

LEGISLATIVE REVIEW ACTIVITY

REPORT

OF THE

COMMITTEE ON FINANCE UNITED STATES SENATE

FOR THE

93D CONGRESS

PURSUANT TO

SECTION 136 OF THE LEGISLATIVE REORGANIZATION
ACT OF 1946, AS AMENDED BY THE LEGISLATIVE REOR-
GANIZATION ACT OF 1970 AND BY PUBLIC LAWS 92-136
AND 93-344



MARCH 26, 1975.—Ordered to be printed

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Mr. LONG, from the Committee on Finance, submitted the following

REPORT

[Pursuant to sec. 136 of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970 and by Public Laws 92-136 and 93-344]

FOREWORD

This report by the Committee on Finance on its legislative review activity during the 93d Congress is submitted pursuant to section 136 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d), as amended by Public Laws 91-510, 92-136, and 93-344. The Statute requires standing committees of the House and Senate to "review and study, on a continuing basis, the application, administration, and execution" of laws within their jurisdiction and to submit biennial reports to the Congress. The full text of section 136 follows:

SEC. 136. (a) In order to assist the Congress in—

(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate, each standing committee of the Senate and the House of Representatives shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee. Such committees may carry out the required analysis, appraisal, and evaluation themselves, or by contract, or may require a Government agency to do so and furnish a report thereon to the Congress. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with benefits, or provision for evaluation after a defined period of time.

(b) In each odd-numbered year beginning on or after January 1, 1973, each standing committee of the Senate shall submit, not later than March 31, to the Senate, and each standing committee of the House shall submit, not later than January 2, to the House, a report on the activities of that committee under this section during the Congress ending at noon on January 3 of such year.

(c) The preceding provisions of this section do not apply to the Committee on Appropriations of the Senate and the Committees on Appropriations, House Administration, Rules, and Standards of Official Conduct of the House.

The Committee on Finance, in the course of its work, publishes additional committee prints reporting on various aspects of legislation within its jurisdiction. Copies of those committee prints, as well as additional copies of the instant report, can be obtained from the office of the committee, room 2227, Dirksen Senate Office Building, Washington, D.C. 20015. Written requests should be accompanied by a return address label.

REPORT OF LEGISLATIVE REVIEW ACTIVITY OF THE COMMITTEE ON FINANCE DURING THE 93D CONGRESS

Rule XXV of the Standing Rules of the U.S. Senate provides that at the commencement of each Congress there shall be appointed a—

Committee on Finance, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Revenue matters generally;
2. The bonded debt of the United States;
3. The deposit of the public moneys;
4. Customs, collection districts, and ports of entry and delivery;
5. Reciprocal trade agreements;
6. Transportation of dutiable goods;
7. Revenue measures relating to the insular possessions;
8. Tariffs and import quotas, and matters related thereto;
9. National social security.

Legislation before the Committee on Finance commonly falls into three major categories: amendments to the internal revenue laws, to the Social Security Act (which includes old age, survivors and disability insurance, medicare, medicaid, public assistance, and unemployment compensation programs) and legislation affecting foreign trade and tariffs. Legislation relating to the bonded debt of the United States and to the Government's authority to renegotiate contracts are also within the committee's jurisdiction.

Following is the report of the Committee on Finance on its legislative review activities during the 93d Congress.

LEGISLATIVE REVIEW OF PROGRAMS UNDER THE SOCIAL SECURITY ACT

OLD AGE AND SURVIVORS INSURANCE

Under legislation enacted during the 92d Congress, social security benefits were increased by 20 percent effective September 1972 with

provision for future increases to be made automatically to keep benefits up with rising costs. The first of these automatic cost of living increases was scheduled to go into effect in January of 1975. Early in 1973, the committee reviewed these automatic cost of living increase provisions and determined that, in the light of the unanticipated high rate of inflation, an earlier effective date for a benefit increase than January, 1975 was warranted. The committee's recommendations in this regard led to the enactment of legislation which would have provided a 5.9 percent increase in social security benefits to be effective starting in April 1974.

Because the inflation continued at a very high rate, the committee found it necessary to review the level of social security benefits again toward the end of 1973 and to recommend a somewhat higher benefit increase. This recommendation resulted in legislation under which social security benefits were increased in 1974 by a total of 11 percent in two steps (7 percent in the April checks and the remainder in the July, 1974 checks). At the same time the committee recommended a change in the method of computing the automatic cost-of-living increases in social security which would shorten from 7 to 3 months the lag time between the base period for computing the automatic cost-of-living increases and the month in which those increases would first show up in social security checks. This committee recommendation was also enacted into law.

During the 93d Congress, the Committee on Finance also considered other aspects of the social security cash benefits programs and made several recommendations which were passed by the Senate but on which final legislative action was not taken. These include a change in the special minimum benefit for persons with many years of low earnings under social security. This change would have given such persons the benefit of cost-of-living increases which are applicable to other beneficiaries. The committee also approved a provision to permit certain types of international coordination between the United States social security program and similar programs in other countries and acted to make modifications in the case of the coverage of State employees in certain States.

The committee also acted to make less burdensome the reporting requirements imposed upon employers in connection with social security by allowing them to file a single annual report for social security and income tax purposes of the wages paid their employees in place of the five reports now required (four quarterly social security wage reports in addition to the annual W-2 form). This recommendation was approved by the Senate and led to legislation requiring the Department of Health, Education, and Welfare and the Treasury Department to examine this issue and report back with their joint recommendations. This study was completed and was submitted to the Congress at the end of 1974.

