To expand communications between Washington and California, the California Institute provides periodic news bulletins regarding current activity on Capitol Hill and other information that directly impacts the state. Bulletins are published weekly during sessions of Congress, and occasionally during other periods.

**TRADE: SENATE FINANCE LOOKS AT U.S.- COLOMBIA TRADE AGREEMENT**

On May 11, 2011, the Senate Finance Committee held a hearing to examine the pending U.S.-Colombia Trade Promotion Agreement. Witnesses were: The Honorable Miriam Sapiro, Deputy United States Trade Representative, Executive Office of the President; Sandra Polaski, Deputy Under Secretary for International Labor Affairs, United States Department of Labor; General James T. Hill, U.S. Army (Ret.) and former commander of the United States Southern Command; Jeff Vogt, Deputy Director, International Affairs Department, AFL-CIO; and Gordon Stoner, President, Montana Grain Growers Association, Great Falls, MT.

Ms. Sapiro and Ms. Polaski outlined the steps that Colombia has agreed to take, or is now taking, to protect the rights of its citizens as they work to strengthen their rights. Among the steps that Colombia is taking are extending legal protections for threatened labor activists at the local level, including changes to better protect teachers union members. In addition, assessments of risk against citizens under Colombian law must be processed within 30 days in order to ensure those at risk will be protected, and the backlog in risk assessments is now being cleared up by Colombia.

Ms. Sapiro also called on Congress to pursue a “robust” Trade Adjustment Assistance program on the U.S. side, in order to assist U.S. workers dislocated by the Colombia TPA.

Under questioning by Sen. Orrin Hatch, the Committee’s Ranking Member, Ms. Sapiro would not unequivocally state that the Administration is not conditioning submission of the Colombia FTA to Congress on its approval of Permanent Normal Trade Relations (PNTR) for Russia or reauthorization of Trade Adjustment Assistance. Instead, she stressed that discussions are ongoing with Congress about the “sequencing” of the Administration’s trade priorities, including PNTR for Russia and TAA. She said it was a “goal” to submit the treaty before August based on Colombia’s fulfilling...
its labor action plan, and the congressional calendar being able to accommodate the Administration’s entire trade agenda.

Mr. Vogt testified that AFL-CIO continues to oppose the FTA. He cited several concerns with the Labor Action Plan in the agreement, including the lack of specifics regarding dismantling of new, illegal armed groups, the lack of benchmarks for measuring meaningful enforcement of Colombia’s commitment to new worker protections, and the fact that the Labor Action Plan is not part of the trade agreement and is not subject to any dispute settlement mechanisms should the government of Colombia fail to fully comply with the plan.

Mr. Stoner testified that the Grain Growers strongly supports the FTA. Implementation, as it is critical to maintaining and increasing U.S. export sales. Stoner said that $100 million in sales to Colombia is lost every year that the agreement is not in place. Without FTA, Colombia will increasingly look to Canada for its high-quality wheat needs, Stoner testified, and in 2010, for the first time in agriculture history, the U.S. lost to Argentina its position as Colombia’s number one supplier. At least part of the reason for this is that since 2005 Argentina has had duty free treatment of wheat to Colombia because of the Mercosur trade agreement, whereas tariffs on U.S. exports of wheat and barley tariffs often soar into double digits.

For the testimony of all the witnesses, go to: http://finance.senate.gov.

TELECOMMUNICATIONS: SENATE JUDICIARY EXAMINES PROPOSED AT&T/T-MOBILE MERGER

The Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights on May 11, 2011 held a hearing to examine the implications of the proposed merger between AT&T and T-Mobile. Witnesses were: Randall L. Stephenson, President & CEO, AT&T, Dallas, TX; Philipp Humm, President & CEO, T-Mobile USA, Bellevue, WA; Daniel R. Hesse, CEO, Sprint Nextel Corporation, Overland Park, KS; Victor H. "Hu" Meena, President & CEO, Cellular South, Inc., Ridgeland, MS; Gigi Sohn, President & Co-Founder, Public Knowledge, Washington, DC; and Larry Cohen, President, Communications Workers of America, Washington, DC.

