The road to Capitol Hill has been well traveled by Maryland Law School faculty this year, as an increasing number have been tapped to testify before Congress on issues ranging from gene patenting to election fraud.

"Speaking before legislative bodies, especially Congress in Washington D.C., is an important way of informing and influencing the making of public policy," says Michael Van Alstine, associate dean for research and faculty development, adding, "It's who we are as a law school."

Law School Professor Michael Greenberger, who was a senior official of the Commodity Futures Trading Commission during the Clinton administration, was particularly busy as skyrocketing fuel prices began to occupy the attention of Congress in 2008. He testified more than a half-dozen times before Senate and Congressional committees.

"We are paying, some believe, as high as a 50 percent premium to the pockets of oil speculators who are operating in markets that are completely unpoliced," he said. "It's the equivalent of telling a community the crime rate is low, we're pulling the police back, they're too expensive, be sure to lock your doors."

When it came to protecting public health and the environment, Robert Percival shared insights about the result of Supreme Court decisions to cut back federal jurisdiction of the Clean Water Act and Rena Steinzor testified about the federal Superfund.

Speaking before the U.S. House Committee on Transportation and Infrastructure, Percival said that "some of the most fundamental premises of our environmental laws (are) under assault in the courts," and called upon Congress to "carefully monitor the state of environmental law and, when necessary, repair our legal safety net with new legislation."

Steinzor shared her testimony before the U.S. Senate Environmental and Public Works Committee's Superfund and Environmental Health Subcommittee, arguing that "more than any other environmental program, Superfund is a victim of compassion fatigue and political doublespeak" and urging "the reinstatement of Superfund taxes and continued rigorous oversight of the implementation of this vital program."

Other faculty who testified at Capitol Hill hearings in 2007-2008 include:

- David Super, an expert on administrative law, who testified before the U.S. House of Representatives' Subcommittee on Elections, which was examining possible censorship and partisanship at the Election Assistance Commission (EAC).

The commission, created to address voting problems identified in the disputed 2000 presidential election, had come under criticism for alleged lack of transparency and concern about management.

"EAC's research activities should be wholly transparent," Super stated. "In such a politically charged atmosphere, transparency is even more vital than quality."

"Should EAC withhold reports, even bad reports, from public scrutiny, it will invite doubts about what criteria it applied to withhold the report," Super said, adding that the EAC also should not edit the reports or tell the researchers to do so.

"The only proper course for EAC to follow with a commissioned report it believes is flawed would be to release that report together with a statement of what it believes the flaws to be," he said.

- Lawrence Sung, director of the School of Law's Intellectual Property Law Program, who testified before the House Subcommittee on Courts, the Internet, and Intellectual Property about the role of gene patents in research and genetic testing.

Sung discussed the nature of gene patenting, and offered legislators an overview of mechanisms that could be used to maintain an "optimal balance" between patent exclusivity and public access to genomic inventions. These mechanisms include proposals regarding a research use exemption to patent infringement, the exercise of the federal government's march-in rights under the Bayh-Dole Act, and the establishment of biotechnology patent pools.
Putting Future Lawyers in the LEAD

Already nationally recognized for its pioneering efforts to integrate legal theory and practice, the School of Law is again blazing a new trail in the ways that it prepares law students for careers both inside and outside of law practice. Supported by a $1.5 million investment by the Fetzer Institute of Kalamazoo, Mich., the School’s administration and faculty will develop LEAD, a new initiative emphasizing leadership, ethics and democracy.

Dean Karen Rothenberg announced the project in June at the annual meeting of the Maryland State Bar Association in Ocean City.

“In January 2007, the Carnegie Foundation for the Advancement of Teaching challenged the country’s law schools to change the way they teach,” says Rothenberg. “With one of the oldest, biggest, and best clinical law programs in the country, we are ahead of the curve. Now, with the enthusiastic engagement of our faculty and the legal community, we are taking on the next great challenge—leadership and ethics in law.”

“The Institute recognizes the leadership demonstrated by the University of Maryland School of Law in educating lawyers who advocate for their clients, their profession, and their communities,” said Thomas F. Beche, president and chief executive officer of the Fetzer Institute. “We are excited to join the School in building upon that.”

