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EXECUTIVE SESSION

WEDNESDAY, NOVEMBER 13, 1985

Committee on Finance

Washington, D.C.

The committee met, pursuant to notice, at 9:30 a.m. in Room SD-215, Dirksen Senate Office Building, the Honorable Bob Packwood (chairman) presiding.

Present: Senators Packwood, Chafee, Heinz, Grassley and Baucus.

Also present: Bill Diefenderfer, Chief of Staff; Ed Mihalski, Deputy Chief of Staff; John Colvin, Chief Counsel; Leonard Santos, Trade Counsel; Frank Cantrell, Tax Counsel; Donald Muse, Professional Staff Member; Michael Stern, Chief Counsel for Minority; Bill Wilkins, Chief Tax Counsel for Minority; and Jeff Lang, Trade Counsel for Minority.

(The press release announcing the hearing follows:)

1 The Chairman. The committee will come to order.

2 I might announce that I have proxies from Senators
3 Danforth, Chafee, Heinz, Wallop, Durenberger, Armstrong,
4 Matsunaga, Moynihan, Bradley, Mitchell and Pryor. And I have
5 six others that are planning to attend.

6 What I want to do if I can is finish this meeting by a
7 quarter of 10:00 because we have votes set at a quarter to
8 10:00, and a vote set at 10:00, and I don't know what will
9 happen after that. And I think that everything we have is
10 relatively noncontroversial.

11 I will tell you in a nutshell what happened. We have
12 House Resolution 3128 in committee; although it has been
13 ordered discharged by unanimous consent agreement the other
14 night, but it is not discharged from this committee until
15 tomorrow. It was discharged without the knowledge of anyone
16 on this committee. Russel Long was not called; I was not
17 called. And it is a very unusual provision to which I
18 seriously objected, and I have indicated I will not agree to
19 any more unanimous consent agreements, period, involving the
20 Finance Committee or anything else.

21 But at the moment we still have this bill in committee.
22 And what I would like to do is to put all of the Finance
23 Committee reconciliation titles in this bill--all of the
24 things that we voted for in this committee--in case this bill
25 becomes the vehicle for reconciliation--I am not sure if it

1 will or not--but I want to make sure that we are protected
2 rather than use the one on the floor, which includes the
3 amendments that Senator Heinz got on yesterday, or rather it
4 includes this one. And I frankly very much want to protect
5 this committee's jurisdiction because I don't like the sense
6 of it. I have never had it happen in any committee I have
7 ever served on before where they discharge the committee of
8 a bill without talking to anyone on the committee.

9 So the first thing I would suggest is that we simply take
10 everything that we have got in our reconciliation package,
11 with a few exceptions that Don will go through as to why we
12 are not putting them in, like the cigarette provisions --

13 Mr. Colvin. The tobacco price support program.

14 The Chairman. Yes. Well the reason we are not putting
15 them here, and adopt them on 1730. And, John, do you want to
16 go through the ones that we will not be adding?

17 Mr. Colvin. Mr. Chairman, you would be including all
18 except the tobacco price support program. That was in
19 Title VII, reported by the Finance Committee.

20 The Chairman. And the reason is that would not be
21 germane to us at this time.

22 Mr. Colvin. It would be because it is not within the
23 jurisdiction of the Finance Committee.

24 The Chairman. Right, and would be subject to a point of
25 order on the floor.

1 So is there any objection to adopting the reconciliation
2 provisions that we have in the reconciliation bill now and
3 putting them on this bill?

4 (No response)

5 The Chairman. Without objection.

6 Is there any objection to reporting this bill out?

7 Senator Chafee. No.

8 Mr. Chairman, I had a request for ITC investigation.
9 Where would be the appropriate time to raise that?

10 The Chairman. Yes. We will get to that, but it is not
11 on this bill.

12 Senator Chafee. Yes.

13 The Chairman. Because Senator Baucus has a request for
14 one also and Senator Bentsen does.

15 Without objection the bill will be reported out.

16 Secondly, we have two Tax Court judges that I have
17 received no objection from about John Williams and Carolyn
18 Parr. And if there is no objection, I would ask that the
19 committee report favorably on their two nominations.

20 Senator Chafee. I would second that, Mr. Chairman.

21 The Chairman. You held the hearings on that.

22 Senator Chafee. I held the hearings for them. I think
23 they are both eminently qualified. I must say I think we
24 are lucky for the caliber of people we are able to attract
25 to that court. I was very impressed with both of the

1 nominees.

2 The Chairman. Without objection they will be reported.

3 Next we have ITC studies, and we have three that have
4 been requested, including one that Senator Chafee called me
5 about this morning. One was an ITC study that Senator
6 Bentsen has requested involving a study on Mexico. And I
7 think it will also include Canada in terms of border
8 relations, will it not?

9 Mr. Santos. He only asked for a study on Mexico,
10 Mr. Chairman.

11 The Chairman. He only wants Mexico? Well, Len, I cannot
12 understand why he is not interested in Canada. But we will
13 limit it to Mexico. And he has given us enough time lead on
14 that.

15 Mr. Santos. Twelve months time is quite a lot.

16 The Chairman. ITC says he can do it.

17 Senator Baucus very justifiably would like to have one
18 on the study of tax reform and its effect on international
19 competitiveness.

20 Max, let me give you this alternative. You would like
21 six months. They can do it in six months, and I am perfectly
22 willing to give them six months, but I we may have to act on
23 the tax reform bill before we have the study. They cannot do
24 it in two months well. We just won't get anything worthwhile.
25 But if you have no objection to six months. I am hoping it

1 won't be that long on the tax reform bill but it could be.

