation to implement the FTA, by voice vote, without amendment. The Committee conducted this informal markup in order to provide advice to the Administration on the implementing bill and Statement of Administrative Action. On July 6, 2004, Majority Leader DeLay introduced (by request) H.R. 4759, the "United States – Australia Free Trade Agreement Implementation Act." On July 8, 2004, the Committee held a formal mark-up session to consider H.R. 4759. The Committee approved the bill and favorably reported H.R. 4759, by voice vote, without amendment. On July 14, 2004, the House passed the bill by a recorded vote of 314-109, 1 present. On July 15, 2004, the Senate passed H.R. 4759 without amendment by a recorded vote of 80-16. The President signed the bill into law on August 3, 2004 (P.L. 108-286).

On October 1, 2002, Ambassador Zoellick notified the Committee of his intention to initiate free trade agreement negotiations with the five member countries of the Central American Economic Integration System (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua). On December 17, 2003, USTR announced completion of an agreement with El Salvador, Guatemala, Honduras, and Nicaragua. During the negotiations, USTR consulted frequently with the Committee and the COG about the negotiations and the U.S. position. On January 25, 2004, USTR announced completion of an agreement with Costa Rica. On May 28, 2004, the agreement was signed.

On August 4, 2003, Ambassador Zoellick notified Congress of his intention to initiate free trade agreement negotiations with the Dominican Republic and to integrate the agreement with the Dominican Republic into the agreement the United States is negotiating with Central America. USTR planned to present the Congress one free trade agreement covering both the Dominican Republic and Central America. The negotiations began in January 2004. The USTR consulted frequently with the Committee and the COG about the negotiations and the U.S. position. On March 15, 2004, USTR announced completion of negotiations to integrate the Dominican Republic into the CAFTA. On August 5, 2004, an agreement integrating the Dominican Republic into the CAFTA was signed by the five Central American nations of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, the Dominican Republic, and the United States. In October 2004, the Dominican Republic passed legislation that imposed a 25 percent tax on beverages made with high fructose corn syrup. On November 16, 2004, Ambassador Zoellick notified the Senate Finance Committee and the House Ways and Means

Committee that he was taking steps to take Congressional action on the CAFTA without the Dominican Republic, if necessary, including preparing a text that excludes the Dominican Republic and requesting that the International Trade Commission assess the likely economic impact of the CAFTA.

On October 1, 2002, Ambassador Zoellick notified the Congress of his intention to initiate free trade agreement negotiations with Morocco. These negotiations began in January 2003, and were concluded in March, 2004. USTR consulted frequently with the Committee and the COG about the negotiations and the U.S. position.

On July 7, 2004, the Committee held a hearing on implementation of the United States bilateral free trade agreement with Morocco. The Morocco FTA was the fourth trade agreement considered by the Congress under the procedures outlined in TPA. Witnesses at the hearing included Deputy United States Trade Representative Peter Allgeier and representatives from the business community and non-governmental organizations. The hearing focused on Congressional consideration of the Morocco FTA and the benefits that the agreement brings to American businesses, farmers, workers, and the U.S. economy.

On July 14, 2004, the Committee informally approved draft legislation to implement the United States–Morocco Free Trade Agreement, by a roll call vote of 23-1, with one Member voting present, without amendment. The Committee conducted this informal markup in order to provide advice to the Administration on the implementing bill and Statement of Administrative Action. On July 15, 2004, Majority Leader DeLay introduced (by request) H.R. 4842, the “United States–Morocco Free Trade Agreement Implementation Act.” On July 20, 2004, the Committee held a formal mark-up session to consider H.R. 4842. The Committee approved the bill and favorably reported H.R. 4842, without amendment, by a recorded vote of 26-0. On July 22, 2004, the House passed the bill by a recorded vote of 323-99. On July 22, 2004, the Senate passed H.R. 4842, without amendment, by unanimous consent. The President signed the bill into law on August 17, 2004 (P.L. 108-302).

Pursuant to Sense of Congress language in the Africa Growth and Opportunities Act of 2000, Ambassador Zoellick notified Congress on November 4, 2002, of his intent to enter into free trade agreement negotiations with the Southern African Customs Union (SACU) countries (South Africa, Lesotho, Swaziland, Botswana, and Namibia). Negotiations between the United States and the SACU countries were launched on June 2, 2003, in Pretoria, South Africa. USTR consulted frequently with the Committee and the COG about the negotiations and the U.S. position.

On November 18, 2003, U.S. Trade Representative Robert Zoellick formally notified Congress of the President’s intent to initiate negotiations for a free trade agreement with Bolivia, Colombia, Ecuador, and Peru. FTA negotiations began in May 2004 with Colombia, Ecuador, and Peru. USTR has consulted and continues to consult frequently with the Committee and the COG on the status of the negotiations and on the U.S. negotiating position. Bolivia is an observer in the FTA negotiations, and USTR continues to consult with the Committee on Bolivia’s readiness to commence FTA negotiations with the United States.

On February 12, 2004, Ambassador Zoellick formally notified Congress of the President's intent to negotiate an FTA with Thailand. The first round of negotiations was held in June 2004. USTR has consulted and continues to consult frequently with the Committee and the COG on the status of the negotiations and on the U.S. negotiating position.

On August 4, 2003, Ambassador Zoellick notified Congress of his intention to initiate free trade agreement negotiations with Bahrain. USTR consulted frequently with the Committee and the COG about the negotiations and the U.S. position. Negotiations were launched on January 26, 2004 and concluded on May 27, 2004. The agreement was signed on September 14, 2004.

On July 22, 2004, the National Commission on Terrorist Attacks Upon the United States (the "9-11 Commission"), an independent, bipartisan commission created by legislation released its report. The Commission mentioned the free trade agreement with Bahrain as a potential part of a comprehensive strategy to counter terrorism, stating:

The U.S. government has announced the goal of working toward a Middle East Free Trade Area, or MEFTA, by 2013. The United States has been seeking comprehensive free trade agreements (FTAs) with the Middle Eastern nations most firmly on the path to reform. The U.S.-Israeli FTA was enacted in 1985, and Congress implemented an FTA with Jordan in 2001. Both agreements have expanded trade and investment, thereby supporting domestic economic reform. In 2004, new FTAs were signed with Morocco and Bahrain, and are awaiting congressional approval. These models are drawing the interest of their neighbors. Muslim countries can become full participants in the rules-based global trading system, as the United States considers lowering its trade barriers with the poorest Arab nations. Recommendation: A comprehensive U.S. strategy to counter terrorism should include economic policies that encourage development, more open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future. ("The 9/11 Commission Report" – pg. 378)

On November 18, 2003, Ambassador Zoellick notified the Congress of his intention to initiate free trade agreement negotiations with Panama. USTR consulted frequently with the Committee about the negotiations and the U.S. position. Negotiations were launched on April 26, 2004.

On November 15, 2004, following a visit by a bipartisan delegation of Members of Congress led by Chairman Thomas to Oman (see discussion below) and prior subsequent consultations with USTR, Ambassador Zoellick formally notified Congress of his intention to initiate free trade agreement negotiations with Oman. A free trade agreement with Oman is part of the goal announced by the President to form a Middle East Free Trade Area by 2013.

On November 15, 2004, Ambassador Zoellick formally notified Congress of his intention to initiate free trade agreement negotiations with the United Arab Emirates. Negotiations are expected to begin in February or March of 2005. USTR consulted periodically with the Committee about the negotiations and the U.S. position. A free trade agreement with the United Arab Emirates is part of the goal announced by the President to form a Middle East Free Trade Area by 2013.

On November 4-12, 2004, Chairman Thomas led a bipartisan delegation of Members of Congress to Tunisia, Jordan, Oman, and Egypt. The focus of the delegation's trip included trade, investment, and security issues in the region. The delegation held meetings with government officials and members of the business community and toured facilities that had received assistance from USAID and facilities receiving free trade agreement or Qualified Industrial Zone benefits. In December 2004 the Committee filed its "Report on Trade Mission to Tunisia, Jordan, Oman, and Egypt."

On September 20, 1991, the United States and Sri Lanka signed a Bilateral Investment Treaty that provides assurances to investors of both countries that their property rights will be respected. On July 25, 2002, the United States and Sri Lanka signed a Trade and Investment Framework Agreement (TIFA) designed to promote closer economic ties. On November 6, 2003, Ambassador Zoellick discussed the possibility of moving forward with a free trade agreement with Sri Lanka with the COG.

6. Relationship between Trade and National Security.

Actions taken: On several occasions during the 107th Congress, the Administration asked the Committee to consider certain trade benefits for national security reasons. The Committee intends to continue its examination of such issues, including an assessment of the national security benefits and the impact on affected U.S. industries and workers.

On November 25, 2002, the President signed into law legislation (P.L. 107-296) creating a new Department of Homeland Security (DHS). This law transferred the U.S. Customs Service to the Department of Homeland Security under the authority of the Under Secretary for Border and Transportation Security. Authority for customs revenue functions is retained by the Secretary of the Treasury, administered by the Commissioner of U.S. Customs and Border Protection (CBP) under the terms of an executive delegation of authority order.

On March 1, 2003, the former U.S. Customs Service was divided into two new agencies within DHS. Customs inspectors, canine enforcement officers, and import specialists were merged with immigration inspectors, border patrol agents, and agriculture inspectors to create CBP. Customs investigators and personnel in the air and marine operations were merged with immigration investigators, Federal air marshals, and members of the Federal protective service to create the U.S. Immigration and Customs Enforcement (ICE).

On June 17, 2004, the Subcommittee on Trade held a public hearing on Customs budget authorizations and other customs issues. The hearing focused on issues surrounding the transfer of the former U.S. Customs Service to the Department of Homeland Security, customs modernization, customs user fees and cost accounting systems. Witnesses included the Honorable Robert Bonner, Commissioner, U.S. Customs and Border Protection; the Honorable Michael Garcia, Assistant Secretary for U.S. Immigration and Customs Enforcement; and representatives of the business community and labor unions. On June 22, 2004, Trade Subcommittee Chairman Crane sent a letter to Commissioner Bonner submitting questions for response and inclusion in the Subcommittee record, requesting responses by July 6, 2004. On September 13, 2004, the Subcommittee received responses.

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The Committee has discussed with USTR the progress towards developing the Middle East Free Trade Area, including bilateral trade negotiations with Morocco, Bahrain, Oman, and the United Arab Emirates (see discussion above).

7. Miscellaneous Duty Suspensions and Technical Corrections to U.S. Trade Laws.

Actions taken: On March 4, 2003, as part of its oversight of the trade laws, Trade Subcommittee Chairman Crane introduced H.R. 1047, the “Miscellaneous Trade and Technical Corrections Act of 2003,” a bill to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes. The bill was based in large part on H.R. 5385 from the 107th Congress, which had been passed by the House on October 7, 2002, but was not considered by the Senate.

On April 5, 2003, the House suspended the rules, and the bill was passed by a recorded vote of 415–11. On March 21, 2003, the Senate read the bill a second time and placed it on the Senate Legislative Calendar under general orders. The Senate took no further action during the first session. The House then largely incorporated the bill into H.R. 3521, the “Tax Relief Extension Act of 2003,” introduced by Chairman Thomas on November 19, 2003. The bill included the provisions from H.R. 1047 in addition to other provisions, such as permanent normal trade Relations (PNTR) for Armenia. The House passed H.R. 3521 on November 20, 2003, by voice vote, and the bill was received by the Senate and referred to the Senate Committee on Finance. The Senate did not act on this bill during the 108th Congress.

The Senate subsequently passed H.R. 1047 with an amendment on March 4, 2004, and a House-Senate conference was held on October 8, 2004. The conference report renamed the bill the “Miscellaneous Trade and Technical Corrections Act of 2004” and included most of the provisions in the House and Senate versions of H.R. 1047. The House agreed to the conference report by unanimous consent on October 8, 2004, and the Senate agreed by unanimous consent

on November 19, 2004, after adopting a motion for cloture on the report by a recorded vote of 88-5. The President signed H.R. 1047 on December 3, 2004 (P.L. 108-429).

8. U.S. Trade Remedy Laws.

Actions taken: Section 201 of the Trade Act of 1974 allows the President to take action, including import relief, to assist a domestic industry seriously injured by imports to make a positive adjustment to import competition. On March 5, 2002, the President announced safeguard measures on ten categories of steel imports and imposed tariffs ranging from 8 to 30 percent. On December 4, 2003, pursuant to section 204(b) of the Trade Act of 1974, the President determined that the effectiveness of the safeguard action had been impaired by changed economic circumstances, and he repealed the tariffs.

On March 26, 2003, the Subcommittee on Trade held a hearing on the impact of the section 201 safeguard actions on certain steel products. The hearing focused on changes in employment, wages, profitability, sales, productivity, and capital investment of steel consuming industries as a result of the safeguard action, whether the safeguard remedies affected steel prices and availability in the United States, and the effects of the safeguard on the domestic steel industry and the industry's efforts to restructure. Witnesses included representatives from small and large steel consuming businesses, U.S. steel producers, economic and financial analysts knowledgeable on the steel industry, and unions.

In order to provide a comprehensive assessment of the impact of the steel safeguard measures on the U.S. economy, Chairman Thomas requested the International Trade Commission (ITC) on March 18, 2003, to institute an investigation under section 332 of the Tariff Act of 1930 as to the current competitive conditions facing the steel consuming industries in the United States with respect to the tariffs imposed by the President on March 5, 2002, and to foreign competitors not subject to such measures. As requested by Chairman Thomas, the ITC submitted the results of this review, along with the ITC's section 204 report, to the President and Congress in a single document in September 2003 (Steel: Monitoring Developments in the Domestic Industry (Investigation No. TA-204-9) and Steel-Consuming Industries: Competitive Conditions with Respect to Steel Safeguard Measures (Investigation No. 332-452) (Publication 3632; September 2003)).

9. Authorizations for the U.S. Customs Service, the Office of the United States Trade Representative (USTR), and the U.S. International Trade Commission (ITC).

Actions taken: The Committee on Ways and Means has adopted a two-year authorization process to provide U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, the Office of the United States Trade Representative, and the International Trade Commission with guidance as they plan their budgets and to provide Committee guidance in the appropriations process. Funding for the former U.S. Customs Service, USTR, and the ITC was authorized through FY 2004 in the Trade Act of 2002 (P.L. 107-210).

On November 25, 2002, the President signed into law legislation (P.L. 107-296) creating a new Department of Homeland Security. This law transferred the U.S. Customs Service to the Department of Homeland Security under the authority of the Under Secretary for Border and

Transportation Security. Authority for customs revenue functions is retained by the Secretary of the Treasury, administered by the Commissioner of U.S. Customs and Border Protection under the terms of an executive delegation of authority order.

On March 1, 2003, the former U.S. Customs Service was divided into two new agencies within DHS. Customs inspectors, canine enforcement officers, and import specialists were merged with immigration inspectors, border patrol agents, and agriculture inspectors to create CBP. Customs investigators and personnel in the air and marine operations were merged with immigration investigators, Federal air marshals, and members of the Federal protective service to create ICE.

a. Hearing

On June 17, 2004, the Subcommittee on Trade held a public hearing on Customs budget authorizations and other customs issues. The hearing focused on issues surrounding the transfer of the former U.S. Customs Service to the Department of Homeland Security, customs modernization, customs user fees and cost accounting systems. Witnesses included the Honorable Robert Bonner, Commissioner, U.S. Customs and Border Protection, the Honorable Michael Garcia, Assistant Secretary for U.S. Immigration and Customs Enforcement, and representatives of the business community and labor unions. On June 22, 2004, Trade Subcommittee Chairman Crane sent a letter to Commissioner Bonner submitting questions for response and inclusion in the Subcommittee record, requesting responses by July 6, 2004. On September 13, 2004, the Subcommittee received responses.

b. Authorization legislation

On May 20, 2004, Trade Subcommittee Chairman Crane introduced H.R. 4418, the “Customs Border Security Act of 2004,” a bill to authorize appropriations for fiscal years 2005 and 2006 for CBP, ICE, USTR and ITC. On June 24, 2004, the Subcommittee on Trade held a formal mark up session and ordered favorably reported to the full committee H.R. 4418, the “Customs Border Security and Trade Agencies Authorization Act of 2004,” as amended, by voice vote. On July 8, 2004, the Committee on Ways and Means held a formal mark-up session on H.R. 4418, as amended by the Subcommittee. Chairman Thomas offered an amendment in the nature of a substitute, which was agreed to by voice vote. The Committee then ordered favorably reported H.R. 4418, as amended, by a roll call vote of 33 ayes to 0 nays. On July 14, 2004, the legislation passed the House by a recorded vote of 341 – 85. On July 15, the bill was received in the Senate and referred to the Committee on Finance. The Senate took no further action.

c. Report

On January 23, 2004, as required by the Trade Act of 2002, the Committee received from the GAO a report entitled “U.S. Customs and Border Protection Faces Challenges in Addressing Illegal Textile Transshipment” (GAO-04-345). GAO reported on CBP’s system for preventing the use of false country-of-origin information for imported goods to evade U.S. textile quotas and customs duties.

10. User Fees.

Actions taken: On October 21, 2003, Representative Renzi introduced H.R. 3365, the “Military Family Tax Relief Act,” which contained no trade provisions. On October 29, 2003, the House suspended the rules and passed the bill by a recorded vote of 413-2. On November 3, 2003, the Senate passed H.R. 3365 with an amendment that provided for an 11-month extension of Customs user fees. On November 5, 2003, the House concurred in the Senate amendment by unanimous consent. The President signed the bill into law on November 11, 2003 (P.L. 108-121).

H.R. 4520, the “American Jobs Creation Act of 2004,” included a provision to extend all Customs user fees until September 30, 2014. The provision also clarified that user fees should be reasonably related to the cost of the customs service provided to importers. The Committee continues to examine the issue of setting the appropriate level for user fees and how the fees are used. In order for the Committee to continue to conduct proper oversight of the use of user fees, the provision also commissioned a study by the DHS to analyze all fees charged to importers and to recommend changes. H.R. 4520 was signed into law by the President on October 22, 2004 (P.L. 108-357).

11. Trade Adjustment Assistance (TAA).

Actions taken: The Committee has continued its oversight of the general TAA programs for workers and firms in light of the substantial revisions made by the Trade Act of 2002 through discussions with the Administration and interested parties.

12. Trade Relations with China.

Actions taken: On October 28, 2003, Representative Phil English introduced H. Res. 414, a bill to encourage the People's Republic of China to fulfill its commitments under international trade agreements, support the United States manufacturing sector, and establish monetary and financial market reforms. The resolution urged Chinese leaders to modernize China's financial system, establish a more flexible exchange rate, and comply with China's trade agreement obligations. On October 29, 2003, the House suspended the rules, and the bill was passed by a recorded vote of 411-1.

On October 30 and October 31, 2003, the Committee held a two-day hearing on United States-China economic relations and China's role in the economy. During the hearing, the Committee received testimony from witnesses from the Administration, ITC, GAO, CBO, and private sector interests. The hearing focused on (1) implementation of China's WTO accession commitments; (2) trade relations between the United States and China; (3) China's currency management; and (4) the relationship between trade with China and the U.S. economy.

Chairman Thomas and Members of the Committee met with Chinese Vice-Premier Wu Yi on April 22, 2004, to discuss concerns about China's enforcement of intellectual property rights, currency policy, China's discriminatory tax on foreign semiconductors, and other current trade issues. USTR and the Committee also consulted concerning meetings between Chinese and U.S. officials as a part of the U.S.-China Joint Commission on Commerce and Trade and

new efforts to combat intellectual property right offenses, efforts for eventual liberalizing of China's currency peg to the dollar, and the elimination of the tax on foreign semiconductors.

In December 2004, the Committee received a report by the U.S. Trade Representative's Office, as required under section 421 of the "U.S.-China Relations Act of 2000" (P.L. 106-286), entitled "2004 Report to Congress on China's WTO Compliance." The report acknowledges China's significant efforts to reform its economy and comply with the requirements of the WTO, but areas of concern remain. The report highlighted U.S. concerns including the need for improved protection of intellectual property rights, the ability of foreign firms to trade and distribute services directly within China without use of a Chinese intermediary, removal of non-tariff barriers for agricultural imports, and improved transparency in business regulation.

