

COMMITTEE ON THE JUDICIARY

LAMAR SMITH, Texas, *Chairman*¹

F. JAMES SENSENBRENNER, Jr., Wisconsin	JOHN CONYERS, Jr., Michigan, ²
HOWARD COBLE, North Carolina	HOWARD L. BERMAN, California
ELTON GALLEGLY, California	JERROLD NADLER, New York
BOB GOODLATTE, Virginia	ROBERT C. “BOBBY” SCOTT, Virginia
DANIEL E. LUNGREN, California	MELVIN L. WATT, North Carolina
STEVE CHABOT, Ohio	ZOE LOFGREN, California
DARRELL E. ISSA, California	SHEILA JACKSON LEE, Texas
MIKE PENCE, Indiana	MAXINE WATERS, California
J. RANDY FORBES, Virginia	STEVE COHEN, Tennessee
STEVE KING, Iowa	HENRY C. “HANK” JOHNSON, Jr., Georgia
TRENT FRANKS, Arizona	PEDRO PIERLUISI, Puerto Rico
LOUIE GOHMERT, Texas	MIKE QUIGLEY, Illinois
JIM JORDAN, Ohio	JUDY CHU, California
TED POE, Texas	TED DEUTCH, Florida
JASON CHAFFETZ, Utah	LINDA T. SANCHEZ, California
TIM GRIFFIN, Arkansas	Vacancy ⁴
THOMAS MARINO, Pennsylvania	
TREY GOWDY, South Carolina	
DENNIS ROSS, Florida	
SANDY ADAMS, Florida	
BEN QUAYLE, Arizona	
Vacancy ³	

¹ Lamar Smith, Texas, elected to the Committee as Chairman pursuant to House Resolution 6, approved by the House January 5, 2011.

² John Conyers, Jr., Michigan, elected to the Committee as ranking minority Member pursuant to House Resolution 7, approved by the House January 5, 2011.

³ Tom Reed, New York, resigned from the Committee April 5, 2011.

⁴ Debbie Wasserman Schultz took a leave of absence from the Committee effective May 9, 2011.

Republican Members elected to the Committee pursuant to House Resolution 37, approved by the House January 18, 2011.

Democratic Members elected to the Committee pursuant to House Resolution 39, approved by the House January 19, 2011.

Summary of Activities of the Committee on the Judiciary

The Committee and its subcommittees held a number of specific agency oversight hearings and handled numerous legislative issues during the initial months of the 112th Congress. Below is the Committee's Oversight Plan for the 112th Congress. The Committee adopted the plan at its organizational meeting on February 2, 2011 by voice vote. Detailed information on hearings, legislative issues and actions taken to implement the Committee's Oversight Plan, may be found in subsequent sections of this report.

By the end of May, 2011, the Committee and its subcommittees have convened a total of 52 hearings. Of these hearings, 31 were held pursuant to the provisions of H. Res. 72 and the Committee's Oversight Plan. Twelve bills have been reported by the Judiciary Committee. Of these 12 bills, eight have been reported to the House and five have passed the House. Two bills have been signed into law. Additionally, the Subcommittee on Immigration Policy and Enforcement has reported four private bills.

Jurisdiction of the Committee on the Judiciary

The jurisdiction of the Committee on the Judiciary is set forth in Rule X, clause 1(l) of the Rules of the House of Representatives for the 112th Congress:

RULE X - ORGANIZATION OF COMMITTEES

Committees and their legislative jurisdictions

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing committees listed in this clause shall be referred to those committees, in accordance with clause 2 of rule XII, as follows:

(l) Committee on the Judiciary.

- (1) The judiciary and judicial proceedings, civil and criminal.
- (2) Administrative practice and procedure.
- (3) Apportionment of Representatives.
- (4) Bankruptcy, mutiny, espionage, and counterfeiting.
- (5) Civil liberties.
- (6) Constitutional amendments.
- (7) Criminal law enforcement.
- (8) Federal courts and judges, and local courts in the Territories and possessions.
- (9) Immigration policy and non-border enforcement.
- (10) Interstate compacts generally.
- (11) Claims against the United States.

- (12) Meetings of Congress; attendance of Members, Delegates, and the Resident Commissioner; and their acceptance of incompatible offices.
- (13) National penitentiaries.
- (14) Patents, the Patent and Trademark Office, copyrights, and trademarks.
- (15) Presidential succession.
- (16) Protection of trade and commerce against unlawful restraints and monopolies.
- (17) Revision and codification of the Statutes of the United States.
- (18) State and territorial boundary lines.
- (19) Subversive activities affecting the internal security of the United States.

Tabulation of Legislation and Activity

LEGISLATION REFERRED TO COMMITTEE

Public Legislation:

House bills	322
House joint resolutions	45
House concurrent resolutions.....	8
House resolutions.....	10
	<u>385</u>

Senate bills.....	<u>1</u>
Senate joint resolutions	0
Senate concurrent resolutions	1
	<u>2</u>

Subtotal	<u>387</u>
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Private Legislation:

House bills (claims)	2
House bills (copyrights).....	0
House bills (immigration).....	32
House resolutions (claims).....	0
	<u>34</u>

Senate bills (claims).....	<u>0</u>
Senate bills (immigration).....	0
	<u>0</u>

Subtotal	<u>34</u>
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Total	<u>421</u>
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ACTION ON LEGISLATION NOT REFERRED TO COMMITTEE

Held at desk for House action:

Senate bills 1
1

Conference appointments:

House bills 1
Senate bills 0
1

Total **2**

FINAL ACTION

House concurrent resolutions approved (public) 0
House resolutions approved (public) 0
Public legislation vetoed by the President 0
Public Laws 2
Private Laws 0

Printed Hearings

Serial No. and Title

1. Medical Liability Reform – Cutting Costs, Spurring Investment, Creating Jobs. Committee on the Judiciary. January 20, 2011.
2. ICE Worksite Enforcement – Up to the Job? Subcommittee on Immigration Policy and Enforcement. January 20, 2011.
3. Data Retention as a Tool for Investigating Internet Child Pornography and Other Internet Crimes. Subcommittee on Crime, Terrorism, and Homeland Security. January 25, 2011.
4. E-Verify – Preserving Jobs for American Workers. Subcommittee on Immigration Policy and Enforcement. February 10, 2011.
5. Constitutionality of the Patient Individual Mandate. Committee on the Judiciary. February 16, 2011.
6. How an Improved U.S. Patent and Trademark Office Can Create Jobs. Subcommittee on Intellectual Property, Competition, and the Internet. January 25, 2011.
7. REINS Act – Promoting Jobs and Expanding Freedom by Reducing Needless Regulations. Subcommittee on Courts, Commercial and Administrative Law. January 24, 2011.
8. Crossing the Finish Line on Patent Reform – What Can and Should Be Done. Subcommittee on Courts, Commercial and Administrative Law. February 11, 2011.
9. No Taxpayer Funding for Abortion Act. Subcommittee on the Constitution. February 8, 2011. (H.R. 3).
10. Making Immigration Work for American Minorities. Subcommittee on Immigration Policy and Enforcement. March 1, 2011.
11. New Jobs in Recession and Recovery: Who Are Getting Them and Who Are Not. Subcommittee on Immigration Policy and Enforcement. March 10, 2011.
12. Reauthorization of the Adam Walsh Act. Subcommittee on Crime, Terrorism, and Homeland Security. February 15, 2011.
13. Ensuring Competition on the Internet: Net Neutrality and Antitrust. Subcommittee on Intellectual Property, Competition, and the Internet. February 15, 2011.
14. Reauthorization of the PATRIOT Act. Subcommittee on Crime, Terrorism, and Homeland Security. March 9, 2011.
15. Permanent Provisions of the PATRIOT Act. Subcommittee on Crime, Terrorism, and Homeland Security. March 30, 2011.
16. Regulatory Flexibility Improvements Act of 2011 – Unleashing Small Businesses to Create Jobs. Subcommittee on Courts, Commercial and Administrative Law. February 10, 2011. (H.R. 527).
17. APA at 65 – Is Reform Needed to Create Jobs, Promote Economic Growth and Reduce Costs? Subcommittee on Courts, Commercial and Administrative Law. February 28, 2011.
18. Lawsuit Abuse Reduction Act. Subcommittee on the Constitution. March 11, 2011. (H.R. 966).

19. Driving American Innovation: Creating Jobs and Boosting Our Economy. Subcommittee on Intellectual Property, Competition, and the Internet. March 9, 2011.

20. Review of Recent Judicial Decisions on Patent Law. Subcommittee on Intellectual Property, Competition, and the Internet. March 10, 2011.

21. Private Property Rights Protection Act of 2011. Subcommittee on the Constitution. April 12, 2011. (H.R. 1433).

22. Wireless Tax Fairness Act of 2011. Subcommittee on Courts, Commercial and Administrative Law. March 15, 2011. (H.R. 1002).

23. H-1B Visas: Designing a Program to Meet the Needs of the U.S. Economy and U.S. Workforce. Subcommittee on Immigration Policy and Enforcement. March 31, 2011.

24. Competition and Consolidation in Financial Markets. Subcommittee on Intellectual Property, Competition, and the Internet. April 1, 2011.

25. Role of Public Employee Pensions in Contributing to State Insolvency and the Possibility of a State Bankruptcy Chapter. Subcommittee on Courts, Commercial and Administrative Law. February 14, 2011.

26. Regulations from the Executive in Need of Scrutiny Act of 2011. Subcommittee on Courts, Commercial and Administrative Law. March 8, 2011. (H.R. 10).

27. Security and Fairness Enhancement for America Act of 2011 or the SAFE for America Act. Subcommittee on Immigration Policy and Enforcement. April 5, 2011. (H.R. 704).

28. H-2A Visa Program: Meeting the Growing Needs of American Agriculture? Subcommittee on Immigration Policy and Enforcement. April 13, 2011.

Committee Prints

Serial No. and Title

House Documents

H. Doc. No. and Title

Legislation Enacted into Law

A variety of legislation within the Committee's jurisdiction was enacted into law during the 112th Congress. The public laws are listed below and are more fully detailed in the subsequent sections of this report recounting the activities of the Committee and its individual subcommittees.

Public Laws

Public Law 112-3. FISA Sunsets Extension Act of 2011 (H.R. 514). (Approved February 25, 2011.)

Public Law 112-14. PATRIOT Sunsets Extension Act of 2011 (S. 990). (Approved May 26, 2011.)

Activities Conducted Pursuant to House Rule XI, clause 2(n), (o), or (p)

Rule XI, clause 2 charges the Judiciary Committee to “hold at least one hearing during each 120-day period following the establishment of the committee on the topic of waste, fraud, abuse, or mismanagement in Government programs which that committee may authorize.” The Committee fulfilled its responsibilities under [insert citation] by conducting the following oversight and legislative activities. Each of these activities is discussed in more detail in the preceding sections of this report:

1. *Hearing on the Constitutionality of the Individual Mandate (Serial No. 112-6)*
2. *Hearing on the Federal Bureau of Investigation (Serial No. 112-_)*
3. *Hearing on the United States Department of Justice (Serial No. 112-_)*
4. *Hearing on Defending Marriage (Serial No. 112-_)*
5. *Hearing on Oversight Hearing on the U.S. Department of Justice Civil Rights Division (Serial No. 112-_)*
6. *Hearing on H.R. 10, the “Regulations From the Executive in Need of Scrutiny Act of 2011” (Serial No. 112-26)*
7. *Hearing on The REINS Act - Promoting Jobs and Expanding Freedom by Reducing Needless Regulations (Serial No. 112-7)*
8. *Hearing on The APA at 65 - Is Reform Needed to Create Jobs, Promote Economic Growth and Reduce Costs? (Serial No. 112-17)*

9. *Hearing on the Reauthorization of the PATRIOT Act (Serial No. 112-14)*
10. *Hearing on the Permanent Provisions of the PATRIOT Act (Serial No. 112-15)*
11. *Hearing on "The USA PATRIOT Act: Dispelling the Myths" (Serial No. 112-_)*
12. *Hearing on "Justice for America: Using Military Commissions to Try the 9/11 Conspirators" (Serial No. 112-_)*
13. *Hearing on ICE Worksite Enforcement - Up to the Job? (Serial No. 112-2)*
14. *Hearing on E-Verify - Preserving Jobs for American Workers (Serial No. 112-4)*
15. *Hearing on How an Improved U.S. Patent and Trademark Office Can Create Jobs (Serial No. 112-6)*
16. *Hearing on Oversight of the Office of the U.S. Intellectual Property Enforcement Coordinator (Serial No. 112-_)*
17. *Hearing on Can We Sue Our Way to Prosperity?: Litigation's Effect on America's Global Competitiveness (Serial No. 112-_)*

Activities Conducted Pursuant to H. Res. 72

H. Res.72 charged the Judiciary Committee, among other committees, to “inventory and review existing, pending, and proposed regulations, orders, and other administrative actions or procedures by agencies of the Federal Government within such committee's jurisdiction,” to “conduct such hearings and other oversight activities as it deems necessary in support of the inventory and review,” and to identify in the instant report “any oversight or legislative activity conducted in support of, or as a result of, such inventory and review.” The inventory and review were required to focus on a number of important regulatory issues, such as the impact of regulations on jobs and economic growth and the adherence of regulatory activity to transparency and cost-benefit requirements and statutory authorizations.

