

LEGISLATIVE REVIEW ACTIVITY

REPORT

OF THE

COMMITTEE ON FINANCE UNITED STATES SENATE

FOR THE

92D CONGRESS

PURSUANT TO

SECTION 136 OF THE LEGISLATIVE REORGANIZATION
ACT OF 1946, AS AMENDED BY THE LEGISLATIVE
REORGANIZATION ACT OF 1970 AND BY PUBLIC LAW

92-136



FEBRUARY 28, 1973.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1973

LEGISLATIVE REVIEW ACTIVITY

FEBRUARY 28, 1973.—Ordered to be printed

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 Law 92-136]

FOREWORD

This report by the Committee on Finance on its legislative review activity during the 92d 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 and 92-136. 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.

"(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 Com-

mittees 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.

REPORT OF LEGISLATIVE REVIEW ACTIVITY OF THE COMMITTEE ON FINANCE DURING THE 92D 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 92d Congress.

Legislative Review of Programs Under the Social Security Act

In the course of its work during the 92d Congress the committee conducted a comprehensive review of programs under the Social Security Act.

Child Care

In view of the importance of child care in any program of welfare reform, and in order to look into Federal and State activities under present child care programs funded under the Social Security Act, the committee held 3 days of hearings on the subject of child care on September 22, 23, and 24 of 1971. In addition, the committee printed three pamphlets with data and material on child care: "Child Care Data and Materials" dated June 16, 1971. "Material Related to Child Care Legislation" dated July 23, 1971, and "Additional Material Related to Child Care Legislation" dated September 21, 1971.

Work Incentive Program

In 1971, the committee looked into the shortcomings of the Work Incentive Program as administered by the Department of Labor. This program was created by the Congress as part of the Social Security Amendments of 1967 in an attempt to deal with the problem of rapidly growing dependency on welfare by dealing with the major barriers which prevented many of the women who headed families on welfare from becoming financially independent through working.

As a result of its study of the Work Incentive Program, the committee approved legislation (subsequently signed into law on December 28, 1971) designed to improve the program so that it would fulfill the purpose for which it was originally intended.

The effective date of the new amendments was July 1972. Unfortunately, reports came to the committee's attention that the Labor Department in its administration of the new amendments intended to pursue policies which could frustrate both the welfare recipients who wanted to be placed in jobs and the Congress that wished to help them find employment. The committee published a study ("Implementation of Amendments to Improve the Work Incentive Program," dated June 26, 1972) which detailed problems in Labor Department implementation of the new legislation; the committee held a hearing on June 27, 1972, during which the Labor Department and several State welfare administrators testified.

168 Poverty Programs

For over 2 years, the committee has spent a major portion of its time grappling with the problem of rewriting the welfare laws to make them achieve the congressional intent of providing assistance to poor persons who cannot help themselves and a temporary source of support for the family whose able-bodied head was unemployed. As the committee studied the matter, it became clear that a major obstacle to true welfare reform was the plethora of Federal programs aiding the poor. For over the years, many overlapping programs to aid needy people have been approved, with the end result being loss of effectiveness and low efficiency in providing the maximum benefits to the truly destitute and handicapped.

The committee published a pamphlet entitled "Information on Federal Programs To Aid the Poor," listing 168 programs to aid the poor, giving information on each. These programs provided \$31 billion in benefits in 1972.

On February 15, 1972, the committee held hearings on establishing priorities among programs aiding the poor at which the Secretaries of Health, Education, and Welfare, and Labor, the Director of the Office of Economic Opportunity, and the Director of the Office of Management and Budget testified.

The committee has been unsuccessful up to now in its endeavors to receive recommendations on establishment of priorities among the programs or recommendations as to which programs could be consolidated or abolished.

Social Services

A tremendous projected increase in State use of Federal funds for social services led the committee to look into the need for legislative action in this field. Congress, in 1962, enacted legislation increasing the Federal matching for social services from 50 to 75 percent to

encourage States to provide social services designed to prevent and reduce dependency on welfare. Additional legislation in this area was approved in the 1967 amendments to the Social Security Act.

Federal matching for social services was mandatory and open-ended but the term "social services" was not defined in law. This lack of definition allowed States to convert operations which had been formerly only State funded to the Federal-State program to maximize the use of Federal matching funds—all this during a time when Federal funding through other programs was being limited. In addition, private funds were used by the State or local agency to obtain Federal matching funds. These were the main causes of the tremendous increase in the Federal cost of social services over the past 2 years.

Data on the use of social services funds was printed by the committee. During the hearings on H.R. 1, the Social Security Amendments of 1972, and H.R. 14370, the Revenue Sharing Act, social services and their funding were dealt with extensively by the committee. Legislation limiting Federal funds for social services was subsequently enacted.