13. Permanent Normal Trade Relations with Russia and Other Jackson-Vanik Countries.

Actions taken: Armenia: Armenia's trade status was subject to the Jackson-Vanik provisions in Title IV of the Trade Act of 1974. On February 4, 2003, Representatives Knollenberg and Pallone, co-Chairmen of the Congressional Caucus on Armenian Issues, introduced H.R. 528, a bill to authorize the extension of nondiscriminatory treatment (permanent normal trade relations, or PNTR) to the products of Armenia. Armenia became a member of the World Trade Organization on February 5, 2003. On March 5, 2003, Trade Subcommittee Chairman Crane requested written public comments for the record from all parties interested in the extension of PNTR treatment to products from Armenia. On November 19, 2003, Chairman Thomas introduced H.R. 3521, the "Tax Relief Extension Act of 2003," a bill to extend certain expiring provisions. The bill contained a provision granting PNTR treatment to products from Armenia. The House passed H.R. 3521 on November 20, 2003, by voice vote, and the bill was received by the Senate and referred to the Senate Committee on Finance. The Senate took no further action on that bill. A provision granting PNTR to products from Armenia was included in the conference report for H.R. 1047, the "Miscellaneous Trade and Technical Corrections Act of 2004," which was signed by the President on December 3, 2004 (P.L. 108-429, see below for further discussion).

Moldova: Moldova's trade status remains subject to the Jackson-Vanik provisions in Title IV of the Trade Act of 1974. Moldova became a member of the World Trade Organization on July 26, 2001. On March 5, 2003, Chairman Crane requested written public comments for the record from all parties interested in the extension of PNTR treatment to products from Moldova. No further action was taken.

Russia: Russia's trade status remains subject to the Jackson-Vanik provisions in Title IV of the Trade Act of 1974. A Working Party on Russia's WTO accession was established in June 1993. Throughout 2003 and 2004, Russia has held intensive bilateral market access negotiations on goods and services with WTO members, and Russia and the European Union concluded a market access accession agreement in May 2004. U.S. and Russian negotiators have met several times to discuss market access. USTR consults regularly with the Committee on the status of those negotiations.

14. Trade and Development Act of 2000.

Actions taken: The Committee met with a number of African leaders during the WTO's Cancun Ministerial and in Washington to discuss the operation of the Africa Growth and Opportunities Act (AGOA), a component of the Trade and Development Act of 2000. These leaders told the Committee that the legislation has led to substantial investment in African countries, improved the standard of living for thousands of Africans, and aided in general development of many poor African regions. However, many of these officials requested an extension of the program benefits and various enhancements to the program, while others expressed concern over extension of eligibility for the use of third-country fabric because it would discourage regional fabric production. Due to the success of the program and strong Committee Member interest, the Subcommittee held a hearing on implementation of the Africa Growth and Opportunities Act to consider the development of new AGOA legislation and on how the program relates to the elimination of worldwide textile and apparel quotas in 2005, free trade negotiations with AGOA countries of the Southern African Customs Union, and the impact of African trade preferences on other U.S. trading partners especially in the Caribbean Basin.

During the timeframe between January 12–23, 2003, Chairman Thomas led a bipartisan delegation of Members of Congress to an international forum established in the Africa Growth and Opportunity Act (AGOA) which was signed into law in 2000 (P.L. 106-200). The delegation visited Namibia, South Africa, Madagascar, and Mauritius and toured several new firms established as a result of the trade benefits created by AGOA. The delegation participated in several speaking and discussion events at the AGOA forum in Mauritius. In January 2003, the Committee filed its "Report on Trade Mission to Sub-Saharan Africa" (WMCP: 108-2).

The Committee conducted a hearing on April 20, 2004, which raised many issues related to extending and enhancing the program. Several African countries and the private sector raised the provision allowing lesser developed countries to use fabric from third-countries in the production of apparel receiving market access benefits when exported to the United States. This provision was due to expire at the end of 2004, and the private sector and many Committee Members supported extending the date for several more years to allow AGOA beneficiaries additional time to attract and develop yarn and fabric manufacturing that will supply the infant apparel industry in these countries. Lastly, many Committee Members and hearing witnesses complained of implementation setbacks such as unexpected interpretations by U.S. Customs officials that restricted use of the various AGOA benefit provisions. For these reasons, Committee Members remained strongly supportive of correcting and enhancing provisions to allow for broad and liberal use of the programs to give African countries access to the United States market.

On April 1, 2004, Chairman Bill Thomas, together with Representatives Crane, Rangel, Houghton, Dunn, Weller, K. Brady, McDermott, Neal, Jefferson, Royce, and Payne, introduced H.R. 4103, the "AGOA Acceleration Act of 2004." The Committee favorably reported H.R. 4103 to the House on May 5, 2004. The House passed the bill, as amended, on June 14, 2004, by voice vote. The Senate passed the bill without amendment by unanimous consent on June 24, 2004, and the President signed the bill into law on July 13, 2004 (P.L. 108-274). The law extends the existing AGOA program until 2015, extended third-country fabric benefits for lesser developed countries until 2007 with a phase-down in year three, and encourages the

President to support African development in transportation, energy, agriculture, and telecommunications infrastructure. The bill also improves the rules of origin for AGOA beneficiaries by permitting use of certain third-country components and increasing the de minimis threshold from seven percent to ten percent.

15. Conflict diamonds.

Actions taken: On April 3, 2003, Representative Houghton introduced H.R. 1584, the “Clean Diamond Trade Act,” to implement U.S. obligations pursuant to the Interlaken Declaration on the Kimberley Process Certification Scheme for Rough Diamonds of November 5, 2002. The Declaration addresses the problem of the use of diamonds from mines controlled by African rebel forces to trade for arms in order to fuel civil war in Africa. On April 8, 2003, the House passed the bill by a recorded vote of 419-2. On April 10, 2003, the Senate passed H.R. 1584, with amendment, by unanimous consent. On April 11, 2003, the House agreed to the Senate amendment by unanimous consent. The President signed the bill into law on April 25, 2003 (P.L. 108-19).

On August 25, 2004, the Committee received a report on the performance of the United States Kimberley Process Authority (USKPA) from the State Department. The report described and reviewed the practices, standards and procedures of the USKPA. The Committee continues to monitor implementation of the Kimberly Process.

16. Jackson-Vanik Waiver and Extension of Normal Trade Relations to the Socialist Republic of Vietnam.

Actions taken: Vietnam’s trade status remains subject to the Jackson-Vanik provisions in Title IV of the Trade Act of 1974. An annual review of Vietnam’s Jackson-Vanik waiver occurs with a Presidential determination of that country’s status for the upcoming year. The effect of the President’s waiver is to grant conditional normal trade relations (NTR) status to products from Vietnam and to make U.S. exporters eligible for certain export credit guarantees in doing business with Vietnam. On May 29, 2003, the President renewed Vietnam’s waiver from the Jackson-Vanik freedom of emigration requirements in Title IV of the Trade Act of 1974 (H. Doc. 108-80). On July 9, 2003, Representative Rohrabacher introduced H.J. Res. 64 to disapprove the extension of NTR to Vietnam. No further action was taken on the resolution, and Vietnam’s NTR status continued for another year. On June 3, 2004, the President renewed Vietnam’s waiver from the Jackson-Vanik freedom of emigration requirements in Title IV of the Trade Act of 1974 (H. Doc. 108-191). A resolution of disapproval was not introduced with respect to the President’s 2004 Jackson-Vanik determination for Vietnam, and Vietnam’s NTR status continued for another year.

17. Normal Trade Relations with the Lao People’s Democratic Republic.

Actions taken: Laos did not receive Normal Trade Relations (NTR) status because it was included in the Harmonized Tariff Schedule (HTS) of the United States in General Note 3(b) on the list of countries whose products are subject to column 2 (non-NTR) tariff rates. On March 5, 2003, Trade Subcommittee Chairman Crane requested written public comments for the record from all parties interested in the extension of normal trade relations (NTR) treatment to

products from Laos. On March 11, 2004, Trade Subcommittee Chairman Crane and Representative McCollum introduced H.R. 3943 to extend nondiscriminatory treatment (normal trade relations treatment) to the products of Laos. A provision granting NTR to products from Laos was included in the conference report for H.R. 1047, the “Miscellaneous Trade and Technical Corrections Act of 2004,” which was signed by the President on December 3, 2004 (P.L. 108-429). (See below for further discussion of P.L. 108-429).

18. Sanctions Reform.

Actions taken: In response to the dramatic growth in the imposition of unilateral economic sanctions and their impact on U.S. trade and competitiveness in international markets, the Subcommittee will continue its oversight on the use and effectiveness of U.S. unilateral trade sanctions, in particular whether any proposed sanction will achieve its intended objectives and whether the achievement of those objectives outweigh any likely costs to United States foreign policy, national security, economic, and humanitarian interests.

The Committee used this analytical framework in its work on legislation regarding Burma (Myanmar). On June 4, 2003, Representative Lantos introduced H.R. 2330, the Burmese Freedom and Democracy Act of 2003, to sanction the ruling Burmese military junta, strengthen Burma's democratic forces, and support and recognize the National League of Democracy as the legitimate representative of the Burmese people. On July 8, 2003, Chairman Thomas sent a letter to Committee on International Relations Chairman Hyde asserting the jurisdiction of the Committee on Ways and Means over these provisions and agreeing to forego consideration of the bill because provisions sought by the Committee had been included in the Manager's Amendment to the bill. On July 15, 2003, H.R. 2330 was approved under a suspension of the rules by a recorded vote of 418–2, with 1 present vote. On July 16, 2003, the bill passed the Senate, without amendment, by a recorded vote of 94–1. The President signed H.R. 2330 into law on July 28, 2003 (P.L. 108-61).

The import restrictions contained in P.L. 108-61 expire one year after enactment unless renewed by Congress with a joint resolution meeting certain requirements, and import restrictions expire completely after three years. On June 3, 2004, Representatives Lantos and Thomas introduced H.J. Res. 97 to approve the renewal for one year of import restrictions contained in P.L. 108-61. On June 14, 2004, H.J. Res. 97 was approved by the House under a suspension of the rules by a recorded vote of 372–2. On June 24, 2004, the bill passed the Senate without amendment by a yea-nay vote of 96–1. The President signed H.J. Res. 97 into law on July 7, 2004 (P.L. 108-272).

19. Rules of Origin and Country of Origin Marking.

Actions taken: The Subcommittee continued to review and consult with the Administration and the trade community on the status of rules of origin negotiations underway in the World Customs Organization; reviewed whether U.S. law and U.S. Customs enforcement efforts are effective in preventing unlawful transshipment; and reviewed the implementation labeling requirements by United States and its trading partners with respect to meat, fresh produce, and genetically modified products.

20. Trade Relations with Japan.

Actions taken: On June 3, 2003, Chairman Thomas, along with Representative Rangel and Senators Grassley and Baucus, sent a letter to President Bush stressing the value of United States-Japan trade and asking that the President continue to press the Japanese Prime Minister Koizumi to accelerate de-regulation, enforce its current commitments under trade agreements, and continue to open its markets to U.S. goods, services, and farm products. On July 17, 2003, U.S. Trade Representative Zoellick sent a letter to Chairman Thomas underscoring the importance of U.S.-Japan relations and stating that the Administration will remain committed to improving our economic and trade relations with Japan.

In response to a question from Chairman Thomas at a Congressional Oversight Group meeting, relating to Japan and other countries, Ambassador Zoellick wrote to Chairman Thomas on October 27, 2004, and acknowledged the need for USTR to make further efforts in order to remove non-science based phytosanitary barriers around the world that impede U.S. exports of agricultural products. Ambassador Zoellick stated his intention to dedicate more staffing resources to the issue and to formalize efforts with other agencies, especially USDA, so as to improve the responsiveness of the U.S. Government in resolving such foreign barriers.

Numerous issues have been raised by Members and the private sector about impediments to free trade in Japan including the anticompetitive practices of its postal firm, sanitary and phytosanitary barriers to agricultural products, and unfair price determination for medical devices for the Japanese healthcare system. The Committee continues to raise these issues with Japanese officials and with U.S. Government officials.

21. Asia Pacific Economic Cooperation Forum.

Actions taken: During the 108th Congress, the United States concluded and Congress approved free trade agreements with APEC members Chile, Singapore, and Australia. In addition, negotiations for FTAs are underway with Thailand and Peru (see other sections of this report for more information). The Administration and the Committee have consulted regularly on the status of all these separate negotiations and on U.S. negotiating positions. The Committee has also monitored the proliferation of FTAs among APEC members to which the United States is not a party, including agreements between Chile and Korea, Japan and Mexico, Australia and Thailand, and China and ASEAN countries, as well as several ongoing negotiations. The Committee continued to review the status of those talks as well as other U.S. trade policy objectives in Asia that relate to APEC members.

Subcommittee on Health

1. Regulatory and Contracting Reform.

Actions taken: The Subcommittee held a hearing on Medicare regulatory and contracting reform on February 13, 2003. Testimony taken at the hearing helped form the basis of legislation considered by the Committee and included in H.R. 1, the “Medicare Prescription Drug, Improvement, and Modernization Act of 2003.” (P.L. 108-173)

2. Medicare Payment and Advisory Commission (MedPAC) Report and Recommendations.

Actions taken: The Subcommittee heard MedPAC's testimony on its recommendations at the following hearings: Medicare payment policies on March 6, 2003; Medicare cost-sharing and Medigap coverage on May 1, 2003. Testimony taken at these hearings helped form the basis of legislation considered by the Committee and included in H.R. 1, the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003." (P.L. 108-173)

Prior to the hearing, on March 5, 2003, the Chairman of the Committee requested that the Office of the Management Budget provide the Administration's position on each major MedPAC recommendation to Congress.

3. Medicare's Cost-sharing and Supplemental Coverage.

Actions taken: The Subcommittee held a hearing on cost-sharing and Medigap coverage on May 1, 2003. Testimony taken at the hearing helped form the basis of legislation considered by the Committee and included in H.R. 1, the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003." (P.L. 108-173)

4. Prescription Drug Coverage.

Actions taken: The full Committee held hearings on prescription drugs in Medicare on February 6, 2003, when it heard testimony on the President's FY 2004 Budget with the U.S. Department of Health and Human Services, and on April 9, 2003, when it heard testimony on expanding prescription drug coverage under Medicare. Testimony taken at these hearings helped form the basis of legislation considered by the Committee.

H.R. 2473, the "Medicare Prescription Drug and Modernization Act," was introduced June 16, 2003, and was reported out of the Committee on Ways and Means on June 17, 2003, by a vote of 25-15. On June 27, 2003, the House passed H.R. 1, the "Medicare Prescription Drug, Improvement, and Modernization Act," (MMA) which included provisions of H.R. 2473, by a vote of 216-215. The Senate passed similar legislation on June 27, 2003, by a vote of 76-21. The bills were confereed, and the House passed the Conference Report on November 22, 2003, by a vote of 220 to 215. The Senate also passed the Conference Report by a vote of 54-44 on November 25, 2003, and the legislation was signed into law December 8, 2003 (P.L. 108-173).

The Health Subcommittee held hearings on the implementation of the MMA drug benefit, including a hearing on the prescription drug discount card on April 1, 2004, and electronic prescribing on July 22, 2004.

5. Health Care Quality.

Actions taken: The full Committee held a hearing on disease prevention initiatives in the President's FY 2004 Budget with the U.S. Department of Health and Human Services on February 6, 2003, and the Subcommittee held a hearing on eliminating barriers to chronic care

management in Medicare on February 25, 2003. Testimony taken at these hearings helped form the basis of legislation considered by the Committee and included in H.R. 1, the “Medicare Prescription Drug, Improvement, and Modernization Act of 2003.” (P.L.108-173)

The Subcommittee held a hearing on new frontiers in quality initiatives on March 18, 2004. The hearing focused on what is known about the current state of health care quality, recent changes to the Medicare program, and lessons that can be learned from experiences in the commercial market. The Subcommittee also held a hearing on increasing the use of information technology in health care to improve quality on June 17, 2004.

6. Medicare Waste, Fraud and Abuse.

Actions taken: On July 17, 2003, the full Committee held a hearing on waste, fraud and abuse that included an examination of Administration activities and problems related to pricing for currently covered prescription drugs, reimbursement for durable medical equipment and the Medicare Secondary Payer program. In addition, the Committee heard testimony on the False Claims Act and its importance in reducing fraud and abuse in Federal programs.

In accordance with H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, the Committee submitted findings from this hearing to the Committee on the Budget on September 9, 2003.

The Committee exercised its oversight on the Medicare program by sending a letter to the Administrator of the Centers for Medicare and Medicaid Services on February 28, 2004, on the significant overpayments for Medicare outlier cases. Chairman Thomas urged the Administrator to expeditiously move to fix the problem as soon as possible. In addition, the Committee worked closely with the Office of the Inspector General in requesting information on graduate medical education for dental residents. Chairman Thomas subsequently wrote to the agency for a copy of the early alert which served as a basis for actions included in H.R. 1, the “Medicare Prescription Drug Improvement and Modernization Act of 2003” (P.L. 108-173).

7. Medically Uninsured.

Actions taken: The Committee Chairman asked the CBO to prepare a report detailing the diversity of the uninsured population in terms of their economic and family circumstances, their access to various types of insurance and the length of time they are without coverage. The report was issued in May 2003. The Subcommittee held a hearing on the uninsured on March 9, 2004. The hearing focused on issues concerning Americans who lack access to affordable health insurance. Testimony taken at the hearing helped form a more clear understanding of the causes and consequences of lack of health insurance, tax and regulatory policies that affect access to health insurance, and consequences faced by some of the uninsured who are hospitalized. This hearing also laid out a foundation for potential future hearings to better understand the problems of the uninsured.

8. Graduate Medical Education.

Actions taken: The Subcommittee heard MedPAC's testimony on its recommendations on Medicare payment policies, including payment for graduate medical education, on March 6, 2003. Testimony taken at this hearing helped form the basis of legislation considered by the Committee and included in H.R. 1, the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003." (P.L. 108-173)

9. Medicare Modernization

Actions taken: The full Committee held a hearing on the President's FY 2004 Budget with HHS on February 6, 2003. Testimony on the President's proposals for strengthening and improving Medicare helped form the basis of legislation considered by the Committee and included in H.R. 1, the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003." (P.L. 108-173)

The Committee continued its oversight of the Medicare skilled nursing benefit. The Committee Chairman Thomas and the Subcommittee Chairman Johnson wrote to the Administrator of the Centers for Medicare & Medicaid Services (CMS) asking that it adjust the market basket update to reflect actual data. The use of projected data has resulted in lower payments than if actual data were used. The Subcommittee Chairman Johnson and Representative Camp wrote to the Administrator of CMS to release a report on end-stage renal disease. The subsequently released report served as a basis for the provisions in H.R. 1, the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003." (P.L. 108-173)

The Committee requested a number of reports from the GAO in preparation for H.R. 1. On February 4, 2003, the Subcommittee Chairman Johnson asked the GAO to examine commuting patterns as an option for use in the geographic reclassification of hospitals for assignment in the hospital wage index. On March 3, 2003, Chairman Thomas and Subcommittee Chairman Johnson asked for an examination of the costs of medical liability for the Medicare program such as defensive medicine. On April 1, 2004, the Committee Chairman and Subcommittee Chairman Johnson, wrote to the Administrator of the CMS requesting additional changes to the physician payment formula for Medicare providers reimbursed under the physician fee schedule.

The Chronic Care Improvement Program (CCIP), passed as part of the MMA, will establish several pilot programs to test approaches for managing the care of beneficiaries with multiple chronic conditions. The Subcommittee heard testimony on the implementation of the CCIP on May 11, 2004.

Subcommittee on Human Resources.

1. Welfare Reform.

Actions taken: U.S. Department of Health and Human Services (HHS) Secretary Tommy Thompson testified before the full Committee on February 6, 2003, regarding the President's fiscal year 2004 budget proposals for HHS. During his testimony HHS Secretary Thompson

discussed the Temporary Assistance for Needy Families (TANF) program and the Administration's proposals for reauthorization.

On February 10, 2004, the full Committee conducted a hearing on the Administration's fiscal year 2005 budget for HHS. At that hearing HHS Secretary Thompson discussed the TANF reauthorization issues as well as marriage and healthy family initiatives proposed by the Administration.

GAO completed a report for the Subcommittee in September 2003, on the status of State TANF block grant balances and transfers to other programs such as the Child Care Development Block Grant and Social Services Block Grant programs as well as the extent to which these balances reflect reserves available for future use.

In June 2004, GAO released a report on improper payment reviews for child care subsidies and TANF programs. The report was requested by Subcommittee Chairman Herger and Senate Finance Committee Chairman Charles Grassley.

At the request of Subcommittee Chairman Herger, GAO studied TANF and Supplemental Security Income employment requirements and services for low-income individuals with disabilities. A report on that study was released in September 2004.

Building on an extensive series of TANF related hearings in the 107th Congress, H.R. 4 was introduced on February 4, 2003, to reauthorize TANF and related programs. This legislation, the "Personal Responsibility, Work, and Family Promotion Act of 2003," passed the House on February 13, 2003, by a vote of 230-192. The bill was reported by the Senate Finance Committee on October 3, 2003. H.R. 4 was discussed in the Senate in March and April 2004 without a final vote being taken on the Senate legislation.

To continue the operation of TANF and related programs, several short-term extensions were passed, including H.R. 5149 (P.L. 108-308) which extended TANF and related programs through March 31, 2005. Additional information on TANF is provided in the Legislative Review of Human Resources Issues section of this report.