The Committee fulfilled its responsibilities under H. Res. 72 by conducting the following oversight and legislative activities consistent with the resolution. Each of these activities is discussed in more detail in the later sections of this report:

Subcommittee on Courts, Commercial and Administrative Law

1. *Hearing on The REINS Act - Promoting Jobs and Expanding Freedom by Reducing Needless Regulations (Serial No. 112-7)*

2. *Hearing on The APA at 65 - Is Reform Needed to Create Jobs, Promote Economic Growth and Reduce Costs? (Serial No. 112-17)*
3. *Hearing on Raising the Agencies' Grades: Protecting the Economy, Assuring Regulatory Quality and Improving Assessments of Regulatory Need (Serial No. 112-_)*
4. *Hearing on Cost-Justifying Regulations: Protecting Jobs and the Economy by Presidential and Judicial Review of Costs and Benefits (Serial No. 112-_)*
5. *Hearing on Formal Rulemaking and Judicial Review: Protecting Jobs and the Economy with Greater Regulatory Transparency and Accountability (Serial No. 112-_)*

Subcommittee on Immigration Policy and Enforcement

1. *Hearing on E-Verify - Preserving Jobs for American Workers (Serial No. 112-4)*
2. *Hearing on the H-2A Visa Program: Meeting the Growing Needs of American Agriculture? (Serial No. 112-28)*

Subcommittee on Intellectual Property, Competition, and the Internet

1. *Hearing on How an Improved U.S. Patent and Trademark Office Can Create Jobs (Serial No. 112-6)*
2. *Hearing on Crossing the Finish Line on Patent Reform - What Can and Should be Done (Serial No. 112-8)*
3. *Hearing on Oversight of the Office of the U.S. Intellectual Property Enforcement Coordinator (Serial No. 112-_)*

COMMITTEE ON THE JUDICIARY
OVERSIGHT PLAN FOR THE 112TH CONGRESS
February 9, 2011

In accordance with Rule X of the House of Representatives, the Committee on the Judiciary is responsible for determining whether the laws and programs within its jurisdiction are implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated. Accordingly, in the 112th Congress the Committee will review all laws and programs within its jurisdiction to assess their application, administration, execution, and effectiveness. The Committee will also review the organization and operation of Federal agencies and entities within its jurisdiction for the administration and execution of laws and programs within its jurisdiction.

The Committee will review all agencies and programs within its jurisdiction to identify wasteful, inefficient, or duplicative programs that should be streamlined or eliminated, as well as those that could be enhanced. The Committee will also review the mission and operations of all agencies, including component organizations, within its jurisdiction. Through such oversight, the Committee seeks to determine how these agencies and entities can achieve more impactful and effective programs with an eye toward improving the efficiency and effectiveness of Federal programs and agencies. The Committee also seeks to eliminate fraud, abuse, and mismanagement. As a result of this oversight, the Committee anticipates streamlining and eliminating spending on agencies and programs within its jurisdiction, if appropriate.

This document outlines the current plans of the Committee on the Judiciary for oversight activities in the 112th Congress. The Committee's oversight and investigation activities will be coordinated between the Full Committee and the Subcommittees in order to facilitate comprehensive and strategic oversight of the programs and agencies within its jurisdiction. Oversight activities will include hearings, briefings, correspondence, reports, and public statements.

FULL COMMITTEE

- I. U.S. Department of Justice. In conjunction with the subcommittees, the Committee will conduct oversight of the U.S. Department of Justice, including all Department components and agencies.
- II. Management Performance and Budget Oversight. The Committee will conduct oversight and identify U.S. Department of Justice grant programs that should be streamlined or eliminated, as well as those that could be enhanced. The Committee will also conduct oversight on all agencies and programs within its jurisdiction to uncover waste, fraud, or abuse and to identify programs that are inefficient, duplicative, or outdated, or that are more appropriately administered by state or local governments. In addition, the Committee will consider the extent to which federally funded or administrated agencies and activities can more efficiently handle certain tasks on a national level and whether

they save, reduce, or render more effective state or local government expenditures or activities. In addition, the Committee will consider whether any federal programs within its jurisdiction should be enhanced, concomitant with cuts to or the elimination of less effective programs.

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

- I. Trials of Suspected Terrorists. The Subcommittee will conduct oversight on matters related to the prosecution of suspected terrorists.
- II. U.S. Department of Justice. The Subcommittee will conduct oversight of the law enforcement agencies of the U.S. Department of Justice.
 - A. The Federal Bureau of Investigation (FBI). The Subcommittee will conduct oversight of the FBI. In addition to its traditional criminal investigatory jurisdiction, the Subcommittee will also conduct oversight of the FBI's counter-terrorism and counter-intelligence authorities.
 - B. Drug Enforcement Administration (DEA). The Subcommittee will review the operations of the DEA, including domestic and international drug enforcement, money laundering and narco-terrorism investigations.
 - C. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). The Subcommittee will review the mission and operations of the ATF, including federal firearms enforcement, explosives investigations, and tobacco and alcohol trafficking operations.
 - D. U.S. Marshals Service (USMS). The Subcommittee will review the mission and operations of the USMS, including fugitive apprehensions, court and witness security, and its responsibilities under the Sex Offender Registration and Notification Act (SORNA).
- III. The Federal Bureau of Prisons (BOP). The Subcommittee will review the mission and operation of the federal prison system, including prisoner rehabilitation, reentry programs, and management of a growing offender population.
 - A. Federal Prison Industries. The Subcommittee will also conduct oversight of the Federal Prison Industries (FPI), a government corporation that employs offenders incarcerated in federal prisons and provides job training opportunities to prisoners by producing goods and services for federal agencies.
- IV. Office of the Federal Detention Trustee (OFDT). The Subcommittee will conduct oversight on the operations of OFDT.

- V. Office of Justice Programs (OJP). The Subcommittee will review the mission and operations of OJP and its component organizations and the administration of law enforcement assistance grants in order to identify programs that should be streamlined or eliminated, and those that could be enhanced.
- VI. Office on Violence against Women (OVW). The Subcommittee will review the mission and operations of OVW and the administration of Violence against Women Act (VAWA) grants.
- VII. Community Oriented Policing Services Office (COPS). The Subcommittee will review the mission and operations of COPS and the administration of community policing grants.
- VIII. Executive Office of U.S. Attorneys (EOUSA). The Subcommittee will conduct oversight on the operations of EOUSA.
- IX. U.S. Department of Homeland Security (DHS). The Subcommittee will conduct oversight of DHS law enforcement components, including the U.S. Secret Service, U.S. Immigration and Customs Enforcement, the Bureau of Customs and Border Protection, the U.S. Coast Guard, and the Federal Air Marshals Service.
- X. U.S. Sentencing Commission. The Subcommittee will review the mission and operations of the U.S. Sentencing Commission with particular attention to the role of the Commission following the Supreme Court's decision in *U.S. v. Booker*, 543 U.S. 220 (2005) and its progeny. The Subcommittee will also examine the extent to which federal courts are imposing sentences that diverge from those recommended by the sentencing guidelines, particularly in cases involving drug smuggling and child pornography.
- XI. National Security. The Subcommittee will review the use of Foreign Intelligence Surveillance Act (FISA) and U.S. PATRIOT Act authorities by Intelligence Community (IC) agencies.
- XII. Domestic/Home-Grown Terrorism. The Subcommittee will review the threat to our national security from home-grown terrorists including the recruitment and training or self-radicalization of home-grown terrorists and the federal government's efforts to preempt, investigate, and prosecute domestic terrorism.
- XIII. Crimes against Children. The Subcommittee will review laws and law enforcement tools designed to combat child exploitation, including reauthorization of the Adam Walsh Act, and the proliferation of child pornography on the Internet.

- XIV. Criminal Street Gangs. The Subcommittee may consider enforcement and prevention issues concerning criminal street gangs, including border gangs, and the issue of how gang affiliations may be broken to reduce the number of both street and prison gangs.
- XV. Crime Prevention. The Subcommittee may examine the extent to which federal policies and funding support crime prevention strategies at the Federal, State, local, and tribal levels.
- XVI. Firearms Regulation. The Subcommittee may examine issues related to firearms regulation.
- XVII. International and Domestic Human Trafficking. The Subcommittee will review law enforcement and other activities within its jurisdiction that address international and domestic trafficking in human beings.

SUBCOMMITTEE ON THE CONSTITUTION

- I. Civil Rights Division, U.S. Department of Justice. The Subcommittee will examine the enforcement record and priorities of the Civil Rights Division. The Subcommittee will focus on the Division's activities in the areas of education, employment, credit, housing, public accommodations, law enforcement practices, voting rights, voting fraud, and federally funded and conducted programs.
- II. Community Relations Service. The Subcommittee will conduct oversight of the operations of the Community Relations Service.
- III. Congressional Authority. The Subcommittee plans to consider the boundaries of the Commerce Clause and other Congressional authorities.
- IV. Tort Reform. The Subcommittee will review the policies and practices of the civil justice system and the need for its reform.
- V. Office of Government Ethics. The Subcommittee will consider the priorities and operation of the Office of Government Ethics.
- VI. Property Rights. The Subcommittee will consider whether there is a need for greater protection of citizens' private property rights.
- VII. Religious Liberty. The Subcommittee will consider the federal role in the protection of Americans' rights under the free exercise and establishment clauses.
- VIII. Abortion. The Subcommittee will examine the constitutionality and enforcement of federal and state statutes that relate to the performance of abortions.

- IX. Marriage. The Subcommittee will examine constitutional issues concerning marriage.
- X. War on Terrorism. The Subcommittee will consider constitutional issues associated with the War on Terrorism.
- XI. Detention of Suspected Terrorists. The Subcommittee will conduct oversight on matters related to the long-term detention of suspected terrorists.
- XII. United States Commission on Civil Rights. The Subcommittee will review the work of the Commission, its management, and its implementation.

SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT

- I. Department of Homeland Security
 - A. The Administration Budget. The Subcommittee expects to conduct hearings on the Administration's budget request for fiscal year 2012 as it applies to immigration functions at U.S. Citizenship and Immigration Services ("CIS") and U.S. Immigration and Customs Enforcement ("ICE").
 - B. Administrative Discretion. The Subcommittee expects to examine the uses of deferred action and other exercises of administrative relief by ICE and CIS for aliens not lawfully present in the U.S.
 - C. Immigration and Customs Enforcement.
 - 1. Worksite Enforcement. The Subcommittee expects to conduct hearings on the effectiveness of ICE's worksite enforcement activities.
 - 2. Fugitive Operations. The Subcommittee expects to conduct hearings on the effectiveness of ICE's fugitive apprehensions program.
 - 3. Immigration Consequences of Drunk Driving. The Subcommittee expects to examine the immigration consequences of drunk driving convictions.
 - 4. Cooperation of State and Local Law Enforcement. The Subcommittee expects to conduct hearings on issues involved with the cooperation of state and local law enforcement agencies with ICE in the enforcement of federal immigration laws, including the operation of the 287(g) and Secure Communities programs.
 - 5. Enforcement Statistics. The Subcommittee expects to conduct hearings on the reliability of immigration removal statistics.