In the course of its 1973 consideration of the need for social security benefit increases, the committee also considered the status of the social security trust funds on the basis of the actuarial information then available and recommended certain changes in the financing of the program. These changes were enacted. In 1974, however, the Board of Trustees of the Social Security Trust Funds, in the annual report which they are required by law to make, adopted certain new assumptions with respect to the financing of the program. Under

these new assumptions, the Trustees have projected a long-range actuarial deficit which would indicate the need for further congressional action with respect to the financing of the social security system.

In the light of this report, the committee sought and obtained the Senate's approval of a resolution authorizing the appointment of a panel of distinguished actuaries and economists to review the financial status of the social security trust funds. Under this resolution such a panel was appointed by the Committee on Finance in September 1974. This panel has met a number of times since then, and it is anticipated that its report will be available early in the 94th Congress.

SUPPLEMENTAL SECURITY INCOME

A new Federal program of income maintenance for the aged, blind, and disabled went into effect in January of 1974 under legislation which had been enacted in 1972. The Committee on Finance gave particular attention during the 93d Congress to this new supplemental security income (SSI) program with a view to correcting certain deficiencies in the original legislation which came to light in the course of preparing for the implementation of this new program. In particular, the committee concentrated its efforts on assuring that the inauguration of the new program would not result in any diminution of benefits for those who had previously been receiving assistance under the federally matched State programs of aid to the aged, blind, and disabled.

As a result of information obtained in early 1973, that the original SSI legislation was indeed likely to cause a loss of benefits for some people then on the rolls, the committee conducted a hearing on this program in June of 1973 with a view towards finding out the extent of this problem and exploring means of preventing it. On the basis of the information developed by the committee, recommendations, which were subsequently enacted by Congress, were made for a series of measures to assure no loss in benefits to persons being transferred from the old to the new programs. These included a program of mandatory State supplementation of the Federal SSI benefits for persons on the rolls as of December, 1973 who would have suffered a reduction in benefits under the new program.

The committee also acted to assure continued food stamp eligibility to SSI recipients in all States except those few States which had made specific provision for including the value of lost food stamp entitlement in the general State supplementary benefits structure. The committee also gave consideration to and took favorable action on several other provisions related to the transition to the new SSI program.

As it had in the case of social security cash benefits, the Committee on Finance also gave considerable attention during the 93d Congress to the impact of the rate of inflation on the adequacy of the benefit levels under the supplemental security income program. The committee recommended legislation, which was subsequently enacted, increasing benefits in 1974 under this program by approximately the same percentages as benefits were increased under the social security program. Also enacted during the 93rd Congress was legislation under which, in future years beginning with 1975, Federal Supplemental Security Income benefits will automatically be increased at the same

time and by the same percentage as social security benefits are raised under the automatic cost-of-living increase provisions applicable to that program.

WELFARE PROGRAMS FOR FAMILIES

In the course of its work during the 93d Congress, the committee and its staff exercised a continuing review of the aid to families with dependent children (AFDC) program established under title IV of the Social Security Act. The legislative changes enacted into law (Public Law 93-647) were in child support and social services.

As a result of its analysis of the AFDC program, the committee recommended in H.R. 3153 a pass-along of 5 percent of future social security benefit increases, a modification of the earnings disregard provision, the reenactment of the community work and training provisions in the law prior to the 1967 amendments, authority for States to operate demonstration projects making employment more attractive for welfare recipients, and the tax credit for low income workers with families (work bonus).

Apart from the legislative changes, the Department of Health, Education, and Welfare instituted administrative changes as a result of legislative oversight findings or amendments to bills reported by the Finance Committee.

The committee printed four pamphlets with data and material on assistance to families:

1. "Programs For Families With Children."
2. "Senate Report No. 93-553—Social Security Amendments of 1973."
3. "Senate Report No. 93-1356—Social Service Amendments of 1974."
4. "Social Services and Child Support—Summary of the Provisions of H.R. 17045."

WORK INCENTIVE PROGRAM

The work incentive (WIN) program was created by the Congress as part of the Social Security Amendments of 1967 in an attempt to deal with the problem of the continuous rapid growth of dependency on welfare by dealing with the major barriers which prevented many of the individuals, particularly women, who headed families on welfare from becoming financially independent through working. Because of the shortcomings found in the administration of the work incentive program, additional legislation proposed by Senator Talmadge was passed in December 1971 which was designed to improve the program so that it would fulfill the purpose for which it was originally intended.

The committee has continued to look into the administration of this program and in 1973 requested the General Accounting Office to review various aspects of this program with particular emphasis on actions taken to implement the Talmadge amendment. Five area sites were selected for review. The final reports are scheduled for completion by early 1975.

SOCIAL SERVICES

On May 1, 1973, the Department of Health, Education, and Welfare issued sweeping revisions in the Federal regulations under which State welfare agencies operate their social services programs for

which Federal matching funds are made available under the Social Security Act. The Committee on Finance conducted public hearings on these new regulations from May 8 to May 17, 1973, receiving testimony from the Secretary of Health, Education, and Welfare and from numerous public witnesses interested in these regulations. These hearings made clear that the regulations which were to have become effective on July 1 were strongly opposed by many groups and individuals on the basis that they were in several respects contrary to the purposes which social services programs were intended by Congress to serve. In particular, it was pointed out that the new regulations would have severely limited the flexibility of the States in the areas of determining what groups (in addition to welfare recipients) would be made eligible for social services and in determining what types of services could be provided.

