



**U.S. House of Representatives  
Committee on Energy and Commerce  
Minority Staff**

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**Rep. Henry A. Waxman's Record of Accomplishment**

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## I. EXECUTIVE SUMMARY

Rep. Henry A. Waxman has a long record of legislative and oversight accomplishment. For forty years, he has played a leading role in the enactment of major health, consumer protection, environmental, telecommunications, and good government laws. He has also been one of the masters of congressional oversight.

Rep. Waxman's legislative skill has been widely recognized. He has been called "liberalism's legislative genius,"<sup>1</sup> "one of the ablest members of the House,"<sup>2</sup> and "one of the most accomplished legislators of our times."<sup>3</sup> As one profile reported, "His legislative campaigns unfold over spans of time beyond the patience of most lawmakers and sometimes defy political gravity."<sup>4</sup> Thomas Scully, the Administrator for the Centers for Medicare and Medicaid Services under President George W. Bush, once said, "Fifty percent of the social safety net was created by Henry Waxman when no one was looking."<sup>5</sup> Republican Senator Alan Simpson called him "tougher than a boiled owl" for his persistence in passing the landmark Clean Air Act Amendments of 1990.<sup>6</sup>

His oversight abilities have drawn similar comments. He has been called "the Democrats' Eliot Ness,"<sup>7</sup> "the Scariest Guy in Town,"<sup>8</sup> "the most feared Democrat on Capitol Hill,"<sup>9</sup> and "the Bush Administration's worst nightmare."<sup>10</sup> Commenting on his tenure as Chairman of the House Oversight Committee, Thomas Mann, a congressional expert at the Brookings Institution, said, "Waxman has been a spectacular success. ... On all important counts – the range, volume and quality of his oversight initiatives – he almost single-handedly revived the critical role of Congress in overseeing the executive."<sup>11</sup> When *Time Magazine* listed the "top 10 corporate grillings" in the history of Congress, four of them were hearings that Rep. Waxman chaired.<sup>12</sup>

This report summarizes the legislative and oversight record of Rep. Waxman. It is a record of breadth, depth, and accomplishment.

Legislatively, Rep. Waxman has left his mark in five areas: health policy, consumer protection, environmental protection, telecommunications policy, and good government laws. Some of the major health legislation that Rep. Waxman has written or played a leading role in enacting includes:

***The Affordable Care Act***, which gives all Americans access to affordable health insurance, strengthens Medicare and Medicaid, and reduces the deficit.

***Medicaid and CHIP Expansions***, which extended the coverage and benefits available to millions of needy and working families.

***Nursing Home Reforms***, which stopped the industry's worst abuses and protected the rights of vulnerable residents.

***The Waxman-Hatch Generic Drug Act***, which gave rise to the generic drug industry, saving consumers over \$1 trillion in the last decade alone.

***The Orphan Drug Act***, which gave drug companies incentives to develop treatments for rare diseases they had previously ignored.

***The Ryan White CARE Act***, which provides medical care and other services to Americans living with HIV/AIDS.

***Women's Health Initiatives***, including the laws establishing standards for mammography, requiring the inclusion of women in clinical trials, and creating the Office of Research on Women's Health at NIH.

***The National Childhood Vaccine Injury Act***, which strengthened FDA oversight of vaccine manufacturers and created a no-fault compensation system for vaccine-related injuries.

***FDA User Fee Laws***, which raise hundreds of millions of dollars each year from drug and device manufacturers to fund vital FDA functions.

Some of the major consumer protection laws that Rep. Waxman has written or played a leading role in enacting include:

***The Nutrition Labeling Act***, which mandated the ubiquitous and popular nutrition labels that consumers rely upon to compare packaged foods.

***The Food Quality Protection Act***, which established a strong health-based standard for pesticide residues in food.

***The Food Safety Modernization Act***, which sets science-based standards for the safe production and harvesting of raw agricultural commodities and requires new preventative controls for companies that process or package foods.

***Cigarette and Smokeless Tobacco Health Warning Laws***, which required rotating Surgeon General warnings on cigarette packages and advertisements and the first health warnings on smokeless tobacco packages and advertisements.

***The Family Smoking Prevention and Tobacco Control Act***, which restricted the marketing of cigarettes and smokeless tobacco to children and gave FDA jurisdiction over tobacco products.

***The Safe Medical Devices Act***, which enhanced public protection from dangerous medical devices by requiring mandatory reporting of adverse events and surveillance and tracking of implantable devices.

***The Drug Quality and Security Act***, which strengthens FDA's authority over compounded drugs and creates a uniform system for tracking drugs to prevent counterfeits.

Some of the major environmental laws that Rep. Waxman has written or played a leading role in enacting include:

***The 1990 Clean Air Act Amendments***, which established new programs to reduce urban smog, hazardous air pollution, and acid rain and prevent the depletion of the stratospheric ozone layer.

***Safe Drinking Water Act Amendments***, which strengthened the standards for drinking water and established funding mechanisms for drinking water infrastructure improvements.

***Laws Reducing Childhood Lead Exposure***, including laws removing lead from plumbing supplies, water coolers, and children's toys, requiring disclosure of lead hazards during real estate transactions, and setting standards for safe renovations.

***The Formaldehyde Standards Act***, which set minimum standards for formaldehyde levels from plywood, fiberboard, and particleboard.

***Laws Reducing Greenhouse Gas Emissions***, including provisions requiring greater efficiency in federal buildings and procurement of clean vehicles.

Some of the major telecommunications laws that Rep. Waxman has written or played a leading role in enacting include:

***Spectrum Reforms***, which will ease the nation's growing spectrum shortage, enable new "super WiFi" applications, and create a nationwide broadband network for first responders.

***The 21<sup>st</sup> Century Video and Communications Accessibility Act***, which increases the access of persons with disabilities to smart phones and other modern communications devices.

And some of the major good government laws that Rep. Waxman has written or played a leading role in enacting include:

***Procurement Reforms***, which enhanced competition, transparency, and accountability in government contracting to reduce waste, fraud, and abuse.

***The Postal Accountability and Enhancement Act***, the first major overhaul of the U.S. Postal Service since 1970.

Rep. Waxman's oversight record matches his legislative one. Some of his major investigations have probed:

***Waste, Fraud, and Abuse***, identifying over \$1 trillion in wasteful and mismanaged federal contracts, including billions of dollars of wasteful spending in Iraq and the response to Hurricane Katrina.

***Misleading Intelligence***, exposing over 200 misleading statements by senior Bush Administration officials about the threat posed by Iraq.

***The Tobacco Industry***, revealing decades of industry concealment of the dangers of smoking and the addictiveness of nicotine.

***Steroids in Baseball***, uncovering the extent of players' illegal drug use during baseball's "steroids era" and prompting major reforms in steroid policies in baseball and other sports.

***Politicization of Science***, disclosing dozens of instances in which Bush Administration officials distorted or misrepresented science, such as funding misleading abstinence-only education programs or censoring climate experts.

***The Wall Street Collapse***, examining the fall of Lehman Brothers and AIG, the failure of the credit rating agencies, and the negligence and mistakes of market regulators.

***The Gulf Oil Spill***, disclosing a series of overlooked warnings and risky decisions made by BP to reduce costs and save time.

Rep. Waxman wrote a book in 2009 about his legislative career entitled *The Waxman Report: How Congress Really Works*. The *Los Angeles Times* book review commented: "when the history of postwar America is definitively written, it's possible the record will show that the three California politicians who had the biggest impact on the largest number of American lives were Earl Warren, as chief justice; Ronald Reagan, as president; and Henry Waxman as representative of the 30<sup>th</sup> District in the U.S. House of Representatives."<sup>13</sup>

## **II. REP. WAXMAN'S LEGISLATIVE ACCOMPLISHMENTS**

Many profiles have been published about Rep. Waxman and his long legislative record. In one article, a reporter wrote, "Henry Waxman, a short, bald, reserved, Jewish liberal from Los Angeles, [has] managed to rack up more legislative and political victories than any member of Congress in recent memory."<sup>14</sup> The *Los Angeles Times* called him "liberalism's legislative genius";<sup>15</sup> the *Almanac of American Politics* said he is "one of the ablest members of the House" and "a shrewd political operator who is a skilled and idealistic policy entrepreneur";<sup>16</sup> *Congressional Quarterly* described him as "one of Congress' most adroit political practitioners";<sup>17</sup> and *Politico* reported he is "one of the most skillful deal makers and vote counters on Capitol Hill."<sup>18</sup> According to James Thurber, director of the Center for Congressional and Presidential Studies at American University, "He has had a unique record. He's racked up so many successes."<sup>19</sup>

