

Chairman Henry J. Hyde 1995–2001

The 104th Congress saw a shift in majority party. Republicans gained control of both Houses of Congress and Henry J. Hyde (R–IL) became the first Republican chair of the Judiciary Committee in 40 years. During the Hyde chairmanship (1995–2001), the Judiciary Committee established a record of accomplishment with legislation to combat crime, fight terrorism, establish national standards for seizure of private property, thwart church arson, reauthorize the Voting Rights Act of 1965, protect copyrights and patents, ban assault weapons, and impeach President William Jefferson Clinton.

Contract with America

On September 27, 1994, on the steps of the Capitol, more than 300 incumbent Republican Members and Republican challengers signed the *Contract With America* and pledged, if elected, to set reforms in place during the first 100 days of the 104th Congress. Republicans gained 52 seats in the midterm election and gained control of the majority. As promised, when Congress convened in January 1995, the House immediately began work on an ambitious agenda that included a balanced budget amendment, anti-crime legislation, welfare and legal reform, tax relief, national security improvements, and term limits and congressional accountability legislation.

On election day 1994, there were 177 Republican-held seats and one vacancy in a Republican-held seat, or 178 Republican-held seats total. On election day, 230 Republicans were elected, a net gain of 52 Republican-held seats.

On January 4, 1995, ten Contract initiatives were introduced in the House. Priorities for the Judiciary Committee were two constitutional amendments—the balanced budget amendment, and an amendment to limit the terms of Members of Congress; Taking Back Our Streets Act of 1995, an anti-crime package that included stronger truth-in-sentencing, “good faith” exclusionary rule exemptions, death penalty provisions, funding prison construction and additional law enforcement; and the Common Sense Legal Standards Reform Act of 1995, which would change federal tort laws to require that expert trial witnesses use “scientifically valid reasoning,” to uniformly apply product liability laws, and to expand opportunities for alternative dispute resolution.

The Judiciary Committee worked swiftly and decisively during January and February of 1995 to complete its work, and, on January 11, 1995, for the first time marked up and reported a Balanced Budget Amendment.¹ On January 27, the Committee reported the Exclusionary Rule Reform Act, which included the provisions of the Taking Back Our Streets Act.²

On February 23, 1995 the Committee reported the Common Sense Legal Standards Reform Act of 1995,³ and then, on February 28, the Committee reported a constitutional

amendment establishing term limits for Representatives and Senators. Since a number of Members of the Judiciary Committee opposed term limits for Members of Congress, the Committee reported the amendment without recommendation, allowing the House as a whole to debate and decide its fate.⁴

The Contract with America pledge was fulfilled. All ten items were acted on by the House in the first 100 days, and the House passed nine of them. Two items were enacted into law, the Congressional Accountability Act of 1995, which required Congress and Legislative Branch entities to follow many of the same employment and workplace safety laws applied to private business and the rest of the Federal Government,⁵ and the Unfunded Mandates Reform Act of 1995, which restricted Congress from imposing mandates on states and localities without adequate funding.⁶

Constitutional Amendments

While the House passed a balanced budget constitutional amendment⁷ in the 104th Congress—a Contract with America initiative—the Senate was unable to obtain the votes of the constitutionally required two-thirds of Senators to pass the amendment. If there had been a two-thirds vote in each chamber on the same constitutional amendment, then the proposed amendment would have been submitted to the states for ratification, a process requiring concurrence by three-fourths of the states.

Both the House and Senate failed in the 104th Congress to obtain the constitutionally required two-thirds vote to submit to the states a constitutional amendment imposing term limits on service in Congress.⁸ The House failed to muster the two-thirds vote; the Senate failed to cut off debate on the proposed constitutional amendment.

In the 105th Congress, another attempt was made to pass a constitutional amendment imposing term limits. The House Judiciary Committee reported a measure, and it was debated on the floor. A number of amendments were in order, but none of them was agreed to. The vote on passing the amendment fell 69 votes of the constitutionally required two-thirds.⁹

Congress also considered proposed constitutional amendments to protect the U.S. flag from desecration. In the 104th Congress, the House Judiciary Committee reported a constitutional amendment allowing Congress to make laws prohibiting flag desecration.¹⁰ The amendment passed the House by more than the constitutionally required two-thirds vote. The Senate also voted on the amendment, but the vote was three votes short of the constitutionally required two-thirds.

Again in the 105th Congress, the House Judiciary Committee reported a constitutional amendment allowing Congress to make laws prohibiting flag desecration, which passed the House by more than the constitutionally required two-thirds vote.¹¹ The Senate did not vote on the amendment.

A third attempt to pass a constitutional amendment allowing Congress to make laws prohibiting flag desecration was made in the 106th Congress. The House Judiciary Committee reported a constitutional amendment that passed the House by more than the

constitutionally required two-thirds vote.¹² A related Senate measure failed to obtain the constitutionally required two-thirds vote by four votes.

In the 105th Congress, the House also attempted to amend the Constitution to allow expression of religious beliefs on public property through prayer and other actions, such as nativity scenes. The Judiciary Committee reported the constitutional amendment, but it fell well short of the constitutionally required two-thirds vote when it was considered in the House.¹³

In addition, the House voted twice in the 105th Congress on a proposed constitutional amendment to require a two-thirds vote in each House for any measure that would increase taxes by more than a de minimis amount. Both measures failed to obtain the constitutionally required two-thirds vote.¹⁴ The House voted twice again in the 106th Congress on similar constitutional amendments, and again failed to obtain the constitutionally required two-thirds vote.¹⁵

Crime

Through all three terms of the Hyde chairmanship, the House Judiciary Committee made combating crime a priority. The Committee's work touched many provisions of the federal criminal code, and added new federal crimes and stiffer penalties to the code. Some, but not all, of the bills and laws considered by the Judiciary Committee are discussed here.