Because of the extensive nature of the changes which would have been made by the new regulations and the issues raised by those changes, the committee did not have sufficient time to develop a legislative resolution of the policy issues before the new regulations were to go into effect on July 1, 1973. Instead, the committee recommended that the implementation of the new regulations be deferred. Legislation to accomplish this was enacted in July, 1973, giving the committee the opportunity to develop a comprehensive legislative revision of the social services program.

In the fall of 1973, the Committee on Finance agreed to an amendment to the House-passed bill H.R. 3153 which was designed to resolve the issues raised by the HEW social services regulations. In general, the social services provisions added to H.R. 3153 by the committee would have retained the provisions of present law requiring States to provide welfare recipients certain types of services (for example family planning services), but would otherwise have given the States wide discretion in the use of available social services funds. The committee recommendations were approved by the Senate in passing H.R. 3153 on November 30, 1973. The House conferees, however, were not willing to give immediate consideration to the Senate amendments to H.R. 3153. Legislation was agreed to at the end of 1973 invalidating the HEW regulations which had gone into effect on November 1 and prohibiting those or any other new social services regulations from becoming effective prior to January 1, 1975.

By the end of 1974, however, the recommendations of the Finance Committee with respect to the social services program did result in the enactment of legislation restructuring the social services programs under the Social Security Act. The new legislation established a separate title for social services which clearly provided for great State flexibility in such areas as eligibility for social services and the types of services to be provided while retaining a number of specific Federal limits designed to assure that the large amount of Federal funding devoted to this program is in fact used for the types of objectives for which it is intended.

In the course of its consideration of the social services issues during the 93d Congress, the committee published three pamphlets containing information on this subject: "Staff Data and Materials on Social Services Regulations," "Staff Data and Materials on Social Services," and "Social Services and Child Support: Summary of the Provisions of H.R. 17045."

In addition, the committee asked the General Accounting Office to report to the committee on the social services program. This report, entitled "Expenditures for Social Services Provided Under Various Titles of the Social Security Act," was submitted on May 2, 1973. A subsequent report, entitled "Social Services: Do They Help Welfare Recipients Achieve Self-Support or Reduced Dependency?" was submitted June 27, 1973.

CHILD CARE

For many years, the Committee on Finance has been involved in issues relating to child care. The committee has been dealing with child care as a segment of the child welfare program under the Social Security Act since the original enactment of that act in 1935 and in recent years child care has been particularly important as a part of the social services program. In addition to the activities of the committee described above in connection with the legislation revising the structure of the social services program, the Committee also during the 93d Congress published a revised and expanded edition of a document entitled "Child Care Data and Materials," which was first issued by the committee in June of 1971. This document brings together in one publication the most important current statistics, reports, statutory language, and regulations on child care with a view towards making these materials conveniently available to persons involved in child care research, planning, and operation.

CHILD SUPPORT

In the 93d Congress, a hearing was held on September 25, 1973 on child support proposals. This hearing and the continuing review and analysis of the child support program confirmed that (1) HEW was still not adequately monitoring or evaluating the State's child support enforcement activities, as had been previously reported in a General Accounting Office study made in 1972 and (2) most States had not implemented in a meaningful way the provisions of present law relating to the enforcement of child support and the establishment of paternity. As a result, the committee recommended new and stronger legislative action building upon the provisions of then existing law which were basically sound, and mandating more aggressive administration at both the Federal and local levels, with various incentives for compliance and with penalties for noncompliance. Virtually all of the committee recommendations were subsequently enacted in Public Law 93-647.

As enacted, the new child support program leaves basic responsibility for child support and establishment of paternity to the States and provides for a far more active role on the part of the Federal Government in monitoring and evaluating State child support programs, in providing technical assistance, and, in certain instances, in undertaking to give direct assistance to the States in locating absent parents and obtaining support payments from them. To assist and oversee the operations of State child support programs the Department of Health, Education, and Welfare is required to set up a separate organizational unit under the direct control of a person designated by the Secretary. The head of this unit reports directly to the Secretary.

This agency reviews, and approves State child support plans, evaluates the implementation of the child support program in each State, and provides technical assistance to the States to help them to establish effective systems for determining paternity and collecting support. HEW is specifically required to prescribe the organizational structures, minimum staffing levels (and types of staffing; that is, attorneys, collection agents, locator personnel), and other program requirements which States must have in order to be found in conformity with the law. The Department is also required to maintain adequate records of and publish periodic reports on the operations of the program in the various States and nationally. HEW duties include approving applications from a State for permission to sue in Federal court in a situation where a prosecuting attorney or court in another State does not undertake to enforce the court order against a deserting father within a reasonable time. The child support agency in HEW also has the duty of performing an annual audit in each State and of making a specific finding each year as to whether or not the child support program as actually operated in that State conforms to the requirements of law and the minimum standards for an effective support program. If the minimum standards are not met, the Department is required to impose a penalty upon the State equal to 5 percent of the Federal funds to which the State was otherwise entitled as matching for AFDC payments made by the State in the year with respect to which the audit was conducted.

The legislation establishes a parent locator service within the Department of HEW's separate child support unit. This unit upon request of authorized persons makes available the most recent address and place of employment of a deserting parent which it can obtain from records.

