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*1st Session* }

SENATE

{ REPORT  
116-17

ACTIVITIES OF THE COMMITTEE ON  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

AND ITS

SUBCOMMITTEES

FOR THE

ONE HUNDRED FIFTEENTH CONGRESS



MARCH 25, 2019.—Ordered to be printed

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<sup>1</sup> Senator Jon Tester served on the Committee January 17, 2017 to January 9, 2018.

<sup>2</sup> Senator Doug Jones joined the Committee January 9, 2018 and was assigned subcommittees on January 17, 2018.

<sup>3</sup> Senator John McCain died August 25, 2018.

<sup>4</sup> Senator Jon Kyl joined the Committee on September 6, 2018 and was assigned subcommittees on September 17, 2018.

# CONTENTS

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	Page
I. Highlights of Activities .....	1
A. Border and Immigration Security .....	2
B. Cybersecurity .....	5
C. Critical Infrastructure .....	7
D. Terrorism .....	8
E. DHS REFORMS .....	10
F. Oversight of Federal Agencies & Government Programs .....	11
G. Regulatory Reform .....	17
H. Waste, Fraud, and Abuse .....	19
II. Committee Jurisdiction .....	20
III. Bills and Resolutions Referred and Considered .....	23
IV. Hearings .....	23
V. Reports, Prints, and GAO Reports .....	36
VI. Official Communications .....	50
VII. Legislative Actions .....	51
Measures Enacted Into Law .....	51
Postal Naming Bills .....	66
VIII. Activities of the Subcommittees .....	71
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS (PSI)	
I. Historical Background .....	71
A. Subcommittee Jurisdiction .....	71
B. Subcommittee Investigations .....	73
II. Subcommittee Hearings during the 115th Congress .....	79
III. Legislation Activities during the 115th Congress .....	83
IV. Reports, Prints, and Studies .....	84
FEDERAL SPENDING OVERSIGHT AND EMERGENCY MANAGEMENT (FSO)	
I. Authority .....	102
II. Activity .....	102
III. Legislation .....	109
REGULATORY AFFAIRS AND FEDERAL MANAGEMENT (RAFM)	
I. Authority .....	112
II. Activity .....	112
III. Legislation .....	116
IV. GAO Reports .....	117

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SECURITY AND GOVERNMENTAL AFFAIRS  
DURING THE 115TH CONGRESS

MARCH 25, 2019—Ordered to be printed

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

REPORT

This report reviews the legislative and oversight activities of the Committee on Homeland Security and Governmental Affairs and its Subcommittees during the 115th Congress. These activities were conducted pursuant to the Legislative Reorganization Act of 1946, as amended; by Rule XXV(k) of the Standing Rules of the Senate; and by additional authorizing resolutions of the Senate. See Section II, “Committee Jurisdiction,” for details.

Senator Ron Johnson was Chairman of the Committee during the 115th Congress; Senator Claire McCaskill was the Ranking Member.

Major activities of the Committee during the 115th Congress included oversight and legislation involving border and immigration security; cybersecurity; protecting critical infrastructure; combating terrorism; reauthorizing and reforming the Department of Homeland Security; the Committee’s oversight jurisdiction; regulatory reform; and reducing waste, fraud and abuse in Federal spending. Discussion of these major activities appears in Section I below; additional information on these and other measures appears in Section VII, “Legislative Actions.”

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

I. HIGHLIGHTS OF ACTIVITIES

Under the leadership of Chairman Ron Johnson and Ranking Member Claire McCaskill, the Committee established a mission statement for the 115th Congress: “to enhance the economic and national security of America and promote more efficient, effective, and accountable government.” In the last 2 years, the Committee has shed light on significant national and economic security chal-

allenges facing the Nation and worked collaboratively on bipartisan legislation. Our Committee continues to show how much we can accomplish together when we focus on areas of agreement.

To improve our Nation's national security, the Committee identified emerging threats facing our Nation and proactively addressed them, whether to help secure our borders, strengthen our cybersecurity and protect critical infrastructure, combat terrorism, or improve the efficiency of the Department of Homeland Security (DHS, or the Department). The Committee helped enact legislation to protect Americans from the threats posed by drones in the hands of malicious actors, shield Federal networks from foreign adversaries, and improve our ability to combat human trafficking.

To improve our Nation's economic security, the Committee has continued its job overseeing the Federal Government to help it work better for all Americans. The Committee examined political bias in the Federal bureaucracy, the President's steel and aluminum tariffs, and how the government can get out of the way of patients with terminal illnesses who are looking for new and promising treatments to try. The Committee worked together to approve bipartisan legislation to protect Federal whistleblowers from retaliation, improve the regulatory process, and make the government more efficient. The Committee also approved dozens of bills that protect taxpayer dollars by reducing wasteful government spending and addressing inefficient, duplicative, or nontransparent government programs.

In total, the Committee held more than 50 hearings and roundtables to study challenges facing the United States and identify potential solutions; approved or discharged over 100 pieces of legislation (not including post office naming bills); shepherded close to 50 of these bills through the Senate and into law; confirmed 36 of President Trump's nominees; sent more than 500 oversight letters; and issued 5 majority staff reports.

#### A. BORDER AND IMMIGRATION SECURITY

Our nation's borders remain insecure. Smugglers and traffickers continue to cross our borders, endangering public safety. Legal loopholes create an incentive for people to make the dangerous journey to the United States. These problems, though widely recognized, persist because Congress as a whole refuses to act. Nonetheless, the Committee has continued to lay out the reality of our border security and worked to find areas of agreement on legislation within its jurisdiction.

Continuing the Committee's emphasis on border security from the 114th Congress, the Committee convened seven hearings focused on border security in the 115th Congress. Below are highlights from some of those hearings.

At *The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities*, the Committee heard directly from Americans affected by lax border security and immigration enforcement, including from a Missouri woman whose husband was murdered in his home by an illegal alien who had returned to the

United States after being deported.<sup>1</sup> Two local law enforcement officers also testified about how illegal immigration contributed to crime and drug abuse in their communities. The hearing highlighted how our porous borders and ports of entry have allowed fentanyl, heroin, and other serious drugs to flood into our country killing tens of thousands of Americans each year, and led to increased drug violence in Mexico.

At *Perspectives From the DHS Frontline: Evaluating Staffing Resources and Requirements*, Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) employees on the front lines told the Committee about their staffing resources and retention challenges.<sup>2</sup> Representatives from the ICE Union and the National Border Patrol Council testified that they have seen an increase in employee morale in the new administration because employees were allowed to enforce the Nation's laws.

At *Improving Border Security and Public Safety*, then-DHS Secretary John Kelly explained the considerable challenges we face securing the border and committed to use the tools the President provided in his executive orders to hire more personnel, build more border security infrastructure, and have more rigorous interior enforcement.<sup>3</sup>

The Committee also examined the use of fencing along the southwest border. The Committee held a hearing on fencing, featuring testimony about DHS's efforts to construct a physical wall on the border.<sup>4</sup> Chairman Johnson released a majority staff report, *Securing Israel: Lessons Learned from a Nation Under Constant Threat of Attack*, that assessed Israel's approach to border security, aviation security, and cybersecurity.<sup>5</sup> The report noted how the United States can learn from Israel's approach to border security, particularly with Israel's success in constructing a cost-effective fence along its border with Egypt. Fencing along the U.S. southwest border cost \$3.5 million per mile for 654 miles of pedestrian and vehicle barriers. Conversely, Israel spent \$2.9 million per mile to construct a 143-mile fence with Egypt. The number of illegal crossers into Israel from Egypt dropped from 16,000 in 2011 to less than 20 in 2016.

Chairman Johnson received whistleblower documents showing that in 2014, at the height of the surge of unaccompanied children (UAC) arriving at the southwest border, the Obama Administration placed self-identified MS-13 gang members in placement centers across the country.<sup>6</sup> Chairman Johnson requested information about these UACs from the Department of Health and Human Services (HHS). The information the Committee received resulted in a hearing to examine the rise of MS-13 and other transnational

<sup>1</sup>*The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2017).

<sup>2</sup>*Perspectives from the DHS Frontline: Evaluating Staffing Resources and Requirements: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2017).

<sup>3</sup>*Improving Border Security and Public Safety: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2017).

<sup>4</sup>*Fencing Along the Southwest Border: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2017).

<sup>5</sup>Majority Staff Report, S. Comm. on Homeland Security & Governmental Affairs, *Securing Israel: Lessons Learned from a Nation under Constant Threat of Attack* (FEB. 1, 2017).

<sup>6</sup>Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affairs, to Scott Lloyd, Director, Off. of Refugee Resettlement, Dep't of Health & Human Servs. (May 23, 2017).

gangs in May 2017.<sup>7</sup> Because of the Committee’s oversight, HHS changed its secure care policy on June 12, 2017, to ensure HHS considers self-disclosure of gang involvement as part of the UAC’s placement.<sup>8</sup>

On November 16, 2017, ICE Homeland Security Investigations announced the results of Operation Raging Bull, which targeted MS–13 domestically and abroad. A total of 267 MS–13 gang members were arrested in the operation and of those, 64 had illegally entered the United States as UACs. The Committee requested materials from DHS to better understand how MS–13 exploited the UAC crisis to expand its influence in the United States.<sup>9</sup> DHS has yet to produce all the requested documents, and the Committee’s work continues.

The Committee also conducted oversight of the Trump Administration’s “Zero Tolerance” policy put into effect in April 2018, and considered ways to address the Ninth Circuit’s reinterpretation of the *Flores* Settlement Agreement. The Committee sought regular updates from the administration about the progress it was making reunifying families separated as a result of the policy.

At a hearing entitled the *Implications of the Reinterpretation of the Flores Settlement Agreement for Border Security and Illegal Immigration Incentives*, the Committee considered the dramatic increase of family unit illegal border crossings since the 2015 court reinterpretation of the *Flores* Settlement Agreement and how the ruling entices migrant families to make the dangerous journey to the United States because they know they will be released.<sup>10</sup> The number of family unit members apprehended at the border since FY2012 has increased by a staggering 864 percent.<sup>11</sup>

The Committee held more than 20 bipartisan staff briefings, took staff delegation trips to family residential centers and an immigration court, and continued oversight related to the reinterpretation of *Flores* and current immigration challenges. The Committee also held a business meeting on September 26, 2018, to discuss the FAMILIES Act, a bill introduced by Chairman Johnson to begin the conversation about what legislative changes are necessary to address loopholes like *Flores* and increase immigration resources.<sup>12</sup> The Committee’s work on this important issue will continue in the next Congress.

In addition to performing oversight and conducting hearings, the Committee approved or discharged nine bills to improve security at and between U.S. ports of entry. For example, one bill approved by the Committee would ensure greater accountability over major border acquisitions.<sup>13</sup> Two other bills approved by the Committee and

<sup>7</sup>*Border Insecurity: The Rise of MS–13 and Other Transnational Criminal Organizations: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs* 115th Cong. (2017).

<sup>8</sup>Letter from Barbara Pisaro Clark, Acting Assistant Secretary for Legislation, U.S. Dep’t of Health & Human Servs., to Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Governmental Affairs (June 21, 2017).

<sup>9</sup>Letter from Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Governmental Affairs, to Thomas D. Homan, Acting Director, U.S. Imm. & Customs Enforcement (Feb. 8, 2018).

<sup>10</sup>*The Implications of the Reinterpretation of the Flores Settlement Agreement for Border Security and Illegal Immigration Incentives: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018).

<sup>11</sup>Dept of Homeland Security Border Metrics Report (May 1, 2018), available at <https://www.dhs.gov/sites/default/files/publications/BSMR—OIS—2016.pdf>; U.S. Border Patrol, Southwest Border Apprehensions FY2017–2018 (2018).

<sup>12</sup>S. 3478, FAMILIES Act (115th Cong.).

<sup>13</sup>S. 146, Border Security Technology Accountability Act of 2017 (115th Cong.).



signed into law authorize and strengthen the Department's program to combat human trafficking and extend the Asia-Pacific Economic Cooperation Business Travel Cards program, making it easier for American businessmen and women to do business in APEC countries.<sup>14</sup> Still another bill approved by the Committee and passed by the Senate improves pay and retention awards for CBP employees.<sup>15</sup>

## B. CYBERSECURITY

Cyberattacks targeting government agencies, private businesses, and individuals are increasing in frequency and scope, costing the U.S. economy an estimated \$109 billion in 2016.<sup>16</sup> Agencies under the Committee's jurisdiction have significant national responsibilities for cybersecurity. DHS plays a crucial role in supporting cyber risk mitigation for public and private sectors through managing programs that implement defensive capabilities to Federal agencies and private industry, responding to cybersecurity incidents, and developing law enforcement capacity to investigate cybercrime.<sup>17</sup> The Office of Management and Budget (OMB) oversees Federal information security and information technology management.

The Committee has worked to conduct oversight and enact legislation to support Federal cybersecurity programs, including assisting DHS by reorganizing and renaming the National Protection and Programs Directorate (NPPD) to form the Cybersecurity and Infrastructure Security Agency (CISA).<sup>18</sup> Mitigating the broad range of risks and responding to small-scale and large-scale incidents requires the continued efforts of both private and public sector actors and the legislation approved by the Committee reflects that understanding.

The Committee held several hearings to examine how effective Federal Government programs implemented by DHS are at mitigating cybersecurity risk.<sup>19</sup> The Committee learned that the Department's programs for securing Federal information systems and networks were insufficient to mitigate risk, and further that DHS could improve its programs to support private-sector network secu-

<sup>14</sup> Department of Homeland Security Blue Campaign Authorization Act of 2017, Pub. L. No. 115-125 (115th Cong.); Asia-Pacific Economic Cooperation Business Travel Cards Act of 2017, Pub. L. No. 115-179 (115th Cong.)

<sup>15</sup> S. 1305, U.S. Customs and Border Protection Hiring and Retention Act of 2017 (115th Cong.).

<sup>16</sup> The Council of Economic Advisors, Executive Office of the President, *The Cost of Malicious Cyber Activity to the U.S. Economy*, (Feb. 2018), available at <https://www.whitehouse.gov/wp-content/uploads/2018/02/The-Cost-of-Malicious-Cyber-Activity-to-the-U.S.-Economy.pdf>; *Assessing the Security of Critical Infrastructure: Threats, Vulnerabilities, and Solution: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018) (Testimony of Ted Koppel), available at <https://www.hsgac.senate.gov/hearings/assessing-the-security-of-critical-infrastructure-threat-vulnerabilities-and-solutions>.

<sup>17</sup> DHS Office of Cybersecurity and Communications, *Office of Cybersecurity and Communications*, available at <https://www.dhs.gov/office-cybersecurity-and-communications#>; DHS Federal Law Enforcement Training Centers (FLETC), Internet Investigations Training Program, available at <https://www.fletc.gov/training-program/internet-investigations-training-program>.

<sup>18</sup> Cybersecurity and Infrastructure Security Agency Act of 2018, Pub. L. No. 115-278 (115th Cong.).

<sup>19</sup> *Cyber Threats Facing America: An Overview of the Cybersecurity Threat Landscape*, Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs, 115th Cong. (2017); *Cybersecurity Regulation Harmonization Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2017); *Mitigating America's Cybersecurity Risk*, Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs, 115th Cong. (2018); *Nomination of Christopher C. Krebs to be Under Secretary, National Protection and Programs Directorate*, U.S. Department of Homeland Security, Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs, 115th Cong. (2018).

ity.<sup>20</sup> The Committee learned from the Federal Chief Information Officer that the National Cybersecurity Protection System was detecting fewer than 4 percent of the cyber intrusion incidents across Federal civilian networks.<sup>21</sup>

The Committee also worked to help agencies protect their own networks. Communication and information technology supply chain threats are increasingly pervasive and dangerous. The National Counterintelligence and Security Center described our country as being “under systemic assault by foreign intelligence entities” who use our supply chains as vectors to commit espionage and steal valuable trade secrets.<sup>22</sup> The security of our Federal supply chain has been at the forefront since the exposure of Kaspersky Labs and, more recently, with Huawei and ZTE. The risks posed by these threats have the ability to undermine our democracy, diminish our national security, and weaken our economy. In 2018, the Committee approved and Congress enacted the *Federal Acquisition Supply Chain Security Act*, introduced by Ranking Member McCaskill and Senator James Lankford.<sup>23</sup> The Act codifies a Federal council to examine best practices and information sharing procedures for supply chain risks, and provides necessary authorities to the Department of Defense, DHS, and the intelligence community to prohibit government procurement of certain products that pose a threat to security.

Private sector and State government experts told the Committee about how they navigate duplicative government regulatory bodies as they work to secure their networks. The Committee’s June 2017 hearing highlighted how government regulatory bodies have evolved to respond to changing cyber threats.<sup>24</sup> Though these efforts are well-intended, the result has been a myriad of duplicative, sometimes conflicting, rules imposed on industries throughout the economy. Not only do these rules impose regulatory costs, but they can also lessen security, as companies from the financial services, tech and healthcare sectors, as well as State governments, spend limited time and resources concentrating on regulatory compliance at the expense of security. The Committee found that one financial services firm reports spending 40 percent of its time on regulations and reporting requirements, time better spent enhancing the security of its networks.<sup>25</sup>

Finally, the Committee passed and Congress enacted legislation to authorize, reorganize, and rename NPPD the Cybersecurity and Infrastructure Security Agency within the Department of Homeland Security.<sup>26</sup> The Department viewed the legislation as a priority to improve recruiting and public awareness of the agency’s re-

<sup>20</sup> *Mitigating America’s Cybersecurity Risk, Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018) (testimony of Gregory C. Wilshusen).

<sup>21</sup> Letter from Suzette Kent, Federal Chief Information Officer, to Chairman Ron Johnson (Sept. 14, 2018).

<sup>22</sup> Supply Chain Risk Management Intelligence.Gov Background Paper, <https://www.dni.gov/files/NCSC/documents/products/20170317-NCSC--SCRM-Background.pdf>.

<sup>23</sup> S. 3085, signed in to law as Pub. L. No. 115–390, Strengthening and Enhancing Cyber-capabilities by Utilizing Risk Exposure Technology Act (115th Cong.).

<sup>24</sup> *Cybersecurity Regulation Harmonization: Hearing Before the S. Homeland Sec. & Governmental Affairs Comm.*, 115th Cong. (2017).

<sup>25</sup> *Id.*

<sup>26</sup> Cybersecurity and Infrastructure Security Agency Act of 2018, Pub. L. No. 115–278 (115th Cong.).

sponsibilities.<sup>27</sup> The Committee also passed and Congress enacted legislation to authorize a bug bounty pilot project within DHS to identify and assess any vulnerabilities in DHS systems.<sup>28</sup>

### C. CRITICAL INFRASTRUCTURE

The United States depends on its critical infrastructure, particularly the electric power grid, as all critical infrastructure sectors are to some degree dependent on electricity to operate. DHS is responsible for coordinating Federal efforts to secure our Nation's critical infrastructure. It is also the sector-specific agency for 10 of the 16 critical infrastructure sectors.

Electromagnetic pulses (EMP) and geomagnetic disturbances (GMD) are low-probability, high-risk occurrences that could cause significant damage to our Nation's critical infrastructure. To date, Federal progress to address this risk has been woefully inadequate. On September 15, 2017, Chairman Johnson wrote a letter to DHS regarding its failure to provide a strategy to Congress to protect and prepare U.S. critical infrastructure against EMP and GMD, as required by a provision included in the 2017 National Defense Authorization Act.<sup>29</sup> The Department is not making enough progress to address this vulnerability. A Committee hearing titled *Evolving Threats to the Homeland* highlighted the threat of EMPs/GMDs and weak government efforts to address the risks.<sup>30</sup>

The Committee also provided oversight and approved reforms for the Chemical Facility Anti-Terrorism Standards (CFATS) Program. The CFATS program regulates chemical facilities to help prevent terrorists from carrying out an attack with dangerous chemicals. Since its start in 2006, watchdogs have identified significant problems with the program, including questioning whether it successfully reduces risk and enhances security, and warned of serious management problems.<sup>31</sup> The program is set to expire in February 2019. The Committee conducted extensive oversight of CFATS in the 115th Congress to evaluate whether it should be reauthorized and, if so, to develop a plan to improve and reauthorize it.

The Committee held numerous briefings with chemical facility owners, trade groups, DHS, and other relevant agencies, and the Chairman and Ranking Member asked the Government Accountability Office (GAO) to conduct a review of the CFATS program. Chairman Johnson also wrote a letter to DHS requesting additional information on the CFATS program, including the status of multiple overdue reports to Congress.<sup>32</sup>

On June 12, 2018, the Committee held a roundtable with DHS, GAO, a CFATS chemical inspector, and multiple companies and in-

<sup>27</sup> *Nomination of Christopher C. Krebs to be Under Secretary, National Protection and Programs Directorate, U.S. Department of Homeland Security: Hearing Before the S. Homeland Sec. & Governmental Affairs Comm.*, 115th Cong. (2018).

<sup>28</sup> S. 1281, Hack the Department of Homeland Security Act of 2018, signed in to law as Pub. L. No. 115-390, Strengthening and Enhancing Cyber-capabilities by Utilizing Risk Exposure Technology Act (115th Cong.).

<sup>29</sup> Letter from Chairman Ron Johnson, S. Comm. on Homeland Sec. & Governmental Affairs, to Hon. Elaine Duke, Acting Secretary of the Dep't of Homeland Sec. (Sept. 15, 2017).

<sup>30</sup> *Evolving Threats to the Homeland: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018).

<sup>31</sup> *Examining the Chemical Facility Anti-Terrorism Standards Program: Roundtable before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018).

<sup>32</sup> Letter from Chairman Ron Johnson, S. Comm. on Homeland Sec. & Governmental Affairs, to Amy Graydon, Acting Director, Infrastructure Sec. Compliance Div., Nat'l Protection & Programs Directorate, Dep't of Homeland Sec. (Apr. 4, 2018).

dustry groups.<sup>33</sup> The roundtable was an important, frank discussion about the program's strengths and weaknesses. The Committee learned it is still far from clear that CFATS reduces the risk of a terrorist attack, and DHS does not measure whether it actually does so. The program forces some explosive material companies to spend hundreds of thousands of dollars complying with CFATS regulations that are duplicative of Justice Department regulations, and subjects companies to frequent, unnecessary site inspections. These practices are extremely costly and neither reduce risk nor enhance security. The program also fails to give credit to companies who already comply with other private, sector-specific programs that require high standards of care, fails to alert companies to the Department's expedited approval process, and needs to improve transparency to covered facilities.

The Committee unanimously approved the *Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2018* by voice vote in September 2018.<sup>34</sup> The Chairman's bill would bring much-needed regulatory relief to U.S. businesses and provide them certainty by reauthorizing the program for 5 years. The Chairman was disappointed that Congress could not get reforms across the finish line this year, but the Committee will continue its work next Congress.

The Committee continued to oversee U.S. efforts to protect critical infrastructure from foreign cyberattacks. On March 20, 2018, the Committee received a classified briefing from DHS and received an update regarding its assessment of what occurred in the 2016 elections. In addition, DHS discussed current threats to election infrastructure, how it is working with States, election agencies, and election service providers, and how it is preparing for the 2018 and 2020 elections. The Committee also kept abreast of agencies' efforts to combat Russia's cyber campaign targeting U.S. Government entities and multiple critical infrastructure sectors.

#### D. TERRORISM

More than 17 years after the tragedy of September 11th, 2001, terrorism threats to the homeland persist. Even as the United States successfully targets and degrades terrorist adversaries abroad, their ideas survive to inspire others. It is becoming increasingly clear that the threat of Islamist terrorist attacks will exist so long as terror groups can motivate extremists to commit attacks wherever they live on their behalf. Their methods have evolved, and our strategy must adapt as well, including the government's authorities to disrupt and prevent attacks from occurring. This Congress the Committee examined this changing threat environment and the steps we can take to safeguard our Nation.

The Committee held five hearings and roundtables to explore terrorism threats to homeland security, to analyze how ideology relates to extremism and terrorism, to identify what new methods

<sup>33</sup> *Examining the Chemical Facility Anti-Terrorism Standards Program: Roundtable before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018).

<sup>34</sup> S. 3405, *Protecting and Securing Chemical Facilities From Terrorist Attacks Act of 2018* (115th Cong.).

and technologies terrorists are likely to use next, and to develop new strategies on how to counter extremist ideology and terror.<sup>35</sup>

The Committee also enacted important legislation to address emerging threats to the homeland. Unmanned aerial systems, or drones, could pose a variety of threats to the United States. Traffickers use drones to conduct surveillance or smuggle illegal drugs into our country. Criminals use drones to smuggle weapons and other contraband into secure areas including Federal prisons. Terrorists use drones to execute their attacks against innocent civilians. In 2011, the Federal Bureau of Investigation arrested and charged a U.S. citizen for planning an attack on the Pentagon and U.S. Capitol with an explosive attached to a drone. In 2018, we saw news reports of explosives-laden drones used to target the Venezuelan dictator Nicolas Maduro. To address this threat, the Committee passed and Congress enacted the *Preventing Emerging Threats Act of 2018*.<sup>36</sup> The Act provides DHS and the Department of Justice the authority they need to protect certain assets and facilities where drones would pose an unacceptable security risk to the public.

In 2018, the Committee approved and Congress enacted the *Countering Weapons of Mass Destruction Act of 2018* to authorize the office and more optimally organize DHS to confront the threat posed by weapons of mass destruction.<sup>37</sup> DHS created the Office of Countering Weapons of Mass Destruction (CWMD) in 2017 to counter the rising danger from threat actors who could use chemical, biological, radiological, and nuclear agents to harm Americans or U.S. interests. The agency drew from the Domestic Nuclear Detection Office, Office of Chief Medical Officer, Office of Health Affairs, and part of the Science and Technology Directorate to create the new office. Without legislative authority, however, the new office faced fiscal challenges.

As American counterterrorism efforts have made complex, coordinated attacks more difficult to execute, terrorist organizations have gone low-tech. Recent guidance from groups like ISIS instructed aspiring extremists to use simple tools to inflict small-scale attacks on vulnerable targets. Over the last few years we have seen a trend of vehicular terror attacks across Europe, including incidents in London and Barcelona. Attackers used vehicles as weapons in highly publicized attacks in New York, NY in October 2017 and Charlottesville, NC in August 2018. To address this threat, the Committee approved and Congress enacted the *Vehicular Terrorism Prevention Act of 2018*.<sup>38</sup> The bill requires DHS to conduct an assessment and develop a strategy to assist emergency responders

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<sup>35</sup>*Ideology and Terror: Understanding the Tools, Tactics, and Techniques of Violent Extremism: Hearing Before the S. Homeland Sec. & Governmental Affairs Comm.*, 115th Cong. (2017); *Adapting to Defend the Homeland Against the Evolving International Terrorist Threat: Hearing Before the S. Homeland Sec. & Governmental Affairs Comm.*, 115th Cong. (2017); S. 2836, the *Preventing Emerging Threats Act of 2018: Countering Malicious Drones: Hearing Before the S. Homeland Sec. & Governmental Affairs Comm.*, 115th Cong. (2018); *Evolving Threats to the Homeland: Hearing Before the S. Homeland Sec. & Governmental Affairs Comm.*, 115th Cong. (2018); *Threats to the Homeland: Hearing Before the S. Homeland Sec. & Governmental Affairs Comm.*, 115th Cong. (2018).

<sup>36</sup>S. 2836, signed in to law as Pub. L. No. 115-254, the FAA Reauthorization Act of 2018 (115th Cong.).

<sup>37</sup>Pub. L. No. 115-387 (115th Cong.).

<sup>38</sup>Pub. L. No. 115-609 (115th Cong.).

and private sector entities in preventing, mitigating, and responding to the threat of vehicular terrorism.

The Committee approved six other bills to help the Federal Government combat those who wish to do us harm. Those bills include the *Biometric Identification Migration Alert Program Authorization Act of 2018*, to authorize the Department's program to help international partners identify suspected terrorists and other threat actors abroad before they travel to the United States<sup>39</sup>; the *Office of Biometric Identity Management Authorization Act of 2018*, to authorize the Department's office assigned the responsibility for maintaining a biometric database used to prevent terrorism and other threats to national security and public safety<sup>40</sup>; the *Screening and Vetting Passenger Exchange Act of 2017*, which requires DHS to establish best practices for advanced passenger information for counterterrorism screening<sup>41</sup>; and the REPORT Act, a bill to require intelligence agencies to report to Congress on individual acts of terrorism that occur in the United States<sup>42</sup>.

#### E. DHS REFORMS

The Committee has primary responsibility within the Senate for overseeing and authorizing DHS. During the 115th Congress, the Committee took significant action, through oversight and legislation, to improve DHS's management and operations.

2018 marked 15 years since Congress created the Department of Homeland Security. The Department has never been fully reauthorized, which raises questions about how DHS and its components should operate absent clear direction in statute. The House passed a reauthorization of the Department in July 2017 by a vote of 386 to 41.<sup>43</sup> Our Committee took up the bill in early 2018 and approved it by a vote of 10–1. As approved by the Committee, the bill would codify and authorize key roles and responsibilities for the Department's headquarters offices, strengthen the Department's approach to managing its acquisition programs, and address recommendations from watchdogs like the GAO and the inspector general to improve the Department's management and performance. Unfortunately, we were not able to clear the full Senate this Congress. Enacting the *Department of Homeland Security Authorization Act* would be an important step to strengthen DHS and to establish a process for regular authorizations so that Congress clearly defines the Department's responsibilities and authorities over time to evolve and address emerging threats.

The Committee also passed and Congress enacted legislation to improve the country's response to natural disasters. In 2017, the United States suffered one of the worst hurricane seasons on record. The Federal Emergency Management Agency (FEMA), along with other Federal agencies and State and local partners, worked tirelessly to save lives and help communities respond to the disasters. The Disaster Recovery Reform Act of 2018, approved by the Committee and enacted in 2018, better prepares the Nation for disasters, including by allowing FEMA to supplement its workforce

<sup>39</sup>H.R. 6439 (115th Cong.).

<sup>40</sup>H.R. 5206 (115th Cong.).

<sup>41</sup>H.R. 4581 (115th Cong.).

<sup>42</sup>S. 1884 (115th Cong.).

<sup>43</sup>H.R. 2825, Department of Homeland Security Authorization Act (115th Cong.).

with temporary personnel, supporting building code modernization, and funding pre-disaster mitigation projects around the United States.<sup>44</sup> The bill takes an important step toward reforming the way the Nation declares disasters, allowing FEMA to focus limited Federal resources on the most serious emergencies. Two other bills approved by the Committee and enacted by Congress improve the process for applicants to apply for disaster relief.<sup>45</sup>

The Committee also passed and Congress enacted legislation to speed up the Department's integration of existing data and systems to increase efficiencies.<sup>46</sup> The bill gives the Secretary of DHS 2 years from enactment to implement a data framework to integrate existing DHS data and systems. The framework itself has been in development since 2013. This framework connects and controls access to datasets across disparate DHS components to provide those with appropriate clearance and duties with real-time access to important data.

Finally, legislation approved by the Committee and signed into law will help improve the Department's management of its vehicle fleet<sup>47</sup> and improve the oversight of major grant programs that help local fire departments comply with staffing, response, and operational standards.<sup>48</sup>

#### F. OVERSIGHT OF FEDERAL AGENCIES & GOVERNMENT PROGRAMS

All Americans deserve an efficient and effective Federal Government. In the 115th Congress, the Committee carried out its oversight responsibilities over the Federal bureaucracy to help foster a professional, nonpartisan, and accountable government. The Committee's oversight jurisdiction stretches across all facets of the executive branch. Pursuant to this expansive authority, the Committee conducted oversight of numerous Federal departments and agencies, ranging from the State Department to the Internal Revenue Service to the Justice Department's Bureau of Prisons.<sup>49</sup> The Committee maintains a whistleblower hotline for Federal employees to disclose waste, fraud, abuse, and misconduct.

Chairman Johnson fought to ensure that patients facing terminal illnesses have access to potentially life-saving treatments by enacting the Trickett Wendler, Frank Mongiello, Jordan McLinn, and Matthew Bellina Right to Try Act of 2017.<sup>50</sup> Patients like Trickett Wendler, who passed away in 2015 from ALS without the chance to access new, experimental medication that could have helped prolong her life. And like Jordan McLinn, who suffers from Duchenne muscular dystrophy, and until just recently was not allowed to ac-

<sup>44</sup>S. 3041, signed in to law as Pub. L. No. 115-254, the FAA Reauthorization Act of 2018 (115th Cong.).

<sup>45</sup>Pub. L. No. 115-69 (115th Cong.); Pub. L. No. 115-159 (115th Cong.).

<sup>46</sup>S. 2397, DHS Data Framework Act, signed in to law as Pub. L. No. 115-331 (115th Cong.).

<sup>47</sup>DHS Save Act, Pub. L. No. 115-38 (115th Cong.).

<sup>48</sup>United States Fire Administration, AFG, and SAFER Program Reauthorization Act of 2017, Pub. L. No. 115-98 (115th Cong.).

<sup>49</sup>*E.g.* Letter from Sen. Ron Johnson, Chairman, & Claire McCaskill, Ranking Member, S. Comm. on Homeland Sec. & Gov't Affairs, to Mike Pompeo, Secretary, Dep't of State (May 1, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Steven Mnuchin, Secretary, Dep't of the Treas., & David Kautter, Acting Commissioner, Internal Revenue Serv. (May 28, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Hugh J. Hurwitz, Acting Director, Fed. Bureau of Prisons (July 12, 2018).

<sup>50</sup>Pub. L. No. 115-176 (115th Cong.).

cess promising treatments that have helped other little boys in trials. The drug development process, including Food and Drug Administration (FDA) approval—more than 4 years longer in the 2000s than the 1990s<sup>51</sup> and 145 percent more expensive in 2014 than it was 10 years earlier<sup>52</sup>—is keeping patients from accessing innovative new drugs. Congress enacted the law in 2018, and already Americans are gaining access to treatments that they could not have otherwise.

The *Fair Chance Act*, approved by the Committee, gives an opportunity to formerly incarcerated individuals to have a fair chance at employment.<sup>53</sup> The dignity of work is probably the best way we can keep people from turning back to a life of crime.

The Committee also unanimously approved five bills<sup>54</sup>, four of which became law, that will provide more robust protections for whistleblowers across the Federal Government, and ensure supervisors are appropriately disciplined for retaliation, including the *Dr. Chris Kirkpatrick Whistleblower Protection Act* and the *Office of Special Counsel Reauthorization Act of 2017*.<sup>55</sup> The *Dr. Chris Kirkpatrick Whistleblower Protection Act*, which adopts recommendations put forward by hearing witnesses, including prohibitions against accessing a whistleblower’s medical records and protocols to address threats against VA employees. It also requires discipline for supervisors who retaliate against whistleblowers. The legislation is named after Dr. Chris Kirkpatrick, a VA employee at the Tomah, Wisconsin Veterans’ Affairs Medical Center (VAMC) who tragically committed suicide after suffering retaliation after blowing the whistle on misconduct at the facility.<sup>56</sup> The Committee exposed this and other misconduct at the Tomah VAMC in a multi-year investigation that culminated in a report in 2016.<sup>57</sup> The *Office of Special Counsel Reauthorization Act of 2017* reauthorizes the office charged with protecting whistleblowers through 2022, and strengthens the office’s ability to investigate retaliatory agency actions.<sup>58</sup>

Health care spending continues to be a significant and growing portion of the U.S. economy.<sup>59</sup> Since 1960, the share of all government-paid health care spending has more than doubled, from about one-fifth to just under half. As a result, overall health spending now consumes about 17 percent of the Nation’s gross domestic product.<sup>60</sup> In the 115th Congress, the Committee examined the cur-

<sup>51</sup> Fabio Pammolli, Laura Magazzini, and Massimo Riccaboni, *The Productivity Crisis in Pharmaceutical R&D*, VOL. 10 AT 429, *Nature Reviews Drug Discovery* (JUNE 2011).

<sup>52</sup> Joseph A. Dimasi, Henry G. Grabowski, and Ronald W. Hansen, “Cost of Developing a New Drug,” Briefing, Tufts Center for the Study of Drug Development (Nov. 18, 2014), <http://csdd.tufts.edu/news/complete-story/pr-tufts-csdd-2014-cost-study>.

<sup>53</sup> S. 2021, Fair Chance Act, S. Rep. No. 114–200 (2016).

<sup>54</sup> Pub. L. No. 115–73 (115th Cong.); Pub. L. No. 115–42 (115th Cong.); S. 582, signed in to law as Pub. L. No. 115–91 (115th Cong.); Pub. L. No. 115–40 (115th Cong.).

<sup>55</sup> Pub. L. No. 115–73 (115th Cong.).

<sup>56</sup> Majority Staff Report, S. Comm. on Homeland Sec. & Governmental Affairs, *The Systemic Failures And Preventable Tragedies At The Tomah VA Medical Center*, 114th Cong. (2016).

<sup>57</sup> *Id.*

<sup>58</sup> S. 582, signed in to law as Pub. L. No. 115–91 (115th Cong.).

<sup>59</sup> National Health Expenditures 2017 Highlights, Centers for Medicare & Medicaid Services, available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/highlights.pdf>.

<sup>60</sup> Majority Staff Report, S. Comm. on Homeland Sec. & Governmental Affairs, *The Centers for Medicare and Medicaid Services has Been a Poor Steward of Federal Medicaid Dollars* (June 20, 2018), <https://www.hsgac.senate.gov/imo/media/doc/2018-06-20%20Medicaid%20Fraud%20and%20Overpayments%20Majority%20Staff%20Report.pdf>.



rent State of health care in the United States with an eye toward improving health care choices for all Americans.