2 Senator Baucus. So you are suggesting six months?

3 The Chairman. Yes.

4 Senator Baucus. My understanding is ordinarily they can
5 do a study in four.

6 The Chairman. They try to. But this is one -- first,
7 they don't exactly know what the tax reform bill is going to
8 be unless they just take it the way the President introduced
9 it and say we will study it on that basis. Forget what Ways
10 and Means has done on any changes or might do on any changes.

11 Senator Baucus. Right.

12 But it seems to me that they should hae the roots of the
13 study before they --

14 The Chairman. Well I am willing to put whatever time
15 limit you want so long as you realize the shorter the time
16 limit the less adequate the study probably. And if you want
17 four months we will tell them four months and we will take
18 what we get in four months.

19 Senator Baucus. Well let's at this point say four.

20 The Chairman. All right. And if it looks like the tax
21 reform bill is still languishing we would give them a couple
22 of months more.

23 Senator Baucus. That is a good idea.

24 The Chairman. All right.

25 Is there any objection?

1 (No response)

2 The Chairman. Third, Senator Chafee requested a study
3 this morning on jewelry. John, do you want to explain it a
4 bit?

5 Senator Chafee. Yes.

6 Mr. Chairman, one of the principle concerns of the jewelry
7 industry is the increasing level of imports of costume
8 jewelry. Costume jewelry is the term for the less expensive
9 jewelry in the 20 to 25 and less dollar cost and less.

10 One out of every five pieces of costume jewelry sold in
11 the United States is now imported, 20 percent. Now the peak
12 employment in our state in the jewelry industry was 1979 when
13 we had 33,000 people. Now we have got 22,000 people. And
14 when you realize that 40 percent of all the jewelry
15 establishments in the United States are located in our state,
16 we are a pretty good barometer of what is happening.

17 As I say, we have had this 30 percent decline in
18 employment in six years. And so what we would like to do is
19 to have the ITC investigate the conditions, causes and
20 effects relating to the competition between foreign jewelry
21 industries and that of the United States. And they have been
22 collecting some data, it is my understanding, on this matter
23 for about the past year, and consultations have taken place
24 at the ITC and they say that they can handle this. And I
25 know that you are concerned about time. I would say 10

1 months.

2 The Chairman. I will talk to them. I think in 10
3 months on something as specific as this they will be able to
4 do it.

5 Senator Chafee. Well they have so indicated that they
6 are ready to go. And so, Mr. Chairman, I would ask that a
7 332 investigation take place. It will be helpful to our
8 industry because they have access to information that we
9 don't have, that is, in the industry, and they can give some
10 guidance to us as to what is the best way for us to proceed.

11 The Chairman. Is there objection for requesting the
12 study?

13 (No response)

14 The Chairman. Without objection.

15 Senator Chafee. I want to thank you, Mr. Chairman, and
16 the members of the panel.

17 The Chairman. Happy to do it.

18 John?

19 Mr. Colvin. One other thing, Mr. Chairman. I recommend
20 that you file the report on H.R. 3128 without a report.

21 The Chairman. Any objection so that we are not subject
22 to the 3-day layover?

23 (No response)

24 The Chairman. Without objection.

25 Is there further business to come before the committee?

1 Senator Grassley?

2 Senator Grassley. Are we done then?

3 The Chairman. We are done.

4 The reason I was hurrying this morning is because we have
5 a vote at a quarter of 10:00 and a vote at 10:00, and if we
6 could finish before a quarter of 10:00 we would not have to
7 come back.

8 Senator Grassley. I was briefed on what was coming up.
9 Is there anything new?

10 The Chairman. No. Other than a study that John
11 Chafee asked for on jewelry by the International Trade
12 Commission, we did nothing you weren't briefed on.

13 Senator Grassley. I have nothing, Mr. Chairman.

14 The Chairman. In that case we are adjourned.

15 (Whereupon, at 9:38 a.m., the hearing was concluded.)

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EXECUTIVE SESSION
99th Congress, 1st Session
November 13, 1985

SENATE COMMITTEE ON FINANCE

EXECUTIVE SESSION

Wednesday, November 13, 1985; 9:30 a.m.; Room SD-215

1. H.R. 3128, Deficit Reduction Amendments of 1985

DEFICIT REDUCTION AMENDMENTS OF 1985

JULY 31, 1985.—Ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means,
submitted the following

REPORT

together with

DISSENTING AND ADDITIONAL DISSENTING VIEWS

[To accompany H.R. 3128]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means to whom was referred the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. SUMMARY

A. TITLE I—MEDICARE PROVISIONS

(1) *Hospital Rate of Increase.*—The Secretary of HHS would be required to provide a 1% rate of increase to the diagnosis-related group (DRG) payments for fiscal year 1986. A 1% rate of increase

would be provided to prospective payment system (PPS)-exempt hospitals for fiscal year 1986.

(2) *Disproportionate Share Adjustment.*—The Secretary of HHS would be required to make additional payments to urban PPS hospitals with 100 beds or more serving a disproportionate share of low-income patients. The proxy measure for low-income would be the percentage of a hospital's total patient days attributable to medicaid patients (including medicaid-eligible elderly, i.e., medicare/medicaid crossovers).