2. Child Care.

Actions taken: In testimony before the Full Committee on February 6, 2003, HHS Secretary Thompson discussed the importance of child care and the President's commitment to a high level of child care funding.

GAO completed a child care related report for the Subcommittee in September 2003. This report included a review of the transfer of TANF funds to other areas such as the Child Care Development Block Grant and Social Services Block Grant programs.

In June 2004, GAO released a report on improper payments for child care and TANF benefits, which was requested by Subcommittee Chairman Herger and Senate Finance Committee Chairman Charles Grassley.

Provisions in H.R. 4, the Personal Responsibility, Work, and Family Promotion Act of 2003, increased mandatory and discretionary funds for the Child Care and Development Block Grant and the share of TANF funds that States may transfer to the Child Care and Development Block Grant and Social Services Block Grant. More detailed information on H.R. 4 is provided in the Legislative Review of Human Resources Issues section of this report.

3. Child Support Enforcement.

Actions taken: In testimony on the Administration's fiscal year 2004 HHS budget before the full Committee on February 6, 2003, HHS Secretary Thompson reported on improvements in the amount of collections made by the child support program, the effectiveness of the program in collecting support for each Federal dollar invested, and continued support for program improvement proposals included in welfare reauthorization legislation.

On February 10, 2004, the full Committee conducted a hearing on the Administration's fiscal year 2005 budget for HHS. HHS Secretary Thompson reviewed the status of the child support program and outlined improvement proposals.

H.R. 4, the "Personal Responsibility, Work, and Family Promotion Act of 2003," included provisions designed to improve the performance of the Nation's child support enforcement program. H.R. 4 passed in the House, was reported from the Senate Finance Committee, and was considered in the full Senate. Additional information regarding H.R. 4 is available in the Legislative Review of Human Resources Issues section of this report.

The child support enforcement program's National Directory of New Hires that is authorized in the Social Security Act was amended in P.L. 108-199 and P.L. 108-295 to allow limited information sharing with government housing and unemployment benefit programs to improve program administration and better prevent fraud and abuse. More information about these two laws is available in the Legislative Review of Human Resources Issues section of this report.

4. Supplemental Security Income (SSI).

Actions taken: The Subcommittee heard from the Commissioner of the Social Security Administration at a hearing on April 29, 2004, on the operation of the Supplemental Security Income (SSI) program, including on anti-fraud provisions in law and policy and further measures to improve program performance and better prevent fraud and abuse.

On May 20, 2004, the Subcommittee held a hearing on the operation of the SSI program, hearing from witnesses on improvements the program has made and suggestions to further improve the SSI program. Witnesses included representatives from offices with oversight of Social Security programs, workers, and advocates.

A joint hearing by the Subcommittees on Human Resources and Social Security was held on September 30, 2004. This hearing focused on the Social Security Administration's disability determination process. Witnesses included a Member of Congress, the Commissioner of Social Security, disability program staff, employee organizations, and advocates.

In a July 2003 release, GAO reported that the Social Security Administration could enhance its ability to detect residency violations by recipients of SSI. Subcommittee Chairman Herger requested this report.

Also at the request of Subcommittee Chairman Herger, GAO issued a report in September 2004 reviewing TANF and SSI program work requirements and services supporting work among low-income individuals with disabilities.

H.R. 743, the "Social Security Protection Act of 2003," was introduced on February 12, 2003, and included provisions amending the SSI program to enhance program protections and reduce waste. On April 2, 2003, the House agreed to the bill by a recorded vote of 396-28. On December 9, 2003, the Senate passed the bill, as amended, by unanimous consent. On February 11, 2004, the House agreed to the Senate amendment, and the President signed the legislation into law on March 2, 2004 (P.L. 108-203). Additional information regarding H.R. 743 is provided in the Legislative Review of Human Resources Issues section of this report.

5. Child Protection.

Actions taken: On April 8, 2003, the Subcommittee held a hearing on the Adoption and Safe Families Act of 1997 and the Adoption Incentives program created under that Act. Witnesses, including an Administration official, State and local program administrators, and policy experts, reviewed the implementation of the Adoption and Safe Families Act as well as proposals for improving the Adoption Incentives program.

At a Subcommittee hearing on June 11, 2003, testimony was heard on the Bush Administration's Foster Care Flexible Funding Proposal included in the fiscal year 2004 budget proposal. Witnesses included representatives from the Administration, State and local program administrators, and the National Indian Child Welfare Association.

The Subcommittee held a hearing on November 6, 2003, regarding an apparent failure to protect child safety in New Jersey. The hearing examined a specific case in which four boys adopted from the child protection system were apparently starved by their adoptive parents. The hearing focused on how their abuse escaped the attention of child protection workers, and what Federal and State officials can do to prevent the recurrence of such abuse. Witnesses included Members of Congress, State and local program administrators, policy experts, and a community representative.

On November 19, 2003, the Subcommittee held a hearing on improved monitoring of vulnerable children in foster care and adoptive settings. Witnesses included Members of Congress, State and local program administrators, policy experts, and researchers. Testimony focused on what data the States collect to monitor children in foster care and for whom adoption subsidies are paid, how the data is used, and what additional data or applications might better ensure the safety, permanency, and well-being of children in foster care and or who have been adopted.

The Subcommittee examined Federal and State oversight of child protection programs at a hearing on January 28, 2004. The focus of the hearing was what Federal, State, and local officials can and should do to ensure the safety, permanency, and well-being of children. Witnesses included an Administration official, State program administrators, GAO, researchers, and individuals involved in the child protection system.

On May 13, 2004, the Subcommittee held a hearing to examine State efforts to comply with Federal Child and Family Services Review requirements related to safety, permanency, and child and family well-being. Witnesses included Federal and State officials experienced in the reviews.

The Subcommittee held a hearing on June 17, 2004, to review a child protection case in which twin infants died in Baltimore, Maryland, and the implications of this case for efforts to improve the child protection system. Witnesses included representatives from the State of Maryland, the city of Baltimore, and an academic with social work experience.

On July 13, 2004, the Subcommittee held a hearing to examine recent proposals to reform child protection financing, move children more quickly into safe, permanent homes, and expedite placements across State lines. The Subcommittee heard from State officials and representatives of organizations interested in child protection issues.

In September 2003, GAO released a report requested by Subcommittee Chairman Herger related to State use of funds authorized under Title IV-B of the Social Security Act for services to help families address problems that lead to child abuse and neglect and to prevent unnecessary separation of children from their families.

H.R. 3182, the "Adoption Promotion Act of 2003," was introduced on September 25, 2003, to reauthorize the Adoption Incentives program through fiscal year 2008 and to create a new incentive payment to promote adoption of children age 9 and older. The bill passed the House on October 8, 2003, by voice vote. The Senate passed the bill by unanimous consent on November 14, 2003, and on December 2, 2003, the President signed the legislation (P.L. 108-145).

H.R. 4504, a bill to expedite the safe placement of foster and adoptive children into homes across State lines, passed in the House on October 5, 2004, by a voice vote. The bill, the "Safe and Timely Interstate Placement of Foster Children Act of 2004," was introduced by Majority Leader DeLay and cosponsored by Subcommittee Chairman Herger, among others.

H.R. 4856, the "Child Safety, Adoption, and Family Enhancement (Child SAFE) Act of 2004," was introduced by Subcommittee Chairman Herger on July 19, 2004. This bill would fundamentally change the financing of the child protection system to focus on outcomes rather than process as well as add resources and flexibility to ensure children are protected and that more families stay together.

6. Unemployment Compensation.

Actions taken: On March 20, 2003, the Subcommittee held a hearing to review State use of the \$8 billion in surplus Federal unemployment funds distributed in March 2002 under P.L. 107-147. Witnesses included a representative of the U.S. Department of Labor, GAO, State employment security program directors, and a policy expert.

A hearing on the nation's unemployment compensation system to review unemployment benefits and recipients' returns to work was held on April 10, 2003. Witnesses included policy experts and researchers who testified on the effect of unemployment compensation benefits on prompt returns to work. Testimony also was heard on features of unemployment compensation and related programs, including profiling and work search requirements.

A joint hearing of the Subcommittees on Human Resources and Oversight was held on June 19, 2003, to examine unemployment fraud and abuse. The U.S. Department of Labor, a State program administrator, an employer, and GAO testified on concerns about State Unemployment Tax Act (SUTA) dumping. GAO testimony discussed a survey of tax consultants and States conducted at the request of Subcommittee Chairman Herger and Oversight Subcommittee Chairman Houghton.

H.R. 3463, the "SUTA Dumping Prevention Act of 2003," was introduced by Subcommittee Chairmen Herger and Houghton, as well as Ranking Members Cardin and Pomeroy, among others, on November 6, 2003. This legislation was signed into law on August 9, 2004 (P.L. 108-295). Additional information about H.R. 3463 is provided in the Legislative Review of Human Resources Issues section of this report.

Subcommittee on Social Security

1. Hearings to examine Social Security's financial challenges.

Actions taken: The Subcommittee held a field hearing at Florida Atlantic University in Boca Raton, Florida on January 26, 2004, to examine Social Security's role in providing income security, program financing, factors causing Social Security's financial challenges, the consequences of inaction, choices policymakers face, and issues for the Subcommittee to consider as they move forward. The Subcommittee heard testimony from the Deputy Commissioner of Social Security, as well as a professor at the university and witnesses representing seniors and young Americans. Witnesses discussed the importance of Social Security to seniors; options for strengthening the program's finances, including tax increases, benefit cuts, and voluntary personal accounts; and the potential impact of these options on individuals of all ages.

2. Hearings to examine the use of SSNs.

Actions taken: The Subcommittee held a hearing on July 10, 2003, to examine the widespread use and misuse of the SSN in the public and private sectors, as well as the integrity of the SSA's SSN issuance and wage crediting process. The Subcommittee heard testimony from the Inspector General of the SSA, the GAO, local law enforcement, and experts in privacy

issues. Witnesses discussed how widespread utilization and public exposure of SSNs have made them an invaluable tool for identity thieves, as well as the trauma identity theft creates in victims' lives. The witnesses provided feedback and support regarding provisions in H.R. 2036, the "Social Security Number Privacy and Identity Theft Prevention Act of 2001," introduced by Subcommittee Chairman Shaw in the 107th Congress, as well as legislation introduced by other Members of Congress. In response to information gathered at this hearing, Subcommittee Chairman Shaw introduced H.R. 2971, the "Social Security Number Privacy and Identity Theft Prevention Act of 2003," on July 25, 2003. This legislation would have restricted the sale, purchase, and display to the general public of SSNs, limited dissemination of SSNs by credit reporting agencies, and made it more difficult for businesses to deny services if a customer refused to provide his or her SSN.

The Subcommittee on Social Security and the Subcommittee on Oversight held a joint hearing on March 10, 2004, to examine the respective responsibilities of the SSA, IRS, and DHS in ensuring accurate earnings reporting and tax payments, as well as the degree to which policies and procedures are coordinated among agencies to prevent misuse of SSNs and ITINs. The Subcommittees heard testimony from the Deputy Commissioner of Social Security, the Commissioner of the IRS, GAO, the Acting Inspector General for Tax Administration of the U.S. Department of the Treasury, the Assistant Inspector General for Investigations of the SSA, and the National Taxpayer Advocate of the IRS. Witnesses discussed recent improvements in the documentation and procedural requirements for issuance of SSNs and ITINs, recommendations for improvements in tax compliance and reporting of wages to the SSA and IRS, and the potential impact of those recommendations on individuals and the agencies.

The Subcommittee on Social Security held a hearing on June 15, 2004, to examine how criminals use SSNs to commit identity theft, the impact of identity theft on victims, and to receive feedback regarding H.R. 2971. The Subcommittee heard testimony from the Director of the Bureau of Consumer Protection for the Federal Trade Commission, the Acting Inspector General of the SSA, GAO, and the Assistant Chief Inspector for Investigations and Security of the United States Postal Inspection Service, as well as witnesses representing consumers and the public and private sectors. Witnesses discussed the pivotal role SSNs play in identity theft, the need to improve the process of issuing SSNs, and the need to protect SSN privacy. Witnesses also provided information on how the bill's provisions would protect individuals from identity theft, as well as its impact on United States courts, public record administrators, and businesses.

3. Hearings to examine disability program improvements.

Actions taken: On September 25, 2003, the Subcommittee held a hearing on the SSA's management of the Office of Hearings and Appeals. Witnesses included the Commissioner of Social Security, the SSA Inspector General, and representatives from the Social Security Advisory Board, the Consortium of Citizens with Disabilities, and Agency employee organizations. At the hearing, the Commissioner introduced her long-term approach for improving the disability determination process. Once implemented, the Commissioner expects that processing times will be reduced by at least 25 percent, accuracy and consistency in decisions will increase, and barriers will be removed for individuals with disabilities who wish to return to work. At this hearing the Subcommittee also reviewed lapses in the SSA's management of the Milwaukee and Chicago Offices of Hearings and Appeals.

On March 18, 2004, the Subcommittee held a hearing to review the SSA's management of the Ticket to Work program, including early results, issues of concern, and needed improvements. Witnesses, including representatives from the SSA, program participants, employment networks, and members of the Ticket to Work and Work Incentives Advisory Panel, reviewed the implementation of the program to date and discussed changes needed to increase participation in the program.

On September 30, 2004, the Subcommittee held a joint hearing with the Subcommittee on Human Resources on the Commissioner of Social Security's proposal to improve the disability process. Testimony was heard from a Member of Congress, the Commissioner of Social Security, the Chairman of the Social Security Advisory Board, and other stakeholders in the process. At the hearing, the Commissioner updated the Subcommittees on the preparations she is taking to implement the reforms and the possible changes to her original proposal. Other witnesses reviewed various aspects of the Commissioner's proposal and suggested modifications to the plan.

4. Hearings to examine the stewardship of the Social Security programs.

Action taken: The Subcommittee held a hearing on February 27, 2003, on H.R. 743, the "Social Security Protection Act of 2003," which was introduced by Subcommittee Chairman Shaw on February 12, 2003. The Subcommittee heard testimony from the SSA Inspector General, GAO, lawyers, claimant representatives, and advocates of individuals with disabilities, explaining the need for quick action and how the bill would give the SSA the tools it needs to prevent misuse of benefits by representative payees, prevent program fraud and abuse, help individuals with disabilities gain access to representation, and aid individuals with disabilities who want to return to work.

5. Hearings to examine service delivery.

Actions taken: On July 24, 2003, the Subcommittee held a hearing on the SSA's Service Delivery Budget Plan, a 5-year plan submitted to the Office of Management and Budget with the Agency's fiscal year 2004 budget request. Testimony was heard from the Commissioner of Social Security, representatives from the GAO (whose testimony was based on a number of reports requested from the Subcommittee), and the Consortium for Citizens with Disabilities. Subcommittee Members heard how the Agency is working to reduce delays and backlogs in the disability program by redeploying staff to key positions, and by converting from a paper to an electronic disability folder.

On February 26, 2004, the Subcommittee held a second hearing on the SSA's Service Delivery Budget Plan. At this hearing the Commissioner of Social Security reviewed the President's budget request for fiscal year 2005. The President's budget request would enable the Agency to keep up with growing core workloads, implement Ticket-to-Work programs, and combat SSN misuse. In addition, with the funds provided for fiscal year 2005, the Agency plans to implement the Medicare Modernization Act (P.L. 108-173), improve the disability determination process, and improve payment accuracy.

In addition, Subcommittee Chairman Shaw has received the following studies from the GAO: Electronic Disability Claims Processing—SSA Needs to Address Risks Associated with IT’s Accelerated Systems Development Strategy; Social Security Disability—Reviews of Beneficiaries’ Disability Status Require Continued Attention to Achieve Timeliness and Cost Effectiveness; Social Security Administration—More Effort Needed to Assess Consistency of Disability Decisions, Strategic Workforce Planning Needed to Address Human Capital Challenges Facing the Disability Determination Services, Disclosure Policy for Law Enforcement Allows Information Sharing but SSA Needs to Ensure Consistent Application, Actions Taken to Strengthen Procedures for Issuing Social Security Numbers to Noncitizens but Some Weaknesses Remain; Social Security Numbers—Improved SSN Verification and Exchange of States’ Driver Records Would Enhance Verification, Private Sector Entities Routinely Obtain and Use SSNs and Laws Limit the Disclosure of This Information, Governments Could Do More to Reduce Display in Public Records and Identity Cards; Social Security—Proposed Totalization Agreement with Mexico Presents Unique Challenges.

In addition, Chairman Shaw has requested the following studies from GAO: the SSA’s management of the earnings suspense file; lessons learned from other countries’ public pension reforms; what citizens understand about their Social Security and pension benefits; uses and protection of SSNs during third party contracting; activities of internet information resellers; and Social Security’s management of totalization agreements.

C. ADDITIONAL OVERSIGHT ACTIVITIES AND ANY RECOMMENDATION OR ACTIONS TAKEN

1. ADDITIONAL OVERSIGHT ACTIVITIES OF THE OVERSIGHT SUBCOMMITTEE

a. Taxpayer Rights.

Actions taken: On March 12, 2003, the Subcommittee requested written comments on the legislative proposals to protect taxpayer rights, including proposals contained in the National Taxpayer Advocate’s 2001 and 2002 Annual Report to Congress, reports by the U.S. Treasury Department and JCT mandated by the IRS Restructuring and Reform Act of 1998 (RRA ‘98) (P.L. 105-206), and the President’s fiscal year 2004 budget proposal. Congress passed the first “Taxpayer Bill of Rights” in 1988. It expanded taxpayer protections in the “Taxpayer Bill of Rights 2” in 1996 and, in that legislation, established the National Commission on Restructuring the IRS. The Restructuring Commission’s June 1997 report contained recommendations that were the basis for RRA ‘98. The RRA ‘98 contained many more taxpayer rights guarantees; it directed the IRS to place a greater emphasis on serving the public and meeting taxpayers’ needs. The Subcommittee received letters of support from the American Institute of Certified Public Accountants, the Council for Electronic Revenue Communication Advancement, the National Association of Enrolled Agents, the National Payroll Reporting Consortium and the National Society of Accountants.

b. Department of the Treasury Inspector General Consolidation Act of 2003.

Actions taken: On November 21, 2003, Representative Portman introduced the “Department of the Treasury Inspector General Consolidation Act of 2003” (H.R. 3625). On November 24, 2003, the Subcommittee requested written comments on this bill, which will

consolidate the two existing Inspector General offices at the Department of the U.S. Treasury - the Office of Inspector General of the Treasury (OIG) and the Office of the Treasury Inspector General for Tax Administration (TIGTA) – into a new office called the Office of the Treasury Inspector General (TIG). In order to maximize efficiencies and effectiveness, and to eliminate duplication, the President, in his fiscal year 2004 budget, recommended that OIG and TIGTA be merged into a new single entity, which would have the same powers and authorities as its predecessors have under current law.

c. Student Aid Streamlined Disclosure Act of 2003.

Actions taken: On November 25, 2003, the Subcommittee requested written comments on H.R. 3613, the “Student Aid Streamlined Disclosure Act of 2003,” introduced by Representative Sam Johnson (R-TX). The bill seeks to improve the process of verifying income information provided by student aid applicants and to better protect taxpayer privacy. It would implement the Bush Administration’s proposal to allow matching of IRS data, and it was drafted with the help of the Subcommittee in consultation with three Federal agencies. Under the bill students and their parents or guardians will no longer be required to provide copies of Form 1040 or blanket waivers of tax confidentiality in order to obtain a student loan or grant.

d. GAO Review of EITC Compliance.

Actions taken: The Subcommittee requested that the U.S. Government Accountability Office conduct a study of the Earned Income Tax Credit (EITC) pre-certification initiative and overall EITC compliance. This request was made to reduce the number of inaccurate EITC claims, and to evaluate how the credit is administered in order to reduce overclaim rates while minimizing taxpayer burden. The GAO report will examine the IRS plans for the 2004 filing season based on the experience of the pre-certification program and the status of the EITC re-certification program, including the number and types of taxpayers contacted. The report will also review the current process for evaluating EITC eligibility, the current EITC error rate and whether recent statutory changes have had an impact on the error rate or on the rate of overpayments and compliance.

e. Reporting Requirements of Tax-Exempt Groups.

Actions taken: The Subcommittee continued and expanded its review from the 107th Congress on the current law, the appropriate role of and tax benefits for tax-exempt organizations, the adequacy of IRS oversight and reporting requirements, and suggestions for improvement. Tax-exempt organizations play an important role in the United States and their presence and influence continue to grow. There are over 1.4 million tax-exempt organizations that belong to one of more than 30 categories described in the IRC. For tax year 1999, those Section 501(c)(3) organizations required to file with the IRS had \$1.5 trillion in assets and \$807 billion in annual revenues. The Statistics of Income Division of the IRS estimates that the revenue from all tax-exempt organizations accounts for twelve percent of the gross domestic product. In particular, the Subcommittee explored the adequacy of tax-exempt reporting requirements during its November 20, 2003, hearing on non-profit credit counseling organizations and June 22, 2004, and hearing on pricing practices of tax-exempt hospitals.

f. Oversight of Drug Interdiction Efforts.