In his opening remarks, Subcommittee Chair Herb Kohl (WI) stated: “. . .the same rules of basic economics and common sense apply to this industry as in all others — four competitors are better than three. The more providers of cell phone service, the lower the price, the better the quality of service, and the more innovation that results. And we must also keep in mind that the cell phone industry is a highly profitable and rapidly growing business. So the burden will squarely be on AT&T and T-Mobile to convince us why this merger is desirable, how it will benefit consumers, and to put aside our concerns that it may very well harm competition.” Committee Chair Patrick Leahy (VT) made the following statement: “I expect the Department of Justice and Federal Communications Commission to conduct an exhaustive and careful analysis of this acquisition and its impact on competition. Specifically, this analysis should include the impact the proposed transaction will have on consumer prices and choices for cell phone and wireless data plans, and whether the acquisition will stifle or promote innovation.”
Mr. Stephenson stressed the benefits to the consumer that will accrue as a result of the merger, “by improving service quality and network capacity, fostering innovation, increasing competitive pressure, and helping to ensure that America remains the global leader in mobile broadband. Consumers all across the nation will share in these benefits as the transaction will allow the combined company to build out an advanced new 4G LTE network and bring state-of-the-art mobile broadband to over 97 percent of the American population – more than any other provider and far more than AT&T alone was planning before the transaction. As a result, the transaction includes broad and strong support from union, minority, local and rural representatives, as well as industry experts.” Mr. Humm reiterated these benefits, pointing out several specific benefits to T-Mobile customers.

Mr. Cohen of the CWA also strongly supported the merger. He noted that CWA represents 43,000 AT&T workers and, therefore, has an “intense interest” in the merger, and has concluded after careful study that it will benefit consumers, workers’ rights, and rural consumers.

Messrs. Hesse and Meena, and Ms. Sohn, however, stressed the potential negative impacts of the merger. Mr. Hesse stated that if the merger is approved “the wireless industry would regress toward a 1980s-style duopoly,” with AT&T and Verizon dominating the market. Mr. Meena reiterated this fear and alleged that AT&T and Verizon have already used their market control “to prevent competitors like Cellular South from accessing devices, to restrict or completely prevent broad roaming opportunities for consumers, and to create technologically exclusive networks that frustrate device ecosystems and prevent roaming as well as slow the deployment of 4th Generation (4G) wireless services to American consumers.”

The testimony of the witnesses can be found at: http://judiciary.senate.gov.

TAXES: WAYS & MEANS REVIEWS INTERNATIONAL TAX STRUCTURE


The hearing examined how the current structure of the international tax rules might distort economic decisions and the allocation of resources in ways that reduce U.S. employment and hamper global competitiveness, and which international tax rules might be reformed to improve competitiveness and job creation. In his opening remarks, Chairman Dave Camp (MI) pointed out that “it has been 25 years since we reformed the tax code, and almost 50 years since we undertook a bottom-up review of our international tax laws. In those five decades, the global marketplace has changed dramatically.”

Mr. Hayes testified that because UTC is an American company, it is subject to tax on its worldwide income, no matter where it is earned, at the federal corporate tax rate of 35%. Combined with state income taxes, the U.S. statutory income rate imposed on corporations hovers at or near the highest among all developed economies, Hayes said. In addition, uncertainty in U.S. tax policy also acts as an impediment to competitiveness, he said, citing the almost annual need to reauthorize the R&D tax credit, often retroactively, as an example. In developing tax reform, he urged Congress to ensure an open process with continuing bipartisan discussions and time for interested parties to comment on drafts as they are released.

Mr. Crines testified on behalf of Zimmer, a member of the Medical Device Competitiveness Coalition and detailed several suggestions for reform to U.S. tax laws. Among them, Crines said, the Coalition “supports international tax reform that transitions the U.S. international tax system from a ‘worldwide’ towards a ‘territorial’ system. Such a system would permit companies to deploy funds for business-driven purposes without overly burdensome tax penalties, making the United States a more competitive home country for U.S.-based medical device companies, leading to increased investment in U.S.
based operations.” A territorial system, which is consistent with the approach used by most U.S. trading partners, Crines said, would generally exempt from U.S. tax dividends from foreign subsidiaries, or controlled foreign corporations (CFCs).

