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*2d Session*

HOUSE OF REPRESENTATIVES

{ REPORT  
105-832

REPORT ON THE LEGISLATIVE  
AND OVERSIGHT ACTIVITIES

OF THE

COMMITTEE ON WAYS AND MEANS

DURING THE

105TH CONGRESS



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**LETTER OF TRANSMITTAL**

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
*Washington, DC, December 18, 1998.*

Hon. ROBIN H. CARLE,  
*Clerk of the House of Representatives,  
The Capitol, Washington DC.*

DEAR MS. CARLE: I am herewith transmitting, pursuant to House Rule XI, clause 2(d), the report of the Committee on Ways and Means on its legislative and oversight activities during the 105th Congress. With best personal regards,

Sincerely,

BILL ARCHER, *Chairman.*



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## FOREWORD

Clause 1(d) of Rule XI of the Rules of the House, regarding the rules of procedure for committees, contains a requirement that each committee prepare a report at the conclusion of each Congress summarizing its activities. The 104th Congress added subsections on legislative and oversight activities, including a summary comparison of oversight plans and eventual recommendations and actions. The full text of the Rule follows:

(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year, a report on the activities of that committee under this rule and rule X during the Congress ending on January 3 of such year.

(2) Such report shall include separate sections summarizing the legislative and oversight activities of the committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee pursuant to clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.

The jurisdiction of the Committee on Ways and Means during the 105th Congress is provided in Rule X, clause 1(s), as follows:

(s) Committee on Ways and Means.

(1) Customs, collection districts, and ports of entry and delivery.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to the insular possessions.

(5) The bonded debt of the United States (subject to the last sentence of clause 4(g) of this rule).

(6) The deposit of public moneys.

(7) Transportation of dutiable goods.

(8) Tax exempt foundations and charitable trusts.

(9) National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.

The general oversight responsibilities of committees are set forth in clause 2 of Rule X. The 104th Congress also added the requirement in clause 2(d) of Rule X that each standing committee submit its oversight plans for each Congress. The text of the Rule, in pertinent part, follows:

## 2. (a) In order to assist the House in—

(1) its analysis, appraisal, and evaluation of (A) the application, administration, execution, and effectiveness of the laws enacted by the Congress, or (B) conditions and circumstances which may indicate the necessity or desirability of enacting new or additional legislation, 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, the various standing committees shall have oversight responsibilities as provided in paragraph (b).

(b)(1) Each standing committee (other than the Committee on Appropriations and the Committee on the Budget) shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, each such committee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake future research and forecasting on matters within the jurisdiction of that committee. Each such committee having more than twenty members shall establish an oversight subcommittee, or require its subcommittees, if any, to conduct oversight in the area of their respective jurisdiction, to assist in carrying out its responsibilities under this subparagraph. The establishment of oversight subcommittees shall in no way limit the responsibility of the subcommittees with legislative jurisdiction from carrying out their oversight responsibilities.

\* \* \* \* \*

(c) Each standing committee of the House shall have the function of reviewing and studying on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.

(d)(1) Not later than February 15 of the first session of a Congress, each standing committee of the House shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plans for that Congress. Such plans shall be submitted simulta-

neously to the Committee on Government Reform and Oversight and to the Committee on House Oversight. In developing such plans each committee shall, to the maximum extent feasible—

(A) consult with other committees of the House that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction, with the objective of ensuring that such laws, programs, or agencies are reviewed in the same Congress and that there is a maximum of coordination between such committees in the conduct of such reviews; and such plans shall include an explanation of what steps have been and will be taken to ensure such coordination and cooperation;

(B) give priority consideration to including in its plans the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and

(C) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdictions are subject to review at least once every ten years.

To carry out its work during the 105th Congress, the Committee on Ways and Means had five standing Subcommittees, as follows:

Subcommittee on Trade;  
Subcommittee on Oversight;  
Subcommittee on Health;  
Subcommittee on Social Security; and  
Subcommittee on Human Resources.

The membership of the five Subcommittees of the Committee on Ways and Means in the 105th Congress is as follows:

#### SUBCOMMITTEE ON TRADE

PHILIP M. CRANE, Illinois, *Chairman*

BILL THOMAS, California	ROBERT T. MATSUI, California
E. CLAY SHAW, JR., Florida	CHARLES B. RANGEL, New York
AMO HOUGHTON, New York	RICHARD E. NEAL, Massachusetts
DAVE CAMP, Michigan	JIM McDERMOTT, Washington
JIM RAMSTAD, Minnesota	MICHAEL R. McNULTY, New York
JENNIFER DUNN, Washington	WILLIAM J. JEFFERSON, Louisiana
WALLY HERGER, California	
JIM NUSSLE, Iowa	

#### SUBCOMMITTEE ON OVERSIGHT

NANCY L. JOHNSON, Connecticut, *Chairman*

ROB PORTMAN, Ohio	WILLIAM J. COYNE, Pennsylvania
JIM RAMSTAD, Minnesota	GERALD D. KLECZKA, Wisconsin
JENNIFER DUNN, Washington	MICHAEL R. McNULTY, New York
PHILIP S. ENGLISH, Pennsylvania	JOHN S. TANNER, Tennessee
WES WATKINS, Oklahoma	KAREN L. THURMAN, Florida
JERRY WELLER, Illinois	
KENNY HULSHOF, Missouri	

## SUBCOMMITTEE ON HEALTH

BILL THOMAS, California, *Chairman*

NANCY L. JOHNSON, Connecticut	FORTNEY PETE STARK, California
JIM McCRERY, Louisiana	BENJAMIN L. CARDIN, Maryland
JOHN ENSIGN, Nevada	GERALD D. KLECZKA, Wisconsin
JON CHRISTENSEN, Nebraska	JOHN LEWIS, Georgia
PHILIP M. CRANE, Illinois	XAVIER BECERRA, California
AMO HOUGHTON, New York	
SAM JOHNSON, Texas	

## SUBCOMMITTEE ON SOCIAL SECURITY

JIM BUNNING, Kentucky, *Chairman*

SAM JOHNSON, Texas	BARBARA B. KENNELLY, Connecticut
MAC COLLINS, Georgia	RICHARD E. NEAL, Massachusetts
ROB PORTMAN, Ohio	SANDER M. LEVIN, Michigan
JON CHRISTENSEN, Nebraska	WILLIAM J. JEFFERSON, Louisiana <sup>1</sup>
J.D. HAYWORTH, Arizona	JOHN S. TANNER, Tennessee
JERRY WELLER, Illinois	XAVIER BECERRA, California <sup>2</sup>
KENNY HULSHOF, Missouri	