Actions taken: On October 5, 2004, the Subcommittee staff met with agents from the Drug Enforcement Agency (DEA) to discuss the activities undertaken by the U.S. Department of the Treasury and the U.S. Department of Homeland Security to address Federal drug interdiction efforts using laws relating to cash transaction reporting, money laundering, foreign tax havens, and national security laws administered by the IRS, U.S Customs Service and other entities. The DEA has 3,896 agents nationwide (10% of those are assigned overseas), with a presence in 80 countries. The DEA has successfully partnered with other countries in pursuing narcotics trafficking. It is estimated that annual drug trafficking revenues generate roughly \$65 billion a year. DEA indicated that with the creation of the Department of Homeland Security there has been some difficulty between the various agencies involved in coordinating efforts. However, Federal agencies such as Bureau of Immigration and Customs Enforcement (ICE), Internal Revenue Service, Drug Enforcement Administration, FBI are continuing to work together to coordinate efforts and share information.

g. Annual briefing from the IRS Oversight Board and the National Taxpayer Advocate.

Actions taken: On October 6, 2004, Chairman Houghton and Members of the Oversight Subcommittee met with Ray Wagner, the Chairman of the IRS Oversight Board and Nina Olson, the National Taxpayer Advocate (NTA). The Oversight Board annual report was discussed along with the solutions to the annual tax gap (the difference between what taxpayers are supposed to pay and what the IRS actually collects). The tax gap is estimated to be \$311 billion. The NTA discussed plans to increase their focus on protecting taxpayer rights. To that end, the Taxpayer Advocate plans to review new IRS policies through the framework of a new Taxpayer Rights Impact Statement. In addition, the NTA will seek to review IRS training programs and seek to broaden public awareness of the mission of the Taxpayer Advocate and its ability to assist taxpayers.

h. Commemorative Coin Legislation.

Actions taken: On April 28, 2004, Financial Services Committee reported three revenue-raising commemorative coin bills for which Ways and Means was granted sequential referral. House Rule XXI, clause 5(a) clearly states the exclusive jurisdiction of the Committee on Ways and Means over any measure carrying a revenue or tax. The three commemorative coin bills were John Marshall Commemorative Coin Act (P.L. 108-290), the Marine Corps Commemorative Coin (P.L. 108-291) and the Jamestown Commemorative Coin Act (P.L. 108-289).

Each bill contained surcharges, a revenue raising provision, for specific programs or projects. In 1996, the Commemorative Coin Reform Act (CCRA) (P.L. 104-208) changed the issuance of commemorative coins by establishing limitations on the number of commemorative coin issues in a given year, not to exceed more than two, and established mintage limits. This was done in order to keep the numismatic market from becoming saturated. During the Committee on Ways and Means mark-up of the three bills, Chairman Thomas introduced an

amendment that enforced the limitations set forth in the CCRA on the number of commemorative coins that can be issued in a given year.

i. Tax Incentives for Low-Income Individuals and Distressed Communities.

Actions taken: The Subcommittee continued Oversight on the Bush Administration's "opportunity zones," where businesses receive tax and regulatory relief for communities that have lost jobs. In the 1980s, the enterprise zones were created in an effort to reduce inner-city taxes and bureaucracy. In 2000, community renewal legislation was enacted as part of an omnibus appropriations bill, the Consolidated Appropriations Act of 2001, which authorized nine empowerment zones and 40 renewal communities. The Ways and Means Committee brought H.R. 4193 to the floor on May, 17, 2004, which passed under suspension by voice vote. The legislation expands existing renewal communities and updates the New Markets Tax Credit.

2. ADDITIONAL OVERSIGHT ACTIVITIES OF THE SOCIAL SECURITY SUBCOMMITTEE

In addition to the hearings detailed above, the Subcommittee on Social Security held a hearing on May 1, 2003, to examine why two provisions—the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP)—that reduce Social Security benefits for workers with government pensions from Federal, State, or local government jobs not subject to Social Security taxes—were enacted, how they affect beneficiaries, and options for their modification or repeal. The Subcommittee also examined how modifications to current law would affect beneficiaries, the budget, and the solvency of the Social Security Trust Funds. The Subcommittee heard testimony from Members of Congress; the SSA; GAO; and organizations representing teachers, Federal Government employees, State and local employees, and police officers. As a result of this hearing, Chairman Shaw, Representative Brady, and Representative Sam Johnson of the Subcommittee, as well as Representatives McKeon, Berman, and Michaud, introduced H.R.4391, the "Public Servant Retirement Protection Act," on May 19, 2004, which would repeal the WEP and replace it with an individualized benefit calculation.

The Subcommittee held a hearing on July 20, 2004 on H.R. 4391. The Subcommittee heard testimony from the Deputy Commissioner for Disability and Income Security Programs of the SSA, as well as organizations representing teachers and police officers. The Subcommittee heard testimony on Social Security provisions affecting public employees, including the WEP, how the bill could be administered by the SSA, and the effect of the bill's provisions on the Social Security benefits of public employees.

Appendix I. Jurisdiction of the Committee on Ways and Means

A. U.S. CONSTITUTION

Article I, Section 7, of the Constitution of the United States provides as follows:

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

In addition, Article I, Section 8, of the Constitution of the United States provides the following:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and...To borrow Money on the credit of the United States.

B. RULE X, CLAUSE 1, RULES OF THE HOUSE OF REPRESENTATIVES

Rule X, clause 1(s), of the Rules of the House of Representatives, in effect during the 108th Congress, provides for the jurisdiction of the Committee on Ways and Means, as follows:

(s) Committee on Ways and Means.

(1) Customs, collection districts, and ports of entry and delivery.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to insular possessions.

(5) Bonded debt of the United States, subject to the last sentence of clause 4(f).

Clause 4(f) requires the Committee on Ways and Means to include in its annual report to the Committee on the Budget a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt that should be set forth in the concurrent resolution on the budget.

(6) Deposit of public monies.

(7) Transportation of dutiable goods.

(8) Tax exempt foundations and charitable trusts.

(9) National Social Security (except health care and facilities programs that are supported from general revenues as opposed to payroll deductions and except work incentive programs).

C. BRIEF DESCRIPTION OF COMMITTEE'S JURISDICTION

The foregoing recitation of the provisions of House Rule X, clause 1, paragraph(s), does not convey the comprehensive nature of the jurisdiction of the Committee on Ways and Means. The following summary provides a more complete description:

(1) Federal revenue measures generally.--The Committee on Ways and Means has the responsibility for raising the revenue required to finance the Federal Government. This includes individual and corporate income taxes, excise taxes, estate taxes, gift taxes, and other miscellaneous taxes.

(2) The bonded debt of the United States.--The Committee on Ways and Means has jurisdiction over the authority of the Federal Government to borrow money. Title 31 of Chapter 31 of the U.S. Code authorizes the Secretary of the Treasury to conduct any necessary public borrowing subject to a maximum limit on the amount of borrowing outstanding at any one time. This statutory limit on the amount of public debt ("the debt ceiling") currently is \$8.18 trillion. The Committee's jurisdiction also includes conditions under which the U.S. Department of the Treasury manages the Federal debt, such as restrictions on the conditions under which certain debt instruments are sold.

(3) National Social Security programs.--The Committee on Ways and Means has jurisdiction over most of the programs authorized by the Social Security Act, which includes not only those programs that are normally referred to colloquially as "Social Security" but also social insurance programs and a whole series of grant-in-aid programs to State governments for a variety of purposes. The Social Security Act, as amended, contains 21 titles (a few of which have either expired or have been repealed). The principal programs established by the Social Security Act and under the jurisdiction of the Committee on Ways and Means in the 108th Congress can be outlined as follows:

(a) Old-age, survivors, and disability insurance (Title II)--At present, there are approximately 156 million workers in employment covered by the program, and for calendar year 2003, \$479 billion in benefits were paid to 47 million individuals.

(b) Medicare (Title XVIII)--Provides hospital insurance benefits to 34.9 million persons over the age of 65 and to 6.4 million disabled persons. Voluntary supplementary medical insurance is provided to 33.4 million aged persons and 5.6 million disabled persons. Total program outlays under these programs were \$281 billion in 2003.

(c) Supplemental Security Income (SSI) (Title XVI)--The SSI program was inaugurated in January 1974 under the provisions of P.L. 92-603, as amended. It replaced the former Federal-State programs for the needy aged, blind, and disabled. On average in calendar year 2003, 6.9 million individuals received Federal SSI benefits on a monthly basis. Of these 6.9 million persons, approximately 1.2 million received benefits on the basis of age, and 5.6 million on the basis of blindness or disability. Federal expenditures for cash SSI payments in 2003 totaled \$35.6 billion, while State expenditures for federally administered SSI supplements totaled \$4.9 billion.

(d) Temporary Assistance for Needy Families (TANF) (part A of Title IV)--The TANF program is a block grant of about \$16.5 billion dollars awarded to States to provide income assistance to poor families, to end dependency on welfare benefits, to prevent nonmarital births, and to encourage marriage, among other purposes. TANF also includes incentive funds for States that achieve overall program goals and additional incentive funds for States that are successful in reducing non-marital births. In most cases, Federal TANF benefits for individuals are limited to 5 years and individuals must work to maintain their eligibility. In March 2004, about 2 million families and 4.8 million individuals received benefits from the TANF program.

(e) Child support enforcement (part D of Title IV)--In fiscal year 2003 Federal administrative expenditures totaled \$5.2 billion for the child support enforcement program. Child support collections for that year totaled \$21.2 billion.

(f) Child welfare, foster care, and adoption assistance (parts B and E of Title IV)--Titles IV B and E provide funds to States for child welfare services for abused and neglected children; foster care for children who meet Aid to Families with Dependent Children eligibility criteria; and adoption assistance for children with special needs. In fiscal year 2003, Federal expenditures for child welfare services totaled \$694 million. Federal expenditures for foster care and adoption assistance were approximately \$6.2 billion.

(g) Unemployment compensation programs (Titles III, IX, and XII)--These titles authorize the Federal-State unemployment compensation program and the permanent extended benefits program. Between July 1, 2003, and June 30, 2004, an estimated \$36.1 billion was paid in unemployment compensation, with approximately 8.6 million workers receiving unemployment compensation payments.

(h) Social services (Title XX)--Title XX authorizes the Federal Government to reimburse the States for money spent to provide persons with various services. Generally, the specific services provided are determined by each State. In fiscal year 2004, \$1.7 billion was appropriated. These funds are allocated on the basis of population.

(4) Trade and tariff legislation.--The Committee on Ways and Means has responsibility over legislation relating to tariffs, import trade, and trade negotiations. In the early days of the Republic, tariff and customs receipts were major sources of revenue for the Federal Government. As the Committee with jurisdiction over revenue-raising measures, the Committee on Ways and Means thus evolved as the primary Committee responsible for international trade policy.

The Constitution vests the power to levy tariffs and to regulate international commerce specifically in the Congress as one of its enumerated powers. Any authority to regulate imports or to negotiate trade agreements must therefore be delegated to the executive branch through legislative action. Statutes including the Reciprocal Trade Agreements Acts beginning in 1934, Trade Expansion Act of 1962, Trade Act of 1974, Trade Agreements Act of 1979, Trade and Tariff Act of 1984, Omnibus Trade and Competitiveness Act of 1988, North American Free Trade Agreement (NAFTA) Implementation Act, Uruguay Round Agreements Act, and Trade Act of 2002 provide the basis for U.S. bargaining with other countries to achieve the mutual reduction of tariff and nontariff trade barriers under reciprocal trade agreements.

The Committee's jurisdiction includes the following authorities and programs:

(a) The tariff schedules and all tariff preference programs, such as the General System of Preferences and the Caribbean Basin Initiative;

(b) Laws dealing with unfair trade practices, including the antidumping law, countervailing duty law, section 301, and section 337;

(c) Other laws dealing with import trade, including section 201 (escape clause), section 232 national security controls, section 22 agricultural restrictions, international commodity agreements, textile restrictions under section 204, and any other restrictions or sanctions affecting imports;

(d) General and specific trade negotiating authority, as well as implementing authority for trade agreements and the grant of normal-trade-relations (NTR) status;

(e) General and NAFTA-related TAA programs for workers, and TAA for firms;

(f) Customs administration and enforcement, including rules of origin and country-of origin marking, customs classification, customs valuation, customs user fees, and U.S. participation in the World Customs Organization (WCO);

(g) Authorization of the budget for the ITC, the U.S. Customs Service, and the Office of the U.S. Trade Representative (USTR).

D. REVENUE ORIGINATING PREROGATIVE OF THE HOUSE OF REPRESENTATIVES

The Constitutional Convention debated adopting the British model in which the House of Lords could not amend revenue legislation sent to it from the House of Commons. Eventually, however, the Convention proposed and the States later ratified the Constitution providing that “All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.” (Article 1, Section 7, clause 1.)

In order to pass constitutional scrutiny under this “origination clause,” a tax bill must be passed first by the House of Representatives. After the House has completed action on a bill and approved it by a majority vote, the bill is transmitted to the Senate for formal action. The Senate may have already reviewed issues raised by the bill before its transmission. For example, the Senate Committee on Finance frequently holds hearings on tax legislative proposals before the legislation embodying those proposals is transmitted from the House of Representatives. On occasion, the Senate will consider a revenue bill in the form of a Senate or “S.” bill, and then await passage of a revenue “H.R.” bill from the House. The Senate then will add or substitute provisions of the “S.” bill as an amendment to the H.R. bill and send the “H.R.” bill back to the House of Representatives for its concurrence or for conference on the differing provisions.

E. THE HOUSE'S EXERCISE OF ITS CONSTITUTIONAL PREROGATIVE: “BLUE – SLIPPING”

When a Senate bill or amendment to a House bill infringes on the constitutional prerogative of the House to originate revenue measures, that infringement may be raised in the House as a matter of privilege. That privilege has also been asserted on a Senate amendment to a House amendment to a Senate bill (see 96th Congress, 1st Session, November 8, 1979, Congressional Record p. H10425).

Note that the House in its sole discretion may determine that legislation passed by the Senate infringes on its prerogative to originate revenue legislation. In the absence of such

determination by the House, the Federal courts are occasionally asked to rule a certain revenue measure to be unconstitutional as not having originated in the House (see U.S. v. Munoz-Flores, 495 U.S. 385 (1990)).

Senate bills or amendments to non-revenue bills infringe on the House's prerogative even if they do not raise or reduce revenue. Such infringements are referred to as "revenue affecting." Thus, any import ban which could result in lost customs tariffs must originate in the House (100th Congress, 1st Session, July 30, 1987 100th Congress, 2d Session, June 16, 1988, Congressional Record p. H4356).

Offending bills and amendments are returned to the Senate through the passage in the House of a House Resolution which states that the Senate provision: "in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privilege of the House and that such bill be respectfully returned to the Senate with a message communicating this resolution" (e.g., 100th Congress, 1st Session, July 30, 1987, Congressional Record p. H6808). This practice is referred to as "blue slipping" because the resolution returning the offending bill to the Senate is printed on blue paper.

In other cases, the Committee of the Whole House has passed a similar or identical House bill in lieu of a Senate bill or amendment (e.g., 91st Congress, 2d Congress, May 11, 1970, Congressional Record pp. H14951-14960). The Committee on Ways and Means has also reported bills to the House which were approved and sent to the Senate in lieu of Senate bills (e.g., 93d Congress, 1st Session, November 6, 1973, Congressional Record pp. 36006-36008). In other cases, the Senate has substituted a House bill or delayed action on its own legislation to await a proper revenue affecting bill or amendment from the House (see 95th Congress, 2d Session, September 22, 1978, Congressional Record p. H30960; January 22, 1980, Congressional Record p. S107).

Any Member may offer a resolution seeking to invoke Article I, Section 7. However, the determination that a bill violates the Origination Clause has been traditionally made by Members of the Committee on Ways and Means, and the resolution has been offered by the Chairman or another Member of the Committee on Ways and Means. Because Article I, Section 7 involves the privileges of the House, a blue-slip resolution offered by the Chairman or other Members of the Committee on Ways and Means has been typically adopted by voice vote on the House Floor. There have been instances where the House has agreed to not deal directly with the issue by tabling a resolution.^{1, 2}

¹In cases where the Chairman of the Committee on Ways and Means did not believe that the bill in question violated the Origination Clause or the objection had been dealt with in another manner, resolutions offered by other Members of the House have been tabled. [See adoption of motion by Representative Rostenkowski to table H. Res. 571, 97-2, p. 22127.]

²This was an instance where the Chairman of the Committee on Ways and Means raised a question of the privilege of the House pursuant to Article I, Section 7, of the U.S. Constitution on H.R. 4516, Legislative Branch Appropriations. The motion was laid on the table.

BLUE SLIP RESOLUTIONS--98TH CONGRESS THROUGH 108TH CONGRESS
CHRONOLOGICAL LIST

[Resolutions passed by the House returning to the Senate bills passed in violation of the origination clause of the United States Constitution (Clause 1, Section 7 of Article 1)]

| H. Res., sponsor, and date of House passage | Description of Senate action (and related House action, if any) |
|---|---|
| 107th Congress: | |
| H. Res. 240, Mr. Thomas September 20, 2001 | On September 13, 2001, the Senate passed H.R. 2500, "Making appropriations for the U.S. Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes" with an amendment. Contained in this legislation was a provision banning the importation of diamonds not certified as originating outside conflict zones. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues. |
| 106th Congress: | |
| H. Res. 645, Mr. Crane October 24, 2000 | On October 17, 2000, the Senate passed S. 1109, the Bear Protection Act of 1999. This legislation would have conserved global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues. |
| H. Res. 394, Mr. Weller November 18, 1999 | On November 3, 1999, the Senate passed S. 1232, Federal Erroneous Retirement Coverage Corrections Act. This legislation would have provided that no Federal retirement plan involved in the corrections under the bill would fail to be treated as a tax-qualified retirement plan by reason of the correction, and that any fund transfers or government contributions resulting from the corrections would have no impact on the tax liability of individuals. These changes constituted a revenue measure in the constitutional sense because they would have had a direct impact on Federal revenues. |
| H. Res. 393, Mr. Weller November 18, 1999 | On February 24, 1999, the Senate passed S. 4, the Soldiers", Sailors", Airmen", and Marines" Bill of Rights Act of 1999. The legislation would have allowed members of the Armed Forces to participate in the Federal Thrift Savings Program and to avoid the tax consequences that would otherwise have resulted from certain contributions in excess of the limitations imposed in the Internal Revenue Code. This proposed exemption therefore constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues. |
| H. Res. 249, Mr. Portman July 16, 1999 | On May 20, 1999, the Senate passed S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. The legislation would have had the effect of banning the import of large capacity ammunition feeding devices. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues. |
| 105th Congress: | |
| H. Res. 601, Mr. Crane October 15, 1998 | On October 8, 1998, the Senate passed S. 361, the Tiger and Rhinoceros Conservation Act of 1998. This legislation would have had the effect of creating a new basis and mechanism for applying import restrictions for products intended for human consumption or application containing (or labeled as containing) any substance derived from tigers or rhinoceroses. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues. |
| H. Res. 379, Mr. Ensign March 5, 1998 | On April 15, 1997, the Senate passed S. 104, the Nuclear Waste Policy Act of 1997. This legislation would have repealed a revenue provision and replaced it with a user fee. The revenue provision in question was a fee of 1 mill per kilowatt hour of electricity generated by nuclear power imposed by the Nuclear Waste Policy Act of 1982. The proposed user fee in the legislation would have been limited to the amount appropriated for nuclear waste disposal. The original fee was uncapped, and, in fact, because the fees collected exceeded the associated costs, it was being used as |

revenue to finance the Federal Government generally. Its proposed repeal, therefore, constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.

104th Congress:
H. Res. 554, Mr. Crane
September 28, 1996

On June 30, 1996, the Senate passed H.R. 400, the Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act of 1995, with an amendment. Section 204(a) of the Senate amendment would have overridden existing tax law by expanding the definition of actions not subject to Federal, State, or local taxation under the Alaska Native Claims Settlement Act. These changes constituted a revenue measure in the constitutional sense because they would have had a direct impact on Federal revenues.

H. Res. 545, Mr. Archer
September 27, 1996

On September 25, 1996, the Senate passed S. 1311, the National Physical Fitness and Sports Foundation Establishment Act. Section 2 of the bill would have waived the application of certain rules governing recognition of tax-exempt status for the foundation established under this legislation. This exemption constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.