Testimony of all the witnesses can be obtained at: http://waysandmeans.house.gov.

TRADE: HOUSE AGRICULTURE EXAMINES PENDING TRADE AGREEMENTS

On May 12, 2011, the House Committee on Agriculture held a hearing to review the three pending free trade agreements with South Korea, Colombia, and Panama. Witnesses included: The Honorable Tom Vilsack, Secretary, U.S. Department of Agriculture; The Honorable Ron Kirk, United States Trade Representative; Mr. Roger Johnson, President, National Farmers Union; Mr. Bob Stallman, President, American Farm Bureau Federation; and Mr. Bill Donald, National Cattlemen’s Beef Association.

In their testimony Secretary Vilsack and USTR Kirk reiterated the Administration’s position that the three pending trade agreements should move “as part of our broader trade agenda that includes the reauthorization of the 2009 Trade Adjustment Assistance program, renewal of trade preference programs, and pursuing Permanent Normal Trade Relations (PNTR) with Russia as it joins the WTO.” The Administration also wants to renew the Andean Trade Preference Act and the Generalized System of Preferences.

Regarding specialty crops, Secretary Vilsack stated: “USDA has also addressed export barriers to U.S. specialty crops in key markets. In FY 2010, the value of specialty crop exports increased 8 percent from FY 2009 levels to more than $17.4 billion. The Administration secured Indonesia’s recognition of the U.S. food safety system for fresh foods including specialty crops, facilitating exports valued at over $100 million last year. USDA arranged for a European inspection visit regarding mycotoxins in California pistachios, thus preventing disruption of exports that totaled $305 million in 2010. We worked quickly with West Coast cherry exporters to address SPS concerns in Korea and Taiwan, preserving export opportunities for $7 million in perishable products.”

Secretary Vilsack also testified that USDA is going to continue to focus on export promotion, including trade shows, and bringing more foreign buyers to the United States. In addition, it will continue to encourage U.S. trading partners to reduce the sanitary and phytosanitary barriers that make it more difficult to bring U.S. products into their markets.

Mr. Stallman testified in support of the three agreements on behalf of the AFB, but expressed concern that none has been implemented yet. “Due to the administration and Congress’ inaction on these agreements, the debate is no longer about generating potential export gains but about how to prevent the loss of existing export markets,” he said. As an example, he cited the Korean wine market, where imports of Chilean wine are increasing sharply, while the U.S. share of the market is falling. Stallman attributed this shift in market share to the recent Korea-Chile trade agreement, which eliminated the 15 percent import duty on Chilean wines. He also noted other examples of lost opportunities in South Korea, Colombia, and Panama because of the failure to implement the agreements.

The testimony of all the witnesses can be found at: http://agriculture.house.gov.

ENERGY: SENATE COMMITTEE Discusses CARBON CAPTURE AND SEQUESTRATION

The Senate Energy and Natural Resources Committee held a hearing on carbon capture and sequestration legislation on May 12, 2011. Witnesses included: Scott Klara, U.S. Department of Energy; Matt Watson, Environmental Defense Fund; Sallie Greenberg, Advanced Energy Technology Initiative; and Chiara Trabucchi, Industrial Economics Inc.

The committee examined S. 699, the Department of Energy Carbon Capture and Sequestration Program Amendments Act of 2011, and S. 757, which is a bill to provide incentives to encourage the
development and implementation of technology to capture carbon dioxide from dilute sources on a significant scale using direct air capture technologies.

Mr. Klara discussed DOE’s Interagency Task Force on Carbon Capture and Storage, which released a final report in August of 2010 summarizing the Administration's efforts to develop and deploy CCS technologies, and proposed a plan to overcome the barriers to the widespread, cost-effective deployment of CCS within ten years, with a goal of bringing five to ten commercial demonstration projects online by 2016. The task force concluded that while there are no insurmountable technological, legal, institutional, regulatory or other barriers that prevent CCS from playing a role in reducing GHG emissions, early CCS projects face economic challenges related to climate policy uncertainty, first-of-a-kind technology risks, and the current high cost of CCS relative to other technologies. The complete report can be found online at: http://fossil.energy.gov/.