Unemployment Compensation

In 1970, the Congress enacted the most significant unemployment insurance legislation since the original Social Security Act. One part of the legislation created a new permanent program of extended unemployment insurance benefits. Under this new program, up to 13 weeks of unemployment benefits (in addition to the 26 weeks of regular unemployment benefits) could be paid an unemployed person if (1) the national rate of unemployment was sufficiently high, or (2) the rate of unemployment in his State was sufficiently high.

In view of the critically high levels of continuing unemployment in several States, proposals were made during the 92d Congress to provide additional unemployment benefits or to make it easier for States to qualify for participation in the extended benefit program. In 1971, and again in 1972, the committee in executive session looked into the adequacy of the new extended benefit program; three legislative measures affecting these benefits were enacted during the 92d Congress.

Social Security Cash Benefits

In the course of the committee's work on H.R. 1, the Social Security Amendments of 1972, the committee looked into all aspects of the social security cash benefit program.

One area that received particular emphasis during committee consideration was the exploration of ways to improve benefits for low-income workers with long-time social security coverage. Based on the committee's study of the social security program, it was concluded that a large increase in the social security minimum benefit would be an expensive but relatively inefficient way of achieving this aim; instead, the committee recommended a special minimum benefit for long-term low-income workers, which was adopted by the Senate and accepted, with somewhat less generous dollar figures, by the House conferees.

The committee also paid careful attention to evaluating the adequacy of social security benefits; during the 92d Congress, benefits were increased across the board 10 percent in legislation approved March 1971, and a further 20 percent—for a cumulative increase of 32 percent—in legislation signed into law July 1972. These two increases

represent the largest dollar increase in social security benefits ever approved by a single Congress.

Other aspects of the social security cash benefit program receiving the committee's particular attention during the 92d Congress related to providing for automatic increases in benefits as the cost of living rises, insuring the adequacy of benefits for widows, permitting retired persons to earn reasonable amount without loss of social security benefits, and a number of other matters designed to improve the equity of the program. The committee also looked into ways of improving methods of issuing of social security numbers and providing stronger penalties for fraudulent misuse of social security cards.

Aid to the Aged, Blind, and Disabled

The committee, in the course of its work on H.R. 1, thoroughly reviewed the operation and effect of present State programs for the aged, blind, and disabled. This review led the committee to approve legislation establishing a new, wholly Federal program of aid to the aged, blind, and disabled to replace the present State programs. Public Law 92-603, H.R. 1, also provided for a new program of social services to the aged, blind, and disabled, under State administration. Both of these programs will be effective January 1, 1974, and are applicable only to the 50 States.

The committee's attention was directed particularly toward assuring an appropriate relationship between this new supplemental security income program (SSIP) and the social security program, so that persons who contributed during their working lifetime would receive a financial advantage for having done so. The committee also provided for changes in the present State programs for the aged, blind, and disabled during the interim period between October 30, 1972, when Public Law 92-603 (H.R. 1) was approved, and the effective date of the new Federal program.

Welfare Programs for Families

In the course of the committee's work on H.R. 1, more time was devoted to matters relating to aid to families with dependent children (AFDC) than to any other one program. The committee received from the General Accounting Office three reports:

1. "Comparison of the Simplified and Traditional Methods of Determining Eligibility for AFDC" (July 14, 1971).
- 2 "Collection of Child Support Under the Program of AFDC" (Mar. 13, 1972).
3. "Problems in Obtaining Integrity in Welfare Programs" (Mar. 16, 1972).

As a result of these studies by GAO and the analysis of the AFDC program and related areas, the committee proposed an entirely new plan to deal with this major welfare program.

The principal changes recommended by the committee involved recasting the entire AFDC program, concentrating on improving administrative techniques, reducing or eliminating ineligibility, overpayments, and underpayments by tightening management controls, permitting identification procedures, allowing the States to more thoroughly investigate applications and redeterminations of eligibility, and clearly defining the Federal-State relationship.

Another major change recommended by the committee related to establishing a complete new program for employable family heads in

which they would be assured of a guaranteed employment opportunity rather than welfare benefits.

A third major change was the establishment of a strong child support program under the direction of the Attorney General with authority to delegate the functions to the States or local governmental bodies. This new program would utilize the resources of the Federal Government to locate and collect support payments from absent parents, provide for the attachment of wages and annuities of Federal employees, both civilian and military, and provide for the establishment of highly sophisticated blood-typing laboratories to aid in the determination of paternity of children.