*Washington Post* columnist Harold Meyerson once described Rep. Waxman as “probably the House’s most accomplished legislator [on] ... universal health care, global warming and enhanced consumer protections.”<sup>20</sup> Harold Varmus, the Nobel prize-winning head of the National Cancer Institute, has commented that he is “one of the most accomplished legislators of our time” with “remarkable legislative records in domains in which science is important, including health care and regulatory policy.”<sup>21</sup> Joan Claybrook, the long-time consumer advocate and former head of Public Citizen, has said, “In all our battles against entrenched corporate interests, the strongest and most effective champion for consumers we have ever worked with is Congressman Henry Waxman.”<sup>22</sup> The Sierra Club’s magazine has called Rep. Waxman “Mr. Clean” for his efforts to reduce air pollution.<sup>23</sup>

In his review of Rep. Waxman’s work, Robert Kaiser of the *Washington Post* wrote, “Henry Waxman is to Congress what Ted Williams was to baseball – a natural.”<sup>24</sup> Ralph Nader once said, “Henry Waxman is the only argument against term limits.”<sup>25</sup>

A common theme in profiles of Rep. Waxman is his determination and patience. The *National Journal* has reported, “Much of Waxman’s success has come from combining long-range vision with persistence and a willingness to progress one small step at a time.”<sup>26</sup> The *Los Angeles Times* used an example from Rep. Waxman’s decade-long battle to strengthen the Clean Air Act to make a similar point:

Waxman’s tenacity is legendary. He held up the Clean Air Act for nearly a decade until its provisions on emission controls and acid rain were strengthened. At one point in the early ‘80s, he blocked a key vote on a weakened version by offering 600 amendments, which he had wheeled into the committee room in shopping carts.<sup>27</sup>

His colleagues on both sides of the aisle have made similar observations, though in more colorful language. Former Republican Senator Alan Simpson once said, “Henry Waxman is tougher than a boiled owl.”<sup>28</sup> Rep. Waxman’s friend and long-time colleague, Democratic Rep. George Miller, remarked, “I thought Henry’s first name was ‘sonofabitch.’ Everybody ... kept saying, ‘Do you know what that sonofabitch Waxman wants?’”<sup>29</sup>

Rep. Waxman was Chairman of the Health and Environment Subcommittee of the Energy and Commerce Committee from 1979 through 1994. His role during this period in the expansion of Medicaid in the 1980s and early 1990s is one example of his legislative success. According to the *Washington Monthly*:

His legislative campaigns unfold over spans of time beyond the patience of most lawmakers, and sometimes defy political gravity – in the 1980s, when anything smacking of Great Society liberalism was on the chopping block, Waxman managed to expand the Medicaid program twenty-four times.<sup>30</sup>

Similarly, *CQ Weekly* wrote: “Inch by inch, budget by excruciating budget, the California Democrat in the 1980s and early 1990s almost singlehandedly expanded Medicaid, the federal health care program for the poor, into the sweeping benefit program it is today.”<sup>31</sup>

Before Rep. Waxman started his expansion of Medicaid coverage, the program provided health coverage to poor single mothers and children on welfare, along with low-income elderly and disabled people. Rep. Waxman expanded Medicaid in a series of steps to cover children in families of the working poor, first-time pregnant women in low-income households, and families transitioning from welfare to work. He also added important new benefits, such as community-based long-term care for seniors and persons with disabilities wishing to remain at home.

The conservative Republican activist Grover Norquist once wrote an op-ed lamenting how Rep. Waxman succeeded in expanding Medicaid coverage:

Using what have become known as “Waxman Amendments,” he expands small, inconsequential programs until they consume a much larger share of the federal budget than ever was contemplated at their creation. From 1984 to 1990, Mr. Waxman pushed for 24 new Medicaid initiatives that cost taxpayers \$888 million in their first year of implementation. Five years later, these same initiatives cost taxpayers \$5.4 billion. Government spending on Medicaid approaches \$90 billion every year, due in large part to the efforts of Henry Waxman.<sup>32</sup>

Thomas Scully, the Administrator for the Centers for Medicare and Medicaid Services under President George W. Bush, made the point this way: “Fifty percent of the social safety net was created by Henry Waxman when no one was looking.”<sup>33</sup>

A cornerstone of Rep. Waxman’s legislative approach has been to find Republican partners in his legislative endeavors. Rep. Waxman worked with Senator Orrin Hatch (R-UT) to pass landmark generic drug legislation; former Republican Surgeon General C. Everett Koop and Rep. Norm Lent (R-NY) to pass HIV/AIDS legislation; Rep. Ed Madigan (R-IL), the Secretary of Agriculture under President George H.W. Bush, to pass nutrition labeling legislation; President George H.W. Bush, Senator John Chafee (R-RI), and Reps. Jerry Lewis (R-CA) and Sherry Boehlert (R-NY) to pass the 1990 Clean Air Act Amendments; Energy and Commerce Committee Chairman Tom Bliley (R-VA) to pass food safety and safe drinking water legislation; and Government Reform Committee Chairman and Ranking Member Tom Davis (R-VA) to pass procurement and postal reforms.

Former Republican Rep. Tom Tauke (R-IA) said, “he has been able to forge bipartisan agreements a remarkable number of times.”<sup>34</sup> Former Republican Energy and Commerce Chairman Bliley commented, “He’s willing to listen – not always to agree but willing to listen. Other people say, ‘Look, I got the vote, and I don’t need to fool with you.’ That’s not Henry’s style.”<sup>35</sup> Former Republican Government Reform Committee Chairman and Ranking Member Davis stated, “I have a very high regard for his intellect and energy. Our discussions are rational and honorable.”<sup>36</sup>

One of the shortest and best summaries of Rep. Waxman’s legislative record was provided by Rep. Henry Hyde, the former Republican Chairman of the Judiciary Committee, who was a staunch opponent of abortion but worked with Rep. Waxman to expand prenatal care under Medicaid: “He’s effective as hell.”<sup>37</sup>



## **A. Major Health Laws**

### **1. The Affordable Care Act**

On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act into law.<sup>38</sup> This historic legislation, which Rep. Waxman steered through the Energy and Commerce Committee after an arduous markup and championed in the House, guarantees access to affordable health care, protects consumers from insurance industry abuses, strengthens Medicare and Medicaid, and reduces the deficit.

When fully implemented, the Affordable Care Act will extend coverage to over 30 million Americans. Starting in January 2014, federal and state-based health insurance exchanges are creating a competitive and affordable health insurance market in which no one can be denied coverage or charged more because of a pre-existing condition. To ensure affordable premiums, tax credits are provided to individuals and families making under 400% of the poverty level (\$46,680 for individual and \$95,400 for a family of four).

Under the Affordable Care Act, insurance companies can no longer rescind, cap, or limit coverage when an individual gets sick. Insurance plans are now required to cover recommended preventive services at no cost. The law also requires insurance companies to spend at least 80 cents of each of premium dollar on actual health care or pay the consumer a rebate on the premium. Total savings have already reached nearly \$5 billion.<sup>39</sup>

To strengthen Medicare, the law closes the Medicare prescription drug “donut hole,” saving millions of seniors hundreds of dollars each year. Nationwide, total drug savings for seniors are now nearly \$9 billion.<sup>40</sup> All Medicare beneficiaries now have access to free preventive services.

Not only will the Affordable Care Act expand coverage, it will also lower health care costs and reduce the country’s deficit. The Congressional Budget Office estimated that the law will reduce the deficit by over \$100 billion over 10 years and over \$1.5 trillion over 20 years.<sup>41</sup>

### **2. Medicaid and CHIP Expansions**

The Medicaid program is the healthcare safety net for our most vulnerable populations, including low-income children, pregnant women, seniors, and individuals with disabilities. Rep. Waxman is the primary champion of Medicaid in the House and has made many notable improvements to Medicaid over his career.

During the 1980s and 1990s, Rep. Waxman wrote a series of laws that expanded Medicaid coverage for low-income children (by requiring Medicaid coverage of children under age 19 in families with incomes up to 100% of the poverty level and up to 133% of the poverty level for children under the age of 6); low-income pregnant women (by requiring coverage of prenatal, maternity, and post partum care for pregnant women making up to 133% of the poverty level); individuals transitioning to work (by extending their coverage for a year to avoid a

deterrent to work); and low-income seniors (by requiring help with Medicare premiums and cost sharing).<sup>42</sup>

During the same period, Rep. Waxman also wrote laws improving the benefits available under Medicaid. He wrote the law that expanded Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) for children, which includes the services necessary to ensure healthy development, such as eyeglasses and dental care.<sup>43</sup> Rep. Waxman also expanded coverage for seniors and individuals with disabilities, allowing them to receive long term-community support to help them remain at home.<sup>44</sup>

To protect the interests of taxpayers, Rep. Waxman wrote the 1990 law that requires drug manufacturers to provide discounts to Medicaid.<sup>45</sup> This program saves taxpayers over \$10 billion every year in prescription drug costs.