## SUBCOMMITTEE ON HUMAN RESOURCES

E. CLAY SHAW, JR., Florida, *Chairman*

DAVE CAMP, Michigan	SANDER M. LEVIN, Michigan
JIM McCRERY, Louisiana	FORTNEY PETE STARK, California
MAC COLLINS, Georgia	ROBERT T. MATSUI, California
PHILIP S. ENGLISH, Pennsylvania	WILLIAM J. COYNE, Pennsylvania
JOHN ENSIGN, Nevada	JIM McDERMOTT, Washington <sup>1</sup>
J. D. HAYWORTH, Arizona	WILLIAM J. JEFFERSON, Louisiana <sup>2</sup>
WES WATKINS, Oklahoma	

<sup>1</sup> January 1, 1997 to April 9, 1997.<sup>2</sup> As of April 9, 1997.

The Committee on Ways and Means submits its report on its legislative and oversight activities for the 105th Congress pursuant to the above stated provisions of the Rules of the House. Section I of the report describes the Committees' legislative activities, divided into seven sections as follows: Legislative Review of Budget Reconciliation; Balanced Budget Act of 1997 and Taxpayer Relief Act of 1997; Legislative Review of Tax, Trust Fund, and Pension Issues; Legislative Review of Trade Issues; Legislative Review of Health Issues; Legislative Review of Social Security Issues; Legislative Review of Human Resources Issues; and Legislative Review of Debt Issues.

Section II of the report describes the Committees' oversight activities. It includes a copy of the Committee's Oversight Agenda, adopted in open session on February 12, 1997, along with a description of actions taken and recommendations made with respect to the oversight plan. The report then discusses additional Committee oversight activities, and any recommendations or actions taken as a result. Finally, the report includes three appendices with Committee information which was historically included in a separate committee publication (see WMCP: 103-29). Appendix I is an expanded discussion of the Jurisdiction of the Committee on Ways and Means along with a revised listing and explanation of blue slip resolutions and points of order under House Rule XXI 5(b), previously included in the Committee's "Overview of the Federal Tax System" (WMCP: 103-17). Appendix II is a brief Historical Note on

the origins of the Committee; Appendix III is a Statistical Review of the Activities of the Committee on Ways and Means; and Appendix IV is a listing of the Chairmen and Membership of the Committee from the 1st–105th Congresses.

## Union Calendar No. 473

105TH CONGRESS }  
2d Session } HOUSE OF REPRESENTATIVES { REPORT  
105-832

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### REPORT ON THE LEGISLATIVE AND OVERSIGHT ACTIVITIES OF THE COMMITTEE ON WAYS AND MEANS DURING THE 105TH CONGRESS

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

## REPORT

### I. Legislative Activity Review

#### A. LEGISLATIVE REVIEW OF BUDGET RECONCILIATION

##### 1. THE BALANCED BUDGET ACT OF 1997

On February 11 and 12, March 5, 12, and 19, 1997, the Committee on Ways and Means held hearings on the President's Fiscal Year 1998 budget proposals.

The Subcommittee on Health held hearings regarding provisions later included in the Balanced Budget Act of 1997 on February 13 and 25, March 4, 6, 11, 13, 20, April 8, 10, 17, 24, and 29, 1997.

The Subcommittee on Human Resources held a hearing on February 13, 1997, on human resources provisions in the President's Fiscal Year 1998 budget proposal. On April 24, 1997, the Subcommittee on Human Resources held a hearing on unemployment compensation (UC) proposals.

On May 21, 1997, the House approved H. Con. Res. 84, setting forth the Congressional budget for the United States Government for fiscal years, 1999, 2000, 2001, and 2002, and the House agreed to the conference report on H. Con. Res. 84 on June 5, 1997.

On June 4, 1997, pursuant to H. Con. Res. 84, the Subcommittee on Health approved its budget reconciliation health recommendations. On June 5, 1997, the Subcommittee on Human Resources approved its budget reconciliation human resources recommendations. On June 9, 1997, the Committee approved its budget reconciliation health recommendations. On June 10, 1997, the Committee approved its budget reconciliation human resources recommendations. Both sets of recommendations were incorporated into H.R. 2015, the "Balanced Budget Act of 1997," as introduced by Budget Committee Chairman Rep. Kasich on June 24, 1997. On

June 24, 1997, the House Committee on the Budget reported to the House H.R. 2015 (H. Rept. 105–149). On June 25, 1997, H.R. 2015 passed the House, as amended.

On June 25, 1997, the bill, as amended, passed the Senate. On July 30, 1997, the conference report on H.R. 2015 (H. Rept. 105–217) was filed. On July 30, 1997, the House and agreed to the conference report, and on July 31 it was agreed to in the Senate. On August 5, 1997, the President signed the bill into law (P.L. 105–33).

The health provisions of H.R. 2015, as signed by the President, enact significant changes to the Medicare program and extend the life of the Medicare Part A Trust Fund to 2007. The provisions modernize Medicare payment systems; increase private health care options available to seniors; improve available preventive benefits; and give the Secretary of Health and Human Services new tools to fight Medicare waste, fraud, and abuse.

The most significant change is the establishment of the Medicare+Choice program which expands private plan options available to seniors under the Medicare program to include preferred provider organizations (PPOs), provider-sponsored organizations (PSOs), and private fee-for-service plans.

The provisions create a demonstration program for a limited number of beneficiaries to establish medical savings accounts (MSAs) in conjunction with a high deductible plan. Section 4006 of the Balanced Budget Act authorized a limited number of Medicare MSAs under a demonstration beginning in 1999. MSAs will be limited to a demonstration: the initial year will be 1999 but new enrollments will not be allowed after 2002 or after the number of enrollees reaches 390,000. Contributions to medical savings accounts will be exempt from taxes, as will account earnings. Withdrawals will likewise not be taxed nor be subject to penalties if they are used to pay unreimbursed enrollee medical expenses that are deductible under the Internal Revenue Code. However, qualified withdrawals cannot be made to pay insurance premiums other than for long-term care insurance, continuation coverage (such as COBRA), or coverage while an individual is receiving unemployment compensation. Non-qualified withdrawals will be included in the individual's gross income for tax purposes. They would also be subject to an additional 50% penalty to the extent they exceed the amount by which the account balance on December 31st of the prior year is greater than 60% of the MSA plan deductible for the year of withdrawal. The 50% penalty will not apply in cases of death or disability. Account balances at death will be subject to various tax treatments depending on their disposition.