The committee printed 13 pamphlets with data and material on family assistance:

1. "Income Maintenance Experiments."
2. "Assistance Programs for Families in Foreign Countries."
3. "Survey of State Public Service Job Opportunities."
4. "Guaranteed Job Opportunity."
5. "Child Support and Paternity Determination."
6. "Welfare Alternatives, Costs and Coverage."
7. "Fiscal Relief for States."
8. "Statement of Roger Freeman on H.R. 1."
9. "Analysis of Cost of the Committee Amended H.R. 1."
10. "Summary of the Principal Provisions of H.R. 1 as Determined by the Committee on Finance."
11. "Senate Report No. 92-1230—Social Security Amendments of 1972."
12. "Summary of Social Security Admendments of 1972 as Approved by the Conferees."
13. "Summary of Social Security Amendments of 1972, Public Law 92-603 (H.R. 1)."

Child Welfare Services

As it passed the House, H.R. 1 added a new program of Federal grants for foster care and adoption services, two services for which Federal matching in the past has been available as part of the child welfare services grant program. The committee reviewed the operation of the child welfare services program. Based on its study, the committee concluded that providing additional funds only for foster care and adoption services could lead to failure to provide preventive services designed to keep families together. The committee accordingly recommended that grants for child welfare services be increased by an amount approximately equal to the amount earmarked in the House bill for foster care and adoption services. The committee's recommendation was adopted by the Senate and accepted by the House conferees.

Medicare and Medicaid

The committee has been actively and continuously involved in legislative review activities with respect to Medicare and Medicaid since the inception of those programs. In fact, the committee held oversight hearings prior to the actual effective date of Medicare, in order to evaluate the consistency with legislative intent of certain regulations proposed to be issued by the Department of Health, Education, and Welfare.

Comparative and comprehensive data on the two programs first began to be available starting in 1968. The committee, concerned over the serious implications of those data, as well as other reports concerning operation of the two programs, instructed its staff to undertake a thorough study and evaluation of Medicare and Medicaid. The report of that year-long study was entitled "Medicare and Medicaid—Problems, Issues, and Alternatives" and was published in February, 1970. Following submission of the report to the committee, a series of oversight hearings, extending over several months, was held by the committee for the purpose of developing additional alternative means of improving performance in the two principal Federal health care financing programs.

H.R. 17550, the Social Security Amendments of 1970, included in both House and Senate versions many changes in Medicare and Medicaid developed as a result of the exhaustive oversight efforts of the Committee on Finance. For a variety of reasons, the House and Senate did not go to conference on H.R. 17550, and these important changes were not enacted into law.

During the 92d Congress, the committee continued its review of Medicare and Medicaid on both a formal and an informal basis, updating the findings of its earlier work and further refining and improving upon the amendments it had developed in 1970. Additionally, other changes in Medicare and Medicaid seemed indicated on the basis of preliminary data, and the committee proceeded to evaluate the problem areas in depth approving necessary changes in the form of amendments to H.R. 1 (Public Law 92-603). H.R. 1 also included virtually all of the Finance Committee—developed amendments which had previously been incorporated in H.R. 17550 of the 91st Congress. The oversight activities in the 92d Congress were thus in a direct continuum with those undertaken in the 90th and 91st Congresses.

Apart from these legislative changes, the Department of Health, Education, and Welfare instituted administrative changes as a result of legislative oversight findings by the Finance Committee. These findings were translated into certain specific recommendations to HEW, which were implemented administratively—an example being the committee's recommendations with respect to methods of reimbursing hospitals and other institutions.

There is no question but that the legislative review work of the Committee on Finance has resulted in an upgrading of administrative effort and performance by the Bureau of Health Insurance and the Medical Services Administration, agencies responsible for administration, respectively, of the Medicare and Medicaid programs. Additionally, the performance of the carriers and intermediaries utilized in the administration of these programs has been upgraded.

During the course of the committee's oversight activities, substantial direct and indirect assistance was received from the Comptroller General of the United States. This cooperative assistance included preparation of a number of reports by the Comptroller General, which were directly requested by the committee, suggested by the

committee, or discussed with the committee. The principal reports are listed below:

<i>Title</i>	<i>Date</i>
Opportunity to reduce Medicare costs by consolidating claims of processing activities.....	Jan. 21, 1971
Ways to reduce payments for physician and x-ray services to nursing home patients under Medicare and Medicaid.....	Feb. 2, 1971
Control needed over excessive use of physician services provided under the Medicaid program in Kentucky.....	Feb. 3, 1971
Problems in providing proper care to Medicaid and Medicare patients in skilled nursing homes.....	May 28, 1971
Lengthy delays in settling the costs of health services furnished under Medicare.....	June 23, 1971
Ineffective controls over program requirements relating to medically needy persons covered by Medicaid.....	July 28, 1971
Improved controls needed over extent of care provided by hospitals and other facilities to Medicare patients.....	July 30, 1971
Evaluation of hospital medical staff's comments on report on review of Medicare payments for the services of salaried supervisory and teaching physicians.....	Aug. 17, 1971
Problems in paying for services of supervisory and teaching physicians in hospitals under Medicare.....	Nov. 17, 1971
Evaluation of Department of Health, Education, and Welfare proposed regulations changes effecting Medicare reimbursement to institutions.....	Mar. 24, 1972
Problems in providing guidance to States in establishing rates of payment for nursing home care under the Medicaid program..	Apr. 19, 1972
Need for legislation to authorize more economical ways of providing durable medical equipment under Medicare.....	May 12, 1972
Maternal and child health programs authorized by title V, Social Security Act.....	June 23, 1972
More needs to be done to assure that physicians' services—paid for by Medicare and Medicaid—are necessary.....	Aug. 2, 1972
Problems associated with reimbursements to hospitals for services furnished under Medicare.....	Aug. 3, 1972
Sizable amounts due the Government by institutions that terminated their participation in the Medicare program.....	Aug. 4, 1972

As previously indicated, the legislative oversight activities of the Committee on Finance found expression in legislative amendments included in Public Law 92-603.

Listed below are some of those legislative changes designed to improve the effectiveness and economy of Medicare and Medicaid which basically were developed as an outgrowth of the Committee's oversight efforts:

Beneficiary liability under Medicare.—The new law will relieve beneficiaries from liability in certain situations where Medicare claims are disallowed and the beneficiary is without fault.

Limitation on Federal payments for disapproved capital expenditures.—Medicare and Medicaid payments will not be made with respect to certain disapproved capital expenditures (except for construction toward which preliminary expenditures of \$100,000 or more had been made in the 3-year period ending December 17, 1970) which are specifically determined to be inconsistent with State or local health facility plans.

Additionally, the committee's oversight work enabled it to modify and support other constructive amendments such as:

Payments for the services of teaching physicians.—The services of teaching physicians will be reimbursed under Medicare on a cost basis unless:

- (a) The patient is a bona fide private patient or;

(b) The hospital has charged all patients and collected from a majority on a fee-for-service basis.

For donated services of teaching physicians, a salary cost will be imputed equal to the prorated usual costs of full-time salaried physicians. Any such payment would be made to a special fund designated by the medical staff to be used for charitable or educational purposes.

Advance approval of skilled nursing facility and home health benefits.—The Secretary is authorized to establish, by diagnosis, minimum periods during which the post hospital patient would be presumed to be eligible for skilled nursing facility and home health benefits.

Elimination of requirement that States move toward comprehensive Medicaid program.—Section 1903(e) of prior law, which required each State to show that it was making efforts in the direction of broadening the scope of services in its Medicaid program and liberalizing eligibility requirements for medical assistance, is repealed.

Elimination of Medicaid maintenance of effort.—Section 1902(d) of prior law, under which a State could not reduce its aggregate expenditures for the State share of its Medicaid program from one year to the next, is repealed.

Prohibition against reassignment of claims for benefits.—Payment under Medicare and Medicaid cannot be made to anyone other than the physician or other person who provided the service, unless such person is required as a condition of his employment to turn his fees over to his employer.

Proficiency testing.—The new law provides for proficiency testing of paramedical personnel under Medicare and Medicaid until December 31, 1977.

Penalty for fraudulent acts and false reporting.—Penalties for soliciting, offering or accepting bribes or kickbacks, or for concealing events affecting a person's rights to benefits with intent to defraud, and for converting benefit payments to improper use, of up to one year's imprisonment and a \$10,000 fine or both may be imposed. Additionally, false reporting of a material fact as to conditions or operations of a health care facility is a misdemeanor and is subject to up to 6 months' imprisonment, a fine of \$2,000, or both.

Provider reimbursement review board.—A Provider Reimbursement Review Board to hear cases involving an issue of \$10,000 or more is established under Medicare. Groups of providers can appeal where the amounts at issue on a common matter aggregate \$50,000 or more. Any provider which believes that its fiscal intermediary has failed to make a timely cost determination on its annual cost report or timely determination on a supplemental filing can appeal to the Board where the amount involved is \$10,000 or more.

Payment for durable medical equipment under Medicare.—The Secretary is authorized to experiment with reimbursement approaches which are intended to eliminate unreasonable expenses resulting from prolonged rentals of durable medical equipment and then to implement the approaches found effective.

Conforming standards for extended care and skilled nursing facilities.—A single definition and set of standards for extended care facilities under Medicare and skilled nursing homes under Medicaid is established. The provision creates a single category of "skilled nursing facilities" which will be eligible to participate in both health care programs.

A "skilled nursing facility" is defined as an institution meeting the prior definition of an extended care facility and which also satisfies certain other Medicaid requirements.