In developing the leadership component of the initiative, the School will continue to collaborate with The James MacGregor Burns Academy of Leadership at the University of Maryland, College Park. In February, the School of Law and the Burns Academy conducted a roundtable with national business and law leaders to discuss the goals and methods for introducing leadership education into law schools.

Among the roundtable participants was Francis B. Burch ’74, Joint CEO of DLA Piper, the world’s largest law firm, who said, “The legal profession has traditionally produced leaders in a broad spectrum of fields, from law to business to public service and elected office. But law schools, unlike business schools and other professional schools, have not integrated leadership education into their curricula. Law schools should design courses and offer opportunities for future lawyers to prepare for leadership, just as they prepare for success as legal practitioners.”

The program will serve as a national model. Diane Hoffman, JD, MS, associate dean for academic programs, said she hopes the ethics, professional, and leadership curriculum at the University of Maryland School of Law “will start a movement” at other law schools.

In response to the ethical challenges of modern law practice, an expanded focus on ethics and problem-solving will help students learn the habits of reflection and analysis needed to develop and retain a professional “moral compass.”

A cross-cultural component will expand the law school’s clinical program to disadvantaged communities across the country and around the globe. Part of this effort involves creating a legal clinic in collaboration with the Mississippi Center for Justice, building upon Maryland students’ ongoing volunteer response to the massive legal needs of low-income people and communities left in Hurricane Katrina’s wake.

The project will also launch the law school’s first international clinic.

“This program makes a statement about how we are preparing students for law practice, and how we hope to have an impact on the profession and the practice of law,” says Hoffman. “It is a statement about the fact that there is a need for law schools to take more seriously their responsibility to embody the highest ideals of the profession.”

DLA Piper Joint CEO Francis B. Burch, Jr. ’74 and Kurt Schmoke, Dean of the Howard University School of Law and former Mayor of Baltimore, participated in a day-long roundtable at UMLaw that discussed the goals and methods for introducing leadership education into law schools.
The School of Law's faculty continues to increase its scholarly reputation and output. The number of books authored and articles published in Top 25 journals in the last five years has tripled from the preceding five-year period. With a half-dozen new faculty books published this year, UMLaw faculty have written more than 30 books since 2003. This year’s titles include:

**The Litigation Mirage: The Illusion of Judicial Solutions to the Public Health Crises Caused by Asbestos, Tobacco, and Lead** (University of Michigan Press) by Donald G. Gifford. In 1994, state attorneys general and mass plaintiffs’ firms began to file lawsuits on behalf of states against the manufacturers of tobacco products, handguns, and lead paint seeking to impose new regulatory regimes through judicial action or settlement. This book critically evaluates these efforts to litigate against product manufacturers.

**When is Discrimination Wrong?** (Harvard University Press) by Deborah Hellman. In this book, Hellman develops a general theory of discrimination, demonstrating that many familiar ideas about when discrimination is wrong—when it is motivated by prejudice, grounded in stereotypes, or simply departs from merit-based decision-making—won’t adequately explain our widely shared intuitions. She argues that, in the end, distinguishing among people on the basis of traits is wrong when it demeans any of the people affected.

**Civil Disobedience and the German Courts: The Pershing Missile Protests in Comparative Perspective** (UT Austin Studies in Foreign and Transnational Law) by Peter Quint. In the 1980s, the West German Peace Movement—fearing that the stationing of NATO nuclear missiles in Germany threatened an imminent nuclear war in Europe—engaged in massive protests, including sustained civil disobedience in the form of sit-down demonstrations. Quint’s book traces the historical and philosophical background of this movement and follows a number of demonstrators through their trials in the German criminal courts up to the German Constitutional Court.

**Public Choice Concepts and Applications in Law** (West Publishing) by Maxwell Stearns. Public choice is the application of economic tools to the subject matter of political science. Over the past two decades, legal scholars have increasingly applied these public choice tools to a broad range of legal topics. This book will provide students with the technical skills required to assess public choice accounts of various legal doctrines, and to evaluate broad-ranging normative proposals for legal and institutional reform.

For more information about recent faculty scholarship, see p. 52, or visit the Digital Commons on the law school’s website.