6. Mexican Law Enforcement Issues. The Subcommittee expects to conduct hearings on the implications of Mexican law enforcement issues for asylum and refugee policy.

D. U.S. Citizenship and Immigration Services.

1. E-Verify. The Subcommittee expects to conduct hearings on CIS's operation of the E-Verify program to verify the employment authorization of newly-hired workers.
2. Immigration Benefit Fraud. The Subcommittee expects to conduct hearings on CIS' ability to uncover fraudulent applications and petitions for visas and other immigration benefits.
3. Backlog Reduction. The Subcommittee expects to conduct hearings on the ongoing efforts of CIS to reduce the processing backlog for immigration petitions and applications.

II. U.S. Department of Justice

- A. Immigration Judge Disciplinary Proceedings. The Subcommittee expects to conduct hearings on the impact of disciplinary investigations on the decision making of immigration judges.
- B. REAL ID ACT of 2005. The Subcommittee expects to hold hearings on the implementation by the federal judiciary of the provisions of the REAL ID Act of 2005 related to determinations by immigration judges.
- C. Enforcement of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"). The Subcommittee expects to conduct hearings on the level of enforcement, by the Justice Department, of the provisions of IIRIRA pertaining to rules regarding in-state tuition charges by public universities, and communications between state and local agencies and the Department of Homeland Security regarding the immigration status of individuals.
- D. Adjudication of Immigration Cases. The Subcommittee will conduct oversight on the Department's work to adjudicate immigration cases, including a review of relevant budgetary requirements.

III. Impact of Immigration Policy on the American Economy and Society

- A. Effect on American Workers. The Subcommittee expects to conduct hearings on the impact of illegal and low-skilled immigration on American workers.

- B. Fiscal Effects of Immigration. The Subcommittee expects to conduct hearings on the fiscal effects of illegal and low-skilled immigration at the local and national levels.
 - C. Effects on Social Security. The Subcommittee expects to hold hearings on the impact of illegal and low-skilled immigration on the Social Security system.
 - D. Assimilation of Immigrants. The Subcommittee expects to conduct hearings on the process of assimilation of immigrants, including issues such as the availability of English language instruction, constitutional requirements for citizenship and dual nationality.
- IV. Terrorists and the Immigration System. The Subcommittee expects to conduct hearings on how to prevent the manipulation of our immigration system by terrorists.
- V. Criminal Law Issues
- A. Gang Violence. The Subcommittee expects to conduct hearings on gang violence in immigrant communities.
 - B. Detention of Foreign Nationals. The Subcommittee expects to conduct hearings on the detention of aliens in light of the Supreme Court's decisions in *Zadvydas v. Davis* and *Clark v. Martinez*.
 - C. Victims of Crime. The Subcommittee expects to conduct hearings on the effect of crime committed by immigrants.
 - D. Convention Against Torture. The Subcommittee expects to conduct hearings on the implications of the Convention Against Torture in immigration proceedings.
- VI. Illegal Immigration
- A. Illegal Immigration in Arizona. The Subcommittee expects to conduct hearings on the effects on Arizona residents of illegal immigration and the constitutional issues raised by Arizona's immigration enforcement law (SB 1070).
 - B. Local Enforcement of Immigration Law. The Subcommittee expects to conduct hearings on the effects on public safety of cooperation and non-cooperation by local enforcement in the enforcement of the immigration law.
 - C. Identity Fraud and Theft. The Subcommittee expects to conduct hearings on identity fraud and identity theft in the immigration context.

- D. Temporary Protected Status. The Subcommittee expects to conduct hearings on the administration of the Temporary Protected Status (“TPS”) program.

SUBCOMMITTEE ON INTELLECTUAL PROPERTY, COMPETITION, AND THE INTERNET

- I. PRO-IP Act Implementation. The Subcommittee will conduct oversight on the implementation of the “Prioritizing Resources and Organization for Intellectual Property Act of 2008” (PRO-IP) which increases civil and criminal penalties for trademark and copyright infringement.
- II. Oversight of the U.S. Patent and Trademark Office. Oversight of the USPTO is a priority for the Committee. A hearing will focus on agency operations and needs to determine how Congress can help the USPTO address its annual workload and backlog of patent applications. The agency has undertaken a number of new projects and initiatives that must be evaluated as well. As part of the project, the Committee will work with the appropriators to ensure that the USPTO receives sufficient funding to perform its work.
- III. Oversight of the U.S. Copyright Office. The Copyright Office is experiencing increased delays in processing registrations with a corresponding backlog. This issue can be addressed through staff briefings or a possible hearing.
- IV. Merger Clearance. The Subcommittee may explore potential efficiency enhancing measures in the Federal Trade Commission-Department of Justice Hart-Scott-Rodino merger clearance process.
- V. Consummated Merger Review. It has become increasingly common for the antitrust enforcement agencies to investigate and challenge consummated mergers. The Subcommittee may examine the reasons for the increase in challenges, and whether current law needs to be changed to give the agencies the flexibility they need to investigate potential anticompetitive behavior while providing appropriate certainty to the business community.
- VI. Procedural Divergence in U.S. Merger Enforcement. Under current law, the Department of Justice may sue to enjoin a merger in federal district court. The Federal Trade Commission can sue to enjoin that same merger in federal district court and, at the same time, proceed with a case before its own administrative law judge. The Subcommittee may examine the reasons for this disparity and whether it results in different substantive standards for antitrust review.
- VII. International Divergence in Antitrust Enforcement. This oversight will focus on whether the agencies are doing enough to harmonize U.S. antitrust law with competition laws in other countries. This will include exploring what actions the agencies are taking to harmonize laws and enforcement activities, particularly focused

on the European Union, China, Brazil, Japan, and Korea; and how such activities are authorized and funded by Congress.

- VIII. Antitrust Exemptions. The Subcommittee will conduct oversight of industry exemptions to determine whether such exemptions continue to serve the public interest.

SUBCOMMITTEE ON COURTS, COMMERCIAL AND ADMINISTRATIVE LAW

- I. Administrative Process and Procedure. The Subcommittee will conduct oversight of issues related to the Administrative Procedure Act, the Congressional Review Act, the Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act, the overall costs imposed by federal regulation, the extent to which agencies compete for policymaking primacy with the Legislative Branch, and the role that the Office of Information and Regulatory Affairs within the Office of Management and Budget plays in the federal rulemaking process.
- II. Bankruptcy. The Subcommittee expects to conduct oversight of the Bankruptcy Code's responsiveness to the needs of financially troubled small businesses and municipalities, as well as potential insolvency issues presented by a number of States. In addition, the Subcommittee may conduct oversight of the need for bankruptcy venue reform, bankruptcy issues related to the 2008 financial crisis and legislation enacted in response to it, the financial struggles of military veterans, and issues presented by asset sales under Bankruptcy Code sec. 363, such as those highlighted by the recent Chrysler bankruptcy. Oversight of auto bankruptcy issues may also extend to the dealings of the Administration's Auto Task Force and other aspects of the government-managed bankruptcies of General Motors and Chrysler.
- III. Federal Judiciary. The Subcommittee may conduct a hearing on the operations of the Administrative Office of the United States Courts, and the state of the Judiciary as a whole. This may include consideration of the judicial resource needs of Article III and bankruptcy courts, judicial salaries, and security for federal judges.
- IV. Agencies. The Subcommittee will conduct oversight of the Justice Department's Civil Division, Environment and Natural Resources Division, Executive Office for United States Trustees, and Office of the Solicitor General. It will also conduct oversight of the Department's compliance with the Freedom of Information Act and the Office of Management and Budget's Office of Information and Regulatory Affairs.
- V. State Justice Institute. The State Justice Institute (SJI) provides matching grants to state courts that allow them to develop methods to work more efficiently and productively. A review of SJI operations may be in order since its authorization expired in 2007.
- VI. Arbitration. The Subcommittee may conduct oversight of issues arising under the Federal Arbitration Act, including the implementation of the American Arbitration

Association's mandatory binding arbitration program for General Motors and Chrysler auto dealers and other matters that shed light on the status and effectiveness of America's arbitration system.

- VII. Legal Services Corporation. The Subcommittee will review the mission and operations of the Legal Services Corporation.
- VIII. Interstate Compacts. The Subcommittee may conduct oversight to determine the extent of compliance with the constitutional process by which States seek Congressional approval of interstate compacts.
- IX. Administrative Conference of the United States. The Subcommittee will conduct oversight on the Administrative Conference of the United States.
- X. State Taxation Affecting Interstate Commerce. The Subcommittee may also continue oversight begun in the 111th Congress of issues related to state taxation that affect interstate commerce.

Activities Conducted Pursuant to the Committee's Oversight Plan

Full Committee

1. *Hearing on Medical Liability Reform - Cutting Cost, Spurring Investment, Creating Jobs (Serial No. 112-1)*
2. *Hearing on the Constitutionality of the Individual Mandate (Serial No. 112-5)*
3. *Hearing on the Federal Bureau of Investigation (Serial No. 112-_)*
4. *Hearing on the United States Department of Justice (Serial No. 112-_)*

Subcommittee on the Constitution

1. *Hearing on: H.R. 3, the "No Taxpayer Funding for Abortion Act" (Serial No. 112-9)*
2. *Hearing on: H.R. 966, the "Lawsuit Abuse Reduction Act" (Serial No. 112-18)*
3. *Hearing on: H.R. 1433, the "Private Property Rights Protection Act" (Serial No. 112-21)*
4. *Hearing on: Oversight Hearing on the U.S. Department of Justice Civil Rights Division (Serial No. 112-_)*
5. *Hearing on: Can We Sue Our Way to Prosperity?: Litigation's Effect on America's Global Competitiveness (Serial No. 112-_)*
6. *Hearing on: Defending Marriage (Serial No. 112-_)*

Subcommittee on Courts, Commercial and Administrative Law

1. *Hearing on The REINS Act - Promoting Jobs and Expanding Freedom by Reducing Needless Regulations (Serial No. 112-7)*

2. *Hearing on the Role of Public Employee Pensions in Contributing to State Insolvency and the Possibility of a State Bankruptcy Chapter (Serial No. 112-25)*
3. *Hearing on The APA at 65 - Is Reform Needed to Create Jobs, Promote Economic Growth and Reduce Costs? (Serial No. 112-17)*
4. *Hearing on Raising the Agencies' Grades: Protecting the Economy, Assuring Regulatory Quality and Improving Assessments of Regulatory Need (Serial No. 112-___)*
5. *Hearing on Cost-Justifying Regulations: Protecting Jobs and the Economy by Presidential and Judicial Review of Costs and Benefits (Serial No. 112-___)*
6. *Hearing on Formal Rulemaking and Judicial Review: Protecting Jobs and the Economy with Greater Regulatory Transparency and Accountability (Serial No. 112-___)*

Subcommittee on Crime, Terrorism, and Homeland Security

1. *Hearing on Data Retention as a Tool for Investigating Internet Child Pornography and Other Internet Crimes (Serial No. 112-3)*
2. *Hearing on the Reauthorization of the Adam Walsh Act (Serial No. 112-12)*
3. *Hearing on the Reauthorization of the PATRIOT Act (Serial No. 112-14)*
4. *Hearing on the Permanent Provisions of the PATRIOT Act (Serial No. 112-15)*
5. *Hearing on Justice for America: Using Military Commissions to Try the 9/11 Conspirators (Serial No. 112-_)*
6. *Hearing on The USA PATRIOT Act: Dispelling the Myths (Serial No. 112-_)*

Subcommittee on Immigration Policy and Enforcement

1. *Hearing on ICE Worksite Enforcement - Up to the Job? (Serial No. 112-2)*
2. *Hearing on E-Verify - Preserving Jobs for American Workers (Serial No. 112-4)*

Subcommittee on Intellectual Property, Competition, and the Internet

1. *Hearing on How an Improved U.S. Patent and Trademark Office Can Create Jobs (Serial No. 112-6)*

FULL COMMITTEE

Full Committee Jurisdiction

The Full Committee shall have jurisdiction over such matters as determined by the Chairman.