The provisions changed the method of calculating payments to Medicare health maintenance organizations (HMOs) and other private plans that contract with Medicare. Each county's Medicare+Choice payment rate is determined by taking the highest of three different rates: (1) a "floor," or minimum payment rate; (2) a "minimum update" rate; and (3) a "blended" rate calculated using a combination of county-specific data and national data. Gradually, the portion of the blended rate that is based on national data will increase so that in 2003, 50 percent will be based on county-specific data and 50 percent will be based on national data.

The provisions include savings in the fee-for-service part of the program through changes in payment methods for physicians, hospitals, skilled nursing facilities, home health agencies, and other providers. In the case of physicians, these savings are achieved by providing for the use of a single (rather than three) conversion factors and limiting the growth in the annual update. Hospitals have their inpatient operating payment rate update frozen for FY 1998 and reductions to updates in outer years. Skilled nursing facilities, home health agencies, and rehabilitation hospitals move to prospective payment systems.

The provisions enhance existing preventive benefits for Medicare beneficiaries including, annual mammograms for women at age 40; improving coverage of pap smears and pelvic exams; coverage of prostate and colorectal cancer screenings; new diabetes self-management programs and coverage of bone mass measurements.

The provisions establish new penalties for fraud and abuse including a permanent exclusion from Medicare for any individual convicted of three health-care related offenses; refusal to enter into Medicare contracts with felons; exclusion of a health care business controlled by a family member of an individual guilty of fraud; new civil monetary penalties for individuals that contract with an excluded health care provider and for kickbacks.

Finally, the provisions include the establishment of the National Bipartisan Commission on the Future of Medicare to address the long-term solvency of the Medicare program. The Commission's report is due to Congress in March, 1999.

The human resources provisions included issues raised by the 1996 welfare reform legislation (P.L. 104-193). Here the Committee clarified work requirements and the number of hours certain workfare participants may work; created a new \$3 billion welfare-to-work grant program aimed at helping the most disadvantaged and least job ready welfare recipients obtain jobs; and provided continued SSI benefits for noncitizens affected by welfare reform eligibility restrictions. The proposal also clarified States' authority to set base periods for determining eligibility for unemployment benefits. Taken together, the Committee provisions fulfilled the spending and savings terms of the budget agreement and reformed several of the important social programs under the Committee's jurisdiction.

The bill made minor changes in the proposed welfare-to-work program; applied specific workforce protection to welfare-to-work participants rather than all TANF participants; added specific penalties on States failing to meet welfare work requirements, with exceptions for natural disasters and regional recessions; and dropped a House provision repealing the maintenance of effort requirement for State supplementation of SSI benefits.

The bill made two significant changes in the SSI program. First, the Social Security Administration (SSA) was given an additional 6 months in which to conduct evaluations of children whose SSI eligibility may have been affected by the 1996 welfare reform law. Second, Federal fees for administering State supplemental payments to SSI were increased from their former \$5.00 level over a period of several years; added receipts were dedicated toward Social Security administrative expenses stemming from recent legisla-

tion. The legislation also included various technical amendments to the SSI program.

Several unemployment compensation provisions were included in the bill. In addition to authorization for States to set UC base periods, the Act includes the following changes: raising the Federal unemployment account ceiling, thus preventing the transfer of surplus funds, other than a special distribution of \$100 million, into State accounts after October 1, 2001; providing interest-free loans to States that meet certain forward-funding goals; authorizing program "integrity" funds; exempting election workers earning less than \$1,000 per year and employees of religious schools operated by lay boards from participation in the program; and barring former inmates from eligibility for benefits resulting from "unemployment" due to release from prison work programs.

The 1996 welfare reform law generally restricted eligibility for public benefits for noncitizens, including then-current recipients of SSI and Medicaid benefits. The Balanced Budget Act continued restrictions on eligibility for noncitizens arriving in the United States after August 1996 (when the welfare reform law was enacted). However, the Act provided that all legal noncitizens receiving SSI in August 1996 would remain eligible for SSI and Medicaid benefits; in addition, noncitizens who were lawfully residing in the United States in August 1996 would become eligible for SSI and Medicaid if they become disabled. Refugees (defined to include Cuban and Haitian entrants and certain Amerasian immigrants) would be eligible for SSI and Medicaid benefits for their first 7 years in the U.S., instead of their first 5 years as allowed under the welfare reform law, allowing them time to naturalize without interruption in benefits.

The tax provisions included in the conference report provided for increases in excise taxes imposed on tobacco products. Generally, the Act increases the current excise tax rates on all tobacco production, effective in two stages: January 1, 2000, and January 1, 2002. With respect to cigarettes, the current tobacco excise tax rate (24 cents per pack) would increase as follows: 10 cents on January 1, 2000, and 5 cents on January 1, 2002 (for a total excise tax rate of 39 cents per pack).

H.R. 2015 also contained provisions to enhance enforcement by authorizing appropriations to the Treasury for improved application of the earned income credit.

The conference report also included a permanent increase in the public debt limit to \$5.95 trillion.

## 2. TAXPAYER RELIEF ACT OF 1997

On February 11 and 12, March 5, 12, and 19, 1997, the Committee on Ways and Means held hearings on the President's Fiscal Year 1998 budget proposals.

On May 21, 1997, the House approved H. Con. Res. 84, setting forth the Congressional budget for the United States Government for fiscal years, 1999, 2000, 2001, and 2002, and the House agreed to the conference report on H. Con. Res. 84 on June 5, 1997.

On June 11 and 12, 1997, pursuant to H. Con. Res. 84, the Committee held a markup of budget reconciliation revenue recommendations. These recommendations were incorporated into

H.R. 2014, the “Taxpayer Relief Act of 1997,” as introduced by Budget Committee Chairman Rep. Kasich on June 24, 1997. On June 24, 1997, the House Committee on the Budget reported to the House H.R. 2014 (H. Rept. 105–148). On June 26, 1997, H.R. 2014 passed the House, as amended.

On June 27, 1997, the bill, as amended, passed the Senate. On July 30, 1997, the conference report on H.R. 2014 (H. Rept. 105–220) was filed. On July 31, 1997, the House and the Senate agreed to the conference report, and on August 5, 1997, the President signed the bill into law (P.L. 105–34).