The act requires that a mother, as a condition of eligibility for welfare, assign her right to support payments to the State and cooperate in identifying and locating the father, in securing support payments, and in obtaining any money or property due the family. (The ineligibility of a noncooperating mother would apply only to her and not to her children. Assistance payments would be made to the children under a protective payment provision which would assure that the children get the benefit of such payments.) The support obligation would become a debt owed by the absent father to the State.

The State or local support programs will be composed of the following elements of existing law (with certain modifications) plus such other elements as the Secretary of HEW finds necessary for efficient and effective administration: (a) determination of paternity and securing support through a separate organizational unit; (b) cooperative arrangements with appropriate courts and law enforcement officials; (c) location of deserting parents including use of records of Federal agencies; (d) the location and enforcement of support orders from other States against the deserting parent. States will be free to establish such a unit within or outside their welfare agencies. States will be allowed to use the Federal income tax collection mechanism for collecting support payments only in cases in which the State can establish to the satisfaction of HEW that it has made diligent efforts to collect the payments through other processes but without success and the amount sought is based on noncompliance

with a court order for support. The bill provides for a one-time 60-day notice to the defaulting parent of intent to enforce payments under the IRS tax collection mechanism.

Some of the other provisions include: providing incentives for localities to collect support payments and for the family to cooperate; making the wages and annuities of Federal employees, both military and civilian, subject to garnishment in child support and alimony cases; and making the procedures adopted for locating absent parents, establishing paternity, and collecting child support available to families even if they are not on the welfare rolls.

MEDICARE AND MEDICAID

Introduction

In the area of the health care financing programs, medicare and medicaid, the bulk of the committee's legislative review activity involved overseeing and reviewing the implementation of the many health care provisions in Public Law 92-603. This law, passed near the end of the 92d Congress in October 1972, represented the culmination of nearly four years of extensive and continuing Committee activity in the health care field.

In early 1969 the Committee instructed the staff to undertake an in-depth study of the problems involving the medicare and medicaid programs. Following receipt of the report of the staff, the committee held an extended series of hearings. In 1970, 1971 and 1972 the committee developed more than 100 amendments to medicare and medicaid designed in large part to correct many of the problems delineated by the Committee's oversight activities.

The years of the 93d Congress, 1973 and 1974, saw various stages of implementation of the majority of these medicare and medicaid amendments. Unfortunately, the pace of implementation of many of the medicare and medicaid amendments was slow. By February of 1974, more than a full year after enactment of Public Law 92-603, final regulations had been issued to implement only 28 of the 87 health-related provisions of Public Law 92-603 which required implementing regulations to be issued by the Secretary.

In addition to the slow pace of implementation, reports to the Committee from the field indicate that interpretation and implementation of the provisions of Public Law 92-603 varied, in some instances quite significantly, from region to region throughout the country. In February, 1974 Committee staff members visited a number of HEW regional offices in order to informally assess the degree of implementation of the 1972 medicare and medicaid amendments. Following this survey the staff submitted a memorandum to the chairman which discussed the problem of slow and uneven implementation of the health care amendments. A meeting was subsequently held by members of the committee and the Secretary of HEW at which the committee concern with timely and effective implementation was once again emphasized. During the remainder of 1974 implementation of the health care provisions was greatly accelerated and, by the end of 1974, regulations had been issued to implement the majority of the important health care provisions in Public Law 92-603.

Two provisions of Public Law 92-603 received special attention from the Committee in the course of their oversight activities.

Professional Standards Review Organizations

The committee was concerned about implementation of the Professional Standards Review program which represents perhaps the most far-reaching health care amendment in Public Law 92-603. Implementation of this provision proceeded very slowly and information concerning the amendment was slow to disseminate among health care providers and practitioners. As a result, a great deal of confusion and controversy ensued among providers and practitioners about the purpose and requirements of the amendment. A 2-day hearing to review the status of PSRO implementation was held by the Subcommittee on Health in May of 1974. At this hearing the views of representatives of different health care provider and practitioner organizations were heard and the Secretary of HEW testified on the implementation of the PSRO program. By the end of the 93d Congress, although the program remained controversial, implementation of the program was proceeding.

End Stage Renal Disease Program

Another important provision in Public Law 92-603 covered those people—regardless of age—in need of kidney dialysis or kidney transplantation under the medicare program. This was a major expansion of medicare into a new and rapidly changing area. A variety of regulations were required, including regulations defining eligible kidney treatment providers. In addition to the need to develop regulations governing provider eligibility, the Department of HEW had to develop appropriate reimbursement mechanisms. Two problems arose early in the implementation of the program. First, due to a lack of established reimbursement mechanisms, money was slow in flowing from the program to kidney treatment centers. This payment lag was quite severe in the early months of the program but, by the end of the 93d Congress, the reimbursement mechanism was operating much more smoothly. A second problem which arose concerned the issuance of the regulations defining qualified kidney disease providers. Interim regulations were issued which caused some confusion among providers. At the direction of the chairman, committee staff held a series of meetings with those responsible for implementing the renal disease program in order to monitor and report upon progress in developing regulations. By the end of the 93d Congress, a draft set of final regulations for the renal disease program was available and the issuance of final regulations seemed near.

Illinois Medicaid Program

In addition to reviewing the implementation of the many health care provisions in Public Law 92-603, the committee also involved itself in another major health-related oversight task. In early and mid-1974 a series of articles in the Chicago Tribune alleged the existence of serious problems in administration of the Illinois Medicaid program. The Subcommittee on Health, chaired by Senator Talmadge, began an investigation into the reported deficiencies in October 1974. That inquiry, with substantial assistance from the General Accounting Office, is continuing and a report is anticipated early in the 94th Congress.