Rep. Waxman continued to expand coverage by helping to enact the Children's Health Insurance Program in 1997.<sup>46</sup> CHIP today provides health coverage for more than 8.3 million children in working families with incomes too high to qualify for Medicaid coverage; together, Medicaid and CHIP now cover one in three children in the United States.<sup>47</sup> Rep. Waxman was the leader in the effort to expand CHIP coverage in 2009 to include legal immigrant pregnant women and children.<sup>48</sup>

In 2010 as part of the Affordable Care Act, Rep. Waxman succeeded in extending Medicaid coverage to everyone below 138% of the poverty level.<sup>49</sup> A 2012 Supreme Court ruling gave states the option of turning down this extended coverage even though it is paid for 100% through federal contributions for the first three years and at least 90% thereafter. As of January 2014, more than half the states have elected to extend Medicaid coverage.<sup>50</sup>

### **3. Nursing Home Reforms of 1987, 1988, and 2010**

Rep. Waxman has led the effort in the House of Representatives to improve quality in nursing homes and stop spousal impoverishment. He has also conducted dozens of investigations of nursing home quality.

In the 1980s, the Institute of Medicine chronicled substandard nursing home care and documented widespread abuse and neglect of frail and elderly nursing home residents. As a result of Rep. Waxman's leadership, Congress passed the Nursing Home Reform Act in 1987, which established quality of care standards to protect nursing home residents.<sup>51</sup> The law also created a resident's "Bill of Rights" that gives basic rights to nursing home residents, such as the right to be free from mistreatment and physical restraints.

A year later, Rep. Waxman was the lead advocate in the House for financial protections for spouses of nursing home residents. The law that resulted, the Medicare Catastrophic Coverage Act of 1988, protects spouses from impoverishment when their husband or wife enters a nursing home, ensuring the spouse can keep the family home, a share of the couple's assets, and income to live on.<sup>52</sup>

Rep. Waxman pushed for additional safeguards as part of the 2010 Affordable Care Act.<sup>53</sup> He was the House champion of new nursing home provisions that increase penalties on nursing homes that have subpar care, provide improved training for nursing home staff, give families access to new information about nursing home quality, and require disclosure of corporate ownership structures to increase accountability.

#### **4. The Waxman-Hatch Generic Drug Act**

In 1984, Rep. Waxman and Republican Senator Orrin Hatch worked together to pass the Drug Price Competition and Patent Term Restoration Act, also known as the Waxman-Hatch Act.<sup>54</sup> This law gave rise to the generic drug industry, which now supplies nearly 80% of the prescriptions filled in the United States.

The Waxman-Hatch Act struck a balance between ensuring access to safe, effective, and affordable drugs and providing adequate incentives for innovation. Under the law, a generic equivalent cannot be approved until at least five years after approval of the brand innovator drug. The generic drug is required to demonstrate it is chemically the same as the innovator drug, but the generic is allowed to rely on the brand's safety and effectiveness data rather than having to go through the time and expense of replicating that data. The competition generated through the Act not only results in lower priced drugs, but also fosters innovation by encouraging companies to bring new products to market to replace revenues from older products.

A recent study found that over the last ten years, consumers and taxpayers have saved over \$1 trillion by purchasing generic drugs instead of more expensive brand-name equivalents. Future savings from generic drugs are projected to climb even higher.<sup>55</sup> In 2011 alone, use of generics saved over one billion dollars every other day, totaling \$193 billion for the year.<sup>56</sup>

#### **5. The Orphan Drug Act**

Rep. Waxman worked with actor Jack Klugman and patient advocates to write the Orphan Drug Act in 1983, which gave people afflicted with rare diseases new hope that pharmaceutical treatments and cures would be developed.<sup>57</sup> After passage, orphan drug approvals went from less than one per year to over twelve per year. Since the law was passed, over 400 orphan drugs and biologic products have been developed and marketed.<sup>58</sup>

A rare or orphan disease is defined as one that affects fewer than 200,000 people in the United States. There are over 6,000 rare diseases, many of which are serious or life threatening, affecting approximately 25 million Americans. However, prior to the Orphan Drug Act, drug companies were not developing potential treatments because the small populations in need of the treatments failed to provide an adequate market.

Rep. Waxman's Orphan Drug Act gave drug companies incentives to develop new treatments. The law provided novel market and tax incentives to companies willing to develop drugs for small patient populations. Rep. Waxman has since written a series of laws that have made significant improvements to the original legislation.

A critical aspect of the original law is that it did not compromise FDA's approval standard. Weakening FDA's approval standard to let more drugs on the market could have endangered patients suffering from rare diseases because they would have been using drugs that had not been shown to be safe and effective under FDA standards.

## **6. The Ryan White CARE Act and Other HIV/AIDS Initiatives**

Rep. Waxman has been at the forefront of the effort to stop the HIV/AIDS epidemic since he chaired the first congressional hearings on the then-unknown disease in 1982.<sup>59</sup> In the 1980s, he held over 30 hearings to raise public awareness of a disease no one wanted to talk about. These efforts culminated in passage of the Ryan White CARE Act in 1990.<sup>60</sup>

The Ryan White law provides medical care and other essential services to people living with HIV/AIDS. Under Rep. Waxman's leadership, the law has been reauthorized and expanded four times, most recently in 2009. Currently, the Ryan White program serves more than a half million low-income people.

On the global front, Rep. Waxman has been a leader in advocating for access to generic anti-retroviral (ARV) treatment at affordable costs, including most recently in the context of the Trans-Pacific Partnership (TPP) trade negotiation. He led congressional oversight efforts on the President's Emergency Plan for AIDS Relief (PEPFAR) program.

## **7. Women's Health Initiatives**

Throughout his career, Rep. Waxman has advanced women's health. One example is The Mammography Quality Standards Act of 1992, which Rep. Waxman championed to address growing concern about variations in mammography quality.<sup>61</sup> The law requires accreditation and annual inspections of mammography facilities. When the Mammography Quality Standards Act took effect, over one-third of facilities failed to meet the standards; now all do.<sup>62</sup>

Rep. Waxman was also the primary House author of the National Institutes of Health Revitalization Act, which mandated that women and minorities be included in clinical research trials.<sup>63</sup> The law also created the Office of Research on Women's Health at NIH.

## **8. The National Childhood Vaccine Injury Act**

Rep. Waxman wrote the National Childhood Vaccine Injury Act of 1986 to provide no-fault compensation to children injured by vaccines.<sup>64</sup> The law was enacted to address two serious problems. Growing threats of litigation over vaccine injuries threatened the supply of life-saving vaccines. At the same time, the tort system was not providing reliable compensation to those few children injured by vaccines.

The law responded to the potential public health crisis by creating an alternative system for injury compensation. Under the law, claims for vaccine-related injuries must be filed first before a special panel within the U.S. Court of Federal Claims that provides no-fault compensation funded by an excise tax on manufacturers. If a claimant is not satisfied with the

level of compensation from the vaccine panel, the claimant retains the right to seek judicial relief, but manufacturers are shielded from liability for damages arising from unavoidable side effects. The law was a tremendous success. Vaccine manufacturing continued, while over \$1 billion in compensation has been provided to several thousand individuals injured by vaccines.<sup>65</sup>

The law also strengthened federal oversight of vaccine manufacturers, including establishing a vaccine adverse event reporting system.

## **9. Drug and Device User Fee Laws**

Rep. Waxman helped write the Prescription Drug User Fee Act of 1992 (PDUFA), which authorizes FDA to collect fees from drug manufacturers to fund the Food and Drug Administration review of drug applications.<sup>66</sup> The law has become a vital source of funding for FDA, raising nearly \$800 million in FY 2013.<sup>67</sup>

The success of PDUFA led to the passage of similar laws assessing user fees on device,<sup>68</sup> generic drug and biosimilar drug,<sup>69</sup> and animal drug manufacturers.<sup>70</sup> Rep. Waxman has played a leadership role in the passage and reauthorization of each these laws.