A major accomplishment of the House Judiciary Committee was passage in the 106th Congress of the Victims of Trafficking and Violence Protection Act of 2000. The anti-crime bill was a consolidation of five different measures. It reauthorized the Violence Against Women Act, which included funding for grants to combat domestic violence, including shelters for battered women and children; date rape; and stalking, and to coordinate police and prosecutors in suppressing domestic violence. The measure authorized programs to combat sex trafficking and assist sex trafficking victims; allowed states to counter Internet sales of liquor and enforce their liquor laws by seeking federal injunctions; and gave enlarged authority to the President to aid victims of terrorism in collecting court judgments against government sponsors of terror. The measure also threatened states with reduction in anti-crime grants if a state failed to impose and carry out tough sentences against violent sex offenders.¹⁶

Congress expanded the federal anti-stalking law to include stalking of an individual across a state line and to include unrelated individuals. Existing law applied against spouses or former spouses. The measure, reported by the House Judiciary Committee, was passed by the House and the Senate but became law as a provision of the Fiscal 1997 Department of Defense Authorization Act.¹⁷ Congress also clarified provisions of the 1994 anti-crime law by passing a measure reported from the House Judiciary Committee to require more onerous penalties for carjackers who committed sexual assault in the course of their crime.¹⁸

Congress toughened anti-drug laws in the 104th Congress by passing a bill signed into law that increased penalties for giving a controlled substance to a person without that person's knowledge and for the purpose of committing a violent crime. A principal goal of

this legislation, considered in the House Judiciary Committee, was to ensure stiff penalties for use of the so-called date-rape pill.¹⁹

In the 106th Congress, wide-ranging legislation intended to toughen penalties for producing and selling methamphetamine and related drugs was reported from the House Judiciary Committee. The measure also authorized additional funds for law enforcement and drug prevention and treatment programs. The measure was subsequently included in a children's health bill, which was passed by both houses and became law.²⁰

Another accomplishment of the 106th Congress was passage of the Presidential Threat Protection Act of 2000, which amended the federal criminal code to expand the scope of provisions regarding threats to kill or harm former Presidents and certain other persons protected by the United States Secret Service to include a member of the immediate family of a major candidate for President or Vice President, certain distinguished foreign visitors to the United States, and official U.S. representatives performing special missions abroad when the President directs that such protection be provided.²¹

The House Judiciary Committee in the 106th Congress also considered, and the House and Senate passed, a reauthorization of juvenile justice programs and amendments of authorities related to the trying of youthful criminals in state or federal court and as a juvenile or an adult.²² However, conferees were unable to agree on a compromise measure since they were unable to agree on a Senate amendment to the juvenile justice bill dealing with gun control. The House had rejected a separate, related gun control bill,²³ but had passed a separate bill to provide incentives to states to provide stronger enforcement of sentences for crimes committed with guns.²⁴

The 105th Congress passed legislation to make it a federal crime to transfer or use another person's identification with the intent to commit a federal crime or a state felony crime, so-called identity theft. Property used in the commission of identity theft under the new law could also be seized by the federal government.²⁵

In the 106th Congress, the House Judiciary Committee reported legislation to amend the Federal criminal code to prohibit entry by false pretenses to a U.S. facility, vessel, or aircraft, or any secure area of an airport, and to transfer a genuine or counterfeit police badge.²⁶

The 105th Congress also passed the Telemarketing Fraud Prevention Act to mandate prison terms for telemarketing fraud and to forfeit to the Federal government property used in or derived from the fraud.²⁷

The House Judiciary Committee reported legislation in the 105th Congress that became law to allow individuals who might testify during the penalty phase of a trial to attend the portion of the trial devoted to determination of the accused's guilt or innocence. The measure was intended to overturn a ruling by the federal judge in the Oklahoma City bombing case that barred such persons from viewing a trial.²⁸

The House Judiciary Committee reported a bill in the 104th Congress that became law to allow judges to impose stiffer penalties on individuals who tampered with juries or witnesses or harassed them.²⁹ The measure was aimed at the rise in intimidation of juries and witnesses by gang members. In the 105th Congress, the House Judiciary

Committee reported a measure that passed the House to make it a federal crime to cross a state line to intimidate a witness, again seeking to assist in the prosecution of gang-related criminal cases.³⁰

Congress also cleared legislation signed by the President in the 104th Congress to overturn a Supreme Court decision that had narrowed a 1934 law. Until the 1995 decision, existing law had been interpreted as making it a federal crime to lie to the legislative, executive, or judicial branch of the federal government. The Court's decision restricted the statute's operation to lying to the executive branch.³¹ The new law clarified application to all three branches of government, including official statements such as financial disclosure statements, but with certain exceptions related to court statements and legislative advocacy.³²

A measure creating two new crimes related to willful failure to make child-support payments were considered by the House Judiciary Committee in the 105th Congress and became law. The new law made it a crime to owe more than \$10,000 in child support to children in another state and to cross state lines to avoid making child-support payments.³³

Two measures passed in the 104th Congress were aimed at protecting people, especially children, from convicted sex offenders. Megan's Law, reported from the House Judiciary Committee, required law enforcement entities to provide information about the release and location of sex offenders who were required to register pursuant to the 1994 anti-crime law. States were allowed to establish their own notification systems.³⁴ President Clinton through administrative action and Congress through legislation required the Federal Bureau of Investigation (FBI) to create a national database for tracking sex offenders registered on state lists. The new law required sex offenders to periodically verify their addresses and identities.³⁵

In the 105th Congress, Congress passed legislation signed by the President to provide additional protection in federal law to children. The Protection of Children from Sexual Predators Act of 1998 contained nine titles that, among their provisions, eased requirements in the federal criminal code for establishing a crime of soliciting a juvenile to engage in sexual activity, strengthened laws on the production and distribution of child pornography, and allowed pretrial detention of persons accused of committing certain federal sex offenses.³⁶

In the 104th Congress, the House Judiciary Committee also reported legislation that ultimately became law to increase the length of prison sentences for those convicted of sexually exploiting children.³⁷ The measure was a provision of the *Contract with America*.