The Committee conducted substantial oversight of the Centers for Medicare and Medicaid Services (CMS). In September 2017, Chairman Johnson requested information and materials from CMS and eight States about higher-than expected spending and enrollment relating to Obamacare’s Medicaid expansion.<sup>61</sup> CMS and other data show original Medicaid expansion per-enrollee spending was understated by as much as 49 percent, and that enrollment in many expansion States has significantly exceeded original estimates.<sup>62</sup> In California, for example, expansion enrollment as of May 2016 was 322 percent over what had been projected.<sup>63</sup> In 2018, Chairman Johnson requested information from CMS about potential overpayments in California’s Medicaid program that have cost Federal taxpayers more than \$3.3 billion and about so-called “Medicaid maximization” schemes, in which States attempt to artificially inflate the Federal share of Medicaid.<sup>64</sup> Independent watchdogs have warned that these schemes undermine the Federal-State Medicaid partnership by making Federal taxpayers responsible for costs that should be borne by the States.<sup>65</sup> The Committee’s work is ongoing.

In June 2018 and August 2018, the Committee convened hearings to examine potential fraud and overpayments in the Medicaid program.<sup>66</sup> The hearings featured testimony from CMS Administrator Seema Verma, Comptroller General Gene Dodaro of the Government Accountability Office, and Brian Ritchie of the HHS Office of Inspector General, and explored Medicaid’s vulnerabilities to fraud and how CMS can improve its stewardship of the program.<sup>67</sup> Chairman Johnson released a majority staff report in June 2018 detailing how CMS must better police the Medicaid program.<sup>68</sup> The report concluded that Medicaid is plagued by waste, fraud and abuse, including \$37 billion per year in Medicaid overpayments to providers—a 157 percent increase since 2013—and hundreds of thousands of beneficiaries providing apparently false social security numbers. At the end of 2017, State Medicaid Fraud Control Units had nearly 20,000 open fraud investigations.

The Committee also examined the Nation’s opioid epidemic. Chairman Johnson and Ranking Member McCaskill requested information from the Drug Enforcement Administration (DEA) about

<sup>61</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affs., to Seema Verma, Administrator, Cntrs. for Medicare & Medicaid Svcs. (Sept. 27, 2017).

<sup>62</sup> *Id.*

<sup>63</sup> Obamacare Expansion Enrollment is Shattering Projections (Nov. 16, 2016), <https://thefga.org/wp-content/uploads/2016/12/ObamaCare-Enrollment-is-Shattering-Projections-1.pdf>.

<sup>64</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affs., to Seema Verma, Administrator, Cntrs. for Medicare & Medicaid Svcs. (Nov. 19, 2018).

<sup>65</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affs., to Seema Verma, Administrator, Cntrs. for Medicare & Medicaid Svcs. (Sept. 21, 2018).

<sup>66</sup> *Medicaid Fraud and Overpayments: Problems and Solutions: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018); *Examining CMS’s Efforts to Fight Medicaid Fraud and Overpayments: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018).

<sup>67</sup> *Id.*

<sup>68</sup> Majority Staff Report, S. Comm. on Homeland Sec. & Governmental Affairs, The Centers for Medicare and Medicaid Services has Been a Poor Steward of Federal Medicaid Dollars (June 20, 2018), <https://www.hsgac.senate.gov/imo/media/doc/2018-06-20%20Medicaid%20Fraud%20and%20Overpayments%20Majority%20Staff%20Report.pdf>.

its anti-diversion investigations during the opioid epidemic.<sup>69</sup> In July 2017, Chairman Johnson introduced legislation to schedule all fentanyl analogues as controlled substances.<sup>70</sup> The DEA implemented this scheduling via regulation in February 2018.<sup>71</sup> In January 2018, the Committee convened a hearing and released a majority staff report examining how the Medicaid program may contribute to the opioid epidemic.<sup>72</sup> The report concluded that Medicaid has inadvertently fueled the epidemic by establishing a series of incentives that make it enormously profitable for beneficiaries and others to abuse and sell dangerous drugs. Committee majority staff found that 1,072 people have been convicted or charged nationwide since 2010 for improperly using Medicaid to obtain prescription opioids, some of which were then resold on the Nation's streets. Ranking Member McCaskill also issued minority staff reports about the role of the pharmaceutical industry in the opioid epidemic.<sup>73</sup>

The Committee conducted oversight of the regulation issued by the Office of Personnel Management (OPM) in 2013 that authorized Members of Congress to receive an employer contribution on the Obamacare exchanges.<sup>74</sup> In December 2017, Chairman Johnson issued a subpoena to OPM for documents relating to the development of this regulation.<sup>75</sup> The Committee also requested and received documents from CMS, the National Archives, the District of Columbia Health Benefits Exchange, and a private contractor involved in the decisionmaking process.<sup>76</sup> The Committee's oversight of the OPM regulation continues as it receives relevant documents.

Using its legislative jurisdiction, the Committee approved legislation to repeal a section of the Affordable Care Act (ACA) that directed OPM to offer insurance plans on State health insurance exchanges, termed MSP.<sup>77</sup> The intent of the program was to increase competition in healthcare by requiring MSP options to be available in all 50 States and the District of Columbia by 2017. At the beginning of 2018, OPM had already spent \$54 million and had 42 full-time equivalents to administer the program, with only Arkansas

<sup>69</sup> Letter from Ron Johnson, Chairman, & Claire McCaskill, Ranking Member, S. Comm. on Homeland Security & Governmental Affairs, to Charles P. Rosenberg, Acting Administrator, Drug Enforcement Admin. (May 8, 2017).

<sup>70</sup> S. 1553, 115th Cong. (2017).

<sup>71</sup> Schedules of Controlled Substances: Temporary Placement of Fentanyl-Related Substances in Schedule I, 83 Fed. Reg. 5188 (Feb. 6, 2018).

<sup>72</sup> *Unintended Consequences: Medicaid and the Opioid Epidemic: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018); Majority Staff Report, S. Comm. on Homeland Security & Governmental Affairs, *Drugs for Dollars: How Medicaid Helps Fuel the Opioid Epidemic* (Jan. 17, 2018).

<sup>73</sup> *E.g.* Minority Staff Report, S. Comm. on Homeland Sec. & Gov't Affairs, *Fueling an Epidemic: Exposing the Financial Ties Between Opioid Manufacturers and Third Party Advocacy Groups* (Feb. 2018).

<sup>74</sup> Federal Employees Health Benefits Program: Members of Congress and Congressional Staff, 78 Fed. Reg. 60,653 (Oct. 2, 2013).

<sup>75</sup> Subpoena from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. and Gov't Affairs to Kathleen McGettigan, Acting Dir., Office of Pers. Mgmt. (Dec. 22, 2017).

<sup>76</sup> Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Governmental Affairs, to Tim Hurlebaus, President, CGI Federal, Inc. (Sept. 28, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Governmental Affairs, to Mila Kofman, Exec. Dir., DC Health Benefit Exch. Auth. (Mar. 5, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Governmental Affairs, to Alex Azar, Secretary, Dep't of Health & Human Servs. (Mar. 5, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. and Governmental Affairs, to David Ferriero, Archivist of the United States, National Archives and Records Admin. (Feb. 21, 2018).

<sup>77</sup> S. 2221, Repeal Insurance Plans of the Multi-State Program Act (115th Cong.).

participating.<sup>78</sup> The program has failed by all measures to meet its original mission.

As the Trump Administration's pro-growth economic policies improve the U.S. economy, the Administration's tariffs threatened to increase input costs on steel-dependent industries employing 17 million Americans.<sup>79</sup> Chairman Johnson requested information and data from the Commerce Department about (1) the Department's analyses of the effects of the tariffs;<sup>80</sup> (2) how the Department evaluates requests for exclusions from the tariffs and any objections to those exclusion requests;<sup>81</sup> and (3) the Department's interactions with major domestic steel and aluminum producers.<sup>82</sup> Chairman Johnson also sought to understand how the Commerce Department considers the effects of the tariffs on downstream industries,<sup>83</sup> and how it evaluates the ability of the domestic industries to meet demand.<sup>84</sup>

In addition, Chairman Johnson requested material from major domestic steel and aluminum producers.<sup>85</sup> Finally, the Committee held three field roundtables in 2018 (in Wisconsin, Missouri and Alabama) examining the effects of the tariffs on local economies.<sup>86</sup> Following a field roundtable in Milwaukee, Wisconsin, Chairman Johnson shared with President Trump the concerns of local businesses, including steel and aluminum price increases between 30 and 40 percent, lost export and domestic orders, and canceled capital expenditures.<sup>87</sup>

With House Oversight and Government Reform Committee Chairman Trey Gowdy, Chairman Johnson examined taxpayer-funded official time, in which some Federal employees perform

<sup>78</sup> S. Rpt. No. 115-277, 115th Cong. (2018).

<sup>79</sup> Tori Whiting, *President Should Reject Flawed Commerce Report on Steel Tariffs*, The Heritage Foundation, Feb. 27, 2018, <https://www.heritage.org/trade/report/president-should-reject-flawed-commerce-report-steel-tariffs>.

<sup>80</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affairs, to Wilbur R. Ross, Secretary, Dep't of Commerce (Mar. 8, 2018).

<sup>81</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affairs, to Wilbur R. Ross, Secretary, Dep't of Commerce (Aug. 9, 2018).

<sup>82</sup> Letter from Ron Johnson, Chairman, & Claire McCaskill, Ranking Member, S. Comm. on Homeland Security & Governmental Affairs, to Wilbur R. Ross, Secretary, Dep't of Commerce (Aug. 30, 2018).

<sup>83</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affairs, to Wilbur R. Ross, Secretary, Dep't of Commerce (Mar. 8, 2018).

<sup>84</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affairs, to Wilbur R. Ross, Secretary, Dep't of Commerce (Nov. 30, 2018).

<sup>85</sup> Letter from Ron Johnson, Chairman, & Claire McCaskill, Ranking Member, S. Comm. on Homeland Security & Governmental Affairs, to Roger Newport, Chief Executive Officer, AK Steel Holding Corp. (Aug. 27, 2018); Letter from Ron Johnson, Chairman, & Claire McCaskill, Ranking Member, S. Comm. on Homeland Security & Governmental Affairs, to Michael Bless, President, Chief Executive Officer, and Director, Century Aluminum Co. (Aug. 27, 2018); Letter from Ron Johnson, Chairman, & Claire McCaskill, Ranking Member, S. Comm. on Homeland Security & Governmental Affairs, to John Ferriola, Chairman, Chief Executive Officer, and President, Nucor Corp. (Aug. 27, 2018); Letter from Ron Johnson, Chairman, & Claire McCaskill, Ranking Member, S. Comm. on Homeland Security & Governmental Affairs, to David Burritt, President and Chief Executive Officer, United States Steel Corp. (Aug. 27, 2018).

<sup>86</sup> *Examining the Effects of Tariffs and Trade Policy on Alabama Manufacturing and Agriculture: Field Roundtable before the S. Comm. on Homeland Security & Governmental Affairs*, 115th Cong. (2017); *Examining the Effects of Tariffs and Trade Policy on Missouri Manufacturing and Agriculture: Field Roundtable before the S. Comm. on Homeland Security & Governmental Affairs*, 115th Cong. (2017); *Examining the Effects of Tariffs on Wisconsin Business: Field Roundtable before the S. Comm. on Homeland Security & Governmental Affairs*, 115th Cong. (2017).

<sup>87</sup> Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Governmental Affairs, to President Donald Trump (July 18, 2018).

union activities while on the government payroll.<sup>88</sup> The Committee requested information from 24 Federal departments and agencies about Federal employees on official time—their positions, titles, salaries, and percentage of official time work. Although the Committee received the information from some agencies, some requests remain outstanding and the investigation is ongoing.

The Committee also inquired about agencies' end-of-year spending habits, known as “use it or lose it” spending and which is prone to waste and abuse. The Committee received briefings from agencies about their plans to prevent abusive or wasteful “use it or lose it” spending.

The Committee conducted oversight of the Federal Bureau of Investigation (FBI) in the wake of news reports that senior FBI officials exhibited political bias while assigned to high-profile, politically oriented cases. Chairman Johnson requested information from the FBI and the Justice Department about the FBI's investigation into the mishandling of classified information by former Secretary of State Hillary Clinton and the FBI's investigation of alleged collusion between the Trump campaign and Russia.<sup>89</sup> Chairman Johnson also inquired about the FBI's record retention policy and FBI employees' communications with members of the news media about ongoing investigations.<sup>90</sup> Because the FBI has not fully satisfied the Chairman's requests, the Committee's oversight continues.

The Committee also received reports and information from the Justice Department's Office of the Inspector General and the Office of Special Counsel.<sup>91</sup> Chairman Johnson issued a majority interim staff report in February 2018.<sup>92</sup> This interim staff report provided a timeline of the Committee's oversight and posed unanswered questions to be addressed through further inquiry.<sup>93</sup>

<sup>88</sup> *E.g.* Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, & Trey Gowdy, Chairman, H. Comm. on Oversight & Gov't Reform, to R. Alexander Acosta, Secretary, Dep't of Labor (Jan. 9, 2018).

<sup>89</sup> *E.g.* Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Jeff Sessions, Att'y Gen., Dep't of Justice (May 21, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Christopher Wray, Director, Fed. Bureau of Investigations (May 21, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Christopher Wray, Director, Fed. Bureau of Investigations (May 11, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Jeff Sessions, Att'y Gen., Dep't of Justice (Apr. 19, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Jeff Sessions, Att'y Gen., Dep't of Justice (Mar. 28, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Jeff Sessions, Att'y Gen., Dep't of Justice (Mar. 23, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Rod J. Rosenstein, Deputy Att'y Gen., Dep't of Justice (Mar. 1, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Rod J. Rosenstein, Deputy Att'y Gen., Dep't of Justice (Jan. 31, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Christopher Wray, Director, Fed. Bureau of Investigations (Dec. 14, 2017); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Christopher Wray, Director, Fed. Bureau of Investigations (Dec. 13, 2017); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Rod J. Rosenstein, Deputy Att'y Gen., Dep't of Justice (Dec. 6, 2017).

<sup>90</sup> Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Christopher Wray, Director, Fed. Bureau of Investigations (May 21, 2018); Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov't Affairs, to Christopher Wray, Director, Fed. Bureau of Investigations (Jan. 20, 2018).

<sup>91</sup> *E.g.* Dep't of Justice, Off. of Inspector Gen., A Review of Various Actions by the Federal Bureau of Investigation and the Department of Justice in Advance of the 2016 Election (June 2018) (Oversight and Review Division 18-04); Letter from Tristan Leavitt, Acting Special Counsel, Off. of Special Counsel, to Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affs. (Sept. 21, 2017).

<sup>92</sup> Majority Staff Report, S. Comm. on Homeland Security & Governmental Affs., The Clinton Email Scandal and the FBI's Investigation of It (Feb. 7, 2018).

<sup>93</sup> *Id.*

In July 2017, the Committee convened a hearing to examine a report by the Office of Special Counsel finding that the United States Postal Service had committed a systemic violation of the Hatch Act by helping its labor union mobilize employees for partisan activities.<sup>94</sup> In November 2017, Chairman Johnson inquired about the potential “burrowing in” of a former OPM political appointee into a career position at the Consumer Finance Protection Bureau (CFPB).<sup>95</sup> OPM provided information about the appointee’s transfer to the CFPB,<sup>96</sup> and the Committee referred the transfer to the Office of Special Counsel to review whether the transfer adhered to civil service principles.<sup>97</sup>

In the early months of the Trump Administration, as sensitive details of the Administration’s deliberations appeared in press accounts, the Committee examined leaks of national security information from the Federal bureaucracy. In July 2017, Chairman Johnson released a majority staff report that analyzed the spate of leaks, finding there had been on average one leak per day of information potentially damaging to national security.<sup>98</sup>

#### G. REGULATORY REFORM

At the start of 2017, Congress worked to roll back some of the midnight rules issued at the end of the previous administration using the congressional Review Act (CRA). Altogether, we successfully repealed 16 regulations, stopping regulatory costs over the next 10 years. This kind of retrospective work is necessary, but it is only a small portion of the more than 2,500 new rules President Obama’s administration issued in its last 6 months, or the more than 4,000 during his final year. According to the Competitive Enterprise Institute, the total annual Federal regulatory cost amounts to \$1.9 trillion.<sup>99</sup> To put this in perspective, this burden amounts to over \$14,000, per year, per household.<sup>100</sup> There are only seven economies in the world that are larger than the regulatory burden we impose on our economy and American families.<sup>101</sup>

In the 115th Congress, our Committee continued its oversight and legislative work to shed light on our out-of-control regulatory State, and begin to reform it to prevent future regulatory overreach. The Committee approved important legislation to help reduce the regulatory burden. For example, the *Midnight Rules Relief Act* would allow Congress to consider regulations issued in the waning days of an outgoing President together, rather than one at a time, to strengthen the CRA process.<sup>102</sup> The *REINS Act* puts Congress back in charge—and on the hook—for regulatory policy-

<sup>94</sup> *The Postal Service’s Actions During the 2016 Campaign Season: Implications for the Hatch Act: Hearing before the S. Comm. on Homeland Sec. & Governmental Affs.*, 115th Cong. (2017).

<sup>95</sup> Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov’t Affairs, to Kathleen McGettigan, Acting Director, Off. of Personnel Management (Nov. 28, 2017).

<sup>96</sup> Letter from Kathleen McGettigan, Acting Director, Off. of Personnel Management, to Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov’t Affairs (Dec. 13, 2017).

<sup>97</sup> Letter from Henry J. Kerner, Special Counsel, Off. of Special Counsel, to Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Gov’t Affairs (Mar. 27, 2018).

<sup>98</sup> Majority Staff Report, S. Comm. on Homeland Security & Governmental Affs., *State Secrets: How an Avalanche of Media Leaks Is Harming National Security* (July 6, 2017).

<sup>99</sup> Clyde Wayne Crews, *Ten Thousand Commandments 2018: An Annual Snapshot of the Federal Regulatory State*, Report, Competitive Enterprise Institute (April 19, 2018).

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> S. 34 (115th Cong.).

making instead of unelected bureaucrats.<sup>103</sup> We also approved bipartisan structural reforms such as the *Regulatory Accountability Act*, which puts into law longstanding principles for guiding regulatory analysis—principles embraced for more than 20 years by presidents of both parties.<sup>104</sup>

The Committee also approved three bills to increase transparency and public engagement. Congress too often passes a law and leaves it up to agencies to fill in the specifics of how it should be implemented. Agencies do this by issuing regulations and guidance. Businesses, even small ones, are expected to follow these provisions, but find it extremely difficult to sort through it all and keep up to date. The *Providing Accountability Through Transparency Act of 2017*, *Early Participation in Regulations Act of 2017*, and *Guidance out of Darkness Act*, if enacted, would help the public and businesses more easily view regulations and guidance put out by agencies and determine what they need to comply with.

The Committee examined burdensome Federal regulatory actions that stifle innovation and economic growth. Among other efforts, Chairman Johnson urged the Labor Department to reconsider its so-called “Fiduciary rule” concerning investment advice,<sup>105</sup> asked the FDA to review its e-cigarette regulations,<sup>106</sup> and requested information about HHS’s rulemaking process.<sup>107</sup> Chairman Johnson examined the practice of Federal employee unions “skimming” membership dues from home health care Medicaid payments.<sup>108</sup> Following Chairman Johnson’s oversight, the Centers for Medicare and Medicaid Services (CMS) changed its regulations to prohibit union dues skimming.<sup>109</sup>

The Committee confirmed the head of the Office of Information and Regulatory Affairs (OIRA) and pushed it to revisit a rule that gave special treatment to IRS regulations. The OIRA was created as part of the 1980 Paperwork Reduction Act, a law intended to curb the amount of and duplication in paperwork requirements imposed by regulatory agencies on the public. Among other responsibilities, the Administrator oversees and coordinates proposed regulations from agencies, and is ultimately the decider of whether to “approve” the rule or “return” it to the agency with recommended changes. The Committee approved—and the full Senate confirmed—Neomi Rao to head the office in 2017. Ms. Rao has been responsible for overseeing the Trump Administration’s so-called “one in, two out” initiative that resulted in a total of 22 rules out for every new one in its first year of implementation, and in the second year, a total of 12 rules out for every new one.<sup>110</sup>

<sup>103</sup> S. 21 (115th Cong.).

<sup>104</sup> S. 951 (115th Cong.).

<sup>105</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affs., to Alexander Acosta, Secretary, Dep’t of Labor (May 12, 2017).

<sup>106</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affs., to Scott Gottlieb, Commissioner, Food & Drug Admin. (May 17, 2017).

<sup>107</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affs., to Alex M. Azar II, Secretary, Dep’t of Health & Human Servs. (May 2, 2018).

<sup>108</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affs., to Seema Verma, Administrator, Cntrs. for Medicare & Medicaid Svcs. (Apr. 30, 2018).

<sup>109</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Affs., to Christopher Thompson, Cntrs. for Medicare & Medicaid Svcs. (Aug. 1, 2018); Medicaid Program; Reassignment of Medicaid Provider Claims, 83 Fed. Reg. 32,252 (July 12, 2018).

<sup>110</sup> Office of Information and Regulatory Affairs, *Regulatory Reform: Completed Actions Fiscal Year 2017*, <https://www.reginfo.gov/public/pdf/eo13771/FINAL—BU—20171207.pdf>; Office of Information and Regulatory Affairs, *Regulatory Reform under Executive Order 13771: Final Ac-*

Since 1983, Treasury and OIRA had a memorandum of agreement which effectively exempted IRS regulations from the same kind of analysis and review applied to other executive branch agency rules. The Chairman sent a letter to both offices urging them to revisit the issue, and ultimately the subcommittee held a hearing on the topic when talks broke down. On the morning of the hearing, the two offices issued a new memo overturning the long-held agreement.

#### H. WASTE, FRAUD, AND ABUSE

As the Senate committee with direct legislative jurisdiction over governmental operations, the Committee is tasked with conducting oversight and passing legislation to combat waste, fraud, and abuse in government to yield significant cost savings to taxpayers. The Committee also works closely with government watchdogs, including inspectors general (IGs) and the GAO, to identify needed reforms. In the 115th Congress, the Committee worked on a bipartisan basis to approve dozens of pieces of legislation that make government work better for Americans. Several examples are highlighted below. Additionally, the Committee approved seven inspectors general for full Senate consideration this Congress.

Committee members may disagree on how big the Federal Government should be, but we all agree that what government programs we have need to run efficiently and at better value for taxpayers. This Congress, the Committee approved and Congress enacted legislation to stop automatic and wasteful printing of the Federal Register, to prohibit the use of Federal funds to pay for official portraits for Federal employees, and to authorize the use of more cost-effective and innovative modes of transportation when Federal employees need to travel.<sup>111</sup>

Committee members understand that by making more documents, data, and information available to the public, Federal agencies are held accountable for the decisions they make and the money they spend. That's why the Committee approved several bills that require agencies to make more information available to the public.<sup>112</sup>

The Committee has worked to address the skyrocketing amount of money that the Federal Government improperly pays out each year. From 2013 to 2015, the improper payment total increased from \$105 billion to \$136.5 billion.<sup>113</sup> The Committee approved several bills that crack down on improper payments and fraud, including a bill that would prevent the Social Security Administration from paying hundreds of thousands of dollars to people who are deceased, one that reduces the instances in which the government can send out an individual's social security number in the mail, and one that improves the way Federal improper payment laws are

*counting for Fiscal Year 2018*, <https://www.reginfo.gov/public/pdf/eo13771/EO-13771-Final-Accounting-for-Fiscal-Year-2018.pdf>.

<sup>111</sup>Pub. L. No. 115-184 (115th Cong.); Pub. L. No. 115-158 (115th Cong.); Pub. L. No. 115-34 (115th Cong.).

<sup>112</sup>*See, e.g.*, S. 1769 (115th Cong.); S. 2896 (115th Cong.); S. 760 (115th Cong.); S. 2276 (115th Cong.); S. 3031 (115th Cong.); S. 3050 (115th Cong.); S. 2178 (115th Cong.); S. 234 (115th Cong.).

<sup>113</sup>Gov't Accountability Office, GAO-14-747T, *Improper Payments: Government-Wide Estimates and Reduction Strategies* (July 9, 2014).

written in statute to help reduce future improper payments.<sup>114</sup> The Committee also approved, and Congress enacted, legislation to ensure GAO can access the National Director of New Hires to perform better oversight of Federal improper payments.<sup>115</sup>

The Committee also approved legislation to help the Trump Administration re-think the Federal bureaucracy. The *Reforming Government Act of 2018* would provide authority for the President to submit government reorganization proposals to Congress for expedited consideration.<sup>116</sup> This bill would provide expedited reorganization authority for up to 2 years upon enactment and requires that the President provide certain information to Congress as a condition before Congress can use the expedited authority to consider the proposal. After lengthy discussion at the Committee's business meeting, members agreed to require that sponsors establish bipartisan support for any proposal before it can be considered under expedited procedures.

Finally, the Committee approved legislation to improve the Presidential transition process. The *Presidential Transition Enhancement Act* would clarify the responsibilities of the General Services Administration (GSA) and other agencies during a transition and require a contractual relationship between GSA and a transition team to guide the transition process.<sup>117</sup>

## II. COMMITTEE JURISDICTION

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

### RULE XXV

\* \* \* \* \*

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

1. Archives of the United States.
2. Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.
3. Census and collection of statistics, including economic and social statistics.
4. Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.
5. Federal Civil Service.
6. Government information.
7. Intergovernmental relations.
8. Municipal affairs of the District of Columbia, except appropriations therefor.
9. Organization and management of United States nuclear export policy.

<sup>114</sup>S. 2374 (115th Cong.); S. 1208 (115th Cong.); S. 2948 (115th Cong.).

<sup>115</sup>S. 17, GAO Access and Oversight Act of 2017, signed in to law as Pub. L. No. 115-3 (115th Cong.).

<sup>116</sup>S. 3137 (115th Cong.).

<sup>117</sup>S. 3487 (115th Cong.).



10. Organization and reorganization of the executive branch of the Government.

11. Postal Service.

12. Status of officers and employees of the United States, including their classification, compensation, and benefits.

(2) Such committee shall have the duty of—

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

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

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

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

SENATE RESOLUTION 62, 115TH CONGRESS

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS.

Sec. 12. (a) \* \* \*

\* \* \* \* \*

(d) INVESTIGATIONS—

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

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

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

(C) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infil-

trated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

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

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

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

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

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

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

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

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

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

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

(3) **SPECIAL COMMITTEE AUTHORITY.**—For the purposes of this subsection, the committee, or any duly authorized subcommittee of the committee, or its chairman, or any other member of the committee or subcommittee designated by the chairman is authorized, in its, his or her, or their discretion—

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

(B) to hold hearings;

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

(D) to administer oaths; and

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

(4) **AUTHORITY OF OTHER COMMITTEES.**—Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.

(5) **SUBPOENA AUTHORITY.**—All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 73, agreed to February 12, 2015 (114th Congress) are authorized to continue.

### III. BILLS AND RESOLUTIONS REFERRED AND CONSIDERED

During the 115th Congress, 277 Senate bills and 191 House bills were referred to the Committee for consideration. In addition, 11 Senate Resolutions and 3 Senate Concurrent Resolutions were referred to the Committee.

The Committee reported 92 bills; an additional 15 measures were discharged.

Of the legislation received by the Committee, 93 measures became public laws, including 62 postal naming bills.

### IV. HEARINGS

During the 115th Congress, the Committee held 50 hearings on legislation, oversight issues, and nominations. Hearing titles and dates follow.

The Committee also held 24 scheduled business meetings.

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

*Nomination of John F. Kelly to be Secretary, U.S. Department of Homeland Security.* January 11, 2017. (S. Hrg. 115–141)

This one-panel hearing considered the nomination of John F. Kelly to be Secretary, U.S. Department of Homeland Security. Mr. Kelly was introduced by Senators John McCain and Thomas R. Carper as well as Hon. Robert M. Gates.

*Nomination of Hon. J. Michael Mulvaney to be Director, Office of Management and Budget.* January 24, 2017. (S. Hrg. 115–292)

This one-panel hearing considered the nomination of Hon. J. Michael Mulvaney to be Director, Office of Management and Budget. Mr. Mulvaney was introduced by Senators Lindsey Graham and Tom Cotton.

*High Risk: Government Operations Susceptible to Waste, Fraud, and Mismanagement.* February 15, 2017. (S. Hrg. 115–314)

The purpose of this single-panel hearing was to examine the Government Accountability 2017 update of the High-Risk Series as well as opportunities to improve the performance of agencies under the Committee's jurisdiction. The witnesses described the reasons for adding areas to and removing areas from the High-Risk Series and highlighted the steps that are being taken to address waste, fraud, and mismanagement in their respective government agencies.

Witnesses: Hon. Eugene L. Dodaro, Comptroller General of the United States, U.S. Government Accountability Office; Hon. John H. Thompson, Director, U.S. Census Bureau, U.S. Department of Commerce; Hon. Michael J. Missal, Inspector General, U.S. Department of Veterans Affairs; and Hon. John Roth, Inspector General, U.S. Department of Homeland Security.

*The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities.* March 01, 2017. (S. Hrg. 115–289)

The purpose of this single-panel hearing was to examine the real-world consequences of America's unsecure southern border and the lax enforcement of our immigration laws and policies. Witnesses in law enforcement provided insight as to how immigration and border security policies impact their communities and explained how Congress and the Administration can help to combat the effects of the unlawful movement of people, illegal drugs, and other contraband. The third witness shared her personal experience, detailing how border insecurity and lax immigration enforcement have impacted her family.

Witnesses: Julie Nordman, Wentzville, Missouri; Hon. Eric Severson, Sherriff, Waukesha County, State of Wisconsin; and Ryan Rectenwald, Chief Deputy of Special Operations, Grant County Sheriff's Office, State of Washington.

*Nomination of the Honorable Elaine C. Duke to be Deputy Secretary, U.S. Department of Homeland Security.* March 08, 2017. (S. Hrg. 115–356)

This one-panel hearing considered the nomination of Elaine C. Duke to be Deputy Secretary, U.S. Department of Homeland Security. Ms. Duke was introduced by Senator Rob Portman.

*Perspectives from the DHS Frontline: Evaluating Staffing Resources and Requirements.* March 22, 2017. (S. Hrg. 115–159)

The purpose of this single-panel hearing was to examine the staffing needs of U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) personnel, identify resource shortages at these agency components, and assess the most effective way for the Department of Homeland Security to help secure our Nation's borders and enforce our immigration laws. Witnesses described the most pressing challenges facing CBP's and ICE's work force and recommended measures to resolve them.

Witnesses: Brandon Judd, President, National Border Patrol Council (testifying on behalf of Border Patrol Agents, U.S. Customs and Border Protection); Anthony M. Reardon, National President, National Treasury Employees Union (testifying on behalf of Office of Field Operations Officers, U.S. Customs and Border Protection); and Chris Crane, President, National Immigration and Customs Enforcement Council (testifying on behalf of Enforcement Removal Operations Officers, U.S. Immigration and Customs Enforcement).

*Fencing Along the Southwest Border.* April 04, 2017. (S. Hrg. 115–295)

The purpose of this single-panel hearing was to examine efforts to secure the southwest border through the construction of fencing and to provide the Administration and the Department of Homeland Security with lessons learned from previous fence deployment efforts. The hearing also highlighted the legal authorities and financial implications related to fence construction as well as the costs and benefits associated with deploying additional infrastructure, technology and personnel along the U.S.-Mexico border. Mr. Aguilar and Mr. Colburn described their experiences overseeing the deployment and construction of fencing and tactical infrastructure. Dr. Garrett discussed his work on eminent domain issues.

Witnesses: David Aguilar, Former Acting Commissioner of U.S. Customs and Border Protection at the U.S. Department of Homeland Security; Ronald Colburn, Former Deputy Chief of the U.S. Border Patrol at U.S. Customs and Border Protection at the U.S. Department of Homeland Security; and Terence M. Garrett, Ph.D., Professor and Chair, Public Affairs and Security Studies Department, The University of Texas Rio Grande Valley.

*Improving Border Security and Public Safety.* April 05, 2017. (S. Hrg. 115–289)

The purpose of this single-panel hearing was to examine the Department of Homeland Security's ongoing efforts to improve border security and public safety, including President Trump's executive orders and the request for additional appropriations. Secretary Kelly described DHS's resources for border security and immigration law enforcement, including staffing and infrastructure needs, offered his perspective regarding the overall budgetary needs of the Department, and detailed DHS's implementation of the Administration's recent executive orders.

Witnesses: Hon. John F. Kelly, Secretary, U.S. Department of Homeland Security.

*Duplication, Waste, and Fraud in Federal Programs.* April 26, 2017. (S. Hrg. 115–178)

The purpose of this single-panel hearing was to examine the Government Accountability Office’s (GAO’s) report titled, “2017 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits.” Mr. Dodaro provided recommendations pertaining to the 2017 report as well as assessed the progress of GAO recommendations stemming from previously published duplication reports. The remaining witnesses discussed areas of focus within the report: Mr. George testified on duplication within refundable tax credit programs, Ms. Blank testified about the administrative requirements on Federal research, and Mr. Repko testified regarding the construction of Department of Veterans Affairs (VA) medical facilities.

Witnesses: Hon. Eugene L. Dodaro, Comptroller General of the United States, U.S. Government Accountability Office; Hon. J. Russell George, Inspector General for Tax Administration, U.S. Department of the Treasury; Hon. Rebecca M. Blank, Ph.D., Chancellor, University of Wisconsin-Madison; and Keith D. Repko, Medical Center Director, VA St. Louis Health Care System, Veterans Health Administration, U.S. Department of Veterans Affairs.

*Cyber Threats Facing America: An Overview of the Cybersecurity Threat Landscape.* May 10, 2017. (S. Hrg. 115–298)

The purpose of this single-panel hearing was to provide an overview of the cybersecurity landscape across four broad threat categories: criminal, malicious, industrial espionage, and warfare. The witnesses discussed existing cyber-related offensive capabilities, motivations of threat actors, and the role of private and public sector actors in mitigating risks and responding to incidents.

Witnesses: Jeffrey E. Greene, Senior Director, Global Government Affairs and Policy, Symantec Corporation; Steven Chabinsky, Global Chair of Data, Privacy, and Cyber Security, White & Case LLP (testifying in his personal capacity); Brandon Valeriano, Ph.D., Donald Bren Chair, Marine Corps University, and Adjunct Fellow, Niskanen Center; and Kevin Keeney, Captain, Missouri National Guard, and Director, Cyber Incident Response Team, Monsanto Company (testifying in his personal capacity).

*Border Insecurity: The Rise of MS-13 and Other Transnational Criminal Organizations.* May 24, 2017. (S. Hrg. 115–289)

The purpose of this single-panel hearing was to examine the presence and activity of gangs and transnational organizations, like Mara Salvatrucha, or MS-13, in American communities. The witnesses described recent transnational gang-related activity in their jurisdictions, detailing the motivations of members and recruits as well as the challenges that law enforcement officers face when apprehending gang members. The witnesses also discussed how unaccompanied minors from Central America’s Northern Triangle are particularly susceptible to gang recruitment upon entering the United States.

Witnesses: Timothy D. Sini, Police Commissioner, Suffolk County Police Department, Suffolk County, New York; Scott Conley, Detective, Criminal Investigative Division, Chelsea Police Department, Chelsea, Massachusetts; and J. Thomas Manger, Chief of Police,

Montgomery County Police Department, Montgomery County, Maryland.

*The Department of Homeland Security Fiscal Year 2018 Budget Request.* June 06, 2017. (S. Hrg. 115–293)

The purpose of this single-panel hearing was to discuss the Department of Homeland Security’s budget request for Fiscal Year 2018. Secretary Kelly described how the requested budget will meet the Nation’s homeland security needs.

Witnesses: Hon. John F. Kelly, Secretary, U.S. Department of Homeland Security.

*Nominations of Brock Long to be Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Russell Vought to be Deputy Director, Office of Management and Budget; and Neomi Rao to be Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.* June 07, 2017. (S. Hrg. 115–372)

This one-panel hearing considered the nominations of Brock Long to be Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Russell Vought to be Deputy Director, Office of Management and Budget; and Neomi Rao to be Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget. Ms. Rao was introduced by Senator Orrin Hatch.

*Ideology and Terror: Understanding the Tools, Tactics, and Techniques of Violent Extremism.* June 14, 2017. (S. Hrg. 115–309)

The purpose of this single-panel hearing was to examine the root causes of global extremism and terrorism as well as to consider strategies for confronting the problem and securing the United States. The witnesses offered recommendations for combatting terrorism and testified as to the root causes of violent extremism—including the tools, tactics, and techniques that extremists use to spread their messages.

Witnesses: Ayaan Hirsi Ali, Research Fellow, Hoover Institution, Stanford University; Asra Nomani, Co-Founder, Muslim Reform Movement; John Lenczowski, Ph.D., President, Institute of World Politics; and the Honorable Michael E. Leiter, Former Director of the National Counterterrorism Center.

*Cybersecurity Regulation Harmonization.* June 21, 2017. (S. Hrg. 115–310)

The purpose of this single-panel hearing was to examine the burden of duplicative, overlapping, and conflicting cybersecurity regulations within various industries and to explore opportunities to consolidate regulations to focus resources on cybersecurity practices. The witnesses discussed how regulations have impacted various organizations’ cybersecurity practices, especially in terms of the resources expended.

Witnesses: Christopher F. Feeney, President, BITS/Financial Services Roundtable; Dean C. Garfield, President and CEO, Information Technology Industry Council; Daniel Nutkis, Founder and CEO, Health Information Trust Alliance; and James “Bo” Reese, Vice President, National Association of State Chief Information Of-

ficers and Chief Information Officer, Office of Management and Enterprise Services, State of Oklahoma.

*Nominations of Claire M. Grady to be Under Secretary for Management, U.S. Department of Homeland Security, and Henry Kerner to be Special Counsel, Office of Special Counsel.* June 28, 2017. (S. Hrg. 115–332)

This one-panel hearing considered the nominations of Claire M. Grady to be Under Secretary for Management, U.S. Department of Homeland Security, and Henry Kerner to be Special Counsel, Office of Special Counsel.