### **B. Major Consumer Protection Laws**

#### **1. The Nutrition Labeling Act**

In the 1980s, there was a barrage of false and misleading health claims on foods, as well as a multitude of nutrition labels that were hard to understand or compare. To remedy the situation, Rep. Waxman wrote the 1990 Nutrition Labeling and Education Act.<sup>71</sup>

The Nutrition Labeling Act standardized nutrition information and curbed false and misleading health claims. The law required the use of the now familiar nutrition labels on packaged foods that allow consumers to compare foods and find those that fit their nutritional preferences. These labels enable consumers to tell at a glance whether a food is high or low in particular nutrients, such as saturated fat or fiber. Today, nearly all packaged foods provide nutrient content information.

The law also set standards for permissible health claims. Prior to passage, some foods with only minimal fiber were labeled as “High Fiber”; some foods high in saturated fat were labeled as “Low Cholesterol,” even though eating foods high in saturated fat increases cholesterol levels; and some foods were labeled as “lite” or “light” because they were lighter in color or were cut into smaller slices, even though they were not “lighter” in calories, fat, or cholesterol. The Nutrition Labeling Act provided FDA authority to take action against such false or misleading labeling.

#### **2. The Food Quality Protection Act**

Rep. Waxman wrote the 1996 Food Quality Protection Act, a comprehensive overhaul of the nation's pesticide laws that established a strong health-based standard for pesticide residues

in food.<sup>72</sup> In this effort, he worked with Republican Energy and Commerce Committee Chairman Tom Bliley to break years of legislative stalemate.

Some of the law's major requirements include stricter safety standards, especially for infants and children and a complete reassessment of all existing pesticide tolerances. The law establishes a single, health-based standard for all pesticides in all foods, eliminating longstanding problems posed by multiple standards for pesticides in raw and processed foods. And it expedites approval of safer pesticides, creates incentives for the development and maintenance of effective crop protection tools for American farmers, and requires periodic re-evaluation of pesticide registrations and tolerances to ensure that the scientific data supporting pesticide registrations will remain up to date in the future.

### **3. The Food Safety Modernization Act**

Under Rep. Waxman's leadership, the FDA Food Safety Modernization Act, which President Obama signed into law in January 2011, became the most sweeping reform of our food safety laws in more than 70 years.<sup>73</sup>

The Food Safety Act requires FDA to set science-based standards for the safe production and harvesting of raw agricultural commodities; it requires companies that process or package foods to establish new preventative controls; and it requires FDA to inspect high-risk food facilities, both domestically and abroad, on a more frequent basis. The law prohibits foreign suppliers from shipping foods to the United States unless they can verify that the food is produced in compliance with U.S. requirements.

The new law also gives FDA authority to order a recall of unsafe foods if a company refuses to do so voluntarily, an authority that food safety advocates have been trying to provide the agency for many years.

### **4. Cigarette and Smokeless Tobacco Health Warning Laws**

Rep. Waxman wrote the 1984 Comprehensive Smoking Education Act.<sup>74</sup> Before passage of this law, the warning labels on cigarette packages had remained virtually unchanged and had cautioned only that smoking was "dangerous" to health. The 1984 law strengthened the health warnings for cigarette packs by mandating stronger language – including warnings linking smoking to lung cancer, heart disease, and other diseases – and requiring that cigarette manufacturers rotate four warnings on cigarette packages and advertisements. The law also extended the warnings to cigarette advertisements.

Rep. Waxman was the House author of the 1986 Comprehensive Smokeless Tobacco Health Education Act.<sup>75</sup> This law required the first health warnings on packages of smokeless tobacco and advertisements for smokeless tobacco.

## **5. The Family Smoking Prevention and Tobacco Control Act**

The culmination of Rep. Waxman's decades-long battle against the tobacco industry was the enactment of the Family Smoking Prevention and Tobacco Control Act of 2009.<sup>76</sup> This legislation was one of the first bills reported by the Energy and Commerce Committee when Rep. Waxman became chair in 2009. The law banned marketing practices that appeal to children and gave the Food and Drug Administration broad authority to regulate the manufacture, distribution, and promotion of tobacco products.

Key provisions in the law set 18 as the federal minimum age to purchase tobacco products; require face-to-face sales of tobacco products so identification can be checked; ban the sale of cigarettes in packages fewer than 20; ban free samples and tobacco company sponsorships of sporting or entertainment events; and require bigger and more prominent warning labels.

The law also gives FDA broad authority over the manufacture of tobacco products, including the authority to set standards that reduce the risk of tobacco products.

## **6. The Safe Medical Devices Act**

Rep. Waxman wrote the Safe Medical Devices Act of 1990.<sup>77</sup> The law was the first major revisions of FDA's authority over medical devices since the original Medical Device Amendments of 1976. The Safe Medical Devices Act required hospitals and other health care facilities to report any deaths or serious injuries from use of medical devices. It also required device manufacturers to establish systems for surveillance of implanted devices and tracking patients with the devices.

## **7. The Drug Quality and Security Act**

In 2012, contaminated compounded drugs from the New England Compounding Center caused a meningitis outbreak that killed more than 50 people and caused hundreds of illnesses. In response, Rep. Waxman worked with Republicans on the Energy and Commerce Committee and Senate leaders to enact the Drug Quality and Security Act of 2013.<sup>78</sup> This legislation clarifies FDA's authority to regulate pharmacies that engage in drug compounding and creates a new class of entities called "outsourcing facilities" that can compound in large quantities in exchange for greater FDA regulation.

The law also establishes a federal system for electronic tracking of prescription drugs to curb pharmaceutical theft, counterfeiting, and diversion.

## **C. Major Environmental Laws**

### **1. The Clean Air Act Amendments of 1990**

Rep. Waxman was one of the primary authors of the 1990 amendments to the Clean Air Act.<sup>79</sup> This landmark legislation established programs to address the problems of urban smog,

hazardous air pollution, acid rain, and the depletion of the stratospheric ozone layer. Many of the provisions of the 1990 Amendments resulted from agreements reached between Rep. Waxman and Rep. John Dingell (D-MI), who was the Chairman of the full Energy and Commerce Committee.

The Clean Air Act has been called “the nation’s most effective environmental law.”<sup>80</sup> Under the law, key air pollutants have been reduced by two-thirds while the economy has more than tripled in size.<sup>81</sup> In 2010 alone, the Clean Air Act prevented over 160,000 premature deaths.<sup>82</sup> The health and economic benefits of Clean Air Act programs have consistently outweighed the costs of pollution reduction by substantial margins. The benefits of the acid rain program exceed the costs by 40 to 1.<sup>83</sup> The programs to clean up vehicles and fuels will produce \$16 in benefits for every \$1 in costs.<sup>84</sup> By 2020, the economic benefit of reducing air pollution is estimated at almost \$2 trillion dollars, exceeding the costs by 30 to 1.<sup>85</sup>

Throughout his career, Rep. Waxman has defended the Clean Air Act when it has been under attack, starting with his successful efforts to defeat President Reagan’s proposal to roll back the law. Last Congress, Rep. Waxman led the opposition to the efforts of Republicans in Congress to undermine the law and block Environmental Protection Agency action to reduce air pollution. In total, the Republican-controlled House voted 95 times to weaken the Clean Air Act. With one exception involving activities in Alaska, none of these bills became law.<sup>86</sup>

## **2. Safe Drinking Water Act Amendments of 1980, 1986, and 1996**

Rep. Waxman has been a leader on safe drinking water issues. He steered the 1980, 1986, and 1996 amendments to the Safe Drinking Water Act through Congress, which established funding mechanisms for drinking water infrastructure improvements, guaranteed the public’s right-to-know about drinking water contamination, and created a federal role in protecting drinking water sources from underground injection.<sup>87</sup>

As a result of Rep. Waxman’s efforts, the Safe Drinking Water Act protects public health, contains safeguards for sources of drinking water, provides more information to consumers, and funds important drinking water infrastructure improvements. These improvements to the law are making a difference: approximately 95% of the U.S. population received their drinking water from systems meeting all health-based drinking water standards in 2012.<sup>88</sup>

## **3. Laws Reducing Childhood Lead Exposure**

Over his career, Rep. Waxman repeatedly acted to reduce childhood lead poisoning, which Centers for Disease Control regarded as the most common and societally devastating environmental disease of young children. Lead is a potent neurotoxin and exposure to lead from lead-based paint, drinking water, and other sources was impairing learning ability and retarding development in millions of American children. In the late 1970s, the majority of children aged one to five years had blood lead levels high enough to impair intellectual and neurological development.<sup>89</sup>



Under Rep. Waxman's leadership, the Safe Drinking Water Act Amendments of 1986 took several steps to reduce lead levels in drinking water.<sup>90</sup> The law banned the use of lead-bearing pipes and lead solder in drinking water systems. It required EPA to set a new drinking water standard for lead. And it required notification to persons who may be affected by lead contamination in their drinking water.