Mr. Wilson testified on behalf of the Environmental Defense Fund in support of S. 699. The Environmental Defense Fund believes that successful deployment of geologic sequestration will be a critical technology option if the U.S. is to accommodate fossil energy in a carbon constrained future. Wilson testified, "By establishing a program that mimics risk management models that exist in the marketplace, and by restricting the program to a limited number of early projects, S.699 should help lay a foundation for the development of market-based solutions to the emerging CCS industry's need to manage financial risk at a reasonable cost."

The Obama Administration is still reviewing S. 699 and S. 757 and does not have a position on either bill at this time.

For more information, visit: http://energy.senate.gov/.

**ENERGY: SENATE EPW SUBCOMMITTEE EXAMINES DIESEL EMISSIONS REDUCTION**

The Senate Environment and Public Works Subcommittee on Clean Air and Nuclear Safety held a hearing on "Federal Efforts to Protect Public Health by Reducing Diesel Emissions." Witnesses included: Mr. Robert O'Keefe, Vice President, Health Effects Institute; Mr. Bob Lanham, Williams Brothers Construction Company, on Behalf of the Associated General Contractors of America; Mr. Allen R. Schaeffer, Executive Director, Diesel Technology Forum; and Mr. Conrad G. Schneider, Advocacy Director, Clean Air Task Force.

In his opening remarks, Chairman Thomas Carper (DE) stated that he was disappointed that the President’s budget for FY12 proposes zeroing out Diesel Emission Reduction Act (DERA) funding, and committed to working to continue funding for the program. DERA is a voluntary, incentive-based grant and loan program, which enjoys bipartisan support in Congress. It is designed to reduce diesel emissions from the nation’s “legacy fleet.” It was first passed as part of the Energy Policy Act of 2005 and was reauthorized last Congress by voice vote in both chambers, and the President signed legislation reauthorizing DERA in the last days of the 111th Congress.

Chairman Carper also stated that he was introducing the Clean Construction Act of 2011 requiring that in areas of poor air quality, federal transportation projects should reduce not increase diesel emissions using one percent of the cost of the projects to remove diesel soot.

After detailing the harmful effects of emissions from older diesel engines, Mr. O’Keefe discussed the EPA’s Heavy-Duty On-Highway Diesel Emissions Rule of 2001. This rule required significant reductions in fuel sulfur (to 15 PPM) and companion reductions in two key pollutants, particles and nitrogen dioxide (also an important ozone precursor) in “on road” heavy duty engines. Subsequently, these rules were extended to apply to a host of non-road construction, and agricultural equipment as well. “This rule has resulted in significant progress in producing new, cleaner diesel engines with particulate traps and advanced NOx controls that, over time, will penetrate the marketplace and result in cleaner air and improved health,” O’Keefe testified.
Mr. Schaeffer agreed that EPA’s rules have resulted in significant reductions, noting that in the last ten years new highway diesel truck engines have reached near zero emissions of particulate matter and oxides of nitrogen (NOx), as well as using five percent less fuel.

All of the witnesses agreed that DERA has been critical in accomplishing these reductions and it is essential that it be retained. In defending DERA, Mr. Schaeffer pointed out that “[e]very dollar invested in diesel retrofits and replacements yields at least $13 in environmental and public health benefits. Plus, DERA has provided federal funds in a competitive process that encourages state, local, or private funding matches. By doing so, DERA has been able to leverage roughly three dollars in state, local, or private funding for every federal dollar. It’s hard to find a better investment in public health,” Schaeffer stated.

Regarding the construction industry, which relies heavily on diesel equipment, Mr. Lanham noted that the Associated General Contractors were involved recently when the California Air Resources Board (CARB) changed the state’s diesel reduction regulations. AGC, he said, “helped CARB better understand the construction industry and the data used to create its emission models. By improving that data we also helped the state adopt a more effective emission reduction strategy based on the actual inventory of construction equipment in the state and the use of that equipment on a day-to-day basis. Together we created a more accurate model of the emissions in the state. Both the regulated and the regulators learned a lot about each other, and the final regulations provide a much more realistic and effective program than the program originally adopted by CARB.”

For the testimony of all the witnesses, go to: http://epw.senate.gov.