In summary, H.R. 2014, the “Taxpayer Relief Act of 1997,” as signed into law, included the following provisions: a tax credit for children under age 17, expansion of the definition of high-risk individuals with respect to tax-exempt State-sponsored organizations providing health coverage, the HOPE tax credit and Lifetime Learning tax credit, a deduction for student loan interest, penalty-free withdrawals from IRAs for higher education expenses, special rules for qualified State tuition programs and education IRAs, extension of the exclusion for employer-provided educational assistance, modification of the \$150 million limit on qualified 501(c)(3) bonds, expansion of the arbitrage rebate exception for certain bonds, an enhanced deduction for corporate contributions of computer technology and equipment, special rules for cancellation of certain student loans, a tax credit for holders of qualified zone academy bonds, expansion of Individual Retirement Arrangements, reduction in the maximum rate of tax on net capital gains of individuals, an exclusion of gain on sale of principal residence, rollover of gain from sale of certain small business stock, repeal of the Alternative Minimum Tax for small businesses, modification of the AMT depreciation adjustment, repeal of the AMT installment method adjustment for farmers, an increase in the estate and gift tax unified credit and indexing of certain other estate and gift tax provisions, an estate tax exclusion for qualified family-owned businesses and other estate and gift tax changes, extension of certain expired tax credits, tax incentives for the District of Columbia, and a Welfare-to-Work tax credit. The Act also contained various miscellaneous provisions (including those relating to excise taxes, disaster relief, employment taxes, small businesses, environmental remediation costs, and empowerment zones and enterprise communities), revenue increase provisions (including those relating to financial products, corporate organizations and reorganizations, administration of the tax laws, excise and employment taxes, tax-exempt organizations, international activities, partnerships, and pension and employee benefits), and simplification provisions (including those relating to international operations, individuals and businesses, estates, gifts, and trusts, excise taxes, and pension and employee benefits), and technical corrections to prior legislation.

The Line Item Veto Act (prior to the U.S. Supreme Court’s determination of unconstitutionality) permitted the President to cancel certain tax code amendments that benefit a limited number of taxpayers. As described in section 5 below, the President exercised this authority with respect to two tax code amendments in H.R. 2014.

The legislation repeals the \$150 million limit for hospital bonds issued after the date of enactment to finance capital expenditures incurred after the date of enactment. Because this provision applies only to bonds issued with respect to capital expenditures incurred after the date of enactment, the \$150 million limit will continue to govern issuance of other non-hospital qualified 501(c)(3) bonds (e.g., refunding bonds with respect to capital expenditures incurred before the date of enactment or new-money bonds for capital expenditures incurred before that date). Thus, the Congress understood that bond issuers will continue to need Treasury Department guidance on the application of this limit in the future. The provision was effective for bonds issued after the date of enactment to finance capital expenditures incurred after such date.

The legislation also has a provision that provides that an organization does not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of Code section 501(c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (“PSO”) (as defined in section 1845(a)(1) of the Social Security Act), whether or not such PSO is exempt from tax. Thus, participation by a hospital in a PSO (whether taxable or tax-exempt) is deemed to satisfy the first part of the inquiry under current IRS ruling practice. The provision does not change present-law restrictions on private inurement and private benefit. However, the provision provides that any person with a material financial interest in such a PSO shall be treated as a private shareholder or individual with respect to the hospital for purposes of applying the private inurement prohibition in Code section 501(c)(3). Accordingly, the facts and circumstances of each PSO arrangement are evaluated to determine whether the arrangement entails impermissible private inurement or more than incidental private benefit (e.g., where there is a disproportionate allocation of profits and losses to the non-exempt partners, the tax-exempt partner makes loans to the joint venture that are commercially unreasonable, the tax-exempt partner provides property or services to the joint venture at less than fair market value, or a non-exempt partner receives more than reasonable compensation for the sale of property or services to the joint venture). The provision does not change present-law restrictions on lobbying and political activities. In addition, the restrictions of Code section 501(m) on the provision of commercial-type insurance continue to apply. The provision was effective on the date of enactment.

The legislation requires that all Medicare providers supply the Secretary of HHS with the employer identification number (“EIN”) of each disclosing entity, each person with an ownership or control interest, and any subcontractor in which the entity has a direct or indirect 5 percent or more ownership interest. The Secretary of HHS is required to transmit to the Secretary of the Treasury the EIN’s received, and the Secretary of the Treasury is directed to verify or correct the EINs. The Secretary of HHS is to reimburse the Secretary of the Treasury for the costs incurred in performing the verification and correction. The provision is effective 90 days after the Secretary of HHS submits to the Congress a report on the steps

taken to ensure the confidentiality of social security account numbers required to be provided to the Secretary of HHS.

The legislation permanently extends the Medicare disclosure provisions of section 6103 of the Internal Revenue Code of 1986, which permit the disclosure of taxpayer filing status and identity information for the purpose of verifying the employment status of Medicare beneficiaries and the spouse of a Medicare beneficiary, effective on the date of enactment.

This proposal included a provision to reauthorize title V of the Trade Act of 1974, as amended, for two years through May 31, 1999. Title V contains the provisions on the Generalized System of Preferences (“GSP”).

## B. LEGISLATIVE REVIEW OF TAX, TRUST FUND, AND PENSION ISSUES

### 1. BALANCED BUDGET ACT OF 1997

For a discussion of tax provisions in the Balanced Budget Act of 1997, see I.A.1. above.

### 2. TAXPAYER RELIEF ACT OF 1997

For a discussion of tax provisions in the Taxpayer Relief Act of 1997, see I.A.2. above.

### 3. INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1997

On October 21, 1997, H.R. 2676, the “Internal Revenue Service Restructuring and Reform Act of 1997,” was introduced by Committee Chairman Archer. On October 31, 1997, the Committee reported to the House H.R. 2676, as amended (H. Rept. 105–364, Pt. 1). On November 5, 1997, H.R. 2676 passed the House, as amended.

On April 22, 1998, the Senate Committee on Finance reported H.R. 2676, as amended. On May 7, 1998, the bill, as amended, passed the Senate.

On June 24, 1998, the conference report on H.R. 2676 (H. Rept. 105–599) was filed. On June 25, 1998, the House agreed to the conference report. On July 9, 1998, the Senate agreed to the conference report and on July 22, 1998, the President signed the bill into law (P.L. 105–206).