Full Committee Legislative Activities

H.R. 2, the “Repealing the Job-Killing Health Care Law Act”

Summary – H.R. 2 repeals the Patient Protection and Affordable Care Act, effective as of its enactment. Restores provisions of law amended by such Act. It also repeals the health care provisions of the Health Care and Education and Reconciliation Act of 2010, effective as of the Act's enactment. Restores provisions of law amended by the Act's health care provisions.

Legislative History – The measure was introduced on January 5, 2011 by Representative Eric Cantor. The full House considered the measure under the provisions of H.Res. 26 on January 18, 2011 and, on January 19, 2011, it passed the House by a roll call vote of 245 yeas to 189 nays.

H.R. 5, the “Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2011”

Summary - Rep. Phil Gingrey introduced H.R. 5, the “Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2011,” on January 24, 2011. H.R. 5 sets conditions for lawsuits arising from health care liability claims regarding health care goods or services or any medical product affecting interstate commerce.

Legislative History - The Committee met on February 9 and 16, 2011, to consider the legislation and reported the bill favorably, as amended, by a roll call vote of 18 yeas to 15 nays. The Committee reported the bill to the House on March 17, 2011, as House Report 112-39, Part I. The bill was placed on the Union Calendar, Calendar No. 47, on May 23, 2011.

H.R. 658, the “FAA Reauthorization and Reform Act of 2011”

Summary – Introduced by Representative John Mica on February 11, 2011, the bill authorizes appropriations to the Federal Aviation Administration (FAA) for FY2010 and FY2011 for operations and for other purposes.

Legislative History – The primary Committee Report was filed by the Transportation Committee on March 10, 2011 as House Report 112-29. The Judiciary Committee was discharged from the bill on March 23, 2011. On April 1, 2011, the bill passed the House by a roll call vote of 223 yeas to 196 nays.

H.R. 1021, the “Temporary Bankruptcy Judgeships Extension Act of 2011”

Summary – Introduced by Committee Chairman Lamar Smith on March 10, 2011, the bill extends the temporary office of bankruptcy judges authorized for specified districts under the Bankruptcy Judgeship Act of 1992 and other provisions of the federal judicial code until the applicable vacancy occurs in the office of a bankruptcy judge in such respective districts. The bill also prohibits filling specified bankruptcy judge vacancies occurring more than five years after enactment of this Act and resulting from the death, retirement, resignation, or removal of a bankruptcy judge.

Legislative History – The Committee consider the bill at markup on March 17, 2011 and the measure was ordered reported, as amended, by a voice vote.

Full Committee Oversight Activities

Hearing on Medical Liability Reform - Cutting Cost, Spurring Investment, Creating Jobs (Serial No. 112-1)

The hearing was held by the Full Committee on January 20, 2011, to address cost issues related to medical malpractice lawsuits and medical malpractice insurance. Witnesses who appeared at the hearing included Dr. Stuart L. Weinstein, Health Coalition on Liability and Access, Ms. Joanne Doroshow, Executive Director, Center for Justice & Democracy, and Dr. Ardis Hoven, Chairwoman, American Medical Association Board of Trustees. To address issues raised by the hearing, Rep. Phil Gingrey introduced H.R. 5, the “Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2011,” on January 24, 2011.

Hearing on the Constitutionality of the Individual Mandate (Serial No. 112-5)

On February 16, 2011, the Committee met in open session and received testimony from the following individuals: the Honorable Kenneth T. Cuccinelli, II, Attorney General for the Commonwealth of Virginia; Professor Walter Dellinger, Duke University School of Law; and Professor Randy E. Barnett from Georgetown University Law Center.

Hearing on the Federal Bureau of Investigation (Serial No. 112-_)

On March 16, 2011, the Committee met to receive testimony from Federal Bureau of Investigation Director Robert S. Mueller, III.

Hearing on the United State Department of Justice (Serial No. 112-_)

The Committee met on May 3, 2011 to receive testimony from U.S. Attorney General Eric Holder.

SUBCOMMITTEE ON THE CONSTITUTION ¹

TRENT FRANKS, Arizona, *Chairman*
MIKE PENCE, Indiana, *Vice-Chairman*

STEVE CHABOT, Ohio
J. RANDY FORBES, Virginia
STEVE KING, IOWA
JIM JORDAN, Ohio

JERROLD NADLER, New York
MIKE QUIGLEY, Illinois
JOHN CONYERS, Jr., Michigan
ROBERT C. “BOBBY” SCOTT, Virginia

¹ Subcommittee chairmanship and assignments approved January 19, 2011.

Tabulation of subcommittee legislation and activity

Legislation referred to the Subcommittee.....	95
Legislation on which hearings were held.....	3
Legislation reported favorably to the full Committee.....	0
Legislation reported adversely to the full Committee.....	0
Legislation reported without recommendation to the full Committee.....	0
Legislation reported as original measure to the full Committee.....	0
Legislation discharged from the Subcommittee	2
Legislation pending before the full Committee	0
Legislation reported to the House	1
Legislation discharged from the Committee.....	0
Legislation pending in the House	0
Legislation failed passage by the House.....	0
Legislation passed by the House (including suspensions).....	1
Legislation pending in the Senate.....	1
Legislation vetoed by the President (not overridden).....	0
Legislation enacted into Public Law.....	0
Days of legislative hearings	3
Days of oversight hearings.....	3

Jurisdiction of the Subcommittee

The Subcommittee on the Constitution shall have jurisdiction over the following subject matters: constitutional amendments, constitutional rights, Federal civil rights, ethics in government, tort liability, including medical malpractice and product liability, legal reform generally, other appropriate matters as referred by the Chairman, and relevant oversight.

Legislative Activities

Hearing on H.R. 3, the “No Taxpayer Funding for Abortion Act” (Serial No 112-9)

Summary - Introduced by Rep. Christopher Smith, H.R. 3 would (1) prohibit the expenditure of funds authorized or appropriated by federal law or funds in any trust fund to which funds are authorized or appropriated by federal law (federal funds) for any abortion, (2) prohibit federal funds from being used for any health benefits coverage that includes coverage of abortion, and (3) makes such prohibitions applicable to District of Columbia funds.

Legislative History - H.R. 3 was introduced on January 20, 2011 and has 227 co-sponsors. The Subcommittee convened a hearing on February 8, 2011. At this hearing testimony was heard from Mr. Richard M. Doerflinger, Associate Director of the Secretariat of Pro-Life Activities, United States Conference of Catholic Bishops; Ms. Sara Rosenbaum, Harold and Jane Hirsh Professor of Health Law and Policy and Chair of the Department of Health Policy, The George Washington University School of Public Health and Health Services; and, Ms. Cathy Ruse, Senior Fellow for Legal Studies, Family Research Council.

The Full Committee considered the legislation on March 3, 2011 and reported the bill favorably, as amended, by a roll call vote of 23 yeas to 14 nays. The Committee reported the bill to the House on March 17, 2011, as House Report 112-38, Part I. On May 4, 2011, H.R. 3 passed the House by a roll call vote of 251 yeas to 175 nays.

Hearing on H.R. 966, the “Lawsuit Abuse Reduction Act” (Serial No 112-18)

Summary - H.R. 966 would (1) restore mandatory sanctions for filing frivolous lawsuits in violation of Rule 11, (2) remove Rule 11’s “safe harbor” provision that currently allows parties and their attorneys to avoid sanctions for making frivolous claims by withdrawing frivolous claims after a motion for sanctions has been filed, and (3) require monetary sanctions, including attorneys’ fees and compensatory costs, against any party making a frivolous claim. The bill also expressly provides that “Nothing in” the changes made to Rule 11 “shall be construed to bar or impede the assertion or development of new claims, defenses, or remedies under Federal, State, or local laws, including civil rights laws.”

Legislative History - H.R. 966 was introduced by Committee Chairman Lamar Smith on March 9, 2011. The Subcommittee held a hearing on March 11, 2011, and heard testimony from Elizabeth Milito, Senior Executive Counsel, National Federation of Independent Business Small Business Legal Center; Lonny Hoffman, George Butler Research Professor of Law, University of Houston Law Center; and Victor Schwartz, Partner, Shook, Hardy & Bacon. The main focus of the hearing was on whether frivolous lawsuits have an impact on businesses (especially small businesses), jobs, and the economy. The hearing also examined the effect amending Rule 11 would have on litigation and on deterring frivolous lawsuits and motions from being filed in federal court.

Hearing on H.R. 1433, the “Private Property Rights Protection Act” (Serial No. 112-21)

Summary - H.R. 1433 prohibits state and local governments that receive federal economic development funds from using eminent domain to transfer private property from one private owner to another for the purpose of economic development. Specifically, if a state or political subdivision of a state uses its eminent domain power to transfer private property to other private parties for economic development, the state is ineligible to receive federal economic development funds for two fiscal years following a judicial determination that the law has been violated. Additionally, the bill prohibits the federal government from using eminent domain for economic development purposes.

Legislative History - H.R. 1433 was introduced on April 7, 2011, by Representatives James Sensenbrenner and Maxine Waters and currently has 24 co-sponsors. On April 12, 2011, the Subcommittee held a hearing on the bill. Testimony was received from Lori Ann Vendetti, a homeowner from Long Branch, New Jersey; John Echeverria, Professor, Vermont Law School; and Dana Berliner, Senior Attorney, the Institute for Justice. The witnesses discussed the impact of the Supreme Court's 2005 decision in *Kelo v. City of New London*, 545 U.S. 469 (2005), on private property rights. The hearing focused on whether H.R. 1433 would effectively address continuing concerns after the *Kelo* decision that all private property is now vulnerable to being taken and transferred to another private owner for private economic development.

H. Con. Res. 13 - Reaffirming "In God We Trust" as the official motto of the United States and supporting and encouraging the public display of the national motto in all public buildings, public schools, and other government institutions

Summary – The Resolution was introduced on January 26, 2011 by Representatives Randy Forbes to reaffirm “In God We Trust” as the official motto of the United States and supporting and encouraging public display of the national motto in public buildings, schools and other government institutions.

Legislative History – The Committee considered H. Con. Res. 13 during markup on March 17, 2011 and ordered the measure favorably reported to the House by voice vote. The Committee reported to measure to the House on March 31, 2011 as House Report 112.47.

Oversight Activities

Hearing on Defending Marriage (Serial No. 112-_)

Summary - On April 15, 2011, the Subcommittee convened a hearing on the implications of Attorney General Eric Holder's February 23, 2011, letter to Speaker of the House John Boehner notifying the Speaker of the President's determination that Section 3 of the Defense of Marriage Act, as applied to same-sex couples who are legally married under state law, violates the equal protection component of the Fifth Amendment. Testimony was received from Maggie Gallagher of the National Organization for Marriage, Professor Carlos Ball of the Rutgers School of Law, and Ed Whelan of the Ethics and Public Policy Center.

Hearing on Whether the Constitution Should be Amended to Address the Federal Deficit?
(Serial No. 112-_)

Summary - On May 13, 2011, the Subcommittee held an oversight hearing to examine whether the United States Constitution needs to be amended to address the federal deficit. Testimony was received from the Honorable Bob Goodlatte; David Primo, Professor, University of Rochester; Robert Greenstein, President, Center on Budget and Policy Priorities; and Andrew Moylan, Vice President of Government Affairs, National Taxpayers Union. The hearing looked at continuing federal budget deficits, which have resulted in a total federal deficit exceeding \$14 trillion, and the effects not addressing deficit spending will have on the country's long-term prosperity. Witnesses discussed prior legislative attempts to cut federal spending and the prospects further legislative approaches have for imposing fiscal discipline on the federal government. The main focus of the witnesses' testimony was whether the deficit and the failure of previous legislative attempts to address the deficit justify a constitutional amendment and, if so, the necessary provisions of such an amendment. In particular, the witnesses examined the merits of a balanced budget amendment to the Constitution.

Hearing on Can We Sue Our Way to Prosperity?: Litigation's Effect on America's Global Competitiveness (Serial No. 112-_)

Summary - The Subcommittee held a hearing on May 24, 2011 to examine the civil litigation system's impact on the competitiveness of the United States' economy. Testimony was received from Paul Hinton of NERA Economic Consulting, Professor Charles Silver of the University of Texas School of Law, and John Beisner of Skadden, Arps, Slate, Meagher & Flom LLP.