*Nominations of David J. Glawe to be Under Secretary for Intelligence & Analysis, U.S. Department of Homeland Security, and David P. Pekoske to be Assistant Secretary (Transportation Security Administration), U.S. Department of Homeland Security.* July 11, 2017. (S. Hrg. 115–357)

This one-panel hearing considered the nominations of David J. Glawe to be Under Secretary for Intelligence & Analysis, U.S. Department of Homeland Security, and David P. Pekoske to be Assistant Secretary (Transportation Security Administration), U.S. Department of Homeland Security.

*The Postal Service's Actions During the 2016 Campaign Season: Implications for the Hatch Act.* July 19, 2017. (S. Hrg. 115–352)

The purpose of this single-panel hearing was to examine the investigations by the United States Postal Service (USPS) Office of the Inspector General (OIG) and the Office of Special Counsel (OSC) into a violation of the Hatch Act during the 2016 election cycle. Representatives from the OSC and the OIG explained their findings, while a Wisconsin letter carrier described his experiences and why he first raised concerns. Postmaster General Brennan responded to the findings, pledging to comply with the recommendations.

Witnesses: Timm Kopp, Letter Carrier, U.S. Postal Service; William Siemer, Acting Deputy Inspector General, Office of the Inspector General, U.S. Postal Service; Adam Miles, Acting Special Counsel, Office of Special Counsel; and the Honorable Megan J. Brennan, Postmaster General and Chief Executive Officer, U.S. Postal Service.

*The History and Current Reality of the U.S. Health Care System.* September 06, 2017. (S. Hrg. 115–373)

The purpose of this single-panel hearing was to discuss the rising cost of health care in the U.S., how the current third-party payment model incentives overutilization of care, the disconnect between health care consumers and the prices of care, and the need for consumer driven price transparency and competition.

Witnesses: Melissa Thomasson, Ph.D., Professor and Director of Graduate Studies, Department of Economics, Miami University; Katherine Baicker, Ph.D., Dean, Harris School of Public Policy, The University of Chicago; and Sabrina Corlette, Research Professor, Center on Health Insurance Reforms, Georgetown University Health Policy Institute.



*Nominations of Daniel J. Kaniewski to be Deputy Administrator for Protection and National Preparedness, Federal Emergency Management Agency, U.S. Department of Homeland Security, and of Jonathan Pittman to be an Associate Judge, Superior Court of the District of Columbia.* September 12, 2017. (S. Hrg. 115–358)

This one-panel hearing considered the nominations of Daniel J. Kaniewski to be Deputy Administrator for Protection and National Preparedness, Federal Emergency Management Agency, U.S. Department of Homeland Security, and Jonathan Pittman to be an Associate Judge, Superior Court of the District of Columbia.

*FCC’s Lifeline Program: A Case Study of Government Waste and Mismanagement.* September 14, 2017. (S. Hrg. 115–359)

The purpose of this single-panel hearing was to examine waste, fraud, and abuse in the FCC’s Lifeline Program, as uncovered by the Government Accountability Office’s (GAO) recent report, “Telecommunications: Additional Action Needed to Address Significant Risks in FCC’s Lifeline Program.” The representative from GAO, Mr. Bagdoyan, discussed the report’s findings, while Federal Communications Commission Chairman Pai and Universal Service Administrative Company Acting Chief Executive Officer Robinson outlined the steps they are taking to verify subscriber eligibility, increase the oversight of service providers, and bring enforcement actions against bad actors.

Witnesses: Seto Bagdoyan, Director of Audit Services, Forensic Audits and Investigative Service, Government Accountability Office; Hon. Ajit V. Pai, Chairman, Federal Communications Commission; and Vickie S. Robinson, Acting Chief Executive Officer and General Counsel, Universal Service Administrative Company.

*Threats to the Homeland.* September 27, 2017.

The purpose of this single-panel hearing was to update the public’s understanding of prevailing threats to the homeland and how Federal agencies are countering those threats. The witnesses addressed the most pressing domestic and foreign threats as determined by their respective agencies.

Witnesses: Hon. Elaine C. Duke, Acting Secretary, U.S. Department of Homeland Security; Hon. Christopher A. Wray, Director, Federal Bureau of Investigation, U.S. Department of Justice; and Hon. Nicholas J. Rasmussen, Director, National Counterterrorism Center, Office of the Director of National Intelligence.

*Nomination of John M. Mitnick to be General Counsel, U.S. Department of Homeland Security.* October 03, 2017. (S. Hrg. 115–360)

This one-panel hearing considered the nomination of John M. Mitnick to be General Counsel, U.S. Department of Homeland Security.

*Nominations of Jeff T.H. Pon to be Director, Office of Personnel Management; Michael J. Rigas to be Deputy Director, Office of Personnel Management; and Emily W. Murphy to be Administrator, General Services Administration.* October 18, 2017. (S. Hrg. 115–430)

This one-panel hearing considered the nominations of Jeff T.H. Pon to be Director, Office of Personnel Management; Michael J. Rigas to be Deputy Director, Office of Personnel Management; and Emily W. Murphy to be Administrator, General Services Administration. Ms. Murphy was introduced by Senator McCaskill.

*2017 Hurricane Season: Oversight of the Federal Response.* October 31, 2017. (S. Hrg. 115–391)

The purpose of this single-panel hearing was to review the Federal Government's past and present response to the 2017 hurricane season. The hearing highlighted response efforts by Federal agencies and partners to Hurricanes Harvey, Irma, and Maria, which caused significant damage to Texas, Florida, Puerto Rico, and the U.S. Virgin Islands.

Witnesses: Hon. Brock Long, Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Robert G. Salesses, Deputy Assistant Secretary of Defense for Homeland Defense Integration and Defense Support of Civil Authorities, U.S. Department of Defense; Major General Donald E. Jackson, Deputy Commanding General for Civil and Emergency Operations, U.S. Army Corps of Engineers, U.S. Department of Defense; and Hon. Robert P. Kadlec, M.D., Assistant Secretary for Preparedness and Response, U.S. Department of Health and Human Services.

*2020 Census: Examining Cost Overruns, Information Security, and Accuracy.* October 31, 2017. (S. Hrg. 115–444)

The purpose of this single-panel hearing was to discuss the factors that led the Department of Commerce to increase the cost estimate for the 2020 Census Program as well as what actions the Department is taking to lower the costs and operational risks of the 2020 Census. Secretary Ross described the changes he has made since his nomination and the Comptroller General explained why the Government Accountability Office placed the 2020 Census on its 2017 High Risk List in February 2017.

Witnesses: Hon. Wilbur L. Ross, Jr., Secretary, U.S. Department of Commerce (accompanied by Ron S. Jarmin, Ph.D., Acting Director, U.S. Census Bureau); and Hon. Eugene L. Dodaro, Comptroller General of the United States, U.S. Government Accountability Office.

*Nominations of Hon. Ernest W. DuBester, Hon. Colleen D. Kiko, and James T. Abbott to be Members, Federal Labor Relations Authority.* November 07, 2017. (S. Hrg. 115–420)

This one-panel hearing considered the nominations Hon. Ernest W. DuBester to be a Member, Federal Labor Relations Authority; Hon. Colleen D. Kiko to be a Member, Federal Labor Relations Authority; and James T. Abbott to be a Member, Federal Labor Relations Authority. Ms. Kiko was introduced by Representative Jim Sensenbrenner.

*Nomination of Kirstjen M. Nielsen to be Secretary, U.S. Department of Homeland Security.* November 08, 2017. (S. Hrg. 115–392)

This one-panel hearing considered the nomination of Kirstjen M. Nielsen to be Secretary, U.S. Department of Homeland Security. Ms. Nielsen was introduced by Senators Rob Portman and Marco Rubio.

*Adapting to Defend the Homeland Against the Evolving International Terrorist Threat.* December 06, 2017 (S. Hrg. 115–440)

The purpose of this single-panel hearing was to discuss the changing threat landscape with the destruction of the so-called ISIS “caliphate” and the challenges the Federal Government faces in defending the homeland against threats—both around the globe and here in the United States. The witnesses described their agencies’ specific roles in countering evolving terrorist threats to the homeland, the resources and personnel devoted to the mission, as well as the challenges they face.

Witnesses: Mark E. Mitchell, Acting Assistant Secretary of Defense for Special Operations/Low-Intensity Conflict, U.S. Department of Defense; Lora Shiao, Acting Director for Intelligence, National Counterterrorism Center, Office of the Director of National Intelligence; Nikki L. Floris, Deputy Assistant Director for Counterterrorism, Federal Bureau of Investigation, U.S. Department of Justice; and Robin Taylor, Acting Deputy Under Secretary for Intelligence & Analysis, U.S. Department of Homeland Security.

*Nomination of Margaret M. Weichert to be Deputy Director for Management, Office of Management and Budget.* December 14, 2017. (S. Hrg. 115–427)

This one-panel hearing considered the nomination of Margaret M. Weichert to be Deputy Director for Management, Office of Management and Budget.

*Unintended Consequences: Medicaid and the Opioid Epidemic.* January 17, 2018. (S. Hrg. 115–441)

The purpose of this single-panel hearing was to examine the relationship between the Medicaid program and the ongoing opioid epidemic. The witnesses drew on their experiences to discuss whether Medicaid incentivizes and facilitates opioid-related fraud and abuse.

Witnesses: Sam Adolphsen, Former Chief Operating Officer at the Department of Health and Human Services, State of Maine, and Vice President, Rockwood Solutions; J. Otto Schalk, Prosecuting Attorney, Harrison County, State of Indiana; Emmanuel Tyndall, Inspector General, State of Tennessee; David A. Hyman, M.D., Professor of Law, Georgetown University Law Center; and Andrew Kolodny, M.D., Co-Director of Opioid Policy Research, The Heller School for Social Policy and Management, Brandeis University.

*ROUNDTABLE—Reauthorizing DHS: Positioning DHS to Address New and Emerging Threats to the Homeland.* February 07, 2018. (S. Hrg. 115–457)

The purpose of this roundtable was to examine the need for a reauthorization of the Department of Homeland Security as the Committee considers H.R. 2825, The Department of Homeland Security Authorization Act. The participants from DHS discussed the need for reauthorization and the participants from the Government Accountability Office and the Office of the Inspector General discussed their recommendations for policy and programmatic reforms at DHS.

Participants: Hon. Elaine C. Duke, Deputy Secretary, U.S. Department of Homeland Security (accompanied by Christopher Krebs, Senior Official Performing the Duties of the Under Secretary, National Protection and Programs Directorate, U.S. Department of Homeland Security); Hon. Claire M. Grady, Under Secretary for Management, U.S. Department of Homeland Security; George A. Scott, Managing Director, Homeland Security and Justice, U.S. Government Accountability Office (accompanied by Chris Currie, Director, Emergency Management and National Preparedness Issues, U.S. Government Accountability Office); and John V. Kelly, Acting Inspector General, U.S. Department of Homeland Security.

*FEMA: Prioritizing a Culture of Preparedness.* April 11, 2018. (S. Hrg. 115–442)

The purpose of this single-panel hearing was to review the response by Federal Agencies and partners to natural disasters that occurred in 2017. Specifically, Administrator Long described lessons learned from the 2017 hurricane season, as well as efforts to increase resiliency for emergency management efforts at the Federal, State and local levels.

Witnesses: Hon. William “Brock” Long, Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security.

*Nominations of Hon. David Williams, Hon. Robert M. Duncan, and Calvin R. Tucker to be Governors, U.S. Postal Service.* April 18, 2018. (S. Hrg. 115–450)

This one-panel hearing considered the nominations of Hon. David Williams, Hon. Robert M. Duncan, and Calvin R. Tucker to be Governors, U.S. Postal Service. Mr. Duncan was introduced by Senators Mitch McConnell and Rand Paul.

*Mitigating America’s Cybersecurity Risk.* April 24, 2018. (S. Hrg. 115–475)

The purpose of this single-panel hearing was to examine how effective DHS programs are at mitigating cybersecurity risks for government and private-sector networks. The witnesses testified about these programs as well as the steps that have been taken by DHS to assist State election security efforts.

Witnesses: Jeanette Manfra, Assistant Secretary, Office of Cybersecurity & Communications, National Protection and Programs Directorate, U.S. Department of Homeland Security; Gregory C. Wilshusen, Director of Information Security Issues, U.S. Govern-

ment Accountability Office; and Hon. Eric Rosenbach, Co-Director, Belfer Center for Science and International Affairs, John F. Kennedy School of Government, Harvard University.

*Nomination of Christopher C. Krebs to be Under Secretary, National Protection and Programs Directorate, U.S. Department of Homeland Security.* April 25, 2018. (S. Hrg. 115–445)

This one-panel hearing considered the nomination of Christopher C. Krebs to be Under Secretary, National Protection and Programs Directorate, U.S. Department of Homeland Security.

*Authorities and Resources Needed to Protect and Secure the United States.* May 15, 2018. (S. Hrg. 115–465)

The purpose of this single-panel hearing was to discuss the need for reauthorization, as well as additional resources and authorities needed by DHS in light of Departmental priorities. Secretary Nielsen discussed efforts to secure the border, strengthen the DHS work force, and mitigate cybersecurity risks.

Witnesses: Hon. Kirstjen M. Nielsen, Secretary, U.S. Department of Homeland Security.

*Nominations of Emory A. Rounds III to be Director, Office of Government Ethics; Kelly A. Higashi to be an Associate Judge, DC Superior Court; and Frederick M. Nutt to be Controller, Office of Federal Financial Management, Office of Management and Budget.* May 23, 2018. (S. Hrg. 115–472)

This one-panel hearing considered the nominations of Emory A. Rounds III to be Director, Office of Government Ethics; Kelly A. Higashi to be an Associate Judge, DC Superior Court; and Frederick M. Nutt to be Controller, Office of Federal Financial Management, Office of Management and Budget. Mr. Rounds was introduced by Senator Angus S. King, Jr. Ms. Higashi was introduced by Delegate Eleanor Holmes Norton.

*S. 2836, the Preventing Emerging Threats Act of 2018: Countering Malicious Drones.* June 06, 2018. (S. Hrg. 115–476)

The purpose of this single-panel hearing was to examine the emerging threat that malicious unmanned aircraft systems (UAS) pose to public safety and homeland security. The witnesses spoke generally about the threat landscape as well as the specific authorities needed by the Federal Government to address these risks. Furthermore, each witness indicated how S. 2836 would help DHS and DOJ in their missions to protect the homeland from security threats involving UAS.

Witnesses: Hon. David J. Glawe, Under Secretary, Office of Intelligence and Analysis, U.S. Department of Homeland Security; Hayley Chang, Deputy General Counsel, U.S. Department of Homeland Security; Scott Brunner, Deputy Assistant Director, Federal Bureau of Investigation, U.S. Department of Justice; and Angela H. Stubblefield, Deputy Associate Administrator, Security and Hazardous Materials Safety, Federal Aviation Administration, U.S. Department of Transportation.

*ROUNDTABLE—Examining the Chemical Facility Anti-Terrorism Standards Program.* June 12, 2018. (S. Hrg. 115–477)

The purpose of this roundtable was to examine the effectiveness of the Chemical Facility Anti-Terrorism Standards (CFATS) program as the Committee considers reauthorization. The participants described which aspects of the program have been working well and which areas can be further improved.

Participants: David Wulf, Acting Deputy Assistant Secretary for Infrastructure Protection, National Protection and Programs Directorate, U.S. Department of Homeland Security; Christopher P. Currie, Director, Homeland Security and Justice Team, U.S. Government Accountability Office; Randall Eppli, President and CEO, Columbus Chemical Industries, Inc.; Justin Louchheim, Director, Government Affairs, The Fertilizer Institute; Debra S. Satkowiak, President, Institute of Makers of Explosives; Linda Menendez, Director of Operations, Austin Powder Company; William Erny, Senior Director, American Chemistry Council; Jesse LeGros, Jr., Vice President, Infrastructure Protection, AFGE National Local #918; and Jennifer Gibson, Vice President, Regulatory Affairs, National Association of Chemical Distributors.

*Medicaid Fraud and Overpayments: Problems and Solutions.* June 27, 2018. (S. Hrg. 115–543)

The purpose of this single-panel hearing was to discuss the Medicaid program’s vulnerability to fraud and overpayments. The witnesses described their office’s oversight of the Centers for Medicare and Medicaid Service’s (CMS) efforts to combat Medicaid fraud and overpayments.

Witnesses: Hon. Eugene L. Dodaro, Comptroller General of the United States, U.S. Government Accountability Office; and Brian P. Ritchie, Assistant Inspector General for Audit Services, U.S. Department of Health and Human Services.

*Reviewing the Administration’s Government Reorganization Proposal.* July 18, 2018. (S. Hrg. 115–547)

The purpose of this single-panel hearing was to discuss the Administration’s recently released government reorganization proposal, entitled, “Delivering Government Solutions in the 21st Century: Reform Plan and Reorganization Recommendations.” The Deputy Director described OMB’s vision for modernizing and streamlining the Federal Government to improve accountability, effectiveness, efficiency, and stewardship of taxpayer dollars.

Witnesses: Hon. Margaret Weichert, Deputy Director for Management, Office of Management and Budget.

*Nominations of Dennis D. Kirk to be Chairman, Merit Systems Protection Board; Hon. Julia A. Clark and Andrew F. Maunz to be Members, Merit Systems Protection Board; and Carmen G. McLean to be an Associate Judge, Superior Court of the District of Columbia.* July 19, 2018. (S. Hrg. 115–546)

This one-panel hearing considered the nominations of Dennis D. Kirk to be Chairman, Merit Systems Protection Board; Hon. Julia A. Clark and Andrew F. Maunz to be Members, Merit Systems Protection Board; and Carmen G. McLean to be an Associate Judge, Superior Court of the District of Columbia.

*Examining CMS's Efforts for Fight Medicaid Fraud and Overpayments.* August 21, 2018. (S. Hrg. 115-543)

The purpose of this single panel hearing was to examine Medicaid's vulnerability to fraud and overpayments, and the efforts of the Centers for Medicare and Medicaid Services (CMS) to safeguard taxpayer dollars in the Medicaid program as a followup to the June 27, 2018, hearing and program initiative announced by CMS.

Witnesses: Hon. Seema Verma, Administrator, Centers for Medicare & Medicaid Services, U.S. Department of Health and Human Services; and Hon. Eugene L. Dodaro, Comptroller General of the United States, U.S. Government Accountability Office.

*Nominations of William N. Bryan to be Under Secretary for Science & Technology, U.S. Department of Homeland Security, and Peter T. Gaynor to be Deputy Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security.* August 22, 2018.

This one-panel hearing considered the nominations of William N. Bryan to be Under Secretary for Science & Technology, U.S. Department of Homeland Security, and Peter T. Gaynor to be Deputy Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security. Mr. Gaynor was introduced by Senator Jack Reed.

*Evolving Threats to the Homeland.* September 13, 2018.

The purpose of this single-panel hearing was to increase the public's awareness of underappreciated threats to the homeland that, if not mitigated, could significantly damage the Nation's critical infrastructure and/or disrupt people's lives. Topics covered included threats from cyberspace, drones, electromagnetic pulses and geo-magnetic disturbances, and supply chain vulnerabilities from information and communication technology.

Witnesses: Kevin Mandia, Chief Executive Officer, FireEye, Inc.; Cathy Lanier, Senior Vice President of Security, National Football League; Scott McBride, Manager, Infrastructure Security Department, Idaho National Laboratory; and Jennifer Bisceglie, President and Chief Executive Officer, Interos Solutions, Inc.

*The Implications of the Flores Settlement Agreement for Border Security and Illegal Immigration Incentives.* September 18, 2018.

The purpose of this single-panel hearing was to examine what effects the 2015 reinterpretation of the Flores settlement agreement has had on U.S. border security and immigration, as well as the factors that lead to illegal immigration. Witnesses were also asked to address any legislative action necessary to reduce illegal immigration, as well as any additional resources and authorities needed to better secure the United States' southwest border.

Witnesses: Matthew Albence, Executive Associate Director, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; Robert Perez, Acting Deputy Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Joseph Edlow, Acting Deputy Assistant Attorney General, U.S. Department of Justice; and Rebecca Gambler, Director, Homeland Security and Justice, U.S. Government Accountability Office.

*Nominations of Hon. Steven D. Dillingham, Ph.D., to be Director of the Census, U.S. Department of Commerce, and Michael M. Kubayanda to be a Commissioner, Postal Regulatory Commission.* October 3, 2018.

This one-panel hearing considered the nominations of Hon. Steven D. Dillingham, Ph.D., to be Director of the Census, U.S. Department of Commerce, and Michael M. Kubayanda to be a Commissioner, Postal Regulatory Commission.

*Threats to the Homeland.* October 10, 2018.

The purpose of this single-panel hearing was to update the public's understanding of prevailing threats to the homeland and how Federal agencies are countering those threats. The witnesses addressed the most pressing domestic and foreign threats as determined by their respective agencies.

Witnesses: Hon. Kirstjen M. Nielsen, Secretary, U.S. Department of Homeland Security; Hon. Christopher A. Wray, Director, Federal Bureau of Investigation, U.S. Department of Justice; and Russell E. Travers, Acting Director, National Counterterrorism Center, Office of the Director of National Intelligence.

*Nominations of Ronald D. Vitiello to be Assistant Secretary for Immigration and Customs Enforcement, U.S. Department of Homeland Security, and Richard S. Tischner, Jr., to Director, Court Services and Offender Supervision Agency, District of Columbia.* November 15, 2018.

This one-panel hearing considered the nominations of Ronald D. Vitiello to be Assistant Secretary for Immigration and Customs Enforcement, U.S. Department of Homeland Security, and Richard S. Tischner, Jr., to Director, Court Services and Offender Supervision Agency, District of Columbia.

## V. REPORTS, PRINTS, AND GAO REPORTS

During the 115th Congress, the Committee prepared and issued 93 reports and 2 Committee Prints on the following topics. Reports issued by Subcommittees are listed in their respective sections of this document.

### COMMITTEE REPORTS

Activities of the Committee on Homeland Security and Governmental Affairs and its Subcommittees for the One Hundred Fourteenth Congress. S. Rept. 115–12.

To provide for the reimbursement for the use of modern travel services by Federal employees traveling on official Government business and for other purposes. S. Rept. 115–31, re. H.R. 274.

To amend the Homeland Security Act of 2002 to make the Assistant Secretary of Homeland Security for Health Affairs responsible for coordinating the efforts of the Department of Homeland Security related to food, agriculture, and veterinary defense against terrorism, and for other purposes. S. Rept. 115–29, re. S. 500.

To prohibit the use of Federal funds for the costs of painting portraits of officers and employees of the Federal Government. S. Rept. 115–28, re. S. 188.



To amend the Homeland Security Act of 2002 to direct the Under Secretary for management of the Department of Homeland Security to make certain improvements in managing the Department's vehicle fleet, and for other purposes. S. Rept. 115-32, re. H.R. 366.

To amend Title 5, United States Code, to extend certain protections against prohibited personnel practices, and for other purposes. S. Rept. 115-30, re. S. 576.

To provide taxpayers with an annual report disclosing the cost and performance of Government programs and areas of duplication among them, and for other purposes. S. Rept. 115-34, re. S. 317.

To provide greater whistleblower protections for Federal employees, increased awareness of Federal whistleblower protections, and increased accountability and required discipline for Federal supervisors who retaliate against whistleblowers, and for other purposes. S. Rept. 115-44, re. S. 585.

To restrict the inclusion of Social Security account numbers on documents sent by mail by the Federal Government, and for other purposes. S. Rept. 115-62, re. S. 218.

To reauthorize the Office of Special Counsel, and for other purposes. S. Rept. 115-74, re. S. 582.

To designate the area between the intersections of Wisconsin Avenue, Northwest and Davis Street, Northwest and Wisconsin Avenue, Northwest and Edmunds Street, Northwest in Washington, District of Columbia, as "Boris Nemtsov Plaza", and for other purposes. S. Rept. 115-119, re. S. 459.

To require agencies to publish in advance notice of proposed rulemake for major rules. S. Rept. 115-121, re. S. 579.

To require each agency, in providing notice of a rulemaking, to include a link to a 100 word plain language summary of the proposed rule. S. Rept. 115-120, re. S. 577.

To provide for the identification and prevention of improper payments and the identification of strategic sourcing opportunities by reviewing and analyzing the use of Federal agency charge cards. S. Rept. 115-129, re. S. 1099.

To amend Title 5, United States Code, to appropriately limit the authority to award bonuses to Federal employees. S. Rept. 115-127, re. S. 696.

To reauthorize the Assistance to Firefighters Grants Program, The Fire Prevention and Safety Grants Program, and the staffing for Adequate Fire and Emergency Response Grant Program, and other purposes. S. Rept. 115-128, re. S. 829.

To provide U.S. Customs and Border Protection with additional flexibility to expedite the hiring process for applicants for law enforcement positions, and for other purposes. S. Rept. 115-133, re. S. 595.

To expand the Government's use and administration of data to facilitate transparency, effective governance, and innovation, and for other purposes. S. Rept. 115-134, re. S. 760.

To permanently authorize the Asia-Pacific Economic Cooperation Business Travel Card Program. S. Rept. 115-140, re. S. 504.

To amend the Homeland Security Act of 2002 to require the Secretary of Homeland Security to issue department-wide guidance and to develop training programs as part of the Department of Homeland Security Blue Campaign, and for other purposes. S. Rept. 115-157, re. S. 1103.

To require the collection of voluntary feedback on services provided by agencies, and for other purposes. S. Rept. 115–156, re. S. 1088.

To require the administrator of the Federal Emergency Management Agency to submit a report regarding certain plans regarding assistance to applicants and grantees during the response to the emergency or disaster. S. Rept. 115–158, re. H.R. 1117.

To ensure that the Federal Emergency Management Agency's current efforts to modernize its grant management system includes applicant accessibility and transparency, and for other purposes. S. Rept. 115–159, re. H.R. 1679.

To prohibit Federal agencies and Federal contractors from requesting that an applicant for employment disclose criminal history record information before the applicant has received a conditional offer, and for other purposes. S. Rept. 115–162, re. S. 842.

To amend Title 5, United States Code, to require that the Office of Personnel Management submit an annual report to Congress relating to the use of official time by Federal employees. S. Rept. 115–167, re. H.R. 1293.

To amend the Homeland Security Act of 2002 to provide for congressional notification regarding major acquisition program breaches, and for other purposes. S. Rept. 115–165, re. S. 906.

To amend Chapter 8 of Title 5, United States Code, to provide for en bloc consideration in resolutions of disapproval for “Midnight Rules”, and for other purposes. S. Rept. 115–164, re. S. 34.

To require notice of cost-free Federal procurement technical assistance in connection with registration of small business concerns in procurement systems. S. Rept. 115–166, re. S. 938.

To amend Chapter 8 of Title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law. S. Rept. 115–169, re. S. 21.

To amend the Ethics in Government Act of 1978 to reauthorize The Judicial Conference of the United States to redact sensitive information contained in financial disclosure reports of judicial officers and employees, and for other purposes. S. Rept. 115–172, re. S. 1584.

To amend the Homeland Security Act of 2002 to establish an acquisition review board in the Department of Homeland Security, and for other purposes. S. Rept. 115–170, re. S. 886.

To direct the Secretary of Homeland Security to provide for an option under the Secure Mail Initiative under which a person to whom a document is sent under that initiative may elect to have the United States Postal Service use the hold for pickup service or the signature confirmation service in delivering the document, and for other purposes. S. Rept. 115–171, re. S. 1208.

To ensure the effective processing of mail by Federal agencies, and for other purposes. S. Rept. 115–176, re. H.R. 194.

To amend the Homeland Security Act of 2002 to reauthorize the Border Enforcement Security Task Force Program within the Department of Homeland Security, and for other purposes. S. Rept. 115–179, re. S. 1199.

To amend Title 44, United States Code, to restrict the distribution of free printed copies of the Federal register to Members of

Congress and other officers and employees of the United States, and for other purposes. S. Rept. 115–184, re. H.R. 195.

To amend Section 8433 of Title 5, United States Code, to provide for flexibility in making withdrawals from the Thrift Savings Fund. S. Rept. 115–183, re. S. 873.

To require the Director of the National Background Investigations Bureau to submit a report on the backlog of personnel security clearance investigations, and for other purposes. S. Rept. 115–185, re. H.R. 3210.

To amend subchapter 1 of Chapter 31 of Title 5, United States Code, to authorize agencies to make noncompetitive temporary and term appointments in the competitive service. S. Rept. 115–189, re. S. 1886.

To reauthorize and rename the position of Whistleblower Ombudsman to be the Whistleblower Protection Coordinator. S. Rept. 115–196, re. S. 1869.

To require a new or updated Federal website that is intended for use by the public to be more mobile friendly, and for other purposes. S. Rept. 115–195, re. S. 1769.

To amend Chapter 6 of Title 5, United States Code (commonly known as the “Regulatory Flexibility Act”), to ensure complete analysis of potential impacts on small entities of rules, and for other purposes. S. Rept. 115–194, re. S. 584.

To amend the Homeland Security Act of 2002 to ensure that the needs of children are considered in Homeland Security, Trafficking, and Disaster Recovery Planning, and for other purposes. S. Rept. 115–202, re. S. 1847.

Direct Hire of Students and Recent Graduates Act of 2017. S. Rept. 115–205, re. S. 1887.

To reform the process by which Federal agencies analyze and formulate new regulations and guidance documents, and for other purposes. S. Rept. 115–208, re. S. 951.

To provide for joint reports by relevant Federal agencies to Congress regarding incidents of terrorism, and for other purposes. S. Rept. 115–210, re. S. 1884.

To amend the Act of August 25, 1958, commonly known as the “Former Presidents Act of 1958”, with respect to the monetary allowance payable to a former president, and for other purposes. S. Rept. 115–211, re. S. 1791.

To establish a bug bounty pilot program within the Department of Homeland Security, and for other purposes. S. Rept. 115–209, re. S. 1281.

To amend the Federal Advisory Committee Act to increase the transparency of Federal Advisory Committees, and for other purposes. S. Rept. 115–217, re. H.R. 70.

To amend Title 5, United States Code, to provide permanent authority for judicial review of certain merit systems protection board decisions relating to whistleblowers, and for other purposes. S. Rept. 115–229, re. H.R. 2229.

To strengthen accountability for deployment of border security technology at the Department of Homeland Security, and for other purposes. S. Rept. 115–230, re. S. 146.

To provide for the appropriate use of bridge contracts in Federal procurement, and for other purposes. S. Rept. 115–232, re. S. 2413.

To amend Title 41, United States Code, to improve the manner in which Federal contracts for design and construction services are awarded, to prohibit the use of reverse auctions for design and construction services procurements, and for other purposes. S. Rept. 115–231, re. S. 2113.

To direct the Director of the Office of Management and Budget to establish an interagency working group to study Federal efforts to collect data on sexual violence and to make recommendations on the harmonization of such efforts, and for other purposes. S. Rept. 115–238, re. S. 2349.

To eliminate or modify certain audit mandates of the Government Accountability Office. S. Rept. 115–239, re. S. 2400.

To amend Title 40, United States Code, to eliminate the sunset of certain provisions relating to information technology, to amend the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for fiscal year 2015 to extend the sunset relating to the Federal Data Center Consolidation Initiative, and for other purposes. S. Rept. 115–244, re. S. 1867.

To require the Council of Inspectors General on Integrity and Efficiency to make open recommendations of Inspectors General publicly available, and for other purposes. S. Rept. 115–245, re. S. 2178.

To increase access to agency guidance documents. S. Rept. 115–271, re. S. 2296.

To provide U.S. Customs and Border Protection with adequate flexibility in its employment authorities. S. Rept. 115–270, re. S. 1305.

To repeal the Multi-State Plan Program. S. Rept. 115–277, re. S. 2221.

To require a Department of Homeland Security Overseas Personnel Enhancement Plan, and for other purposes. S. Rept. 115–308, re. H.R. 4567.

To require disclosure by lobbyists of convictions for bribery, extortion, embezzlement, illegal kickbacks, tax evasion, fraud, conflicts of interest, making false Statements, perjury, or money laundering. S. Rept. 115–317, re. S. 2896.

To require the Secretary of Homeland Security to develop best practices for utilizing advanced passenger information and passenger name record data for counterterrorism screening and vetting operations, and for other purposes. S. Rept. 115–334, re. H.R. 4581.

To require agencies to submit reports on outstanding recommendations in the annual budget justification submitted to Congress. S. Rept. 115–331, re. S. 2276.

To authorize the United States Postal Service to carry out emergency suspensions of post offices in accordance with certain procedures, and for other purposes. S. Rept. 115–329, re. S. 1204.

To save taxpayer money and improve the efficiency and speed of intragovernmental correspondence, and for other purposes. S. Rept. 115–333, re. S. 3027.

To assist the Department of Homeland Security in preventing emerging threats from unmanned aircraft and vehicles, and for other purposes. S. Rept. 115–332, re. S. 2836.

To amend Title 5, United States Code, to increase the maximum amount of a voluntary separation incentive payment and to include

and annual adjustment in accordance with the consumer price index. S. Rept. 115–330, re. S. 1888.

To amend the Chapter 5 of Title 40, United States Code, to improve the management of Federal personal property. S. Rept. 115–343, re. S. 3031.

To amend Title 5, United States Code, to allow whistleblowers to disclose information to certain recipients. S. Rept. 115–346, re. S. 2196.

To amend the Homeland Security Act of 2002 to make certain improvements in the laws administered by the Secretary of Homeland Security, and for other purposes. S. Rept. 115–351, re. H.R. 2825.

To establish a narcotic drug screening technology pilot program to combat illicit opioid importation and for other purposes. S. Rept. 115–353, re. S. 3047.

To amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay Initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, and for other purposes. S. Rept. 115–352, re. S. 2374.

To modernize Federal grant reporting, and for other purposes. S. Rept. 115–354, re. S. 3484.

To amend the Homeland Security Act of 2002 to require the Department of Homeland Security to develop an engagement strategy with fusion centers, and for other purposes. S. Rept. 115–355, re. H.R. 5079.

To reauthorize the Chemical Facility Anti-Terrorism Standards Program of the Department of Homeland Security. S. Rept. 115–384, re. S. 3405.

To provide for reforming agencies of the Federal Government to improve efficiency and effectiveness. S. Rept. 115–381, re. S. 3137.

To amend the Presidential Transition Act of 1963 to improve the orderly transfer of the executive power during Presidential transitions. S. Rept. 115–386, re. S. 3487.

To amend Title 5, United States Code, to provide a 2-year prohibition on employment in a career civil service position for any former political appointee, and for other purposes. S. Rept. 115–387, re. H.R. 1132.

To establish a Federal rotational cyber work force program for the Federal cyber work force. S. Rept. 115–385, re. S. 3437.

To direct the Secretary of Homeland Security to establish a data framework to provide access for appropriate personnel to law enforcement and other information of the Department, and for other purposes. S. Rept. 115–380, re. S. 2397.

To require executive agencies to consider rental in any analysis for equipment acquisition, and for other purposes. S. Rept. 115–383, re. S. 3251.

To provide agencies with discretion in securing information technology and information systems. S. Rept. 115–382, re. S. 3208.

To provide for reforming agencies of the Federal Government to improve efficiency and effectiveness. S. Rept. 115–381, re. S. 3137.

To amend the Presidential Transition Act of 1963 to improve the orderly transfer of the executive power during Presidential transitions. S. Rept. 115–386, re. S. 3487.

To authorize cyber incident response teams at The Department of Homeland Security, and for other purposes. S. Rept. 115–412, re. S. 3309.

To amend the Homeland Security Act of 2002 to establish the Office of Biometric Identity Management, and for other purposes. S. Rept. 115–413, re. H.R. 5206.

To establish a Federal Acquisition Security Council and to provide executive agencies with authorities relating to mitigating supply chain risks in the procurement of information technology, and for other purposes. S. Rept. 115–408, re. S. 3085.

To authorize the Secretary of Homeland Security to work with cybersecurity consortia for training, and for other purposes. S. Rept. 115–410, re. S. 594.

To improve executive agency digital services, and for other purposes. S. Rept. 115–418, re. S. 3050.

To amend the Homeland Security Act of 2002 to establish in the Department of Homeland Security The Biometric Identification Transnational Migration Alert Program, and for other purposes. S. Rept. 115–419, re. H.R. 6439.

To provide for the expeditious disclosure of records related to civil rights cold cases, and for other purposes. S. Rept. 115–424, re. S. 3191.

To improve efforts to identify and reduce government wide improper payments, and for other purposes. S. Rept. 115–445, re. S. 2948.

To provide for additional safeguards with respect to imposing Federal mandates, and for other purposes. S. Rept. 115–447, re. H.R. 50.

To amend the Homeland Security Act of 2002 to provide for innovative research and development, and for other purposes. S. Rept. 115–444, re. S. 278.

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for disaster recovery reforms, and for other purposes. S. Rept. 115–446, re. S. 3041.

#### COMMITTEE PRINTS

The Committee issued the following Committee Prints during the 115th Congress:

Rules of Procedure. Committee on Homeland Security and Governmental Affairs. (Printed. 40 pp. S. Prt. 115–9)

Rules of Procedure. Senate Permanent Subcommittee on Investigations on Homeland Security and Governmental Affairs. (Printed. 23 pp. S. Prt. 115–11)

#### GAO REPORTS

Also during the 115th Congress, the Government Accountability Office (GAO) issued 152 reports at the request of the Committee. GAO reports requested by the Subcommittees appear in their respective sections. Reports are listed here by title, GAO number, and release date.

Foster Care: HHS Has Taken Steps To Support States' Oversight Of Psychotropic Medications, But Additional Assistance Could Further Collaboration. GAO–17–129. January 5, 2017.

Medicaid: Program Oversight Hampered By Data Challenges, Underscoring Need For Continued Improvements. GAO-17-173. January 6, 2017.

Grants Management: Selected Agencies Should Clarify Merit-Based Award Criteria And Provide Guidance For Reviewing Potentially Duplicative Awards. GAO-17-113. January 12, 2017.