In summary, H.R. 2676, the “Internal Revenue Service Restructuring and Reform Act of 1998,” as signed into law, reorganized the structure and management of the Internal Revenue Service, established an IRS Oversight Board; prohibited executive branch influence over taxpayer audits; provided IRS with personnel flexibilities; promoted electronic filing of tax and information returns; added numerous taxpayer protections and rights, including a shift in the burden of proof, an expansion of authority to award costs and fees to taxpayers, civil damages for collection actions, civil actions for release of erroneous liens, relief for innocent spouses, a suspension of the refund statute of limitations during periods of disability, elimination of the interest rate differential during overlapping periods of tax underpayment and overpayment, an increase in the overpayment interest rate for non-corporate taxpayers, mitigation of the failure to pay penalty for individuals with installment payment

agreements, mitigation of the failure to deposit penalty for payroll taxes, suspension of interest and penalties if the IRS fails to notify taxpayers of liabilities within a specified time, procedural requirements for the imposition of penalties and additions to tax, improved disclosure relating to interest computations, joint filing liabilities and relief, and other matters, abatement of interest on underpayments for taxpayers in Presidentially declared disaster areas, additional due process, exemptions, and limitations in collection actions, uniform confidentiality privilege rules, limitations on financial status audit techniques, software trade secrets protection, revised procedures relating to summonses, expanded ability for taxpayers to make offers in compromise, guaranteed availability of installment agreements, low-income taxpayer clinics, administrative modifications, procedures for offsetting past-due legally enforceable state income tax obligations against overpayments, and several studies; enhanced congressional accountability for the IRS, including a review of requests for GAO investigations, joint congressional review and coordinated oversight reports, and tax law complexity analyses; eliminated the 18 month holding period for capital gains; expanded deductibility of meals provided for the convenience of the employer; made technical corrections to prior tax and other legislation; and included revenue offsets relating to the deduction for vacation and severance pay, freezing the grandfathered status of paired-share REITs, making certain trade receivables ineligible for mark-to-market treatment, and excluding minimum required distributions in determining eligibility to make a Roth IRA conversion.

#### 4. AIRPORT AND AIRWAY TRUST FUND TAX REINSTATEMENT ACT OF 1997

On February 11, 1997, H.R. 668, the “Airport and Airway Trust Fund Tax Reinstatement Act of 1997,” was introduced by Committee Chairman Archer. On February 13, 1997, the Committee reported to the House H.R. 668 (H. Rept. 105-5). On February 26, 1997, H.R. 668 passed the House. On February 27, 1997, H.R. 668 passed the Senate, and on February 28, 1997, the President signed the bill into law (P.L. 105-2).

The Airport and Airway Trust Fund Tax Reinstatement Act of 1997 (H.R. 668), reinstated temporarily the Airport and Airway Trust Fund excise taxes which expired after December 31, 1996, during the period March 7, 1997 (seven days after date of enactment) through September 30, 1997. The Act also authorized transfer of excise tax receipts to the Trust Fund, while modifying the Treasury Department’s excise tax deposit regulations.

#### 5. HIGHWAY BILL

On September 4, 1997, H.R. 2400, the “Transportation Equity Act for the 21st Century,” was introduced by Representative Shuster. On March 27, 1998, the Committee reported to the House H.R. 2400, as amended to include revenue and trust fund provisions (H. Rept. 105-467, Part III). On April 1, 1998, H.R. 2400 passed the House, as amended.

On April 2, 1998, the Senate passed the bill with amendment consisting of the text of S. 1173, as amended.

On May 22, 1998, the House and Senate agreed to the conference report (H. Rept. 105-550), and on June 9, 1998, the President signed the bill into law (P.L. 105-178).

In summary, the financing title (Title IX) of H.R. 2400, the "Transportation Equity Act for the 21st Century," as signed into law, provided for a 6-year extension of current law Highway Trust Fund motor fuel taxes, as well as excise taxes on truck tires and retail sales on trucks and trailers and annual use taxes on trucks. The Act also contained the following revenue provisions: a 7-year extension and modification of alcohol fuels tax benefits; an extension and modifications of the Highway Trust Fund and expenditure authority; repeal of the National Recreational Trails Trust Fund; extension of the Aquatic Resources Trust Fund and expenditure authority; a partial transfer of General Fund taxes on motorboat and small engine fuels to the Aquatic Resources Trust Fund; delay in dyed fuel mandate for registered terminals; accelerated sunset of the 1.25 cents-per-gallon tax on railroad diesel fuel; expansion of qualified transportation fringe benefits and non-Amtrak state refund provisions; and simplification of fuel tax refund procedures, as well as technical corrections.

Subtitle D of Title VIII of H.R. 2400 contains budget offset provisions within the Committee's jurisdiction amendment Title XX of the Social Security Act (Social Services Block Grant program) to reduce funding levels from \$2.38 billion to \$1.7 billion for each of fiscal years 2001 and 2002, and from \$2.8 billion to \$1.7 billion in fiscal years 2003 and thereafter; and beginning in fiscal year 2001, lowering from no more than 10 percent, to no more than 4.25 percent, the portion of the Temporary Assistance for Needy Families block grant that States may transfer to Title XX.

#### 6. LINE ITEM VETO BILL

On August 11, 1997, the President issued a message, pursuant to the Line Item Veto Act (P.L. 104-130), canceling two limited tax benefits identified in H.R. 2014, the Taxpayer Relief Act of 1998: sections 968, relating to recognition of gain on certain farmers' cooperatives, and section 1175, relating to a one year active financing exception from Subpart F. On September 3, 1997, the Presidential message was referred to the Committee on Ways and Means. On September 9, 1997, a disapproval bill, H.R. 2444, was introduced and referred to the Committee on Ways and Means.

On September 23, 1997, H.R. 2513, containing two provisions intended to replace sections 968 and 1175 that were the subject of the line item veto, was introduced by Committee Chairman Archer. On October 9, 1997, the Committee reported to the House H.R. 2513, as amended (H. Rept. 105-318, Part D). On November 8, 1997, H.R. 2513 passed the House, as amended. A similar measure, H.R. 2444, was laid on the table without objection.

On June 25, 1998, the U.S. Supreme Court declared unconstitutional the Line Item Veto Act's cancellation provisions.

On October 21, 1998, the Senate passed H.R. 2513, with an amendment to provide tax-free treatment of reward monies donated to the victims of unabomber Theodore Kaczynski.