Activities Conducted Pursuant to H. Res. 9

H. Res. 9 directs several committees, including the Judiciary Committee, to report legislation to, among other things, "reform the medical liability system to reduce unnecessary and wasteful health care spending" and "prohibit taxpayer funding of abortions." Pursuant to H. Res. 9, the Committee held a full committee hearing on "Medical Liability Reform—Cutting Costs, Spurring Investment, Creating Jobs" and a Constitution Subcommittee hearing on H.R. 3, the "No Taxpayer Funding for Abortion Act." Additionally, the Committee favorably reported two bills: H.R. 5, the "Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act," and H.R. 3, the "No Taxpayer Funding for Abortion Act."

SUBCOMMITTEE ON COURTS, COMMERCIAL AND ADMINISTRATIVE LAW ¹

HOWARD COBLE, North Carolina, *Chairman*
TREY GOWDY, South Carolina, *Vice-Chairman*

ELTON GALLEGLY, California
TRENT FRANKS, Arizona
DENNIS ROSS, Florida
Vacancy

STEVE COHEN, Tennessee
HENRY C. "HANK" JOHNSON, Jr., Georgia
MELVIN L. WATT, North Carolina
MIKE QUIGLEY, Illinois

¹ Subcommittee chairmanship and assignments approved January 19, 2011.

Tabulation of subcommittee legislation and activity

Legislation referred to the Subcommittee.....	28
Legislation reported favorably to the full Committee.....	0
Legislation reported adversely to the full Committee.....	0
Legislation reported without recommendation to the full Committee.....	0
Legislation reported as original measure to the full Committee.....	0
Legislation discharged from the Subcommittee	2
Legislation pending before the full Committee	0
Legislation reported to the House	2
Legislation discharged from the Committee.....	0
Legislation pending in the House	0
Legislation passed by the House.....	2
Legislation pending in the Senate	2
Legislation vetoed by the President	0
Legislation enacted into public law	0
Legislation enacted into public law as part of another bill	0
Legislation on which hearings were held.....	6
Days of legislative hearings	6
Days of oversight hearings.....	6

Jurisdiction of the Subcommittee

The Subcommittee on Courts, Commercial and Administrative Law shall have jurisdiction over the following subject matters: Administration of U.S. Courts, Federal Rules of Evidence, Civil and Appellate Procedure, judicial ethics, bankruptcy and commercial law, bankruptcy judgeships, administrative law, independent counsel, state taxation affecting interstate commerce, interstate compacts, other appropriate matters as referred by the Chairman, and relevant oversight.

Legislative Activities

Hearing on H.R. 10, the “Regulations From the Executive in Need of Scrutiny Act of 2011” (Serial No. 112-26)

Summary - The REINS Act rewrites provisions of the Congressional Review Act to require congressional approval of major rules of the executive branch before they may take effect (currently, major rules take effect unless Congress passes and the President signs a joint resolution disapproving them). The Act defines “major rule” as any rule, including an interim final rule, that has resulted in or is likely to result in: (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or U.S. competitiveness.

Legislative History - H.R. 10 was introduced on January 20, 2011, by Rep. Geoff Davis. Committee Chairman Lamar Smith is the lead original co-sponsor. As of June 6, 2011, the bill had 146 co-sponsors. The Subcommittee convened a hearing on March 8, 2011, and received testimony from David Schoenbrod, Trustee Professor of Law, New York Law School & Visiting Scholar, American Enterprise Institute; Eric R. Claeys, Professor of Law, George Mason University School of Law; and, David Goldston, Director of Government Affairs, Natural Resources Defense Council.

H.R. 368, the “Removal Clarification Act of 2011”

Summary – H.R. 368 would amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes.

Legislative History – On January 20, 2011, Representative Hank Johnson introduced the bill which was referred to the Subcommittee the next day, January 21, 2011. The Full Committee considered the bill at markup on January 26, 2011 and ordered the bill favorably reported by a voice vote. The Committee reported the bill to the House on February 28, 2011 as House Report 112-11, Part 1. The bill passed the House the same day, as amended, under suspension by a roll call vote of 396 yeas to 4 nays.

H.R. 394, the “Federal Courts and Venue Clarification Act of 2011”

Summary – H.R. 394 amends the federal judicial code to declare that, with respect to diversity of citizenship, the U.S. district courts shall not have original jurisdiction of any civil action between citizens of a state and citizens or subjects of a foreign state who are lawfully admitted for permanent residence in the United States and are domiciled in the same state.

Legislative History – Committee Chairman Lamar Smith introduced the bill on January 24, 2011. The Full Committee considered the bill at markup on January 26, 2011 and favorably reported the bill by voice vote. The bill was reported to the House on February 11, 2011 as

House Report 112-10. On February 28, 2011, H.R. 394 passed the House, as amended, under suspension by a roll call vote of 402 yeas to 0 nays.

Hearing on H.R. 527, the “Regulatory Flexibility Improvements Act of 2011” - Unleashing Small Businesses to Create Jobs (Serial No. 112-16)

Summary - Introduced by Committee Chairman Lamar Smith, H.R. 527 amends the Regulatory Flexibility Act of 1980 (RFA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA). As of June 6, 2011, the bill had 19 co-sponsors. The bill expands the range of rules and issues that must be assessed; extends to all agencies requirements to gather input on potential rules from small business review panels; strengthens requirements to periodically review and reassess rules that have significant impacts on substantial numbers of small entities; improves judicial review; and grants the Small Business Administration authority to promulgate government-wide rules on RFA and SBREFA implementation.

Legislative History - H.R. 527 was introduced on February 8, 2011. The Subcommittee held a hearing on February 10, 2011, and received testimony from Mr. Richard Gimmel, President of Atlas Machine & Supply, Inc.; Mr. Thomas Sullivan, Of Counsel, Nelson Mullins Riley Scarborough LLP and head of the Small Business Coalition for Regulatory Relief; Mr. J. Robert Shull, Program Officer, Workers’ Rights, Public Welfare Foundation; and Ms. Karen R. Harned, Executive Director, National Federation of Independent Business, Small Business Legal Center.

Hearing on H.R. 1002, the “Wireless Tax Fairness Act of 2011” (Serial No. 112-22)

Summary - H.R. 1002 prohibits state and local governments from imposing any new “discriminatory” tax (as defined in the bill) on mobile telecommunications services, property or equipment (e.g., wireless phones) for five years after its enactment. The bill defines “new discriminatory tax” as a tax imposed on mobile services, providers or property that is not generally imposed on other types of services or property (e.g., a generally applicable sales tax), or that is generally imposed at a lower rate, unless such tax was imposed and actually enforced prior to the date of enactment.

Legislative History - H.R. 1002 was introduced by Representative Zoe Lofgren on March 10, 2011. The lead Republican co-sponsor is Representative Trent Franks. As of June 2, 2011, the bill had 223 co-sponsors. On March 15, 2011, the Subcommittee held a hearing on the bill and heard testimony from: Scott Mackey, a partner of KSE Partners LLP (Montpelier, VT); Bernita Sims, a councilwoman from High Point, NC (High Point, NC); and Harry Alford, the President and CEO of the National Black Chamber of Commerce (Washington, DC).

Hearing on H.R. 1439, the “Business Activity Tax Simplification Act of 2011” (Serial No. 112-_)

Summary - H.R. 1439 expands the federal prohibition against state taxation of interstate commerce to: (1) include taxation of out-of-state transactions involving all forms of property,

including intangible personal property and services (currently, only sales of tangible personal property are protected); and (2) prohibit state taxation of an out-of-state entity unless such entity has a physical presence in the taxing state. The bill also sets forth criteria for: (1) determining that a person has a physical presence in a state, and (2) the computation of the tax liability of affiliated businesses operating in a state.

Legislative History - Representative Bob Goodlatte introduced H.R. 1439 on April 8, 2011. The lead Democratic co-sponsor is Representative Robert C. “Bobby” Scott. The Subcommittee held a legislative hearing on the bill on April 13, 2011, and heard testimony from: the Honorable Bob Goodlatte (R-Va.); the Honorable Bobby Scott (D-Va.); Corey Schroeder, the Vice President and CFO of Outdoor Living Brands, Inc. (Richmond, VA), who testified on behalf of the International Franchise Association; R. Bruce Johnson, the Chairman of the Utah State Tax Commission (Salt Lake City, UT), who testified on behalf of the Federation of Tax Administrators; and Joseph Henschman, the Tax Counsel and Director of State Projects at the Tax Foundation (Washington, DC). Mr. Goodlatte and Mr. Scott offered testimony in support of the bill.

Hearing on H.R. 1860, the “Digital Goods and Services Tax Fairness Act of 2011” (Serial No. 112-_)

Summary - H.R. 1860 prohibits states and localities from imposing a higher tax rate on digital goods and services than is applicable to their tangible analogs. The bill also provides tax sourcing rules for purchases of digital goods and services.

Legislative History - Committee Chairman Lamar Smith introduced H.R. 1860 on May 12, 2011. The lead Democratic co-sponsor is Representative Steve Cohen. The Subcommittee held a hearing on May 23, 2011, and received testimony from: Robert D. Atkinson, the President of the Information Technology & Innovation Foundation (Washington, DC); Russ Brubaker, the National Tax Policy Advisor to the Washington Department of Revenue (Olympia, WA), who testified on behalf of the Federation of Tax Administrators; and James R. Eads, Jr., the Director of Public Affairs at Ryan, LLC (Austin, TX).

Hearing on H.R. 1864, the “Mobile Workforce State Income Tax Simplification Act of 2011” (Serial No. 112-_)

Summary - H.R. 1864 provides that an employee shall not be subject to state income tax unless he or she performs work in a state for at least 30 days during the taxable year. It also provides that an employer shall not be required to withhold state income tax with respect to a state in which an employee does not work for at least 30 days during the taxable year.

Legislative History - H.R. 1864 was introduced on May 12, 2011, by Subcommittee Chairman Howard Coble. Representative Henry “Hank” Johnson is the lead Democratic co-sponsor. As of June 6, 2011, the bill had 6 co-sponsors. On May 25, 2011, the Subcommittee held a legislative hearing on the bill and heard testimony from: Jeffrey A. Porter, the founder of

Porter & Associates CPAs (Huntington, WV), who testified on behalf of the American Institute of Certified Public Accountants; Patrick Carter, the Director of the Delaware Department of Revenue (Wilmington, DE), who testified in his capacity as President of the Federation of Tax Administrators; and Joseph Crosby, the Chief Operating Officer and Senior Director for Policy at the Council for State Taxation (Washington, DC).

Oversight Activities

Hearing on The REINS Act - Promoting Jobs and Expanding Freedom by Reducing Needless Regulations (Serial No. 112-7)

On January 24, 2011, the Subcommittee held a hearing to examine potential reform of the Congressional Review Act (CRA) to make that law more effective. Reforms considered included congressional approval of major agency regulations before the regulations can go into effect, as would be accomplished by the REINS Act. “Major” regulations are those with \$100 million or more of impacts on the U.S. economy.

At this hearing, testimony was heard from the Honorable David McIntosh, former Member of Congress and a partner at Mayer Brown LLP; Mr. Jonathan Adler, Professor, Case Western Reserve University School of Law and Director, Center for Business Law and Regulation; and, Ms. Sally Katzen, Visiting Professor, New York University School of Law and Senior Advisor, Podesta Group.

Hearing on the Role of Public Employee Pensions in Contributing to State Insolvency and the Possibility of a State Bankruptcy Chapter (Serial No. 112-25)

On February 14, 2011, the Subcommittee convened a hearing to examine the extent to which unfunded public employee pension obligations contribute to government insolvency and to study whether states ought to be made eligible for federal bankruptcy relief.

At the hearing, testimony was heard from: Dr. Joshua Rauh, an Associate Professor of Finance with the Kellogg School of Management, Northwestern University (Evanston, IL); James Spiotto, a partner with Chapman and Cutler LLP (Chicago, IL); Matt Fabian, the Managing Director of Municipal Market Advisors (Westport, CT); and Keith Brainard, the Research Director for the National Association of State Retirement Administrators (Georgetown, TX).

Hearing on The APA at 65 - Is Reform Needed to Create Jobs, Promote Economic Growth and Reduce Costs? (Serial No. 112-17)

On February 28, 2011, the Subcommittee initiated a series of hearings to examine potential rulemaking reforms to modernize the Administrative Procedure Act (APA) as it approaches the 65th anniversary of its enactment on June 11, 1946.