National Health Insurance Hearings

In May of 1974 the committee held hearings concerning the various National Health Insurance proposals which were pending before the committee. Testimony at those hearings was directed toward the various National Health Insurance proposals pending before the committee and also toward many of the present medicare and medicaid statutory provisions in relation to any future national health insurance program.

Legislative Actions Arising Out of the Committee's Oversight Functions

The committee's legislative action in the 93d Congress in the medicare and medicaid area was designed primarily to correct technical deficiencies in Public Law 92-603 and clarify congressional intent in several important areas. The most significant of these related to questions of medicaid eligibility for persons who were receiving Federal benefits or State supplementary payments under the new income maintenance program for the aged, blind, and disabled, the supplemental security income program. Prior to Public Law 92-603, when the States were responsible for the welfare programs for the aged, blind and disabled, they were required to provide medicaid to all cash recipients. The changes resulting from SSI, however, including Federal standards for payment, Federal definitions of eligibility, Federal administration of cash benefits, and—as a result—the potential of greatly expanded numbers of welfare recipients, required a reexamination of medicaid coverage requirements. Public Law 92-603 had allowed States to limit medicaid coverage by using their old welfare program standards, but in general had not defined clearly what the State options and requirements were. In H.R. 3153, standards were changed to give States a choice of covering either all SSI beneficiaries or limiting coverage by continuing to use any more restrictive standards of their previous cash assistance program.

While all recipients of mandatory State supplements had to be eligible for medicaid, States could provide coverage to some, all, or none of the aged, blind and disabled persons who received only an optional State supplement. While new persons had to qualify as aged, blind, or disabled under the Federal SSI definitions to be eligible for medicaid, current recipients were grandfathered in to coverage, whether they were cash recipients, essential persons, or medically needy individuals. In addition, States were allowed to set special income limits for medicaid coverage for persons in long-term care institutions up to 300 percent of the SSI benefit level. All of these changes were designed to assure continued coverage for persons who were previously eligible for medicaid while providing the States with options so that they could protect themselves against greatly increased medicaid costs because of SSI.

Other amendments in H.R. 3153 included repeal of the limitation on reimbursement for long-term care facilities, and postponement of the provisions relating to reimbursement of teaching physicians pending a formal study. The Senate also added to H.R. 3153 several provisions which had previously been developed and approved by the committee. Most important was the proposal for covering prescription drugs under medicare. While the House refused to agree to H.R.

3153, they did accept the provisions relating to medicaid eligibility, nursing home reimbursement, the study of reimbursement for teaching physicians, and other technical amendments as part of Public Law 93-233.

Further legislative action occurred in the second half of the 93d Congress, including changing the provision relating to imposition of a premium on the medically needy from mandatory to optional, extending 100 percent Federal funding for training and reimbursement of nursing home inspectors from 1974 to 1977, expanding the access to judicial review of decisions by the Provider Reimbursement Review Board under medicare, and extending the time periods for coordination of the Federal employee health program with medicare and for study of appropriate medicare and medicaid reimbursement for teaching physicians.

UNEMPLOYMENT COMPENSATION

The Committee on Finance also reviewed during the 93d Congress the unemployment insurance program, and in particular the Federal-State Extended Unemployment Compensation Act which provides in times of high unemployment for an additional 13 weeks of benefits with 50 percent Federal funding to workers who have exhausted their benefits under the regular State programs (which generally provide a maximum of 26 weeks of benefits). Under permanent law, the extended benefit program becomes operative in all States when insured unemployment reaches a level of 4.5 percent for three consecutive months and becomes operative in individual States when insured unemployment in those States reaches a level of 4 percent and is also 20 percent higher than the rate prevailing in the two prior years. On several occasions during the 93d Congress legislation was enacted to temporarily suspend one of these requirements so that individual States could at their option participate in the extended benefits program whenever their insured unemployment rates reached 4 percent even if those rates were not 20 percent higher than in the two prior years.

In early 1974, rising unemployment caused by energy shortages led the committee to review the adequacy of the unemployment insurance program and in particular the extended benefits program to meet this problem. In April of 1974, the committee conducted a hearing on compensation for unemployment related to the energy crisis, receiving testimony from the Department of Labor and various public witnesses. The committee also published a pamphlet containing information related to this issue: "Staff Data and Materials on Unemployment Compensation."

At the end of 1974, rapidly rising unemployment levels again required action with respect to the unemployment compensation programs, and legislation was enacted under which there will be available during 1975 and 1976 the additional 13 weeks of extended benefits (which are 50 percent federally financed) in all States when the national unemployment level is 4 percent (rather than 4.5 percent as under permanent law). The legislation also provides for an additional 13 weeks of benefits (with 100 percent Federal funding) during this period for workers who exhaust both their regular and

extended benefit entitlement. Unlike most major unemployment compensation legislation, this measure was approved by the Senate without having been referred to the Committee on Finance. However, the Committee was aware of this action and had considered the measure informally and indicated its approval of the unusual procedure because of the urgency of the employment situation.

CONFIRMATION HEARINGS

The committee found through experience that its legislative review of social security laws can be pursued effectively through the confirmation hearings held to consider appointments to the Secretary of Health, Education, and Welfare, Under Secretary, Assistant Secretary for Planning and Evaluation, General Counsel, Administrator of the Social and Rehabilitation Service, and the Commissioner of Social Security. During such hearings the committee can bring up matters concerning the execution of the social security laws and seek the cooperation of the nominee to remedy the administrative actions which the committee believes are inconsistent with congressional intent.