## 7. EDUCATIONAL SAVINGS AND SCHOOL EXCELLENCE ACT OF 1998

On October 9, 1997, H.R. 2646, the “Educational Savings and School Excellence Act of 1998,” was introduced by Committee Chairman Archer. On October 21, 1997, the Committee reported to the House H.R. 2646, as amended (H. Rept. 105–332). On October 23, 1997, H.R. 2646 passed the House, as amended.

On April 23, 1998, H.R. 2646 passed the Senate with an amendment. On June 18, 1998, the House agreed to the conference report (H. Rept. 105–577). On June 24, 1998, the Senate agreed to the conference report. On July 21, 1998, the President vetoed the bill and the veto message was referred to the Committee on Ways and Means.

As approved by the House and Senate, the conference report on H.R. 2646, the “Education Savings and School Excellence Act of 1998,” would have allowed tax-free expenditures from education individual retirement accounts (IRAs) for qualified elementary and secondary school expenses (as well as higher education costs). In addition, the conference agreement would have increased the maximum annual amount of contributions to education IRAs to \$2,000 (from \$500) beginning 1999 and through 2002. The conference report also included the following provisions: an income tax exclusion for withdrawals from qualified state tuition programs and, after the year 2005, private pre-paid tuition programs; an extension of the employer-provided education assistance exclusion under section 127; an increase in arbitrage rebate exception for public school bonds; tax-free treatment (under section 117) of certain health professions scholarships; technical corrections; and a clarification of the rules for deducting accrued vacation and severance pay by overturning the result in *Schmidt Baking Co. Inc.*

## 8. TAXPAYER BROWSING PROTECTION ACT

On April 8, 1997, H.R. 1226, the “Taxpayer Browsing Protection Act,” was introduced by Committee Chairman Archer. On April 14, 1997, the Committee reported to the House H.R. 1226, as amended (H. Rept. 105–51). On April 15, 1997, H.R. 1226 passed the House, as amended.

On July 23, 1997, the Senate passed H.R. 1226 without amendment and on August 5, 1997, the President signed the bill into law (P.L. 105–35).

## 9. TAXPAYER RELIEF ACT OF 1998

On January 28, and on February 4 and 12, 1998, the Committee on Ways and Means held hearings on reducing the tax burden. The Committee held hearings on February 25, 1998, on the revenue provisions in the President’s Fiscal Year 1998 budget proposal.

On September 16, 1998, H.R. 4579, the “Taxpayer Relief Act of 1998,” was introduced by Committee Chairman Archer. On September 23, 1998, the Committee reported H.R. 4579, as amended (H. Rept. 105–739). On September 26, 1998, H.R. 4579 passed the House, as amended. No action taken in the Senate.

In summary, H.R. 4579, the “Taxpayer Relief Act of 1998,” as passed by the House, included the following provisions: marriage tax penalty relief by increasing the standard deduction for married

taxpayers, a partial exclusion from income for interest and dividends, more favorable treatment of personal credits under the individual minimum tax, an increase in the social security earnings limit, expansion of the exclusion of gain on the sale of a principal residence for military and foreign service personnel, expansion of the “qualified prepaid tuition” program to private colleges and universities, and expansion of arbitrage rebate rules for tax-exempt bonds issued to finance public school construction. The bill included a package of small business and farmer tax relief provisions: acceleration of the increased \$1 million exemption from the estate and gift tax, acceleration of the increase in the deduction for health insurance expenses of self-employed individuals, acceleration of the increase in expensing for small businesses, permanent extension of income averaging for farmers, a special 5-year net operating loss carryback for farmers, special rules dealing with production flexibility contract payments for farmers, and designation of 20 “renewal communities” which would be entitled to special tax incentives. The bill also included an extension of the following expiring tax provisions: Research and Experimentation Tax Credit, Work Opportunity Tax Credit, Welfare-to-Work tax credit, deduction for contributions of appreciated stock to private foundations, exceptions from Subpart F for certain active financing income, and the Generalized System of Preferences trade program. The bill also included a provision tightening the tax treatment of certain deductible liquidating distributions of regulated investment companies (RICs) and Real Estate Investment Trusts (REITs).

#### 10. EXPIRING TAX PROVISIONS

On October 8, 1998, Chairman Archer introduced H.R. 4738, a bill to extend certain expiring tax and trade provisions. On October 12, 1998, the Committee reported to the House H.R. 4738, as amended (H. Rept. 105–817). On October 12, 1998, H.R. 4738 passed the House, as amended.

The Senate received H.R. 4738 on October 21, 1998, but took no formal action on the bill. However, several of the tax provisions in H.R. 4738 were included in H.R. 4328, the “Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999,” which passed the House on October 20, 1998, and the Senate on the following day. On October 21, 1998, the President signed the bill into law (P.L. 105–277).

The Tax and Trade Relief Extension Act of 1998, enacted as part of H.R. 4328, extended the following expiring provisions until June 30, 1999: the Research Tax Credit, the Work Opportunity Tax Credit, the Welfare to Work Credit, and the Generalized System of Preferences trade program. It also permanently extended income averaging for farmers and the deduction of gifts of appreciated stock to private foundations. The bill modified the present-law temporary exceptions from Subpart F for income that is derived in the active conduct of a banking, financing, insurance or similar business. These exceptions (as modified) would be applicable only for taxable years beginning in 1999. Other tax provisions included special rules dealing with farm production flexibility contract payments, an increase in the deduction for health insurance expenses for the self-employed, an increase in State volume cap limits on pri-

vate activity tax-exempt bonds, a provision to allow States a window to modify State agreements to allow an exemption for students employed by public schools from paying Social Security taxes and a waiver of AMT limits on nonrefundable credits during 1998. The bill also featured other tax provisions, revenue offsets, and technical corrections to prior legislation.

#### 11. ADDITIONAL TAX MATTERS

##### *a. Tax Code Termination Act*

On January 27, 1998, H.R. 3097, the “Tax Code Termination Act,” was introduced by Representative Largent. On June 17, 1998, the bill passed the House as amended. The Committee took no action on the bill. On June 18, 1998, H.R. 3097 was received in the Senate and referred to the Committee on Finance. No further action taken.

H.R. 3097, the “Tax Code Termination Act,” as passed by the House, generally would have repealed the Internal Revenue Code of 1986 (other than the provisions relating to self-employment income, the Federal Insurance Contributions Act, and the Railroad Retirement Tax Act) effective December 31, 2002, and declared that any new Federal tax system should be approved by Congress in its final form no later than July 4, 2002.