A measure reported by the House Judiciary Committee in the 104th Congress that became law allowed U.S. authorities increased opportunities to prosecute war crimes against, or by, U.S. nationals and military personnel. The new law provided punishment by fines, imprisonment, and, if a victim had died, the death penalty.³⁸ The new law was a further U.S. implementation of the Geneva Conventions of 1949, made necessary by changing circumstances over a half century.

In the 105th Congress, the House Judiciary Committee reported a bill that passed the House to provide the federal government with added authority to prosecute war criminals by expanding the definition of crimes covered in the law signed in the 104th Congress. The provisions of the House-passed bill were subsequently included in another measure, which became law.³⁹

The House Judiciary Committee took the lead in the 104th Congress in reporting legislation to reject two recommendations of the U.S. Sentencing Commission related to sentencing guidelines that reduced sentences for persons convicted of money laundering of more than \$100,000 and applied the five-year minimum sentence for crack-cocaine only for possession of 500 or more grams, rather than five or more grams. The measure, which President Clinton signed into law, left existing guidelines in place.⁴⁰ The House Judiciary Committee also reported a bill to direct the U.S. Sentencing Commission to establish penalties for methamphetamine possession and trafficking equivalent to those for crack-cocaine, but Congress ultimately passed a Senate bill to direct the commission to establish appropriate penalties.⁴¹

Later in the 104th Congress, the Judiciary Committee reported a bill that the House passed to direct the U.S. Sentencing Commission to increase penalties for crimes committed against children under 14, against persons older than 65, and against persons made vulnerable by physical or mental conditions.⁴² The bill was referred to Committee in the Senate. The House Judiciary Committee also reported a bill to disallow the Bureau of Prisons from reducing the sentences of prisoners in certain circumstances, but the measure was not considered on the House floor.⁴³

In the 105th Congress, the House passed a bill reported by the Judiciary Committee to establish mandatory minimum sentences for possession of a firearm in the commission of a crime, but it was not acted on in the Senate. The bill responded to a 1995 Supreme Court decision that had narrowed the effect of a 1988 law requiring mandatory minimum sentences when firearms were used in commission of a crime. The Court ruled that use rather than possession was required under the law.⁴⁴ The bill established an escalating series of mandatory minimum sentences based on whether the crime was a first offense and what had been done with the firearm in the commission of the crime.⁴⁵

In the 106th Congress, the House and Senate passed a bill reported by the House Judiciary Committee, the DNA Analysis Backlog Elimination Act of 2000, to authorize the Attorney General to make grants to eligible States DNA analyses of samples from certain convicted persons and crime scenes to carry out for inclusion in the Combined DNA Index System (CODIS) of the FBI and to increase the capacity of laboratories owned by the states or local governments to carry out DNA analyses of crime scene samples.⁴⁶

In response to fires that had damaged or destroyed more than 30 Southern churches with largely African American congregations, the 104th Congress passed legislation, reported by the House Judiciary Committee, that allowed the Federal government to investigate and prosecute crimes against religious property waged for racial or ethnic as well

as religious reasons. Among its provisions, the new law allowed compensation under the Victims of Crime Act, increased penalties, and reauthorized the Hate Crimes Statistics Act.⁴⁷

In the 106th Congress, the House and Senate passed a bill authorized the Attorney General to make grants to public agencies or nonprofit private organizations for programs to assist law enforcement and families in locating missing adults.⁴⁸

The 106th Congress also passed the Military and Extraterritorial Jurisdiction Act of 1999, which amended the Uniform Code of Military Justice to make subject to its provisions civilian employees of the Department of Defense and civilian employees of DOD contractors who are accompanying an armed force outside the United States.⁴⁹

Congress in the 104th Congress passed a bill reported by the House Judiciary Committee to transfer responsibility to the Justice Department from the Transportation Department for establishing a database to allow state motor vehicle departments to quickly check whether a vehicle had been stolen before issuing a title. The measure set a deadline of October 1, 1997.⁵⁰

The 104th Congress increased potential punishment for the growing crime of counterfeiting consumer goods by making counterfeiting subject to prosecution under the Racketeer Influenced and Corrupt Organizations Act (RICO). Among its provisions, the new law also allowed Customs agents to seize such goods and allowed law enforcement agencies to seize vehicles and other means of transport used in counterfeit goods trafficking.⁵¹ The 104th Congress also made it a federal crime to steal trade secrets for a domestic or foreign entity, but providing more onerous penalties for stealing for a foreign recipient. An unrelated provision of the measure provided prison terms for computer hackers.⁵²

The House in the 104th Congress also voted to repeal the ban on semiautomatic assault weapons. The measure also increased mandatory minimum sentences for individuals convicted of using a firearm in the commission of certain crimes.⁵³

The 105th Congress passed legislation to require HIV testing of certain federal prisoners for the purpose of protecting corrections officers' health.⁵⁴

Counterterrorism

On April 19, 1995, the Alfred P. Murrah Federal Building in Oklahoma City was blown up, and 168 people died in the blast. This bombing and the bombing of the World Trade Center in New York on February 26, 1993, were the impetus for enactment of the Antiterrorism and Effective Death Penalty Act, which strengthened counter-terrorism laws and addressed longstanding issues related to the death penalty.

This law included provisions to deny visas to aliens belonging to groups designated as terrorist, to exclude aliens arriving in the United States without proper documentation, to create a special court to deport aliens suspected of terrorism, and to expedite the deportation process for aliens convicted of crimes, among its provisions related to counter-terrorism. The new law also limited the opportunities of federal and state prisoners to use habeas corpus petitions to raise constitutional challenges in federal courts to their convictions, and it included the Mandatory Victims Restitution Act, which

required the awarding of restitution to victims from defendants convicted of certain serious federal crimes.⁵⁵

Civil Asset Forfeiture Reform

Federal forfeiture law dates back to the First Congress, which authorized civil forfeiture of vessels and cargoes for violations of U.S. customs laws. In the 1970s and 1980s, Congress enacted statutes that expanded the federal government's forfeiture authority through anti-crime statutes such as the Racketeer Influence and Corrupt Organizations Act (RICO).