The Federal DRG payment would be increased by 7% for each 10 percentage point increase in the proportion of low-income days to total days, above the minimum threshold of 15%. The maximum adjustment would be no greater than 16%. Approximately 850 hospitals would receive some adjustment under this proposal. A limited exceptions process would be established for urban hospitals with 100 beds or more. The Secretary would be required to make disproportionate share payments of 16% per DRG where a hospital can demonstrate that 30% of its inpatient care revenue is provided by local or state governments for patient care for low-income patients not covered by medicaid. The provision would expire in two years. The provision would be effective for discharges on or after October 1, 1985.

(3) *Indirect Teaching Adjustment.*—The indirect teaching adjustment would be reduced to 8.1% for fiscal years 1986 and 1987 on a variable or curvilinear basis. (CBO has estimated that the medicare per resident costs increase at a slower rate as teaching hospitals get larger.) When the disproportionate share provisions expire at the end of fiscal year 1987, the indirect teaching adjustment would rise to 8.7%. The Secretary would be prohibited from changing the manner in which residents' services to inpatients and outpatients are counted for the purposes of determining the indirect teaching adjustment. The provision would be effective for discharges on or after October 1, 1985.

(4) *Hospital Transition to National Payment Rates.*—The 50% hospital specific payment (HSP)/50% Federal DRG rate would be maintained for another year. The transition schedule in current law would continue after fiscal year 1986. The schedule therefore would be: FY 1986: 50% HSP/50% Federal DRG; FY 1987: 25% HSP/75% Federal DRG; FY 1988: 100% Federal DRG.

(5) *Direct Medical Education.*—The Secretary would be prohibited from imposing a one-year freeze on medicare payments for the direct costs of medical education.

(6) *Change the Calculation of the Medicare Part B Premium.*—The temporary provision of law under which enrollee premiums are to produce premium income equal to 25% of program costs for elderly enrollees would be extended for one additional year (1988).

(7) *Physician Fee Freeze Extension.*—On October 1, 1985, any physician who signs a participation agreement effective for the year beginning October 1, 1985, would receive an increase in medicare payments. For any physician who does not sign a participation agreement, the current 15-month freeze on medicare payments would be extended for 12 months, beginning October 1, 1985. The current prohibition on increases in actual charges of all nonparticipating physicians would also be extended for 12 months, beginning

October 1, 1985. Both participating and nonparticipating physicians would be given an increase in medicare payments on October 1, 1986; however, increases for nonparticipating physicians would be lagged one year behind those of participating physicians. A number of incentives for participation were agreed to.

(8) *Physician Payment Arm of PROPAC*.—The Director of the Congressional Office of Technology Assessment would appoint to the Prospective Payment Assessment Commission two additional members to provide representation for rural hospitals and for nurses. In addition, the Director would appoint six new members to comprise a physician payment unit, which would function as a subcommittee of the Commission. The chairman of the Commission would have discretion as to the allocation of other members of the Commission between the physician and hospital subcommittees.

The mission and duties of the physician subcommittee would be to make recommendations regarding medicare physician payment. Its ongoing duties would be to make recommendations regarding adjustments to reasonable charge levels for physician services, and/or structural changes in the medicare physician payment mechanism. The physician subcommittee would advise the Secretary on the development of a fee schedule based on a relative value scale (RVS), to be implemented by October 1, 1987.

(9) *Return on Equity for Proprietary Hospitals*.—Beginning October 1, 1986, return on equity would no longer be a medicare allowable cost for inpatient hospital services and would also be excluded in determining DRG payment rates. Beginning on October 1, 1985, for outpatient departments and all other providers, the rate of return would be reduced to one times the average rate of return on the hospital insurance trust fund.

(10) *Certain Transfers of Ownership*.—Where a State donates a hospital or skilled nursing facility to a nonprofit corporation, the basis for medicare capital-related costs to the new owner will be the lesser of the fair market value or the prior owner's historical cost (net of depreciation).

(11) *Hospital Area Wage Index*.—The Secretary of HHS would be required to implement the new gross wage index effective October 1, 1985. The requirement of retroactive application of the new wage index would be eliminated. The Secretary would be required to study and make a recommendation to the Congress on refining the area wage adjustment to reflect the higher wage costs incurred in core city areas relative to suburban areas of the same metropolitan area.

(12) *Extend the Working Aged Provision*.—The working aged provision would be amended by removing the upper age limit, thereby extending its applicability to people aged 70 and above.

(13) *Hospice Extension*.—The sunset provision of current law would be repealed. The daily payment rates would each be increased by \$10.00 a day.

(14) *Responsibilities of Hospitals in Emergency Cases*.—Three new requirements would be established for medicare hospitals and employees, as follows:

a. *Medical Screening*.—Requirement under which every patient who comes to a hospital emergency department for examination or treatment would be provided an appropriate medical screening.

b. *Necessary Stabilizing Treatment.*—Within their capacities, hospital emergency departments must provide appropriate treatment to stabilize patients who have emergency medical conditions or to provide treatment for patients in active labor, and provide for appropriate transfers.

c. *Prohibiting Inappropriate Transfers.*—The transfer of a patient with an unstable emergency medical condition would be prohibited unless (1) the benefits of the transfer outweigh the risks, and (2) the transfer is an appropriate transfer (that includes the transfer of appropriate documents) and is accomplished in an appropriate manner.

d. *Penalty.*—Failure to meet these requirements would subject the hospital to denial of medicare participation, civil monetary penalties, as well as civil enforcement by aggrieved patients. In addition, a responsible physician who knowingly fails to meet these requirements would be subject to criminal penalties up to one year imprisonment and, if the death of a patient directly resulted from such a failure, the physician would be subject to up to five years' imprisonment. These provisions would not preempt stricter state laws.