**WORKFORCE: HOUSE COMMITTEE REVIEWS JOB TRAINING PROGRAMS**

On Wednesday, May 11, 2011, the House Education and the Workforce Committee held a hearing titled "Removing Inefficiencies in the Nation's Job Training Programs." The purpose of the hearing was to explore ways to streamline and modernize federal job training programs. Witnesses included: Dr. Andrew Sherrill, U.S. Government Accountability Office; Larry Temple, Texas Workforce Commission; Evelyn Ganzlass, Center for Law and Social Policy; and Bert "Van" Royal, WorkSource.

The Government Accountability Office (GAO) recently identified 47 separate employment and training programs administered across nine federal agencies. These programs cost taxpayers an estimated $18 billion in fiscal year 2009. According to the GAO, 44 of the 47 programs identified, including those with broader missions such as multipurpose block grants, overlap with at least one other program in that they provide at least one similar service to a similar population.

Dr. Andrew Sherrill testified on behalf of the GAO saying, "The multiplicity of employment and training programs combined with the limited information regarding impact raise concerns about the extent to which the federally-funded employment and training system is performing as efficiently and effectively as it should." Dr. Sherrill suggested the committee should merge programs and consolidate administrative structures.

Ms. Ganzlass testified that federal workforce programs have played a critical role during the recession and will continue to be needed as the economy recovers. Ganzlass said some of the most promising advances are the use of sector-focused workforce strategies to meet the needs of employers and low-income, low-skilled individuals, and integrated education and training strategies that blend basic skills instruction with occupational skills preparation. "In our view, duplication of effort is not a major problem in the workforce development arena and we believe that consolidation will not result in more efficient or effective utilization of resources," she said.

Instead of consolidation, Ganzlass believes workforce programs can be improved by customized training that supports local economic development and ties training directly to employment, resulting in job placement for trainees; and contract training that allows local areas to purchase cohort and other training tailored to the needs of hard-to-serve customers.
"These are difficult issues to address because they may require agencies and Congress to re-examine within and across various mission areas the fundamental structure, operation, funding, and performance of a number of long-standing federal programs and activities," Dr. Sherrill concluded.

For more information, visit: [http://edworkforce.house.gov](http://edworkforce.house.gov).

**TRANSPORTATION: SENATE COMMITTEE EXAMINES WORKER ID PROGRAM**

On Tuesday, May 10, 2011, the Senate Commerce, Science and Transportation Committee held a hearing on the Transportation Worker Identification Credential (TWIC) program. The TWIC program is a nationwide ID program intended to address security vulnerabilities within America's ports by providing government security officials the ability to conduct background checks and verify the identity of transportation workers with access to secure port areas. Witnesses included: John S. Pistole, Administrator, Transportation Security Administration, Department of Homeland Security; Rear Adm. Kevin Cook, U.S. Coast Guard, Department of Homeland Security; and Steve Lord, Director of Homeland Security and Justice, Government Accountability Office. Rep. John Mica (FL), Chair of the House Transportation and Infrastructure Committee also testified.

The goal of TWIC was to make sure only certain people could gain access to secure maritime facilities. Among other things, it mandated background checks for all TWIC applicants. However, the GAO's report on the TWIC program reveals significant shortcomings in how this program is run. According to their report, the program has a poor track record with internal controls – such as rooting out fraud in applications – and little accountability for how money is being spent and how effectively it is being used. As the report reveals, GAO investigators were easily able to fraudulently obtain TWIC cards using false identification documents and use those cards to access secure areas of numerous ports.

According to the Transportation Security Administration, 1.86 million people have enrolled in the TWIC program, 1.72 million cards have been activated and $420 million has been provided to the TWIC program. In 2007, the Department of Homeland Security estimated that the combined cost to the Federal government and the private sector may reach $3.2 billion over a ten-year period – not taking into account the full cost of "implementing and operating readers."

Chairman Mica urged that TSA be required to conduct a cost-benefit and risk analysis of security programs prior to further funding for TWIC. "This lack of analysis results in ill-informed resource allocations and more importantly calls into question whether the highest risk targets are being secured," he said. Mica also applauded efforts to update current biometric security standards to include iris scanning.