H. Res. 402, Mr. Shaw
April 16, 1996

On January 26, 1996, the Senate passed S. 1463, to amend the Trade Act of 1974. The bill would have changed the authority and procedure for investigations by the ITC for certain domestic agricultural products. Such investigations are a predicate necessary for achieving access to desired trade remedies that the President may order, such as tariff adjustments, tariff-rate quotas, quantitative restrictions, or negotiation of trade agreements to limit imports. By creating a new basis and mechanism for import restrictions under authority granted to the President, the bill constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.

H. Res. 387, Mr. Crane
March 21, 1996

On February 1, 1996, the Senate passed S. 1518, repealing the Tea Importation Act of 1897. Under existing law in 1996, it was unlawful to import standard tea, except as provided in the HTS. Changing import restrictions constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.

103d Congress:
H. Res. 577, Mr. Gibbons
October 7, 1994

On October 3, 1994, the Senate passed S. 1216, the Crow Boundary Settlement Act of 1994. The bill would have overridden existing tax law by exempting certain payments and benefits from taxation. These exemptions constituted a revenue measure in the constitutional sense because they would have had a direct impact on Federal revenues.

H. Res. 518, Mr. Gibbons
August 12, 1994

On July 20, 1994, the Senate passed H.R. 4554, the Agriculture and Rural Development Appropriation for fiscal year 1995, with amendments. Senate amendment 83 would have provided authority for the Food and Drug Administration (FDA) to collect fees to cover the costs of regulation of products under their jurisdiction. However, these fees were not limited to covering the cost of specified regulatory activities, and would have been charged to a broad cross-section of the public (rather than been limited to those who would have benefited from the regulatory activities) to fund the cost of the FDA's activities generally. These fees constituted a revenue measure in the constitutional sense because they were not based on a direct relationship between their level and the cost of the particular government activity for which they would have been assessed, and would have had a direct impact on Federal revenues.

H. Res. 487, Mr. Gibbons
July 21, 1994

On May 25, 1994, the Senate passed S. 1030, the Veterans Health Programs Improvement Act of 1994. A provision in the bill would have exempted from taxation certain payments made on behalf of participants in the Education Debt Reduction Program. This provision constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.

H. Res. 486, Mr. Gibbons
July 21, 1994

On May 29, 1994, the Senate passed S. 729, to amend the Toxic Substances Control Act. Title I of the bill included several provisions to prohibit the importation of specific categories of products which contained more than specified quantities of lead. By establishing these import restrictions, the bill constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.

H. Res. 479, Mr. Rangel

On June 22, 1994, the Senate passed H.R. 4539, the Treasury, Postal Service, and

July 14, 1994

General Government Appropriation for fiscal year 1995, with amendments. Senate amendment 104 would have prohibited the Treasury from using appropriations to enforce the Internal Revenue Code requirement for the use of undyed diesel fuel in recreational motorboats. This prohibition, therefore, constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.

102d Congress:

H. Res. 373, Mr. Rostenkowski
February 25, 1992.

On August 1, 1991, the Senate passed S. 884 amended, the Driftnet Moratorium Enforcement Act of 1991; This legislation would require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing. Foremost among the sanction provisions are those which impose a ban on certain imports into the United States from countries which continue to engage in driftnet fishing on the high seas after a certain date. These changes in our tariff laws constitute a revenue measure in the constitutional sense, because they would have a direct effect on customs revenues.

H. Res. 267, Mr. Rostenkowski
October 31, 1991.

On February 20, 1991, the Senate passed S. 320, to reauthorize the Export Administration Act of 1979. This legislation contains several provisions which impose, or authorize the imposition of, a ban on imports into the United States. Among the provisions containing import sanctions are those relating to certain practices by Iraq, the proliferation and use of chemical and biological weapons, and the transfer of missile technology. These changes in our tariff laws constitute a revenue measure in the constitutional sense, because they would have a direct effect on customs revenues.

H. Res. 251, Mr. Russo
October 22, 1991

On July 11, 1991, the Senate passed S. 1241, the Violent Crime Act of 1991. This legislation contains several amendments to the Internal Revenue Code. Section 812(f) provides that the police corps scholarships established under the bill would not be included in gross income for tax purposes. In addition, sections 1228, 1231, and 1232 each make amendments to the Tax Code with respect to violations of certain firearms provisions. Finally, Title VII amends section 922 of Title VIII of the U.S. Code, making it illegal to transfer, import or possess assault weapons. These changes in our tariff and tax laws constitute revenue measures in the constitutional sense, because they would have an immediate impact on revenues anticipated by U.S. Customs and the Internal Revenue Services.

101st Congress:

H. Res. 287, Mr. Cardin
Nov. 9, 1989.

On August 4, 1989, the Senate passed S. 686, the Oil Pollution Liability and Compensation Act of 1989. This legislation contained a provision which would have allowed a credit against the oil spill liability tax for amounts transferred from the Trans-Alaska Pipeline Trust Fund to the Oil Spill Liability Trust Fund.

H. Res. 177, Mr. Rostenkowski
June 15, 1989

On Apr. 19, 1989, the Senate passed S. 774, the Financial Institution Reform, Recovery and Enforcement Act of 1989. This legislation would create two corporations to administer the financial assistance under the bill: the Resolution Trust Corporation and the Resolution Financing Corporation. S. 774 would have conferred tax-exempt status to these two corporations. Without these two tax provisions, these two corporations would be taxable entities under the Federal income tax.

100th Congress:

H. Res. 235, Mr. Rostenkowski
July 30, 1987.

On Mar. 30, 1987, the Senate passed S. 829, legislation which would authorize appropriations for the ITC, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1988, and for other purposes. In addition, the bill contained a provision relating to imports from the Soviet Union which amends provisions of the Tariff Act of 1930.

H. Res. 474, Mr. Rostenkowski
June 16, 1988 (see also
H.R. 3391).

On Oct. 6, 1987, the Senate passed S. 1748, legislation which would prohibit the importation into the United States of all products from Iran. (The House passed H.R. 3391, which included similar provisions, on Oct. 6, 1987.)

H. Res. 479, Mr. Rostenkowski
June 21, 1988 (see also
H.R. 2792 and H.R. 4333).

On May 13, 1987, the Senate passed S. 727, legislation which would clarify Indian treaties and Executive orders with respect to fishing rights. This legislation dealt with the tax treatment of income derived from the exercise of Indian treaty fishing rights. (The House passed H.R. 2792, which included similar provisions, on June 20, 1988, under suspension of the rules and was enacted into law as part of P.L. 100-647, H.R. 4333.)

H. Res. 544, Mr. Rostenkowski

On Sept. 9, 1988, the Senate passed S. 2662, the Textile and Apparel Trade Act of 1988.

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| <p>Sept. 23, 1988 (see also H.R. 1154)</p> | <p>This legislation would impose global import quotas on textiles and footwear products.</p> |
| <p>H. Res. 552, Mr. Rostenkowski Sept. 28, 1988</p> | <p>On Sept. 9, 1988, the Senate passed S. 2763, the Genocide Act of 1988. This legislation contained a ban on the importation of all oil and oil products from Iraq.</p> |
| <p>H. Res. 603, Mr. Rostenkowski Oct. 21, 1988.</p> | <p>On Mar. 30, 1988, the Senate passed S. 2097, the Uranium Mill Tailings Remedial Action Amendments of 1987. This legislation would establish a Federal fund to assist in the financing of reclamation and other remedial action at currently active uranium and thorium processing sites and would increase the demand for domestic uranium. The fund would be financed in part by what are called “mandatory fees” which are equal to \$22 per kilogram for uranium contained in fuel assemblies initially loaded into civilian nuclear power reactors during calendar years 1989-1993. In addition, S. 2097 would impose charges on domestic utilities that use foreign-source uranium in new fuel assemblies loaded in their nuclear reactors.</p> |
| <p>H. Res. 604, Mr. Rostenkowski Oct. 21, 1988.</p> | <p>On Aug. 8, 1988, the Senate passed H.R. 1315, legislation which would authorize appropriations for the Nuclear Regulatory Commission for fiscal years 1988 and 1989. Title IV of the legislation would, among other things, establish a Federal fund to assist in the financing of reclamation and other remedial action at currently active uranium and thorium processing sites and would assist the domestic uranium industry by increasing the demand for domestic uranium. The fund would be financed in part by what are called “mandatory fees” equal to \$72 per kilogram of uranium contained in fuel assemblies initially loaded into civilian nuclear power reactors on or after Jan. 1, 1988. These fees would be paid by licensees of civilian nuclear power reactors and would be in place until \$1 billion had been raised.</p> |
| <p>99th Congress: H. Res. 283, Mr. Rostenkowski Oct. 1, 1985.</p> | <p>On Sept. 26, 1985, the Senate passed S. 1712, legislation which would extend the 16-cents-per-pack cigarette excise tax rate for 45 days, through Nov. 14, 1985. (The House passed H.R. 3452, which included a similar extension, on Sept. 30, 1985.)</p> |
| <p>H. Res. 562, Mr. Rostenkowski Sept. 25, 1986.</p> | <p>The Senate passed S. 638, legislation to provide for the sale of Conrail to the Norfolk Southern Railroad. The legislation contained numerous provisions relating to the tax treatment of the sale of Conrail.</p> |
| <p>98th Congress: H. Res. 195, Mr. Rostenkowski June 17, 1983.</p> | <p>On Apr. 21, 1983, the Senate passed S. 144, a bill to insure the continued expansion of international market opportunities in trade, trade in services and investment for the United States, and for other purposes.</p> |

F. PREROGATIVE UNDER THE RULES OF THE HOUSE OVER “REVENUE MEASURES GENERALLY”

In the House of Representatives, tax legislation is initiated by the Committee on Ways and Means. The Committee’s exclusive prerogative to report “revenue measures generally” is provided by Rule X(1)(s) of the Rules of the House of Representatives. The jurisdiction of the Committee on Ways and Means under Rule X(1)(s) is protected through the exercise of Rule XXI(5)(a) which states:

A bill or joint resolution carrying a tax or tariff measure may not be reported by a committee not having jurisdiction to report tax or tariff measures, and an amendment in the House or proposed by the Senate carrying a tax or tariff measure shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against a tax or tariff measure in such a bill, joint resolution, or amendment thereto may be raised at any time during pendency of that measure for amendment.

Based on the precedents of the House, especially those involving Rule XXI(5)(a), the following statements can be made concerning points of order made under the rule.

1. *Timeliness.* **B**The point of order can be raised at any point during consideration of the bill. However, that section of the bill in which the “tax or tariff” provision lies must either have been previously read or currently open for amendment. A point of order may not be raised after the Committee of the Whole has risen and reported the bill to the House. A point of order against an amendment must be made prior to its adoption.

2. *Effect.* **B**If a point of order is sustained, the effect is that the provision in the bill or amendment is automatically deleted.

3. *Substance over form.* **B**A provision need not involve an amendment to the Internal Revenue Code or the Harmonized Tariff Schedule in order to be determined to be a tax or tariff provision.

4. *Revenue decreases and increases.* **B**A provision need not raise revenue in order to be found to be a “tax or tariff measure.” Provisions which would have the effect of decreasing revenues are also covered by the rule. Similarly, provisions which could have a revenue effect have been determined to be covered by the rule.

The following is a detailed listing of each of the occasions on which points of order have been sustained:

G. POINTS OF ORDER **B**HOUSE RULE XXI CHRONOLOGICAL LIST

September 14, 2004

H.R. 5025, Transportation, Treasury, and Independent Agencies Appropriations Act, 2005

A point of order was raised against section 644 of the bill, which would have amended section 6402 of the Internal Revenue Code of 1986 by adding a new subsection that allows for the offset of federal tax refunds to collect delinquent state unemployment compensation overpayments. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [108-2, H7176]

September 14, 2004

H.R. 5025, Transportation, Treasury, and Independent Agencies Appropriations Act, 2005

A point of order was raised against section 643 of the bill, which would have amended section 453(j) of the Social Security Act to allow access to data in the National Directory of New Hires for use in collecting delinquent non-tax federal debt. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [108-2, H7176]

September 14, 2004

H.R. 5025, Transportation, Treasury, and Independent Agencies Appropriations Act, 2005

A point of order was raised against section 642 of the bill, which would have amended Title 31 of the U.S. Code to allow the Federal Government to collect debts that are more than 10 years old by withholding federal tax refunds or garnishing Social Security benefits. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [108-2, H7176]

September 9, 2004

H.R. 5006, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2005

A point of order was raised against an amendment offered by Representative Brown (OH), which would have stopped the increase of Part B Medicare premiums, effectively leaving them at their current dollar amount. The chair ruled that the provision would provide new budget authority in excess of the suballocation provided by the Appropriations Committee, and therefore violated section 302(f) of the Congressional Budget Act of 1974. The point of order was sustained, and the amendment was not in order. [108-2, H6945]

September 8, 2004

H.R. 5006, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2005

A point of order was raised against section 219(b) of the bill, which created a Medicare claims processing fee for duplicative or incorrect claims for Medicare Part A or B services. The chair ruled that the provision was in violation of Rule XXI. The point of order was conceded, sustained, and the provision was stricken from the bill. [108-2, H6836]

June 18, 2004

H.R. 4567, Department of Homeland Security Appropriations Act, 2005

A point of order was raised against an amendment offered by Representative Sherman, which would have limited the funds made available in this Act for processing the importation of any article which is the product of Iran. The chair ruled that the provision was in violation of clause 5(a) of Rule XXI. The point of order was sustained, and the amendment was not in order. [108-2, p. H4551]

July 10, 2003

H.R. 2660, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004

A point of order was raised against section 217(B) of the bill, which created a Medicare Claims Processing fee. An October 1, 2003, requirement assured a policy for providers to submit all Medicare claims electronically. Since most electronic billing systems eliminate inaccurate and duplicate claims, and because current law provided the proper small business exemption, the user fee was unnecessary. The chair ruled that the provision was in violation of Rule XXI, clause 2(b). The point of order was conceded, sustained, and the provision was stricken from the bill. [108-1, p. H6560]

July 10, 2003

H.R. 2660 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004

A point of order was raised against an amendment offered by Representative Obey, which would have provided a 1-percentage add-on to the Federal assistance to every State for their Medicaid programs. This would have been paid for through a reduction in the size of the tax cut for persons who make more than \$1 million a year. The chair ruled that the amendment constituted legislation in violation of Rule XXI, clause 2 (c), and in addition, constituted a tax measure in violation of Rule XXI, clause 5(a). The point of order was conceded and sustained. [108-1, p. H6547]

July 23, 2003

H.R. 2799, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations, Act 2004

A point of order was raised against an amendment offered by Representative Levin, which would forbid expenditure of funds that would be used to negotiate free trade agreements that did not contain certain listed provisions, which imposed new duties that were not required by law and made the appropriations contingent upon the performance of said duties and on successful trade negotiations with other countries. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained. [108-1, p. H7337-7339]

September 4, 2003

H.R. 2989, Transportation, Treasury, and Independent Agencies Appropriations Act, 2004

A point of order was raised against portions of section 631 of the bill, which would have amended the Trade Agreements Act of 1979. The provision exempted limitations on procurement. The chair ruled that the provision was in violation of Rule XXI, clause 2(b). The point of order was conceded, sustained and the language was stricken from the bill. [108-1, p. H7913]

September 4, 2003

H.R. 2989, Transportation, Treasury, and Independent Agencies Appropriations Act, 2004

A point of order was raised against the contents of Section 164 of the bill, which amended the Buy America requirements for transit capital purchases of steel, iron, manufactured goods, and rolling stock. The chair ruled that these provisions were in violation of Rule XXI. The point of order was conceded, sustained, and the section was stricken from the bill. [108-1, p. H7912-7913]

September 8, 1999

H.R. 2684, U.S. Departments of Veterans Affairs and Housing and Urban Development Appropriations For 2000

A point of order was raised against an amendment offered by Representative Edwards, which would have offset an increase in funding for veterans=health care by postponing the implementation of a capital gains tax cut. The chair ruled that the amendment constituted legislation in violation of Rule XXI, clause 2(c), and, in addition, constituted a tax measure in violation of Rule XXI, clause 5(a). The point of order was sustained, and the amendment ruled not in order. [106-1, p. H7923]

September 3, 1997

H.R. 2159, Foreign Operations Appropriations for Fiscal Year 1998

A point of order was raised against section 539 of the bill, which would have restricted the President=s ability to issue an executive order lifting import sanctions against Yugoslavia (Serbia). The Chair ruled that since current law allowed the President to waive the application of certain sanctions, including import prohibitions which affect tariff collections, the provision in question was a tariff measure within the meaning of Rule XXI, clause 5(b). The point of order was sustained, and the provision stricken from the bill. [105-1, p. H 6731]

July 17, 1996

H.R. 3756, Treasury, Postal Service, and General Government Appropriations Act of 1997

A point of order was raised against an amendment which prohibited the use of funds by the United States Customs Service to take any action that allowed certain imports into the United States from the People=s Republic of China. The point of order was sustained. [104-2, p. H 7708]

May 9, 1995

H.R. 1361, Coast Guard Authorization

A point of order was raised against an amendment which increased certain fees for large foreign-flag cruise ships. The Chair ruled that by increasing the fees charged by the Coast Guard for inspecting large foreign-flag cruise ships by an unspecified amount in order to offset a decrease in fees for other vessels, the amendment attenuated the relationship between the amount of the fee and the cost of the particular government activity for which it was assessed. Therefore the increased fee qualified as a tax or tariff within the meaning of Rule XXI, clause 5(b). The point of order was sustained, and the amendment ruled out of order. [1-4-1, p. H 4593]

June 15, 1994

*H.R. 4539, Treasury, Postal Service, and General Government
Appropriation for Fiscal Year 1995*

A point of order was raised against section 527 of the bill, which would have amended the HTS to create a new tariff classification. The new classification would have changed the rate of duty on the import of certain fabrics intended for use in the manufacture of hot air balloons, thus having direct impact on customs revenues. The point of order was conceded and sustained, and the provision was stricken from the bill. [103-2, p. H 4531]

September 16, 1992

H.R. 5231, The National Competitiveness Act of 1992

A point of order was raised against an amendment offered by Representative Walker. The bill was reported solely from the Committee on Science and Technology and amended the Internal Revenue Code to provide, inter alia, changes in the tax treatment of capital gains.

The Chair sustained the point of order without elaboration. [H102- p. H8621]

October 23, 1990

*H.R. 5021, Department of Commerce, Justice and State, the Judiciary and
Related Agencies Appropriations Act, 1991*

A point of order was raised against amendment 139 which increased the rate of fees paid to the Securities and Exchange Commission at the time of filing a registration statement. The Chair ruled that since the amendment provided that the increased level of fees would be deposited in the Treasury, the fee involved was in reality a tax and the revenues were to be used to defray general governmental costs. The point of order was conceded and sustained. [101-2, p. H 11412]

July 13, 1990

*H.R. 5241, Treasury, Postal Service and General Government
Appropriations Act of 1991*

A point of order was raised against section 528 which prohibited that “no funds appropriated” would be used to impose or assess any tax under section 4181 of the Internal Revenue Code relating to the excise tax on the manufacture of firearms. The point of order was conceded and sustained. [101-2, p. H 4692]

July 13, 1990

*H.R. 5241, Treasury, Postal Service and General Government
Appropriations Act of 1991*

A point of order was raised against section 524 which prohibited the Internal Revenue Service from enforcing rules governing the antidiscrimination rules of the exclusion for employer provided health-care plans (section 89 of the Internal Revenue Code). The point of order was conceded and sustained. [101-2, p. H 4692]

October 5, 1989

H.R. 3299, Omnibus Budget Reconciliation Act of 1989

A point of order was raised against section 3201 which imposed fees on the filing of certain forms required to be filed annually in connection with maintaining pension and benefit plans. The point of order was sustained with the Chair ruling that the revenue raised funded “general government activity.” [101-1, p. H 6662]

October 4, 1989

H.R. 3299, Omnibus Budget Reconciliation Act of 1989

A point of order was raised against section 3156 which imposed a “Termination Fee.” Under the provision of the bill, an employer who terminated a pension plan in a standard termination was required to pay a \$200-per-participant fee to the Pension Benefit Guaranty Corporation (PBGC), the Federal insurance agency established to insure defined benefit pension plans against insolvency. The point of order was conceded and sustained. [101-1, p. H 6621]

October 4, 1989

H.R. 3299, Omnibus Budget Reconciliation Act of 1989

A point of order was raised against section 3131(b) which exempted multi-employer pension plans from the full funding limits of the Internal Revenue Code, section 412(c)(7). This provision directly amended the Internal Revenue Code to allow the deductibility of contributions to a multi-employer pension plan in excess of the full funding limit. The point of order was conceded and sustained. [101-1, p. H 6622]

October 4, 1989

H.R. 3299, Omnibus Budget Reconciliation Act of 1989

A point of order was raised against section 7002 which imposed an annual fee of \$1 per acre on the holder of Outer Continental Shelf leases. This fee has been designated to offset the costs of ocean related environmental research, assessment, and protection programs. The point of order was sustained with the Chair stating that “a provision raising revenue to finance general government functions improperly characterized as a tax within the jurisdiction of Clause 5(b) of Rule XXI. [101-1, p. H 6610]

October 4, 1989

H.R. 3299, Omnibus Budget Reconciliation Act of 1989

A point of order was raised against section 7002 which imposed a fee of \$20 per passenger on vessels engaged in U.S. cruise trade or which offer off-shore gambling. The proceeds of this fee were to be deposited in both the Harbor Maintenance Trust Fund and the Treasury’s general fund. The point of order was conceded and sustained. [101-1, p. H 6620]

September 30, 1988

H.R. 4637, Conference Agreement to accompany the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1989

A point of order was raised against the motion to concur in the Senate amendment No. 176 which provided that S. 2848 (Sanctions Against Iraqi Chemical Weapons Use Act), be added to the bill. The point of order was conceded and sustained. [100-2, p. H 9236]

June 25, 1987

H.R. 3545, Budget Reconciliation Act of 1987

A point of order was raised against the section of the bill providing that “all earnings and distributions” from the Enjebi Community Trust Fund, “shall not be subject to any form of Federal, State, or local taxation.” The point of order was conceded and sustained. [100-1, p. H 5539-40]

August 1, 1986

H.R. 5294, Appropriations, Treasury, Postal Service and General Government Appropriations, 1987

A point of order was raised against section 103 which denied funds to the Internal Revenue Service to impose vesting requirements for qualified pension funds more stringent than 4/40. As a result, legally collectible taxes on employer contributions to such plans would be indefinitely deferred. The point of order was conceded and sustained. [99-2, p. H 5311]

August 1, 1986

*H.R. 5294, Appropriations, Treasury, Postal Service and General
Government Appropriations, 1987*

A point of order was raised against section 3 which prohibited the use of funds to implement regulations issued by the Department of the Treasury to implement section 274(d) of the Internal Revenue Code relating to the duty imposed on taxpayers to substantiate deductibility of certain expenses relating to travel, gifts, and entertainment.