(15) *Preventive Services Demonstrations.*—The Secretary of HHS would be directed to establish demonstration projects in at least five states, under the auspices of schools of public health, to determine whether and under what conditions it would be cost-effective to include preventive services as a medicare benefit.

(16) *Health Maintenance Organization Technical Amendments.*—Technical amendments relating to health maintenance organizations (HMOs) and competitive medical plans (CMPs) would: a) clarify financial liability for patients hospitalized on the effective date of enrollment/disenrollment; b) make disenrollments effective with the first day of the first month following the month in which the disenrollment request was made; c) require all TEFRA HMO/CMPs to submit all marketing materials to HCFA for approval at least 45 days before issuance. The HMO/CMP could assume approval in the absence of a response from HCFA within the 45-day period; d) require the Secretary to publish the AAPCC annually, no later than September 7. Also, the Secretary would be required to extend for three more years medicare HMO demonstration waivers for three municipal health services HMO projects jointly sponsored by the Robert Wood Johnson Foundation and HHS.

(17) *Technical Corrections.*—Medicare technical corrections relating to the working aged provision and other minor technical corrections.

(18) *Evaluation of Preadmission Certification Programs.*—The Secretary would be required to evaluate the effectiveness of the PRO 100% preadmission certification programs in comparison with programs that require less than 100% preadmission certification, and to consider the extent to which part B carriers or private entities might perform prior approval activities in outpatient and ambulatory settings more efficiently and effectively than PROs. Furthermore, the Secretary would be required to evaluate the feasibility of extending the PRO prior approval activities to outpatient and ambulatory settings. The Secretary would be required to report his findings to Congress by December 1986.

(19) *Medicare's Reimbursement of Assistant Surgeons During Cataract Operations.*—The Secretary would be required to establish national guidelines to prohibit medicare reimbursement for assistant surgeons' charges in connection with routine cataract operations performed on either an inpatient or outpatient basis. The assistant surgeon would be prohibited from billing medicare or the beneficiary for services that did not receive prior approval. The Secretary would have authority to enforce this provision by invoking the penalty provisions that apply with respect to violations of the fee freeze.

(20) *Hospital-Based Physicians.*—On October 1, 1985, participating hospital-based physicians (HBPs) whose compensation-related charges were frozen as part of the general medicare fee freeze would, like other participating physicians, receive increases in their medicare payment based on their actual charges. Participating HBPs would receive increases that reflect charges that they made during the same base period used to update other participating physicians' charges (April 1984–March 1985). Nonparticipating HBPs would receive payments that reflect their charges during April 1984–March 1985, but deflated to approximate 1982 charges. This is the same period on which other nonparticipating physicians' payment is based. On October 1, 1986, participating and nonparticipating physicians.

(21) *Inherent reasonableness.*—In order to prevent arbitrary application of the "inherent reasonableness" clause (already in regulations), the Secretary would be required to promulgate regulations which specify explicitly the criteria of "inherent reasonableness." The Secretary would be directed to correct both excessive and deficient charges in accordance with these regulations.

The Secretary has used the "inherent reasonableness" clause in other areas of medicare reasonable charge reimbursement. The regulations which define "inherent reasonableness" would extend to all part B reasonable charge reimbursement.

(22) *Limit the Late Enrollment Penalty for Medicare Part A.*—The part A premium penalty would be limited to 10% no matter how late an individual enrolled, and the period during which the penalty is paid would be limited to twice the number of years the enrollment was delayed. At the end of this period, the premium would revert to the standard monthly premium in effect at that time.

(23) *End Stage Renal Disease Networks.*—The Secretary would be prohibited from dismantling ESRD networks, and from consolidating their organization and functions with those of any other entity, such as a Peer Review Organization.

(24) *Private Health Insurance Continuation.*—The business tax deduction for a group health plan would be denied any employer who fails to include in the plan a continuation option to (1) a widowed spouse and dependent children, (2) divorced or separated spouse and dependent children, or (3) medicare ineligible spouse and dependent children. A five year continuation option would be available to the above groups after which time they would be offered the right to convert to an individual policy. The coverage would be identical in scope to the coverage provided under the group plan to similarly situated individuals in the group. The in-

sured spouse would be required to pay both employer and employee share of the premium costs, although the employer could assume the employer share. Coverage would be cancelled during the five-year period if the employer stopped offering group health insurance, the insured spouse did not pay the premiums or became covered under another group policy or medicare, or the insured spouse remarried.

(25) *Allow Continued Medicare Waiver for Certain Areas.*—Certain local medicare reimbursement waiver programs now conducted as research projects would be allowed to continue under conditions similar to those provided for States—basically that medicare payments be less than they would be under the prospective payment program.

(26) *Medicare Coverage for Newly Hired State and Local Employees.*—Medicare coverage would be extended to all new State and local government employment. The hospital insurance portion of the FICA tax would be paid by the governmental entities and their employees. Effective date—employees hired on or after January 1, 1986.