Rep. Waxman also championed the Lead Contamination and Control Act of 1988, which tackled a previously unknown source of lead exposure: drinking water fountains.<sup>91</sup> The legislation required the recall of drinking water coolers with lead-lined tanks; established a program to remove other drinking water coolers containing lead from schools; and required new drinking water coolers to be lead-free.

In 1992, Rep. Waxman wrote the Residential Lead-Based Paint Hazard Reduction Act, which addressed the leading source of childhood lead poisoning: lead paint in residences.<sup>92</sup> The law requires the disclosure of lead hazards during real estate transactions. It also requires that renovations in residences containing lead-based paint be performed by contractors certified in safe renovation practices.

In 2008, Rep. Waxman introduced legislation to ban lead in children's toys, like toy jewelry.<sup>93</sup> This bill was incorporated in the Consumer Product Safety Improvement Act of 2008.<sup>94</sup>

In 2010, Rep. Waxman was a House champion of the Reduction of Lead in Drinking Water Act, which requires further reductions in the lead content of faucets and plumbing fixtures.<sup>95</sup> Prior to passage of the law, faucets and fixtures with less than 8% lead could be considered "lead-free." Under the new law, these faucets and fixtures must have less than 0.25% lead.

These laws, combined with other efforts such as the removal of lead from gasoline, have dramatically reduced the incidence of childhood lead poisoning. The median concentration of lead in the blood of children between the ages of 1 and 5 years dropped 92% from the late 1970s to 2010.<sup>96</sup>

#### **4. Formaldehyde Standards for Composite Wood Products Act of 2010**

Hearings held by Rep. Waxman in 2007 and 2008 revealed the high levels of formaldehyde in the trailers used to provide temporary housing to victims of Hurricane Katrina.<sup>97</sup> Rep. Waxman worked to pass the Formaldehyde Standards for Composite Wood Products Act in 2010 to address this problem by requiring EPA to set standards for emissions of formaldehyde from plywood, fiberboard, and particleboard.<sup>98</sup> The federal standards required by the law must be equivalent to the stringent standards in California.

#### **5. Laws Reducing Greenhouse Gas Emissions**

In 2007, Rep. Waxman introduced the Carbon-Neutral Government Act, which required the federal government to reduce its greenhouse gas emissions.<sup>99</sup> Major portions of this

legislation were enacted as part of the Energy Independence and Security Act of 2007.<sup>100</sup> Provisions were included to require federal agencies to acquire only low greenhouse gas emitting vehicles; to build and lease energy efficient buildings; and to procure Energy Star certified products. The legislation also prohibits agencies from entering into contracts for alternative fuels with higher life-cycle greenhouse gas emissions than conventional fuels.

In 2009, Rep. Waxman became the chair of the Energy and Commerce Committee. He worked with then-Rep. Ed Markey, the chair of the Energy Subcommittee, to pass comprehensive energy and climate legislation, the American Clean Energy and Security Act (often called the Waxman-Markey bill), through the House.<sup>101</sup> This legislation would have created a market-based cap-and-trade system to reduce U.S. emissions of greenhouse gases by over 80% by 2050. Other provisions would have set a national renewable energy standard; invested in energy efficiency and renewable energy (\$90 billion by 2025), carbon capture and sequestration (\$60 billion), electric and other advanced technology vehicles (\$20 billion), and research and development (\$20 billion); and established new efficiency standards for buildings and appliances. The bill was deficit-neutral and had support from both major environmental organizations and electric utilities, oil companies, chemical companies, major manufacturers, and agriculture interests. It did not pass the Senate.

## **D. Major Telecommunications Laws**

### **1. Spectrum Reform**

Rep. Waxman and his California colleague, Rep. Anna Eshoo, were the lead Democratic authors in the House of landmark bipartisan legislation to ease the nation's growing spectrum shortage, provide spectrum for new "Super WiFi" bands, create a nationwide broadband network for first responders, and reduce the deficit by \$15 billion. After months of bipartisan, bicameral negotiations, this measure was included in the Middle Class Tax Relief and Job Creation Act that was signed into law by President Obama on February 22, 2012.<sup>102</sup>

The new law gives the Federal Communications Commission the authority to pay TV broadcasters for underutilized broadcast spectrum and resell it at higher prices to wireless companies to meet growing demand for smartphones and tablets. This provision is expected to make a large band of prime spectrum available for auction and raise over \$25 billion in new revenues for the government while improving wireless broadband services for consumers.

The law directs that \$10 billion be dedicated to a new "First Responder Network Authority" to build a nationwide broadband network for police, firefighters, emergency medical service professionals, and other public safety officials. This dedicated first responder broadband network – which will be known as FirstNet – addresses one of the key recommendations of the 9-11 Commission by ensuring that public safety officials can communicate seamlessly throughout the nation.

Other provisions in the law authorize the FCC to set aside portions of the returned broadcast spectrum for innovative unlicensed uses like Super WiFi. These provisions ensure unlicensed spectrum will continue to be an engine of economic innovation and growth.

## **2. The 21<sup>st</sup> Century Communications and Video Accessibility Act**

Under Rep. Waxman's leadership, Congress enacted the Twenty-First Century Communications and Video Accessibility Act of 2010, a bill heralded as one of the most important advances for disabled Americans since the Americans with Disabilities Act was passed over twenty years ago.<sup>103</sup>

The new law ensures that the 54 million Americans with disabilities will be able to access the wide array of 21st century communications services and technologies that are essential for participation in today's economy and society. The new law requires that smartphones and other devices that connect to the Internet must be usable by blind and visually impaired individuals, as well as individuals with hearing aids. The law also provides for better access to video programming, making it easier for people with disabilities to view content online. Additionally, the law requires that emergency information, including 911 services and emergency alerts on television, be accessible to people with disabilities.

### **E. Major Good Government Laws**

From 1997 through 2008, Rep. Waxman served as the Ranking Democrat and then Chairman of the Committee on Oversight and Government Reform. From this position, Rep. Waxman worked to pass laws that improve the operations of government, particularly in the area of procurement policy and postal services.

#### **1. Procurement Reforms**

A top priority of Rep. Waxman on the Oversight and Government Reform Committee was reducing waste, fraud, and abuse in federal programs. He led numerous investigations into wasteful procurement spending in Iraq, in response to the September 11 attack, and in the aftermath of Hurricane Katrina. The abuses these investigations uncovered led to a series of reforms of federal procurement laws.

In 2008, Rep. Waxman successfully advocated for the inclusion of reforms in the Defense Authorization Act of 2008 that required the disclosure of no-bid contracts; curbed the use by the Defense Department of anti-competitive "monopoly" contracts, which give one company the exclusive right to provide future goods and services; and gave whistleblower protections to employees of defense contractors.<sup>104</sup>

In 2009, Rep. Waxman successfully advocated for the inclusion of the Waxman Clean Contracting Amendment in the Defense Authorization Act of 2009.<sup>105</sup> The reforms in Rep. Waxman's amendment limit the length of emergency no-bid contracts to no more than one year; extend the restrictions on anti-competitive monopoly contracts to all federal agencies; establish limitations on abuse-prone "cost-plus" contracts; prevent wasteful "layer-cake" contracts in which taxpayer costs are driven up through excessive layers of subcontracting; and establish a database of debarred contractors.

A hearing held by Rep. Waxman in 2008 revealed that insurers overcharged the Defense Department \$600 million between 2002 and 2007 to provide workers compensation coverage for federal contractors operating overseas. At Rep. Waxman's urging, the 2009 Defense Authorization Act required the Defense Department to determine how to eliminate this wasteful spending.<sup>106</sup>

Another hearing held by Rep. Waxman in 2008 revealed that over 40% of the federal funding for crop insurance for U.S. farmers never reaches the farmers themselves. At Rep. Waxman's urging, the 2008 farm bill contained crop insurance reforms that will save taxpayers \$3.4 billion in crop insurance costs over ten years.<sup>107</sup>

## **2. The Postal Accountability and Enhancement Act**

Rep. Waxman worked with Rep. Tom Davis (R-VA) and Senators Susan Collins (R-ME) and Tom Carper (D-DE) to pass the Postal Accountability and Enhancement Act of 2006.<sup>108</sup> The law was the first major reform of the Postal Service since the 1970 law that established the U.S. Postal Service as a self-supporting, independent agency of the executive branch.