##### *b. The Leaking Underground Storage Tank Trust Fund Amendments Act of 1997*

On February 11, 1997, H.R. 688, the “Leaking Underground Storage Tank Trust Fund Amendments Act of 1997,” was introduced by Representative Schaefer. The Committee was discharged from further consideration on April 17, 1997. On April 23, 1997, H.R. 688 passed the House as amended. The bill was received in the Senate and referred to the Committee on Environment and Public Works on April 24, 1997. No further action taken.

As passed by the House of Representatives, the revenue title (Title II) to H.R. 668, the “Leaking Underground Storage Tank Trust Fund Amendments Act of 1997” would conform the expenditure purposes of the Leaking Underground Storage Tank Trust Fund under Section 9508 of the Internal Revenue Code.

##### *c. The Internet Tax Freedom Bill*

On June 22, 1998, H.R. 4105, the “Internet Tax Freedom Bill,” was introduced by Representative Cox. On June 23, 1998, the bill was called up by the House under suspension of the rules and passed by voice vote. H.R. 4105 was received in the Senate and was placed on the Senate Legislative Calendar under General Orders. On October 8, 1998, the Senate passed S. 442, its version of the “Internet Tax Freedom Act”. H.R. 4328, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, as enacted (P.L. 105-277), included provisions similar to S. 442.

The “Internet Tax Freedom Act,” as signed into law by the President, generally imposed a three-year moratorium on taxes on Internet access and multiple or discriminatory taxes on electronic commerce. The Act created an Advisory Commission on Electronic Commerce to examine Federal, State and local taxes related to

electronic Commerce, and it also included declarations that the Internet should be free of new Federal taxes and that the Internet should be free of foreign tariffs, trade barriers, and other restrictions.

*d. Ricky Ray Hemophilia Relief Fund Act*

On March 11, 1997, H.R. 1023, the “Ricky Ray Hemophilia Relief Fund Act,” was introduced by Representative Goss. A mark-up session was held on April 22, 1998, and the bill was reported to the House by voice vote (H. Rept. 105–465, Part II). H.R. 1023 was passed by the House under suspension of the rules on May 19, 1998. On October 21, 1998, the Senate passed H.R. 1023, and on November 12, 1998, the President signed the bill into law. (P.L. 105–304).

H.R. 1023, the “Ricky Ray Hemophilia Relief Fund Act,” as signed by the President, included a provision stating that payments received pursuant to the Act are treated as damages on account of personal physical injuries or physical sickness and therefore excluded from income.

### C. LEGISLATIVE REVIEW OF TRADE ISSUES

#### 1. EXTENSION OF FAST TRACK NEGOTIATING AUTHORITY

“Fast track” implementing procedures, which were first enacted in 1974, have expired with respect to new trade agreements entered into after the Uruguay Round. These procedures permitted the President to seek implementation for trade agreements under a special approval process.

On October 7, 1997, Chairman Archer, on behalf of himself, Subcommittee Chairman Crane, and Representative Dreier, introduced H.R. 2621, the Reciprocal Trade Agreement Authority Act of 1997. The bill was referred to the Committee on Ways and Means and in addition the Committee on Rules.

The Subcommittee on Trade held a hearing on fast track issues on September 30, 1997, and received testimony from the Administration, Members of Congress, and private sector witnesses.

On October 8, 1997, the Committee on Ways and Means met to consider H.R. 2621. On October 23, 1997, the Committee reported the bill to the House (H. Rept. 105–341, Pt. 1).

The legislation would have put in place special procedures for implementing trade agreements entered into until October 1, 2001, with an extension available. The procedures would have been similar to the expired provisions, with modifications to clarify and narrow their application so that they do not apply to provisions that are not directly related to the trade negotiating objectives established by Congress and are “extraneous” to implement the concluded trade agreement.

As reported by the Committee, H.R. 2621 would have specified that bills implementing trade agreements may qualify for fast track procedures only if those bills consist solely of provisions directly related to principal trade negotiating objectives set forth in the bill if necessary for the operation or implementation of U.S. rights or obligations under the trade agreement; provisions that define or clarify, or provisions that are related to, the operation and

effect of the provisions of the trade agreement; provisions to provide adjustment assistance to workers or firms adversely affected by trade; provisions approving the agreement and statement of administrative action; and provisions necessary to comply with budget offset requirements. The bill would have provided fast track authority to address certain aspects of foreign policies and practices regarding labor, the environment, and other matters that are directly related to trade: to ensure that foreign policies and practices do not discriminate or serve as disguised barriers to trade; and to ensure that foreign governments do not derogate from or waive existing domestic measures to gain competitive advantage in international trade or investment.

H.R. 2621 would have also provided authority to the President to negotiate certain tariff reductions without the need for implementation. The bill would have established a number of requirements that the President consult with Congress and require the President, at least 90 days before entering into an agreement, to notify Congress of his intent to enter into the agreement. The bill would have added a new requirement that the President, within 60 days of signing an agreement, submit to Congress a preliminary list of existing laws that he considers would be required to bring the United States into compliance with the agreement. Most of the remaining provisions were identical to the expired law.

On September 24, 1998, the House considered H.R. 2621, as amended by a Manager's Amendment offered by Chairman Archer and made in order under the rule (H. Res. 553) adopted on September 24. The bill, as amended under the rule adopted September 24, 1998, would have greatly expanded consultation requirements with Congress, including the Committee on Agriculture; prohibited the use of tariff proclamation authority for import sensitive products; and extended Trade Adjustment Assistance programs through 1999. The bill, as amended, failed passage in the House on September 25, 1998.

## 2. BILATERAL TRADE RELATIONS

### *a. Trade relations with sub-Saharan Africa*

In 1994, Congress passed the Uruguay Round Agreements Act, which contained a provision in section 134 requiring the President to produce a comprehensive trade and development policy for the countries of Africa. The second of the President's five reports was submitted to Congress on February 18, 1997. The President's report set forth a policy framework structured around five basic objectives, including trade liberalization and promotion, investment liberalization and promotion, development of the private sector, infrastructure enhancement, and economic reform.