In an effort to protect innocent victims of property seizure, Chairman Hyde and the Judiciary Committee were instrumental in establishing new standards for seizure of private property suspected of being used in the commission of a crime. The standards required that the federal government prove by a preponderance of the evidence that the property was used in the commission of a crime; allowed for the release of property pending final disposition of a case; provided for the appointment of counsel for indigents; eliminated the cost bond requirement; protected innocent property owners (those not connected to a crime); permitted a remedy for property damage; and established a time frame for challenging a forfeiture.⁵⁶

The House Judiciary Committee had reported a related bill in the 105th Congress. The bill had been referred in addition to the Commerce and Ways and Means Committees, where it languished until the last few days of the Congress. The measure was not considered on the House floor.⁵⁷

Abortion

A bill reported from the House Judiciary Committee in the 104th Congress made late-term abortions called "partial-birth" abortions a federal crime, with an exception if the procedure was necessary to save the mother's life.⁵⁸ A doctor performing such an abortion could be punished by imprisonment and fines, and could have been subject to civil suit by the prospective father and others. Different versions of the bill were passed by the House and Senate, reconciled in conference, and cleared for the President's consideration. President Clinton vetoed the measure, asserting the late-term procedure was sometimes necessary to protect a woman's health. The House voted to override the President's veto, but the override attempt fell nine votes short in the Senate of the constitutionally required two-thirds vote of Senators.

In the 105th Congress, the House and Senate passed a nearly identical bill and again sent it to President Clinton.⁵⁹ The President again vetoed the bill, and the House overrode the veto. Although there were additional votes in the Senate on passage of the measure, the Senate failed to override the President's veto by three votes. In the 106th Congress, the House and Senate passed bills similar to the ones passed by earlier Congresses.⁶⁰ However, after the Supreme Court struck down as unconstitutional a Nebraska late-term abortion law that did not include language providing a health exception, no further action was taken in the 106th Congress.⁶¹

Also in the 105th Congress, the House Judiciary Committee reported a bill to make it a federal crime, punishable to imprisonment and fines, to take a minor across state lines to avoid the girl's home-state parental consent or notification laws.⁶² While the House passed the bill, the Senate failed to invoke cloture on a related measure, and the bills died with Congress's adjournment. Another bill, which would have recognized a fetus as a distinct person, made it a federal crime to harm a fetus in commission of specified federal and military offenses.⁶³ While the measure passed the House, the Senate Judiciary Committee did not consider it.

Attorneys' Fees

Passed as a rider to the FY 1998 omnibus appropriations bill,⁶⁴ this law permits a judge to award reimbursement of legal fees to a defendant who has been wrongly prosecuted in a criminal or civil case brought by the U.S. Government and where the proceeding has been found to be vexatious, frivolous or in bad faith." Reimbursement fees are paid from the Department of Justice asset seizure fund.

Intellectual Property

The explosion of the Internet and the increase in electronic commerce dramatically changed the way that information is disseminated. It was important for Congress to ensure that public policy would balance the public's desire to access digital information in all of its forms without compromising the property rights of content owners. Some of the more significant copyright bills and laws are discussed here, but additional copyright legislation was reported from the House Judiciary Committee that became law.

The Committee's seminal achievement in copyright policy during the Hyde chairmanship was passage in the 105th Congress of the Digital Millennium Copyright Act (DMCA),⁶⁵ which implemented two treaties to provide copyright protection for digital works. The DMCA made it unlawful to defeat technological measures used by copyright owners to protect their works, while allowing U.S. residents to have "fair use" of copyrighted digital works.

Also in the 105th Congress, Congress passed the No Electronic Theft (NET) Act.⁶⁶ The legislation effectively reversed a federal court decision, *U.S. v. LaMacchia*,⁶⁷ in which a criminal case was dismissed against a "digital Robin Hood" who was alleged to facilitate the theft of copyrighted computer games on a cyberspace bulletin board. Under the NET Act, individuals may now be criminally liable for copyright infringement, including by electronic means.

Under Chairman Hyde's stewardship, the House Judiciary Committee in the 104th Congress reported legislation that became law to grant limited copyright protection to performers on sound recordings that were transmitted digitally.⁶⁸ The Committee in the 105th Congress also reported the Sonny Bono Copyright Term Extension Act,⁶⁹ which exempted many restaurants and taverns from paying performance royalties for playing audio transmissions.

In the 106th Congress, legislation reported by the House Judiciary Committee to increase statutory damages in copyright infringement cases ultimately became law. The new law also directed the U.S. Sentencing Commission to issue emergency sentencing guidelines to implement the No Electronic Theft (NET) Act.⁷⁰

An additional copyright-related achievement of the Committee was passage of the Satellite Home Viewer Improvement Act, which allowed satellite television providers to carry the same local broadcast stations as cable television providers, and prescribed the payment terms and other rules governing cable and satellite rebroadcasts of copyrighted programming.⁷¹

Patent and Trademark

The American Inventors Protection Act (AIPA), enacted into law in the 106th Congress, changed the patent term to 20 years from date of filing from 17 years from date of issuance; required publication of most applications after 18 months; created a new inter partes reexamination procedure to review patentability issues within the Patent and Trademark Office (PTO); and provided PTO with greater operational flexibility and independence.⁷²

The Judiciary Committee also reported and Congress enacted the Federal Trademark Dilution Act in 1995. At the time, protection from “diluting” famous marks by unrelated uses was spotty and confined to a patchwork of state laws. The dilution protection statute was premised on the necessity of preventing uses that over time diminish the uniqueness of famous marks.⁷³ In 1999, the Judiciary Committee reported, and the Congress enacted the Anticybersquatting Consumer Protection Act (ACPA),⁷⁴ which addressed the practice of cybersquatting as the “unauthorized use and registration of trademarks as Internet domain names and other identifiers of online locations.” Provisions of this law protect against consumer fraud and public confusion resulting from counterfeit trademarking on the Internet.