Chairman Rockefeller stated: "In the coming months, I will introduce a port security authorization bill which will address shortcomings in port security credentialing."

For more information, visit: [http://commerce.senate.gov](http://commerce.senate.gov).

**HOME LAND SECURITY: COMMITTEE REVIEWS LAW ENFORCEMENT ON U.S.-MEXICO BORDER**

The Oversight, Investigations and Management Subcommittee of the House Homeland Security Committee held a hearing titled "On the Border and in the Line of Fire: U.S. Law Enforcement, Homeland Security and Drug Cartel Violence" on Wednesday, May 11, 2011. This was the second of two hearings to raise awareness of the danger American's face along the Southern border with Mexico. Witnesses included: Grayling Williams, Office of Counter Narcotics Enforcement, Department of Homeland Security; Amy Pope, Criminal Division, Department of Justice; Steven McCraw, Texas Department of Public Safety; Tom Horne, State Attorney General, Arizona; and Sigifredo Gonzalez, Sheriff, Zapata County, Texas.

Over the past two years, Mr. Williams testified, the Department of Homeland Security (DHS) has deployed historic levels of personnel, technology, and resources to the Southwest border. Today, he
explained, the Border Patrol is better staffed than at any time in its 87-year history, having more than doubled the number of agents from approximately 10,000 in 2004 to more than 20,700 today.

With the aid of $600 million from the border security supplemental requested by the Administration and passed by Congress in 2010, DHS continued to add more technology, manpower and infrastructure to the border. These resources include 1,000 additional Border Patrol Agents; 250 new U.S. Customs and Border Protection (CBP) officers at our ports of entry; 250 new U.S. Immigration and Customs Enforcement (ICE) agents focused on transnational crime; two new forward operating bases to improve coordination of border security activities; and additional CBP unmanned aircraft systems.

Under the Southwest Border Initiative launched in March 2009, DHS has doubled the number of personnel assigned to Border Enforcement Security Task Forces; increased the number of intelligence analysts focused on cartel violence; quintupled deployments of Border Liaison Officers to work with their Mexican counterparts; begun screening 100 percent of southbound rail shipments for illegal weapons, drugs, and cash; and expanded unmanned aircraft system coverage to the entire Southwest border, Williams said.

Going forward, Chairman Michael McCaul (TX) recommended the following actions:
- Extend the use of National Guard troops on the border, and increase their numbers, until there is a sufficient number of Border Patrol Agents in place;
- Incorporate DOD surveillance technology;
- Add at least two more Unmanned Aerial Vehicles to the Texas-Mexico border;
- Increase southbound checkpoints to confiscate weapons and cash, then use the cash to help pay for border security operations; and
- Increase funding to state and local law enforcement along the border through increased funding of Operation Stonegarden.

For more information, visit: http://homeland.house.gov.

ENVIRONMENT: EPA REGULATIONS IMPACT ON SMALL BUSINESSES EXAMINED

The House Small Business Subcommittee on Investigations, Oversight and Regulations held a hearing titled "Green Isn't Always Gold: Are EPA Regulations Harming Small Businesses?" The purpose of the hearing was to examine Environmental Protection Agency (EPA) regulations that affect small business, most specifically those related to the Clean Air Act and the Resources Conservation and Recovery Act. Witnesses included: John Ward, Chairman, Citizens for Recycling First; Glenn Johnston, Vice President of Regulatory Affairs, Gevo Inc.; and Bradford Muller, Vice President of Marketing and Corporate Communications, Charlotte Pipe and Foundry Company.

According to a 2010 report by the Office of Chief Counsel for Advocacy at the Small Business Administration, small businesses bear a significantly greater burden as a result of federal regulations than larger businesses. This report indicates that federal regulatory costs to small businesses per employee are $10,585, an amount that is 36 percent higher than the costs borne by larger employers, Chairman Mike Coffman (CO) said in his opening remarks.

Mr. Ward serves as chairman of Citizens for Recycling First, a small business formed in February 2010 specifically to address coal ash recycling issues. According to Ward, well over 3,000 individuals sent comments to EPA regarding its proposed coal ash disposal rules through the www.recyclingfirst.org website. "The businesses responsible for achieving this remarkable environmental success are overwhelmingly small businesses," Ward testified. Other issues discussed at the hearing included: the effects of EPA regulations on U.S. manufacturers and the metalcasting industry, the National Ambient Air Quality Standards (NAAQS) for Ozone, the use of isobutanol as an alternative transportation fuel, and EPA's "hazardous waste" designation for coal ash.