The law contained many reforms. It gave the Postal Service new flexibility in setting postal rates, allowing the Postal Service to respond to changing market conditions. For "market-dominant" products like first-class mail, the law allows the Postal Service to change prices freely so long as the changes do not exceed an inflation-based rate cap; for "competitive products" like package delivery, the Postal Service can change rates at will so long as the rates are not subsidized by profits from market-dominant products. The law also relieved the Postal Service of a requirement to make pension payments into an escrow fund and a requirement to pay the military pensions of its employees, a combined ten-year savings of \$61 billion. To ensure budget neutrality, the Postal Service was directed to use most of these savings for ten years to pre-fund retiree health benefits.

The law was described as giving the Postal Service a future in an era of increasing electronic communications. After enactment, the Postmaster General said the law would put the Postal Service on "firm financial footing for the future";<sup>109</sup> the National Association of Letter Carriers called it "the culmination of years of hard work";<sup>110</sup> the National Association of Postmasters said it received "well-deserved accolades" and "offered this nation the best opportunity for continued postal viability";<sup>111</sup> and the Printing Industry Association stated it would bring "modern, post-Internet era management efficiencies to the U.S. Postal Service."<sup>112</sup>

## **III. REP. WAXMAN'S OVERSIGHT ACCOMPLISHMENTS**

Done skillfully, congressional oversight can have as much impact as enactment of legislation, and Rep. Waxman is perhaps the most experienced practitioner of oversight in Congress today. As Senior Government Specialist Walter Oleszek of the Congressional Research Service said, "Mr. Waxman has certainly earned the title of Mr. Oversight."<sup>113</sup> Commenting on Rep. Waxman's performance as Chairman of the Oversight and Government Reform Committee, Thomas Mann, a congressional expert at the Brookings Institution, said, "Waxman has been a spectacular success. ... On all important counts – the range, volume and

quality of his oversight initiatives – he almost single-handedly revived the critical role of Congress in overseeing the executive.”<sup>114</sup>

The press has used catchy sobriquets to describe Rep. Waxman’s oversight talents. He has been called “the Democrats’ Eliot Ness” (the *Nation*),<sup>115</sup> “the Scariest Guy in Town” (*Time*),<sup>116</sup> “the most feared Democrat on Capitol Hill” (*Rolling Stone*),<sup>117</sup> and “the Bush Administration’s worst nightmare” (the *Washington Post*).<sup>118</sup> A *Washington Post* profile of Rep. Waxman in 2002 was titled “Congressional Man of Letters” in reference to his “flood of missives to the White House and Cabinet – to Vice President Cheney, to Karl Rove, Andrew Card, Lawrence Lindsey and Paul O’Neill, among others.”<sup>119</sup> *Scientific American* labeled him “Science’s Political Bulldog” for his efforts to expose the politicization of science during the George W. Bush Administration.<sup>120</sup>

When *Time* listed the “top 10 corporate grillings” in the history of Congress, four of them were hearings chaired by Rep. Waxman: the 1994 hearing at which the CEOs of the nation’s biggest tobacco companies denied the addictiveness of nicotine; the 2007 hearing at which Erik Prince, the CEO of Blackwater, was questioned about his company’s excessive use of force in Iraq; the 2008 hearing at which Richard Fuld, the CEO of Lehman Brothers, was held to account for his role in the collapse on Wall Street; and the 2010 hearing at which Tony Hayward, the CEO of BP, responded to questions about the Gulf oil spill.<sup>121</sup> As *Time* reported, “when it comes to putting powerful people on the hot seat, there’s no one tougher and more tenacious than veteran California Congressman Henry Waxman.”<sup>122</sup>

Rep. Waxman learned the value of oversight when he served as the Chair of the Subcommittee on Health and the Environment from 1979 through 1994. After a Union Carbide plant in Bhopal, India, leaked lethal methyl isocyanate in 1984, killing thousands, Rep. Waxman sent his staff to Kanawha Valley, West Virginia, to investigate the company’s U.S. facility. The field hearing he held drew enormous coverage and led to the enactment of toxics right to know provisions of the Superfund law. His 1994 investigation into the tobacco industry held tobacco CEOs to account, disclosed troves of previously secret industry documents, and galvanized the national anti-smoking movement.

In 1997, Rep. Waxman became the Ranking Democrat on the House Oversight and Government Reform Committee, the principal oversight committee in the House. He documented the abuses of Chairman Dan Burton’s investigation into the Clinton Administration, such as the Chairman’s issuance of over 1,000 unilateral subpoenas. The spotlight shown on the Burton investigation by Rep. Waxman resulted in widespread criticism of the Chairman Burton’s excesses. The *New York Times* called the investigation a “House investigation travesty” and a “parody of a reputable investigation.”<sup>123</sup> The *Washington Post* editorialized that the investigation had become “its own cartoon, a joke and a deserved embarrassment.”<sup>124</sup> Rep. Waxman resolved to follow a different model.

After President George W. Bush’s election in 2000, Rep. Waxman invented a new model for oversight from the minority. As *Esquire* wrote, “With little or no power to do so, Waxman has nonetheless been a one-man bulwark against some of the more egregious excesses of this

White House, launching investigations into government secrecy, prewar claims about WMDs, bad intelligence, and the administration's politicization of science."<sup>125</sup>

The *Los Angeles Times* described Rep. Waxman's approach this way:

At a time when many of his Democratic colleagues have spent the last decade in a defensive crouch, outmaneuvered by their GOP rivals, Waxman has found another way to have an impact. ... The key to Waxman's unlikely success is this: He has assumed a big chunk of the watchdog role usually filled by the entire Congress, probing deep into government programs and problems to oversee a president and GOP he believes have run amok. ...

His greatest weapon proved to be as basic as it was powerful: information, in the form of documented research dug up by his Washington staff. ... They have cranked out about 2,000 reports on an expanse of topics since Waxman became the committee's ranking Democrat eight years ago."<sup>126</sup>

In 2007, Rep. Waxman became the Chairman of the Oversight and Government Reform and launched an aggressive oversight agenda. He began his chairmanship with four days of back-to-back hearings in February on waste, fraud, and abuse in Iraq, at the Department of Homeland Security, and in pharmaceutical pricing.<sup>127</sup> The pace of high-impact investigations continued over the next two years. Notable hearings and investigations examined the abysmal conditions at the Walter Reed Army Medical Center;<sup>128</sup> probed the disclosure of the identity of covert CIA agent Valerie Plame Wilson;<sup>129</sup> investigated White House interference with climate science;<sup>130</sup> revealed procurement and political misconduct at the General Services Administration;<sup>131</sup> investigated the misleading account of Corporal Pat Tillman's fratricide;<sup>132</sup> documented billions of dollars of wasteful spending in the federal crop insurance program;<sup>133</sup> examined FDA's lax oversight of the diabetes drug Avandia;<sup>134</sup> revealed the destruction of White House e-mails stored on Republican National Committee servers;<sup>135</sup> disclosed that Vice President Cheney did not consider his office part of the executive branch;<sup>136</sup> revealed efforts to politicize the Office of the Surgeon General;<sup>137</sup> disclosed evidence of politicization of the Office of National Drug Control Policy;<sup>138</sup> revealed extensive formaldehyde contamination of FEMA trailers housing victims of Hurricane Katrina;<sup>139</sup> probed reports of waste, fraud, and abuse in the construction of the new U.S. embassy in Iraq;<sup>140</sup> questioned Erik Prince, the CEO of Blackwater, about security incidents in Iraq;<sup>141</sup> investigated reports of widespread corruption in Iraq;<sup>142</sup> examined the role of black carbon in causing global warming;<sup>143</sup> investigated uranium contamination in the Navajo Nation;<sup>144</sup> questioned Secretary of State Condoleezza Rice about the activities of Blackwater and corruption in Iraq;<sup>145</sup> revealed misconduct by the State Department Inspector General;<sup>146</sup> disclosed the pervasive conflicts of interests of CEO compensation consultants;<sup>147</sup> investigated fraudulent veterans' charities;<sup>148</sup> investigated steroid use in baseball;<sup>149</sup> disclosed the lavish compensation packages and retirement bonuses of the CEOs of Wall Street companies involved in the mortgage crisis;<sup>150</sup> detailed the contacts between lobbyist Jack Abramoff and senior White House officials;<sup>151</sup> investigated the Defense Department's \$300 million contract with a company run by a 21-year-old president and 25-year-old former masseur to supply ammunition to Afghan forces;<sup>152</sup> disclosed the high costs of drugs purchased under Medicare Part D;<sup>153</sup> and documented shoddy electrical work in Iraq that lead to

injuries and deaths of military personnel in Iraq.<sup>154</sup> When the stock market crashed in September 2008, the Committee held three hearings to question the CEOs accountable for the collapse of Lehman Brothers,<sup>155</sup> the bailout of AIG,<sup>156</sup> and the failure of the credit rating agencies,<sup>157</sup> and a fourth hearing to examine the responsibility of former Federal Reserve Alan Greenspan and former Securities and Exchange Commission (SEC) Chairman Christopher Cox in the collapse.<sup>158</sup>