During the 93d Congress nominations for all of the above positions were received by the committee. After public hearings all of the nominees were favorably reported and their appointments confirmed by the Senate.

LEGISLATIVE REVIEW OF INTERNAL REVENUE LAWS

During the 93rd Congress, the Committee on Finance undertook to review a number of areas and provisions of the Federal tax laws. Those subcommittees whose areas of legislative review primarily concerned tax matters were the subcommittees on Private Pension Plans, Private Foundations, and State Taxation of Interstate Commerce.

PRIVATE PENSION ACTIVITY

The Subcommittee on Private Pension Plans held six days of public hearings on May 21, 22, 23, 31 and June 4 and 12, 1973, conducting a comprehensive review of the tax laws and administrative procedures applicable to private employee benefit plans. As a result of this activity, pension reform legislation known as the Employee Retirement Income Security Act of 1974 was approved by the Committee. The legislation enacted represents a milestone in the development of Federal legislation to foster the growth of meaningful and secure privately sponsored retirement income plans for employees who have spent their working careers in useful and productive work.

In broad outline, this legislation was designed to increase the number of individuals participating in retirement income plans, to make sure those participating in such plans are adequately protected against the imposition of unduly restrictive benefit preconditions and inadequate funding procedures, and to create greater equality of treatment under the tax laws for different types of taxpayers maintaining private retirement income plans.

Additionally, this Act brought about several major administrative changes. To underscore the importance of the private pension plans system within the Internal Revenue Service, a new office headed by an Assistant Commissioner, responsible for the supervision and direction of these basic activities of the Internal Revenue Service in connection with pensions and other employee benefit plans and tax exempt organizations, was created. This office was created to insure that the interests of plan participants are not subordinated in any way to the primary mission of the Internal Revenue Service of gathering taxes.

Further administrative safeguards for plan participants have also been incorporated in this Act. Provision has been made for interested employees to participate in the process under which determinations are made by the Internal Revenue Service as to whether the plan under which they are covered is qualified. Previously no such procedure was available to employee-participants.

Also, the Act has made it possible for employers and interested employees to seek judicial review of determinations made by the Internal Revenue Service regarding the qualification of their employee benefit plans. Under prior law, such review was difficult and generally quite costly to obtain.

To provide employees with complete information about their retirement benefits, the Act requires that each employee's vested benefits be reported to the Social Security Administration which in turn can provide such information to covered employees.

For the purpose of maintaining continuous and further review of the administration of the private retirement benefits system, a Joint Pension Task Force has been created to monitor Internal Revenue Service and Labor Department implementation.

Another important element of this pension reform legislation is the establishment of a system for the enrollment of actuaries who practice before the government. A board jointly established by the Internal Revenue Service and the Labor Department is responsible for administering these enrollment procedures.

Since this new provision of law is to be administered both by the Internal Revenue Service and the Department of Labor, coordination between those two administrative departments is encouraged to facilitate easier employer compliance with the provisions of this law. The Committee has directed its staff and the staff of the Joint Committee on Internal Revenue Taxation to participate in the ongoing review of the pension laws, along with the Labor Committee staffs, through the Joint Pension Task Force. This body has been directed to study further such areas as portability of benefits, preemption of State laws, and possible applicability to government retirement systems. The results of such studies are to be submitted before the end of the 94th Congress.

FOUNDATIONS

The Subcommittee on Foundations has also been active in reviewing the administration of the tax laws as it affects the existence and operation of private foundations. Hearings were held on October 1 and 2, 1973, May 13 and 14, 1974, June 3, 1974, September 9 and 10, 1974 and November 25 and 26, 1974 by this subcommittee as it explored the role of private foundations in today's society, the impact

of minimum distribution requirements and the 4% excise tax on investment income contained in present law and Internal Revenue Service compliance efforts in reviewing the activities of private foundations.

STATE TAXATION OF INTERSTATE COMMERCE

The Subcommittee on State Taxation of Interstate Commerce was established during the 93d Congress to examine the need for Federal legislation in connection with State taxation of interstate businesses. This subcommittee held hearings on this subject on September 18 and 19, 1973. The subcommittee sought to determine precisely how independent State administration of their respective corporate income and sales and use tax laws adversely affects interstate businesses. As a result of these hearings, combined efforts by the business community and a number of State tax officials has commenced with a view toward working out remedial legislation which can be endorsed by most States and a large portion of the business community.

MISCELLANEOUS ADMINISTRATIVE PROVISIONS APPROVED

The full Committee, in the closing days of the 93d Congress, was able to obtain passage of legislation providing for a number of significant changes in the administrative provisions of our tax laws. These provisions, added as amendments to H.R. 421, increased the interest rate paid by taxpayers on tax deficiencies and by the Government on tax overpayments from 6 percent to 9 percent per year for obligations attributable to periods after June 30, 1975. For subsequent years, it also provides a procedure whereby the 9 percent rate may be adjusted as the prime interest rate changes. The Government interest rate in subsequent years is to be 90 percent of this prime rate but at the nearest whole interest rate and is not to be changed more than once every two years. This act also dealt with a number of other measures which relate to problems in administering or complying with the law, such as the taxation of real estate investment trusts; the tax treatment of income from property where a mortgage has been foreclosed; the application of the class life system to real property until such time as the Treasury Department develops regulations on a class life system for real estate; the tax treatment of accrued vacation pay; and the taxation of political organizations and gifts to such organizations. This legislation, which the Finance Committee was able to approve prior to the end of the 93d Congress, has eliminated a number of difficult administrative problems for the Internal Revenue Service and should stimulate more prompt payment of outstanding tax liabilities now that the 6 percent interest rate has been increased.