In the 104th Congress, the House and Senate passed legislation signed into law to make patentable special processes used by biotechnology firms.⁷⁵

Other Electronic Commerce and Communications Issues

In the 105th Congress, the House Judiciary Committee reported several versions of the Internet Tax Freedom Act, and one measure passed the House. The measure barred new state and local taxes on Internet access and electronic commerce. Related provisions were ultimately included in an omnibus appropriations bill.⁷⁶ An effort in the 106th Congress to amend and extend the moratorium beyond the October 2001 expiration date was unsuccessful.⁷⁷

Also in the 106th Congress, the House Judiciary Committee reported the Mobile Telecommunications Sourcing Act to provide a uniform method for determining how state and local jurisdictions may tax wireless telecommunications. The measure became law.⁷⁸

The 105th Congress passed legislation making it a federal crime to use computer hardware or software to capture electronic serial numbers of telecommunications devices, such as cell phones, in order to gain access to telecommunications services. The measure also allowed the federal government to seize computer equipment used to commit such crimes.⁷⁹

The House Judiciary Committee in the 105th Congress considered the issue of the Year 2000 computer century-designation problem, but a Senate measure became the vehicle for congressional action. The Senate bill encouraged corporations to release their Year 2000 readiness disclosure statements by disallowing such statements from being used in any civil actions.⁸⁰ In the 106th Congress, the House and Senate passed legislation signed into law to structure lawsuits and limit damages resulting from losses resulting from Year 2000 failures.⁸¹

The 106th Congress passed legislation to make electronic signatures legally valid. The measure also overrode state laws to the contrary.⁸²

In the 106th Congress, the House Judiciary Committee and other House and Senate Committees reported legislation that put pressure on the Clinton Administration to change its policy on restricting exports of certain technology to encrypt communications. The reported legislation would have removed many controls on export of such technology.⁸³ The Administration changed policy to restrict exports to just seven countries.

Bankruptcy

The House Judiciary Committee considered a number of important legislative initiatives involving various aspects of bankruptcy law and practice during the Hyde chairmanship. These initiatives ranged from correcting technical errors in current law to effectuating a comprehensive overhaul of bankruptcy law and practice.

Among the substantive bankruptcy matters considered by the Committee was an issue pertaining to the protection of religious tithing and charitable donations from undue interference. In response to this concern, the Committee considered the Religious Liberty and Charitable Donation Protection Act of 1997. This bill was intended to protect certain charitable contributions made by debtors to qualified religious or charitable entities from being set aside as fraudulent transfers or otherwise undone. Ultimately, the House passed a Senate version of this bill, which was signed into law.⁸⁴

Partly in response to these rapidly increasing number of bankruptcy filings occurring in an expanding economy, the Judiciary Committee held hearings on, marked up, and reported the Bankruptcy Reform Act of 1998.⁸⁵ This measure incorporated many of the consumer bankruptcy reform provisions of the Responsible Borrower Protection Bankruptcy Act, which had been introduced earlier.⁸⁶

The Bankruptcy Reform Act of 1998 contained a comprehensive package of reforms pertaining to consumer and business bankruptcy law and practice, and included provisions regarding the treatment of tax claims and enhanced data collection. It also established a separate chapter under the bankruptcy code devoted to the special issues and concerns presented by international insolvencies. Its consumer bankruptcy reforms were implemented through a self-evaluating income/expense screening mechanism, the establishment of new eligibility standards for bankruptcy relief, the imposition of additional financial disclosure requirements for consumer debtors, and augmented responsibilities for those charged with administering consumer bankruptcy cases.

With regard to business bankruptcy reform, the Bankruptcy Reform Act addressed the special problems that small business cases present by instituting a variety of time frames and enforcement mechanisms to identify and weed out small business debtors that were not likely to reorganize. It also required more active monitoring of these cases by the United States Trustee Program and the bankruptcy courts. In addition, it included provisions dealing with business bankruptcy cases in general and Chapter 12 (family farmer bankruptcies).⁸⁷

In addition, in recognition of the increase in bankruptcy case filings and the attendant need for additional bankruptcy judges, the Committee incorporated into the Bankruptcy Reform Act the Bankruptcy Judgeship Act of 1997, which authorized the creation of seven permanent and 11 temporary bankruptcy judgeships in 14 federal judicial districts. It also extended an existing temporary judgeship.⁸⁸ The legislation reflected congressional policy favoring the creation of temporary as opposed to permanent judgeships in order to limit future costs wherever possible and appropriate. The House had passed the Bankruptcy Judgeship Act earlier as a freestanding bill.

The House passed the Bankruptcy Reform Act of 1998, amended. Two principal changes to the bill were amendments according first priority to the payment of domestic support obligations and replacing the bill's \$100,000 homestead exemption cap.

While a conference report was filed in the House and Senate and agreed to by the House, the Senate failed to complete its consideration of the conference report before adjournment.

Congress tried again in the 106th Congress to pass a comprehensive bankruptcy reform bill and succeeded. However, President Clinton pocket vetoed the measure after Congress's adjournment. The measure would have forced more bankruptcy filings to be made under Chapter 13, where repayment of debt is required, rather than under the more favorable terms of Chapter 7, which allows for the cancellation of debt.⁸⁹ The President objected to the homestead exemption cap of \$100,000 as too lenient and to the failure of the bill to include a provision preventing "violent" anti-abortion protesters from seeking bankruptcy protection to avoid fines and other costs.

Immigration

The House Judiciary Committee during the Hyde chairmanship reported numerous pieces of legislation that became law and that addressed specific issues that arose under the immigration and naturalization laws. Bills and laws dealing with broader immigration and naturalization issues appear here.