"Skilled care" definition for Medicare and Medicaid.—The definition of care requirements with respect to entitlement for extended care benefits under Medicare and with respect to skilled nursing care under Medicaid is made the same. Prior law is amended to authorize skilled care benefits for individuals in need of skilled nursing care and/or skilled rehabilitation services on a daily basis in a skilled nursing facility which it is practical to provide only on an in-patient basis. Coverage will also be continued during short-term periods (e.g., a day or 2) when no skilled services are actually provided but when discharge from a skilled facility for such brief period is neither desirable nor practical.

Reimbursement rates for care in skilled nursing facilities.—States will be required to reimburse skilled nursing and intermediate care facilities on a reasonable cost-related basis under Medicaid, using acceptable cost-finding techniques and methods approved and validated by the Secretary of HEW. Cost reimbursement methods which the Secretary finds to be acceptable for a State's Medicaid program could be adapted, with appropriate adjustments, for purposes of Medicare skilled nursing facility reimbursements in that State.

Skilled nursing facility certification procedures.—Facilities which participate in both Medicare and Medicaid will be certified by the Secretary of HEW. The Secretary will make that determination, based principally upon the appropriate State health agency evaluation of the facilities.

Disclosure of information concerning Medicare agents and providers.—The Department of Health, Education, and Welfare must regularly make public the following types of evaluations and reports with respect to the Medicare and Medicaid programs: (1) individual contractor performance reviews and other formal evaluations of the performance of carriers, intermediaries, and State agencies including the reports of follow-up reviews; (2) comparative evaluations of the performance of contractors—including comparisons of either overall performance or of any particular contractor operation; (3) program validation survey reports—with the names of individuals deleted.

Professional standards review organizations.—The new law provides for the establishment of professional standards review organizations (PSRO'S) consisting of substantial numbers of practicing physicians (usually 300 or more) in local areas to assume responsibility for comprehensive and on-going review of services covered under the Medicare and Medicaid programs. Until January 1, 1976, only such qualified physician-sponsored organizations may be designated as PSRO's. Subsequent to that date priority will be given to such organizations but where they do not choose to or do not qualify to assume such responsibilities in an area, the Secretary may designate another organization having professional medical competence as the PSRO for the area. The PSRO will be responsible for assuring that institutional services were (1) medically necessary and (2) provided in accordance with professional standards. A PSRO, at its option, and with the approval of the Secretary, may also assume responsibility for the review of noninstitutional care and services provided under Medicare and Medicaid. PSRO's would not be involved with rea-

sonable charge determinations. Safeguards are included, designed to protect the public interest, and to prevent pro forma assumption in carrying out review responsibilities. The provision requires recognition of and use by the PSRO of utilization review committees in hospitals and medical organizations to the extent they are determined to be effective.

Physical therapy services and other services under Medicare.—(1) Physical therapy provided in the therapist's office pursuant to a physician's written plan of treatment is covered under part B of Medicare. Benefit payments in 1 year for services by an independent practitioner in his office or the patient's home cannot be based on more than \$100 of incurred expenses. (2) A hospital or skilled nursing facility could provide covered out-patient physical therapy services to its in-patients, so that an in-patient could conveniently receive his part B benefits after his in-patient benefits have expired. (3) Reimbursement for services provided by physical and other therapists in health institutions will generally be limited to a reasonable salary-related basis rather than fee-for-service basis.

Use of consultants for skilled nursing facilities.—Those State agencies which are capable of and willing to provide specialized consultative services for Medicare patients in a skilled nursing facility which requests them may do so, subject to approval of the State's arrangements by the Secretary.

Direct Laboratory Billing of Patients.—With respect to diagnostic laboratory tests for which payment is to be made to a laboratory, the Secretary is authorized to negotiate a payment rate with a laboratory which would be considered the full charge for such tests, and for which reimbursement would be made at 100 percent of such negotiated rate. Such negotiated rate must be limited to an amount not to exceed the total payment that would have been made in the absence of such rate.

Withholding Medicaid Payments to Terminated Medicare Providers.—The Secretary, upon 60-days' notice, is authorized to withhold Federal participation in Medicaid payments by States with respect to institutions which have withdrawn from Medicare without refunding Medicare overpayments or submitting Medicare cost reports.

Independent Review of Intermediate Care Facility Patients.—Independent professional review to determine proper patient placement and care of Medicaid patients is made mandatory in all intermediate care facilities.

Disclosure of Ownership of Intermediate Care Facilities.—Intermediate care facilities not otherwise licensed as skilled nursing homes by a State must make ownership information available to the State licensing agency.