To view a transcript of all witness testimony, visit: http://smbiz.house.gov.
ECONOMY: STRENGTHENING MANUFACTURING ECONOMY EXPLORER

The Senate Commerce, Science and Transportation Committee held a hearing on Wednesday, May 11, 2011, on manufacturing and ways it can contribute to strengthening the economy. This hearing was the second in a series of Commerce Committee hearings focusing on manufacturing in America and the ways in which the government and industry can strengthen this sector and promote job growth. Witnesses included: Mike Rowe, Creator, Executive Producer, Dirty Jobs, The Discovery Channel; Stephanie Burns, Chairwoman and CEO, Dow-Corning Corp; and Leo W. Gerard, International President, United Steel Workers.

In his opening statement, Chairman Jay Rockefeller (WVA) testified that manufacturing is America's principal source of R&D and innovation. Manufacturing firms perform approximately 70 percent of U.S. industry R&D, while accounting for only about 11 percent of the economy, he said. Mr. Gerard testified that although America's manufacturing sector is still the largest, most productive and innovative in the world, broad domestic and global economic trends provide substantial evidence that the U.S. manufacturing base has been undergoing a steady and potentially dangerous erosion, especially over the last decade.

Ms. Burns testified on how to grow domestic manufacturing in a way that increases exports in the near and long term, while reducing America's trade deficit. Burns said her company, Dow-Corning Corp. focuses on mega-trends including energy storage and efficiency, the rapid urbanization of the developing world, and aging populations and the corresponding challenges related to the provision of health care. Burns said that by focusing on these trends, her company has doubled their sales since 2003.

"Once upon a time, our country was filled with people who weren't afraid to get dirty. Times have changed. The definition of a 'good job' has changed," testified Mike Rowe, creator and star of the Discovery Channel's Dirty Jobs show. Rowe went on to describe the rapid transformation of a manufacturing-based economy into one dominated by financial services and technology.

Only a comprehensive strategy aimed at reversing the erosion in the nation's overall manufacturing base will be sufficient for preserving and revitalizing the nation's defense industrial base in the coming decades, Mr. Gerard concluded.

For more information, visit: http://commerce.senate.gov/ .

PRIVACY: GOOGLE AND APPLE DEFEND PRIVACY POLICIES


In his opening remarks, Chairman Patrick Leahy (VT) stated that he was deeply concerned about the recent reports that the Apple iPhone, Google Android Phone and other mobile applications may be collecting, storing, and tracking user location data without the user's consent. He said he was also concerned about reports that this sensitive location information may be maintained in an unencrypted format, making the information vulnerable to cyber thieves and other criminals. A recent survey commissioned by the privacy firm TRUSTe found that 38 percent of American smartphone users surveyed identified privacy as their number one concern with using mobile applications. Chairman Leahy said he is working to update the Electronic Communications Privacy Act (ECPA).

Alan Davidson, Director of Public Policy at Google Inc. testified on behalf of the Mountain View based organization to discuss mobile services, online privacy, and the ways that Google protects users' personal information. Google makes Android, an open operating system for mobile devices, introduced in the fall of 2008 and available on over 170 devices today. Davidson said protecting privacy and security is
essential for Internet commerce. Without the trust of its users, he said, Google “simply would not be able to offer these services or platforms because on the Internet, competing services are only one click away.”

Davidson's testimony focused on three main points: (1) Location-based services provide tremendous value to consumers; (2) Google is committed to the highest standards of privacy protection in location-based services; and (3) Congress has an important role in helping companies build trust and create appropriate government access standards.

Mr. Tribble explained that Apple provides tools that allow their consumers to control the collection and use of location data on all its mobile devices. He said Apple does not share personally identifiable information with third parties for their marketing purposes without consent, and that they require third-party application developers to agree to specific restrictions protecting customers' privacy. Apple is constantly innovating new technology, features and designs to provide its customers with greater privacy protection and the best possible user experience, Tribble testified.