In the 104th Congress, the House Judiciary Committee reported wide-ranging legislation to address legal and illegal immigration issues, which ultimately was reduced to a narrower set of provisions and included in an omnibus appropriations bill. As enacted, the new law authorized added border guards and Immigration and Naturalization Service (INS) agents, increased penalties for document fraud and smuggling of illegal aliens into the United States, streamlined deportation proceedings, authorized additional portions of a fence along the California-Mexico border, and contained other provisions.⁹⁰

A bill reported by the House Judiciary Committee in the 105th Congress became the basis for a compromise with the Senate to temporarily increase the number of H–1B visas to be issued and thereby allow highly skilled foreign workers to come to the United States. The compromise also contained layoff protections for American workers. The compromise was included in an omnibus spending bill.⁹¹

The number of H–1B visas was scheduled to begin to decline in Fiscal Year 2001, and high-tech businesses in particular clamored for another increase. While the House Judiciary Committee reported a measure, a compromise bill passed the Senate, which the House subsequently passed.⁹² A separate bill considered in the House Judiciary Committee was also passed by the House and Senate to increase the per-visa fee to \$1,000 from \$500.⁹³

The 105th Congress passed legislation to direct the attorney general to establish a program in local prisons to identify criminal aliens and aliens unlawfully present in the United States, prior to arraignment.⁹⁴

The 105th Congress also passed the International Religious Freedom Act to reduce the persecution of religious groups in foreign nations. The immigration provisions of the measure were within the jurisdiction of the House Judiciary Committee. The Committee amended these provisions to improve the processing of refugee and asylum claims based on religious persecution, and to deny admission to aliens who have carried out or directed religious persecution.⁹⁵

The House Judiciary Committee in the 106th Congress reported legislation that became law to make permanent the visa waiver program to allow citizens of certain countries to enter the United States without U.S.-issued nonimmigrant visas.⁹⁶ The program was established in the 1986 immigration reform act and had been temporarily extended on several occasions since then.

The 106th Congress passed a bill reported by the House Judiciary Committee to provide special naturalization procedures for Hmong veterans who fought in support of U.S. forces in Indochina.⁹⁷ The 106th Congress also passed legislation to establish a four-year nonimmigrant (H–1C visa) classification for nonimmigrant registered nurses in health professional shortage areas.⁹⁸

Civil Rights

In the 104th Congress, as part of an effort under the *Contract with America* to circumscribe federal regulatory action and bolster property owners' rights, the House passed several reform bills and packaged them together to send to the Senate.⁹⁹ A bill reported by the House Judiciary Committee and included in this reform package required compensation to a property owner when a federal action reduced a property's fair market value by at least ten percent or when the property was occupied by the federal government.¹⁰⁰ Under existing law, a so-called regulatory taking was compensated only when most or nearly all of the value of a property was lost. The bill was amended on the House floor to narrow the scope of its compensation requirements. A related property-rights bill in the Senate was not considered on the Senate floor.

In the 105th Congress, the House Judiciary Committee reported another property-rights bill, but with a different thrust. Among its provisions, the measure provided a faster route to federal court for a property owner challenging a local zoning decision as a taking requiring compensation under the Fifth Amendment.¹⁰¹ The measure passed the House, but was not considered on the Senate floor.

The House Judiciary Committee reported legislation in the 104th Congress that became law, the Defense of Marriage Act. Among its provisions, the new law allowed states not to recognize same-sex marriages recognized in any other state. It also defined for federal law that a marriage is a “legal union between one man and one woman as husband and wife.”¹⁰²

The House Judiciary Committee in the 104th Congress reported legislation to eliminate certain bilingual voting requirements in the Voting Rights Act of 1965.¹⁰³ The provisions of the bill were subsequently included in a bill to declare English as the official language of the federal government, which passed the House but was not considered on the Senate floor.¹⁰⁴

In the 106th Congress, the House Judiciary Committee acted to protect religious entities in zoning and land-use disputes with state and local governments and to give prisoners and others confined to state-run institutions rights to practice their religion. The bill passed the House, and a related Senate bill ultimately passed the Senate and the House.¹⁰⁵ The new law was part of an ongoing dialogue between Congress and the Supreme Court to overcome Supreme Court decisions that had narrowed religious liberties, including the Court’s invalidation of the Religious Freedom Restoration Act.¹⁰⁶

Gambling

The 104th Congress passed legislation to create a commission to study the social and economic impacts of legalized gambling on governments, communities, and families. The commission’s purpose was to give policymakers the information they need for considering whether or not to allow gaming.¹⁰⁷ Passage of the legislation was spurred by the growth of gaming between 1976, when only two states had legalized gambling, and 1996, when 48 states had some form of legalized gambling.

In the 106th Congress, the House Judiciary Committee reported a bill to make it a federal crime to engage in Internet gambling, but the measure failed on the House floor when it was brought up under the suspension of the rules procedure.¹⁰⁸

Antitrust

The exemption from antitrust laws that existed for Major League Baseball since a 1922 Supreme Court decision was ended with legislation passed by the 105th Congress. The issue had been considered in the House Judiciary Committee, but a Senate bill served as the vehicle for congressional action. The measure as passed did not cover minor league teams.¹⁰⁹

Administration of Justice

A 19-year effort to pass product liability reform legislation culminated unsuccessfully in the 104th Congress. Action began with related bills reported by the House Judiciary and

Commerce Committees. In common, the bills generally prohibited claims where an injury resulted from a product more than 15 years old, limited so-called punitive damages, required joint liability for economic damages, and disallowed claims if the injured individual's contributory negligence was found by a court to exceed 50 percent responsibility. The bill as passed covered these matters, among others, with changes resulting from a House-Senate conference.¹¹⁰ President Clinton had announced his opposition to the House and Senate measures during the legislative process, and he vetoed the bill sent to him, saying it would prevent too many consumers from satisfaction for product injuries.

In the 106th Congress, the House Judiciary Committee reported a measure to redesign class-action litigation that passed the House. The measure gave jurisdiction to federal courts in class actions where there were more than 100 plaintiffs, relief of more than \$1 million was sought, and at least one plaintiff was from a different state from the defendant's state.¹¹¹ The Senate Judiciary Committee reported a related bill, which was not considered on the Senate floor.