2020 Census: Additional Actions Could Strengthen Field Data Collection Efforts. GAO-17-191. January 26, 2017.

Cybersecurity: DHS's National Integration Center Generally Performs Required Functions But Needs To Evaluate Its Activities More Completely. GAO-17-163. February 1, 2017.

Federal Disaster Assistance: FEMA's Progress In Aiding Individuals With Disabilities Could Be Further Enhanced. GAO-17-200. February 7, 2017.

Critical Infrastructure Protection: Additional Actions By DHS Could Help Identify Opportunities To Harmonize Access Control Efforts. GAO-17-182. February 7, 2017.

Drug-Free Communities Support Program: Agencies Have Strengthened Collaboration But Could Enhance Grantee Compliance And Performance Monitoring. GAO-17-120. February 7, 2017.

Southwest Border Security: Additional Actions Needed To Better Assess Fencing's Contributions To Operations And Provide Guidance For Identifying Capability Gaps. GAO-17-331. February 16, 2017.

Federal Real Property: Government-Wide Building Disposal Data Generally Reliable, But Opportunities For Further Improvements Exist. GAO-17-321. March 2, 2017.

Embassy Construction: State Needs To Better Measure Performance Of Its New Approach. GAO-17-296. March 16, 2017.

Immigration Status Verification For Benefits: Actions Needed To Improve Effectiveness And Oversight. GAO-17-204. March 23, 2017.

2016 Lobbying Disclosure: Observations On Lobbyists' Compliance With Disclosure Requirements. GAO-17-385. March 31, 2017.

Countering Violent Extremism: Actions Needed To Define Strategy And Assess Progress Of Federal Efforts. GAO-17-300. April 6, 2017.

Homeland Security Acquisitions: Earlier Requirements Definition And Clear Documentation Of Key Decisions Could Facilitate Ongoing Progress. GAO-17-346SP. April 6, 2017.

Federal Contracts: Agencies Widely Used Indefinite Contracts To Provide Flexibility To Meet Mission Needs. GAO-17-329. April 13, 2017.

Homeland Security Acquisitions: Identifying All Non-Major Acquisitions Would Advance Ongoing Efforts To Improve Management. GAO-17-396. April 13, 2017.

Performance Partnerships: Agencies Need To Better Identify Resource Contributions To Sustain Disconnected Youth Pilot Programs And Data To Assess Pilot Results. GAO-17-208. April 18, 2017.

Countering ISIS And Its Effects: Key Issues For Oversight. GAO-17-354SPC. April 20, 2017.

2017 Annual Report: Additional Opportunities To Reduce Fragmentation, Overlap, And Duplication And Achieve Other Financial Benefits. GAO-17-491SP. April 26, 2017.

Data Act: Offices Of Inspector General Reports Help Identify Agencies' Implementation Challenges. GAO-17-460. April 26, 2017.

Data Act: As Reporting Deadline Nears, Challenges Remain That Will Affect Data Quality. GAO-17-496. April 28, 2017.

Memory Supplements: Clarifying FDA And FTC Roles Could Strengthen Oversight And Enhance Consumer Awareness. GAO-17-416. May 16, 2017.

Service Contracts: Agencies Should Take Steps To More Effectively Use Independent Government Cost Estimates. GAO-17-398. May 17, 2017.

Homeland Security: Progress Made To Implement It Reform, But Additional Chief Information Officer Involvement Needed. GAO-17-284. May 18, 2017.

Data Center Optimization: Agencies Need To Complete Plans To Address Inconsistencies In Reported Savings. GAO-17-388. May 18, 2017.

Telecommunications: Additional Action Needed To Address Significant Risks In FCC's Lifeline Program (Report). GAO-17-538. May 30, 2017.

Improper Payments: Additional Guidance Could Help Ensure More Consistent Compliance Determinations And Reporting By Inspectors General. GAO-17-484. May 31, 2017.

Immigration Courts: Actions Needed To Reduce Case Backlog And Address Long-Standing Management And Operational Challenges. GAO-17-438. June 1, 2017.

Refugees: Actions Needed By State Department And DHS To Further Strengthen Applicant Screening Process And Assess Fraud Risks. GAO-17-444SU. June 7, 2017.

Refugees: State And Its Partners Have Implemented Several Antifraud Measures But Could Further Reduce The Risk Of Staff Fraud. GAO-17-446SU. June 7, 2017.

Open Innovation: executive branch Developed Resources To Support Implementation, But Guidance Could Better Reflect Leading Practices. GAO-17-507. June 8, 2017.

U.S. Postal Service: Key Considerations For Potential Changes To USPS's Monopolies. GAO-17-543. June 22, 2017.

Army Contracting: Leadership Lacks Information Needed To Effectively Evaluate And Improve Operations. GAO-17-457. June 22, 2017.

Critical Infrastructure Protection: DHS Has Fully Implemented Its Chemical Security Expedited Approval Program, And Participation To Date Has Been Limited. GAO-17-502. June 29, 2017.

Investigational New Drugs: FDA Has Taken Steps To Improve The Expanded Access Program But Should Further Clarify How Adverse Events Data Are Used. GAO-17-564. July 11, 2017.

Management Export: Improvements Needed In Controls Over The Processes Used To Prepare The U.S. Consolidated Financial Statements. GAO-17-524. July 12, 2017.

Federal Emergency Management Agency: Additional Actions Needed To Improve Handling Of Employee Misconduct Allegations. GAO-17-613. July 18, 2017.

2020 Census: Bureau Needs To Better Leverage Information To Achieve Goals Of Reengineered Address Canvassing. GAO-17-622. July 20, 2017.



Information Security: Control Deficiencies Continue To Limit IRS's Effectiveness In Protecting Sensitive Financial And Taxpayer Data (FOUO). GAO-17-394SU. July 26, 2017.

Information Security: Control Deficiencies Continue To Limit IRS's Effectiveness In Protecting Sensitive Financial And Taxpayer Data (Public). GAO-17-395. July 26, 2017.

2020 Census: Bureau Is Taking Steps To Address Limitations Of Administrative Records. GAO-17-664. July 26, 2017.

Federal Contracting: Improvements Needed In How Some Agencies Report Personal Services Contracts. GAO-17-610. July 27, 2017.

Surface Transportation: A Comprehensive Plan Could Facilitate Implementation Of A National Performance Management Approach. GAO-17-638. July 27, 2017.

Refugees: Actions Needed By State Department And DHS To Further Strengthen Applicant Screening Process And Assess Fraud Risks (Public Version). GAO-17-706. July 31, 2017.

International Mail Security: Costs And Benefits Of Using Electronic Data To Screen Mail Need To Be Assessed. GAO-17-606. August 2, 2017.

Aviation Security: Actions Needed To Systematically Evaluate Cost And Effectiveness Across Security Countermeasures. GAO-17-602C. August 16, 2017.

Personnel Practices: Actions Needed To Improve Documentation Of OPM Decisions On Conversion Requests. GAO-17-674. August 28, 2017.

Aviation Security: TSA Has Made Progress Implementing Requirements In The Aviation Security Act Of 2016. GAO-17-662. September 7, 2017.

Aviation Security: Actions Needed To Systematically Evaluate Cost And Effectiveness Across Security Countermeasures (Public Version). GAO-17-794. September 11, 2017.

DHS Financial Management: Better Use Of Best Practices Could Help Manage System Modernization Project Risks. GAO-17-799. September 26, 2017.

Federal Contracting: Additional Management Attention And Action Needed To Close Contracts And Reduce Audit Backlog. GAO-17-738. September 28, 2017.

Federal Programs: Information Architecture Offers A Potential Approach For Development Of An Inventory. GAO-17-739. September 28, 2017.

Federal Information Security: Weaknesses Continue To Indicate Need For Effective Implementation Of Policies And Practices. GAO-17-549. September 28, 2017.

Whistleblower Protection: Opportunities Exist For DOD To Improve The Timeliness And Quality Of Civilian And Contractor Reprisal Investigations. GAO-17-506. September 29, 2017.

Managing For Results: Further Progress Made In Implementing The GPRA Modernization Act, But Additional Actions Needed To Address Pressing Governance Challenges. GAO-17-775. September 29, 2017.

Program Evaluation: Annual Agency-Wide Plans Could Enhance Leadership Support For Program Evaluations. GAO-17-743. September 29, 2017.

Southwest Border Security: Actions Needed To Enhance CBP's Maintenance Of Roads Used For Its Operations. GAO-18-11. October 4, 2017.

Biodefense: Federal Efforts To Develop Biological Threat Awareness. GAO-18-155. October 11, 2017.

Federal Regulations: Key Considerations For Agency Design And Enforcement Decisions. GAO-18-22. October 19, 2017.

DOD Financial Management: Additional Actions Needed To Complete The Army's Analyses Of Unsupported Accounting Entries For Its General Fund. GAO-18-27. October 20, 2017.

Critical Infrastructure Protection: DHS Risk Assessments Inform Owner And Operator Protection Efforts And Strategic Planning. GAO-18-62. October 30, 2017.

Border Patrol: Issues Related To Agent Deployment Strategy And Immigration Checkpoints. GAO-18-50. November 8, 2017.

Disaster Assistance: Opportunities To Enhance Implementation Of The Redesigned Public Assistance Grant Program. GAO-18-30. November 8, 2017.

Data Act: OMB, Treasury And Agencies Need To Improve Completeness And Accuracy Of Spending Data And Disclose Limitations. GAO-18-138. November 8, 2017.

Financial Audit: IRS's Fiscal Years 2017 And 2016 Financial Statements. GAO-18-165. November 9, 2017.

Financial Audit: Bureau Of The Fiscal Service's Fiscal Years 2017 And 2016 Schedules Of Federal Debt. GAO-18-134. November 9, 2017.

Improper Payments: Most Selected Agencies Improved Procedures To Help Ensure Risk Assessments Of All Programs And Activities. GAO-18-36. November 16, 2017.

Southwest Border: Border Patrol Is Deploying Surveillance Technologies But Needs To Improve Data Quality And Assess Effectiveness. GAO-18-119. November 30, 2017.

Medicare And Medicaid: CMS Needs To Fully Align Its Antifraud Efforts With The Fraud Risk Framework. GAO-18-88. December 5, 2017.

Personnel Security Clearances: Additional Actions Needed To Address Quality, Timeliness, And Investigation Backlog. GAO-18-26SU. December 7, 2017.

Medicaid: Further Action Needed To Expedite Use Of National Data For Program Oversight. GAO-18-70. December 8, 2017.

Disaster Recovery: Additional Actions Would Improve Data Quality And Timeliness Of FEMA's Public Assistance Appeals Processing. GAO-18-143. December 15, 2017.

Border Security: Actions Needed To Strengthen Performance Management And Planning For Expansion Of DHS's Visa Security Program. GAO-18-104SU. December 19, 2017.

Transportation Security Administration: After Oversight Lapses, Compliance With Policy Governing Special Authority Has Been Strengthened. GAO-18-172. December 21, 2017.

Federal Buildings: GSA Should Establish Goals And Performance Measures To Manage The Smart Buildings Program. GAO-18-200. January 30, 2018.

Cybersecurity Workforce: Urgent Need For DHS To Take Actions To Identify Its Position And Critical Skill Requirements. GAO-18-175. February 6, 2018.

Critical Infrastructure Protection: Electricity Suppliers Have Taken Actions To Address Electromagnetic Risks, And Additional Research Is Ongoing. GAO-18-67. February 7, 2018.

Department Of Education: Resource And Achievement Trends. GAO-18-154. February 7, 2018.

Federal Law Enforcement: DHS And DOJ Are Working To Enhance Responses To Incidents Involving Individuals With Mental Illness. GAO-18-229. February 8, 2018.

Federal Personal Property: Opportunities Exist To Improve Identification Of Unneeded Property For Disposal. GAO-18-257. February 16, 2018.

Railroad Retirement Board: Actions Needed To Improve The Effectiveness And Oversight Of Continuing Disability Reviews. GAO-18-287. February 21, 2018.

2017 Disaster Contracting: Observations On Federal Contracting For Response And Recovery Efforts. GAO-18-335. February 28, 2018.

NASA Contractor Whistleblowers: Steps Taken To Implement Program But Improvements To Timeliness And Guidance Needed. GAO-18-262. March 8, 2018.

Federal Buildings: Agencies Focus On Space Utilization As They Reduce Office And Warehouse Space. GAO-18-304. March 8, 2018.

Inspectors General: Information On Vacancies And IG Community Views On Their Impact. GAO-18-270. March 9, 2018.

Federal Rulemaking: OMB Should Work With Agencies To Improve congressional Review Act Compliance During And At The End Of Presidents' Terms. GAO-18-183. March 13, 2018.

U.S. Ports Of Entry: CPB Public-Private Partnership Programs Have Benefits, But CBP Could Strengthen Evaluation Efforts. GAO-18-268. March 15, 2018.

Border Security: Actions Needed To Strengthen Performance Management And Expansion Planning For DHS's Visa Security Program. GAO-18-314. March 20, 2018.

Financial Technology: Additional Steps By Regulators Could Better Protect Consumers And Aid Regulatory Oversight. GAO-18-254. March 22, 2018.

Federal Real Property: Agencies Make Some Use Of Telework In Space Planning But Need Additional Guidance. GAO-18-319. March 22, 2018.

Illicit Opioids: While Greater Attention Given To Synthetic Opioids, Agencies Need To Better Assess Their Efforts. GAO-18-205. March 29, 2018.

2017 Lobbying Disclosure: Observations On Lobbyists' Compliance With Disclosure Requirements. GAO-18-388. March 30, 2018.

DHS Program Costs: Reporting Program-Level Operations And Support Costs To Congress Would Improve Oversight. GAO-18-344. April 25, 2018.

Emergency Communications: Increased Regional Collaboration Could Enhance Capabilities. GAO-18-379. April 26, 2018.

2018 Annual Report: Additional Opportunities To Reduce Fragmentation, Overlap, And Duplication And Achieve Other Financial Benefits. GAO-18-371SP. April 26, 2018.

DOD Financial Management: The Navy Needs To Improve Internal Control Over Its Buildings. GAO-18-289. May 10, 2018.

Collegiate Aviation Schools: Stakeholders' Views On Challenges For Initial Pilot Training Programs. GAO-18-403. May 15, 2018.

Homeland Security Acquisitions: Leveraging Programs' Results Could Further DHS' Progress To Improve Portfolio Management. GAO-18-339SP. May 17, 2018.

Federal Buildings: More Consideration Of Operations And Maintenance Costs Could Better Inform The Design Excellence Program. GAO-18-420. May 22, 2018.

Data Center Optimization: Continued Agency Actions Needed To Meet Goals And Address Prior Recommendations. GAO-18-264. May 23, 2018.

Foster Care: Additional Actions Could Help HHS Better Support States' Use Of Private Providers To Recruit And Retain Foster Families. GAO-18-376. May 30, 2018.

Federal Judiciary: The Administrative Office Of The U.S. Courts Should Ensure Financial Disclosure Redaction Reports Are Submitted To Congress Annually. GAO-18-406. May 31, 2018.

Nonimmigrant Visas: Outcomes Of Applications, Screening And Vetting Processes, And Changes In Response To 2017 Executive Actions. GAO-18-286SU. June 8, 2018.

Southwest Border Security: CBP Is Evaluating Designs And Locations For Border Barriers But Is Proceeding Without Key Information (Sensitive). GAO-18-489SU. June 12, 2018.

Border Security And Immigration: Initial Executive Order Actions And Resource Implications. GAO-18-470. June 12, 2018.

Government Reorganization: Key Questions To Assess Agency Reform Efforts. GAO-18-427. June 13, 2018.

Cybersecurity Workforce: Agencies Need To Improve Baseline Assessments And Procedures For Coding Positions. GAO-18-466. June 14, 2018.

Office Of Special Counsel: Actions Needed To Improve Processing Of Prohibited Personnel Practice And Whistleblower Disclosure Cases. GAO-18-400. June 14, 2018.

2020 Census: Actions Needed To Improve In-Field Address Canvassing Operation. GAO-18-414. June 14, 2018.

U.S Customs And Border Protection: Progress And Challenges In Recruiting, Hiring, And Retaining Law Enforcement Personnel. GAO-18-487. June 27, 2018.

U.S. Postal Service: Projected Capital Spending And Processes For addressing Uncertainties And Risks. GAO-18-515. June 28, 2018.

Paperwork Reduction Act: Agencies Could Better Leverage Review Processes And Public Outreach To Improve Burden Estimates. GAO-18-381. July 11, 2018.

Federal Employee Misconduct: Actions Needed To Ensure Agencies Have Tools To Effectively Address Misconduct. GAO-18-48. July 16, 2018.

Management Report: Continued Improvements Needed In Controls Over The Processes Used To Prepare The U.S. Consolidated Financial Statements. GAO-18-540. July 16, 2018.

Federal Student Aid: Education's Postsecondary School Certification Process. GAO-18-481. July 17, 2018.

Social Security Disability: Better Timeliness Metrics Needed To Assess Transfers Of Appeals Work. GAO-18-501. July 19, 2018.

Real Property: GSA Is Taking Steps To Improve Collection And Reporting Of Repair And Alteration Projects' Information. GAO-18-595. July 23, 2018.

Data Act: Reported Quality Of Agencies' Spending Data Reviewed By OIGs Varied Because Of Government-Wide And Agency Issues. GAO-18-546. July 23, 2018.

Medicaid Managed Care: Improvements Needed To Better Oversee Payment Risks. GAO-18-528. July 26, 2018.

2020 Census: Bureau Has Made Progress With Its Scheduling, But Further Improvement Will Help Inform Management Decisions. GAO-18-589. July 26, 2018.

2020 Census: Actions Needed To Address Challenges To Enumerating Hard-To-Count Groups. GAO-18-599. July 26, 2018.

E-Commerce Portal: Assessment Of The E-Commerce Portal Implementation Plan. GAO-18-578. July 30, 2018.

Southwest Border Security: CBP Is Evaluating Designs And Locations For Border Barriers But Is Proceeding Without Key Information. GAO-18-614. July 30, 2018.

Department Of Homeland Security: Components Could Improve Monitoring Of The Employee Misconduct Process. GAO-18-405. July 31, 2018.

Information Security: IRS Needs To Rectify Control Deficiencies That Limit Its Effectiveness In Protecting Sensitive Financial And Taxpayer Data (LOUO). GAO-18-390SU. July 31, 2018.

Information Security: IRS Needs To Rectify Control Deficiencies That Limit Its Effectiveness In Protecting Sensitive Financial And Taxpayer Data. GAO-18-391. July 31, 2018.

Nonimmigrant Visas: Outcomes Of Applications And Changes In Response To 2017 Executive Actions (Public Version). GAO-18-608. August 7, 2018.

DHS Acquisitions: Additional Practices Could Help Components Better Develop Operational Requirements. GAO-18-550. August 8, 2018.

Critical Infrastructure Protection: DHS Should Take Actions To Measure Reduction In Chemical Facility Vulnerability And Share Information With First Responders. GAO-18-538. August 8, 2018.

2020 Census: Census Bureau Improved The Quality Of Its Cost Estimation But Additional Steps Are Needed To Ensure Reliability. GAO-18-635. August 17, 2018.

Rural Hospital Closures: Number And Characteristics Of Affected Hospitals And Contributing Factors. GAO-18-634. August 29, 2018.

2020 Census: Continued Management Attention Needed To Address Challenges And Risks With Developing, Testing, And Securing It Systems. GAO-18-655. August 30, 2018.

Postal Service Retiree Health Benefits: Unsustainable Finances Need To Be Addressed. GAO-18-602. August 31, 2018.

Homeland Security Grant Program: Additional Actions Could Further Enhance FEMA's Risk-Based Grant Assessment Model. GAO-18-354. September 6, 2018.

Nuclear Nonproliferation: The Administration's 2018 Plan For Verification And Monitoring Met Most Reporting Requirements But Did Not Include Future Costs And Funding Needs. GAO-18-617. September 14, 2018.

Grants Workforce: Actions Needed To Ensure Staff Have Skills To Administer And Oversee Federal Grants. GAO-18-491. September 20, 2018.

Embassy Construction: Pace Is Slower Than Projected, And State Could Make Program Improvements. GAO-18-653. September 25, 2018.

Overseas Conflicts: U.S. Agencies Have Coordinated Stabilization Efforts But Need To Document Their Agreement. GAO-18-654. September 27, 2018.

U.S. Postal Service: Enhancing Procedures Could Improve Product Scanning. GAO-18-638. September 28, 2018.

Presidential Security: Vetting Of Individuals And Secure Areas At Mar-A-Lago. GAO-19-177SU. October 17, 2018.

Financial Audit: Bureau Of The Fiscal Service's Fiscal Years 2018 And 2017 Schedules Of Federal Debt. GAO-19-113. November 8, 2018.

Financial Audit: IRS's Fiscal Years 2018 And 2017 Financial Statements. GAO-19-150. November 9, 2018.

U.S. Secret Service: Action Needed To Address Gaps In It Workforce Planning And Management Practices. GAO-19-60. November 15, 2018.

Federal Personal Property: GSA And VA Have Opportunities To Improve The Exchange/Sale Process. GAO-19-33. November 16, 2018.

Federal Workforce: Opportunities Exist For OPM To Further Innovation In Performance Management. GAO-19-35. November 20, 2018.

Continuity Of Operations: Actions Needed To Strengthen FEMA's Oversight And Coordination Of executive branch Readiness. GAO-19-18SU. November 26, 2018.

Orphan Drugs: FDA Could Improve Designation Review Consistency; Rare Disease Drug Development Challenges Continue. GAO-19-83. November 30, 2018.

Fraud Risk Management OMB Should Improve Guidelines And Working-Group Efforts To Support Agencies' Implementation Of The Fraud Reduction And Data Analytics Act. GAO-19-34. December 4, 2018.

Open Data: Treasury Could Better Align USASpending.Gov With Key Practices And Search Requirements. GAO-19-72. December 13, 2018.

Critical Infrastructure Protection: Actions Needed To Address Significant Weaknesses In TSA's Pipeline Security Program. GAO-19-48. December 18, 2018.

Information Security: Agencies Need To Improve Implementation Of Federal Approach To Securing Systems And Protecting Against Intrusions. GAO-19-105. December 18, 2018.

## VI. OFFICIAL COMMUNICATIONS

During the 115th Congress, 944 official communications were referred to the Committee. Of these, 938 were Executive Communications, and 6 were Petitions or Memorials. Of the official communications, 332 dealt with the District of Columbia.

## VII. LEGISLATIVE ACTIONS

During the 115th Congress, the Committee reported significant legislation that was approved by Congress and signed into law by the President.

The following are brief legislative histories of measures to the Committee and, in some cases, drafted by the Committee, which (1) became public law or (2) were favorably reported from the Committee and passed by the Senate, but did not become law. In addition to the measures listed below, the Committee received during the 115th Congress numerous legislative proposals that were not considered or reported, or that were reported but not passed by the Senate. Additional information on these measures appears in the Committee's Legislative Calendar for the 115th Congress.

### A. MEASURES ENACTED INTO LAW

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

H.R. 72.—GAO Access and Oversight Act of 2017. (Public Law 115–3). January 31, 2017.

(Sec. 2) This bill authorizes the Government Accountability Office (GAO) to obtain Federal agency records required to discharge the GAO's duties (including audit, evaluation, and investigative duties), including through bringing civil actions to require an agency to produce a record. No provision of the Social Security Act shall be construed to limit, amend, or supersede the GAO's authority to: (1) obtain information or inspect records about an agency's duties, powers, activities, organization, or financial transactions; or (2) obtain other agency records that the GAO requires to discharge its duties. Agency Statements on actions taken or planned in response to GAO recommendations must be submitted to: (1) the congressional committees with jurisdiction over the pertinent agency program or activity, and (2) the GAO.

H.R. 194.—Federal Agency Mail Management Act of 2017. (Public Law 115–85). November 21, 2017.

(Sec. 2) This bill amends the Presidential and Federal Records Act Amendments of 2014 to require the General Services Administration (GSA) to provide guidance and assistance to Federal agencies for effective mail processing. The GSA: (1) must promote economy and efficiency in the selection and utilization of space, staff, equipment, and supplies for Federal mail processing facilities; and (2) may inspect the mail processing practices and programs of Federal agencies for purposes of recommending improvements. The bill also provides authority for the GSA to set goals for the establishment and maintenance of Federal records management systems or techniques.

H.R. 195.—Federal Register Printing Savings Act of 2017. (Public Law 115–120). January 22, 2018.<sup>1</sup>

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<sup>1</sup>H.R. 195 was the vehicle for the Continuing Appropriations Act of 2018.

DIVISION A—FEDERAL REGISTER PRINTING SAVINGS ACT  
OF 2017

Federal Register Printing Savings Act of 2017

(Sec. 2) This division bars the Government Publishing Office from furnishing a printed copy of the Federal Register without charge to any Member of Congress or any other office of the United States during a year unless the Member or office requests: (1) a printed copy of a specific issue of the Federal Register, or (2) a subscription to printed copies of the Federal Register for that year.

DIVISION B—EXTENSION OF CONTINUING  
APPROPRIATIONS ACT, 2018

Extension of Continuing Appropriations Act, 2018

(Sec. 2001) This division amends the Continuing Appropriations Act, 2018 to provide continuing FY2018 appropriations to Federal agencies through February 8, 2018 (January 19, 2018, under current law).

It ends the government shutdown that began when the existing continuing resolution (CR) expired because none of the 12 FY2018 regular appropriations bills that fund the Federal Government have been enacted.

This division also adds provisions to the Continuing Appropriations Act, 2018 that:

- permit funds appropriated by the Department of Defense Missile Defeat and Defense Enhancements Appropriations Act, 2018 to be obligated and expended notwithstanding a provision of the National Security Act of 1947 that requires a specific authorization of appropriations for intelligence activities;
- provide the Department of Agriculture with funding flexibility to ensure that certain demonstration projects for providing meals to low-income children during the summer will be fully operational by May 2018;
- provide the National Aeronautics and Space Administration (NASA) with funding flexibility to maintain the planned launch capability schedules for the Space Launch System launch vehicle, Exploration Ground Systems, and Orion Multi-Purpose Crew Vehicle programs;
- provide the Department of Energy with funding flexibility to maintain the June 30, 2017, staffing levels of the Office of Inspector General;
- provide the Small Business Administration with funding flexibility to accommodate increased demand for general business loans authorized under section 7(a) of the Small Business Act;
- permit the Department of Housing and Urban Development to make certain adjustments to the Section 8 housing choice voucher annual renewal funding allocations and administrative fee eligibility determinations for public housing agencies in an area for which the President declared a disaster in 2017 or 2018 under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;



- compensate employees furloughed as a result of any lapse in appropriations which began on or about January 20, 2018; and
- require certain States, Federal grantees, and furloughed State employees to be compensated or reimbursed for periods in which there is a lapse in FY2018 appropriations.(Sec. 2002) This section amends the Further Additional Continuing Appropriations Act, 2018 to strike a provision that extended certain authorities provided by the Foreign Intelligence Surveillance Act of 1978 (FISA) through the duration of the CR. (The FISA Amendments Reauthorization Act of 2017 was signed into law on January 19, 2018.)

(Sec. 2003) This section specifies that the time covered by the Continuing Appropriations Act, 2018 includes the period that began on or about January 20, 2018, during which there was a lapse in appropriations.

#### DIVISION C—HEALTHY KIDS ACT

Helping Ensure Access for Little Ones, Toddlers, and Hopeful Youth by Keeping Insurance Delivery Stable Act or the HEALTHY KIDS Act

(Sec. 101) This division extends funding through FY2023 for the Children’s Health Insurance Program (CHIP) and the Child Enrollment Contingency Fund.

In addition, the bill reauthorizes through FY2023:

- the qualifying-States option (which allows States that provided coverage to now CHIP-eligible children prior to CHIP’s enactment to continue to provide such coverage), and
- the express-lane eligibility option (which allows States to use eligibility findings from other public benefit programs to determine children’s eligibility for Medicaid and CHIP).

Beginning in FY2020, the division allows State child-health plans to adopt more restrictive eligibility standards with respect to children in families whose income exceeds 300 percent of the poverty line.

(Sec. 102) The division extends funding through FY2023 for the Childhood Obesity Demonstration Project and the Pediatric Quality Measures Program.

(Sec. 103) The division: (1) extends funding through FY2023 for specified outreach and enrollment grants, and (2) makes eligible for such grants “parent-mentors” who are trained to assist families with children who have no health-insurance coverage. Any nominal amount received by an individual for participation as a parent-mentor shall be disregarded for purposes of determining the individual’s income-based eligibility for Medicaid.

(Sec. 104) Current law provides States with an enhanced Federal Matching Assistance Percentage (FMAP) for child-health assistance through FY2019. The division maintains the enhanced FMAP in FY2020, but halves the percentage-point increase.

(Sec. 105) The Centers for Medicare & Medicaid Services shall make additional funding available to States for specified activities related to mechanized claims systems.

#### DIVISION D—SUSPENSION OF CERTAIN HEALTH-RELATED TAXES

(Sec. 4001) This section amends the Internal Revenue Code to extend for 2 years (2018 and 2019) the moratorium on the 2.3 percent excise tax on the sale of medical devices. (Under current law, the moratorium expired at the end of 2017.)

(Sec. 4002) This section amends the Patient Protection and Affordable Care Act to delay for 2 years the implementation of the excise tax on high cost employer-sponsored health coverage (commonly referred to as the Cadillac tax). Under the bill, the tax will go into effect in 2022 instead of 2020, as required under current law.

(Sec. 4003) This section suspends for 2019 the annual fee imposed on certain health insurance providers based on market share.

#### DIVISION E—BUDGETARY EFFECTS

(Sec. 5001) This division exempts the budgetary effects of division C and each succeeding division of this bill from Pay-As-You-Go (PAYGO) rules and certain budget scorekeeping guidelines.

H.R. 274.—Modernizing Government Travel Act. (Public Law 115–34). May 16, 2017.

(Sec. 2) This bill requires the General Services Administration (GSA) to prescribe regulations to provide for the reimbursement of Federal employees traveling on official business for the use of a transportation network company (e.g., Uber or Lyft) or an innovative mobility technology. The Administrative Office of the United States Courts shall prescribe such regulations with respect to judicial branch employees.

An “innovative mobility technology company” is an entity that applies technology to expand and enhance available transportation choices, better manages demand for transportation services, or provides alternatives to driving alone.

A “transportation network company” is an entity that uses a digital network to connect riders to drivers in order for a driver to transport the rider to a point chosen by the rider. This does not include a shared-expense carpool or vanpool arrangement that is not intended to generate profit for the driver.

(Sec. 3) The bill revises the reporting requirements regarding payments pertaining to official travel.

Each agency must annually submit to the GSA data on agency payments for travel and relocation and an analysis of transportation costs.

The GSA shall make the data submitted publicly available upon receipt.

The GSA shall annually submit to the Office of Management and Budget and to specified congressional committees an analysis of the data submitted for specified agencies and a description of any new regulations or changes to existing regulations.

H.R. 366.—DHS SAVE Act (Public Law 115–38). June 6, 2017.

(Sec. 2) This bill amends the Homeland Security Act of 2002 to make the Under Secretary for Management of the Department of Homeland Security (DHS) responsible for overseeing and managing vehicle fleets throughout DHS, including:

- ensuring that DHS components are in compliance with Federal law, executive branch guidance, and DHS policy regarding fleet management and use of vehicles from home to work;
- developing and distributing a standardized vehicle allocation methodology and fleet management plan;
- ensuring that components formally document fleet management decisions; and
- approving component fleet management plans, vehicle leases, and vehicle acquisitions.

The bill lists responsibilities of component heads regarding vehicle fleets, including developing and annually submitting to the Under Secretary a vehicle allocation tool and fleet management plan.

The Under Secretary shall:

- collect, on a quarterly basis, information regarding component vehicle fleets;
- seek to achieve a capability to collect automated information regarding component vehicle fleets;
- track and monitor component information, and review each component's vehicle allocation tool and fleet management plan, to ensure that component vehicle fleets are the optimal size and are cost effective;
- provide guidance on how component heads may achieve optimal fleet size; and
- as part of the annual budget process, review and make determinations regarding annual component requests for vehicle fleet funding.

Beginning with FY 2019, the Under Secretary and component heads may not approve a vehicle lease, acquisition, or replacement request, no DHS official with vehicle fleet management responsibilities may receive annual performance compensation in pay, and no senior executive service official of DHS whose office has a vehicle fleet may receive access to a car service, if such officials did not comply with vehicle allocation tool and fleet management plan requirements in the prior fiscal year. The Under Secretary may determine the feasibility of operating a vehicle motor pool to permit components to share vehicles to reduce the number of excess DHS vehicles. (Sec. 3) The Inspector General of DHS shall: (1) conduct a review of implementation of vehicle allocation tool and fleet management plan requirements for FY 2019, which shall include analysis of the effectiveness of such requirements with respect to cost avoidance, savings realized, and component operations; and (2) upon request, provide to specified congressional committees information regarding such review.

H.R. 657.—Follow the Rule Act. (Public Law 115–40). June 14, 2017.

(Sec. 2) This bill extends the prohibition against a person taking, failing to take, or threatening to take or fail to take a personnel action against any employee or applicant for employment for refusing to obey an order that would require the individual to violate a law to personnel actions against such an individual for refusing to obey an order that would violate a rule or regulation.

H.R. 1117.—To require the Administrator of the Federal Emergency Management Agency to submit a report regarding certain plans regarding assistance to applicants and grantees during the response to an emergency or disaster. (Public Law 115–69). October 18, 2017.

(Sec. 1) This bill directs the Federal Emergency Management Agency (FEMA) to report to Congress regarding its plans to provide: (1) consistent guidance to applicants on FEMA disaster funding procedures during the response to an emergency or disaster, (2) appropriate record maintenance and transfer of documents to new teams during staff transitions, and (3) accurate assistance to applicants and grantees to ease the administrative burden throughout the process of obtaining and monitoring assistance. The report must: (1) include a plan for implementing operating procedures and document retention requirements to ensure the maintenance of appropriate records throughout the life cycle of the emergency or disaster; and (2) identify new technologies to aid the disaster workforce in partnering with State, local, and tribal governments and private nonprofits in the wake of a disaster or emergency to educate, assist, and inform applicants on the status of their applications and projects.

H.R. 1238.—Securing our Agriculture and Food Act. (Public Law 115–43). June 30, 2017.

(Sec. 2) This bill amends the Homeland Security Act of 2002 to direct the Assistant Secretary for Health Affairs for the Department of Homeland Security (DHS) to carry out a program to coordinate DHS efforts related to defending the food, agriculture, and veterinary systems of the United States against terrorism and other high-consequence events that pose a high risk to homeland security.

Such program shall:

- provide oversight and management of DHS’s responsibilities pursuant to Homeland Security Presidential Directive 9—Defense of United States Agriculture and Food;
- provide oversight and integration of DHS activities related to veterinary public health, food defense, and agricultural security;
- lead DHS policy initiatives related to food, animal, and agricultural incidents and to overall domestic preparedness for, and collective response to, agricultural terrorism;
- coordinate with other DHS components on activities related to food and agriculture security and screening procedures for domestic and imported products; and
- coordinate with appropriate Federal departments and agencies.

H.R. 1370.—Department of Homeland Security Blue Campaign Authorization Act of 2017. (Public Law 115–96). December 22, 2017.

DIVISION A—FURTHER ADDITIONAL CONTINUING  
APPROPRIATIONS ACT, 2018

Further Additional Continuing Appropriations Act, 2018

(Sec. 1001) Amends the Continuing Appropriations Act, 2018 to provide continuing FY2018 appropriations to Federal agencies through January 19, 2018 (December 22, 2017, under current law).

(This provision prevents a government shutdown that would otherwise occur when the existing continuing resolution expires because the FY2018 appropriations bills have not been enacted.)

Adds provisions to the Continuing Appropriations Act, 2018 that:

- permit funds provided to the Coast Guard to be used to carry out Retired Pay Reform, including continuation pay;
- provide additional funding to the Indian Health Service for the costs of staffing and operating newly constructed facilities;
- permit funds provided to the Department of Health and Human Services (HHS) to be apportioned up to the rate for operations necessary to maintain programs and activities related to: (1) the care of unaccompanied alien children, and (2) efforts to combat the trafficking of children;
- provide additional funding for HHS to prepare for or respond to an influenza pandemic; and
- exempt security spending from sequestration (automatic spending cuts) for FY2018 and delay the sequestration for nonsecurity spending.

(Sec. 1002) Extends certain authorities provided by the Foreign Intelligence Surveillance Act of 1978 (FISA) through the duration of the continuing resolution. Specifies that this section is repealed if legislation amending the dates included in section 403(b) of the FISA Amendments Act of 2008 is enacted.

#### DIVISION B—MISSILE DEFENSE

Department of Defense Missile Defeat and Defense Enhancements Appropriations Act, 2018

Provides FY2018 emergency appropriations to the Department of Defense (DOD) for missile defense programs. (Emergency spending is exempt from discretionary spending limits and other budget enforcement rules.)

#### TITLE I—MISSILE DEFEAT AND DEFENSE ENHANCEMENTS

Provides Operation and Maintenance funds to DOD for necessary costs to repair damage to the USS John S. McCain and the USS Fitzgerald.

Provides Operation and Maintenance; Procurement; and Research, Development, Test and Evaluation funds to DOD for necessary costs to detect, defeat, and defend against the use of ballistic missiles.

#### TITLE II—MISSILE CONSTRUCTION ENHANCEMENTS

Provides appropriations for Defense-Wide Military Construction for construction of a missile field in Alaska.

#### TITLE III—GENERAL PROVISIONS

(Sec. 2001) Specifies that the funds provided by this division are in addition to funds appropriated or otherwise made available to DOD for FY2018.

(Sec. 2002) Requires funds provided by title I of this division to be allocated in accordance with the detailed congressional budget justifications submitted by DOD with the FY2018 budget amendments requested by the President on November 6, 2017. Specifies that any changes to the allocation of funds are subject to re-programming requirements.