ADMINISTRATIVE CHANGE TO PERMIT COOPERATIVE INVESTMENTS BY EDUCATIONAL ORGANIZATIONS

The Committee also took action to rectify an administrative problem involving the common investment and management of funds by a group of educational organizations individually exempt from Federal income taxation. An amendment to H.R. 8214 was approved to insure

that such educational institutions could continue to utilize a cooperative investment trust. Such action was necessary to continue the tax exempt status for such activities since a ruling issued by the Internal Revenue Service in 1970 which enabled such activities to be conducted on a tax-exempt basis might have no longer been applicable because of a change in the manner of funding the management and administrative expenses incurred by such a common trust fund.

ADMINISTRATIVE CHANGES BENEFITTING MISSING-IN-ACTION, PRISONERS OF WAR AND MILITARY PERSONNEL

Finally, the Committee was able to obtain Senate approval of one other measure designed to eliminate a series of administrative problems which had developed over the years in connection with the tax treatment of military and civilian personnel returning from a combat zone, the families of individuals who are listed as missing in action and are subsequently determined to have died at an earlier time. A number of other administrative problems also were dealt with in this act relating to military personnel.

CONFIRMATION HEARINGS

In addition to its work on remedial legislation and hearings on legislation, the Committee has also found that its legislative review of the Internal Revenue laws can be pursued effectively through the confirmation hearings held to consider appointments to the positions of Secretary of the Treasury, Under Secretary of the Treasury, Assistant Secretary for Tax Policy, Commissioner of Internal Revenue, and Chief Counsel of Internal Revenue. In such hearings the Committee is able to bring up matters concerning the administration and execution of the Internal Revenue laws which have come to the Committee's attention from constituents, hearings on proposed tax legislation and through its own initiative. The Committee seeks the cooperation of the prospective appointee as to tax policies and procedures designed to remedy the administrative actions the Committee believes inconsistent with established Congressional intent.

The effectiveness of legislative review through confirmation hearings on proposed Treasury appointees has been proven many times through the subsequent actions of the confirmed appointees with respect to specific problems and general approaches relevant to the implementation of laws in areas under the jurisdiction of the Committee.

COMMITTEE INQUIRIES

From time to time, the Committee also directs specific complaints concerning administration of the Internal Revenue laws to the Commissioner of Internal Revenue with a request for him to investigate and report back to the Committee. Generally, these complaints raise questions concerning the lack of efficiency or impartiality by the Internal Revenue Service in the administration of the tax laws. The Commissioner of Internal Revenue invariably shows considerable diligence and attention to such inquiries from the Committee.

PUBLIC INQUIRIES

Finally, because of the broad impact of the Internal Revenue laws, the public, including individuals and associated groups, is relied on to bring to the Committee's attention inequities in the execution of substantive tax laws and inefficiencies in the procedural administration of such laws.

LEGISLATIVE REVIEW OF INTERNATIONAL TRADE, FINANCE, AND
MONETARY AFFAIRS

The 93d Congress coincided with a period of serious strain in the world's trade and monetary systems, a strain which was exacerbated by war in the Middle East and the Arab oil embargo and price increases which followed. In April, 1973, prior to the Middle East war, President Nixon transmitted to the Congress the proposed Trade Reform Act of 1973 to permit the Executive to negotiate "a more open and equitable trading world." Twenty months later, after extensive hearings and consideration by the Ways and Means and Finance Committees the Congress enacted the Trade Act of 1974. The Trade Act will permit multilateral trade negotiations to proceed in Geneva beginning this spring, with the goal of promoting fairness and equity in the international trading system and preventing a serious deterioration in the spirit of economic cooperation essential for the preservation of economic and political stability in a rapidly changing world. Specifically, the authorities granted by the Act relate to:

- Tariffs;
- Nontariff barriers;
- Reform of the General Agreement on Tariffs and Trade;
- Balance of payments difficulties;
- Access to supplies important to our economy;
- The independence of the U.S. Tariff Commission;
- Congressional oversight of all trade negotiations;
- Relief to industries, workers, and communities adversely impacted by excessive imports;
- Speedy relief for those injured by unfair foreign trade practices;
- Establishing reciprocal conditions for U.S. commerce;
- Providing for bilateral as well as multinational negotiations to achieve such reciprocity;
- Opening up new opportunities for trade with nonmarket countries, and with developing countries, under carefully prescribed conditions;

The Act represents the largest and most significant delegation of trade negotiating authority to the President in the Nation's history. However, the Committee reflected its desire to participate in a continuing legislative review by establishing a new partnership between the Congress and the Executive in the management of the Trade Agreements Program. For example, the Committee included many provisions reserving for the Congress the final judgment whether trade agreements entered into under the new law are in the national interest. Thus, while significant authorities to deal with current international economic problems are delegated to the President, the

Congress not only retains its basic constitutional powers, but will be able to fulfill a careful oversight function—and in many cases a veto power—over the exercise of the carefully prescribed authorities delegated to the President.