The Chair sustained the point of order stating that a limitation otherwise in order under Clause 2(c), of House Rule XXI which “effectively and inherently either preclude[s] the IRS from collecting revenues otherwise due to be [owed] under provision of the Internal Revenue Code or require[s] the collection of revenue not legally due and owing constitutes a tax provision within the meaning of Rule XXI, Clause 5(b).”

The Chair also noted that when the point of order was raised that under the rule the point of order against the provision could be raised at any point during the consideration of the bill. [99-2, p. H 5310]

October 24, 1986

H.R. 3500, Budget Reconciliation Act of 1985

A point of order was raised against section 3113. The provision in the reconciliation bill reported from the Budget Committee contained a recommendation from the Committee on Education and Labor to exclude certain interest on obligations to Student Loan Marketing Association from Application of Internal Revenue Code (IRC), section 265 which denies a deduction for certain expenses and interest relating to the production of tax-exempt income. The point of order was sustained. [99-1, p. H 5310]

October 24, 1985

H.R. 3500, Budget Reconciliation Act of 1985

A point of order was raised against section 6701 which had been reported from the Committee on the Budget containing a recommendation of the Committee on Merchant Marine and Fisheries. Section 6701 expanded tax benefits available to ship owners through the “capital construction fund” (section 7518 of the Internal Revenue Code), by permitting repatriation of foreign-source income to avoid U.S. taxes and expanding the definition of vessels eligible to establish such tax-exempt funds. [99-1, p. H 9189]

July 26, 1985

H.R. 3036, Appropriations, Treasury, Postal Service, and General Government Appropriation, 1986

A point of order was raised against section 106 which prohibited the use of funds to implement or enforce regulations imposing or collecting a tax on the interest deferral from entrance or accommodation fees paid by elderly residents of continuing care facilities (section 7872 of the Internal Revenue Code). The Chair sustained the point of order against the provision as a tax provision within the meaning of House Rule XXI, Clause 5(b). [99-1, p. H 6418]

July 11, 1985

H.R. 1555, International Security and Development Act of 1985

A point of order was raised against section 1208 which denied trade benefits to Afghanistan, provided for the denial of most favored nation status to Afghanistan and denied trade credits to Afghanistan. The point of order was conceded and sustained. [99-1, p. H 5489]

June 4, 1985

H.R. 1460, Anti-Apartheid Act of 1985

A point of order was raised against an amendment to prohibit the entry of South African Krugerrands or gold coins into the customs territory of the United States unless uniform 5 percent fee were paid. The point of order was sustained on the grounds that the fee was equivalent to a tariff uniform charge imposed at ports of entry with proceeds deposited in the Treasury. [99-1, p. H 3762]

September 12, 1984

H.R. 5798, conference report to accompany the Appropriations, Treasury, Postal Service, Executive Office of the President and certain independent agencies Appropriation, 1985

A point of order was raised against a Senate amendment, No. 92 which amended the existing customs law under the Tariff Act of 1930 with respect to seizures and forfeitures of property by the Customs Service. The point of order was conceded and sustained. [98-2, p. H 9407]

September 12, 1984

*H.R. 5798, conference report to accompany the
Appropriations, Treasury, Postal Service, Executive Office
of the President and certain independent agencies Appropriation, 1985*

A point of order was raised against a Senate amendment, No. 26 which amended the tariff schedule of the United States (TSUS) to provide duty-free importation of a telescope for the University of Arizona. The point of order was conceded and sustained. [98-2, p. H 9396]

September 12, 1984

*H.R. 5798, conference report to accompany the
Appropriations, Treasury, Postal Service, Executive Office of the
President and certain independent agencies Appropriation, 1985*

A point of order was raised against a Senate amendment, No. 24 which provided that “none of the funds appropriated by this act or any other act” shall be used to impose or assess the manufacturer’s excise tax on sporting goods. The point of order specifically stated that the term “tax” and “tariff” under House Rule XXI, Clause 5(b), included provisions such as these contained in the amendment which would result less revenue spent than under the operation of existing law. The point of order was conceded and sustained. [98-2, p. H 9395-9396]

October 27, 1983

*H.R. 4139, conference report to accompany the Appropriations
Treasury, Postal Service, Executive Office of the President and certain independent agencies
Appropriation, 1984*

The Chair sustained a point of order against section 511 which would have prohibited the Customs Service from enforcing a provision of law permitting agricultural products to enter the United States duty-free under the CBI. The Chair ruled that the effect of the provision was to cause duties on certain imports to be imposed where none is required and to require collections of revenue contrary to existing tariff laws and that, as a result, section 511 was a tariff provision rather than a limitation of appropriated funds. [98-1, p. H 8717]

September 21, 1983

H.R. 1036, Community Renewal Employment Act

The Chair sustained a point of order against a motion to recommit a bill to a committee without jurisdiction over revenue measures (the Committee on Education and Labor), and to report the bill back to the House with tax provisions relating to enterprise zones. The motion was ruled to violate House Rule XVI, Clause 7, and House Rule XXI Clause 5(b). [98-1, p. H 7244]

H. RESTRICTIONS ON “FEDERAL INCOME TAX RATE INCREASES”

House Rule XXI, clause 5(b) and (c) prohibit retroactive Federal income tax rate increases and require a supermajority [3/5] vote for any bill containing a prospective Federal income tax rate increase. The wording of the rule and its legislative history make it clear that the rule applies only to increases in specific statutory rates in the Internal Revenue Code and not to provisions merely because they raise revenue or otherwise modify the income tax base.

Appendix II. Historical Note

The Committee on Ways and Means was first established as an ad hoc committee in the first session of the First Congress, on July 24, 1789. Representative Fitzsimons, from Pennsylvania, in commenting on the report of a select committee concerning appropriations and revenues, pointed out the desirability of having a committee to review the expenditure needs of the Government and the resources available, as follows:

The finances of America have frequently been mentioned in this House as being very inadequate to the demands. I have never been of a different opinion, and do believe that the funds of this country, if properly drawn into operation, will be equal to every claim. The estimate of supplies necessary for the current year appears very great from a report on your table, and which report has found its way into the public newspapers. I said, on a former occasion, and I repeat it now, notwithstanding what is set forth in the estimate, that a revenue of \$3 million in specie, will enable us to provide every supply necessary to support the Government, and pay the interest and installments on the foreign and domestic debt. If we wish to have more particular information on these points, we ought to appoint a Committee on Ways and Means, to whom, among other things, the estimate of supplies may be referred, and this ought to be done speedily, if we mean to do it this session.

After discussion, the motion was agreed to and a committee consisting of one Member from each State (North Carolina and Rhode Island had not yet ratified the Constitution) was appointed as follows: Messrs. Fitzsimons (Pennsylvania), Vining (Delaware), Livermore (New Hampshire), Cadwalader (New Jersey), Laurance (New York), Wadsworth (Connecticut), Jackson (Georgia), Gerry (Massachusetts), Smith (Maryland), Smith (South Carolina), and Madison (Virginia).

While there does not appear to be any direct relationship, it is interesting to note that the appointment of this ad hoc committee came within a few weeks after the House, in Committee of the Whole, had spent a good part of the months of April, May, and June in wrestling with the details involved in writing bills for laying a duty on goods, wares, and merchandises imported into the United States and for imposing duties on tonnage. Tariffs, of course, became a prime revenue source for the new government.

However, the results of this ad hoc committee are not clear. It existed for a period of only 8 weeks, being dissolved on September 17, 1789, with the following order:

That the Committee on Ways and Means be discharged from further proceeding on the business referred to them, and that it be referred to the Secretary of the Treasury to report thereon.

It has also been suggested by one student that the Committee was dissolved because Alexander Hamilton had become Secretary of the newly created U.S. Department of the Treasury, and thus it was presumed that the U.S. Department of the Treasury could provide the necessary machinery for developing information which would be needed. During the next 6 years there was no Committee on Ways and Means or any other standing committee for the examination of estimates. Rather, ad hoc committees were appointed to draw up particular pieces of legislation on the basis of decisions made in the Committee of the Whole House. On

November 13, 1794, a rule was adopted providing that:

All proceedings touching appropriations of money shall be first moved and discussed in a Committee on the Whole House.

In the next Congress historians have suggested that the House was determined to curtail Secretary Hamilton's influence by first setting up a Committee on Ways and Means and requiring that Committee to submit a report on appropriations and revenue measures before consideration in the Committee of the Whole House. It was also said that this Committee on Ways and Means was put on a more or less standing basis since such a committee appeared at some point in every Congress until it was made a permanent committee.

In the first session of the 7th Congress, Tuesday, December 8, 1801, a resolution was adopted as follows:

Resolved, That a standing Committee on Ways and Means be appointed, whose duty it shall be to take into consideration all such reports of the Treasury Department, and all such propositions, relative to the revenue as may be referred to them by the House; to inquire into the state of the public debt, of the revenue, and of the expenditures; and to report, from time to time, their opinion thereon.

The following Members were appointed: Messrs. Randolph (Virginia), Griswold (Connecticut), Smith (Vermont), Bayard (Delaware), Smilie (Pennsylvania), Read (Massachusetts), Nicholson (Maryland), Van Rensselaer (New York), Dickson (Tennessee).

On Thursday, January 7, 1802, the House agreed to standing rules which, among other things, provided for standing committees, including the Committee on Ways and Means. The relevant part of the rules in this respect read as follows:

A Committee on Ways and Means, to consist of seven Members;

* * * * *

It shall be the duty of the said Committee on Ways and Means to take into consideration all such reports of the U.S. Department of the Treasury, and all such propositions relative to the revenue, as may be referred to them by the House; to inquire into the state of the public debt, of the revenue, and of the expenditures, and to report, from time to time, their opinion thereon; to examine into the state of the several public departments, and particularly into the laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such laws; and also to report, from time to time, such provisions and arrangements, as may be necessary to add to the economy of the departments, and the accountability of their officers.

It has been said that the jurisdiction of the Committee was so broad in the early 19th century that one historian described it as follows:

It seemed like an Atlas bearing upon its shoulders all the business of the House.

The jurisdiction of the Committee remained essentially the same until 1865 when the

control over appropriations was transferred to a newly created Committee on Appropriations and another part of its jurisdiction was given to a newly created Committee on Banking and Currency. This action followed rather extended discussion in the House, too lengthy to review here.

During the course of that discussion, however, the following observations are of some historical interest. Representative Cox, who was handling the motion to divide the Committee, gave a very picturesque discussion of the many varied and heavy duties which had fallen on the Committee over the years. He observed:

And yet, sir, powerful as the Committee is constituted, even their powers of endurance, physical and mental, are not adequate to the great duty which has been imposed by the emergencies of this historic time. It is an old adage, that *Whoso wanteth rest will also want of might*, and even an Olympian would faint and flag if the burden of Atlas is not relieved by the broad shoulders of Hercules.

He continued:

I might give here a detailed statement of the amount of business thrown upon that Committee since the commencement of the war. But I prefer to append it to my remarks. Whereas before the war we scarcely expended more than \$70 million a year, now, during the five sessions of the last two Congresses, there has been an average appropriation of at least \$800 million per session. The statement which I hold in my hand shows that during the first and extra session of the 37th Congress there came appropriation bills from the Committee on Ways and Means amounting to \$226,691,457.99. I say nothing now of the loan and other fiscal bills emanating from that Committee. * * * During the present session I suppose it would be a fair estimate to take the appropriations of the last session of the 37th Congress, say \$900 million.

These are appropriation bills alone. They are stupendous, and but poorly symbolize the immense labors which the internal revenue, tariff, and loan bills imposed on the Committee. * * * And this business of appropriations is perhaps not one-half of the labor of the Committee. There are various and important matters upon which they act, but upon which they never report. Their duties comprehend all the varied interests of the United States; every element and branch of industry, and every dollar or dime of value. They are connected with taxation, tariffs, banking, loan bills, and ramify to every fiber of the body-politic. All the springs of wealth and labor are more or less influenced by the action of this Committee. Their responsibility is immense, and their control almost imperial over the necessities, comforts, homes, hopes, and destinies of the people. All the values of the United States, which in the census of 1860 (page 194) amount to nearly \$17 billion, or, to be exact, \$16,159,616,068, are affected by the action of that Committee, even before their action is approved by the House. Those values fluctuate whenever the head of the Committee on Ways and Means rises in his place and proposes a measure. The price of every article we use trembles when he proposes a gold bill or a loan bill, or any bill to tax directly or indirectly. * * *

* * * the interests connected with these economical questions are of all questions those most momentous for the future. Parties, statesmanship, union, stability, all depend upon the manner in which these questions are dealt with.

Representative Morrill (who was subsequently appointed chairman of the Committee on Ways and Means in the succeeding Congress, and who still later became chairman of the Senate Committee on Finance after he became a Senator) observed as follows:

I am entirely indifferent as to the disposition which shall be made of this subject by the House. So far as I am myself concerned, I have never sought any position upon any committee from the present or any other Speaker of the House, and probably never shall. I have no disposition to press myself hereafter for any position. In relation to the proposed division of the Committee on Ways and Means, the only doubt that I have is the one expressed by my colleague on that Committee, Representative Stevens, in regard to the separation of the questions of revenue from those relating to appropriations. In ordinary times of peace I should deem it almost indispensable and entirely within their power that this Committee should have the control of both subjects, in order that they might make both ends meet, that is, to provide a sufficient revenue for the expenditures. That reason applies now with greater force; but it may be that the Committee is overworked. It is true that for the last 3 or 4 years the labors of the Committee on Ways and Means have been incessant, they have labored not only days but nights; not only weekends but Sundays. If gentlemen suppose that the Committee have permitted some appropriations to be reported which should not have been permitted they little understand how much has been resisted.

The influence the Committee came not only from the nature of its jurisdiction but also because for many years the chairman of the Committee was also ad hoc majority Floor leader of the House.

When the revolt against Speaker Cannon took place, and the Speaker's powers to appoint the Members of committees were curtailed, the Majority Members on the Committee on Ways and Means became the Committee on Committees. Subsequently, this power was disbursed to the respective party caucuses, beginning in the 94th Congress.

Throughout its history, many famous Americans have served on the Committee on Ways and Means. The long and distinguished list includes 8 Presidents of the United States, 8 Vice Presidents, 4 Justices of the Supreme Court, 34 Cabinet members, and quite interestingly, 21 Speakers of the House of Representatives. This latter figure represents nearly one-half of the 51 Speakers who have served since 1789 through the end of the 108th Congress. See the alphabetical list which follows for names.

Major positions held by former members of the Committee on Ways and Means

President of the United States:

George H. W. Bush, Texas
Millard Fillmore, New York
James A. Garfield, Ohio
Andrew Jackson, Tennessee
James Madison, Virginia
William McKinley, Jr., Ohio
James K. Polk, Tennessee

John Tyler, Virginia

Vice President of the United States:

John C. Breckinridge, Kentucky
George H. W. Bush, Texas
Charles Curtis, Kansas
Millard Fillmore, New York
John N. Garner, Texas
Elbridge Gerry, Massachusetts
Richard M. Johnson, Kentucky
John Tyler, Virginia

Justice of the Supreme Court:

Philip P. Barbour, Virginia
Joseph McKenna, California
John McKinley, Alabama
Fred M. Vinson, Kentucky (Chief Justice)

Speaker of the House of Representatives:

Nathaniel P. Banks, Massachusetts
Philip P. Barbour, Virginia
James G. Blaine, Maine
John G. Carlisle, Kentucky
Langdon Cheves, South Carolina
James B. (Champ) Clark, Missouri
Howell Cobb, Georgia
Charles F. Crisp, Georgia
John N. Garner, Texas
John W. Jones, Virginia
Michael C. Kerr, Indiana
Nicholas Longworth, Ohio
John W. McCormack, Massachusetts
James K. Polk, Tennessee
Henry T. Rainey, Illinois
Samuel J. Randall, Pennsylvania
Thomas B. Reed, Maine
Theodore Sedgwick, Massachusetts
Andrew Stevenson, Virginia
John W. Taylor, New York
Robert C. Winthrop, Massachusetts

Cabinet Member:

Secretary of State:

James G. Blaine, Maine
William J. Bryan, Nebraska
Cordell Hull, Tennessee³

³Recipient of Nobel Peace Prize in 1945.

Louis McLean, Delaware
John Sherman, Ohio

Secretary of the Treasury:

George W. Campbell, Tennessee
John G. Carlisle, Kentucky
Howell Cobb, Georgia
Thomas Corwin, Ohio
Charles Foster, Ohio
Albert Gallatin, Pennsylvania
Samuel D. Ingham, Pennsylvania

Louis McLean, Delaware
Ogden L. Mills, New York
John Sherman, Ohio
Philip F. Thomas, Maryland
Fred M. Vinson, Kentucky

Attorney General:

James P. McGranery, Pennsylvania
Joseph McKenna, California
A. Mitchell Palmer, Pennsylvania
Caesar A. Rodney, Delaware

Postmaster General:

Samuel D. Hubbard, Connecticut
Cave Johnson, Tennessee
Horace Maynard, Tennessee
William L. Wilson, West Virginia

Secretary of the Navy:

Thomas W. Gilder, Virginia
Hilary A. Herbert, Alabama
Victor H. Metcalf, California
Claude A. Swanson, Virginia

Secretary of the Interior:

Rogers C. B. Morton, Maryland
Jacob Thompson, Mississippi

Secretary of Commerce and Labor:

Victor H. Metcalf, California

Secretary of Commerce:

Rogers C. B. Morton, Maryland

Secretary of Agriculture:

Clinton P. Anderson, New Mexico

Appendix III. Statistical Review of the Activities of the Committee on Ways and Means

A. NUMBER OF BILLS AND RESOLUTIONS REFERRED TO THE COMMITTEE

As of the close of the 108th Congress on December 7, 2004, there had been referred to the Committee a total of 1,541 bills, representing 22.2 percent of all the public bills introduced in the House of Representatives.

The following table gives a more complete statistical review since 1967.