(Sec. 2003) Specifies that funds designated in this division as emergency requirements are available only if the President subsequently designates all of the amounts as emergency requirements and transmits the designations to Congress.

## DIVISION C—HEALTH PROVISIONS

### TITLE I—PUBLIC HEALTH EXTENDERS

#### CHIP and Public Health Funding Extension Act

(Sec. 3101) Amends the Patient Protection and Affordable Care Act to extend and make appropriations through the second quarter of FY2018 for community health centers and the National Health Service Corps.

Amends the Public Health Service Act to make appropriations through the second quarter of FY2018 for a program that pays teaching health centers to establish or expand graduate medical residency training programs.

(Sec. 3102) Makes appropriations through the second quarter of FY2018 for type I diabetes programs and diabetes programs for Native Americans.

(Sec. 3103) Reduces FY2019–FY2022 for the Prevention and Public Health Fund.

### TITLE II—CHILDREN’S HEALTH INSURANCE PROGRAM (CHIP)

(Sec. 3201) Amends title XXI (Children’s Health Insurance Program [CHIP]) of the Social Security Act to extend funding for CHIP through the first half of FY2018.

Establishes a special rule, with respect to the first half of FY2018, for the redistribution of unused CHIP allotments to State child health plans experiencing emergency shortfalls. Requires the Centers for Medicare & Medicaid Services (CMS), on a monthly basis, to redistribute unused allotments to each State in an amount that will eliminate the State’s emergency shortfall before the CMS may distribute the allotments to any State that is experiencing a nonemergency shortfall. Requires the CMS to redistribute such allotments in the order in which States realize monthly emergency shortfalls, but only to the extent that amounts are available for redistribution.

## DIVISION D—OTHER MATTERS

(Sec. 4001) Provides \$2.1 billion in mandatory funding for the Veterans Choice Program, which allows veterans to receive health care from providers outside of the Department of Veterans Affairs facilities.

## DIVISION E—BUDGETARY EFFECTS

(Sec. 5001) Exempts the budgetary effects of division C and each succeeding division of this bill from Pay-As-You-Go (PAYGO) rules and certain budget scorekeeping guidelines.

(Sec. 5002) Exempts the budgetary effects of specified reconciliation legislation from PAYGO rules. (This provision applies to the tax legislation that was signed into law on December 22, 2017, and was considered pursuant to the reconciliation instructions included in the FY2018 congressional budget resolution.)

H.R. 1679.—FEMA Accountability, Modernization and Transparency Act of 2017. (Public Law 115–87). November 21, 2017.

(Sec. 2) This bill directs the Federal Emergency Management Agency (FEMA) to ensure that the ongoing modernization of the grant systems for the administration of assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act includes:

- an online interface for applicants to complete application forms, submit materials, and access the status of applications;
- mechanisms to eliminate duplication of benefits; and
- a means of sharing information among agencies and with State, local, and tribal governments to eliminate the need to file multiple applications and speed disaster recovery.

FEMA shall deliver the system capabilities in increments or iterations as working components for applicant use.

H.R. 2229.—All Circuit Review Act. (Public Law 115–195). July 7, 2018.

(Sec. 2) This bill makes permanent the authority for a Federal employee (or applicant for Federal employment) or the Office of Personnel Management to appeal, in any Federal appeals court of competent jurisdiction, a final order or decision of the Merit Systems Protection Board on a claim alleging reprisal for making a protected disclosure (i.e., whistle-blowing) or for engaging in certain protected activities (e.g., refusing to obey an order that requires a violation of law). The bill applies retroactively to November 26, 2017.

H.R. 2454.—Department of Homeland Security Data Framework Act of 2018. (Public Law 115–331). December 19, 2018.

(Sec. 2) This bill directs the Department of Homeland Security (DHS) to: (1) develop a data framework to integrate existing DHS datasets and systems for access by authorized personnel in a manner consistent with relevant legal authorities and privacy, civil rights, and civil liberties protections; (2) ensure that all information of a DHS office or component that falls within the scope of the information sharing environment, and any information or intelligence relevant to priority mission needs and capability requirements of the homeland security enterprise, is included; and (3) ensure that the framework is accessible to DHS employees who have an appropriate security clearance, who are assigned to perform a function that requires access, and who are trained in applicable standards for safeguarding and using such information.

DHS shall: (1) issue guidance for DHS employees authorized to access and contribute to the framework that enforces a duty to share between DHS offices and components for mission needs; and

(2) promulgate data standards and instruct DHS components to make available information through the framework in a machine-readable standard format.

DHS may exclude information that may:

- jeopardize the protection of sources, methods, or activities;
- compromise a criminal or national security investigation;
- be inconsistent with the other Federal laws or regulations;
- or
- be duplicative or not serve an operational purpose.

DHS shall incorporate into such framework systems capabilities for auditing and ensuring the security of information. Such capabilities shall include: (1) mechanisms for identifying insider threats and security risks; and (2) safeguards for privacy, civil rights, and civil liberties.

DHS shall ensure that, by 2 years after this bill's enactment, the framework has the ability to include appropriate information in existence within DHS to meet its critical mission operations.

DHS shall: (1) submit to Congress regular updates on the status of the data framework until it is fully operational, and (2) annually brief Congress on component use of such framework to support operations that disrupt terrorist activities and incidents in the homeland.

H.R. 3210.—SECRET Act of 2018. (Public Law 115–173). May 22, 2018.

(Sec. 3) This bill requires the National Background Investigations Bureau (NBIB) within the Office of Personnel Management (OPM) to report on its backlog of security clearance investigations. The report must include a backlog mitigation plan identifying the cause of, and making recommendations to remedy, the backlog.

(Sec. 4) The Executive Office of the President must report on the process for conducting and adjudicating security clearance investigations for the President's staff.

(Sec. 5) The OPM must report on the costs of maintaining comprehensive background investigations capability within both the NBIB and the Department of Defense, compared to the costs of sustaining a single governmentwide background investigations enterprise.

(Sec. 6) The Office of the Director of National Intelligence (ODNI) must report on: (1) the status of implementing governmentwide continuous evaluation programs, (2) efforts by Federal agencies to meet requirements for reciprocal recognition to access classified information, and (3) whether the schedule for processing security clearances should be modified.

(Sec. 7) The ODNI and the OPM must review and make recommendations to Congress and the President, as appropriate, to issue guidance to assist agencies in determining: (1) position sensitivity designation, and (2) the appropriate background investigation to initiate for each position designation. The President must report on any issues identified in, and the number of position designations revised as a result of, the review.

H.R. 3359.—Cybersecurity and Infrastructure Security Agency Act of 2018. (Public Law 115–278). November 16, 2018.

(Sec. 2) This bill amends the Homeland Security Act of 2002 to redesignate the Department of Homeland Security's (DHS's) Na-



tional Protection and Programs Directorate as the Cybersecurity and Infrastructure Security Agency. It transfers resources and responsibilities of the directorate to the agency.

The agency shall be headed by the Director of National Cybersecurity and Infrastructure Security. Its responsibilities shall include: leading cybersecurity and critical infrastructure security programs, operations, and associated policy; and carrying out DHS's responsibilities concerning chemical facility antiterrorism standards.

The bill details the organizational structure of the agency.

(Sec. 3) The bill transfers within DHS the Office of Biometric Identity Management to the Management Directorate.

It also requires DHS to transfer the Federal Protective Service to an appropriate DHS component, directorate, or office following the completion of an ongoing Government Accountability Office review.

(Sec. 4) DHS shall report on its leadership role in cloud-based cybersecurity deployments for civilian Federal departments and agencies.

H.R. 3398.—REAL ID Act Modification for Freely Associated States Act. (Public Law 115–323). December 17, 2018.

(Sec. 2) This bill amends the Real ID Act of 2005 to make a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau who has been admitted to the United States as a nonimmigrant pursuant to a Compact of Free Association between the United States and the Republic or Federated States eligible for a driver's license or personal identification card. Under current law, a citizen of those countries is eligible for a temporary driver's license or personal identification card.

H.R. 4174.—Foundations for Evidence-Based Policymaking Act of 2017. (Public Law 115–411). January 14, 2019.

This bill requires departments and agencies identified in the Chief Financial Officers Act to submit annually to the Office of Management and Budget (OMB) and Congress a plan for identifying and addressing policy questions relevant to the programs, policies, and regulations of such departments and agencies. The plan must include: (1) a list of policy-relevant questions for developing evidence to support policymaking, and (2) a list of data for facilitating the use of evidence in policymaking.

The OMB shall consolidate such plans into a unified evidence building plan.

The bill establishes an Interagency Council on Evaluation Policy to assist the OMB in supporting governmentwide evaluation activities and policies. The bill defines "evaluation" to mean an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency.

Each department or agency shall designate a Chief Evaluation Officer to coordinate evidence-building activities and an official with statistical expertise to advise on statistical policy, techniques, and procedures.

The OMB shall establish an Advisory Committee on Data for Evidence Building to advise on expanding access to and use of Federal data for evidence building.

Open, Public, Electronic, and Necessary Government Data Act or the OPEN Government Data Act

This bill requires open government data assets to be published as machine-readable data.

Each agency shall: (1) develop and maintain a comprehensive data inventory for all data assets created by or collected by the agency, and (2) designate a Chief Data Officer who shall be responsible for lifecycle data management and other specified functions.

The bill establishes in the OMB a Chief Data Officer Council for establishing governmentwide best practices for the use, protection, dissemination, and generation of data and for promoting data sharing agreements among agencies.

Confidential Information Protection and Statistical Efficiency Act of 2017

This bill codifies provisions relating to confidential information protection and statistical efficiency.

H.R. 4227.—Vehicular Terrorism Prevention Act of 2018. (Public Law 115–400). December 31, 2018.

(Sec. 2) This bill directs the Department of Homeland Security (DHS): (1) to assess the activities that DHS is undertaking to support emergency response providers and the private sector to prevent, mitigate, and respond to the threat of vehicular terrorism; and (2) based on such assessment, to develop and submit to the congressional homeland security committees a strategy to improve its efforts to support such providers and the private sector in that regard.

The strategy shall include:

- an examination of the current threat of vehicular terrorism;
- methods to improve DHS information sharing activities with such providers and the private sector regarding best practices to prevent, mitigate, and respond to the increasing threat of vehicular terrorism; and
- training activities that DHS can provide for such providers to prevent and respond to such threat.

H.R. 4431.—Correcting Miscalculations in Veterans' Pensions Act. (Public Law 115–352). December 21, 2018.

H.R. 6160.—To amend title 5, United States Code, to clarify the sources of the authority to issue regulations regarding certifications and other criteria applicable to legislative branch employees under Wounded Warriors Federal Leave Act. (Public Law 115–364). December 21, 2018.

(Sec. 1) This bill modifies the self-certification requirements for Federal employees who use disabled veteran leave.

Currently, a Federal employee who uses disabled veteran leave must certify that the leave was used to undergo medical treatment for a service-connected disability. The Office of Personnel Management is authorized to prescribe the form and manner of such certification.

This bill adds a new provision to specify, in the case of a legislative branch employee, which office is authorized to prescribe the form and manner of the certification.

H.R. 6400.—United States Ports of Entry Threat and Operational Review Act. (Public Law 115–372). December 21, 2018.

(Sec. 2) This bill directs U.S. Customs and Border Protection (CBP) to submit to the congressional homeland security and tax committees a threat and operational analysis of U.S. air, land, and sea ports of entry.

Such analysis shall include an assessment of:

- current and potential threats posed by individuals and organized groups seeking to exploit security vulnerabilities at ports of entry or to unlawfully enter the United States through such ports of entry;
- methods and pathways used to exploit security vulnerabilities at ports of entry;
- improvements needed at ports of entry to prevent the unlawful movement of people, illicit drugs, and other contraband across U.S. borders;
- improvements needed to enhance travel and trade facilitation and reduce wait times at ports of entry; and
- processes conducted at ports of entry that do not require law enforcement training and could be filled with non-law enforcement staff or by the private sector, or be automated.

In compiling such analysis, CBP shall consider and examine: (1) personnel needs, including K-9 Units, and estimated costs, at each port of entry; (2) technology needs, including radiation portal monitors and non-intrusive inspection technology, and estimated costs at each port of entry; and (3) infrastructure needs and estimated costs at each port of entry.

CBP shall, at specified intervals, provide to the committees a ports of entry strategy and implementation plan.

H.R. 6870.—To rename the Stop Trading on congressional Knowledge Act of 2012 in honor of Representative Louise McIntosh Slaughter. (Public Law 115-277). November 3, 2018.

(Sec. 1) This bill changes the title of the Stop Trading on congressional Knowledge Act of 2012 to the “Representative Louise McIntosh Slaughter Stop Trading on congressional Knowledge Act.”

S. 188.—EGO Act. (Public Law 115-158). (Public Law 115-158). March 27, 2018.

(Sec. 2) This bill prohibits the use of funds appropriated or otherwise made available to the Federal Government to pay for an official portrait of an officer or employee of the Federal Government, including the President, the Vice President, a Member of Congress, the head of an executive agency, or the head of an office of the legislative branch.

S. 504.—Asia-Pacific Economic Cooperation Business Travel Cards Act of 2017. (Public Law 115-79). November 2, 2017.

(Sec. 2) This bill amends the Homeland Security Act of 2002 to authorize U.S. Customs and Border Protection (CBP) to issue an Asia-Pacific Economic Cooperation Business Travel Card (ABT Card) to an individual who: (1) is a U.S. citizen, (2) has been approved and is in good standing in an existing Department of Homeland Security (DHS) international trusted traveler program, and (3) is engaged in business in the Asia-Pacific region or is a U.S. Government official engaged in Asia-Pacific Economic Cooperation business.

The bill: (1) transfers card program authority from the the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011

(APECBTC Act) to the Homeland Security Act of 2002; and (2) makes the program, which is scheduled to end on September 30, 2018, permanent.

The CBP shall: (1) integrate application procedures for, and issuance, renewal, and revocation of, ABT cards with existing DHS international trusted traveler programs; (2) prescribe and collect a fee for card issuance and renewal, and (3) notify Congress if card program expenditures exceed collected amounts.

The bill establishes in the Treasury an Asia-Pacific Economic Cooperation Business Travel Card Account (Account).

(Sec. 3) Amounts in the travel card account under the APECBTC Act are transferred to the Account and shall be available for expenses incurred with any card, and such Act is repealed. A card issued pursuant to such Act before the date of enactment of this bill shall remain valid until it expires.

S. 585.—Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017. (Public Law 115–73). October 26, 2017.

(Sec. 102) This bill directs Federal agencies (excluding any entity that is an element of the intelligence community) to give priority to an employee transfer request if the Merit Systems Protections Board (MSPB) grants a stay of a personnel action at the request of: (1) the Office of Special Counsel (OSC) if the OSC determines the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice; or (2) the employee if the individual is in probationary status and seeks corrective action.

The Government Accountability Office (GAO) shall report to Congress on retaliation against employees in probationary status.

(Sec. 103) The bill: (1) prohibits any employee who has the authority to take a personnel action to access the medical records of another employee or applicant for employment, (2) authorizes disciplinary action against supervisors for retaliation against whistleblowers.

(Sec. 105) Agencies must: (1) refer information about employee suicides to the OSC, (2) train supervisors on responding to complaints alleging whistleblower protections violations, (3) provide information regarding whistleblower protections to new employees during probationary periods, (4) inform employees of the role of the OSC and the MSPB with regard to whistleblower protection, and (5) make information about such protections available on agency websites.

#### TITLE I—DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES

(Sec. 201) The Department of Veterans Affairs (VA) must: (1) submit a plan to prevent unauthorized access to the medical records of VA employees; (2) conduct an outreach program to inform its employees of available mental health services, including telemedicine options; and (3) ensure protocols are in effect to address threats against VA employees providing health care.

(Sec. 204) The GAO shall assess the reporting, staffing, accountability, and chain of command structure of the VA police officers at VA medical centers.

S. 1083.—A bill to amend section 1214 of title 5, United States Code, to provide for stays during a period that the Merit Systems

Protection Board lacks a quorum. (Public Law 115–42). June 27, 2017.

This bill provides that if the Merit Systems Protection Board lacks the number of members required to constitute a quorum, any remaining member of the board may, upon request by the Special Counsel, extend the period of any stay of any personnel action granted.

S. 1617.—Javier Vega, Jr. Memorial Act of 2017. (Public Law 115–81). November 2, 2017.

(Sec. 3) This bill designates the checkpoint of the U.S. Border Patrol located on U.S. Highway 77 North in Sarita, Texas, as the “Javier Vega, Jr. Border Patrol Checkpoint.”

S. 1869.—Whistleblower Protection Coordination Act. (Public Law 115–192) June 25, 2018.

This bill reauthorizes and renames the position of Whistleblower Ombudsman to be the Whistleblower Protection Coordinator.

S. 2276.—GAO-IG Act. (Public Law 115–414). January 3, 2019.

This bill requires each Federal agency, in its annual budget justification, to include a report on: (1) each public recommendation of the Government Accountability Office (GAO) that is classified as “open” or “closed, unimplemented”; (2) each public recommendation for corrective action from the agency’s office of the inspector general (OIG) for which no final action has been taken; and (3) the implementation status of each such recommendation.

Each agency shall also provide a copy of this information to its OIG and to the GAO.

S. 2896.—JACK Act. (Public Law 115–418). January 3, 2019.

This bill amends the Lobbying Disclosure Act of 1995.

S. 3031.—Federal Personal Property Management Act of 2018. (Public Law 115–419). January 3, 2019.

This bill requires the executive agencies and the General Services Administration (GSA) to carry out the following activities with respect to Federal personal property management.

Each executive agency, in accordance with guidance from the GSA, must annually inventory and assess capitalized personal property in identifying excess property under the agency’s control. Capitalized personal property items include those recorded on an agency’s general ledger records as major investments or assets.

Each agency must also regularly inventory and assess accountable personal property under its control.

GSA may establish separate thresholds for acquisitions of personal property for which affected agencies shall capitalize and for which they shall establish and maintain property records in a centralized system.

S. 3191.—Civil Rights Cold Case Records Collection Act of 2018. (Public Law 115–426). January 8, 2019.

This bill requires the National Archives and Records Administration (NARA) to: (1) commence establishing a collection of civil rights cold case records, (2) commence preparing and publishing the subject guidebook and index to the collection, and (3) establish criteria for transmitting copies of civil rights cold case records to NARA, to include required metadata.

All civil rights cold case records transmitted to NARA for disclosure to the public shall be included in the collection, available to

the public for inspection and copying by 60 days after the record's transmission to NARA, and prioritized for digitization by NARA.

The Civil Rights Cold Case Records Review Board is established as an independent agency of impartial private citizens. The records of the review board shall not be destroyed, with an exception.

#### B. POSTAL NAMING BILLS

H.R. 294—To designate the facility of the United States Postal Service located at 2700 Cullen Boulevard in Pearland, Texas, as the “Endy Nddiobong Ekpanya Post Office Building”. (Public Law 115–133). March 16, 2018.

H.R. 452—To designate the facility of the United States Postal Service located at 324 West Saint Louis Street in Pacific, Missouri, as the “Specialist Jeffrey L. White, Jr. Post Office”. (Public Law 115–134). March 16, 2018.

H.R. 606—To designate the facility of the United States Postal Service located at 1025 Nevin Avenue in Richmond, California, as the “Harold D. McCraw, Sr., Post Office Building”. (Public Law 115–283). December 6, 2018.

H.R. 1207—To designate the facility of the United States Postal Service located at 306 River Street in Tilden, Texas, as the “Tilden Veterans Post Office”. (Public Law 115–311). December 13, 2018.

H.R. 1208—To designate the facility of the United States Postal Service located at 9155 Schaefer Road, Converse, Texas, as the “Converse Veterans Post Office Building”. (Public Law 115–138). March 20, 2018.

H.R. 1209—To designate the facility of the United States Postal Service located at 901 N. Francisco Avenue, Mission, Texas, as the “Mission Veterans Post Office Building”. (Public Law 115–284). December 6, 2018.

H.R. 1496—To designate the facility of the United States Postal Service located at 3585 South Vermont Avenue in Los Angeles, California, as the “Marvin Gaye Post Office”. (Public Law 115–207). July 24, 2018.

H.R. 1858—To designate the facility of the United States Postal Service located at 4514 Williamson Trail in Liberty, Pennsylvania, as the “Staff Sergeant Ryan Scott Ostrom Post Office”. (Public Law 115–139). March 20, 2018.

H.R. 1988—To designate the facility of the United States Postal Service located at 1730 18th Street in Bakersfield, California, as the “Merle Haggard Post Office Building”. (Public Law 115–140). March 20, 2018.

H.R. 2254—To designate the facility of the United States Postal Service located at 2635 Napa Street in Vallejo, California, as the “Janet Capello Post Office Building”. (Public Law 115–142). March 23, 2018.

H.R. 2302—To designate the facility of the United States Postal Service located at 259 Nassau Street, Suite 2 in Princeton, New Jersey, as the “Dr. John F. Nash, Jr. Post Office”. (Public Law 115–143). March 23, 2018.

H.R. 2464—To designate the facility of the United States Postal Service located at 25 New Chardon Street Lobby in Boston, Massachusetts, as the “John Fitzgerald Kennedy Post Office”. (Public Law 115–144). March 23, 2018.

H.R. 2672—To designate the facility of the United States Postal Service located at 520 Carter Street in Fairview, Illinois, as the “Sgt. Douglas J. Riney Post Office”. (Public Law 115–145). March 23, 2018.

H.R. 2673—To designate the facility of the United States Postal Service located at 514 Broadway Street in Pekin, Illinois, as the “Lance Corporal Jordan S. Bastean Post Office”. (Public Law 115–208). July 24, 2018.

H.R. 2815—To designate the facility of the United States Postal Service located at 30 East Somerset Street in Raritan, New Jersey, as the “Gunnery Sergeant John Basilone Post Office”. (Public Law 115–146). March 23, 2018.

H.R. 2873—To designate the facility of the United States Postal Service located at 207 Glenside Avenue in Wyncote, Pennsylvania, as the “Staff Sergeant Peter Taub Post Office Building”. (Public Law 115–147). March 23, 2018.

H.R. 2979—To designate the facility of the United States Postal Service located at 390 West 5th Street in San Bernardino, California, as the “Jack H. Brown Post Office Building”. (Public Law 115–285). December 6, 2018.

H.R. 3109—To designate the facility of the United States Postal Service located at 1114 North 2d Street in Chillicothe, Illinois, as the “Sr. Chief Ryan Owens Post Office Building”. (Public Law 115–148). March 23, 2018.

H.R. 3183—To designate the facility of the United States Postal Service located at 13683 James Madison Highway in Palmyra, Virginia, as the “U.S. Navy Seaman Dakota Kyle Rigsby Post Office”. (Public Law 115–209). July 24, 2018.

H.R. 3230—To designate the facility of the United States Postal Service located at 915 Center Avenue in Payette, Idaho, as the “Harmon Killebrew Post Office Building”. (Public Law 115–286). December 6, 2018.

H.R. 3369—To designate the facility of the United States Postal Service located at 225 North Main Street in Spring Lake, North Carolina, as the “Howard B. Pate, Jr. Post Office”. (Public Law 115–149). March 23, 2018.

H.R. 3460—To designate the United States courthouse located at 323 East Chapel Hill Street in Durham, North Carolina, as the “John Hervey Wheeler United States Courthouse”. (Public Law 115–412). January 3, 2019.

H.R. 3638—To designate the facility of the United States Postal Service located at 1100 Kings Road in Jacksonville, Florida, as the “Rutledge Pearson Post Office Building”. (Public Law 115–150). March 23, 2018.

H.R. 3655—To designate the facility of the United States Postal Service located at 1300 Main Street in Belmar, New Jersey, as the “Dr. Walter S. McAfee Post Office Building”. (Public Law 115–151). March 23, 2018.

H.R. 3821—To designate the facility of the United States Postal Service located at 430 Main Street in Clermont, Georgia, as the “Zack T. Addington Post Office”. (Public Law 115–152). March 23, 2018.

H.R. 3893—To designate the facility of the United States Postal Service located at 100 Mathe Avenue in Interlachen, Florida, as the

“Robert H. Jenkins, Jr. Post Office”. (Public Law 115–153). March 23, 2018.

H.R. 4042—To designate the facility of the United States Postal Service located at 1415 West Oak Street, in Kissimmee, Florida, as the “Borinqueneers Post Office Building”. (Public Law 115–154). March 23, 2018.

H.R. 4285—To designate the facility of the United States Postal Service located at 123 Bridgeton Pike in Mullica Hill, New Jersey, as the “James C. ‘Billy’ Johnson Post Office Building”. (Public Law 115–155). March 23, 2018.

H.R. 4301—To designate the facility of the United States Postal Service located at 201 Tom Hall Street in Fort Mill, South Carolina, as the “J. Elliott Williams Post Office Building”. (Public Law 115–210). July 24, 2018.

H.R. 4406—To designate the facility of the United States Postal Service located at 99 Macombs Place in New York, New York, as the “Tuskegee Airmen Post Office Building”. (Public Law 115–211). July 24, 2018.

H.R. 4407—An act to designate the facility of the United States Postal Service located at 3s101 Rockwell Street in Warrenville, Illinois, as the “Corporal Jeffrey Allen Williams Post Office Building”. (Public Law 115–316). December 14, 2018.

H.R. 4463—To designate the facility of the United States Postal Service located at 6 Doyers Street in New York, New York, as the “Mabel Lee Memorial Post Office”. (Public Law 115–212). July 24, 2018.

H.R. 4574—To designate the facility of the United States Postal Service located at 108 West Schick Road in Bloomingdale, Illinois, as the “Bloomingdale Veterans Memorial Post Office Building”. (Public Law 115–213). July 24, 2018.

H.R. 4646—To designate the facility of the United States Postal Service located at 1900 Corporate Drive in Birmingham, Alabama, as the “Lance Corporal Thomas E. Rivers, Jr. Post Office Building”. (Public Law 115–214). July 24, 2018.

H.R. 4685—To designate the facility of the United States Postal Service located at 515 Hope Street in Bristol, Rhode Island, as the “First Sergeant P. Andrew McKenna Jr. Post Office”. (Public Law 115–215). July 24, 2018.

H.R. 4722—To designate the facility of the United States Postal Service located at 111 Market Street in Saugerties, New York, as the “Maurice D. Hinchey Post Office Building”. (Public Law 115–216). July 24, 2018.

H.R. 4840—To designate the facility of the United States Postal Service located at 567 East Franklin Street in Oviedo, Florida, as the “Sergeant First Class Alwyn Crendall Cashe Post Office Building”. (Public Law 115–217). July 24, 2018.

H.R. 4890—To designate the facility of the United States Postal Service located at 9801 Apollo Drive in Upper Marlboro, Maryland, as the “Wayne K. Curry Post Office Building”. (Public Law 115–287). December 6, 2018.

H.R. 4913—To designate the facility of the United States Postal Service located at 816 East Salisbury Parkway in Salisbury, Maryland, as the “Sgt. Maj. Wardell B. Turner Post Office Building”. (Public Law 115–288). December 6, 2018.



H.R. 4946—To designate the facility of the United States Postal Service located at 1075 North Tustin Street in Orange, California, as the “Specialist Trevor A. Win’E Post Office”. (Public Law 115–289). December 6, 2018.

H.R. 4960—To designate the facility of the United States Postal Service located at 511 East Walnut Street in Columbia, Missouri, as the “Spc. Sterling William Wyatt Post Office Building”. (Public Law 115–290). December 6, 2018.

H.R. 5238—To designate the facility of the United States Postal Service located at 1234 Saint John’s Place in Brooklyn, New York, as the “Major Robert Odell Owens Post Office”. (Public Law 115–317). December 14, 2018.

H.R. 5349—To designate the facility of the United States Postal Service located at 1325 Autumn Avenue in Memphis, Tennessee, as the “Judge Russell B. Sugarmon Post Office Building”. (Public Law 115–291). December 6, 2018.

H.R. 5504—To designate the facility of the United States Postal Service located at 4801 West Van Giesen Street in West Richland, Washington, as the “Sergeant Dietrich Schmieman Post Office Building”. (Public Law 115–292). December 6, 2018.

H.R. 5737—To designate the facility of the United States Postal Service located at 108 West D Street in Alpha, Illinois, as the “Captain Joshua E. Steele Post Office”. (Public Law 115–293). December 6, 2018.

H.R. 5784—To designate the facility of the United States Postal Service located at 2650 North Doctor Martin Luther King Jr. Drive in Milwaukee, Wisconsin, shall be known and designated as the “Vel R. Phillips Post Office Building”. (Public Law 115–294). December 6, 2018.

H.R. 5791—To designate the facility of the United States Postal Service located at 9609 South University Boulevard in Highlands Ranch, Colorado, as the “Deputy Sheriff Zackari Spurlock Parrish, III, Post Office Building”. (Public Law 115–359). December 21, 2018.

H.R. 5792.—To designate the facility of the United States Postal Service located at 90 North 4th Avenue in Brighton, Colorado, as the “Detective Heath McDonald Gumm Post Office”. (Public Law 115–360). December 21, 2018.

H.R. 5868—To designate the facility of the United States Postal Service located at 530 Claremont Avenue in Ashland, Ohio, as the “Bill Harris Post Office”. (Public Law 115–295). December 6, 2018.

H.R. 5935—To designate the facility of the United States Postal Service located at 1355 North Meridian Road in Harristown, Illinois, as the “Logan S. Palmer Post Office”. (Public Law 115–296). December 6, 2018.

H.R. 6020—To designate the facility of the United States Postal Service located at 325 South Michigan Avenue in Howell, Michigan, as the “Sergeant Donald Burgett Post Office Building”. (Public Law 115–362). December 21, 2018.

H.R. 6116—To designate the facility of the United States Postal Service located at 362 North Ross Street in Beaverton, Michigan, as the “Colonel Alfred Asch Post Office”. (Public Law 115–297). December 6, 2018.

H.R. 6591—To designate the facility of the United States Postal Service located at 501 South Kirkman Road in Orlando, Florida, as

the “Napoleon ‘Nap’ Ford Post Office Building”. (Public Law 115–376). December 21, 2018.

H.R. 6780—To designate the facility of the United States Postal Service located at 7521 Paula Drive in Tampa, Florida, as the “Major Andreas O’Keeffe Post Office Building”. (Public Law 115–381). December 21, 2018.

S. 831—A bill to designate the facility of the United States Postal Service located at 120 West Pike Street in Canonsburg, Pennsylvania, as the “Police Officer Scott Bashioum Post Office Building”. (Public Law 115–137). March 16, 2018.

S. 931—A bill to designate the facility of the United States Postal Service located at 4910 Brighton Boulevard in Denver, Colorado, as the “George Sakato Post Office”. (Public Law 115–220). July 27, 2018.

S. 2040—A bill to designate the facility of the United States Postal Service located at 621 Kansas Avenue in Atchison, Kansas, as the “Amelia Earhart Post Office Building”. (Public Law 115–162). April 3, 2018.

S. 2692—A bill to designate the facility of the United States Postal Service located at 4558 Broadway in New York, New York, as the “Stanley Michels Post Office Building”. (Public Law 115–223). July 30, 2018.

S. 3209—A bill to designate the facility of the United States Postal Service located at 413 Washington Avenue in Belleville, New Jersey, as the “Private Henry Svehla Post Office Building”. (Public Law 115–318) December 14, 2018.

S. 3237—A bill to designate the facility of the United States Postal Service located at 120 12th Street Lobby in Columbus, Georgia, as the “Richard W. Williams, Jr., Chapter of the Triple Nickles (555th P.I.A.) Post Office”. (Public Law 115–319). December 14, 2018.

S. 3414—A bill to designate the facility of the United States Postal Service located at 20 Ferry Road in Saunderstown, Rhode Island, as the “Captain Matthew J. August Post Office”. (Public Law 115–313). December 13, 2018.

S. 3442—A bill to designate the facility of the United States Postal Service located at 105 Duff Street in Macon, Missouri, as the “Arla W. Harrell Post Office”. (Public Law 115–314). December 13, 2018.

## PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

CHAIRMAN: ROBERT PORTMAN

RANKING MINORITY MEMBER: THOMAS R. CARPER

The following is the Activities Report of the Permanent Subcommittee on Investigations for the 115th Congress.

## I. HISTORICAL BACKGROUND

## A. SUBCOMMITTEE JURISDICTION

The Permanent Subcommittee on Investigations was originally authorized by Senate Resolution 189 on January 28, 1948. At its creation in 1948, the Subcommittee was part of the Committee on Expenditures in the Executive Departments. The Subcommittee's records and broad investigative jurisdiction over government operations and national security issues, however, actually antedate its creation, since it was given custody of the jurisdiction of the former Special Committee to Investigate the National Defense Program (the so-called "War Investigating Committee" or "Truman Committee"), chaired by Senator Harry S. Truman during the Second World War and charged with exposing waste, fraud, and abuse in the war effort and war profiteering. Today, the Subcommittee is part of the Committee on Homeland Security and Governmental Affairs.<sup>1</sup>

The Subcommittee has had ten chairmen: Senators Homer Ferguson of Michigan (1948), Clyde R. Hoey of North Carolina (1949–1952), Joseph R. McCarthy of Wisconsin (1953–1954), John L. McClellan of Arkansas (1955–1972), Henry M. Jackson of Washington (1973–1978), Sam Nunn of Georgia (1979–1980 and 1987–1994), William V. Roth of Delaware (1981–1986 and 1995–1996), Susan M. Collins of Maine (1997–2001); Norman B. Coleman of Minnesota (2003–2007); and Carl Levin of Michigan (2001–2002 and 2007–2014); and Robert J. Portman of Ohio (2015–present).

Until 1957, the Subcommittee's jurisdiction focused principally on waste, inefficiency, impropriety, and illegality in government operations. Its jurisdiction then expanded over time, today encompassing investigations within the broad ambit of the parent committee's responsibility for matters relating to the efficiency and economy of operations of all branches of the government, including matters related to: (a) waste, fraud, abuse, malfeasance, and unethical practices in government contracting and operations; (b) organized criminal activities affecting interstate or international commerce; (c) criminal activity affecting the national health, welfare, or safety, including investment fraud, commodity and securities fraud, computer fraud, and offshore abuses; (d) criminality or improper practices in labor-management relations; (e) the effectiveness of present national security methods, staffing and procedures, and U.S. relationships with international organizations concerned

<sup>1</sup>In 1952, the parent committee's name was changed to the Committee on Government Operations. It was changed again in early 1977, to the Committee on Governmental Affairs, and again in 2005, to the Committee on Homeland Security and Governmental Affairs, its present title.

with national security; (f) energy shortages, energy pricing, management of government-owned or controlled energy supplies; and relationships with oil producing and consuming countries; and (g) the operations and management of Federal regulatory policies and programs. While retaining the status of a subcommittee of a standing committee, the Subcommittee has long exercised its authority on an independent basis, selecting its own staff, issuing its own subpoenas, and determining its own investigatory agenda.

The Subcommittee acquired its sweeping jurisdiction in several successive stages. In 1957—based on information developed by the Subcommittee—the Senate passed a Resolution establishing a Select Committee on Improper Activities in the Labor or Management Field. Chaired by Senator McClellan, who also chaired the Subcommittee at that time, the Select Committee was composed of eight Senators—four of whom were drawn from the Permanent Subcommittee on Investigations and four from the Committee on Labor and Public Welfare. The Select Committee operated for 3 years, sharing office space, personnel, and other facilities with the Permanent Subcommittee. Upon its expiration in early 1960, the Select Committee's jurisdiction and files were transferred to the Permanent Subcommittee, greatly enlarging the latter body's investigative authority in the labor-management area.

The Subcommittee's jurisdiction expanded further during the 1960s and 1970s. In 1961, for example, it received authority to make inquiries into matters pertaining to organized crime and, in 1963, held the famous Valachi hearings examining the inner workings of the Italian Mafia. In 1967, following a summer of riots and other civil disturbances, the Senate approved a Resolution directing the Subcommittee to investigate the causes of this disorder and to recommend corrective action. In January 1973, the Subcommittee acquired its national security mandate when it merged with the National Security Subcommittee. With this merger, the Subcommittee's jurisdiction was broadened to include inquiries concerning the adequacy of national security staffing and procedures, relations with international organizations, technology transfer issues, and related matters. In 1974, in reaction to the gasoline shortages precipitated by the Arab-Israeli war of October 1973, the Subcommittee acquired jurisdiction to investigate the control and management of energy resources and supplies as well as energy pricing issues.

In 1997, the full Committee on Governmental Affairs was charged by the Senate to conduct a special examination into illegal or improper activities in connection with Federal election campaigns during the 1996 election cycle. The Permanent Subcommittee provided substantial resources and assistance to this investigation, contributing to a greater public understanding of what happened, to subsequent criminal and civil legal actions taken against wrongdoers, and to enactment of campaign finance reforms in 2001.

In 1998, the Subcommittee marked the fiftieth anniversary of the Truman Committee's conversion into a permanent subcommittee of the U.S. Senate.<sup>2</sup> Since then, the Subcommittee has developed particular expertise in complex financial matters, examining the collapse of Enron Corporation in 2001, the key causes of the 2008 financial crisis, structured finance abuses, financial fraud, unfair credit practices, money laundering, commodity speculation, and a wide range of offshore and tax haven abuses. It has also focused on issues involving health care fraud, foreign corruption, and waste, fraud and abuse in government programs. In the half-century of its existence, the Subcommittee's many successful investigations have made clear to the Senate the importance of retaining a standing investigatory body devoted to keeping government not only efficient and effective, but also honest and accountable.