This legislation was the major business of the Committee on Finance throughout most of 1974. Early last spring the committee conducted 20 days of hearings, receiving statements from 118 witnesses, whose testimony fills seven volumes and 2,423 pages. The committee held executive sessions through the summer and fall to consider the bill. The committee report is 311 pages in length and the bill itself numbers 294 pages. The lengthy and careful consideration by the Finance Committee testifies to the importance of the bill. It is anticipated that its monitoring and review of the operation of the Trade Agreements Program will continue to occupy the Committee throughout the five-year period of negotiating authority contemplated under the new law.

In addition, during the 93d Congress the Committee considered legislation, relating to the nation's international trade and monetary policies, including Extension of the Interest Equalization Tax, the Export Development Credit Fund, and numerous minor tariff bills intended to encourage the import of vital raw materials.

In addition, four subcommittees of the Committee on Finance conducted extensive oversight hearings during the 93d Congress in the fields of international trade, international finance and resources, energy, and financial markets.

SUBCOMMITTEE ON INTERNATIONAL TRADE

The subcommittee conducted a series of oversight hearings begun in the 92d Congress on various aspects of U.S. foreign economic policy including U.S. negotiating strategy; non-tariff barriers confronting U.S. exports; and the role of multinational corporations in the domestic and world economies. The subcommittee commissioned from the Executive Branch a series of thirteen studies on current issues within the General Agreement on Tariff and Trade (GATT). The subcommittee also commissioned from the Tariff Commission (which has been renamed United States International Trade Commission) several studies relating to the impact of multinational corporations on employment and capital investment within the United States and a comprehensive study of nontariff trade barriers in foreign countries.

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND RESOURCES

The subcommittee's activities during the 93d Congress were directed into two general areas: First, the subcommittee directed its attention to the growing stresses within the international monetary system, reflected in frequent exchange rate adjustments, sudden shifts of capital from currency to currency, and the increases in the price of gold. Secondly, the subcommittee inquired into the subject of foreign indebtedness to the United States, since World War I, the calculation of that indebtedness and the manner in which the Executive Branch seeks to negotiate settlements, reschedulings, or cancellation of the debts of other countries.

SUBCOMMITTEE ON ENERGY

The subcommittee conducted a series of hearings on the subject of fiscal policy and the energy crisis. The subcommittee received extensive testimony from public and private witnesses on how U.S. policies relating to the taxation and importation of energy resources should be altered to achieve energy self-sufficiency.

SUBCOMMITTEE ON FINANCIAL MARKETS

The subcommittee carried out a comprehensive study of the process of capital formation in the United States in relation to U.S. tax policy. The subcommittee inquired into the growing dominance of institutional investors in the stock market, the simultaneous departure of individuals from the markets, and the state of the country's capital markets generally. A series of public hearings were conducted in which a range of viewpoints were presented.

LIST OF PUBLICATIONS

Following is a list of publications of the Committee on Finance relating to trade and tariffs during the 93d Congress:

"Canadian Automobile Agreement", 6th Annual Report of the President.

"A Strategy for International Trade Negotiations."

"Implications of Multinational Firms for World Trade and Investment and for U.S. Trade and Labor", report of the U.S. Tariff Commission."

"Multinational Corporations", A Compendium of Papers (out-of-print, limited copies for distribution to libraries only.)

"The Multinational Corporation and the World Economy", (supplies exhausted).

"Custom Valuation", report of the U.S. Tariff Commission.

Executive Branch GATT Studies:

"No. 1—Tax Adjustments in International Trade: GATT Provisions and EEC practices."

"No. 2—GATT Provisions on Unfair Trade Practices."

"No. 3—Adequacy of GATT provisions dealing with agriculture."

"No. 4—Effects of regional trade groups on U.S. foreign trade: The EC and EFTA experiences."

"No. 5—Discriminatory government procurement policies."

"No. 6—Quantitative restrictions in the major trading countries."

"No. 7—GATT balance of payments safeguard provision: Article XII."

"No. 8—GATT provisions on relief from injurious imports."

"No. 9—Most-favored-nation provision."

"No. 10—Effect of foreign exchange rate changes on U.S. trade and tariff concessions."

"No. 11—GATT provisions on compensation and retaliation."

"No. 12—Common agricultural policy of the European community."

"No. 13—An analysis of whether or not greater flexibility in foreign exchange rates would serve in the interests of United States and world trade."

"The International Monetary Crisis."

"The International Coffee Agreement", report by the Comptroller General.

"The Role of Institutional Investors in the Stock Market."

"Foreign Indebtedness to the United States."

"Fiscal Policy and the Energy Crisis" (supplies exhausted—Reprinted in part 2 of hearings).

"World Oil Developments and U.S. Oil Import Policies", report by the U.S. Tariff Commission.

"Canadian Automobile Agreement", 7th Annual Report of the President.

"Executive Branch Organization for International Economic Policy."

"Comparative Analysis of Existing Trade Laws With H.R. 10710—Trade Reform Act of 1973" (supplies exhausted).

"Summary and Analysis of H.R. 10710—Trade Reform Act of 1973."

"U.S. Trade and Balance of Payments", staff data and material.

"Executive Branch GATT Studies", a compilation.

"Background Materials Relating to the United States-Soviet Union Commercial Agreements."

"Analysis of the Trade Agreements Program and the Trade Reform Act of 1973."

"Analysis of the Rate Reducing Authority in the Trade Reform Act of 1973" (staff papers provided by the U.S. Tariff Commission).

"Trade Reform Act of 1974", summary as ordered reported by the Committee on Finance.

"Canadian Automobile Agreement", 8th Annual Report of the President.

"Summary of the Trade Act of 1974."