Public Disclosure of Information Concerning Survey Reports of an Institution.—The Secretary is required to make reports of an institution's significant deficiencies or the absence thereof (such as in the areas of staffing, fire safety, and sanitation) a matter of public record readily and generally available. Such information must be available for inspection within 90 days of completion of the survey.

Demonstrations and reports.—The Secretary is authorized to undertake studies, experiments, or demonstration projects with respect to: various forms of prospective reimbursement of facilities; ambulatory surgical centers; intermediate care and homemaker services (with

respect to the extended care benefit under Medicare); elimination or reduction of the 3-day prior hospitalization requirement for admission to a skilled nursing facility; determination of the most appropriate methods of reimbursing the services of physicians' assistants and nurse practitioners; provision of day care services to older persons eligible under Medicare and Medicaid; and, possible means of making the services of clinical psychologists more generally available under Medicare and Medicaid.

Limitation on coverage of costs under Medicare.—The Secretary is authorized to establish limits on overall direct or indirect costs which will be recognized as reasonable for comparable services in comparable facilities in an area. He may also establish maximum acceptable costs in such facilities with respect to items or groups of services (for example, food costs or standby costs). The beneficiary will be liable (except in the case of emergency care) for any amounts determined as excessive (except that he may not be charged for excessive amounts in a facility in which his admitting physician has a direct or indirect ownership interest in the facility).

Limits on prevailing physician charge levels.—The law recognizes as reasonable, for Medicare and Medicaid reimbursement purposes only, those charges which fall within the 75th percentile of all charges for a similar service in an area. Increases in physicians' fees allowable for Medicare purposes would be limited by a factor which takes into account increased costs of practice and the increase in general earnings levels in an area.

With respect to reasonable charges for medical supplies and equipment, the new law provides for recognizing only the lowest charges at which supplies and equipment of similar quality are widely and consistently available in a locality.

Limits on payments to skilled nursing facilities and intermediate care facilities under Medicaid.—Federal financial participation in reimbursement for skilled nursing facility care and intermediate care per diem costs are not available to the extent such costs exceed 105 percent of prior year levels of payment (except for those costs attributable to any additional required services). The provision also excepts increased payment resulting from increases in the Federal minimum wage or other new Federal laws.

Effective utilization review programs in Medicaid.—A one-third reduction in Federal matching payments for long-term stays in hospitals, nursing homes, intermediate care facilities, and mental institutions is authorized, if States fail to have effective programs of control over the utilization of institutional services or they fail to conduct the independent professional audits of patients as required by law. The Secretary is also authorized to compute a reasonable differential between the cost of skilled nursing facility services and intermediate care facility services provided in a State to Medicaid patients.

Legislative Review of International Trade

Trade Agreements Program

The last major grant of authority for trade negotiations was provided in the Trade Expansion Act of 1962. That legislation resulted in the "Kennedy Round" which was concluded in 1967. Since that time the committee has held a number of hearings on the trade agree-

ments program and associated competitive problems. It has studied and acted on certain areas affecting U.S. commerce, including a reinforcement of our antidumping and countervailing duty laws, and an export incentive. In 1970, the committee reported out major trade legislation, which, because of the pressure of adjournment, was not able to pass the Congress.

The committee appointed an *ad hoc* Subcommittee on International Trade in 1972. The subcommittee held oversight hearings on various aspects of U.S. foreign trade policy including: U.S. negotiating strategy; nontariff barriers facing U.S. exports; job displacement in sensitive industries; role of multinational firms in U.S. trade and balance of payments; East-West trade and trade with developing countries. The subcommittee also held a hearing on various aspects of the President's new economic program. At both these hearings besides having administration witnesses, the subcommittee invited distinguished leaders from business, labor, and academic circles. Several experts from foreign countries also participated in these hearings. Thus, the subcommittee was able to explore in depth various viewpoints on the important trade, finance and employment issues facing the United States.

The subcommittee also had several executive sessions with Cabinet officers on the President's new economic policy announced in August of 1971. Secretary Connally, in particular, kept in close contact with the subcommittee and the full committee on various aspects of the President's program.

Several members of the subcommittee participated in an Organization for Economic Cooperation and Development (OECD) meeting at the Foreign Ministry level, which, at U.S. initiative, set up a high level group to study trade problems among developed countries. The chairman of the subcommittee had recommended such a high level group in a widely circulated report to the Committee on Trade Problems in the 1970's.

Commodity Agreements

A. Coffee.—The Committee on Finance voted to extend U.S. participation in the International Coffee Agreement during 1972 until September 30, 1973. However, the committee was greatly concerned about certain actions the producing nations were contemplating which could have an adverse impact on coffee prices. Thus, the committee ordered its staff, with the assistance of agencies of the executive branch, the Tariff Commission, and the General Accounting Office to conduct an intensive review of various aspects of the International Coffee Agreement. It is expected that this review will be completed in 1973. As it turned out the committee's concern was well founded. The coffee-producing countries entered a private selling agreement, in violation of their commitments under the ICA, and withheld coffee from the market in an effort to drive up the price. The meeting of the International Coffee Agreement members in December of 1972 resulted in an effective breakdown in the coffee agreement.