For more information, visit: http://judiciary.senate.gov/.

HEALTH: HOUSE CONTINUES TO EXAMINE MEDICARE PHYSICIAN PAYMENT SOLUTIONS

The House Ways and Means Subcommittee on Health held a hearing on new models for delivering and paying for services that physicians furnish to Medicare beneficiaries on Thursday, May 12, 2011. The hearing focused on innovative delivery and physician payment system reform efforts. This was the second in a series of hearings about this topic. Witnesses included: Keith Wilson, MD, Chair, Governing Board and Executive Committee, California Association of Physician Groups; Stuart Guterman, Commission on a High Performance Health System, The Commonwealth Fund; Lisa Dulsky Watkins, MD, Department of Vermont Health Access; and Dana Gelb Safran, ScD, Blue Cross Blue Shield of Massachusetts.

At the hearing, the committee explored new models for delivering and paying for services that physicians furnish to Medicare beneficiaries. The Sustainable Growth Rate (SGR), the current model, was implemented in 1998 as the mechanism that determines the rate by which Medicare fee-for-service payments to physicians are updated on an annual basis. The SGR limits the growth in Medicare physician service spending to the rate of growth in the overall economy. The formula is cumulative in that the tally of actual and target expenditures is maintained on an on-going basis since the formula's inception.

According to documents provided by the committee, if expenditures are lower than the target, physician payments are increased and if expenditures are higher than the target, payments are decreased. As the rate of growth in expenditures on physician services has consistently exceeded the rate of growth in the economy in recent years, the SGR system has called for a cut in physician payments in each of the past ten years.

Congress has intervened to avert the cuts each year since 2003 through numerous pieces of legislation. As a result of this legislation and the cumulative nature of the SGR, the magnitude of the projected cuts to physician reimbursements and the cost to override future cuts have grown. The Centers for Medicare and Medicaid Services (CMS) projects that physicians will receive a 29.5% rate cut next year, absent Congressional action. The nonpartisan Congressional Budget Office (CBO) estimates that freezing payment rates at their 2011 levels for the next 10 years would increase Medicare spending by $298 billion.

In announcing the hearing, Chairman Herger stated, "There is widespread agreement that Congress must abandon the practice of short-term patches to avoid cuts to physician payment rates, which only make the problem larger and more expensive to fix. The SGR system creates tremendous uncertainty year after year for physicians and Medicare beneficiaries alike."

For more information, visit: http://waysandmeans.house.gov/.
HEALTH: HOUSE COMMITTEE APPROVES MEDICAL LIABILITY REFORM ACT

The House Energy and Commerce Committee approved the Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act, H.R. 5, by a vote of 30 to 20, on Tuesday, May 10, 2011. The HEALTH Act, authored by Rep. Phil Gingrey, M.D. (GA), is intended to address the high cost of health care by reforming the current medical liability system.

According to Committee Chairman Fred Upton (MI), the current system places a $210 billion burden on the U.S. health system each year. In addition to the savings for patients and doctors, he said, the Congressional Budget Office (CBO) estimates comprehensive medical liability reforms, such as those included in H.R. 5, could reduce the federal deficit by $62 billion over ten years.

Twenty-eight states, including California, have already enacted medical liability reform that includes caps on non-economic damages. The HEALTH Act is modeled on these state laws, and:

- allows plaintiffs to recover full economic losses, but limits non-economic damages to $250,000.
- H.R. 5 also establishes a fair share rule that apportions damages based on a defendant's degree of fault.
- establishes a sliding scale for attorney contingency fees.
- allows evidence of collateral source benefits to be introduced to prevent double recovery, which occurs when a plaintiff has already had medical expenses covered (by, for example, an insurance plan or through Medicare or Medicaid) and is awarded those same costs in a trial.
- sets standards for the award of punitive damages, including a limit on the amount of punitive damages to two times the amount of economic damages awarded or $250,000, whichever is greater. H.R. 5 would also limit punitive damages to instances where a person acted with malicious intent or deliberately failed to avoid injury that was substantially certain to occur.
- allows courts to require periodic payments of damage awards.

For more information, visit: http://energycommerce.house.gov/.