Virtually all of these hearings and investigations brought important new information to light and received widespread coverage. In many cases, they prompted administrative or legislative reforms. The *Washington Post* called Rep. Waxman's oversight activities "one of the brightest spots on the new Congress's ... record."<sup>159</sup> *Rolling Stone* reported, "In his short tenure, Waxman has made the once-moribund body into a force on the Hill, calling nearly fifty hearings on subjects ranging from the inefficacy of airport screeners to charities that bilk veterans."<sup>160</sup>

A hallmark of a Waxman investigation is a premium on factual accuracy and avoiding unfounded accusations. *New York Times* columnist Frank Rich commented, "I've been impressed by how the reports coming out of Waxman's office meticulously and stubbornly track, document and cast a spotlight on below-the-radar information."<sup>161</sup> Republican Rep. Mark Souder made a similar point, saying that Rep. Waxman "rarely overreaches."<sup>162</sup> Rep. Waxman's conclusions stick to the facts, and if an investigation reveals no wrongdoing, he says so.<sup>163</sup> The *Los Angeles Times* reported:

The most effective weapon in Waxman's arsenal is a staff of high-powered lawyers, investigators, and technical experts who churn out a steady stream of penetrating and fact-laden reports. ... Investigative reporters in Washington agree that ... his staff research is highly reliable.<sup>164</sup>

Rep. Waxman's approach to oversight has been markedly different than former Oversight Chairman Dan Burton's or current Oversight Chairman Darrell Issa's. Unlike both Chairman Burton and Chairman Issa, Rep. Waxman rarely issued subpoenas, and when he did so, he always had either the support of Ranking Member Tom Davis or approval of the full Committee. As the *New Republic* reported, Rep. Waxman used "admirable restraint" in exercising the powers of the chairmanship.<sup>165</sup> Some of Rep. Waxman's most politically sensitive investigations were done on a bipartisan basis with Ranking Member Davis, such as the investigation of disgraced lobbyist Jack Abramoff's contacts with White House officials and the investigation of the White House's knowledge of the fratricide of Pat Tillman.<sup>166</sup>

Rep. Waxman had only a two-year tenure as Chair of the Oversight Committee because he became Chair of the Energy and Commerce Committee in 2009. But he continued his oversight efforts at Energy and Commerce. Hearings the Energy and Commerce Committee held on insurance company abuses built support for the insurance reforms in the Affordable Care Act;<sup>167</sup> hearings the Committee held into food safety outbreaks led to passage of the Food Safety Modernization Act;<sup>168</sup> and an extensive investigation into the Gulf oil spill documented lax practices by BP that contributed to the well blow-out.<sup>169</sup>

The investigations Rep. Waxman has led over his 40-year career are too numerous to summarize in this report. Some leading examples, however, are discussed in more detail in the remainder of this section.

#### **A. Rep. Waxman's Investigations into Waste, Fraud, and Abuse**

During the Bush Administration, federal spending on private contractors more than doubled to over \$400 billion per year. By 2006, over 40 cents of every dollar in federal discretionary spending was going to pay private contractors, with over half spent on contracts awarded through no-bid and limited-competition contracts. This immense surge in procurement spending led to waste, fraud, and abuse, which Rep. Waxman documented in a series of reports, hearings, and letters. His work identified nearly 200 contracts worth over \$1 trillion that were plagued by waste, fraud, abuse, or mismanagement.<sup>170</sup>

Investigations by Rep. Waxman into wasteful Iraq contracts revealed that Halliburton charged U.S. taxpayers \$45 for a case of soda and \$100 for a 15-pound bag of laundry and abandoned or “torched” \$85,000 trucks when they got flat tires,<sup>171</sup> inflated charges for fuel imports,<sup>172</sup> and submitted bills for over \$1 billion in questioned or unsupported costs.<sup>173</sup> Other investigations documented the reckless use of force by the private security contractor Blackwater;<sup>174</sup> the failure of the Bush Administration to document what happened to over \$8 billion in cash that was flown into Iraq;<sup>175</sup> and construction problems at the new U.S. embassy.<sup>176</sup>

Investigations by Rep. Waxman into wasteful Hurricane Katrina contracts documented fraud, waste, and abuse in the Bush Administration's response to the disaster, including double billing for debris removal and payments of ten times the costs for temporary “blue roof” repairs due to excessive tiering of subcontracts.<sup>177</sup> They also revealed the Administration had spent over \$2 billion for trailers for displaced families that were contaminated with high levels of formaldehyde.<sup>178</sup>

Investigations by Rep. Waxman into high drug costs under Medicare Part D showed that drugs purchased for seniors under Medicare Part D cost 30% more than the same drugs purchased under Medicaid.<sup>179</sup> Prior to 2006, low-income seniors received their drugs through Medicaid, not Medicare, and taxpayers received Medicaid drug rebates on these purchases. Rep. Waxman documented that restoring these rebates for drugs used by these “dual eligible” seniors would save taxpayers hundreds of billions of dollars over the next decade.

A hearing held by Rep. Waxman into the federal crop insurance program revealed that 40% of federal spending on crop insurance – \$11 billion between 1997 and 2006 – never reached farms, resulting in huge profits for private insurers.<sup>180</sup> These findings led to legislative and administrative reforms that will save taxpayers billions of dollars in future payments.<sup>181</sup>

An investigation by Rep. Waxman revealed that unscrupulous charities took in millions of dollars in contributions that were intended to aid veterans but enriched the organizations' founders.<sup>182</sup> Last year, the California Attorney General brought an enforcement action to recover



the funds misspent by one of the worst offenders identified by Rep. Waxman, Help Homeless Veterans, and to replace its directors.<sup>183</sup>

## **B. Rep. Waxman's Investigations into Misleading Iraq Intelligence**

Rep. Waxman was the first member of Congress to challenge veracity of the intelligence used to justify the war in Iraq. Even before the invasion, he wrote to President Bush to question why the Bush Administration relied on evidence that Iraq sought uranium from Niger when this evidence was a forgery.<sup>184</sup>

Rep. Waxman released a report entitled "Iraq on the Record" that documented 237 misleading statements about the threat posed by Iraq by five senior Administration officials: President George Bush, Vice President Richard Cheney, Defense Secretary Donald Rumsfeld, Secretary of State Colin Powell, and National Security Advisor Condoleezza Rice.<sup>185</sup> In each case, the executive branch had information in its possession at the time the statement was made that contradicted the statement.

Rep. Waxman investigated White House disclosure of the identity of covert CIA agent Valerie Plame. The Committee's hearing documented that Ms. Plame was an undercover agent who worked on some of most sensitive and highly secret matters handled by the CIA and who faced significant risks to her personal safety. Ms. Plame testified in public for the first time at the hearing.<sup>186</sup>

Rep. Waxman also led the congressional investigation into why the public was misled about the cause of Corporal Pat Tillman's death by friendly fire.<sup>187</sup>

## **C. Rep. Waxman's Investigations into the Tobacco Industry**

Rep. Waxman has been the leader of congressional oversight into the tobacco industry since he became Chairman of the Health and the Environment Subcommittee in 1979. As the Campaign for Tobacco-Free Kids recognized in 2009, "no member of Congress has done more ... to focus public attention on the dangers of tobacco use, to expose the deception of the tobacco companies and to enact laws that reduce tobacco use and save lives."<sup>188</sup>

Rep. Waxman chaired one of the most famous hearings in congressional history, the April 14, 1994, hearing at which the CEOs of the seven leading tobacco companies testified for the first time and denied the addictiveness of nicotine.<sup>189</sup> This hearing and the revelations that followed helped galvanize the anti-tobacco movement in the United States.

Two weeks after the CEO hearing, Rep. Waxman brought two former Philip Morris researchers, Victor DeNoble and Paul Mele, before the Committee.<sup>190</sup> They testified about secret research they conducted for Philip Morris that demonstrated the highly addictive properties of nicotine, contradicting the testimony of the CEOs. This hearing became the subject of a recent documentary, *Addiction Incorporated*.