B. Sugar.—The Committee on Finance has jurisdiction over the sugar program, and in the 92d Congress the committee acted on the Sugar Act Amendments of 1971, which made important modifications in the Sugar Act of 1948. This act will extend the Sugar Act until December 31, 1974. The committee keeps close tabs on the sugar

program, working with the Department of Agriculture and the Department of State on new developments in this program. This oversight includes trends in prices, overseas production, fulfillment of quota obligations, and expropriation of American property abroad.

Multinational Corporation Studies

The Subcommittee on International Trade is conducting an oversight review of the role of multinational corporations in the world economy. It has requested and received from the Tariff Commission a thorough analysis of the major issues that have arisen as a result of the activities of multinational corporations including the job effect; the trade and balance of payments effects; the effects on capital flows and monetary policy; the legal aspects of multinational corporate activities, and various other matters. In addition, the subcommittee invited all interested parties to submit quality papers for a compendium of papers on multinationals which has been printed as a committee print. The subcommittee will likely hold a hearing on the issues raised by multinational corporations in the first session of the 93d Congress.

Following is a list of publications of the Committee on Finance relating to trade and tariffs during the 92d Congress:

1. Committee Prints:

Excerpt from Senate Report 91-1431, "Report of the Committee on Finance to Accompany H.R. 17550, the Social Security Amendments of 1970: VII. Trade Act of 1970."

"Trade Policies in the 1970's: Report by Senator Abraham Ribicoff to the Committee on Finance."

"Foreign Trade: A Survey of Current Issues to be Studied by the Subcommittee on International Trade."

"H.R. 8866—Sugar Act Amendments of 1971: Summary of Principal Provisions of H.R. 8866 as Passed by the House of Representatives."

"H.R. 8866—Sugar Act Amendments of 1971: Announcement of Committee Decisions Ordering the Bill Reported."

"H.R. 8866—Sugar Act Amendments of 1971: Comparison between House Bill and Senate Amendment."

"The Role of the United States in East-West Trade: Report by Senator Abraham Ribicoff to the Committee on Finance."

"Canadian Automobile Agreement: Fifth Annual Report of the President to the Congress on the Operation of the Automotive Products Trade Act of 1965."

2. Hearings:

Foreign trade: Hearings before the Subcommittee on International Trade of the Committee on Finance on World Trade and Investment Issues. In two parts.

H.R. 8866—To amend and extend the provisions of the Sugar Act of 1948, as amended. In two volumes.

International aspects of the President's new economic policies.

3. Trade and tariff bills on which legislative action was taken by Finance:

H.J. Res. 958—To amend the Sugar Act of 1948, as amended. Referred to Finance February 8, 1972.

S. Res. 89—Urging prompt removal of discriminatory preferences on citrus fruits granted by the EEC. Passed Senate April 1, 1971.

S. 1330—To authorize the Secretary of the Treasury to transfer to the government of the Republic of the Philippines funds for making payments on certain pre-1934 bonds of the Philippines. Passed Senate March 25, 1971.

H.R. 1680—To extend for an additional temporary period the existing suspension of duties on certain classifications of yarn or silk. Public Law 92-161.

H.R. 3786—To provide for the free entry of a four-octave carillon for the use of Marquette University, Milwaukee, Wisc. Private Law 92-156.

H.R. 4590—Relating to the dutiable status of aluminum hydroxide and oxide, calcined bauxite, and bauxite ore. Public Law 92-151.

Legislative Review of Internal Revenue Laws

Confirmation Hearings

The committee has found through experience that its legislative review of 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 through correspondence, hearings on proposed tax legislation and through its own initiative. In this connection, the committee seeks the cooperation of the prospective appointee as to tax policies and procedures designed to remedy the actions of administration which the committee believes are inconsistent with established congressional intent.

The effectiveness of legislative review through confirmation hearings on proposed Treasury appointees has been proven many times by the attitudes and 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.