#### B. SUBCOMMITTEE INVESTIGATIONS

Armed with its broad jurisdictional mandate, the Subcommittee has conducted investigations into a wide variety of topics of public concern, ranging from financial misconduct, to commodities speculation, predatory lending, and tax evasion. Over the years, the Subcommittee has also conducted investigations into criminal wrongdoing, including money laundering, the narcotics trade, child pornography, labor racketeering, human trafficking, the opioid crisis, and organized crime activities. In addition, the Subcommittee has investigated a wide range of allegations of waste, fraud, and abuse in government programs and consumer protection issues, addressing problems ranging from unfair credit card practices to health care fraud. In the 115th Congress, the Subcommittee held six hearings and issued six reports on a wide range of issues, including online sex trafficking; the shipment of illicit opioids through U.S. postal mail; the Department of Health and Human Services' care of unaccompanied alien children; the Federal infrastructure permitting process; sanctions compliance and the nuclear agreement with Iran; and the pricing of prescription drugs.

##### *(1) Historical Highlights*

The Subcommittee's investigatory record as a permanent Senate body began under the Chairmanship of Republican Senator Homer Ferguson and his Chief Counsel (and future Attorney General and Secretary of State) William P. Rogers, as the Subcommittee inherited the Truman Committee's role in investigating fraud and waste in U.S. Government operations. This investigative work became particularly colorful under the chairmanship of Senator Clyde Hoey, a North Carolina Democrat who took the chair from Senator Ferguson after the 1948 elections. Under Senator Hoey's leadership, the Subcommittee won national attention for its investigation

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<sup>2</sup>This anniversary also marked the first date upon which internal Subcommittee records generally began to become available to the public. Unlike most standing committees of the Senate whose previously unpublished records open after a period of 20 years has elapsed, the Permanent Subcommittee on Investigations, as an investigatory body, may close its records for 50 years to protect personal privacy and the integrity of the investigatory process. With this 50th anniversary, the Subcommittee's earliest records, housed in the Center for Legislative Archives at the National Archives and Records Administration, began to open seriatim. The records of the predecessor committee—the Truman Committee—were opened by Senator Nunn in 1980.

of the so-called "five percenters," notorious Washington lobbyists who charged their clients five percent of the profits from any Federal contracts they obtained on the client's behalf. Given the Subcommittee's jurisdictional inheritance from the Truman Committee, it is perhaps ironic that the "five percenters" investigation raised allegations of bribery and influence-peddling that reached right into the White House and implicated members of President Truman's staff. In any event, the fledgling Subcommittee was off to a rapid start.

What began as colorful soon became contentious. When Republicans returned to the Majority in the Senate in 1953, Wisconsin's junior Senator, Joseph R. McCarthy, became the Subcommittee's Chairman. Two years earlier, as Ranking Minority Member, Senator McCarthy had arranged for another Republican Senator, Margaret Chase Smith of Maine, to be removed from the Subcommittee. Senator Smith's offense, in Senator McCarthy's eyes, was her issuance of a "Declaration of Conscience" repudiating those who made unfounded charges and used character assassination against their political opponents. Although Senator Smith had carefully declined to name any specific offender, her remarks were universally recognized as criticism of Senator McCarthy's accusations that communists had infiltrated the State Department and other government agencies. Senator McCarthy retaliated by engineering Senator Smith's removal, replacing her with the newly-elected Senator from California, Richard Nixon.

Upon becoming Subcommittee Chairman, Senator McCarthy staged a series of highly publicized anti-Communist investigations, culminating in an inquiry into Communism within the U.S. Army, which became known as the Army-McCarthy hearings. During the latter portion of those hearings, in which the parent Committee examined the Wisconsin Senator's attacks on the Army, Senator McCarthy recused himself, leaving South Dakota Senator Karl Mundt to serve as Acting Chairman of the Subcommittee. Gavel-to-gavel television coverage of the hearings helped turn the tide against Senator McCarthy by raising public concern about his treatment of witnesses and cavalier use of evidence. In December 1954, the Senate censured Senator McCarthy for unbecoming conduct. In the following year, the Subcommittee adopted new rules of procedure that better protected the rights of witnesses. The Subcommittee also strengthened the rules ensuring the right of both parties on the Subcommittee to appoint staff, initiate and approve investigations, and review all information in the Subcommittee's possession.

In 1955, Senator John McClellan of Arkansas began 18 years of service as Chairman of the Permanent Subcommittee on Investigations. Senator McClellan appointed a young Robert F. Kennedy as the Subcommittee's Chief Counsel. That same year, Members of the Subcommittee were joined by Members of the Senate Labor and Public Welfare Committee on a special committee to investigate labor racketeering. Chaired by Senator McClellan and staffed by Robert Kennedy and other Subcommittee staff members, this special committee directed much of its attention to criminal influence over the Teamsters Union, most famously calling Teamsters' leaders Dave Beck and Jimmy Hoffa to testify. The televised hearings

of the special committee also introduced Senators Barry Goldwater and John F. Kennedy to the nation, as well as led to passage of the Landrum-Griffin Labor Act.

After the special committee completed its work, the Permanent Subcommittee on Investigations continued to investigate organized crime. In 1962, the Subcommittee held hearings during which Joseph Valachi outlined the activities of La Cosa Nostra, or the Mafia. Former Subcommittee staffer Robert Kennedy—who had by then become Attorney General in his brother's Administration—used this information to prosecute prominent mob leaders and their accomplices. The Subcommittee's investigations also led to passage of major legislation against organized crime, most notably the Racketeer Influenced and Corrupt Organizations (RICO) provisions of the Crime Control Act of 1970. Under Chairman McClellan, the Subcommittee also investigated fraud in the purchase of military uniforms, corruption in the Department of Agriculture's grain storage program, securities fraud, and civil disorders and acts of terrorism. In addition, from 1962 to 1970, the Subcommittee conducted an extensive probe of political interference in the awarding of government contracts for the Pentagon's ill-fated TFX ("tactical fighter, experimental") aircraft. In 1968, the Subcommittee also examined charges of corruption in U.S. servicemen's clubs in Vietnam and elsewhere around the world.

In 1973, Senator Henry "Scoop" Jackson, a Democrat from Washington, replaced Senator McClellan as the Subcommittee's Chairman. During his tenure, recalled Chief Clerk Ruth Young Watt—who served in this position from the Subcommittee's founding until her retirement in 1979—Ranking Minority Member Charles Percy, an Illinois Republican, became more active on the Subcommittee than Chairman Jackson, who was often distracted by his Chairmanship of the Interior Committee and his active role on the Armed Services Committee.<sup>3</sup> Senator Percy also worked closely with Georgia Democrat Sam Nunn, a Subcommittee member who subsequently succeeded Senator Jackson as Subcommittee Chairman in 1979. As Chairman, Senator Nunn continued the Subcommittee's investigations into the role of organized crime in labor-management relations and also investigated pension fraud.

Regular reversals of political fortunes in the Senate during the 1980s and 1990s saw Senator Nunn trade the chairmanship three times with Delaware Republican William Roth. Senator Nunn served from 1979 to 1980 and again from 1987 to 1995, while Senator Roth served from 1981 to 1986, and again from 1995 to 1996. These 15 years saw a strengthening of the Subcommittee's bipartisan tradition in which investigations were initiated by either the Majority or Minority and fully supported by the entire Subcommittee. For his part, Senator Roth led a wide range of investigations into commodity investment fraud, offshore banking schemes, money laundering, and child pornography. Senator Nunn led inquiries into Federal drug policy, the global spread of chemical and biological weapons, abuses in Federal student aid programs,

<sup>3</sup>It had not been uncommon in the Subcommittee's history for the Chairman and Ranking Minority Member to work together closely despite partisan differences, but Senator Percy was unusually active while in the Minority—a role that included his chairing an investigation of the hearing aid industry.

computer security, airline safety, and health care fraud. Senator Nunn also appointed the Subcommittee's first female counsel, Eleanor Hill, who served as Chief Counsel to the Minority from 1982 to 1986 and then as Chief Counsel from 1987 to 1995.

Strong bipartisan traditions continued in the 105th Congress when, in January 1997, Republican Senator Susan Collins of Maine became the first woman to chair the Permanent Subcommittee on Investigations. Senator John Glenn of Ohio became the Ranking Minority Member, while also serving as Ranking Minority Member of the full Committee. Two years later, in the 106th Congress, after Senator Glenn's retirement, Michigan Democrat Carl Levin succeeded him as the Subcommittee's Ranking Minority Member. During Senator Collins' chairmanship, the Subcommittee conducted investigations into issues affecting Americans in their day-to-day lives, including mortgage fraud, deceptive mailings and sweepstakes promotions, phony credentials obtained through the Internet, day trading of securities, and securities fraud on the Internet. Senator Levin initiated an investigation into money laundering. At his request, in 1999, the Subcommittee held hearings on money laundering issues affecting private banking services provided to wealthy individuals, and, in 2001, on how major U.S. banks providing correspondent accounts to offshore banks were being used to advance money laundering and other criminal schemes.

During the 107th Congress, both Senator Collins and Senator Levin chaired the Subcommittee. Senator Collins served as chairman until June 2001, when the Senate Majority changed hands; at that point, Senator Levin assumed the chairmanship and Senator Collins, in turn, became the Ranking Minority Member. In her first six months chairing the Subcommittee at the start of the 107th Congress, Senator Collins held hearings examining issues related to cross border fraud, the improper operation of tissue banks, and Federal programs designed to fight diabetes. When Senator Levin assumed the chairmanship, as his first major effort, the Subcommittee initiated an 18-month bipartisan investigation into the Enron Corporation, which had collapsed into bankruptcy. As part of that investigation, the Subcommittee reviewed over 2 million pages of documents, conducted more than 100 interviews, held four hearings, and issued three bipartisan reports focusing on the role played by Enron's Board of Directors, Enron's use of tax shelters and structured financial instruments, and how major U.S. financial institutions contributed to Enron's accounting deceptions, corporate abuses, and ultimate collapse. The Subcommittee's investigative work contributed to passage of the Sarbanes-Oxley Act which enacted accounting and corporate reforms in July 2002. In addition, Senator Levin continued the money laundering investigation initiated while he was the Ranking Minority Member, and the Subcommittee's work contributed to enactment of major reforms strengthening U.S. anti-money laundering laws in the 2001 USA PATRIOT Act (Patriot Act). Also during the 107th Congress, the Subcommittee opened new investigations into offshore tax abuses, border security, and abusive practices related to the pricing of gasoline and other fuels.

In January 2003, at the start of the 108th Congress, after the Senate Majority party again changed hands, Senator Collins was



elevated to Chairman of the full Committee on Governmental Affairs, and Republican Senator Norman Coleman of Minnesota became Chairman of the Subcommittee. Over the next two years, Senator Coleman held hearings on topics of national and global concern including illegal file sharing on peer-to-peer networks, abusive practices in the credit counseling industry, the dangers of purchasing pharmaceuticals over the Internet, SARS preparedness, border security, and how former Iraqi President Saddam Hussein had abused the United Nations Oil-for-Food Program. At the request of Senator Levin, then Ranking Minority Member, the Subcommittee examined how some U.S. accounting firms, banks, investment firms, and tax lawyers were designing, promoting, and implementing abusive tax shelters across the country. Also at Senator Levin's request, the Subcommittee investigated how some U.S. financial institutions were failing to comply with anti-money laundering controls mandated by the Patriot Act, using as a case history Riggs Bank accounts involving Augusto Pinochet, the former President of Chile, and Equatorial Guinea, an oil-rich country in Africa.

During the 109th Congress, Senator Coleman held additional hearings on abuses associated with the United Nation's Oil-for-Food Program, and initiated a series of hearings on Federal contractors who were paid with taxpayer dollars but failed to meet their own tax obligations, resulting in billions of dollars in unpaid taxes. He also held hearings on border security issues, securing the global supply chain, Federal travel abuses, abusive tax refund loans, and unfair energy pricing. At Senator Levin's request, the Subcommittee held hearings on offshore tax abuses responsible for \$100 billion in unpaid taxes each year, and on U.S. vulnerabilities caused by States forming 2 million companies each year with hidden owners.

During the 110th Congress, in January 2007, after the Senate majority shifted, Senator Levin once again became Subcommittee Chairman, while Senator Coleman became the Ranking Minority Member. Senator Levin chaired the Subcommittee for the next seven years. He focused the Subcommittee on investigations into complex financial and tax matters, including unfair credit card practices, executive stock option abuses, excessive speculation in the natural gas and crude oil markets, and offshore tax abuses involving tax haven banks and non-U.S. persons dodging payment of U.S. taxes on U.S. stock dividends. The Subcommittee's work contributed to enactment of two landmark bills, the Credit Card Accountability Responsibility and Disclosure Act (Credit CARD Act), which reformed credit card practices, and the Foreign Account Tax Compliance Act (FATCA), which tackled the problem of hidden offshore bank accounts used by U.S. persons to dodge U.S. taxes. At the request of Senator Coleman, the Subcommittee also conducted bipartisan investigations into Medicare and Medicaid health care providers who cheat on their taxes, fraudulent Medicare claims involving deceased doctors or inappropriate diagnosis codes, U.S. dirty bomb vulnerabilities, Federal payroll tax abuses, abusive practices involving transit benefits, and problems involving the United Nations Development Program.

*(2) More Recent Investigations*

During the 111th Congress, Senator Levin continued as Subcommittee Chairman, while Senator Tom Coburn joined the Subcommittee as its Ranking Minority Member. Under their leadership, the Subcommittee dedicated much of its resources to a bipartisan investigation into key causes of the 2008 financial crisis, looking in particular at the role of high-risk home loans, regulatory failures, inflated credit ratings, and high-risk, conflicts-ridden financial products designed and sold by investment banks. The Subcommittee held four hearings and released thousands of documents. The Subcommittee's work contributed to passage of another landmark financial reform bill, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. In addition, the Subcommittee held hearings on excessive speculation in the wheat market, tax haven banks that helped U.S. clients evade U.S. taxes, how to keep foreign corruption out of the United States, and Social Security disability fraud.

During the 112th Congress, Senator Levin and Senator Coburn continued in their respective roles as Chairman and Ranking Minority Member of the Subcommittee. In a series of bipartisan investigations, the Subcommittee examined how a global banking giant, HSBC, exposed the U.S. financial system to an array of money laundering, drug trafficking, and terrorist financing risks due to poor anti-money laundering controls; how two U.S. multinational corporations, Microsoft and Hewlett Packard engaged in offshore tax abuses; and how excessive commodity speculation by mutual funds and others were taking place without Dodd-Frank safeguards such as position limits being put into effect. At the request of Senator Coburn, the Subcommittee also conducted bipartisan investigations into problems with Social Security disability determinations that, due to poor procedures, perfunctory hearings, and poor quality decisions, resulted in over one in five disability cases containing errors or inadequate justifications; how Department of Homeland Security State and local intelligence fusion centers failed to yield significant, useful information to support Federal counterterrorism efforts; and how certain Federal contractors that received taxpayer dollars through stimulus funding failed to pay their Federal taxes.

During the 113th Congress, Senator Levin continued as Chairman, while Senator John McCain joined the Subcommittee as its Ranking Minority Member. They continued to strengthen the Subcommittee's strong bipartisan traditions, conducting all investigations in a bipartisan manner. During the 113th Congress, the Subcommittee held eight hearings and released ten reports on a variety of investigations. The investigations examined high risk credit derivatives trades at JPMorgan; hidden offshore accounts opened for U.S. clients by Credit Suisse in Switzerland; corporate tax avoidance in case studies involving Apple, Caterpillar, and a structured financial product known as basket options; online advertising abuses; conflicts of interest affecting the stock market and high speed trading; IRS processing of 501(c)(4) applications; defense acquisition reforms; and bank involvement with physical commodities. At the end of the 113th Congress, Senator Levin retired from the Senate.

During the 114th Congress, Senator Rob Portman became Subcommittee Chairman with Senator Claire McCaskill serving as Ranking Minority Member. Under the Chairman and Ranking Member's leadership, the Subcommittee held six hearings and issued eight reports addressing range of public policy concerns. Investigations examined the impact of the U.S. corporate tax code on cross-border mergers acquisitions; online sex trafficking; the Federal Government's efforts to protect unaccompanied migrant children from human trafficking; consumer protection in the cable and satellite television industry; terrorist networks' use of the Internet and social media to radicalize and recruit; the U.S. State Department's oversight of a grantee involved in political activities in Israel; and efforts by Medicare and private health insurance systems to combat the opioid epidemic. The Subcommittee also initiated the first successful civil contempt proceedings to enforce a Senate subpoena in twenty years. The Subcommittee's long-term investigation of online sex trafficking culminated in a final report and hearing on January 10, 2017, at the start of the 115th Congress.

## II. SUBCOMMITTEE HEARINGS DURING THE 115TH CONGRESS

During the 115th Congress, Senator Rob Portman remained Subcommittee Chairman with Senator Tom Carper serving as Ranking Minority Member.

### *A. Backpage.com's Knowing Facilitation of Online Sex Trafficking.* January 10, 2017. (S. Hrg. 115-6)

The Subcommittee's first hearing and report of the 115th Congress concluded its investigation from the 114th Congress regarding how Backpage.com knowingly facilitated the online sex trafficking of children. The hearing featured two panels of witnesses. The first panel was composed of Carl Ferrer, Chief Executive Officer of Backpage.com; Michael Lacey, former owner of Backpage.com; James Larkin, former owner of Backpage.com; Elizabeth McDougall, General Counsel of Backpage.com; and Andrew Padilla, Chief Operations Officer of Backpage.com. The second panel of witnesses featured parents of victims of Backpage.com's practices: Nacole S., mother of Jane Doe 1; Thomas S., father of Jane Doe 1; and Kubiiki P., mother of Jane Doe 2. The Backpage.com witnesses asserted their rights not to testify under the Fifth Amendment.

As a result of the Subcommittee's work, Congress passed the Stop Enabling Sex Traffickers Act (Pub. L. No. 115-164), which became law on April 11, 2018. The law prohibits knowingly assisting, facilitating, or supporting sex trafficking, and it allows online services to be prosecuted by State attorneys general for those violations.

### *B. Stopping the Shipment of Synthetic Opioids: Oversight of U.S. Strategy to Combat Illicit Drugs.* May 25, 2017. (S. Hrg. 115-193)

The Subcommittee's second hearing concerned how the U.S. Postal Service, private mail and package carriers, U.S. Customs and

Border Patrol, and the State Department were addressing the use of the international postal system to ship illicit opioids into the United States and fuel the opioid crisis currently gripping the country.

The hearing featured testimony from two panels of witnesses. The first panel included: Hon. Gregory Thome, Director, Office of Specialized and Technical Agencies, Bureau of International Organization Affairs, U.S. Department of State; Robert Cintron, Vice President, Network Operations Management, United States Postal Service; Robert Perez, Acting Executive Assistant Commissioner, Operations Support, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Tammy L. Whitcomb, Acting Inspector General, Office of the Inspector General, United States Postal Service; and Norman T. Schenk, Vice President, Global Customs Policy and Public Affairs, United Parcel Service. The second panel was comprised of: Hon. Michael Botticelli, Executive Director, Grayken Center for Addiction Medicine, Boston Medical Center; Thomas Synan Jr., Chief of Police, Newtown, Ohio Police Department; Thomas P. Gilson, Medical Examiner, Cuyahoga County Medical Examiner, Cleveland, Ohio; and Terry L. Horton, Chief, Division of Addiction Medicine and Medical Director, Project Engage, Christiana Care Health Services, Wilmington, DE.

*C. Cutting Through the Red Tape: Oversight of Federal Infrastructure Permitting and the Federal Permitting Improvement Steering Council.* September 7, 2017. (S. Hrg. 115–194)

The Subcommittee’s third hearing reviewed the process for Federal agency permitting of the largest Federal infrastructure projects. In 2015, Congress enacted the Fixing America’s Surface Transportation (FAST) Act (Pub. L. No. 114–94), Title 41 of which was the Federal Permitting Improvement Act. FAST–41, as it became known, created the Federal Permitting Improvement Steering Council (Permitting Council). Under FAST–41, the Permitting Council is responsible for coordinating the permitting process for those projects designated as “covered projects”—which must cost at least \$200 million and involve multiple Federal agencies in the permitting process. The hearing examined the Permitting Council’s progress in improving the frequently lengthy process for permitting these projects.

The Subcommittee heard from two panels of witnesses. The first panel included Mark S. Gerken, Chief Executive Officer, American Municipal Power; Brent Booker, Secretary-Treasurer, North America’s Building Trades Unions; William L. Kovacs, Senior Vice President, Environment, Technology, and Regulatory Affairs, U.S. Chamber of Commerce; and Scott Slesinger, Legislative Director, Natural Resources Defense Council. The second panel was comprised of Janet Pfleeger, Acting Executive Director, Federal Permitting Improvement Steering Council; Terry Turpin, Director, Office of Energy Projects, Federal Energy Regulatory Commission; Robyn S. Colosimo, Assistant for Water Resources Policy, U.S. Army Corps of Engineers; and Gary Frazer, Assistant Director, Ecological Services, U.S. Fish and Wildlife Service.

*D. Combatting the Opioid Crisis: Exploiting Vulnerabilities in International Mail.* January 25, 2018. (S. Hrg. 115–317)

The Subcommittee’s fourth hearing of the 115th Congress and its second report examined how Chinese online drug dealers and others exploit the international mail system to ship illicit opioids. While Federal law requires common carriers such as FedEx and the United Parcel Service to collect advanced electronic data (AED) before shipping a package into the United States, the Postal Service is not required to collect AED. The Subcommittee described in its report how simple it is to contact drug manufacturers in China on the Internet and request that they ship opioids to the United States. Almost uniformly, the drug manufacturers told undercover Subcommittee staff that they would prefer to use the U.S. Postal Service to ship the drugs to the United States than any other form of shipment.

The Subcommittee heard from one panel of witnesses comprised of: Joseph P. Murphy, Chief, International Postal Affairs, Office of Specialized and Technical Agencies, Bureau of International Organizations, U.S. Department of State; Robert Cintron, Vice President, Network Operations, United States Postal Service; Todd C. Owen, Executive Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection, U.S. Department of Homeland Security; William Siemer, Acting Deputy Inspector General, Office of the Inspector General, United States Postal Service; Daniel D. Baldwin, Section Chief, Office of Global Enforcement, Drug Enforcement Administration, U.S. Department of Justice; and Gregory C. Nevano, Deputy Assistant Director, Illicit Trade, Travel, and Finance Division, Homeland Security Investigations, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security.

As a result of the Subcommittee’s demonstration of how easily drug traffickers were able to ship drugs through the U.S. mail, Congress passed the Synthetics Trafficking and Overdose Protection (STOP) Act, which became law on October 24, 2018. The STOP Act requires the Postal Service to collect the same shipment information other carriers collect to help prevent drug traffickers from shipping illicit drugs into the United States through mail and packages entering the country.

*E. Oversight of HHS and DHS Efforts to Protect Unaccompanied Alien Children from Human Trafficking and Abuse.* April 26, 2018.

The Subcommittee’s fifth hearing of the 115th Congress followed up on its efforts from the 114th Congress to examine how the Department of Homeland Security and the Department of Health and Human Services are ensuring that unaccompanied alien children (UACS) are protected from human trafficking and abuse. The Subcommittee previously learned that, in 2014, HHS placed eight UACs with sponsors who turned out to be human traffickers. The traffickers placed the children into forced labor on an egg farm in Marion, Ohio. After the Subcommittee’s hearing and report on January 28, 2016, HHS and DHS agreed to enter into a Joint Concept of Operations (JCO) by February 2017 to set out each of their responsibilities with regard to UACs. The Subcommittee learned that

the agencies failed to enter the JCO and held this hearing hold the agencies accountable for this failure. At the hearing, HHS testified that it had been conducting 30-day follow-up telephone calls with each UAC it places with a sponsor. HHS reported, however, that based on three months' worth of data, it could not "determine with certainty the whereabouts of 1,475 UAC."

Two panels of witnesses testified at the hearing. The first panel included James W. McCament, Deputy Under Secretary, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Steven Wagner, Acting Assistant Secretary, Administration for Children and Families, U.S. Department of Health and Human Services; Kathryn A. Larin, Director, Education, Workforce, and Income Security Team, U.S. Government Accountability Office. The second panel of witnesses included: Allison E. Herre, Immigration Legal Services Director, Catholic Charities Southwestern Ohio; Jessica A. Ramos, Staff Attorney, Advocates for Basic Legal Equality; Kelsey R. Wong, Program Director and Project Director, Shenandoah Valley Juvenile Center; Pattiva M. Cathell, ELL School Counselor, Sussex Central High School; and Laura Graham, Deputy Director and Managing Attorney, Delaware Medical-Legal Partnership and Immigration Program, Community Legal Aid Society, Inc.

As a result of the Subcommittee's oversight, the agencies entered into an information-sharing memorandum of agreement, which the agencies provided to the Subcommittee at midnight before the hearing, improving their background check procedures for sponsors.

*F. Oversight of Efforts to Protect Unaccompanied Alien Children from Human Trafficking and Abuse.* August 16, 2018.

The Subcommittee's sixth hearing and third report of the 115th Congress followed up on its hearing from April 26, 2018, to oversee the Federal government's efforts to protect UACs from trafficking and abuse. Between the two hearings, DHS and HHS entered into the Joint Concept of Operations, more than 19 months after its original due date. In addition to DHS and HHS efforts to protect UACs, this hearing also examined DOJ's role in the immigration process and found that, at that time, 732,730 immigration cases were pending before immigration courts around the country, 80,266 of which were UAC cases. More than 8,000 UAC cases had been pending for more than three years.

At the hearing, the Subcommittee heard testimony from one panel of witnesses: Richard M. Hudson, Acting Chief, Law Enforcement Operations Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Robert Guadian, Acting Deputy Assistant Director for Field Operations West, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; Commander Jonathan D. White, U.S. Public Health Service Commissioned Corps, Federal Health Coordinating Official for the 2018 UAC Reunification Effort, U.S. Department of Health and Human Services; and James R. McHenry, Director, Executive Office for Immigration Review, U.S. Department of Justice.

### III. LEGISLATIVE ACTIVITIES DURING THE 115TH CONGRESS

The Permanent Subcommittee on Investigations does not have legislative authority, but because its investigations play an important role in bringing issues to the attention of Congress and the public, the Subcommittee's work contributes to the development of legislative initiatives. The Subcommittee's activity during the 115th Congress was no exception, with Subcommittee hearings and Members playing prominent roles in several legislative initiatives.

#### *A. Stop Enabling Sex Traffickers Act (S. 1693)*

Based on the Subcommittee's investigation into Backpage.com and online sex trafficking, Senator Portman introduced the Stop Enabling Sex Traffickers Act (SESTA). The House passed the bill as part of a larger trafficking bill by an overwhelming 388 to 25 vote, and the Senate passed it by a similarly large margin of 92 to 2. The President signed it into law on April 11, 2018.

The bill amended the Communications Decency Act (CDA) to specify that communications decency provisions protecting Internet providers from liability for the private blocking or screening of offensive material shall not be construed to impair or limit civil action or criminal prosecution under State or Federal criminal or civil laws relating to sex trafficking of children or sex trafficking by force, fraud, or coercion. Over the years, much of the CDA as originally enacted has been struck down in court on freedom of speech grounds, but Section 230 and its liability protections remain. Many have argued that this section provides an essential underpinning of the modern Internet and is critical to the explosive growth of websites that facilitate user-generated content. At the same time, however, those protections have been held by courts to shield from civil liability and state criminal prosecution nefarious actors, such as the website Backpage.com, that are accused of knowingly facilitating sex trafficking. SESTA eliminates section 230 as a defense for websites that knowingly facilitate sex trafficking. It also empowers State law enforcement to enforce criminal statutes against websites, and introduce new civil liabilities for violations of Federal criminal laws relating to sex trafficking.

It also amended the Federal criminal code to specify that the violation for benefiting from "participation in a venture" engaged in sex trafficking of children, or sex trafficking by force, fraud, or coercion, includes knowingly assisting, supporting, or facilitating the violation. Finally, it allows State attorneys general to bring a civil action in U.S. district court on behalf of a State's residents if the attorney general believes the residents have been threatened or adversely affected by anyone who knowingly participates in the sex trafficking of children or sex trafficking by force, fraud, or coercion.

#### *B. Synthetic Trafficking and Overdose Prevention Act of 2017 (S. 372)*

The Subcommittee's investigation of the shipment of illicit opioids through the U.S. mail prompted Congress to pass the Synthetic Trafficking and Overdose Prevent (STOP) Act of 2017 (Pub. L. No. 115-271). Senator Portman introduced the STOP Act on

February 14, 2017. On June 22, 2018, the House passed the bill by a 396 to 14 vote. On October 3, 2018, the Senate passed the bill 99 to 1. The President signed it into law on October 24, 2018.

The STOP Act requires the U.S. Postal Service to collect AED on all international packages by December 31, 2020. Starting on January 1, 2021, any packages sent to the United States will not be accepted by the U.S. Postal Service unless an exception applies. The requirement mirrors the information the Trade Act of 2002 required private carriers like FedEx and UPS to collect and provide to Customs and Border Protection (CBP). CBP uses the information it collects from private carriers to determine if the package should be targeted and inspected. The STOP was designed to provide information to law enforcement to stop dangerous synthetic drugs, like fentanyl, from being shipped into the United States through the international mail system associated with the U.S. Postal Service.

*C. Responsibility for Unaccompanied Minors Act (S. 3474)*

Based on the Subcommittee's oversight of the Federal Government's failure to care for unaccompanied alien children appropriately, Senator Portman, along with Senators Blumenthal, Lankford, and Carper, introduced the Responsibility for Unaccompanied Minors Act on September 18, 2018. The bill was referred to the Senate Committee on the Judiciary. The bill would require HHS to ensure that sponsors comply with their sponsor care agreement and allow HHS to take back custody of children whose non-parental sponsors fail to provide for their mental and physical wellbeing or ensure they appear at their immigration court proceedings. It would also require HHS to conduct background checks on sponsors and require HHS to notify sponsors' state of residence before placing a child with a sponsor in that State. The bill also would direct the Attorney General to increase the number of immigration judge teams by at least 225.

*D. Federal Permitting Reform and Jobs Act (S. 3017)*

As a result of the Subcommittee's oversight of the Federal Permitting Improvement Steering Council, Senators Portman and McCaskill introduced the Federal Permitting Reform and Jobs Act. The bill would eliminate the seven-year sunset on FAST-41; give the Permitting Council Executive Director more authority to facilitate disputes between agencies; and give agencies a two-year goal for making permitting decisions for covered projects.

#### IV. REPORTS, PRINTS, AND STUDIES

In connection with its investigations, the Subcommittee often issues lengthy and detailed reports. During the 115th Congress, the Subcommittee released six such reports, listed below.



A. *Backpage.com's Knowing Facilitation of Online Sex Trafficking*, January 10, 2017 (Report Prepared by the Majority and Minority Staff of the Permanent Subcommittee on Investigations and released in conjunction with the Subcommittee's hearing on January 10, 2017)

At the start of the 115th Congress, the Subcommittee released a major, 55-page report culminating its investigation into online sex trafficking. For more than 20 months, the Subcommittee investigated the problem of online sex trafficking. The investigation led the Subcommittee to focus on Backpage.com, the leading online marketplace for commercial sex. Operating in 97 countries and 943 locations worldwide-and last valued at more than a half-billion dollars-Backpage was the world's second-largest classified advertising website. Backpage is involved in 73 percent of all child trafficking reports that the National Center for Missing and Exploited Children (NCMEC) received from the general public (excluding reports by Backpage itself). The National Association of Attorneys General aptly described Backpage as a "hub" of "human trafficking, especially the trafficking of minors."

Backpage did not deny that its site is used for criminal activity, including the sale of children for sex. Instead, the company long claimed that it is a mere host of content created by others and therefore immune from liability under the Communications Decency Act (CDA). Backpage executives also repeatedly touted their process for screening adult advertisements as an industry-leading effort to protect against criminal abuse. Since June 2015, the Subcommittee sought information from Backpage-first through a voluntary request, then by subpoena-about those screening measures. Backpage refused to comply, and the Subcommittee was forced to initiate the first civil contempt action authorized by the Senate in more than 20 years. In August 2016, the Subcommittee prevailed and secured a Federal court order compelling Backpage to produce the subpoenaed documents.

The internal company documents obtained by the Subcommittee conclusively demonstrated that Backpage's public defense is a fiction. Backpage maintained a practice of altering ads before publication by deleting words, phrases, and images indicative of criminality, including child sex trafficking. Backpage avoided revealing this information. On July 28, 2011, for example, Backpage co-founder James Larkin cautioned Backpage CEO Carl Ferrer against publicizing Backpage's moderation practices, explaining that "[w]e need to stay away from the very idea of 'editing' the posts, as you know." Backpage had good reason to conceal its editing practices: Those practices served to sanitize the content of innumerable advertisements for illegal transactions-even as Backpage represented to the public and the courts that it merely hosted content others had created.

This report contained three principal findings. First, Backpage knowingly concealed evidence of criminality by systematically editing its "adult" ads. As early as 2006, Backpage executives began instructing staff responsible for screening ads (known as "moderators") to edit the text of adult ads to conceal the true nature of the underlying transaction. By October 2010, Backpage executives formalized a process of both manual and automated deletion of in-

criminating words and phrases, primarily through a feature called the “Strip Term From Ad Filter.” At the direction of CEO Carl Ferrer, the company programmed this electronic filter to “strip”—that is, delete—hundreds of words indicative of sex trafficking (including child sex trafficking) or prostitution from ads before their publication. The terms that Backpage automatically deleted from ads before publication include “lolita,” “teenage,” “rape,” “young,” “amber alert,” “little girl,” “teen,” “fresh,” “innocent,” and “school girl.” When a user submitted an adult ad containing one of these “stripped” words, Backpage’s Strip Term From Ad filter would immediately delete the discrete word and the remainder of the ad would be published.

While the Strip Term From Ad filter changed nothing about the true nature of the advertised transaction or the real age of the person being sold for sex, thanks to the filter, Backpage’s adult ads looked “cleaner than ever.” Manual editing entailed the deletion of language similar to the words and phrases that the Strip Term From Ad filter automatically deleted—including terms indicative of criminality. By Backpage’s own internal estimate, by late-2010, the company was editing “70 to 80 percent of ads” in the adult section either manually or automatically.

Over time, Backpage reprogrammed its electronic filters to reject an ad in its entirety if it contained certain egregious words suggestive of sex trafficking. But the company implemented this change by coaching its customers on how to post “clean” ads for illegal transactions. When a user attempted to post an ad with a forbidden word, the user would receive an error message identifying the problematic word choice to “help” the user, as Ferrer put it. For example, in 2012, a user advertising sex with a “teen” would get the error message: “Sorry, ‘teen’ is a banned term.” Through simply re-drafting the ad, the user would be permitted to post a sanitized version. Documents from as recently as 2014 confirm the continued use of these error messages. Backpage employed a similarly helpful error message in its “age verification” process for adult ads. In October 2011, Ferrer directed his technology consultant to create an error message when a user supplied an age under 18. He stated that, “An error could pop up on the page: ‘Oops! Sorry, the ad poster must be over 18 years of age.’” With a quick adjustment to the poster’s putative age, the ad would post.

In addition to the evidence of systematic editing described above, additional evidence showed that Backpage was aware that its website facilitated prostitution and child sex trafficking. Backpage moderators told the Subcommittee that everyone at the company knew the adult-section ads were for prostitution and that their job was to “put[] lipstick on a pig” by sanitizing them. Backpage also knows that advertisers use its site extensively for child sex trafficking, but the company often refused to act swiftly in response to complaints about particular underage users—preferring in some cases to interpret these complaints as the tactics of a competing escort. Backpage may also have tried to manipulate the number of child-exploitation reports it forwards to the National Center for Missing and Exploited Children.

Finally, despite the reported sale of Backpage to an undisclosed foreign company in 2014, the true beneficial owners of the company

were found to be James Larkin, Michael Lacey, and Carl Ferrer. Acting through a complex chain of domestic and international shell companies, Lacey and Larkin lent Ferrer over \$600 million to purchase Backpage from them. But as a result of this deal, Lacey and Larkin retained significant financial and operational control, holding almost complete debt equity in the company, and still receive large distributions of company profits. According to the consultant who structured the deal, moreover, this transaction appeared to provide no tax benefits. Instead, it served only to obscure Ferrer's U.S.-based ownership and conceal Lacey and Larkin's continued beneficial ownership.

After the hearing and report, the Department of Justice criminally prosecuted Backpage.com CEO Carl Ferrer and at least six other Backpage.com owners or operators. Backpage was seized by Federal law enforcement.

*B. Combatting the Opioid Crisis: Exploiting Vulnerabilities in International Mail, January 25, 2018 (Report Prepared by the Majority and Minority Staffs of the Permanent Subcommittee on Investigations and released in conjunction with the Subcommittee's hearing on January 25, 2018)*

In January 2018, the Subcommittee released a 100-page report detailing how drug traffickers exploit vulnerabilities in the postal system to ship illegal opioids and other drugs through the U.S. mail. The number of Americans dying due to opioid overdose is staggering. According to the Centers for Disease Control and Prevention (CDC), more than 63,600 Americans died from drug overdoses in 2016. Sixty-six percent of those deaths were caused by opioids, including fentanyl and its many analogues. According to the Drug Enforcement Administration (DEA), China is the primary source of supply for fentanyl and its underlying chemical substances (or precursors) headed for the United States. It is widely known how illicit fentanyl enters the United States. According to the DEA, "[c]ustomers can purchase fentanyl products from Chinese laboratories online" and "powdered fentanyls and pill presses" are shipped via mail services.

As documented in the report, the Subcommittee learned just how easy it is to find fentanyl advertised online, pay for it using digital currency or other means, and have it shipped to the United States through international mail and packages. As such, the Subcommittee conducted an investigation into measures used to prevent illicit fentanyl from entering the United States by the U.S. Customs and Border Protection (CBP), the U.S. Postal Service (Postal Service), and the U.S. Department of State (State Department). The Subcommittee also reviewed efforts taken by the three largest express consignment operators (ECO) operating in the United States: DHL Express U.S. (DHL); FedEx Corporation (FedEx); and United Parcel Service (UPS).