The 105th Congress passed legislation to shield non-profit organizations' volunteers from personal civil liability so long as there was no negligence or malicious or criminal conduct. The legislation limited non-economic penalties that could be levied against volunteers.¹¹²

The 105th Congress also passed the Biomaterials Access Assurance Act of 1998 to protect the suppliers of raw materials and component parts for medical implants and devices from much of the costs of discovery and defense in lawsuits where those suppliers would not be held liable. The measure essentially codified for biomaterials suppliers the "bulk supplier and learned intermediary" doctrines from the common law of torts. These doctrines generally provide that manufacturers – not suppliers of raw materials and component parts – are responsible for ensuring that products are safe.

The 105th Congress also passed the Ricky Ray Hemophilia Relief Fund Act to provide compassionate payments to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus (HIV) due to the contaminated blood product anti-hemophilic factor (AHF). The new law established a \$750 million Ricky Ray Hemophilia Relief Fund to fund the payments. Each eligible individual would receive a \$100,000 payment.¹¹³

Another new law of the 105th Congress replaced federal judicial code arbitration with alternative dispute resolution (ADR) provisions. Among its provisions, the new law directed each U.S. district court to authorize the use of ADR processes in all civil actions, devise and implement its own ADR program to encourage and promote the use of ADR in its district, and retain or designate an employee who is knowledgeable in ADR practices and processes to administer the court's ADR program.¹¹⁴

Investigations

A major investigation undertaken in the House Judiciary Committee during the Hyde chairmanship occurred in the 104th Congress. With a subcommittee of the Government Reform and Oversight Committee, the Judiciary Committee's Subcommittee on Crime held

joint hearings on the Bureau of Alcohol, Tobacco, and Firearms's 51-day siege of the Branch Davidian compound near Waco, Texas.

Impeachment of President William Jefferson Clinton

The Judiciary Committee plays a critical role in carrying out the extraordinary constitutional responsibilities borne by the House of Representatives in the impeachment process.¹¹⁵

Impeachment, a power reserved exclusively to the legislative branch by the Constitution, and described by lord Bryce as the “heaviest piece of artillery in the Congressional arsenal,”¹¹⁶ offers Congress a powerful tool to investigate and respond to alleged federal executive and judicial misconduct or malfeasance.¹¹⁷ The Judiciary Committee plays a critical role in carrying out the extraordinary constitutional responsibilities borne by the House of Representatives in the impeachment process.

The impeachment proceedings with respect to President William Jefferson Clinton began in the 105th Congress and concluded in the 106th Congress. On November 5, 1997, Representative Bob Barr introduced the first impeachment resolution, House Resolution 304. This resolution directed the Committee on the Judiciary to undertake an inquiry into whether grounds existed to impeach President Clinton and to report its recommendations to the House of Representatives. (For a detailed discussion of the Impeachment of President William Jefferson Clinton as well as a history of prior impeachment proceedings, see “The Committee and Impeachment” on page 128.)

¹ H.J. Res. 1, House Rept. 104–003.

² H.R. 666, House Rept. 104–017.

³ H.R. 956, House Rept. 104–064, part 1.

⁴ H.J. Res. 2, House Rept. 104–067.

⁵ P.L. 104–1, 109 Stat. 3 (1995).

⁶ P.L. 104–4, 109 Stat. 48 (1995).

⁷ H.J. Res. 1, House Rept. 104–3.

⁸ H.J. Res. 73; H.J. Res. 2, House Rept. 104–67.

⁹ H.J. Res. 2, House Rept. 105–2.

¹⁰ H.J. Res. 79, House Rept. 104–151.

¹¹ H.J. Res. 54, House Rept. 105–121.

¹² H.J. Res. 33, House Rept. 106–191.

¹³ H.J. Res. 78, House Rept. 105–543.

¹⁴ H.J. Res. 62, House Rept. 105–50; H.J. Res. 111.

¹⁵ H.J. Res. 37, H.J. Res. 94.

¹⁶ P.L. 106–386, 114 Stat. 1464 (2000).

¹⁷ P.L. 104–201, §1069, 110 Stat. 2422, 2655 (1996).

¹⁸ P.L. 104–217, 110 Stat. 3020 (1996).

¹⁹ P.L. 104–305, 110 Stat. 3807 (1996).

²⁰ P.L. 106–310, title XXXVI, 114 Stat. 1101, 1227 (2000).

²¹ P.L. 106–544, 114 Stat. 2712 (2000).

²² H.R. 1501.

²³ H.R. 2122.

²⁴ H.R. 4051.

²⁵ P.L. 105–318, 112 Stat. 3007 (1998).

²⁶ P.L. 106–547, 114 Stat. 2738 (2000).