At the hearing, testimony was heard from Susan E. Dudley, former Administrator of the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) during the George W. Bush administration and current director of George Washington University's Regulatory Studies Center; Jeffrey A. Rosen, Esq., former OMB general counsel during the same administration and a current partner at Kirkland & Ellis LLP; and Professor Peter L. Strauss, Columbia Law School.

Hearing on Raising the Agencies' Grades: Protecting the Economy, Assuring Regulatory Quality and Improving Assessments of Regulatory Need (Serial No. 112-_)

The Subcommittee held a hearing on March 29, 2011, to explore reasons for the poor quality of federal regulatory development suggested by the George Mason University's Mercatus Center in its ongoing Regulatory Report Card project. The Subcommittee also considered changes to the early phases of rulemaking that could assure greater and more effective public and stakeholder input to agency decisions. Finally, the Subcommittee identified additional APA requirements that could force agencies to assess better whether regulation is needed at all before they issue notices of proposed rulemakings or promulgate final regulations.

At this hearing, the Subcommittee heard testimony from Dr. Jerry Ellig, Ph.D., director of the Mercatus Center's Regulatory Report Card project; Dr. Richard Williams, Ph.D., Director of Policy Research at the Mercatus Center and former regulatory development and review official at the Office of Management and Budget (OMB); and Robert L. Glicksman, J.B. and Maurice C. Shapiro Professor of Environmental Law at The George Washington University Law School.

Hearing on Cost-Justifying Regulations: Protecting Jobs and the Economy by Presidential and Judicial Review of Costs and Benefits (Serial No. 112-_)

On May 4, 2011, the Subcommittee held a hearing focused on potential APA reforms to better the use of cost-benefit analysis and other features of the regulatory development process instituted by executive orders in this area. Witnesses included: John Graham, former OIRA Administrator and Dean, School of Public and Environmental Affairs, Indiana University; Jeffrey R. Holmstead, Esq., former EPA Assistant Administrator for Air and Radiation and current head of the Environmental Strategies Group at Bracewell & Giuliani LLP; Dr. Harold Furchtgott-Roth, Ph.D., former Commissioner of the Federal Communications Commission; and, Ms. Sally Katzen, Visiting Professor, New York University School of Law and Senior Advisor, Podesta Group.

Hearing on Formal Rulemaking and Judicial Review: Protecting Jobs and the Economy with Greater Regulatory Transparency and Accountability (Serial No. 112-_)

The Subcommittee held a hearing on May 31, 2011, to examine whether to increase the transparency and effectiveness of rulemaking procedures through increased use of formal rulemaking. The Subcommittee also examined whether courts are able to hold agencies sufficiently accountable for their rulemaking decisions under existing standards of judicial

review. The Subcommittee heard testimony on these subjects from Edward W. Warren, P.C., Environmental Practice Group, Kirkland & Ellis LLP; Noel J. Francisco, Esq., Government Regulation Practice Group, Jones Day LLP; and, Professor Matthew Stephenson, Harvard Law School.

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY ¹

F. JAMES SENSENBRENNER, Jr., Wisconsin, Chairman
 LOUIE GOHMERT, Texas, Vice-Chairman

BOB GOODLATTE, Virginia	ROBERT C. “BOBBY” SCOTT, Virginia
DANIEL E. LUNGREN, California	STEVE COHEN, Tennessee
J. RANDY FORBES, Virginia	HENRY C. “HANK” JOHNSON, Jr., Georgia
TED POE, Texas	PEDRO PIERLUISI, Puerto Rico
JASON CHAFFETZ, Utah	JUDY CHU, California
TIM GRIFFIN, Arkansas	TED DEUTCH, Florida
TOM MARINO, Pennsylvania	SHEILA JACKSON LEE, Texas
TREY GOWDY, South Carolina	MIKE QUIGLEY, Illinois
SANDY ADAMS, Florida	Vacancy
BEN QUAYLE, Arizona	

¹ Subcommittee chairmanship and assignments approved January 19, 2011.

Tabulation of subcommittee legislation and activity

Legislation referred to the Subcommittee.....	74
Legislation on which hearings were held.....	0
Legislation reported favorably to the full Committee.....	0
Legislation reported adversely to the full Committee.....	0
Legislation reported without recommendation to the full Committee.....	0
Legislation reported as original measure to the full Committee.....	0
Legislation discharged from the Subcommittee	2
Legislation pending before the full Committee	0
Legislation reported to the House	2
Legislation discharged from the Committee.....	0
Legislation pending in the House	0
Legislation passed by the House (including suspensions).....	3
Legislation pending in the Senate	2
Legislation vetoed by the President (not overridden).....	0
Legislation enacted into Public Law.....	1
Legislation enacted into Public Law as part of other legislation	0
Days of legislative hearings	0
Days of oversight hearings.....	7

Jurisdiction of the Subcommittee

The Subcommittee on Crime, Terrorism, and Homeland Security has jurisdiction over: Federal Criminal Code, drug enforcement, sentencing, parole and pardons, internal and

homeland security, Federal Rules of Criminal Procedure, prisons, criminal law enforcement, and other appropriate matters as referred by the Chairman, and relevant oversight.

Legislative Activities

H.R. 347, the “Federal Restricted Buildings and Grounds Improvement Act of 2011”

Summary – H.R. 347 amends the federal criminal code to revise the prohibition against entering restricted federal buildings or grounds to impose criminal penalties on anyone who knowingly enters any restricted building or grounds without lawful authority. Defines "restricted buildings or grounds" as a posted, cordoned off, or otherwise restricted area of: (1) the White House or its grounds or the Vice President's official residence or its grounds, (2) a building or grounds where the President or other person protected by the Secret Service is or will be temporarily visiting, or (3) a building or grounds so restricted due to a special event of national significance.

Legislative History – On January 19, 2011, Representative Thomas Rooney introduced H.R. 347 which was referred to the Subcommittee on Crime. On January 26, 2011, the Full Committee considered and reported the bill by voice vote. The Committee filed the report to accompany H.R. 347 on February 11, 2011 as House Report 112-9. On February 28, 2011, the bill passed the House, as amended, under suspension by a roll call vote of 399 yeas to 3 nays.

H.R. 386, the “Securing Aircraft Cockpits Against Lasers Act of 2011”

Summary - Amends the federal criminal code to prohibit the aiming of the beam of a laser pointer at an aircraft or in its flight path and imposes a fine and/or prison term of up to five years.

Legislative History – Representative Dan Lungren introduced H.R. 386 on January 20, 2011. The bill was referred to the Subcommittee on Crime. On January 26, 2011, the Full Committee considered and reported the bill by voice vote. The bill was reported to the House on February 11, 2011 as House Report 112-11, Part 1. On February 28, 2011, the bill passed the House, as amended, under suspension by voice vote.

H.R. 514, the “FISA Sunsets Extension Act of 2011”

Summary - H.R. 514 would extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004 relating to access to business records, individual terrorists as agents of foreign powers, and roving wiretaps until December 8, 2011.

Legislative History - Representative James Sensenbrenner introduced H.R. 514 on January 26, 2011 and the bill was referred to the Subcommittee on Crime on February 7, 2011. During the House’s consideration of H.R. 514 on February 8, 2011, the measure failed to pass under suspension of the rules by a roll call vote of 277 yeas to 148 nays. The House considered

the measure again on February 14, 2011 and H.R. 514 passed the House by a roll call vote of 275 yeas to 144 nays. The House agreed to the Senate amendment on February 17, 2011 by a roll call vote of 279 yeas to 143 nays. On February 25, 2011, the President signed the measure into law as Public Law 112-3.

H.R. 1800, the “FISA Sunsets Reauthorization Act of 2011”

Summary - H.R. 1800 amends the USA PATRIOT Improvement and Reauthorization Act of 2005 to extend through 2017 a provision granting roving electronic surveillance authority. H.R. 1800 also amends the Intelligence Reform and Terrorism Prevention Act of 2004 to make permanent a provision revising the definition of an "agent of a foreign power" to include any non-U.S. person who engages in international terrorism or preparatory activities ("lone wolf" provision).

Legislative History – H.R. 1800 was introduced on May 6, 2011 by Representative James Sensenbrenner. The Full Committee considered the bill on May 12, 2011 and reported the bill favorably by a roll call vote of 22 yeas to 13 nays. The report to accompany the bill was filed on May 18, 2011 as House Report 112-79, Part I. The Senate companion bill S. 990, the “PATRIOT Sunsets Extension Act of 2011” passed through the House on May 26, 2011 with a vote of 250 yeas to 153 nays. That version extended the two authorities and the “lone wolf” provision through June 1, 2015. It was signed by the President and became Public Law 112-14 on May 26, 2011.

Oversight Activities

Hearing on Data Retention as a Tool for Investigating Internet Child Pornography and Other Internet Crimes (Serial No. 112-3)

On January 25, 2011, the Subcommittee convened a hearing to examine the need for retention of certain data by Internet Service Providers to facilitate law enforcement investigations of Internet child pornography and other Internet crimes. Testimony was received from Jason M. Weinstein, Deputy Assistant Attorney General at the U.S. Department of Justice, Chief John M. Douglass of the International Association of Chiefs of Police, Kate Dean, Executive Director for the United States Internet Services Provider Association, and John B. Morris, Jr., General Counsel at the Center for Democracy and Technology.

Hearing on the Reauthorization of the Adam Walsh Act (Serial No. 112-12)

The Subcommittee convened a hearing on February 15, 2011 to receive testimony on the Adam Walsh Act, of which, certain provisions are due to expire this Congress. The purpose of this hearing was to gather information on the status of the state implementation of the Sex Offender Registration and Notification Act (SORNA); the accomplishments of the Department of Justice components, including the U.S. Marshals Service and the Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office, in implementing the

other mandates of the Adam Walsh Act; and whether technical or other changes should be made to the bill at the time of its reauthorization. Testimony was received from Dawn Doran, Deputy Director of the Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office at the U.S. Department of Justice, Stacia A. Hylton, Director of the U.S. Marshals Service at the U.S. Department of Justice, Ernie Allen, President and CEO of the National Center for Missing and Exploited Children, and Representative Patricia Colloton of the Kansas House of Representatives.

Hearing on Going Dark: Lawful Electronic Surveillance in the Face of New Technologies (Serial No. 112-_)

At a hearing on February 17, 2011, the Subcommittee heard from three witnesses: Valeria E. Caproni, General Counsel at the Federal Bureau of Investigation, Chief Mark A. Marshall, President of the International Association of Chiefs of Police, and Dr. Susan Landau, from the Radcliffe Institute for Advance Study at Harvard University. The purpose of this hearing was to examine the gap that exists between legal authorities and technological abilities. Specifically, the challenge faced by law enforcement agencies when they seek to implement court ordered electronic surveillance on new communication technologies. These lawful attempts at surveillance are often frustrated by these new technologies. A central focus of the hearing was an examination of the Communications Assistance for Law Enforcement Act (CALEA).

Hearing on the Reauthorization of the PATRIOT Act (Serial No. 112-14)

On March 9, 2011, the Subcommittee convened a hearing to review the use of, and the need for, the three provisions of the USA PATRIOT Act set to expire on May 27, 2011. These three provisions included Section 215 FISA Business Records, Section 206 Roving Wiretap authority, and the lone wolf definition. The Subcommittee heard testimony from Todd Hinnen, the Acting Assistant Attorney General at the National Security Division of the Department of Justice, Robert Litt, General Counsel at the Office of Director of National Intelligence, Nathan Sales, Assistant Professor of Law at George Mason University, and Julian Sanchez, Research Fellow at the Cato Institute.

Hearing on the Permanent Provisions of the PATRIOT Act (Serial No. 112-15)

The Subcommittee continued its oversight of the USA PATRIOT Act with a hearing on March 30, 2011. This hearing focused on reviewing the permanent provisions of the USA PATRIOT Act, including National Security Letters, delayed-notice search authority, and other provisions. Testimony was received from Todd Hinnen, the Acting Assistant Attorney General at the National Security Division of the Department of Justice, Kenneth L. Wainstein, Partner at O'Melveny & Myers LLP, and Mike German, the National Security Policy Counsel at the American Civil Liberties Union.