*Online Fentanyl Sellers.* The Subcommittee sought to determine how easy it is to purchase fentanyl from an online seller and arrange to have it delivered to the United States. A simple Google search of "fentanyl for sale" returned a number of potential sellers. Over the course of 3 months, the Subcommittee communicated with representatives from six online sellers, posing as a first-time

fentanyl purchaser. All of the online sellers actively sought to induce a purchase of fentanyl or other illicit opioid. Their sales pitches made it sound easy to purchase fentanyl, and each preferred to ship any purchases to the United States through the Postal Service. The online sellers preferred to be paid through cryptocurrencies such as bitcoin, which offers a certain level of anonymity. They also accepted other common payment options, such as Western Union, MoneyGram, PayPal, credit cards, and prepaid gift cards. The online sellers actively negotiated with the Subcommittee to complete a deal by offering flash sales on certain illicit opioids and discounted prices for bulk purchases. When the Subcommittee failed to immediately respond to an offer, the online sellers proactively followed up, sometimes offering deeper discounts to entice a sale.

While the Subcommittee posed as a first-time online purchaser of fentanyl, it never finalized an order or provided payment. Rather, the Subcommittee used information the online sellers provided—such as payment information and shipping addresses—to investigate the extent to which other persons in the United States were conducting business with the online sellers.

*Americans Buy Fentanyl Online and Receive it in the Mail.* The Subcommittee's investigation confirmed that many Americans are purchasing fentanyl and other illicit opioids online and having them shipped here through the international mail system. The preferred method of the international online sellers is Express Mail Service (EMS), a global delivery service for documents and merchandise contained in letters and packages. The EMS network delivers letters and packages worldwide through each member country's postal operations, including the Postal Service in the United States. Through payment information, the Subcommittee identified more than 500 financial transactions by more than 300 U.S.-based individuals totaling \$230,000 to the six online sellers. These 300 individuals were located in 43 States, with those in Ohio, Pennsylvania, and Florida making the highest number of purchases.

Through shipment data, the Subcommittee tracked many shipments to individuals who sent money to the six online sellers. This review led to several alarming findings. Most troubling, the Subcommittee identified seven individuals who died from fentanyl-related overdoses after sending money and receiving packages from one of the online sellers, including a 49-year-old Ohioan who sent roughly \$2,500 to an online seller over the course of 10 months—from May 2016 to February 2017. Over that time period, he received 15 packages through the Postal Service on dates that closely corresponded to payments he made to an online seller. He died in early 2017 from "acute fentanyl intoxication." He had received a package from an online seller just 30 days before his death.

The Subcommittee also identified a likely distributor for one of the online sellers based in Pennsylvania. The Subcommittee identified 120 instances of an individual sending a payment to an online seller and then receiving a package within one to two days from the Pennsylvania address. The Ohioan identified above, for example, received seven packages from the Pennsylvania address, including the package he received a month prior to his death. Anal-

ysis of payment and shipping information further identified two additional individuals who were likely distributing illicit opioids.

*Inbound International Mail Volume.* The Subcommittee also examined the Federal agencies' and private shippers' response to the country's opioid crisis. CBP is the Federal agency responsible for identifying suspicious packages sent through the international mail stream that contain illegal items, including fentanyl and other illicit drugs. The Postal Service and ECOs are required to support CBP's efforts by locating and physically handing over or presenting targeted packages to CBP for inspection, a process is known as "presentment." The volume difference for inbound international packages handled by the Postal Service compared to ECOs is staggering. The three major ECOs examined by the Subcommittee together handled approximately 65.7 million international packages in 2016, while the Postal Service alone handled more than 275 million in the same year, over four times the amount handled by the ECOs. The Postal Service's inbound international mail volume increased by 232 percent between fiscal year 2013 and calendar year 2017. However, the Postal Service failed to forecast this growth in inbound international mail volume, which could have helped to ensure some operational measures were in place to handle the growth.

*Interdicting Illicit Opioids and Other Contraband in International Mail.* International mail packages shipped through the Postal Service primarily enter the United States through one of five International Service Centers (ISC) located at the following airports: John F. Kennedy International Airport (JFK) in New York; O'Hare International Airport in Chicago (ORD); Los Angeles International Airport (LAX); San Francisco International Airport (SFO); and Miami International Airport (MIA). In years past, CBP would locate suspicious packages at the ISCs by providing the Postal Service with a list of "countries of interest." The Postal Service would then present all the packages from those countries to CBP. CBP would then manually sort through and inspect millions of packages looking for illegal items. Although both agencies agreed that the process was inefficient and sought ways to improve it, they are guided by different missions that hinder those efforts. The Postal Service's mission is the speedy processing and delivery of the mail, while CBP's mission is to protect the U.S. border and prevent illicit items from entering the United States.

*CBP and Postal Service Pilot Program.* In 2015, CBP and the Postal Service implemented a pilot program to improve the identification, inspection, and interdiction process for international packages arriving in the United States. The pilot program leveraged advanced electronic data (AED) that the Postal Service received from certain foreign postal operators. Under the pilot program, CBP would use the data to specifically target small packages under 4.4 pounds (called "ePackets") coming from China through the JFK ISC. The Postal Service would then be responsible for locating and presenting the targeted packages to CBP. Although the pilot program was a positive development, its execution suffered from lack of forethought and cooperation, conflicting missions, and inter-agency personality conflicts.

*The Universal Postal Union.* International mail delivery is governed by a treaty signed in 1874 that created the Universal Postal Union (UPU). The United States is one of the 192 members of the UPU. For close to a decade, the United States (through the State Department) advocated that UPU members adopt the requirement of collecting and exchanging AED for all packages, but little progress has been made. The amount of AED currently transmitted to the Postal Service on international packages is low. From January 2017 through the end of 2017, only 36 percent (on average) of packages sent to the United States included AED.

*Express Consignment Operators.* In the Trade Act of 2002, Congress required ECOs to collect certain information on all packages shipped through their networks for security purposes following the September 11 terrorist attacks. As a result, all packages shipped by ECOs have AED, including sender name and address, recipient name and address, and a description of the item contained in the package. CBP uses this information to target suspicious packages shipped through the ECOs, just as it uses the AED in the JFK pilot program with the Postal Service. While ECOs are highly efficient at using AED to provide CBP with targeted packages, differences exist between the ECOs and the Postal Service. ECOs control packages in their networks from acceptance to delivery, even for international packages. In contrast, the Postal Service must rely on foreign postal operators to collect AED on internationally shipped packages that are delivered domestically by the Postal Service. ECOs also handle fewer packages than the Postal Service.

*C. Review of U.S. Treasury Department's License to Convert Iranian Assets Using the U.S. Financial System, June 6, 2018 (Report Prepared by the Majority Staff of the Permanent Subcommittee on Investigations)*

In June 2018, the Subcommittee's Majority Staff released a 53-page report reviewing the Obama Administration's negotiations with Iran to relieve sanctions in exchange for concessions. As the United States negotiated with Iran, one important U.S. interest consistently remained off-limits: Iran would not be granted access to either the U.S. financial system or the U.S. dollar. Foreign financial institutions were free to conduct business with the government of Iran and Iranian entities, but U.S. financial institutions continued to be barred from engaging Iran. Senior U.S. government officials repeatedly testified to Congress that Iranian access to the U.S. financial system was not on the table or part of any deal. This notwithstanding, the U.S. Department of the Treasury, at the direction of the U.S. State Department, granted a specific license that authorized a conversion of Iranian assets worth billions of U.S. dollars using the U.S. financial system. Even after the specific license was issued, U.S. government officials maintained in congressional testimony that Iran would not be granted access to the U.S. financial system.

*Joint Plan of Action.* In November 2013, the United States, along with the permanent members of the United Nations Security Council (Security Council) China, France, Russia, and the United Kingdom, plus Germany (collectively known as the "P5 +1") signed the Joint Plan of Action (JPOA) with Iran in Geneva, Switzerland. The

JPOA was a temporary measure that lifted limited economic sanctions on Iran in exchange for Iran suspending portions of its nuclear program while working towards a permanent solution. The JPOA went into effect in January 2014 as the parties negotiated the terms of a permanent deal.

*Joint Comprehensive Plan of Action.* In July 2015, Iran and the P5+1 signed the Joint Comprehensive Plan of Action (JCPOA), which replaced the JPOA. The Security Council adopted the JCPOA on October 18, 2015, and the JCPOA went into effect on January 16, 2016 (Implementation Day). Iran agreed to several nuclear-related limitations, including limiting the production of enriched uranium for 15 years and granting the International Atomic Energy Agency access to certain facilities to monitor compliance with the agreement. In exchange, the United States committed to lifting some economic sanctions on Iran, including sanctions by the United States on foreign entities and countries that conducted business with Iran outside of the United States (commonly referred to as “secondary sanctions”). Iran was also allowed to access assets previously frozen abroad. On Implementation Day, Iran had \$5.7 billion in assets at Bank Muscat in Muscat, Oman in Omani rials.

Notwithstanding this relief, primary U.S. sanctions impacting Iran generally remained in place. It remained illegal for U.S. persons, entities, and financial institutions to do business with Iran or parties on behalf of Iran. This ban also included any “U-Turn” transactions—which are transactions by or on behalf of an Iranian bank in which a U.S. bank acted solely as an intermediary to convert one foreign currency into dollars and then to another foreign currency.

*U.S. government officials testified before Congress that Iran would not have access to the U.S. financial system.* Members of Congress raised concerns about Iran’s ability to access the dollar and the U.S. financial system under the JCPOA. The primary agencies responsible for administering and policing the United States’ sanctions program are the Departments of State and Treasury. Several State and Treasury Department officials testified before congressional committees concerning the relief provided under the JCPOA.

*U.S. government officials encouraged other countries to do business with Iran.* Shortly after the P5+1 reached a deal with Iran in July 2015, officials from the Departments of State and Treasury traveled the globe meeting with foreign financial institutions to encourage business with Iran. Their purpose was to make clear that other countries could conduct transactions with Iran, as long as they avoided U.S. persons, the U.S. financial system, and U.S. sanctioned Iranians. In total, U.S. officials participated in over 200 of these “roadshows” in major cities such as London, Geneva, Tokyo, Berlin, Rome, and Paris. The roadshows amounted to the U.S. government telling the world that Iran was open for business, as long as the rest of the world left the United States out of it. During these roadshows, U.S. officials also signaled that it would not aggressively enforce violations of the new sanctions regime.

*Iran requested access to the U.S. dollar.* Foreign banks had problems converting Iran’s assets. Just days after Implementation Day, Bank Muscat contacted OFAC seeking access to the U.S. dollar.

The request related to the Central Bank of Iran's (CBI) desire to convert the \$5.7 billion in assets held by Bank Muscat in Omani rials to euros. Because the Omani rial's value is pegged to the U.S. dollar, the conversion through the U.S. financial system required two steps. First, the Omani rials had to be converted to U.S. dollars, and, second, the U.S. dollars would be converted to euros. But a conversion to U.S. dollars on behalf of the CBI was prohibited under U.S. sanctions. Other options existed to convert the funds from rials to euros without using the U.S. financial system. But using the U.S. dollar as an intermediary step was the most efficient means, even though U.S. sanctions prohibited it.

The inability to convert the funds held at Bank Muscat through the U.S. financial system frustrated key Iranian officials. On January 24, 2016, a lead Iranian negotiator, wrote to his U.S. State Department counterpart, complaining that Iran could not convert its assets as it requested. Confused by Iran's frustration, Treasury officials reviewed the JCPOA and determined it was consistent with Iran's position, allowing the Government of Iran to engage in "transfers," "foreign exchange (including Rial related transactions)," and the "purchase or acquisition by the Government of Iran of U.S. bank notes." After reviewing the JCPOA's relevant provisions, one Treasury official wrote in an email, "Yikes. It looks like we committed to a whole lot beyond just allowing the immobilized funds to settle out."

*The Treasury Department issued a specific license granting Iran access to the U.S. financial system.* Treasury Department officials began working on a specific license authorizing Bank Muscat's transaction. A specific license allows specified transactions to occur that would otherwise violate U.S. sanctions. On February 24, 2016, the Treasury Department issued a specific license to Bank Muscat to authorize the conversion of Iran's rials to euros through "any United States depository institution . . . involved as a correspondent bank . . . where such foreign exchange conversion provides an indirect benefit to persons subject to the jurisdiction of the Government of Iran." Iran was then free to use a U.S. bank to act as the intermediary (called a "correspondent bank") to convert its assets at Bank Muscat (Omani rials) through the correspondent bank account in the United States (U.S. dollars) to a designated bank in Europe (euros).

*OFAC encouraged two U.S. correspondent banks to convert the funds.* Even with the license, Iran needed a willing U.S. correspondent bank to convert the Omani rials. Bank Muscat maintained correspondent relationships with at least two U.S. banks. U.S. officials at OFAC contacted both of the banks to encourage them to convert the funds. Convincing a U.S. bank to convert the funds was crucial. Both U.S. banks eventually declined, primarily due to the unwillingness to take on the legal and compliance risk posed by the complex conversion, but also reputational concerns in doing business with a comprehensively sanction country like Iran. Without a willing U.S. correspondent bank, Iran's assets remained at Bank Muscat.

*The funds remained at Bank Muscat; Iranian officials remained frustrated.* Iranian officials continued to express great frustration that funds could not be converted as requested. In March 2016, one



Iranian official wrote to a Senior State Department Official that “OFAC is almost all the time invoked as the reason for other countries’ unwillingness to let us have unhindered access to our funds abroad.” That same Iranian official also wrote, “Please note that our inability to convert and use our bank deposits is causing challenges, particularly after the [Implementation Day] when we have expected free access and use of our funds abroad.” In defense, the Senior State Department Official responded that the United States “exceeded our JCPOA commitments by OFAC’s issuing a license to enable Bank Muscat to work with any U.S. financial institution to facilitate the conversation of assets in the banks from rials to other non-dollar currencies.” That same Senior State Department Official also explained that the Bank Muscat transaction was “prohibited by U.S. sanctions that are still in place, and which we were clear we would not be removing as part of the JCPOA.”

*U.S. officials continued to assure Congress that Iran would not be able to access the U.S. financial system.* As the Treasury and State Department worked behind the scenes to help Iran access the dollar, the message to Congress remained the same: The JCPOA did not allow Iran to access the U.S. financial system. In March 2016, Senators Marco Rubio and Mark Kirk wrote to the Treasury Department to seek clarity on “new reports suggesting the Administration is working to give Iran access to the U.S. financial system or to dollar transactions outside of the U.S. financial system.” The Treasury Department responded in June 2016:

- To be clear, the U.S. Department of Treasury is not working on behalf of Iran to enable Iranian access to U.S. dollars elsewhere in the international financial system, nor are we assisting Iran in gaining access to dollar payment systems outside the U.S. financial system. The Administration has not been and is not planning to grant Iran access to the U.S. financial system.

Just three months earlier, the same agency issued a specific license for Iran to access to the U.S. financial system and the U.S. dollar. Eventually, Iranian officials stopped complaining to the State Department about the inability to convert their rials into dollars. In the end, State Department officials believed Iran moved the money slowly over time by converting small amounts of rials directly to euros without using the U.S. financial system. A January 2017 State Department email indicated that Iran still “expressed concern” that the Iranian fund issue remained fully unresolved.

*D. Federal Agency Compliance with the DATA Act, July 24, 2018*  
(Report Prepared by the Majority and Minority Staffs of the Permanent Subcommittee on Investigations)

On July 24, 2018, the Subcommittee released a 46-page bipartisan report regarding agency compliance with the Digital Accountability and Transparency Act (DATA Act) of 2014 (Pub. L. No. 113–101). The DATA Act requires Federal agencies to report their spending data to U.S. Department of the Treasury, which Treasury will then report publicly on USASpending.gov.

In May 2017, the Treasury Department compiled the first-ever single, unified data set containing information that, in theory, would present a complete picture of Federal Government spending. Efforts in recent years to make this information publicly available were built on the idea that transparency encourages effective and efficient government spending, and that taxpayers are entitled to fully understand the Federal Government they fund through their tax dollars. While Federal agencies have made positive strides in collecting and presenting their spending data, in practice, a great deal of work remains to ensure the information is complete, accurate, and timely.

A number of factors continue to hinder the Federal Government's ability to uniformly report spending data—in particular, the amount of spending and the complexity of the Federal Government. In fiscal year 2017, for example, the government spent \$3.98 trillion across the 96 agencies that comprise the Executive Branch. Further complicating the ability to uniformly report spending data, each agency operates independently with its own systems, metrics, and standards to track and publish spending data. While the White House and Congress make decisions about and track spending government-wide through the annual budget and appropriations process, each Federal agency tracks what they spend internally through individualized and complex accounting methods and systems. Recent attempts to track and standardize reporting reveal issues with data inaccuracy and completeness across nearly every Federal agency. And with spending at historic levels, the need to track spending data across the Federal Government is more important than ever.

Congress embarked on its first attempt at standardizing spending data in 2002 with the E-government Act that intended to “enhance the access to and delivery of government information and services.” Later, in 2006, Congress took additional steps with the Federal Funding Accountability and Transparency Act (FFATA) to standardize the reporting of more comprehensive Federal spending data to provide accurate and transparent information on a publicly-available website, [USAspending.gov](http://USAspending.gov). And more recently, under the DATA Act, Congress directed Federal agencies to start reporting data in a cohesive and manageable way to the Treasury Department. The DATA Act required Federal agencies to report spending in real time down to the location by congressional district by May 9, 2017. The intended result would be a central depository for government-wide spending readily available for the public to review.

As Federal agencies implemented the DATA Act, most experienced significant complications in providing accurate data for just one snapshot in time: spending data for fiscal year 2017's second quarter (Q2 2017). The Subcommittee examined 25 Federal agencies, representing roughly 77 percent of all Federal spending for FY 2017, responsible for submitting complete, accurate, and timely spending data to the Treasury Department for display on [USAspending.gov](http://USAspending.gov). Based on the Subcommittee's review of Inspector General (IG) reports for these 25 Federal agencies, at least 55 percent of the spending data submitted to [USAspending.gov](http://USAspending.gov)—submissions representing roughly \$240 billion (out of \$779 billion)—was incomplete, inaccurate, or both. Inaccurate spending data frustrates

the purpose of the DATA Act: a user friendly search engine detailing government-wide spending.

The chart below shows each agency's error rate for its Q2 2017 data submissions, and the Subcommittee's determination of the incorrectly reported data to USAspending.gov.

Agency	Error Rate	Q2 2017 Financial and Award Data <sup>1</sup>	Total Incorrectly Reported to USAspending.gov <sup>2</sup>
SSA .....	36.9%	\$248,077,220,903	\$91,540,494,513
HUD .....	Could not test <sup>3</sup>	\$39,600,000,000	\$39,600,000,000
Agriculture .....	97.1%	\$38,964,000,000	\$37,834,044,000
VA .....	60%	\$61,354,996,332	\$36,812,997,799
DOT .....	Could not test <sup>4</sup>	\$5,182,810,992	\$5,182,810,992
Energy .....	100%	\$4,101,229,733	\$4,101,229,733
DHS .....	64%	\$5,313,193,672	\$3,400,443,950
State .....	83.6%	\$3,795,080,336	\$3,172,687,161
NASA .....	57%	\$3,692,766,298	\$2,104,876,790
Justice .....	89.6%	\$9,400,000,000 <sup>5</sup>	\$8,422,400,000
GSA .....	54.6%	\$2,657,055,023	\$1,450,752,043
OPM .....	1.3%	Could not provide <sup>6</sup>	Could not calculate <sup>7</sup>
Interior .....	37.6%	\$2,745,131,731	\$1,032,169,530
HHS .....	.3%	\$333,000,000,000	\$999,000,000
Defense .....	100%	\$990,100,000	\$990,100,000
Treasury .....	96.2%	\$711,803,354	\$684,754,827
Commerce .....	64.3%	\$936,175,503	\$601,960,848
Science Foundation .....	62.2%	\$930,008,596	\$578,465,347
Labor .....	76.8%	\$571,390,543	\$438,827,937
Education .....	2.8%	\$12,035,006,875	\$336,980,193
IRS .....	97%	\$332,607,474	\$322,629,250
USAID .....	8.3%	\$3,816,398,303	\$316,761,059
Nuclear Regulatory Commission .....	54%	\$477,775,111	\$257,998,560
SBA .....	32.3%	\$66,307,161	\$21,417,213
EPA .....	0%	\$628,478,907	\$0
<b>Totals .....</b>	<b>55%<sup>8</sup></b>	<b>\$779,379,536,847</b>	<b>\$240,203,801,745</b>

<sup>1</sup>Q2 2017 spending figures were produced to the Subcommittee by the agencies and IGs or taken from IG DATA Act reports. Following the FAEC DATA Act Working Group: Inspectors General Guide to Compliance Under the DATA Act, the Subcommittee relied on files D1 and D2 when an IG could not provide a File C figure.

<sup>2</sup>The Subcommittee obtained agency error rate based on IG reporting of statistically valid samples from agency DATA Act submissions. Multiplying the agency's error rate by the agency's Q2 2017 spending produced the amount each agency incorrectly reported to USAspending.gov.

<sup>3</sup>Email from Office of Inspector General, U.S. Department of Housing and Urban Development, to Subcommittee staff, (Apr. 6, 2018) (On file with Subcommittee)(The HUD IG "did not report error percentages because the audit scope limitation.")

<sup>4</sup>Email from Office of the Inspector General, U.S. Department of Transportation, to Subcommittee staff (April 10, 2018)(On file with the Subcommittee)(The DOT IG "could not assess the accuracy rate because of unresolved data reliability issues associated with a primary system we were using to assess the data.")

<sup>5</sup>Email from Office of Legislative Affairs, U.S. Department of Justice, (July 19, 2018).

<sup>6</sup>Email from Office of Legislative and Intergovernmental Affairs, U.S. Office of Personnel Management, to Subcommittee staff (June 25, 2018)(on file with Subcommittee)("The DATA Act reporting did not provide a breakdown of Q1 2017 and Q2 2017 spending. Thus, OPM does not have the spending number for only Q2 2017").

<sup>7</sup>Because OPM could not provide a spending total for only Q2 2017, the Subcommittee could not calculate the figure inaccurately reported to USAspending.gov.

<sup>8</sup>Percentage was calculated by averaging the percentage errors rates calculated by the various IG offices. This average does not account for HUD and DOT.

There are also problems with the USAspending.gov website. The website is internally inconsistent with users getting different results depending on how they conduct their search. Spending data searched and reviewed through the "Spending Explorer" section can be different from spending data a user finds using the "Award" section of the website.

Given these issues with the website and that the IGs found that over half of the data submitted to USAspending.gov was inaccurate, the Subcommittee finds the website does not currently fulfill its legislative mandate as a reliable source of government-wide spending. The Executive Branch, and specifically the Treasury De-

partment, must work to ensure the spending information found on USA Spending.gov is both accurate and reliable.

*E. Oversight of the Care of Unaccompanied Alien Children, August 16, 2018 (Report Prepared by the Majority and Minority Staffs of the Permanent Subcommittee on Investigations and released in conjunction with the Subcommittee's hearing on August 16, 2018)*

In August 2018, the Subcommittee released a 55-page bipartisan staff report following up on its report and hearing from January 2016 regarding how the Federal Government fails to protect unaccompanied alien children (UACs) once the Department of Health and Human Services places them with sponsors in the United States. The Subcommittee initially began investigating HHS's failures to protect these children after HHS placed eight UACs into the hands of a ring of human traffickers who forced them to work on egg farms in and around Marion, Ohio, leading to a Federal criminal indictment. According to the indictment, the minor victims were forced to work 6 or 7 days a week, 12 hours per day. The traffickers repeatedly threatened the victims and their families with physical harm, and even death, if they did not work or surrender their entire paychecks.

In its August 2018 follow-up report, the Subcommittee found that, although HHS had made some improvements, the Federal Government still failed to protect these children in many ways. Specifically, the report found:

*No Federal agency claims legal responsibility or authority to ensure UACs are not being trafficked or abused once the HHS Office of Refugee Resettlement (ORR) places a child with a sponsor.* HHS officials offered conflicting testimony on this issue. HHS Director of the Administration for Children and Families Steven Wagner testified that that HHS is reviewing its policy. HHS Secretary Alex Azar testified that HHS's previous interpretation—that the department has no authority—stands. Current ORR leadership told the Subcommittee staff they recognize that prior administrations' interpretation of HHS's legal authority places these children in a "legal no man's land."

*DHS and HHS took 29 months to create a JCO governing their responsibilities for the care and safety of UACs and missed their own deadline by 17 months.* Moreover, one senior DHS official questioned why Subcommittee staff believed the JCO was important, implying that he did not see value in completing the JCO and committing DHS and HHS processes to paper.

*The JCO reflects the status quo.* It did not address any of the recommendations offered by the Subcommittee or the GAO. The JCO offered no clarification of the Federal Government's responsibility for UACs once HHS places them with sponsors.

*No Federal agency tracks UACs after ORR places them with sponsors.* Without a method to track UACs after placement, the Federal Government has few means to determine whether the children are safe or to ensure they appear at their immigration court proceedings.

*HHS's follow-up telephone calls to UACs placed with sponsors from October to December 2017 demonstrate that HHS does not*

*know with certainty where approximately 20 percent of UACs are three months after placement. ORR found that out of 7,635 attempted telephone calls, 28 UACs “had run away” and “ORR was unable to determine with certainty the whereabouts of 1,475 UAC.” In response to those findings, HHS took no further action to determine their whereabouts.*

*HHS has directed its legal service grantees to cease providing legal representation to new UACs placed with sponsors. HHS told the Subcommittee it believes its authority to provide such services is “shaky.” According to UAC legal service providers, UACs represented by attorneys are significantly more likely to appear at their immigration court proceedings.*

*No agency ensures UACs placed with sponsors appear at their immigration court proceedings or enforces the sponsorship agreement requiring sponsors to ensure the children’s appearance at the proceedings. If UACs fail to appear at their immigration court proceedings, the court typically will enter an in absentia removal order. Those children lose their opportunity to present a case for staying in the United States unless they petition to re-open their case, and if they leave the country, they likely will be barred from future entry.*

*UACs are failing to appear for their immigration court proceedings at increased rates. The percentage of UACs ordered removed in absentia increased from 41 percent in 2016 (6,089 out of 15,016 completed cases) to 48 percent in 2017 (6,634 out of 13,758 completed cases). According to UAC legal service providers, many UACs fail to appear for their immigration court proceedings because the courts are located far from where they live and they have no means to get to court. Some UACs also fail to appear because their sponsors do not realize they need to file for a change of venue if they move.*

*The backlog of immigration court cases, including UAC cases, is significant, and DOJ does not have enough immigration court judges to process the cases. Currently, 732,730 immigration cases total are pending; of those, 80,266 are UAC cases. More than 8,000 UAC cases have been pending for more than 3 years. Further, DOJ has not hired its full allotted complement of immigration court judges. Currently, 355 immigration judges handle all immigration court cases, including 29 judges invested on August 10, 2018. DOJ has authority to hire 129 additional judges. The median length of time UAC cases currently have been pending since the filing of a notice to appear is 480 days. This significant lapse of time makes it less likely UACs will appear for their immigration proceedings.*

*HHS does not notify State governments before placing UACs with sponsors in those States. Without State notification, States are hamstrung in providing welfare and other services to the children or to ensure they attend public school. HHS has a plan to notify State governments before placing UACs previously held in secure facilities, but HHS has failed to implement that plan. HHS explained it cannot implement the plan because it cannot determine whom to notify in the State governments.*

*HHS regularly fails to submit required post-placement plans to DHS for UACs who turn age 18 while in HHS’s care. These plans are supposed to inform DHS about each UAC and recommend*

whether DHS should detain the UAC or release the UAC into the community.

*HHS does not contract with appropriate facilities to house UACs who must be held in a secure facility and who also have significant mental health or emotional issues.* Housing UACs who have significant mental health or emotional issues with the general population in secure facilities exposes those UACs, the facility staff, and other children to an increased risk of harm. Due to delays in ORR's internal review processes, some UACs are spending more time than necessary in secure facilities. This is contrary to the statutory mandate that UACs should be placed in the least restrictive setting that is in the best interests of the child.

In October 2018, Senator Portman, along with Senators Blumenthal, Lankford, and Carper, introduced the Responsibility for Unaccompanied Minors Act to hold HHS accountable for ensuring the welfare of UACs after placing them with sponsors and to ensure they appear for their immigration court proceedings.

*F. Combatting the Opioid Crisis: The Price Increase of an Opioid Overdose Reversal Drug and the Cost to the U.S. Health Care System, November 18, 2018 (Report Prepared by the Majority and Minority Staffs of the Permanent Subcommittee on Investigations)*

In November 2018, the Subcommittee released an 85-page report regarding pharmaceutical company kaléo's 600 percent increase in the cost of a lifesaving drug, EVZIO, a device that injects naloxone to counteract opioid overdoses.

*The FDA Approved Naloxone.* The need to reverse opioid-related overdoses and save lives has never been more important. The Food and Drug Administration approved a drug called naloxone in 1971 to counteract the effects of an opioid overdose. Naloxone is administered three ways: (1) intravenously by a medical professional; (2) via an intranasal plunger delivered into one of the patient's nostrils; or (3) via a needle injection into the patient's muscle or fat. The more quickly an overdose victim receives naloxone, the more effective the drug is in countering the effects of the overdose. While naloxone is available in generic form, two branded products exist for take-home use by untrained individuals in the case of an overdose: (1) Adapt's nasal spray branded as "Narcan" and (2) kaléo's auto-injector branded as "EVZIO."

EVZIO is an auto-injector device that provides verbal instructions that talk the user through using EVZIO on an overdose victim. EVZIO went to market in July 2014 at \$575 per unit, which includes two auto-injectors and a training device. Since its introduction, kaléo has increased EVZIO's price to \$750 in November of 2015; \$3,750 in February of 2016; and finally to its current cost of \$4,100 in January 2017 for an increased dosage of naloxone. Narcan is available at a cost of \$125, which also includes two doses.

*Despite Advice to Price EVZIO Lower, Kaléo Set the Wholesale Acquisition Cost at \$575.* In July 2014, kaléo took EVZIO to market with a Wholesale Acquisition Cost (WAC) of \$575. The WAC is the price of a drug prior to any discounts, rebates, or other price reductions the manufacturer agrees to with purchasers. Kaléo set the

price at \$575 despite two drug-pricing consultants recommending an initial WAC between \$250 to \$300. In that price range, one consultant believed EVZIO could “own the naloxone market.” That consultant went on to work with Adapt to price Narcan at \$125 per unit. At that price, Narcan replaced EVZIO on at least two pharmacy benefit manager (PBM) formularies as the preferred take-home naloxone product.

Another study commissioned by kaléo about market access found that the medical industry responded favorably to EVZIO due to its life-saving potential, but had public health concerns about the drug regarding overuse and misuse. These concerns and the availability of a generic for \$16 would likely lead to health insurance plans requiring prior authorizations before a plan would approve a patient receiving EVZIO. Prior authorizations meant fewer patients filling prescriptions. Instead of heeding the advice of industry experts, kaléo took the drug to market at \$575. At that price, despite being a seemingly innovative product, EVZIO failed to develop a market.

*Kaléo Hired Consultant Todd Smith.* The traditional pharmaceutical distribution model through PBMs and health plans was not working for EVZIO. In an effort to circumvent the traditional pharmaceutical market and go directly to the patient, kaléo contacted consultant Todd Smith. Mr. Smith and his partner Ben Bove were known for taking drugs to market outside the traditional model of contracting with PBMs and insurance plans. The distribution model Mr. Smith used involved dramatically increasing the WAC of a drug-something he had a track-record for doing. For example, at Horizon Pharma, Mr. Smith raised the price of an arthritis medication called Duexis that combined ibuprofen and an acid reducer from \$140 for a bottle of 90 pills to \$2,400 a bottle in 2013. Mr. Smith’s new distribution model worked. Horizon earned \$290 million in revenue in 2014 following its implementation.

Kaléo worked with Mr. Smith to implement his model for EVZIO. Following a successful pilot program, kaléo put the new distribution model into effect and raised the price of EVZIO to \$3,750 in February 2016. Kaléo launched the new model planning to “[c]apitalize on the opportunity” of “[o]pioid overdose at epidemic levels” and “a well established public health crisis.”

*Kaléo Increased the Price of EVZIO More Than 600 Percent Under New Distribution Model.* As part of the new distribution model, the company’s sales force focused on ensuring physician offices signed any necessary paperwork or prior authorizations for the EVZIO prescription to be filled by the pharmacist and covered by a health plan. This included paperwork indicating that EVZIO was medically necessary, triggering coverage without first trying a cheaper option (called a “step edit”) for commercial plans and coverage by government programs like Medicare and Medicaid for the WAC, less any patient copays. Kaléo asserted the model expanded access since a patient received EVZIO whether their insurance covered it or not. Kaléo self-insured prescriptions not covered by health plans giving the patient the EVZIO at no cost. For these patients, kaléo paid the cost of goods and any associated fees. The cost of a unit of EVZIO (two auto-injectors and a training device) amounted to roughly \$174, which included \$52 in manufacturing,

\$29 in overhead, and \$93 in “obsolescence.” For commercial the commercial patient received EVZIO for \$0.

The model relied on patients with insurance coverage to subsidize patients without coverage. Thus, the need to raise the price to \$3,750 and, eventually, 11 months later to \$4,100. Kaléo said insurance covers around 26 percent of EVZIO prescriptions for commercial patients and they give away the remaining 74 percent.

*The Plan Worked.* Kaléo saw a noticeable increase in the number of prescriptions filled. From July 2014 to June 2015, working through PBMs, only 4,769 prescriptions were filled. Following the implementation of the new distribution model and price increase to \$3,750, the company reported 66,327 prescriptions filled from February 2016 to January 2017. Overall, the fill rate for EVZIO went from 40 percent to up to 81 percent. The distribution model also included kaléo ending its contracts with PBMs and health plans for both commercial and Medicare Part D drug coverage. This ended any administrative fees paid by kaléo, but also any rebates kaléo paid that reduced the cost of EVZIO. Kaléo also ended its participation in the Medicaid program on March 31, 2017. The effect of ending these contracts resulted in both Medicare and Medicaid paying more for EVZIO.

*The Cost to Taxpayers under Medicare and Medicaid Skyrocketed.* The sales for EVZIO in the first quarter of 2017 showed kaléo’s dependency on government health care programs. While Medicare and Medicaid were only 24 percent of the units sold that quarter (2,522 units), the two programs were 75 percent of net sales (\$7.94 million). Commercial plans were 66 percent of units sold (7,127 units) with net sales of \$2.61 million. The Medicare program was paying an average of \$3,522 per EVZIO unit with Medicaid paying an average of \$2,412. At the same time, the commercial plans were only paying an average of \$367 per EVZIO. Government health care programs were subsidizing the broader distribution of EVZIO.

With kaléo’s new distribution model in place, the cost to Medicare continued to skyrocket. Under the traditional pricing model in 2015, Medicare Part D paid \$1.9 million for 3,162 units of EVZIO-for an average of \$609 per unit. When kaléo switched to Mr. Smith’s model in 2016, Medicare Part D paid \$37.6 million for 11,360 units of EVZIO-for an average of \$3,310 per unit. In 2017, the cost to the program for EVZIO rose to \$57.2 million for 14,861 units with an average cost of \$3,852 per unit. By taking EVZIO out of the traditional pharmaceutical market, kaléo capitalized on Medicare Part D’s market-based design to control costs through competition. Despite Medicare paying over \$142 million for EVZIO since July 2014, kaléo claimed it still has not earned a profit in over 4 years of the drug being on the market.

While kaléo ended its participation in Medicaid, the program continued to be charged for EVZIO, but outside the program’s statutory savings mechanisms. Medicaid claims for EVZIO processed in 2018 by two of the country’s biggest PBMs were on average above the WAC (\$4,368 for CVS and \$4,145 for Express Scripts). Kaléo stated it created its patient assistance program to replace its Medicaid participation, which provides EVZIO at no cost to qualifying patients.



Kaléo paid Mr. Smith's consulting firm over \$10.2 million for around two years of work to install this new distribution system. The rate was based on revenue generated by the new distribution model. Kaléo's more than 600 percent price increase of EVZIO not only exploited a country in the middle of an opioid crisis, but also American taxpayers who fund government-run health care programs designed to be a safety net for our country's elderly and most vulnerable.

*Kaléo Lowered the Price of its Drug.* In response to the Subcommittee's report, kaléo announced that it planned to introduce an authorized generic version of EVZIO at a cost of \$178 for a carton of two auto-injectors. Kaléo stated the authorized generic would be available to government agencies and first responders immediately. The drug manufacturer said it planned to make the authorized generic available to consumers in mid-2019. The authorized generic will be the same formulation and design as the EVZIO branded product.

SUBCOMMITTEE ON FEDERAL SPENDING OVERSIGHT AND  
EMERGENCY MANAGEMENT

CHAIRMAN: RAND PAUL (R-KY)

RANKING MEMBER: GARY C. PETERS (D-MI)

## I. AUTHORITY

The Subcommittee on Federal Spending Oversight and Emergency Management focuses on the effectiveness and efficiency of Federal financial management; agency policies to promote program integrity and the prevention of waste, fraud, and abuse; policies and procedures related to Federal contracting and procurement, including Federal Acquisition Regulation; and the acquisition functions of the General Services Administration (GSA) and the Office of the Federal Procurement Policy. The Subcommittee also examines the Federal Emergency Management Agency (FEMA) and the Federal Government's efforts to prepare for, respond to, and recover from natural and man-made disasters, including State and local grant programs; activities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and activities related to the National Capital Region; the relationship between the Department of Homeland Security (DHS) and States and localities, including in preparing for, responding to, and recovering from natural and man-made disasters; and activities relating to the Office of the Private Sector and the integration of the private sector into the Nation's emergency preparedness, resilience, and response matters.