(27) *Reimbursement for Rented Durable Medical Equipment.*—New medicare reimbursement limits would be imposed on rented durable medical equipment. During fiscal year 1986, medicare customary and prevailing charges for rented durable medical equipment would be allowed to increase by only one percent. Thereafter, medicare allowable charges for both rented and purchased durable medical equipment would rise no faster than the CPI. Medicare payment for rented equipment would only be made on the basis of mandatory assignment; i.e., the supplier would be required to accept medicare's allowable charge as his full charge and could collect from the beneficiary no more than the applicable deductible and coinsurance.

(28) *Osteopathic Referral Centers.*—Certain osteopathic rural hospitals could qualify for status as rural referral centers under the medicare PPS program if they have at least 3,000 discharges in a year and meet all other requirements for rural referral center status.

(29) *Occupational Therapy Services.*—Medicare coverage would be extended to occupational therapy services provided (a) in skilled nursing facilities (when part A coverage has been exhausted), (b) in clinics, rehabilitation agencies and (c) by therapists in independent practice (subject to the same annual \$500 limit on incurred expenses applicable to physical therapy services).

(30) *Prosthetic Lenses.*—Medicare reimbursement for prosthetic lenses would be limited as follows: (a) for cataract eyeglasses, one replacement each year; and (b) for cataract contact lenses, one original and two replacements per eye the first year after surgery and two replacements per eye each subsequent year. The Secretary would be required to apply an "inherent reasonableness" test in determining reimbursement amounts for lenses and to determine separately the reasonable charge for the related professional service.

(31) *New Jersey Medicare Reimbursement Waiver.*—The test of whether medicare reimbursement based on New Jersey's State reimbursement control system is no more costly to medicare than

payments under medicare's regular reimbursement system would be applied over a four rather than a three year period.

(32) *Study of Outlier and Transfer Policy on Rural Hospitals.*—The Secretary would be required to review the adequacy of payments under the prospective payment system's policies on outliers and transfers to determine their impact on rural hospitals, with emphasis on those hospitals with less than 100 beds, and to report to Congress findings with recommendations to address these problems by April 1, 1986.

(33) *Medicare Hospital Payment Information.*—The Secretary would be required to provide, on a timely basis, all hospital specific payment information to the Prospective Payment Assessment Commission, to the Congressional Budget Office, and to the Committees with legislative jurisdiction over part A of medicare. The provider specific information would remain confidential and would be used for analysis of the impact of the PPS system on a state by state basis, SMSA or other basis.

Proposed Report Language

Medicare Hearing and Appeals Process.—The Committee Report would indicate that the Committee believes that the current hearing and appeal procedures under both parts A and B of medicare need to be reviewed. The Committee wants to ensure that adequate procedural safeguards are provided to program beneficiaries, suppliers and providers. The Committee intends therefore, to hold hearings on this issue in the near future and, if it is warranted, to take legislative action.

Physical Therapists.—The Committee Report would indicate that the Committee believes that the requirement that independently practicing physical therapists who operate exclusively in beneficiaries' homes maintain fully-equipped offices is unnecessary. The Committee therefore intends that the Secretary eliminate this regulatory requirement.

The Committee Report would indicate that the Committee expects the Secretary to report to Congress, with recommendations on the appropriateness and feasibility of allowing health care providers (other than a physician or registered nurse that are allowed under current law) to perform the supervisory role for a home health agency. The report would be due April 1, 1986.

(B) TITLE II—TRADE PROVISIONS

(1) *Trade Adjustment Assistance.*—The Committee approved H.R. 1926, as amended and reported by the subcommittee on Trade on July 19, 1985, without further amendments. The amended bill reauthorizes TAA for workers and firms for 4 years until September 30, 1989. Amendments extend coverage to workers laid off from firms relocated overseas and to firms with production/sales losses in significant product lines; extend the collection period for worker benefits and liberalize prior employment requirements; remove matching share requirements for certain firm assistance; and improve program administration.

(2) *Customs, ITC and USTR Authorization.*—The Committee approved the substance of H.R. 2250 as reported by the Subcommittee

on Trade with a minor technical amendment. This authorization would restore the Administration's proposed cut of 887 positions and add an additional 800 front-line Customs personnel. It is expected that the enhanced enforcement capability resulting from the additional personnel will result in a net increase in Customs revenues of about \$1.15 billion over a 3-year period.

(3) *Customs User Fees.*—The Committee approved the user fee concept in H.R. 3034, as reported by the Subcommittee on Trade, with amendments. As amended, fees would be assessed on the arrival of commercial vessels over 100 tons (\$425), trucks (\$5), trains (\$5 per car), private yachts, boats, and general aviation (\$25 per year) and on passengers arriving on commercial aircraft, trains and vessels (\$1 for contiguous countries, U.S. territories and adjacent islands and \$5 for all other countries). The receipts from all reimbursable charges would be deposited in the Treasury as miscellaneous receipts and placed in a proprietary account. It is expected that this proposal will result in increased revenues of over \$650 million over the 3-year life of the provisions.

C. TITLE III—AID TO FAMILIES WITH DEPENDENT CHILDREN PROVISIONS

(1) *AFDC Quality Control.*—Minimum quality control policies and procedures would be established in statute as would a new national error rate standard of 3.5 percent. Adjustments to the standard would be made if the state operated an AFDC unemployed parents program, exceeded the national average in terms of percent of total state AFDC caseload with earnings and/or exceeded the national average in terms of population density.