TABLE 1. NUMBER OF BILLS AND RESOLUTIONS REFERRED TO THE COMMITTEE,
90TH THROUGH 108TH CONGRESSES

| | Introduced in House | Referred to Committee on Ways and Means | Percentage |
|----------------------------|---------------------|--|------------|
| 90 th Congress | 24,227 | 3,806 | 15.7 |
| 91 st Congress | 23,575 | 3,442 | 14.6 |
| 92 nd Congress | 20,458 | 3,157 | 15.4 |
| 93 rd Congress | 21,096 | 3,370 | 16 |
| 94 th Congress | 19,371 | 3,747 | 19.3 |
| 95 th Congress | 17,800 | 3,922 | 22 |
| 96 th Congress | 10,196 | 2,337 | 22.9 |
| 97 th Congress | 9,909 | 2,377 | 26.4 |
| 98 th Congress | 8,104 | 1,904 | 23.5 |
| 99 th Congress | 7,522 | 1,568 | 20.8 |
| 100 th Congress | 7,043 | 1,419 | 22.1 |
| 101 st Congress | 7,640 | 1,737 | 22.7 |
| 102 nd Congress | 7,771 | 1,972 | 25.4 |
| 103 rd Congress | 6,645 | 1,496 | 22.5 |
| 104 th Congress | 5,329 | 1,071 | 20.1 |
| 105 th Congress | 5,976 | 1,509 | 25.2 |
| 106 th Congress | 6,942 | 1,762 | 25.3 |
| 107 th Congress | 7,029 | 1,941 | 27.6 |
| 108 th Congress | 6,953 | 1,541 | 22.2 |

B. PUBLIC HEARINGS

In the course of the 108th Congress, the full Committee on Ways and Means held public hearings on a total of 23 days, including 13 days in the first session and 10 days in the second session. Many of these hearings dealt with major subjects including the President's fiscal year 2004 and 2005 budget proposals, health and welfare issues, and President Bush's trade agenda. The full Committee also reviewed programs under the Committee's jurisdiction for waste, fraud, and abuse and focused on such issues as legislation to expand coverage of prescription drugs in Medicare, and the implementation of free trade agreements with Chile, Singapore, Australia and Morocco.

The following table specifies the statistical data on the number of days and witnesses published on each of the subjects covered by public hearings in the full Committee during the 108th Congress.

TABLE 2. PUBLIC HEARINGS CONDUCTED BY THE FULL COMMITTEE ON WAYS AND MEANS

| Subject and Date | Number of | |
|--|-----------|-----------|
| | Days | Witnesses |
| 2003: | | |
| President's Fiscal Year 2004 Budget with an Official of the U.S. Department of the Treasury, February 4 | 1 | 1 |
| President's Fiscal Year 2004 Budget with Office of Management and Budget Director Daniels, February 5 | 1 | 1 |
| President's Fiscal Year 2004 Budget with U.S. Department of Health and Human Services, February 6 | 1 | 1 |
| President Bush's Trade Agenda, February 26 | 1 | 1 |
| President's Economic Growth Proposals, March 4, 5, 6, and 11 | 4 | 17 |
| President's Fiscal Year 2004 Budget for the U.S. Department of Labor, March 12 | 1 | 1 |
| Expanding Coverage of Prescription Drugs in Medicare, April 9 | 1 | 5 |
| Waste, Fraud, and Abuse, July 17 | 1 | 7 |
| United States-China Economic Relations and China's Role in the Global Economy, October 30 and 31 | 2 | 16 |
| Total for 2003 | 13 | 50 |
| 2004: | | |
| President's Fiscal Year 2005 Budget with U.S. Department of the Treasury Secretary John Snow, February 3 | 1 | 1 |
| President's Fiscal Year 2005 Budget for the U.S. Department of Health and Human Services, February 10 | 1 | 1 |
| President's Fiscal Year 2005 Budget with OMB Director Bolten, February 11 | 1 | 1 |
| President's Fiscal Year 2005 Budget with an Official of the | 1 | 1 |

| | | |
|--|----|----|
| U.S. Department of the Treasury, February 11 | | |
| President's Fiscal Year 2005 Budget for the U.S. Department of Labor, March 4 | 1 | 1 |
| President Bush's Trade Agenda, March 11 | 1 | 1 |
| Board of Trustees 2004 Annual Reports, March 24 and April 1 | 2 | 6 |
| Implementation of the United States-Australia Free Trade Agreement, June 16 | 1 | 7 |
| Implementation of the United States-Morocco Free Trade Agreement, July 7 | 1 | 6 |
| Total for 2004 | 10 | 25 |
| Total for both sessions | 23 | 75 |

The six Subcommittees of the Committee on Ways and Means were also very active in conducting public hearings during the 108th Congress. The following table specifies in detail the number of days and witnesses published by each of the Subcommittees.

TABLE 3. PUBLIC HEARINGS CONDUCTED BY THE SUBCOMMITTEES OF THE COMMITTEE ON WAYS AND MEANS

| Subject and Date | Number of | |
|---|-----------|-----------|
| | Days | Witnesses |
| SUBCOMMITTEE ON TRADE | | |
| 2003: | | |
| Impact of the Section 201 Safeguard Action on Certain Steel Products, March 26 | 1 | 27 |
| Implementation of U.S. Bilateral Free Trade Agreements with Chile and Singapore, June 10 | 1 | 13 |
| 2004: | | |
| Trade with sub-Saharan Africa and H.R. 4103, the "AGOA Acceleration Act of 2004," April 29 | 1 | 11 |
| Customs Budget Authorizations and Other Customs Issues, June 17 | 1 | 8 |
| Trade Preferences for Haiti, September 22 | 1 | 7 |
| Total | 5 | 66 |
| SUBCOMMITTEE ON OVERSIGHT | | |
| 2003: | | |
| Free Electronic Filing and National Taxpayer Advocate Annual Report, February 13 | 1 | 4 |
| 2003 Tax Return Filing Season and the IRS Budget for Fiscal Year | 1 | 7 |

| | | |
|--|----|----|
| 2004, April 8 | | |
| Use of Private Collection Agencies to Improve IRS Debt Collection, May 13 | 1 | 9 |
| Unemployment Fraud and Abuse, June 19 | 1 | 4 |
| Non-Profit Credit Counseling Organizations, November 20 | 1 | 7 |
| 2004: | | |
| IRS Efforts to Modernize its Computer Systems, February 12 | 1 | 5 |
| Social Security Number and Individual Taxpayer Identification Number Mismatches and Misuse, March 10 | 1 | 6 |
| 2004 Tax Return Filing Season and the IRS Budget for Fiscal Year 2005, March 30 | 1 | 8 |
| Tax Simplification, June 15 | 1 | 8 |
| First Hearing in a Series on Tax Exemption: Pricing Practices of Hospitals, June 22 | 1 | 9 |
| Review the IRS Enforcement of the Reporting of Tip Income, July 15 | 1 | 6 |
| Total | 11 | 73 |

SUBCOMMITTEE ON HEALTH

| | | |
|--|----|----|
| 2003: | | |
| Medicare Regulatory and Contracting Reform, February 13 | 1 | 9 |
| Eliminating Barriers to Chronic Care Management in Medicare, February 25 | 1 | 5 |
| MedPAC Report on Medicare Payment Policies, March 6 | 1 | 7 |
| Medicare Cost-Sharing and Medigap, May 1 | 1 | 4 |
| 2004: | | |
| Uninsured, March 9 | 1 | 5 |
| New Frontiers in Quality Initiatives, March 18 | 1 | 7 |
| Medicare Drug Discount Card, April 1 | 1 | 5 |
| Medicare Chronic Care Improvement Program, May 11 | 1 | 5 |
| Health Care Information Technology, June 17 | 1 | 6 |
| Electronic Prescribing, July 22 | 1 | 4 |
| Total | 10 | 57 |

SUBCOMMITTEE ON SOCIAL SECURITY

| | | |
|---|---|----|
| 2003: | | |
| H.R. 743, the "Social Security Protection Act of 2003," February 27 | 1 | 6 |
| Social Security Provisions Affecting Public Employees, May 1 | 1 | 12 |
| Use and Misuse of Social Security Numbers, July 10 | 1 | 5 |
| Social Security Administration Service Delivery Budget Plan, July 24 | 1 | 4 |
| Social Security Administration's Management of the Office of Hearings | 1 | 8 |

and Appeals, September 25

2004:

| | | |
|--|----|----|
| Field Hearing on Social Security's Future, January 26 | 1 | 5 |
| Social Security Service Delivery Plan, February 26 | 1 | 1 |
| Social Security Administration's Management of the Ticket to Work Program, March 18 | 1 | 11 |
| Enhancing Social Security Number Privacy, June 15 | 1 | 11 |
| H.R. 4391, the "Public Servant Retirement Protection Act," July 20 | 1 | 5 |
| Commissioner of Social Security's Proposal to Improve the Disability Process, September 30 | 1 | 12 |
| Total | 11 | 80 |

SUBCOMMITTEE ON HUMAN RESOURCES

2003:

| | | |
|---|---|---|
| Review State Use of Federal Unemployment Funds, March 20 | 1 | 6 |
| Implementation of the Adoption and Safe Families Act of 1997, April 8 | 1 | 8 |
| Unemployment Benefits and "Returns to Work," April 10 | 1 | 4 |
| Bush Administration Foster Care Flexible Funding Proposal, June 11 | 1 | 5 |
| Examine Recent Failure to Protect Child Safety, November 6 | 1 | 9 |
| Improved Monitoring of Vulnerable Children, November 19 | 1 | 7 |

2004:

| | | |
|--|----|----|
| Review Federal and State Oversight of Child Welfare Programs, January 28 | 1 | 18 |
| Supplemental Security Income Program, April 29 | 1 | 1 |
| State Efforts to Comply with Federal Child Welfare Reviews, May 13 | 1 | 4 |
| Supplemental Security Income Program, May 20 | 1 | 5 |
| Failure to Protect Child Safety, June 17 | 1 | 4 |
| Examine Child Welfare Reform Proposals, July 13 | 1 | 4 |
| Total | 12 | 75 |

SUBCOMMITTEE ON SELECT REVENUE MEASURES

2003:

| | | |
|--|---|---|
| Hearing on Challenges Facing Pension Plan Funding, April 30 | 1 | 5 |
| Hearing on S Corporation Reforms, June 19 | 1 | 6 |
| Examining Pension Security and Defined Benefit Plans: The Bush Administration's Proposal to Replace the 30-Year Treasury Rate, July 15 | 1 | 6 |

2004:

| | | |
|---------------------------------|---|----|
| Select Tax Issues, September 23 | 1 | 16 |
|---------------------------------|---|----|

As the foregoing statistics indicate, during the 108th Congress the full Committee and its six Subcommittees held public hearings aggregating a grand total of 76 days, during which time 459 witnesses testified. There was one field hearing, held by the Subcommittee on Social Security in Boca Raton, Florida.

In addition, written comments were printed after having been requested and received by the Subcommittee on Oversight on taxpayer rights, H.R. 3625, the “Department of the Treasury Inspector General Consolidation Act of 2003, and Legislation to Streamline the Student Aid Approval Process; the Subcommittee on Trade on the Extension of Permanent Normal Trade Relations Status to Armenia, Moldova, and Laos; and the full Committee on H.R. 3654, the “Technical Corrections Act of 2003.”

C. MARKUP SESSIONS

With respect to markup or business sessions during the 108th Congress, the full Committee and its six Subcommittees were also very actively engaged. The full Committee held such sessions on 24 working days, usually both morning and afternoon sessions, and the Subcommittees an aggregate of 9 working days, making a grand total of 33 working days of markup or business sessions for the full Committee and its Subcommittees during the 108th Congress.

D. NUMBER AND FINAL STATUS OF BILLS REPORTED FROM THE COMMITTEE ON WAYS AND MEANS IN THE 108TH CONGRESS

During the 108th Congress, the Committee reported to the House a total of 25 bills; 24 favorably and 1 adversely. There were 75 bills containing provisions within the purview of the Committee that were passed by the House; 41 were enacted into law. This is not indicative of the total number of bills considered by the Committee. When the Committee meets on major tax, tariff, Social Security, health, unemployment compensation, or human resources matters, it often considers a broad subject rather than individual, specific bills. In consideration of a broad matter, the Committee makes every attempt to review all pending pertinent bills encompassed within that subject. As many as several hundred bills, for instance, may translate into a broad subject that is then reported by the Committee. Therefore, it is typically the practice of the Committee to report bills on a major subject rather than on several minor subjects.

Appendix IV. Chairmen of the Committee on Ways and Means and Membership of the Committee from the 1st through the 108th Congresses

A. CHAIRMEN OF THE COMMITTEE ON WAYS AND MEANS, 1789 TO PRESENT

| Name | State | Party | Term of Service |
|---------------------|----------------|----------------------------|---------------------|
| Thomas Fitzsimons | Pennsylvania | Federalist | 1789 |
| William L. Smith | South Carolina | Federalist | 1794 to 1797. |
| Robert G. Harper | South Carolina | Federalist | 1797 to 1800. |
| Roger Griswold | Connecticut | Federalist | 1800 to 1801. |
| John Randolph | Virginia | Jeffersonian Republican | 1801 to 1805, 1827. |
| Joseph Clay | Pennsylvania | Jeffersonian Republican | 1805 to 1807. |
| George W. Campbell | Tennessee | Jeffersonian Republican | 1807 to 1809. |
| John W. Eppes | Virginia | Jeffersonian Republican | 1809 to 1811. |
| Ezekiel Bacon | Massachusetts | Jeffersonian Republican | 1811 to 1812. |
| Langdon Cheves | South Carolina | Jeffersonian Republican | 1812 to 1813. |
| John W. Eppes | Virginia | Jeffersonian Republican | 1813 to 1815. |
| William Lowndes | South Carolina | Jeffersonian Republican | 1815 to 1818. |
| Samuel Smith | Maryland | Jeffersonian Republican | 1818 to 1822. |
| Louis McLane | Delaware | Jeffersonian Republican | 1822 to 1827. |
| George McDuffie | South Carolina | Democrat | 1827 to 1832. |
| Gulian C. Verplanck | New York | Democrat | 1832 to 1833. |

| | | | |
|-----------------------|----------------|------------|---------------|
| James K. Polk | Tennessee | Democrat | 1833 to 1835. |
| C. C. Cambreleng | New York | Democrat | 1835 to 1839. |
| John W. Jones | Virginia | Democrat | 1839 to 1841. |
| Millard Fillmore | New York | Whig | 1841 to 1843. |
| James Iver McKay | North Carolina | Democrat | 1843 to 1847. |
| Samuel F. Vinton | Ohio | Whig | 1847 to 1849. |
| Thomas H. Bayly | Virginia | Democrat | 1849 to 1851. |
| George S. Houston | Alabama | Democrat | 1851 to 1855. |
| Lewis D. Campbell | Ohio | Republican | 1855 to 1857. |
| J. Glancy Jones | Pennsylvania | Democrat | 1857 to 1858. |
| John S. Phelps | Missouri | Democrat | 1858 to 1859. |
| John Sherman | Ohio | Republican | 1859 to 1861. |
| Thaddeus Stevens | Pennsylvania | Republican | 1861 to 1865. |
| Justin S. Morrill | Vermont | Republican | 1865 to 1867. |
| Robert C. Schenck | Ohio | Republican | 1867 to 1871. |
| Samuel D. Hooper | Massachusetts | Republican | 1871 |
| Henry L. Dawes | Massachusetts | Republican | 1871 to 1875. |
| William R. Morrison | Illinois | Democrat | 1875 to 1877. |
| Fernando Wood | New York | Democrat | 1877 to 1881. |
| John R. Tucker | Virginia | Democrat | 1881 |
| William D. Kelley | Pennsylvania | Republican | 1881 to 1883. |
| William R. Morrison | Illinois | Democrat | 1883 to 1887. |
| Roger Q. Mills | Texas | Democrat | 1887 to 1889. |
| William McKinley, Jr. | Ohio | Republican | 1889 to 1891. |
| William M. Springer | Illinois | Democrat | 1891 to 1893. |

| | | | |
|---------------------|----------------|------------|-----------------------------|
| William L. Wilson | West Virginia | Democrat | 1893 to 1895. |
| Nelson Dingley, Jr. | Maine | Republican | 1895 to 1899. |
| Sereno E. Payne | New York | Republican | 1899 to 1911. |
| Oscar W. Underwood | Alabama | Democrat | 1911 to 1915. |
| Claude Kitchin | North Carolina | Democrat | 1915 to 1919. |
| Joseph W. Fordney | Michigan | Republican | 1919 to 1923. |
| William R. Green | Iowa | Republican | 1923 to 1928. |
| Willis C. Hawley | Oregon | Republican | 1929 to 1931. |
| James W. Collier | Mississippi | Democrat | 1931 to 1933. |
| Robert L. Doughton | North Carolina | Democrat | 1933 to 1947, 1949 to 1953. |
| Harold Knutson | Minnesota | Republican | 1947 to 1949. |
| Daniel A. Reed | New York | Republican | 1953 to 1955. |
| Jere Cooper | Tennessee | Democrat | 1955 to 1957. |
| Wilbur D. Mills | Arkansas | Democrat | 1957 to 1975. |
| Al Ullman | Oregon | Democrat | 1975 to 1981. |
| Dan Rostenkowski | Illinois | Democrat | 1981 to 1994. |
| Bill Archer | Texas | Republican | 1995 to 2001. |
| William M. Thomas | California | Republican | 2001- |

B. TABLES SHOWING PAST MEMBERSHIP OF THE COMMITTEE

1. MEMBERS OF THE COMMITTEE ON WAYS AND MEANS FROM THE
1ST THROUGH THE 108TH CONGRESS, BY STATE

| Member | Congress(es) |
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| <i>Alabama:</i> | |
| John McKinley | 23 |
| David Hubbard | 26 |
| Dixon H. Lewis | 27-28 |

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| George S. Houston | 29-30, 32-33 |
| James F. Dowdell | 35 |
| Hilary A. Herbert | 48 |
| Joseph Wheeler | 53-55 |
| Oscar W. Underwood | 56, 59-63 |
| Ronnie G. Flippo | 98-101 |

Arizona:

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| J.D. Hayworth | 105- |
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Arkansas:

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| James K. Jones | 48 |
| Clifton R. Breckinridge | 49-51, 53 |
| William A. Oldfield | 64-70 |
| Heartsill Ragon | 70-73 |
| William J. Driver | 72 |
| Claude A. Fuller | 73-75 |
| Wilbur D. Mills | 77-94 |
| Jim Guy Tucker, Jr. | 95 |
| Beryl Anthony, Jr. | 97-102 |

California:

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| Joseph McKenna | 51-52 |
| Victor H. Metcalf | 57-58 |
| James C. Needham | 58-62 |
| William E. Evans | 73 |
| Frank H. Buck | 74-77 |
| Bertrand W. Gearhart | 76-80 |
| Cecil R. King | 78-79, 81-90 |

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| James B. Utt | 83, 86-91 |
| James C. Corman | 90-96 |
| Jerry L. Pettis | 91-94 |
| William M. Ketchum | 94-95 |
| Fortney Pete Stark | 94- |
| John H. Rousselot | 95-97 |
| Robert T. Matsui | 97-108 |
| William M. Thomas | 98- |
| Wally Herger | 103- |
| Xavier Becerra | 105- |

Colorado:

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|------------------------|---------|
| Robert W. Bonyng | 60 |
| Charles B. Timberlake | 66-72 |
| John A. Carroll | 81 |
| Donald G. Brotzman | 92-93 |
| George H. "Hank" Brown | 100-101 |
| Scott McInnis | 106-108 |

Connecticut:

| | |
|---------------------|-----------|
| Jeremiah Wadsworth | 1 |
| Uriah Tracy | 3 |
| James Hillhouse | 4 |
| Nathaniel Smith | 4-5 |
| Joshua Coit | 5 |
| Roger Griswold | 5-8 |
| John Davenport | 8 |
| Jonathan O. Moseley | 9, 14, 16 |

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| Benjamin Tallmadge | 10-11 |
| Timothy Pitkin | 12-13, 15 |
| Ralph I. Ingersoll | 21-22 |
| Samuel D. Hubbard | 30 |
| James Phelps | 45-46 |
| Charles A. Russell | 54-57 |
| Ebenezer J. Hill | 58-62, 64-65 |
| John Q. Tilson | 66-68 |
| Antoni N. Sadlak | 83-85 |
| William R. Cotter | 94-97 |
| Barbara B. Kennelly | 98-105 |
| Nancy L. Johnson | 101- |

Delaware:

| | |
|----------------------|-------|
| John Vining | 1 |
| Henry Latimer | 3 |
| John Patten | 4 |
| James A. Bayard, Sr. | 5, 7 |
| Caesar A. Rodney | 8 |
| Louis McLane | 16-19 |

Florida:

| | |
|----------------------|---------|
| A. S. Herlong, Jr. | 84-90 |
| Sam M. Gibbons | 91-104 |
| L. A. (Skip) Bafalis | 94-97 |
| E. Clay Shaw, Jr. | 100- |
| Karen L. Thurman | 105-107 |
| Mark Foley | 104- |