Hearing on Justice for America: Using Military Commissions to Try the 9/11 Conspirators (Serial No. 112-_)

On April 5, 2011, the Subcommittee held a hearing to gather information on whether military commissions are preferable to Article III courts for the trial and convictions of Guantanamo detainees; the differences between the two systems of justice when applied in a national security context, and the procedures used in selecting which detainee will be tracked through which system of justice. The Subcommittee heard testimony from David Beamer, father of Flight 93 passenger David Beamer, Charles “Cully” Stimson, Senior Legal Fellow at The Heritage Foundation, Stephanie Hessler, a Fellow at the Manhattan Institute for Policy Research, and Stephen Saltzburg, Professor of Law at George Washington University.

Hearing on The USA PATRIOT Act: Dispelling the Myths (Serial No. 112-_)

The Subcommittee convened a hearing on May 11, 2011 to receive testimony from Patrick Rowan, Partner at McGuireWoods LLP, The Honorable Bob Barr, former Congressman from Georgia’s 7th District, Bruce Fein from the Campaign for Liberty, and Ed Mullins, President of the Sergeant Benevolent Association of New York City. The purpose of this hearing was to clear up any misconceptions or myths about the constitutionality and use of Section 215 FISA Business Records, Section 206 Roving Wiretap authority, and the lone wolf definition.

SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT ¹

ELTON GALLEGLY, California, *Chairman*

STEVE KING, IOWA, *Vice-Chairman*

DANIEL E. LUNGREN, California

LOUIE GOHMERT, Texas

TED POE, Texas

TREY GOWDY, South Carolina

DENNIS ROSS, Florida

ZOE LOFGREN, California

SHEILA JACKSON LEE, Texas

MAXINE WATERS, California

PEDRO PIERLUISI, Puerto Rico

¹ Subcommittee chairmanship and assignments approved January 19, 2011.

Tabulation of subcommittee legislation and activity

Public:

Legislation referred to the Subcommittee.....	56
Legislation on which hearings were held.....	3
Legislation reported favorably to the full Committee.....	0
Legislation reported adversely to the full Committee.....	0
Legislation reported without recommendation to the full Committee.....	0
Legislation reported as original measure to the full Committee.....	0
Legislation discharged from the Subcommittee	1
Legislation pending before the full Committee	0
Legislation reported to the House	0
Legislation discharged from the Committee.....	0
Legislation pending in the House	0
Legislation passed by the House.....	0
Legislation pending in the Senate	0
Legislation vetoed by the President (not overridden).....	0
Legislation enacted into Public Law	0
Legislation enacted into Public Law as part of other legislation	0
Days of legislative hearings	3
Days of oversight hearings.....	6

Private:

Claims:

Legislation referred to the Subcommittee.....	0
Legislation on which hearings were held.....	0
Legislation reported favorably to the full Committee.....	0
Legislation pending before the full Committee	0

Legislation reported to the House	0
Legislation discharged from the Committee.....	0
Legislation pending in the House	0
Legislation passed by the House.....	0
Legislation pending in the Senate.....	0
Legislation enacted into Private Law.....	0
Immigration:	
Legislation referred to the Subcommittee.....	24
Legislation on which hearings were held.....	0
Legislation reported favorably to the full Committee.....	0
Legislation pending before the full Committee	0
Legislation reported to the House	0
Legislation discharged from the Committee.....	0
Legislation pending in the House	0
Legislation passed by the House.....	0
Legislation pending in the Senate.....	0
Legislation enacted into Private Law.....	0

Jurisdiction of the Subcommittee

The Subcommittee on Immigration Policy and Enforcement shall have jurisdiction over the following subject matters: immigration and naturalization, border security, admission of refugees, treaties, conventions and international agreements, claims against the United States, Federal charters of incorporation, private immigration and claims bills, non-border enforcement, other appropriate matters as referred by the Chairman, and relevant oversight.

Legislative Activity

H.R. 398, To amend the Immigration and Nationality Act to toll, during active-duty service abroad in the Armed Forces, the periods of time to file a petition and appear for an interview to remove the conditional basis for permanent resident status, and for other purposes

Summary - Representative Zoe Lofgren introduced H.R. 398. The legislation would amend the Immigration and Nationality Act to toll, during active-duty service abroad in the Armed Forces, the periods of time for an alien spouse or petitioning spouse to file a petition and appear for an interview to remove the conditional basis for permanent resident status.

Legislative History - The legislation was introduced on January 24, 2011. On January 26, 2011, the Committee met to consider H.R. 398. The bill was reportedly favorably without amendment by voice vote.

Hearing on H.R. 704, the “SAFE for America Act” (Serial No. 112 -27)

Summary - H.R. 704 eliminates the diversity immigrant visa program.

Legislative History - H.R. 704 was introduced on February 15, 2011 by Representative Bob Goodlatte, and referred to the Subcommittee on Immigration on February 28, 2011. At a April 5, 2011 subcommittee hearing on the legislation, testimony was received from the Honorable Bob Goodlatte (VA-6); Mr. Tony Edson, former Deputy Assistant Secretary of State for Visa Services; Ms. Janice Kephart, Director of National Security Policy at the Center for Immigration Studies and Ambassador; Johnny Young, Executive Director of Migration and Refugee Services of the U.S. Conference of Catholic Bishops.

Hearing on H.R.1741, the “Secure Visas Act” (Serial No. 112-_)

Summary – H.R. 1741 provides for the placement of Department of Homeland Security visa security units at specified U.S. consular posts overseas and eliminates judicial review of removal proceedings based upon visa revocations.

Legislative History – H.R. 1741 was introduced on May 5, 2011, by Committee Chairman Lamar Smith and referred to the Subcommittee on Immigration on May 6, 2011. On May 11, 2011, the Subcommittee held a hearing on H.R. 1741 and received testimony from Mr. Gary Cote, Acting Deputy Assistant Director for the Office of International Affairs at Immigration and Customs Enforcement, Department of Homeland Security; Mr. David T. Donahue, Deputy Assistant Secretary for Visa Services at the Bureau of Consular Affairs, State Department; Ms. Janice Kephart, Director of National Security Policy at the Center for Immigration; and Mr. Edward (Ted) Allen, Bernard L. Schwartz Senior Fellow at the Council on Foreign Relations.

Hearing on H.R.1932, the “Keep Our Communities Safe Act of 2011” (Serial No. 112-_)

Summary – H.R. 1932 provides U.S. Immigration and Customs Enforcement with the ability to detain beyond the removal period certain immigrants considered dangerous who have been ordered removed but who cannot be removed; it also makes a number of statutory changes regarding the detention of immigrants before and during removal proceedings.

Legislative History – H.R. 1932 was introduced on May 23, 2011, by Committee Chairman Lamar Smith and referred to the Subcommittee on Immigration on May 23, 2011. On May 24, 2011, the Subcommittee held a hearing on H.R. 1932 and received testimony from Gary Mead, Executive Associate Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Department of Homeland Security; Thomas Dupree, Partner, Gibson Dunn & Crutcher; Police Chief Douglas Baker, Tampa, Florida Police Department; and Ahilan Arulanantham, Deputy Legal Director, American Civil Liberties Union of Southern California.

Oversight Activities

Hearing on ICE Worksite Enforcement - Up to the Job? (Serial No. 112-2)

On January 26, 2011, the Subcommittee held a hearing on the level and focus of U.S. Immigration and Customs Enforcement's enforcement of the laws prohibiting the employment of unauthorized workers. The Subcommittee received testimony from Mr. Kumar Kibble, Deputy Director at U.S. Immigration and Customs Enforcement, Department of Homeland Security; Mr. Mark Krikorian, Executive Director at Center for Immigration Studies, Mr. Michael Cutler; Mr. Daniel Griswold, Director, Center for Trade Policy Studies at Cato Institute.

Hearing on E-Verify - Preserving Jobs for American Workers (Serial No. 112-4)

On February 10, 2011, the Subcommittee held a hearing on the operations of the E-Verify program to verify the employment eligibility of workers. The Subcommittee received testimony from Ms. Theresa Bertucci, Associate Director, Enterprise Services Directorate, U.S. Citizenship and Immigration Services; and Mr. Richard M. Stana, Director of Homeland Security and Justice Issues, U.S. Government Accountability Office.

Hearing on Making Immigration Work for American Minorities (Serial No. 112-10)

On March 1, 2011, the Subcommittee held a hearing on the impact of low-skilled immigration on American minority groups. The Subcommittee received testimony from Dr. Carol M. Swain, Professor of Political Science and Law at Vanderbilt University Law School; Mr. Frank Morris, former Executive Director of the Congressional Black Caucus and Board member of Progressives for Immigration Reform; Mr. George Rodriguez, President of San Antonio Tea Party; and Mr. Wade Henderson, President and CEO of the Leadership Conference on Civil and Human Rights

Hearing on New Jobs in Recession and Recovery: Who Are Getting Them and Who Are Not (Serial No. 112-11)

On March 10, 2011, the Subcommittee held a hearing on a number of studies that found that all net new job creation has gone to immigrant workers. The Subcommittee received testimony from Mr. Steven Camarota, Ph.D, Director of Research, Center for Immigration Studies; Mr. Rakesh Kochhar, Ph.D, Associate Director for Research, Pew Hispanic Center; Mr. Greg Serbon, State Director, Indiana Federation for Immigration Reform and Enforcement; and Ms. Heidi Shierholz, Ph.D, Economist, Economic Policy Institute.

Hearing on H-1B Visas: Designing a Program to Meet the Needs of the U.S. Economy and U.S. Workers (Serial No. 112-23)

On March 31, 2011, the Subcommittee held a hearing on the H-1B temporary visa program for specialty occupation workers to study concerns of employers, H-1B workers and affected American workers regarding the operation of the program. The Subcommittee received testimony from Mr. Donald Neufeld, Associate Director of Service Center Operations, U.S. Citizenship and Immigration Services; Mr. Bo Cooper, Partner, Berry Appleman & Leiden LLP;

Mr. Ron Hira, Ph.D, Associate Professor of Public Policy, Rochester Institute of Technology;
Mr. Bruce A. Morrison, Chairman, Morrison Public Affairs Group.

Hearing on the H-2A Visa Program: Meeting the Growing Needs of American Agriculture?
(Serial No. 112-28)

On April 13, 2001, the Subcommittee held a hearing on the H-2A temporary visa program for seasonal farm workers to study concerns of growers, H-2A workers and affected American workers regarding the operation of the program. The Subcommittee received testimony from Ms. Jane Oates, Assistant Secretary for Employment and Training, U.S. Department of Labor; Mr. Leon R. Sequeira, Of Counsel, Seyfarth Shaw LLP; Mr. Lee Wicker, Deputy Director, North Carolina Growers Association; Mr. Bruce Goldstein, President, Farmworker Justice.

SUBCOMMITTEE ON INTELLECTUAL PROPERTY, COMPETITION, AND THE
INTERNET ¹

BOB GOODLATEE, Virginia, *Chairman*
BEN QUAYLE, Arizona, *Vice-Chairman*

F. JAMES SENSENBRENNER, Jr., Wisconsin	MELVIN L. WATT, North Carolina
HOWARD COBLE, North Carolina	JOHN CONYERS, Jr., Michigan
STEVE CHABOT, Ohio	HOWARD L. BERMAN, California
DARRELL E. ISSA, California	JUDY CHU, California
MIKE PENCE, Indiana	TED DEUTCH, Florida
JIM JORDAN, Ohio	LINDA T. SACHEZ, California
TED POE, Texas	JERROLD NADLER, New York
JASON CHAFFETZ, Utah	ZOE LOFGREN, California
TIM GRIFFIN, Arkansas	SHEILA JACKSON LEE, Texas
TOM MARINO, Pennsylvania	MAXINE WATERS, California
SANDY ADAMS, Florida	Vacancy
Vacancy	

¹ Subcommittee chairmanship and assignments approved January 19, 2011.