Two adjustments would be made in the raw error rate data collected. First, technical errors would be excluded for fiscal sanctions purposes. Second, the point estimate of a state's error rate would be the lower bound of the range within which a state's true error rate falls, rather than the midpoint, if the state has a sample size sufficient to produce a lower limit of 2.5 percentage points or less than the midpoint. In the calculation of the lower confidence level, the Secretary would have the authority to promulgate regulations to adjust for variability among states in the number, proportion or dollar value of cases where the findings of the state quality control review differ from the Federal findings.

Fiscal sanctions would be imposed on the basis of the adjusted error rate and the adjusted state tolerance level. A sanction amount would be reduced by the Federal share of overpayments collected by the state in the fiscal year to which the error rate applies. In addition, the current authority for the HHS Secretary to waive sanctions under certain circumstances would be retained and expanded as proposed in H.R. 1279. The Committee deleted the Subcommittee provision which would have required the Federal government to reimburse states for errors it makes in administering the SSI program.

(2) *Teenage Pregnancy Block Grant.*—The Committee authorized a two-year grant program to permit the state AFDC agency to operate a two-part teenage pregnancy program:

(i) *Prevention Program for AFDC Families.*—These activities would be targeted to male and female children in AFDC fami-

lies and would include active parent participation. The program would address factors which have been shown to play important roles in determining teenage sexual activity and contraceptive use.

(ii) *Comprehensive Service Program or Teenage AFDC Parents.*—Participation would be voluntary; teenage parents who elect to participate would be required to seek a high school degree (or equivalent) and would receive services, including training, day care and transportation, to help them become self-sufficient and avoid long-term welfare dependence.

The program activities would be financed through a block grant to each state. The legislation authorizes the appropriation of \$50 million in fiscal year 1986 and \$100 million in fiscal year 1987. States would be entitled to receive a grant in each of the two fiscal years for which the program is authorized.

(3) *AFDC for Unemployed Two-Parent Families.*—Effective October 1, 1986, the current optional AFDC program for unemployed parents would be mandatory in all states. As a result, all states would aid needy two-parent families in which the principal earner is unemployed.

In addition, the definition of "quarters of work" would be modified to permit, at state option, the substitution of participation in school or training as follows: (1) school attendance would be limited to elementary or secondary school; (2) four quarters of vocational training could be substituted for four quarters of work; (3) attendance in school or vocational training would have to have been full-time; and (4) at least two of the six quarters must be quarters of work.

D. TITLE IV—RAILROAD UNEMPLOYMENT COMPENSATION AND OTHER UNEMPLOYMENT COMPENSATION PROVISIONS

(1) *Railroad Unemployment Compensation.*—The railroad unemployment repayment tax, which is designed to repay loans from the railroad retirement account to the railroad unemployment insurance account and scheduled to begin on July 1, 1986, is increased. The increase amounts to approximately \$200 million. The Committee also extended the authority of the unemployment account to borrow from the retirement account. An automatic surcharge of 3.5 percent is imposed in the event of such borrowing.

(2) *Federal Supplemental Compensation.*—The Committee bill allows unemployed individuals who lost FSC benefits because of service in the National Guard during a major disaster to receive such benefits.

E. TITLE V—REVENUE PROVISIONS

The revenue title of the bill includes five provisions, relating to: (1) Internal Revenue Service (IRS) budget for fiscal year 1986; (2) cigarette excise tax; (3) coal excise tax for the Black Lung Disability Trust Fund; (4) tax treatment of Railroad Retirement benefits; and (5) Pension Benefit Guaranty Corporation (PBGC) premiums. The first four provisions are estimated to increase net fiscal year budget receipts by \$7.0 billion for the three-year period, 1986-1988.

The increase in PBGC premiums will reduce budget outlays by \$612 million over the three fiscal years.

1. IRS budget for fiscal year 1986

The bill endorses the increase in the 1986 fiscal year budget for the IRS as approved by the House Committee on Appropriations (H.R. 3036). H.R. 3036 increases the IRS 1986 fiscal year budget by \$178 million over the President's budget proposal.

2. Cigarette excise tax rate extension

The bill makes permanent the present law cigarette excise tax rates (e.g., 16 cents per pack of small cigarettes), thus extending the current rates beyond September 30, 1985. In addition, the bill allocates the equivalent of one cent per pack of small cigarettes to a new Tobacco Equalization Trust Fund for a 5-year period, October 1, 1985-September 30, 1990. This transfer of cigarette tax revenue is to supplement the funding provided by growers or from other fees for the tobacco price support program.

3. Coal excise tax for Black Lung Disability Trust Fund

The bill provides for an increase in the coal excise tax for funding the Black Lung Disability Trust Fund, beginning January 1, 1986, with the following per-ton rates (and price ceilings):

Calendar year(s)	Underground coal tax (per ton)	Surface Coal Tax (per ton)	Price ceiling (percent)
1985 (present law)	\$1.00	\$0.50	4.0
1986-90.....	1.50	.75	6.0
1991-95.....	1.60	.80	6.4
1996.....	1.50	.75	6.0

The present law rates will be reinstated for any calendar year after 1995 if for the two most recent fiscal years there was no balance of repayable advances to the Trust Fund and no unpaid interest on such advances.

4. Tax treatment of Railroad Retirement benefits

Under the bill, Railroad Retirement disability benefits payable to individuals not entitled to social security disability benefits or in excess of the social security disability benefits which an individual would be entitled generally will be fully taxable. Similarly, Railroad Retirement benefits that are payable at an age earlier than social security benefits or in an amount greater than social security benefits will be fully taxable.

5. Pension Benefit Guaranty Corporation premiums

The bill increases the annual per-participant premium for single employer pension plans from \$2.60 to \$8.00, for the period January 1, 1986-December 31, 1988.