Georgia:

| | |
|-----------------------|-----------|
| James Jackson | 1 |
| Abraham Baldwin | 3-5 |
| Benjamin Taliaferro | 6 |
| John Milledge | 7 |
| David Meriwether | 8-9 |
| William W. Bibb | 12-13 |
| Joel Abbott | 15 |
| Joel Crawford | 15-16 |
| Wiley Thompson | 17-18 |
| George R. Gilmer | 20 |
| Richard H. Wilde | 22-23 |
| George W. Owens | 24-25 |
| Charles E. Haynes | 25 |
| Mark A. Cooper | 26 |
| Absalom H. Chappell | 28 |
| Seaborn Jones | 29 |
| Robert Toombs | 30-31 |
| Alexander H. Stephens | 30-31, 33 |
| Marshall J. Wellborn | 31 |
| Howell Cobb | 34 |
| Martin J. Crawford | 35-36 |
| Benjamin H. Hill | 44 |
| Henry R. Harris | 45, 49 |
| William H. Felton | 46 |
| Emory Speer | 47 |

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| James H. Blount | 48 |
| Henry G. Turner | 50-54 |
| Charles F. Crisp | 54 |
| James M. Griggs | 60-61 |
| William G. Brantley | 61-62 |
| Charles R. Crisp | 64-72 |
| Albert S. Camp | 78-83 |
| Phillip M. Landrum | 89-94 |
| Ed Jenkins | 95-102 |
| Wyche Fowler, Jr. | 96-99 |
| John Lewis | 103- |
| Mac Collins | 104-108 |

Hawaii:

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| Cecil (Cec) Heftel | 96-99 |
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Illinois:

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| Daniel P. Cook | 19 |
| John A. McClernand | 37 |
| John Wentworth | 39 |
| John A. Logan | 40 |
| Samuel S. Marshall | 41 |
| Horatio C. Burchard | 42-45 |
| William R. Morrison | 44, 46-49 |
| William M. Springer | 52 |
| Albert J. Hopkins | 52-57 |
| Henry S. Boutell | 58-61 |
| Henry T. Rainey | 62-66, 68-72 |

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| John A. Sterling | 65 |
| Ira C. Copley | 66-67 |
| Carl R. Chindblom | 68-72 |
| Chester C. Thompson | 74-75 |
| Raymond S. McKeough | 76-77 |
| Charles S. Dewey | 78 |
| Thomas J. O'Brien | 79, 81-88 |
| Noah M. Mason | 80-87 |
| Harold R. Collier | 88-93 |
| Dan Rostenkowski | 88-103 |
| Abner J. Mikva | 94-96 |
| Philip M. Crane | 94-108 |
| Marty Russo | 96-102 |
| Mel Reynolds | 103 |
| Jerry Weller | 105- |

Indiana:

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| David Wallace | 27 |
| Cyrus L. Dunham | 32 |
| William E. Niblack | 40, 43 |
| Godlove S. Orth | 41 |
| Michael C. Kerr | 42 |
| Thomas M. Browne | 48-50 |
| William D. Bynum | 50, 53 |
| Benjamin F. Shively | 52 |
| George W. Steele | 54-57 |
| James E. Watson | 58-60 |

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| Edgar D. Crumpacker | 60-61 |
| Lincoln Dixon | 62-65 |
| Harry C. Canfield | 71-72 |
| John W. Boehne, Jr. | 73-77 |
| Robert A. Grant | 80 |
| Andy Jacobs, Jr. | 94-104 |

Iowa:

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| John A. Kasson | 38, 43, 47-48 |
| William B. Allison | 39-41 |
| John H. Gear | 51, 53 |
| Jonathan P. Dolliver | 54-56 |
| William R. Green | 63-70 |
| C. William Ramseyer | 70-71 |
| Otha D. Wearin | 75 |
| Lloyd Thurston | 75 |
| Thomas E. Martin | 80-83 |
| Fred Grandy | 102-103 |
| Jim Nussle | 104- |

Kansas:

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| Dudley C. Haskell | 47 |
| Chester I. Long | 56-57 |
| Charles Curtis | 58-59 |
| William A. Calderhead | 60-61 |
| Victor Murdock | 63 |
| Guy T. Helvering | 64-65 |
| Frank Carlson | 76-79 |

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| Martha E. Keys | 94-95 |
| <i>Kentucky:</i> | |
| Alexander D. Orr | 3 |
| Christopher Greenup | 4 |
| Thomas T. Davis | 5 |
| John Boyle | 8 |
| Richard M. Johnson | 11-12 |
| Thomas Montgomery | 13 |
| David Trimble | 15-16 |
| Nathan Gaither | 22 |
| John Pope | 25 |
| Thomas F. Marshall | 27 |
| Garrett Davis | 28 |
| Charles S. Morehead | 30-31 |
| John C. Breckinridge | 33 |
| Robert Mallory | 38 |
| James B. Beck | 42-43 |
| Henry Watterson | 44 |
| John G. Carlisle | 46-47, 51 |
| Joseph C.S. Blackburn | 48 |
| William C.P. Breckinridge | 49-50 |
| Alexander B. Montgomery | 52-53 |
| Walter Evans | 54-55 |
| Ollie M. James | 62 |
| Augustus O. Stanley | 63 |
| Frederick M. Vinson | 72-75 |

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| Noble J. Gregory | 78-85 |
| John C. Watts | 86-92 |
| Jim Bunning | 102-105 |
| Ron Lewis | 104- |

Louisiana:

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|------------------------|------------------|
| Thomas B. Robertson | 14 |
| William L. Brent | 19-20 |
| Walter H. Overton | 21 |
| Lionel A. Sheldon | 43 |
| Randall L. Gibson | 45-46 |
| Charles J. Boatner | 54 |
| Samuel M. Robertson | 55-59 |
| Robert F. Broussard | 61 |
| Whitmell P. Martin | 65-70 |
| Paul H. Maloney | 76, 78-79 |
| Thomas Hale Boggs, Sr. | 81-91 |
| Joe D. Waggoner, Jr. | 92-95 |
| W. Henson Moore III | 96-99 |
| William J. Jefferson | 103, 105- |
| Jim McCrery | 103- |
| Jimmy Hayes | 104 ¹ |

Maine:

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| Peleg Sprague | 19-20 |
| Francis O.J. Smith | 24 |
| George Evans | 26 |
| Israel Washburn, Jr. | 36 |

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|------------------------|--------------|
| James G. Blaine | 44 |
| William P. Frye | 46 |
| Thomas B. Reed | 48-50, 52-53 |
| Nelson Dingley, Jr. | 51, 54-55 |
| Daniel J. McGillicuddy | 64 |

Maryland:

| | |
|---------------------|-----------|
| William Smith | 1 |
| Gabriel Christie | 3 |
| William Vans Murray | 4 |
| William Hindman | 4-5 |
| William Craik | 5 |
| Joseph H. Nicholson | 6-9 |
| Nicholas R. Moore | 8 |
| Roger Nelson | 9 |
| John Montgomery | 10-11 |
| Alexander McKim | 13 |
| Stevenson Archer | 13 |
| Samuel Smith | 14-17 |
| Isaac McKim | 18, 23-25 |
| Henry W. Davis | 34-36 |
| Phillip F. Thomas | 44 |
| David J. Lewis | 72-75 |
| Rogers C.B. Morton | 91-92 |
| Benjamin L. Cardin | 101- |

Massachusetts:

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| Elbridge Gerry | 1 |
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| Fisher Ames | 3 |
| Theodore Sedgwick | 4 |
| Theophilus Bradbury | 4 |
| Harrison Gray Otis | 5-6 |
| Samuel Sewall | 5 |
| Isaac Parker | 5 |
| Bailey Bartlett | 6 |
| Nathan Read | 7 |
| Seth Hastings | 8 |
| Josiah Quincy | 9 |
| Ezekiel Bacon | 11-12 |
| Ebenezer Seaver | 11 |
| Henry Shaw | 16 |
| Henry W. Dwight | 19-21 |
| Benjamin Gorham | 23 |
| Abbott Lawrence | 24, 26 |
| Richard Fletcher | 25 |
| George N. Briggs | 25 |
| Leverett Saltonstall | 26 |
| Robert C. Winthrop | 29 |
| Charles Hudson | 30 |
| George Ashmun | 31 |
| William Appleton | 32-33, 37 |
| Alexander De Witt | 34 |
| Nathaniel P. Banks | 35, 45 |
| Samuel Hooper | 37-41 |

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| Henry L. Dawes | 42-43 |
| Chester W. Chapin | 44 |
| William A. Russell | 47-48 |
| Moses T. Stevens | 52-53 |
| Samuel W. McCall | 56-62 |
| Andrew J. Peters | 62-63 |
| Augustus P. Gardner | 63-65 |
| John J. Mitchell | 63 |
| Allen T. Treadway | 65-78 |
| Peter F. Tague | 67-68 |
| John W. McCormack | 72-76 |
| Arthur D. Healey | 77 |
| Charles L. Gifford | 79-80 |
| Angier L. Goodwin | 80, 82-83 |
| James A. Burke | 87-95 |
| James M. Shannon | 96-98 |
| Brian J. Donnelly | 99-102 |
| Richard E. Neal | 103- |

Michigan:

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|--------------------|-------|
| William A. Howard | 34-36 |
| Austin Blair | 41 |
| Henry Waldron | 43 |
| Omar D. Conger | 46 |
| Jay A. Hubbell | 47 |
| William C. Maybury | 49 |
| Julius C. Burrows | 50-53 |

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|------------------------|-----------|
| Justin R. Whiting | 52-53 |
| William A. Smith | 59 |
| Joseph W. Fordney | 60-67 |
| James C. McLaughlin | 68-72 |
| Roy O. Woodruff | 73-82 |
| John D. Dingell | 74-84 |
| Victor A. Knox | 83, 86-88 |
| Thaddeus M. Machrowicz | 84-87 |
| Martha W. Griffiths | 87-93 |
| Charles E. Chamberlain | 91-93 |
| Richard F. Vander Veen | 93-94 |
| Guy Vander Jagt | 94-102 |
| William M. Brodhead | 95-97 |
| Sander M. Levin | 100- |
| Dave Camp | 103- |

Minnesota:

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| Mark H. Dunnell | 46-47 |
| James A. Tawney | 54-58 |
| James T. McCleary | 59 |
| Winfield S. Hammond | 62-63 |
| Sydney Anderson | 63 |
| Harold Knutson | 73-80 |
| Eugene J. McCarthy | 84-85 |
| Joseph E. Karth | 92-94 |
| Bill Frenzel | 94-101 |
| Jim Ramstad | 104- |

Mississippi:

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| Jacob Thompson | 31 |
| John Sharp Williams | 58-59 |
| James W. Collier | 63-72 |
| Aaron Lane Ford | 77 |

Missouri:

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| James S. Green | 31 |
| John S. Phelps | 32-37 |
| Henry T. Blow | 38 |
| John Hogan | 39 |
| Gustavus A. Finkelburg | 42 |
| John C. Tarsney | 53-54 |
| Seth W. Cobb | 54 |
| Champ Clark | 58-61 |
| Dorsey W. Shackelford | 62-63 |
| Clement C. Dickinson | 63-66, 68-70, 72-73 |
| Charles L. Faust | 69-70 |
| Richard M. Duncan | 74-77 |
| Thomas B. Curtis | 83-90 |
| Frank M. Karsten | 84-90 |
| Richard A. Gephardt | 95-101 |
| Mel Hancock | 103-104 |
| Kenny Hulshof | 105- |

Montana:

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| Lee W. Metcalf | 86 |
| James F. Battin | 89-91 |

Nebraska:

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| William J. Bryan | 52-53 |
| Charles H. Sloan | 63-65 |
| Ashton C. Shallenberger | 73 |
| Carl T. Curtis | 79-83 |
| Hal Daub | 99-100 |
| Peter Hoagland | 103 |
| Jon Christensen | 104-105 |

Nevada:

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| Francis G. Newlands | 56-57 |
| John Ensign | 104-105 |

New Hampshire:

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| Samuel Livermore | 1 |
| Nicholas Gilman | 3-4 |
| Abiel Foster | 5 |
| Nathaniel A. Haven | 11 |
| Henry Hubbard | 23 |
| Charles G. Atherton | 25-27 |
| Moses Norris, Jr. | 28-29 |
| Harry Hibbard | 31-33 |
| Judd A. Gregg | 99-100 |

New Jersey:

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| Lambert Cadwalader | 1 |
| Elias Boudinot | 3 |
| Isaac Smith | 4 |
| Thomas Sinnickson | 5 |

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| James H. Imlay | 6 |
| William Coxe, Jr. | 13 |
| John L. N. Stratton | 37 |
| William Hughes | 62 |
| Isaac Bacharach | 66-74 |
| Donald H. McLean | 76-78 |
| Robert W. Kean | 78-85 |
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New Mexico:

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| Clinton P. Anderson | 79 |
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New York:

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| John Laurance | 1 |
| John Watts | 3 |
| Ezekiel Gilbert | 4 |
| James Cochran | 5 |
| Hezekiah L. Hosmer | 5 |
| Jonas Platt | 6 |
| Killian K. Van Rensselaer | 7 |
| Joshua Sands | 8 |
| Erastus Root | 11 |
| John W. Taylor | 13 |
| Jonathan Fisk | 13 |
| Thomas J. Oakley | 13 |
| James W. Wilkin | 14 |

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| James Tallmadge, Jr. | 15 |
| Albert H. Tracy | 16 |
| Nathaniel Pitcher | 17 |
| Churchill C. Cambreleng | 17-18, 23-25 |
| Dudley Marvin | 19 |
| Gulian C. Verplanck | 20-22 |
| Aaron Vanderpoel | 26 |
| Millard Filmore | 27 |
| Daniel D. Barnard | 28 |
| David L. Seymour | 28 |
| George O. Rathbun | 28 |
| Orville Hungerford | 29 |
| Henry Nicoll | 30 |
| James Brooks | 31-32, 39-40, 42 |
| William Duer | 31 |
| Solomon G. Haven | 33 |
| Russell Sage | 34 |
| John Kelly | 35 |
| William B. MacLay | 35 |
| Elbridge G. Spaulding | 36-37 |
| Erastus Corning | 37 |
| Reuben E. Fenton | 38 |
| De Witt C. Littlejohn | 38 |
| Henry G. Stebbins | 38 |
| John V. L. Pruyn | 38 |
| Roscoe Conkling | 39 |

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| Charles H. Winfield | 39 |
| John A. Griswold | 40 |
| Dennis McCarthy | 41 |
| Ellis H. Roberts | 42-43 |
| Fernando Wood | 43-46 |
| Abram S. Hewitt | 48-49 |
| Frank Hiscock | 48-49 |
| Sereno E. Payne | 51-63 |
| Roswell P. Flower | 51 |
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| George B. McClellan | 55-58 |
| John W. Dwight | 61 |
| Francis B. Harrison | 61-63 |
| Michael F. Conry | 64 |
| George W. Fairchild | 64-65 |
| John F. Carew | 65-71 |
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| Thaddeus C. Sweet | 70 |
| Frederick M. Davenport | 70-71 |
| Thomas H. Cullen | 71-78 |
| Christopher D. Sullivan | 72-76 |
| Daniel A. Reed | 73-86 |
| Walter A. Lynch | 78-81 |
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| Eugene J. Keogh | |
| Albert H. Bosch | 86 |
| Steven B. Derounian | 87-88 |
| Barber B. Conable, Jr. | 90-98 |
| Jacob H. Gilbert | 90-91 |
| Hugh L. Carey | 91-93 |
| Otis G. Pike | 93-95 |
| Charles B. Rangel | 94- |
| Thomas J. Downey | 96-102 |
| Raymond J. McGrath | 99-102 |
| Michael R. McNulty | 103, 104- ² |
| Amo Houghton | 103-108 |

North Carolina:

| | |
|--------------------|-----------|
| William B. Grove | 3 |
| Thomas Blount | 4-5 |
| Robert Williams | 5 |
| David Stone | 6 |
| James Holland | 7 |
| Willis Alston | 10-11, 13 |
| William Gaston | 13-14 |
| Abraham Rencher | 25, 27 |
| Henry W. Conner | 26 |
| James I. McKay | 28-30 |
| Edward Stanly | 32 |
| William M. Robbins | 45 |
| Edward W. Pou | 60-61 |

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| Claude Kitchin | 62-67 |
| Robert L. Doughton | 69-82 |
| James G. Martin | 94-98 |

North Dakota:

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|-------------------|--------|
| Martin N. Johnson | 54-55 |
| George M. Young | 66-68 |
| Byron L. Dorgan | 98-102 |
| Earl Pomeroy | 107- |

Ohio:

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| William Creighton, Jr. | 13 |
| Thomas R. Ross | 16 |
| Thomas Corwin | 23-24 |
| Thomas L. Hamer | 25 |
| Taylor Webster | 25 |
| Samson Mason | 26-27 |
| John B. Weller | 28 |
| Samuel F. Vinton | 29-31 |
| Lewis D. Campbell | 34-35 |
| John Sherman | 36 |
| Valentine B. Horton | 37 |
| George H. Pendleton | 38 |
| James A. Garfield | 39, 44-46 |
| Robert C. Schenck | 40-41 |
| Charles Foster | 43 |
| Milton Saylor | 45 |
| William McKinley, Jr. | 46-47, 49-51 |

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| Frank H. Hurd | 48 |
| Charles H. Grosvenor | 53-59 |
| Nicholas Longworth | 60-62, 64-67 |
| Timothy T. Ansberry | 62-63 |
| Alfred G. Allen | 64 |
| George White | 65 |
| Charles C. Kearns | 68-71 |
| Charles F. West | 73 |
| Thomas A. Jenkins | 73-85 |
| Arthur P. Lamneck | 74-75 |
| Stephen M. Young | 81 |
| Jackson E. Betts | 86-92 |
| Donald D. Clancy | 93-94 |
| Charles A. Vanik | 89-96 |
| Bill Gradison | 95-103 |
| Don J. Pease | 97-102 |
| Rob Portman | 104- |
| Stephanie Tubbs Jones | 108- |

Oklahoma:

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|--------------------|---------|
| Thomas A. Chandler | 67 |
| James V. McClintic | 73 |
| Wesley E. Disney | 74-78 |
| James R. Jones | 94-99 |
| Bill K. Brewster | 103 |
| Wes Watkins | 105-107 |

Oregon:

| | |
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| William R. Ellis | 61 |
| Willis C. Hawley | 65-72 |
| Albert C. Ullman | 87-96 |
| Mike Kopetski | 103 |

Pennsylvania:

| | |
|---------------------|------------|
| Thomas Fitzsimons | 1, 3 |
| Albert Gallatin | 4-6 |
| Henry Woods | 6 |
| John Smilie | 6-7, 10-12 |
| Joseph Clay | 8-9 |
| John Rea | 11 |
| Jonathan Roberts | 12-13 |
| Samuel D. Ingham | 13-14, 18 |
| John Sergeant | 15, 25 |
| John Tod | 17 |
| John Gilmore | 21-22 |
| Horace Binney | 23 |
| Richard Biddle | 26 |
| Joseph R. Ingersoll | 24, 27-29 |
| James Pollock | 30 |
| Moses Hampton | 31 |
| J. Glancy Jones | 32, 35 |
| John Robbins | 33 |
| James H. Campbell | 34 |
| Henry M. Phillips | 35 |
| Thaddeus Stevens | 36-38 |

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| James K. Moorhead | 39-40 |
| William D. Kelley | 41-50 |
| Russell Errett | 47 |
| Samuel J. Randall | 47 |
| William L. Scott | 50 |
| Thomas M. Bayne | 51 |
| John Dalzell | 52-62 |
| A. Mitchell Palmer | 62-63 |
| J. Hampton Moore | 63-66 |
| John J. Casey | 64, 68 |
| Henry W. Watson | 66-73 |
| Harris J. Bixler | 69 |
| Harry A. Estep | 70-72 |
| Thomas C. Cochran | 73 |
| Joshua T. Brooks | 74 |
| Patrick J. Boland | 76-77 |
| Benjamin Jarrett | 76-77 |
| James P. McGranery | 77-78 |
| Herman P. Eberharter | 78-85 |
| Richard M. Simpson | 78-86 |
| William J. Green, Jr. | 86-88 |
| John A. Lafore, Jr. | 86 |
| Walter M. Mumma | 86-87 |
| George M. Rhodes | 88-90 |
| Herman T. Schneebeli | 87-94 |
| William J. Green, III | 90-94 |

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| Raymond F. Lederer | 95-96 |
| Dick Schulze | 95-102 |
| Donald A. Bailey | 97 |
| William J. Coyne | 99-107 |
| Rick Santorum | 103 |
| Philip S. English | 104- |

Rhode Island:

| | |
|-------------------------|-------|
| Benjamin Bourne | 3-4 |
| Francis Malbone | 4 |
| Elisha R. Potter | 4 |
| Christopher G. Champlin | 5 |
| John Brown | 6 |
| Joseph Stanton, Jr. | 8 |
| Daniel L. D. Granger | 59-60 |
| George F. O'Shaunessy | 65 |
| Richard S. Aldrich | 69-72 |
| Aime J. Forand | 78-86 |

South Carolina:

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1. Appointed January 25, 1996.
2. Appointed January 25, 1996.
3. Appointed July 10, 1995.

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