Tabulation of subcommittee legislation and activity

Public:

Legislation referred to the Subcommittee.....	10
Legislation on which hearings were held.....	1
Legislation reported favorably to the full Committee.....	0
Legislation reported adversely to the full Committee.....	0
Legislation reported without recommendation to the full Committee.....	0
Legislation reported as original measure to the full Committee.....	0
Legislation discharged from the Subcommittee	1
Legislation pending before the full Committee	0
Legislation reported to the House	1
Legislation discharged from the Committee.....	0
Legislation pending in the House	0
Legislation passed by the House.....	0
Legislation pending in the Senate	0
Legislation vetoed by the President (not overridden).....	0
Legislation enacted into Public Law.....	0
Legislation enacted into Public Law as part of other legislation	0
Days of legislative hearings.....	1
Days of oversight hearings.....	13

Jurisdiction of the Subcommittee

The Subcommittee on Intellectual Property, Competition, and the Internet shall have jurisdiction over the following subject matters: copyright, patent, trademark law, information technology, antitrust matters, other appropriate matters as referred by the Chairman, and relevant oversight.

Legislative Activity

Hearing on H.R. 1249, the “America Invents Act” (Serial No. 112-_)

Summary – H.R. 1249 increases funding for the U.S. Patent and Trademark Office, authorizes the agency to grant patents under first-inventor-to-file system, and makes other improvements to the Patent Act.

Legislative History - Committee Chairman Lamar Smith introduced H.R. 1249 on March 30, 2011. The Subcommittee held a hearing on the bill the same day, during which the following witnesses testified: the Honorable David Kappos, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office; the Honorable Steve Bartlett, former Member of Congress and President and CEO of The Financial Services Roundtable; Steven W. Miller, Vice President and General Counsel for Intellectual Property, Procter & Gamble Company; Mark Chandler, Senior Vice President, General Counsel, and Secretary, Cisco Systems, Inc.; and John Vaughn, Executive Vice President, Association of American Universities.

The Full Committee marked-up H.R. 1249 on April 14, 2011 and reported the bill as amended by a roll call of 32 yeas to 3 nays. The Full Committee reported the bill, as amended, to the House on June 1, 2011 as House Report 112-98, Part I. The bill was placed on the Union Calendar, Calendar No. 54, on the same day.

Oversight Activities

Hearing on How an Improved U.S. Patent and Trademark Office Can Create Jobs (Serial No. 112-6)

On January 25, 2011, the Subcommittee held a hearing on the operations of the U.S. Patent and Trademark Office. The Subcommittee heard witness testimony from the Honorable David J. Kappos, Undersecretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office; Douglas K. Norman, President, Board of Directors, Intellectual Property Owners Association; and Robert J. Shapiro, Chairman and Co-Founder, Sonecon LLC.

Hearing on Crossing the Finish Line on Patent Reform - What Can and Should be Done (Serial No. 112-8)

The Subcommittee met on February 11, 2011, to receive testimony from David Simon, Associate General Counsel, Intellectual Property Policy, Intel Corporation, on behalf of the Coalition for Patent Fairness; Carl Horton, Chief Intellectual Property Counsel, General Electric, on behalf of the Coalition for 21st Century Patent Reform; and the Honorable Paul Michel (Ret.), former Chief Judge, U.S. Court of Appeals for the Federal Circuit. The Subcommittee inquired into the financial impacts of the failures of the patent system, solutions for proper funding, and other substantive changes to the patent system to enhance patent quality.

Hearing on Ensuring Competition on the Internet: Net Neutrality and Antitrust (Serial No. 112-13)

A hearing was held on February 15, 2011, to examine the approach taken by the FCC in regulating competition on the Internet. The Subcommittee questioned the usefulness and function of having an administrative body pass judgment on whether behavior was reasonable in the face of anticompetitive concerns. Considerations toward the role that the government should play in the process of deciding anticompetitive behavior were further refined, with emphasis placed on the courts, not administrative bodies, in deciding what constitutes anticompetitive behavior.

Testimony was heard from Larry Downes, Senior Adjunct Fellow, TechFreedom; Laurence Brett (“Brett”) Glass, Owner and Founder, LARIAT; and Gigi B. Sohn, President and Co-Founder, Public Knowledge.

Hearing on Oversight of the Office of the U.S. Intellectual Property Enforcement Coordinator (Serial No. 112-_)

On March 1, 2011, testimony was heard from Victoria Espinel, Intellectual Property Enforcement Coordinator. She discussed the Administration’s goals and strategies regarding intellectual property enforcement. These include curtailing the introduction of counterfeit goods into our military and national marketplace, public transparency, coordination in law enforcement, and international cooperation and outreach.

Hearing on Driving American Innovation: Creating Jobs and Boosting our Economy (Serial No. 112-19)

The Subcommittee held a hearing on March 9, 2011, to examine how our nation’s intellectual property laws encourage innovation and how innovation creates jobs and spurs economic growth. Witness testimony supported the strong role of intellectual property in our daily lives and in the different sectors of technology-related industries.

Witness testimony was heard from Anthony Atala, M.D., Director of Wake Forest Institute for Regenerative Medicine, W.H. Boyce Professor and Chair, Department of Urology,

Wake Forest University School of Medicine; Michael S. Fulkerson, Ph.D., Chief Technology Officer, Rosetta Stone, Inc.; and Scott Smith, Ph.D., Professor and Chair, Department of Mechanical Engineering and Engineering Science, University of North Carolina at Charlotte.

Hearing on Review of Recent Judicial Decisions on Patent Law (Serial No. 112-20)

On March 10, 2011, the Subcommittee held a hearing to discuss and examine recent Supreme Court and other federal judicial decisions regarding patent law, including the ways in which the courts have dealt with the correction of abuses within the patent system. The Subcommittee also heard suggestions from witnesses regarding the proper role of Congress in managing patent reform, and what should or should not be done by Congress in order to appropriately act with regards to the costs and the benefits of any changes in patent reform.

The Subcommittee heard testimony from Dan L. Burk, Chancellor's Professor of Law, University of California, Irvine, School of Law; Andrew J. Pincus, Partner, Mayer Brown LLP; and Dennis Crouch, Associate Professor of Law, University of Missouri School of Law.

Hearing on Promoting Investment and Protecting Commerce Online: Legitimate Sites v. Parasites, Part I and Part II (Serial No. 112-_)

On March 14, 2011, the Subcommittee met to receive testimony from Maria A. Pallante, Acting Register of Copyrights, U.S. Copyright Office; David Sohn, Senior Policy Counsel, Center for Democracy and Technology; Daniel Castro, Senior Analyst, Information Technology and Innovation Foundation; and Frederick Huntsberry, Chief Operating Officer, Paramount Pictures. The hearing focused on differentiating between legitimate websites that operate within the confines of the law and rogue websites that promote theft and weaken the industries that rely on intellectual property and related investments. The Subcommittee raised questions about how best to cooperate with international jurisdictions to identify and shut down rogue websites.

The Subcommittee convened a second hearing on this issue on April 6, 2011. The Subcommittee received witness testimony from the Honorable John Morton, Director, U.S. Immigration and Customs Enforcement; Floyd Abrams, Partner, Cahill Gordon & Reindel LLP; Kent Walker, Senior Vice President and General Counsel, Google; and Christine Jones, Executive Vice President and General Counsel, Go Daddy Group.

Hearing on Competition and Consolidation in Financial Markets (Serial No. 112-24)

The Subcommittee convened this hearing on April 1, 2011. Testimony was heard from Lawrence E. Harris, Fred V. Keenan Chair in Finance, Professor of Finance and Business Economics, Marshall School of Business, University of Southern California; and Mercer E. Bullard, Associate Professor of Law, the University of Mississippi School of Law. The hearing centered on anticompetitive considerations in the purchase of New York Stock Exchange Euronext by either Deutsche Borse or a joint purchase by NASDAQ, OMX and the IntercontinentalExchange. The Subcommittee discussed the importance of the links among the

groups involved in global finance and how a proposed merger between NYSE Euronext and another global finance company would affect the global finance markets.

Hearing on ICANN Generic Top-Level Domains (gTLD) (Serial No. 112-_)

On May 4, 2011, the Subcommittee met to discuss a proposal by the Internet Corporation for Assigned Names and Numbers, the non-profit company that oversees domain names on the Internet, to expand Generic Top-Level Domains. The proposal would create significantly more revenue for ICANN, possibilities for new businesses to manage the new gTLDs, and more options for registrars to sell domain names to consumers. The Subcommittee also discussed the need to protect the rights of trademark holders in a way that does not promote fraud, consumer confusion, and intellectual property theft. There were also inquiries into other entities seeking this expansion, and the necessity of the proposal as a whole.

The Subcommittee heard witness testimony from Kurt Pritz, Senior Vice President, Stakeholder Relations, ICANN; Mei-Lan Stark, Senior Vice President, Intellectual Property, Fox Group Legal and Treasurer, International Trademark Association; Michael Palage, President and CEO, Pharos Global; Steve Delbianco, Executive Director, Netchoice; and Joshua Bourne, President, Coalition Against Domain Name Abuse.

Hearing on Ensuring Competition on the Internet: Net Neutrality and Antitrust (Serial No. 112-_)

Testimony was heard from the Honorable Julius Genachowski, Chairman, Federal Communications Commission; and the Honorable Robert McDowell, Commissioner, Federal Communications Commission, at the Subcommittee hearing on May 5, 2011. This was the second part of the hearing the Subcommittee held on February 15, 2011. The purpose of this hearing was to further discuss the FCC's Open Internet Order, the FCC's authority to create such an order, and its affect on Internet competition and innovation. The Subcommittee also discussed actions taken by Congress since the February 15 hearing, including the passage of House Joint Resolution 37, disapproving of the Open Internet Order pursuant to the Congressional Review Act.

Hearing on Cybersecurity: Innovative Solutions to Challenging Problems (Serial No. 112-_)

On May 25, 2011, the Subcommittee met to hear witness testimony from James A. Baker, Associate Deputy Attorney General, U.S. Department of Justice; Greg Schaffer, Assistant Secretary, Cybersecurity and Communications, U.S. Department of Homeland Security; Ari Schwartz, Senior Internet Policy Advisor, National Institute of Standards and Technology, U.S. Department of Commerce; Robert W. Holleyman, President & CEO, Business Software Alliance; Leigh Williams, BITS President, Financial Services Roundtable; and Leslie Harris, President and CEO, Center for Democracy & Technology.

The hearing focused on weighing considerations of proposed legislation that would classify certain industries, such as energy and finance, as critical infrastructure, and mandate companies in those industries to adhere to a cybersecurity standard of protection against hackers and other cyber attacks for their online servers that store private and personal information. The proposed legislation also would mandate disclosure of successful cyber attacks of businesses where significant public harm would be deemed to have occurred, depending on the size of the business and number of persons involved in the storage of personal information.

Hearing on How Will the Proposed Merger Between AT&T and T-Mobile Affect Wireless Telecommunications Competition? (Serial No. 112-_)

The Subcommittee convened a hearing on May 26, 2011, to examine the proposed merger between AT&T and T-Mobile. Testimony was received from Randall Stephenson, Chairman, Chief Executive Officer and President, AT&T, Inc.; Rene Obermann, CEO, Deutsche Telekom AG; Steven K. Berry, President and CEO, Rural Cellular Association; Parul P. Desai, Communications Policy Counsel, Consumers Union; Joshua Wright, George Mason University School of Law; and Andrew I. Gavil, Howard University School of Law.

The Subcommittee discussed anticompetitive considerations in the cellular telephone market for remaining carriers subsequent to the proposed merger. Inquiries were made into the advantages for AT&T for the merger and T-Mobile's need for the merger.

Hearing on Promoting Investment and Protecting Commerce Online: The ART Act, the NET Act and Illegal Streaming. (Serial No. 112-_)

On June 1, 2011, the Subcommittee held a hearing to discuss the creation of legislation to supplement the aims of the ART Act and the NET Act and address the issue of illegal streaming, the newest form of technology used in piracy-related activities online. The Subcommittee raised questions about how best to protect sites like Netflix and others who presented a legal means for commercial viewing of copyrighted works, while simultaneously giving law enforcement agencies the tools they need to identify and shut down sites that willfully and knowingly engage in unlawful activities via online streaming of video.

The Subcommittee heard witness testimony from the Honorable Maria Pallante, Acting Register, U.S. Copyright Office; Ms. Sandra Aistars, Executive Director, Copyright Alliance; and Mr. Michael O'Leary, Executive Vice President, Motion Picture Association of America.