SUMMARY OF DEFICIT REDUCTION

The total deficit reduction achieved by the provisions summarized above, over the three-year period from 1986 to 1988, is \$19.1 billion, as shown in the following table. The deficit reduction target for the Committee on Ways and Means in the House-passed budget resolution, counting revenue from Superfund legislation which has yet to be considered by the Committee, is \$21.5 billion. The committee expects to act on Superfund legislation after the August recess.

Deficit reduction achieved from fiscal year 1986-88

	<i>Billions</i>
Medicare ¹	\$10.3
Trade ¹	1.8
Public Assistance and Unemployment Compensation ¹	2.4
Pension Benefit Guaranty Corporation Premium Increase6
Revenue Proposals	7.0
Total	19.2

¹ Also includes some revenue items.

² Number indicates an increase in outlays.

BIOGRAPHICAL
of
B. John Williams, Jr.
prepared for the
Senate Finance Committee

A. Biographical:

1. Q. Name:
A. Bernard John Williams, Jr.
2. Q. Address:
A. 7704 Bertito Lane
Springfield, Virginia 22153
3. Q. Date and place of birth:
A. Born 12/13/49; Lancaster, PA
4. Q. Marital status:
A. Married to Martha C. (Roberts) Williams
5. Q. Names and ages of children:
A. Robert John Williams, 6
Sarah Kathryn Williams, 5
Anne Elizabeth Williams, 3
Bernard John Williams, III, 1
6. Q. Education:
A. George Washington University, 1967-1971, B.A. May, 1971
George Washington University Law School, 1971-1974, JD
May, 1974
7. Q. Employment record since college:
A. November 1984 - Partner, Morgan, Lewis & Bockius
Washington, D.C. - Federal income tax
Present planning and representation of clients
before the Treasury Department and the
Internal Revenue Service.

May, 1983 - Deputy Assistant Attorney General
October, 1984 Tax Division, Department of Justice
Washington, D.C. - Responsible for
civil tax litigation; legislation and
policy.

October, 1981 - Special Assistant to the Chief Counsel,
April, 1983 Internal Revenue Service, Washington, D.C.
- Responsible for reviewing tax policy
issues and positions in regulations and
rulings.

BIOGRAPHICAL
of
B. John Williams, Jr.
prepared for the
Senate Finance Committee

August, 1976 - Associated with Ballard, Spahr,
October, 1981 Andrews and Ingersoll, Philadelphia,
 Pennsylvania - Federal income tax
 planning and litigation.

June, 1974 - Attorney-Advisor to the Honorable
July, 1976 Bruce M. Forrester, Judge, United
 States Tax Court, Washington, D.C.

August, 1971 - Legal research assistant, Baker &
June, 1974 McKenzie, Washington, D.C.

June, 1971 - Administrative aid, National Commission
August, 1971 on State Workmen's Compensation Laws,
 Washington, D.C.

8. Q. Government experience:
 A. Deputy Assistant Attorney General, Tax Division, DOJ
 (see 7 above), Special Assistant to Chief Counsel, IRS
 (see 7 above), Consultant to Chief Counsel (September -
 October 1981, pending White House clearance for Special
 Assistant position)
9. Q. Memberships and offices held in professional, fraternal,
 scholarly, civic, charitable and other organization.
 A. Member, American Bar Association, Tax Section
 Member, Federal Bar Association, Tax Section
 Member, DC Bar
 Member, Phi Beta Kappa
 Member, Omicron Delta Kappa
10. Q. Political affiliations and activities:
 A. Member, Republican Party of Virginia
 Obtained tax exemption determination for 1984 Presidential
 Inaugural Trust from Internal Revenue Service
 Contributed to Stan Parris for Governor, to the National
 Republican Committee (1980-1985), to Republican Party of
 Virginia (1982-1984); all contributions were in amounts of
 \$75 or less totalling no more than \$250 in any year.
 Registered Democrat (1975-1981)

BIOGRAPHICAL
of
B. John Williams, Jr.
prepared for the
Senate Finance Committee

11. Q. Honors and Awards:
A. BA with distinction, with university honors, with departmental honors in history
JD with honors; law review
Chief Counsel's Award for "professional excellence and outstanding service to the Office of Chief Counsel from September 2, 1981 through April 30, 1983."
12. Q. Published writings:
A. Publications:
"How to Alleviate the Tax Burden When IRS Claims That Independent Contractors are Employees", 20 Taxation for Accountants, No. 3, 140 (March, 1978) and 6 Taxation for Lawyers, No. 4, 364 (May/June, 1978).
"The Formative Years of the Foreign Earned Income Exclusion: Section 911" (co-authored), 51 Taxes 355 (1973) cited in Helen Robinson Solano, 62 T.C. 562, (1974).

CAROLYN MILLER PARR

INFORMATION REQUESTED OF NOMINEES - UNITED STATES TAX COURT

Prepared for Committee on Finance, United States Senate

1. Name: Carolyn Miller Parr
2. Address: 13640 Glenhurst Road
Travilah, Maryland 20878
3. Date and place of birth: April 17, 1937.
Palatka, Florida
4. Marital status: Married to Jerry S. Parr
for 26 years.
5. Names and ages of children: Kimberly Susan Parr, 23
Jennifer Lynn Parr, 22
Patricia Audrey Parr, 15
6. Education: Georgetown University, 1974-1977,
J.D. (1977).