- 27 P.L. 105–184, 112 Stat. 520 (1998).
- 28 P.L. 105–6, 111 Stat. 12 (1997).
- 29 P.L. 104–214, 110 Stat. 3017 (1996).
- 30 H.R. 2181, House Rept. 105–258.
- 31 *Hubbard v. United States*, 514 U.S. 695 (1995).
- 32 P.L. 104–292, 110 Stat. 3459 (1996).
- 33 P.L. 105–187, 112 Stat. 618 (1998).
- 34 P.L. 104–145, 110 Stat. 1345 (1996).
- 35 P.L. 104–236, 110 Stat. 3093 (1996).
- 36 P.L. 105–314, 112 Stat. 2974 (1998).
- 37 P.L. 104–71, 109 Stat. 774 (1995).
- 38 P.L. 104–192, 110 Stat. 2104 (1996).
- 39 P.L. 105–118, §583, 111 Stat. 2386, 2436 (1998).
- 40 P.L. 104–38, 109 Stat. 334 (1995).
- 41 P.L. 104–237, 110 Stat. 3099 (1996).
- 42 H.R. 2974, House Rept. 104–548.
- 43 H.R. 2650, House Rept. 104–602.
- 44 *Bailey v. United States*, 516 U.S. 137 (1995).
- 45 H.R. 424, House Rept. 105–344.
- 46 P.L. 106–546, 114 Stat. 2726 (2000).
- 47 P.L. 104–155, 110 Stat. 1392 (1996).
- 48 P.L. 106–468, 114 Stat. 2027 (2000).
- 49 P.L. 106–523, 114 Stat. 2488 (2000).
- 50 P.L. 104–152, 110 Stat. 1384 (1996).
- 51 P.L. 104–153, 110 Stat. 1386 (1996).
- 52 P.L. 104–294, 110 Stat. 3488 (1996).
- 53 H.R. 125.
- 54 P.L. 105–370, 112 Stat. 3374 (1998).
- 55 P.L. 104–132, 110 Stat. 1214 (1996).
- 56 P.L. 106–185, 114 Stat. 202 (2000).
- 57 H.R. 1965, House Rept. 105–358, part 1.
- 58 H.R. 1833, House Rept. 104–267.
- 59 H.R. 929, H.R. 1122; House Rept. 105–024.
- 60 H.R. 3660.
- 61 *Stenberg v. Carhart*, 530 U.S. 914 (2000).
- 62 H.R. 2682, House Rept. 105–605.
- 63 H.R. 2436, House Rept. 106–332, part 1.
- 64 P.L. 105–277, 112 Stat. 2681 (1998).
- 65 P.L. 105–304, 112 Stat. 2860 (1998).
- 66 P.L. 105–147, 111 Stat. 2678 (1997).
- 67 871 F. Supp. 535 (D. Mass. 1994).
- 68 P.L. 104–39, 109 Stat. 336 (1995).
- 69 P.L. 105–298, 112 Stat. 2827 (1998).
- 70 P.L. 106–160, 113 Stat. 1774 (1999).
- 71 P.L. 106–113, Div. B; 113 Stat. 1501, 1536, 1501A–523 (1999).
- 72 P.L. 106–113, Div. B; 113 Stat. 1501, 1536, 1501A–545 (1999).
- 73 P.L. 104–98; 109 Stat. 985 (1995).
- 74 P.L. 106–113, 113 Stat. 1501A–545 (1999) (to be codified at 15 U.S.C. § 125d).
- 75 P.L. 104–41, 109 Stat. 351 (1995).
- 76 P.L. 105–277, Div. C, title XI, 112 Stat. 2681–719 (1998).
- 77 H.R. 3709, House Rept. 106–609.
- 78 P.L. 106–252, 114 Stat. 2 (2000).
- 79 P.L. 105–172, 112 Stat. 53 (1998).

- ⁸⁰ P.L. 105–271, 112 Stat. 2386 (1998).
- ⁸¹ P.L. 106–37, 113 Stat. 185 (1999).
- ⁸² P.L. 106–229, 114 Stat. 464 (2000).
- ⁸³ H.R. 850, House Rept. 106–117, part 1.
- ⁸⁴ P.L. 105–183, 112 Stat. 517 (1998).
- ⁸⁵ H.R. 3150, House Rept. 105–540.
- ⁸⁶ H.R. 2500.
- ⁸⁷ To prevent the lapse of Chapter 12, a temporary extension was included in an omnibus spending bill (P.L. 105–277, Div. B, §149, 112 Stat. 2681, 2681–610 (1998)).
- ⁸⁸ H.R. 1596, House Rept. 105–208.
- ⁸⁹ H.R. 2415, House Rept. 106–970.
- ⁹⁰ P.L. 104–208, Div. C, 110 Stat. 3001, 3009–546 (1996).
- ⁹¹ P.L. 105–277, Div. C., title IV, 112 Stat. 2681, 2681–641 (1998).
- ⁹² P.L. 106–313, 114 Stat. 1251 (2000).
- ⁹³ P.L. 106–311, 114 Stat. 1247 (2000).
- ⁹⁴ P.L. 105–338, 112 Stat. 3178 (1997).
- ⁹⁵ P.L. 105–292, 112 Stat. 2787 (1998).
- ⁹⁶ P.L. 106–564, 114 Stat. 1637 (2000).
- ⁹⁷ P.L. 106–207, 114 Stat. 316 (2000).
- ⁹⁸ P.L. 106–95, 113 Stat. 1312 (1999).
- ⁹⁹ H.R. 9, H.Res. 101.
- ¹⁰⁰ H.R. 925, House Rept. 104–46.
- ¹⁰¹ H.R. 1534, House Rept. 105–323.
- ¹⁰² P.L. 104–199, 110 Stat. 2419 (1996).
- ¹⁰³ H.R. 351, House Rept. 104–728.
- ¹⁰⁴ H.R. 123, House Rept. 104–723.
- ¹⁰⁵ P.L. 106–274, 114 Stat. 803 (2000).
- ¹⁰⁶ P.L. 103–141, 107 Stat. 1488 (1993).
- ¹⁰⁷ P.L. 104–169, 110 Stat. 1482 (1996).
- ¹⁰⁸ H.R. 3125, House Rept. 106–655, part 1.
- ¹⁰⁹ P.L. 105–297, 112 Stat. 2824 (1998).
- ¹¹⁰ H.R. 956, House Rept. 104–481.
- ¹¹¹ H.R. 1875, House Rept. 106–320.
- ¹¹² P.L. 105–19, 111 Stat. 218 (1998).
- ¹¹³ P.L. 105–369, 112 Stat. 3368 (1998).
- ¹¹⁴ P.L. 105–315, 112 Stat. 2993 (1998).
- ¹¹⁵ U.S. Const. Art I, § 2, cl 5, states, in pertinent part, “The House of Representatives...Shall have the sole Power of Impeachment.” Under Art. I, § 3, cl. 6 of the Constitution, “The Senate shall have the sole Power to try all Impeachments.”
- ¹¹⁶ Lord Bryce, *1 American Commonwealth* (rev. ed., New York: MacMillan & Co., 1914), p. 212.
- ¹¹⁷ Under Art. II, § 4, “The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.”
- ¹¹⁸ U.S. Const. Art I, § 2, cl 5, states, in pertinent part, “The House of Representatives...Shall have the sole Power of Impeachment.” Under Art. I, § 3, cl. 6 of the Constitution, “The Senate shall have the sole Power to try all Impeachments.”