## II. ACTIVITY

During the 115th Congress, the Subcommittee on Federal Spending Oversight and Emergency Management held eight hearings and one minority field summit; released two stand-alone reports, and three compilation reports cataloging hundreds of examples of wasteful Federal spending practices, highlighting more than \$3 billion in wasted taxpayer money; produced and introduced a budget resolution and accompanying report; and introduced five related pieces of legislation.

## A. HEARINGS

*The Effect of Borrowing on Federal Spending*. March 29, 2017. (S. Hrg. 115-22).

One week prior to this hearing, the Federal Debt Limit suspension expired and the Treasury was undertaking extraordinary measures. Later in the year, Congress again suspending the debt limit. While some argue this should be routine, at the time, debt was over \$20 trillion and servicing that debt was estimated to be \$295 billion. The situation has worsened since then and both then and now there is a real concern that if interest rates return to historic norms, interest could crowd out other spending in the budget, if it is not already.

This hearing examined the extent to which debt is affecting the Federal budget and how the current trajectory will affect it in the

future. Additionally, the hearing examined the debt limit as an action forcing mechanism for fiscal and budgetary reform, and the consequences and strategies (such as prioritization) of not raising the debt limit.

Witnesses: Hon. David M. Walker, Former Comptroller General of the United States, U.S. Government Accountability Office; Dr. Veronique de Rugy, Ph.D., Senior Research Fellow, The Mercatus Center, George Mason University; Dr. Mark M. Zandi, Ph.D., Chief Economist, Moody's Analytics.

*Prudent Planning or Wasteful Binge? Another Look at End of the Year Spending.* September 20, 2017. (S. Hrg. 115–202).

This was a follow up hearing to a previous hearing from the 114th Congress to assess if any improvements had be made. The purpose of the hearing was to examine the dynamics of end-of-year spending, often referred to as “use it or lose it.” This practice of rushing to obligate all remaining funds in an agency budget before those funds expire at the end of the year is known and practiced in virtually every government agency. The hearing explored this sometimes wasteful practice at the Federal level; to what magnitude it exists; and examined possible solutions.

Witnesses: Hon. Allan V. Burman, Ph.D., Commissioner, Section 809 Panel; Jason J. Fichtner, Ph.D., Senior Research Fellow, The Mercatus Center, George Mason University; Heather Krause, Director, Strategic Issues, U.S. Government Accountability Office.

*Broken Beakers: Federal Support for Research.* October 18, 2017. (S. Hrg. 115–203).

Milton Friedman famously asked the National Science Foundation itself, “What ethical justification is there for imposing taxes on people to finance scientific research for which they would not voluntarily contribute?”

This hearing sought, in part, an answer to that question and explored the disjointed and fragmented Federal research grant making apparatus. This hearing looked at the bureaucratic morass that researchers must go through to get and manage research grants from the Federal Government. Moreover, the hearing explored the Federal Government’s influence over scientific outcomes of the research they fund.

Witnesses: Brian Nosek, Ph.D., Executive Director, Center for Open Science, University of Virginia; Terence Kealey, Ph.D., Adjunct Scholar, Cato Institute; Rebecca Cunningham, M.D., Associate Vice President for Research-Health Sciences, University of Michigan Office of Research.

*Terrible, No Good, Very Bad Ways of Funding Government: Exploring the Cost to Taxpayers of Spending Uncertainty caused by Governing through Continuing Resolutions, Giant Omnibus Spending Bills, and Shutdown Crises.* February 6, 2018. (S. Hrg. 115–204).

This hearing occurred after the fourth continuing resolution of fiscal year 2018 and was intended to examine the impact of spend uncertainty on Federal agencies. At the time of this hearing, the Federal Government was one third of the way through the fiscal

year and had not passed yet passed full year funding. Moreover, it has been two decades since Congress successfully passed all appropriations bills on time.

Agencies have reported how delayed appropriations actually result in higher cost as contracts get delayed and agencies are not able to implement directives and adjust missions to the coming (or really at that point the current) fiscal year. The Subcommittee previously heard testimony in our end-of-year spending hearings that dysfunction in the budget and appropriations process may in part cause this wasteful rush to spend. Of course, these problems are exacerbated by government shutdowns.

Several members have proposed legislation to combat spending lapses (including Chairman Paul).

Witnesses: Alice M. Rivlin, Ph.D., Senior Fellow in Economics Studies, The Brookings Institution; Maya MacGuineas, President, Committee for a Responsible Federal Budget; Clinton T. Brass, Specialist, Government Organization and Management, congressional Research Service; Heather Krause, Director, Strategic Issues, U.S. Government Accountability Office.

*Afghanistan in Review: Oversight of U.S. Spending in Afghanistan.* May 9, 2018. (S. Hrg. 115–324).

This hearing followed up on an April 13–18th STAFFDEL to Afghanistan to investigate wasteful spending there and more broadly on reconstruction in Afghanistan. The first panel of witnesses included the Special Inspector General for Afghan Reconstruction (SIGAR) John F. Sopko and Laurel E. Miller of Rand Corporation who spoke to the broad scope and significant challenges of reconstruction activities in Afghanistan.

The second panel was a staff report on the STAFFDEL, and included testimony related to: 1) A site visit to the Afghan Department of Interior where the U.S. taxpayer has funded construction and renovations that SIGAR has found deficient and wasteful; 2) A meeting with a local Afghan watchdog group that assists SIGAR and is seeking to combat corruption in their country; 3) A site visit to the Kabul “Marriott” directly adjacent to the U.S. Embassy. This project was never completed and turned over to Marriott who as a result pulled out of the project. It now poses a security risk and will have to be demolished at taxpayer expense; 4) A meeting with U.S. Army Corps of Engineers who have funded several projects identified by SIGAR as wasteful. They dispute that finding; 5) A visit to a Defense Logistics Agency to observe the demilitarization and disposal of equipment.

Witnesses: Panel I—John F. Sopko, Special Inspector General for Afghanistan Reconstruction; Laurel E. Miller, Senior Political Scientist, Rand Corporation.

Panel II—Gregory E. McNeill, Majority Staff Director, Subcommittee on Federal Spending Oversight and Emergency Management; Sergio Gor, Deputy Chief of Staff for Communications, Office of Senator Rand Paul.

*War Powers and the Effects of Unauthorized Military Engagements on Federal Spending.* June 6, 2018. (S. Hrg. 115–446).

This hearing examined the intersection of the executive branch’s war powers and Federal spending. Given that the War Powers Act allows the president to station troops to a theater for a period of time without congressional approval, and the open ended nature of the War on Terror, the President has a vast and growing capacity to commit the U.S. to a military operation.

While some may argue these latitudes in war making authority are necessary to address threats around the world, funding for such ventures is often an afterthought. It is difficult to oppose funding for troops actively engaged in theaters of war, even if Congress disagrees with their engagement in the first place. Thus, the President’s capacity to engage in conflict directly drives new spending. This hearing explored that relationship and the constitutionality of the President’s capacity to prosecute the War on Terror.

Witnesses: Hon. Andrew P. Napolitano, Senior Judicial Analyst, Fox News Channel; Jonathan Turley, Shapiro Chair of Public Interest Law, George Washington University; Christopher Anders, Deputy Director, Washington Legislative Office, American Civil Liberties Union.

*Examining Warrantless Smartphone Searches at the Border.* July 11, 2018. (S. Hrg. 115–365).

The purpose of this hearing was to assess the suitability of Department of Homeland Security policies for searching the electronic devices of travelers at the border and U.S. ports of entry. Current DHS guidance permits customs and border officials to seize and search the digital devices of international travelers without individualized suspicion and without a warrant. The far-reaching privacy implications of this approach—which is based in large part on the so-called “border search exception” to the warrant requirement of the Fourth Amendment—demands particular scrutiny in the age of the ubiquitous smartphone. At the hearing, Senators received an overview of the border search exception’s historical origins and jurisprudence, its suitability in the digital age, and discussed the myriad problems associated with allowing Federal law enforcement agencies to apply the border search exception to electronic devices. Moreover, Senators gained additional clarity on the existing Circuit Court split over the government’s Fourth Amendment obligations prior to searching travelers’ devices at ports of entry, and discussed proposed legislative reforms and policy options.

Witnesses: Laura K. Donohue, J.D., Ph.D.; Neema Singh Guliani, Senior Legislative Counsel, American Civil Liberties Union; Matthew Feeney, Director, Project on Emerging Technologies, Cato Institute.

*The Federal Role in the Toxic PFAS Chemical Crisis.* September, 26, 2018. (S. Hrg. 115–461).

The purpose of this hearing was to explore potential Federal liability for PFAS (per-and polyflouroalkyl substances), particularly given that much of the water infiltration of PFAS is due to the use of firefighting foams used at military based. DOD has already

spent several hundreds of millions of dollars on the study, mitigation, and remediation of PFAS.

PFAS have been in use in the United States since the 1940's and do not break down, thus long term exposure causes them to build-up in the environment and human body. PFAS exposure comes through foods which have been packaged or processed in materials containing the chemical as well as food grown in soil with PFAS in it. Many commercial household products, including polishes and waxes, paint, stain and water repellent fabrics and non-stick (Teflon) products contain PFAS. Firefighting foam also contains PFAS and is the major cause of its infiltration into water supplies.

Research has shown that PFAS (PFOA and PFOS specifically under the broader PFAS umbrella) can cause significant health risks. The most common and constantly found is increased cholesterol levels. However, PFAS in general can also contribute to low birth weight and immune deficiencies. Moreover, research has found that PFAS can have more serious health risks such as causing cancer, thyroid hormone disruption, and liver complications.

Overall, research has not found a cause and effect between PFAS and significant negative human health conditions. PFAS has shown to cause cancer in lower order animals (infant mice), but such an effect has not been found in higher order animals or humans.

Witnesses: Panel I: Peter C. Grevatt, Ph.D., Office of Groundwater and Drinking Water, Office of Water, U.S. Environmental Protection Agency; Maureen Sullivan, Deputy Assistant Secretary of Defense, Environment, Safety and Occupational Health, Office of the Assistant Secretary of Defense, Energy, Installations and Environment, U.S. Department of Defense; Linda S. Birnbaum, Ph.D., D.A.B.T., A.T.S., Director, National Institute of Environmental Health Sciences and National Toxicology Program, National Institutes of Health, U.S. Department of Health and Human Services.

Panel II—Andrea Amico, Co-Founder, Testing for Pease; Arnold Leriche, Community Co-Chair, Wurtsmith Restoration Advisory Board; Timothy Putnam JR., Vice President, Tidewater Federal Firefighters Local F-25, International Association of Fire Fighters.

*The Local, State, and Federal Response to the PFAS Crisis in Michigan.* November 13, 2018. (Minority Field Summit—Grand Rapids, Michigan).

On November 13, 2018, Senator Peters convened a Field Summit entitled, "The Local, State, and Federal Response to the PFAS Crisis in Michigan," in his capacity as FSO Ranking Member. The Summit was held at the Loosemore Auditorium on the campus of Grand Valley State University in Grand Rapids, MI. Approximately 100 people attended the summit including concerned citizens, activists, and students. There was a significant State and local media presence. Both panels were substantive and hit the major issues that were identified for the event, including:

- The impact of PFAS contamination on the community, including residents, anglers, and hunters;
- Gaps in State and local resources needed to respond to the crisis, notably the lack of comprehensive health surveillance;
- The Federal role in PFAS response, where it has been lacking, and necessary next steps;

- The challenge of regulating a class of chemicals and the need to be proactive with respect to short-chain PFAS;
- The challenge of addressing the immediate needs of impacted residents in the context of a protracted data-driven regulatory process.

Senator Peters stressed his three top takeaways from the summit and highlighted actions that would be associated with each priority including: (1) A Federal regulatory standard for the class of PFAS chemicals including both long and short chain PFAS; (2) Transparency, reliable data, and accountable State and Federal agencies; and (3) Firm Federal commitments to safe and effective alternatives to PFAS-laden resources.

Witnesses: Patrick Breysse, Ph.D., CIH, Director, National Center for Environmental Health and Agency for Toxic Substances and Disease Registry, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services; Robert Delaney, Environmental Specialist, Michigan Department of Environmental Quality; Carol Isaacs, Director, Michigan PFAS Action Response Team; Adam London, RS, MPA, Administrative Health Officer, Kent County Health Department; Richard R. Rediske, Ph.D., Senior Program Manager and Professor, Grand Valley State University Robert B. Annis Water Resources Institute; Sandy Wynn-Stelt, Resident of Belmont, Michigan; Drew Younge Dyke, Communications Coordinator, Great Lakes Regional Center, National Wildlife Federation.

## B. REPORTS

In his capacity of Chairman of the Subcommittee on Federal Spending Oversight and Emergency Management, Senator Paul released one investigative oversight report and three compilation reports, detailing various wasteful programs, grants, and practices that have cost taxpayers billions. Additionally, Chairman Paul issued a report from the subcommittee that accompanied his Fiscal Year Budget Resolution.

*Worldwide Wa\$te: How the Government Is Using and Losing Your Money Abroad.* (February 2017)

This report cataloged more than 120 examples of the Federal Government spending more than \$3 billion on wasteful projects in foreign countries. The report focused on eight specific categories of waste: Foreign Economic Development, Foreign “Green” Economic Development, Foreign Infrastructure Development, Foreign Institutional Development, Foreign Tourism Promotion, Foreign Cultural Promotion, the Inter-American Foundation, and Wasteful End-of-Year Spending. In these areas the report cataloged examples of waste such as:

- Trying to jump start the Haitian film industry;
- Argentinian clown training, country music festivals in Israel;
- Ultimate Frisbee in China, Pagan tourism in Belarus;
- Developing a phone app to teach Kenyan farmers how to use Google and Facebook;
- Financing State run health insurance in Cambodia;
- \$200 million highway in Afghanistan;

- Training Wal-Mart cashiers in Mexico; and
- Building national parks in Russia.

*Festivus 2017.* (December 2017)

This is Chairman Paul's annual compilation report of wasteful government spending. This edition of the Festivus Report cataloged over \$550 million in wasteful spending including:

1. The Department of Commerce developing a digital down marker for football games;
2. The Department of Transpiration building a bathroom at a park in Queens, NY;
3. USDA Installing solar panels at a golf resort in the Virgin Islands as part of rural development; and
4. NSF studying how to make tomatoes taste better.

*Afghanistan in Review: Oversight of U.S. Spending in Afghanistan.* (May 9, 2018)

This report was the result of a STAFFDEL to Afghanistan to do a broad oversight investigation. In the report the subcommittee (majority) documented wasteful spending, including disposal/destruction of new (in the packaging) materials and equipment, violation of property rights, incomplete buildings and building errors. In addition the report discusses private organizations in Afghanistan working to combat corruption in that country.

*Penny Plan Budget: A Budget for Fiscal Year 2019.* (April 2018)

As leader of the global economy, the United States should serve as an example of how to reduce the pressures and fragility of massive public debts and how to initiate internal structural and fiscally responsible reforms. In so doing, we can help ensure the integrity of the interconnected, global free-market economic system. Though the Federal budget has long diverged from these principles, this budget resolution defies those trends, providing a strong fiscal basis from which the U.S. economy can continue to grow and flourish.

An important part of any budget resolution is its bottom line: Does it balance? This budget balances in just 5 years without touching Social Security. Congress can achieve these savings by repealing the Bipartisan Budget Act of 2018 and using the Penny Plan, which States that for every dollar the Federal Government spends in on budget spending in a fiscal year, it must spend one penny less the next year.

This budget is a particularly effective implementation of the Penny Plan, because rather than making nebulous policy assumptions that will never happen, it sets out one common goal: balance. That is the one key assumption in this budget. Above all, the fiscal goal of each lawmaker should be a balanced budget. In order to achieve this goal, this budget simply requires Congress to make a 1-percent cut to on budget spending for 5 years. Rather than holding hands and agreeing to the common gluttony, this plan requires Congress to do the opposite: hold hands and sacrifice for the common good.



*Festivus 2018*. (December 2018)

This is Chairman Paul's annual compilation report of wasteful government spending. This edition of the *Festivus Report* cataloged over \$110 million in wasteful spending including:

- NIH studying daydreaming;
- Teaching special interest groups in Rwanda how to lobby;
- Paid salaries for the Somali National Army; and
- Tired to combat homelessness with theater.

### III. LEGISLATION

Since the Subcommittee on Federal Spending Oversight and Emergency Management's hearings play an important role in bringing issues to the attention of Congress and the public, its work frequently contributes to the development of legislative initiatives. During the 115th Congress, Chairman Paul introduced the following legislative proposals in his capacity as a Senator:

1. S. 1830—Bonuses for Cost-Cutters Act—Expands existing agency Inspector General programs that pursue waste, fraud, and abuse to also include surplus funds that are not needed to accomplish an Executive agency's duties and responsibilities. Under this program, executive branch employees could propose savings and, if confirmed by their agency's Inspector General and Chief Financial Officer, extra funds may be returned to the Treasury at the end of the year. Consistent with the existing Inspector General authority, if such savings are realized, the employee that made the suggestion would also be eligible for a performance bonus of 1 percent of the amount saved, capped at \$10,000.

2. S. 1740—Default Prevention Act—This bill requires the following obligations to be granted priority over all other U.S. obligations if the public debt reaches the statutory limit:

- Principal and interest on debt held by the public;
- Compensations, allowances, and benefits for members of the Armed Forces on active duty;
- Social Security benefits;
- Medicare benefits; and
- Obligations under any program administered by the Department of Veterans Affairs.

If Congress is notified, the Department of the Treasury may issue additional debt for the priority obligations in excess of the debt limit. Treasury may issue the additional debt during the 30-day period beginning on the date on which the United States is unable to use revenues or extraordinary measures to fully pay the priority obligations at the time they are due.

(The term "extraordinary measures" refers to a series of actions that the Department of Treasury may implement to allow the United States to borrow additional funds without exceeding the debt limit. The measures generally include suspensions or delays of debt sales and suspensions or redemptions of investments in certain government funds.)

3. S. 2339—Shutdown Prevention Act—This bill provides specified continuing appropriations to prevent a government shutdown if any appropriations measure for a fiscal year has not been en-

acted or a joint resolution making continuing appropriations is not in effect after the fiscal year begins. The appropriations are provided to continue to fund programs, projects, and activities for which funds were provided in the preceding fiscal year.

4. S. 1583—Legislative Performance Review Act—Limits all authorizations of appropriations to 4 years and creates a new surgical point of order against appropriating for a program that is unauthorized. Provides an implementation period to allow Congress to reauthorize programs currently unauthorized or that have been authorized in law for more than 4 years. The legislation further provides a process for authorizing committees to seek a waiver of the 4-year limitation. The bill also requires that committee reports accompanying legislation passed out of committee include a discussion of why the program being authorized (or reauthorized) will address a specific need and how existing programs are inadequate to meet such need. The bill also creates a process for the orderly winding down of expired programs.

5. S. 1973—BASIC Research Act—This bill requires each review panel for a Federal research grant to include: (1) at least one individual who is not professionally affiliated with any academic or research institution, has not been professionally affiliated in the preceding 10 years, and is an expert in a field unrelated to that under which the grant proposal was submitted; and (2) at least one individual who shall serve primarily as a taxpayer advocate. Each agency that awards such a grant shall not accept recommendations from an applicant as to who should be on the panel or disclose the identity of any panel member to an applicant.

The bill: (1) establishes an Office of the Special Inspector General and Taxpayer Advocate for Research (OSIGTA), which shall randomly select grants for review to determine if the research will deliver value to the taxpayers; and (2) transfers to the OSIGTA all functions which the Office of Inspector General of the National Science Foundation previously exercised. A grant must have OSIGTA's support to receive funds.

Each agency with annual extramural research expenditures of over \$100 million must develop a Federal research public access policy that is consistent with and advances the purposes of the agency and that meets specified requirements.

Any person or institution awarded a grant shall submit a statement to the agency that awarded the grant certifying that: (1) no funds derived from the grant will be made available through a subgrant or subsequent grant unless the recipient's name, its organization of affiliation, the intended uses and purposes of funds, and specific amounts subgranted or subsequently granted funds are disclosed to the agency for publication on a publicly accessible website; and (2) each subgrant or subsequent grant award funded is within the scope of the grant award.

Each grant application shall be made publicly available. Each agency, in awarding grants for scientific research, shall be impartial and shall not seek to advance any political position or fund a grant to reach a predetermined conclusion.

6. S. Con. Res. 36—Penny Plan Balanced Budget—Establishes the congressional budget for the Federal Government for FY2019 and sets forth budgetary levels for FY2020–FY2028. This Budget

Balances in 5 years by implementing a 1-percent year over year cut for the first 5 years and then grows at 1 percent thereafter.

Recommends levels and amounts for FY2019–FY2028 in both houses of Congress for:

- Federal revenues;
- New budget authority;
- Budget outlays;
- Deficits;
- Public debt;
- Debt held by the public; and
- The major functional categories of spending.

Recommends levels and amounts for FY2019–FY2028 in the Senate for Social Security and Postal Service discretionary administrative expenses.

Includes reconciliation instructions directing: (1) several Senate authorizing committees to report and submit to the Senate Budget Committee legislation to reduce the deficit, and (2) the Senate Finance Committee to report and submit to the Senate Budget Committee legislation to reduce the deficit and legislation to reduce revenues.

(Under the Congressional Budget Act of 1974, reconciliation bills are considered by Congress using expedited legislative procedures that prevent a filibuster and restrict amendments in the Senate.)

Establishes reserve funds that provide flexibility in applying budget enforcement rules to legislation relating to efficiencies, consolidations, and other savings; or health savings accounts.

Sets forth budget enforcement procedures for legislation considered in the Senate.

7. S. 3031 (Became PL 115–419) Federal Personal Property Management Act of 2018 (Sponsored by Ranking Member Peters with Chairman Paul Cosponsoring)—Signed into law 1/03/2019

This bill requires the executive agencies and the General Services Administration to carry out the following activities with respect to Federal personal property management.

Each executive agency, in accordance with guidance from the GSA, must annually inventory and assess capitalized personal property in identifying excess property under the agency's control. Capitalized personal property items include those recorded on an agency's general ledger records as major investments or assets.

Each agency must also regularly inventory and assess accountable personal property under its control.

GSA may establish separate thresholds for acquisitions of personal property for which affected agencies shall capitalize and for which they shall establish and maintain property records in a centralized system.

VIII. ACTIVITIES OF THE SUBCOMMITTEES  
SUBCOMMITTEE ON REGULATORY AFFAIRS AND  
FEDERAL MANAGEMENT

CHAIRMAN: JAMES LANKFORD (R–OK)

RANKING MEMBER: HEIDI HEITKAMP (D–ND)

I. AUTHORITY

The Subcommittee on Regulatory Affairs and Federal Management oversees the management, efficiency, effectiveness, and economy of all government agencies, departments, and programs. The Subcommittee has broad oversight over the Federal regulatory regime, including the Office of Information and Regulatory Affairs (OIRA). In addition, the Subcommittee is responsible for exploring policies that promote a skilled, efficient, and effective Federal workforce that will work to ensure efficient and effective management of Federal programs.

II. ACTIVITY

During the 115th Congress, the Subcommittee on Regulatory Affairs and Federal Management held 11 hearings or roundtables.

A. HEARINGS

*Improving Small Business Input on Federal Regulations: Ideas for Congress and a New Administration.* January 19, 2017. (S. Hrg. 115–87)

The purpose of this hearing was to examine how agencies consider the impact of regulations on small business, whether the requirements contained in the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act are adequate to address small business concerns, and steps that Congress and the new Administration should take to ensure that small businesses are able to contribute to the rulemaking process in a meaningful way.

Witnesses: Rosario Palmieri, Vice President for Labor, Legal, and Regulatory Policy, National Association of Manufacturers; Jerry Hietpas, President, Action Safety Supply Company; LaJuanna Russell, President and Founder, Business Management Associates, Inc. and Member of the Board, Small Business Majority; Karen Harned, Executive Director, Small Business Legal Center National Federation of Independent Business.

*Empowering Managers: Ideas for a More Effective Federal Workforce.* February 9, 2017. (S. Hrg. 115–11)

The purpose of this hearing was to provide a forum to discuss government-wide ideas for improving the effectiveness and efficiency of the civil service. During the 114th Congress, the Subcommittee identified a number of challenges that Federal managers face as they oversaw employees and worked to achieve their agencies' missions. The 2016 Federal Employee Viewpoint Survey

(FEVS) highlighted a number of these same challenges while it also revealed areas of strength. The Subcommittee explored common sense Federal workforce reform ideas to solve workforce challenges. The Subcommittee discussed topics for which Federal managers are responsible including the processes of hiring and termination, training, and other management issues.

Witnesses: J. David Cox, Sr., National President, American Federation of Government Employees; Robert E. Corsi, Jr., Former Assistant Deputy Chief of Staff for Manpower, Personnel and Services, United States Air Force; Bill Valdez, President, Senior Executives Association; Renee M. Johnson, National President, Federal managers Association.

*Agency Use of Science in the Rulemaking Process: Proposals for Improving Transparency and Accountability.* March 9, 2017. (S. Hrg. 115–18)

Agencies frequently rely on scientific studies and information when making regulatory decisions. The purpose of this hearing was to focus on how agencies use scientific information in the rule-making process and what steps Congress and the new Administration should take to ensure agencies base regulatory decisions on the weight of the best available evidence, while meeting the regulatory objective, and that agencies consider scientific information in an accountable and transparent manner.

Witnesses: Hon. Susan Dudley, Director, Regulatory Studies Center, The George Washington University; Andrew A. Rosenberg, Ph.D., Director, Center for Science and Democracy, Union of Concerned Scientists; Nancy Beck, Ph.D., Senior Director, Regulatory Science Policy, American Chemistry Council.

*Roundtable: Case Studies in Personnel Management Reform in Federal Agencies.* April 6, 2017.

Across the Federal government, agencies face challenges in recruiting, retaining and managing their workforces. The National Academy of Public Administration (NAPA) has described specific cases in which communication has broken down between frontline agency component management and their respective human resources (HR) offices to such a degree that critical needs go unfilled. These problems raised concerns about strategic personnel management issues across the Federal government and required appropriate oversight to ensure Federal agencies are pursuing effective personnel management policies. This roundtable was to explore two specific NAPA case studies for the Federal Aviation Administration and Centers for Disease Control and Prevention that have resulted in improved personnel management performance. The panel was to shed light both on the lessons from these success stories, and also on ways to apply best practices across the government

Witnesses: Robert Goldentkoff, Director, Strategic Issues, Government Accountability Office; Dia Taylor, Chief Human Capital Officer, Office of Human Resources, Centers for Disease Control and Prevention; Rear Admiral Annie B. Andrews, USN (Ret.), Assistant Administrator Human Resource Management, Federal Aviation Administration; Terry Gerton, President, National Acad-

emy of Public Administration; Kristine Simmons, Vice President of Government Affairs, Partnership for Public Service.

*Agency Approaches to Reorganization: Examining OMB's Memorandum on the Federal Workforce.* June 15, 2017. (S. Hrg. 115–165).

Following the President's March 13, 2017 Presidential Executive Order on a Comprehensive Plan for Reorganizing the Executive Branch, Office of Management and Budget (OMB) Director Mulvaney issued a memorandum on April 12, 2017 for agencies titled "Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce" (memorandum). The memorandum directed agencies to submit plans to "maximize employee performance," "high-level drafts" of Agency Reform Plans to reorganize programs and organizational charts to eliminate duplication and inefficiencies, and progress reports on "near-term workforce reduction actions" to OMB by June 30, 2017. In this hearing, the Subcommittee examined the processes agencies are pursuing to reorganize, streamline, and make their operations and organizational structures more effective. Agencies were encouraged to provide the subcommittee with an update on their plans to achieve the memorandum's requirements and suggest any ways Congress can help agencies more effectively and efficiently serve the public.

Witnesses: Hon. Ellen Herbst, Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce; Lee Lofthus, Assistant Attorney General for Administration Justice Management Division, U.S. Department of Justice; Don Bice, Associate Director, Office of Budget and Program Analysis, U.S. Department of Agriculture; Michael Stough, Director, Program Analysis and Evaluation Division, office of the Chief Financial Officer, U.S. Department of Homeland Security.

*Examining OMB's Memorandum on the Federal Workforce, Part II: Expert Views on OMB's Ongoing Government-wide Reorganization.* September 13, 2017. (S. Hrg. 115–177).

The purpose of this hearing was the second hearing on the Office of Management and Budget (OMB) reorganization effort, which explored unique perspectives on reorganization from a number of stakeholders. This hearing was about the successes and failures of past reorganization efforts, as well as the best ways for OMB to work with Congress during reorganization. Witnesses recommended the most effective means by which OMB could be successful in pursuing reorganization by including Congress and the greater public in its development and eventual implementation of the reorganization.

Witnesses: Robert Shea, Public Sector Principle, Grant Thornton, LLP; Rachel Greszler, Research Fellow, Heritage Foundation; Christopher Edwards, Director of Tax Policy Studies, CATO Institute; Tony Reardon, National President, National Treasury Employees Union.

*Improving Oversight of the Regulatory Process: Lessons from State Legislatures.* October 26, 2017. (S. Hrg. 115–188).

Many state legislatures approach regulatory oversight with the goal of working with state agencies throughout the regulatory process to achieve a culture of cooperation that has led to more efficient and effective final rules. Whether it is through one specific committee or the legislative body as a whole, several states have a proven track record of working with regulators to develop and approve final regulations before they impact citizens and businesses. This hearing focused on how specific states conduct regulatory oversight and what lessons Congress can learn from these systems.

Witnesses: Hon. Scott Bedke, Speaker of the House of Representatives, State of Idaho; Hon. Joshua A. Boschee, Member of the House of Representatives, legislative Assembly, State of North Dakota; Hon. Arthur O'Neill, Member of the House of Representatives, General Assembly, State of Connecticut.

*Examining Federal Managers' Role in Hiring.* March 1, 2018. (S. Hrg. 115–257).

Federal agencies continue to face a prolonged hiring crisis. The Government Accountability Office (GAO) estimated that by the end of 2017, nearly 600,000 Federal employees, making up around 31 percent of the Federal workforce, were eligible to retire. GAO and the Chief Human Capital Officer Council Working Group have also identified critical skills gaps in cybersecurity, auditor, human resources specialist, contract specialist, economist, and, generally, in the science, technology, engineering, and mathematics (STEM) fields. Meanwhile, the government-wide average time-to-hire a Federal employee across 24 CFO Act agencies increased from 90 days in fiscal year 2013—105.8 days in fiscal year 2017.

This hearing examined the central role that Federal managers played in the hiring process. The witnesses addressed time-to-hire data and proposed both legislative and administrative changes that can reverse the negative trend. They also evaluated the state of Federal manager training and the current management training system.

Witnesses: Mark Reinhold, Associate Director Employee Services, Office of Personnel Management; Angela Bailey, Chief Human Capital Officer, U.S. Department of Homeland Security; Kevin Mahoney, Chief Human Capital Officer, U.S. Department of Commerce.

*Reviewing the Office of Information and Regulatory Affairs.* April 12, 2018. (S. Hrg. 115–275).

This hearing reviewed OIRA and agency progress under the new administration and covered multiple topics, including adherence to both new and longstanding executive orders and internal memorandums. The Office of Information and Regulatory Affairs (OIRA) is essential to ensure that the Federal regulatory process functions appropriately. Across both Democratic and Republican administrations, OIRA has served as the “gatekeeper” in reviewing draft regulations before they become legally binding. Due to this vital oversight role, Congress seeks to ensure OIRA is appropriately discharging its duties.

Witnesses: Hon. Neomi Rao, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget; Hon. Brent McIntosh, General Counsel, U.S. Department of the Treasury.

*The Challenges and Opportunities of the Proposed Government Reorganization on OPM and GSA.* July 26, 2018. (S. Hrg. 115–451).

The Administration’s Government-wide reorganization plan, titled “Delivering Government Solutions in the 21st Century,” proposes that OPM realign and transfer its current functions to other agencies. One of the plan’s proposals, titled “Reorganizing the U.S. Office of Personnel Management,” calls for OPM to transfer some of its services to the General Services Administration and form a new entity, called “Government Services Administration.”

This hearing asked witnesses to address how OPM and GSA could implement any proposed reorganization changes smoothly and without service interruption for Federal employees, beneficiaries, and other Federal agencies. Additionally, witnesses addressed the feasibility of all proposals and the ability of the proposals to save taxpayer dollars to improve government effectiveness and efficiency.

Witnesses: Hon. Emily W. Murphy, Administrator, General Services Administration; Hon. Jeff T.H. Pon, Ph.D., Director, Office of Personnel Management.

*Examination of the Effects of Regulatory Policy on the Economy and Business Growth.* September 27, 2018. (S. Hrg. 115–393).

In one of his first actions after taking office, President Trump issued Executive Order 13771, which required agencies to remove two existing regulations before finalizing any one new regulation. The Executive Order also prohibits the addition of any new regulatory cost. This shift in regulatory policy from previous administrations provides opportunity to examine the impact of regulatory priorities on the economy. This hearing focused on the effects of this administration’s regulatory policy on the economy.

Witnesses: Hon. Howard Shelanski, Georgetown University Law Center; Dustin Chambers, Ph.D., Professor of Economics, Department of Economics and Finance, Franklin P. Perdue School of Business, Salisbury University; Karen Kerrigan, President and CEO, Small Business & Entrepreneurship Council; Maria Ghazal, Senior Vice President and Counsel, Business Roundtable.

### III. LEGISLATION

Since the Subcommittee on Regulatory Affairs and Federal Management’s hearings play an important role in bringing issues to the attention of Congress and the public, its work frequently contributes to the development of legislative initiatives. During the 115th Congress, Chairman Lankford introduced the following legislative proposals in his capacity as a Senator:

1. S. 577—Providing Accountability Through Transparency Act—Requires the general notice of proposed rule making by a Federal agency to include the Internet address of a plain-language



summary, not exceeding 100 words, of the proposed rule, which shall be posted on the regulations.gov website.

2. S. 578—Better Evaluation of Science and Technology Act or the BEST Act—Requires agencies, to the extent it is making a decision based on science when issuing a rule, to use the best available public scientific information.

3. S. 579—The Early Participation in Regulations Act—Requires agencies to publish an advance notice of proposed rulemaking for major rules.

4. S. 580—Truth in Regulations Act—Establishes procedures for the issuance of guidance documents.

5. S. 584—Small Business Regulatory Flexibility Improvements Act—Ensures complete analysis of potential impacts on small entities of regulations.

6. S. 1886—Temporary and Term Appointments—Authorizes agencies to make noncompetitive temporary and term appointments in the competitive service.

7. S. 1887—Direct Hires of Students and Recent Graduates Act—Grants expedited hiring authority to the head of an agency to appoint college graduates and post-secondary students.

8. S. 1888—Voluntary Separation Incentive Payment Adjustment Act—Increases the maximum amount of a Voluntary Separation Incentive Payment and to include an annual adjustment in accordance with the Consumer Price Index.

#### IV. GAO REPORTS

During the 115th Congress, the Government Accountability Office (GAO) issued 19 reports at the request of the Subcommittee. Reports are listed here by title, GAO number, and release date.

1. Grants Management: Selected Agencies Should Clarify Merit-based Award Criteria and Provide Guidance for Reviewing Potentially Duplicative Awards. GAO-17-113. January 12, 2017.

2. Federal Real Property: Government-Wide Building Disposal Data Generally Reliable, but Opportunities for Further Improvements Exist. GAO-17-321. March 2, 2017.

3. Performance Partnerships: Agencies Need to Better Identify Resource Contributions to Sustain Disconnected Youth Pilot Programs and Data to Assess Pilot Results. GAO-17-208. April 18, 2017.

4. Open Innovation: Executive Branch Developed Resources to Support Implementation, but Guidance Could Better Reflect Leading Practices. GAO-17-507. June 8, 2017.

5. Federal Programs: Information Architecture Offers a Potential Approach for Development of an Inventory. GAO-17-739. September 28, 2017.

6. Program Evaluation: Annual Agency-Wide Plans Could Enhance Leadership Support for Program Evaluations. GAO-17-743. September 29, 2017.

7. Federal Regulations: Key Considerations for Agency Design and Enforcement Decisions. GAO-18-22. October 19, 2017.

8. Federal Buildings: GSA Should Establish Goals and Performance Measures to Manage the Smart Buildings Program. GAO-18-200. January 30, 2018.

9. Federal Buildings: Agencies Focus on Space Utilization as they Reduce Office and Warehouse Space. GAO-18-304. March 8, 2018.

10. Federal Real Property: Agencies Make Some Use of Telework in Space Planning but Need Additional Guidance. GAO-18-319. March 22, 2018.

11. Federal Buildings: More Consideration of Operations and Maintenance Costs Could Better Inform the Design Excellence Program. GAO-18-420. May 22, 2018.

12. Government Reorganization: Key Questions to Assess Agency Reform Efforts. GAO-18-427. June 13, 2018.

13. Paperwork Reduction Act: Agencies Could Better Leverage Review Processes and Public Outreach to Improve Burden Estimates. GAO-18-381. July 11, 2018.

14. Federal Employee Misconduct: Actions Needed to Ensure Agencies Have Tools to Effectively Address Misconduct. GAO-18-48. July 16, 2018.

15. Real Property: GSA is Taking Steps to Improve Collection and Reporting of Repair and Alteration Projects' Information. GAO-18-595. July 23, 2018.

16. Grants Workforce: Actions Needed to Ensure Staff Have Skills to Administer and Oversee Federal Grants. GAO-18-491. September 20, 2018.

17. Overseas Conflicts: U.S. Agencies Have Coordinated Stabilization Efforts but Need to Document their Agreement. GAO-18-654. September 27, 2018.

18. U.S. Postal Service: Enhancing Procedures Could Improve Product Scanning. GAO-18-638. September 28, 2018.

19. Fraud Risk Management OMB Should Improve guidelines and Working-Group Efforts to Support Agencies' Implementation of the Fraud Reduction and Data Analytics Act. GAO-19-34. December 4, 2018.