Vanderbilt University, 1959-1960,
M.A. in English (1960).

Stetson University, 1955-1959,
B.A., Magna Cum Laude (1959).

Post - J.D. Courses in corporate,
estate and partnership taxation,
trial techniques, negotiation, and
management.
7. Employment record: Aside from 2 years' teaching
experience in Nashville,
Tennessee, and sporadic interludes
of secretarial work, I was
essentially a full-time homemaker
between college and law school.
Volunteer activities included
serving as an arbitrator for the
Montgomery County Office of
Consumer Affairs and the Better
Business Bureau. My significant
professional employment has been
with the Government. See below.

8. Government experience:

Sept. 5, 1982 -
Present

Special Counsel to the Assistant
Attorney General, Tax Division,
Department of Justice

Report directly to Assistant Attorney General. Participate in policy decisions at highest level of Tax Division. Advocate Tax Division's position in meetings with other agencies, professional organizations and press.

In November, 1983 organized and now head the Office of Special Litigation (21 attorneys and 13 support personnel) whose mission is to obtain injunctions and penalties against promoters of abusive tax shelters. This project has been given top priority by both the Tax Division and the Internal Revenue Service.

Jan. 1982 -
Sept. 4, 1982

Senior Trial Attorney, Internal
Revenue Service, Office of Chief
Counsel. Reported to District
Counsel, Washington, D.C.

Prepared, tried, and/or negotiated settlements in complex Tax Court cases, some with tax deficiencies in millions of dollars. Average case load: 130+. Early merit promotion to this position.

Sept. 1977 -
Dec. 1981

General Trial Attorney, I.R.S. Won 30
of 33 cases tried, 1977-1982.

9. Memberships:

Admitted to Maryland and District of Columbia Bars, United States Supreme Court, and United States Tax Court.

American Bar Association (Section of Taxation -- Committee on Court Procedure); Maryland State Bar Association (Taxation Section); D. C. Bar Association (Litigation Section);

Federal Bar Association (Tax Section -- Chair, Ethics Committee); and Women's Bar of Maryland.

10. Political affiliations and activities:

Because of the Hatch Act I was precluded from active participation in partisan politics. However, I contributed to the Reagan-Bush campaign in Maryland (1984), the Montgomery County Republican Committee (1985), and to other Republican campaigns and causes from time to time. Amounts of the contributions were \$100 or less. I have been a Republican since 1958, when I first registered to vote.

11. Honors and Awards:

Award for superior performance in NYU/IRS Graduate Tax Institute, 1982.

Treasury Department Special Achievement Award in 1979 for spotting corporate tax issue days before statute of limitations would have expired and negotiating recovery of \$1,000,000 additional tax, plus interest.

Georgetown University Law Fellow, 1975.

Associate Editor, The Tax Lawyer, Georgetown University Law Center, 1976-77.

National Defense Fellow, Vanderbilt University, 1959-60.

President of Mortar Board honor society, Stetson University, 1959. Numerous scholastic honor societies. Recipient of University Scholarship, 1956-59. One of 10 Outstanding Seniors. Who's Who Among Students, 1959.

Named in Personalities of America (3rd Edition), 1985; The Directory of Distinguished Americans (3rd Edition), 1985; and solicited for various Who's Who publications.

12. Published writings:

"Tax Shelters After the 1984 Tax Act: Injunctions, Consent Decrees, Penalties," Tax Shelters, 56-82, Law & Business (1985).

Co-author, "TEFRA Injunctions and Abusive Tax Shelters," Tax Shelter Controversies, Vol. I, 200-268 and Vol. II, 49-82, Law & Business (1984).

"The New Credit for Child Care Expenses." 30 Tax Lawyer, 456-469 (1977).

MEMORANDUM

TO: Members, Senate Committee on Finance

FROM: Lloyd M. Bentsen

RE: U.S.-Mexico Border Trade Study

At the Finance Committee markup on Wednesday, November 13, 1985, I intend to propose that the Committee request an investigation by the U.S. International Trade Commission (ITC) of border trade between the United States and Mexico, with an eye toward the Committee designing trade programs that would help to revitalize this region.

This border region is more directly affected than other parts of such international economic phenomena as the strength of the dollar, the price of oil, and the Mexican debt crisis, because literally thousands of small businesses along the border buy and sell products directly affected by these developments from and to people directly affected by them. Therefore, I believe it is appropriate to develop a program of trade and perhaps other incentives to a mutually advantageous development of industries and businesses in the border region in both nations.

At this time, however, I am not prepared to offer legislation on this subject for two reasons: (1) Many of our existing trade preference programs already benefit Mexico, and I do not want to have an impact on these programs until we have before us a detailed and exhaustive treatment of the impact of existing programs upon our bilateral trade; and (2) I do not want to design programs that help the border region at the expense of the rest of the country.

The study I propose will be designed to elicit all the facts with respect to the bilateral trade particularly as it affects the border region and will ask the ITC to suggest various alternatives for trade and other programs that might help to revitalize the region. At that point, I would hope to make some suggestions which the Committee might favorably consider.

In order to minimize the burden of this investigation upon the ITC, I have asked the staff of the Finance Committee to consult with the ITC staff ahead of time, and that has been done. Moreover, even though the study could be completed in the standard time for such matters of six months, I am asking for a study that need not be completed for a year in order to reduce the impact of this study on other ITC operations.

The staff contact on this subject in my office is Felix Sanchez at 4-5922.