In 1994 and the years that followed, Rep. Waxman released thousands of pages of internal tobacco company documents that showed the industry understood the addictiveness of nicotine and manipulated cigarettes and smokeless tobacco products to keep users hooked; knew and concealed the dangers of smoking; and developed marketing campaigns that targeted children.<sup>191</sup>

Rep. Waxman's oversight into tobacco industry abuses continues to this day. In August 2012, he released new industry documents that show tobacco companies have been exploiting regulatory loopholes to market flavored cigars to children and evading federal taxes by marketing cigarette tobacco as pipe tobacco.<sup>192</sup> In recent months, he called for hearings and regulations to prevent youth from becoming hooked on new "safe" e-cigarettes.<sup>193</sup>

#### **D. Rep. Waxman's Investigations into Steroids in Baseball**

At Rep. Waxman's request, the Oversight and Government Reform Committee launched an investigation into the use of steroids in professional sports, especially baseball. These hearings were motivated by Rep. Waxman's desire to reverse the growing use of steroids by young athletes emulating professional players.

In 2005, Oversight Committee Chairman Tom Davis and Ranking Member Waxman held a series of hearings on steroid use in professional sports.<sup>194</sup> At the first hearing, Reps. Davis and Waxman exposed serious deficiencies in baseball's steroid policy, the Committee heard testimony from parents of young athletes who committed suicide after using steroids, and professional baseball players Mark McGwire, Rafael Palmeiro, and Sammy Sosa denied steroid use or declined to discuss their use.<sup>195</sup> Like the hearing with the tobacco CEOs, this hearing galvanized public opinion, in this case against steroid use.

At the request of Reps. Waxman and Davis, major league baseball hired former Senator George Mitchell to investigate the extent of steroid use in baseball. Senator Mitchell found the problem of steroids in baseball was widespread and that it was influencing the actions of young athletes. He recommended additional measures to remove steroids from baseball.<sup>196</sup>

Major league pitcher Roger Clemens challenged Senator Mitchell's report, which led to additional hearings that drew further attention to the problem of steroid use in baseball.<sup>197</sup>

Change came rapidly in response to Rep. Waxman's oversight. Major League Baseball – which had the weakest steroid policy among all major sports in 2005 – made numerous changes to its policy, testing players more often and for more illegal steroids and imposing significantly more stringent penalties on users.<sup>198</sup> Other American professional sports leagues followed suit, increasing penalties and making it more difficult for cheaters to evade testing.<sup>199</sup> Most important, Rep. Waxman's oversight resulted in significant benefits in public health and understanding of the risks of steroid use. Between 2004 and 2012, the number of male high school seniors who reported using steroids had declined by 50%.<sup>200</sup>

## **E. Rep. Waxman's Investigations into the Politicization of Science**

One of the hallmarks of Rep. Waxman's investigative work has been an effort to ensure that scientists and their findings are not politicized, so that policies can be based on the best available science and government scientists are able to freely and accurately report on their findings.

A 2003 report by Rep. Waxman identified over 20 areas where Bush Administration officials undermined science, ranging from condom use to wetlands policy.<sup>201</sup> A 2004 report showed that federally funded abstinence-only programs taught false and misleading information, such as claiming that condoms do not prevent sexually transmitted diseases and that abortions cause premature births and mental retardation in subsequent pregnancies.<sup>202</sup> A 2007 hearing disclosed efforts to politicize the Office of the Surgeon General.<sup>203</sup>

Rep. Waxman's oversight work identified numerous instances where Bush Administration officials interfered with the work of climate scientists. One report documented how the White House officials censored climate scientists and edited climate change reports to inject doubt about the significance of climate change.<sup>204</sup> Another investigation revealed that White House officials intervened over the objection of career staff to block EPA from authorizing California to regulate greenhouse gases from motor vehicles.<sup>205</sup>

In another investigation, Rep. Waxman documented EPA's plan to rely on pesticide studies that exposed human subjects to dangerous pesticides in violation of ethical standards, failed to obtain informed consent, dismissed adverse outcomes, and lacked scientific validity.<sup>206</sup> This report prompted Congress to include legislation in EPA's spending bill to require EPA to follow the recommendations of the National Academy of Sciences and establish additional safeguards to prevent the development and use of unethical human pesticide experiments.<sup>207</sup>

## **F. Rep. Waxman's Investigations into the Wall Street Collapse**

In response to the collapse of the financial markets at the end of the Bush Administration, Rep. Waxman held a series of hearings to examine the regulatory mistakes and financial excesses that led to the market breakdowns on Wall Street.

The investigations showed that Wall Street executives acted recklessly and enriched themselves at enormous cost to shareholders and the economy. The hearings revealed that senior executives at AIG and the credit rating agencies ignored repeated warnings from company risk managers.<sup>208</sup> They also showed that CEOs like the former head of Lehman Brothers, Richard Fuld, paid themselves exorbitant salaries.<sup>209</sup>

In addition to hearing from the CEOs, the Committee called the regulators who were supposed to protect against Wall Street excesses to testify. In one memorable moment, former Federal Reserve Chairman Alan Greenspan told the Committee that he had discovered a "flaw" in his free-market ideology.<sup>210</sup>

The corporate abuses exposed in the Waxman hearings led to legislative reforms, including passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act. This law was designed to restore responsibility and accountability in the financial system and create a sound economic foundation for recovery and future growth. The legislation addressed many of the abuses investigated by Rep. Waxman. It includes provisions to “clawback” excessive corporate compensation, regulate the derivative markets abused by AIG, and set new standards for credit rating agencies.

#### **G. Rep. Waxman’s Investigations into the Gulf Oil Spill**

After the explosion of the Deepwater Horizon oil rig in 2010 that dumped almost five million barrels of oil into the Gulf of Mexico, Rep. Waxman led the congressional investigation that revealed corporate complacency and key errors in judgment that increased the risk of a blowout.

The Waxman investigation revealed that BP ignored warnings about dangers at the well and took a series of questionable shortcuts in well design that saved time and money but increased risks;<sup>211</sup> that the well’s failsafe device, the blowout preventer, had multiple deficiencies, including a leaky hydraulic system and dead batteries;<sup>212</sup> and that the industry’s spill response plans were filled with meaningless boilerplate, such as how to protect walruses that do not exist in the warm waters of the Gulf of Mexico.<sup>213</sup> A hearing with BP CEO Tony Hayward showed that senior management paid virtually no attention to the risks the company was taking at the well.<sup>214</sup>

The investigation led to Energy and Commerce Committee passage of the Blowout Prevention Act of 2010. Key provisions of that measure were included in the Consolidated Land, Energy, and Aquatic Resources (CLEAR) Act as passed by the House of Representatives.<sup>215</sup> Although this bill was never enacted into law, the Department of Interior included many of its provisions in new regulations, including requirements that increase corporate accountability and strengthen safety requirements for blowout preventers.<sup>216</sup> The Committee’s investigative findings also formed a substantial basis for the November 2012 settlement between BP and the Department of Justice that resulted in BP pleading guilty to felony manslaughter, environmental crimes, and obstruction of Congress and paying a record \$4 billion in penalties.<sup>217</sup>

### **IV. CONCLUSION**

In 2009, Rep. Waxman wrote a book with Joshua Green about his experiences in Congress. Entitled *The Waxman Report: How Congress Really Works*, the book explains Rep. Waxman’s belief in the power of government to improve people’s lives. He writes at the conclusion of the book:

In forty years as a legislator, I’ve seen just about everything. I’ve worked with people who do a terrible job, watched plenty of good legislation die, and experienced the grinding frustration of being stuck in the minority party for more than a decade. If anybody should be cynical about our government and how it works, I should. But I’m

not. Because despite the setbacks and frustrations, what Congress has achieved during my time has made clear to me that if you organize the right people, follow the facts, and force the issue, it is possible, and even likely, that good work can make a difference in the lives of millions of Americans – which, in the end, is a lawmaker’s highest purpose.

Rep. Waxman’s career exemplified the difference a legislator can make on issues that matter. As the *Los Angeles Times* wrote in reviewing the book, “when the history of postwar America is definitively written, it’s possible the record will show that the three California politicians who had the biggest impact on the largest number of American lives were Earl Warren, as chief justice; Ronald Reagan, as president; and Henry Waxman as representative of the 30<sup>th</sup> District in the U.S. House of Representatives.”<sup>218</sup>

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