Review of Administration of Laws in the Revenue Act of 1971

The committee also exercised its legislative review responsibility during the 92d Congress through the enactment, as part of the Revenue Act of 1971, of legislation to deal with problems arising under previous amendments to the Internal Revenue Code or made necessary as a result of administrative action thereunder. An example of such an amendment in the 1971 Act is the provision for class lives depreciation. The background of this amendment is found in the Treasury Department's action in 1962 in establishing administratively a system of depreciation referred to as "Guideline Lives" depreciation, and the Treasury's further action in 1971 in establishing administratively another system of depreciation referred to as the Asset Depreciation Range system (ADR), plus, substantial modification of the Guideline Lives system. The administrative establishment of systems of depreciation based on class lives created concern, both as to the appro-

priateness of such action and as to the substance and extent of the depreciation permitted. The committee reviewed this matter and approved, for inclusion in the Revenue Act of 1971, a single statutory system of class lives depreciation.

Private Pension Plans

Another area of concern to the committee in the exercise of its legislative review responsibility are the tax rules governing private pension plans. In December 1971, the Administration submitted its recommendations to the Congress for private pension plan reform. The House Ways and Means Committee held hearings on this subject but failed to report a bill. The Senate Committee on Labor and Public Welfare reported a bill in late 1972 embodying substantial reforms in the treatment of private pension plans qualified under the Internal Revenue Code. Since under the Constitution all revenue measures must originate in the House, the traditional method of revising legislation applicable to pension plans qualified under the Internal Revenue Code is for the Senate to act on a revenue bill which has passed the House. In view of this limitation, this committee recommended that the Senate take no action on the bill reported by the Labor and Public Welfare Committee in 1972 dealing with this subject, insofar as it related to private pension plans qualified under the Internal Revenue Code. This committee expects to review the entire area of private pension plans qualified under the Internal Revenue Code early in the 93d Congress, and have created a special subcommittee to commence the work. Since the Ways and Means Committee of the House has scheduled tax reform hearings, specifically including private pension plans on the agenda, there is little doubt but what the House measure will include the will of the House in this area. In this connection the committee will consider the manner in which the Internal Revenue Service has administered the existing legislation on this subject.

Committee Inquiries

From time to time, the committee will also direct specific complaints concerning administration of the Internal Revenue laws to the Commissioner of Internal Revenue for his investigation and report back to the committee. Generally, these complaints raise questions as to 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.

The Tax Reform Act of 1969

In the Tax Reform Act of 1969, the Committee on Finance created a procedure in the U.S. Tax Court for the adjudication of small tax controversies involving less than \$1,000. Since that time, it has become apparent to the Congress and this committee in particular that the procedure has been a success and should be expanded. Therefore, during the 92d Congress the committee approved a provision in H.R. 14370, the State and Local Fiscal Assistance Act of 1972, to increase the ceiling on the amount in controversy in these proceedings from \$1,000 to \$1,500. As a result, a greater number of taxpayers will be able to avail themselves of this informal and inexpensive mechanism to air their grievances with the Internal Revenue Service before impartial Tax Court commissioners, who visit more than 100 cities to

hear such cases. The committee has been urged to further study the operations of this procedure with a view toward making it more efficient and independent. Also, during this past session, numerous proposals for restructuring the judicial system's role in the review of tax controversies were reviewed by the committee. While no definite conclusions have been reached, various proposals are under consideration. One proposal would place primary jurisdiction in the Tax Court for all civil tax matters. It is argued that this would discourage forum shopping, create greater uniformity in decisions, and decrease the inordinate delays which presently exist in resolving significant tax questions. Under this proposal, Congress would grant jurisdiction over all refund suits for income, estate and gift and excise taxes to the Tax Court, while eliminating Federal district court as well as Court of Claims jurisdiction over these tax matters.

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 law and inefficiencies in the procedural administration of such laws.

Legislative Review of the Federal Budget and the Public Debt

The Committee on Finance regularly keeps informed on trends in Federal incomes and expenditures both in connection with its responsibilities on Federal debt extension legislation and all revenue raising measures generally. The committee and its staff expects to participate actively in the activities of the new Joint Committee on Budget Review established by the 92d Congress. This review will aim at suggestions for improving the budgetary process with particular emphasis on overall expenditure control in a manner fully in accord with legislative prerogatives and jurisdictional responsibilities.

Each time the Executive has requested an increase in the debt ceiling, the committee has reviewed intensively the budget outlook with the Executive. The debt ceiling exercise is a useful device for discussing budgetary trends, but it does not afford an opportunity for imposing discipline on the components of the Federal budget. The Joint Committee on the Budget may afford a more coordinated approach to that problem.

Legislative Review of the Renegotiation of Government Contracts

The committee conducted a comprehensive review of the renegotiation process, and, in 1971, extended the Renegotiation Act for 2 years. As a result of the committee's study of the renegotiation process, two changes in the law were enacted. First, the Secretary of the Treasury was authorized to apply current commercial interest rates in cases where excess profits or refunds were due. Second, judicial review of renegotiation cases was transferred from the Tax Court to the Court of Claims, because, it was the consensus that the latter is a more appropriate forum.