On April 24, 1997, H.R. 1432, the African Growth and Opportunity Act, was introduced by Subcommittee Chairman Crane and Representatives Rangel, McDermott, Houghton, Jefferson, McNulty, et alia, to authorize a new trade and investment policy for sub-Saharan Africa. The bill would have called for the designation of countries in sub-Saharan Africa pursuing market based economic reform to participate in benefits of the bill. In the immediate term, H.R. 1432 would have offered enhanced benefits under the Gener-

alized System of Preferences (GSP) to sub-Saharan African countries identified to participate in the bill. In addition, the legislation would have called for the creation of a United States-Sub-Saharan Africa Trade and Economic Cooperation Forum to provide a regular opportunity for the discussion of trade liberalization among the eligible countries. The bill would also have set as a policy objective the creation of a United States-Sub-Saharan Africa Free Trade Area. H.R. 1432 was referred to the Committee on International Relations, and in addition to the Committees on Ways and Means, and Banking and Financial Services.

On April 29, 1997, the Subcommittee on Trade held a hearing on H.R. 1432 and ways to develop closer trade relations with the countries of sub-Saharan Africa. Testimony was received from the Speaker of the House, the United States Trade Representative, representatives of the African diplomatic corps, and representatives of the U.S. and African private sectors.

On May 2, 1997, Subcommittee Chairman Crane wrote to Chairman Gilman of the Committee on International Relations, asking him to take action on the provisions in H.R. 1432 in his Committee's jurisdiction at his earliest opportunity. On June 25, 1997, the Committee on International Relations held a mark up of H.R. 1432 and ordered the bill favorably reported out of Committee (H. Rept. 105-423, Part I).

On September 4, 1997, the International Trade Commission submitted a report to the Committee, pursuant to Chairman Archer's request under section 332(g) of the Tariff Act of 1930, on the likely impact of providing quota-free and duty-free entry to textiles and apparel from sub-Saharan Africa. The report found that removal of quotas and duties would have a "negligible" effect on trade, as well as on U.S. producers and workers.

The Subcommittee on Trade considered H.R. 1432 on October 23, 1997, and favorably reported the bill to the Full Committee with a technical amendment.

On December 23, 1997, the President submitted his third report pursuant to section 134 of the Uruguay Round Agreements Act. The President's report indicated the Administration's strong support for the passage of the African Growth and Opportunity Act. In addition, it described the five major components of the Administration's Partnership for Economic Growth and Opportunity in Africa: enhanced trade benefits to increase U.S.-African trade and investment flows; technical assistance; enhanced dialogue with African countries; financing and debt relief; and continued U.S. leadership in multilateral fora to support private sector development, trade development, and institutional capacity building in African countries.

On February 25, 1998, H.R. 1432 was ordered favorably reported by the Committee with amendments to guard against the unlawful transshipment of textile and apparel goods through sub-Saharan Africa, and reported to the House on March 2, 1998 (H. Rept. 105-423, Pt. 2).

The bill was passed by the House of Representatives on March 11, 1998, by a vote of 233 to 186.

On July 17, 1998, the General Accounting Office submitted a report requested by Subcommittee Chairman Crane on the possible

reactions of major U.S. textile and apparel importers to different approaches for granting trade preferences to sub-Saharan African countries. The report found that companies expressed the greatest interest in expanding trade with sub-Saharan Africa under the benefits provided in the House-passed version of H.R. 1432.

No further action was taken on H.R. 1432.

Title I of S. 2400, as reported by the Senate Committee on Finance on July 21, 1998 (S. Rpt. 105–280), contained a subtitle called the “African Growth and Opportunity Act.” The trade provisions in the Senate version differed from the House language by imposing a requirement that imports of textile and apparel products from sub-Saharan Africa qualifying for duty free and quota free entry under amendments proposed to the Generalized System of Preferences be made from fabric of U.S. origin. No further action was taken on S. 2400.

*b. Parity for Caribbean Basin Initiative countries*

On June 26, 1997, the House passed H.R. 2014, the Taxpayer Relief Act of 1997, as amended, which contained the United States-Caribbean Basin Trade Partnership Act in Title IX, Subtitle H, providing for the extension of NAFTA parity benefits to Caribbean Basin Initiative countries. The Senate version of the bill, however, did not contain language on this subject, and no provision was included in the conference report (H. Rept. 105–220).

On October 9, 1997, Chairman Archer introduced H.R. 2644, the United States Caribbean Basin Trade Partnership Act. The bill was referred to the Committee on Ways and Means. The bill would have amended the Caribbean Basin Economic Recovery Act to: 1) promote the growth of free enterprise and economic opportunity in the Caribbean Basin region; 2) increase trade and investment between the Caribbean region and the United States; and, encourage the participation of these countries in the Free Trade Agreement of the Americas or a similar trade agreement.

On October 31, 1997, the Committee reported H.R. 2644 to the House (H. Rept. 105–365). H.R. 2644 failed passage in the House on November 4, 1997.

Title I of S. 2400, as reported by the Senate Committee on Finance on July 21, 1998 (S. Rpt. 105–280), contained a subtitle called the “United States-Caribbean Trade Enhancement Act.” One of the most significant differences between H.R. 2644 and the Senate Caribbean trade bill was that the Senate bill required that imports of textile and apparel products from beneficiary countries be made from fabric of U.S. origin in order to qualify for trade benefits. No further action was taken on S. 2400.

*c. Trade relations with the People’s Republic of China, including normal trade relations*

On May 29, 1997, the President announced his decision to waive, for another year, the freedom-of-emigration requirements in Title IV of the Trade Act of 1974 with respect to China, thereby granting

China normal trade relations (NTR) between July 1997 and July 1998.<sup>3</sup>

On June 17, 1997, the Subcommittee on Trade held a hearing on the question of renewing China's NTR status. At this hearing, Members of Congress, as well as representatives of the Administration and the business community, expressed their views regarding U.S.-China trade relations.

On June 3, 1997, H. J. Res. 79, a joint resolution disapproving the extension of NTR treatment to the products of the People's Republic of China, was introduced by Representative Solomon.

On June 20, 1997, the Committee reported H. J. Res. 79 adversely to the House without amendment (H. Rept. 105-140). On June 24, 1997, H. J. Res. 79 failed passage in the House, thereby continuing NTR treatment for one year.

On June 3, 1998 the President announced his decision to waive, for another year with respect to China, the freedom-of-emigration requirements in Title IV of the Trade of Act of 1974, thereby granting China NTR status between July 1998 and July 1999.

On June 17, 1998, the Subcommittee on Trade held a hearing on the question of renewing China's NTR status. At this hearing, Members of Congress, as well as representatives of the Administration and business and religious groups, expressed their views regarding U.S.-China trade relations.

On June 4, 1998, H. J. Res. 121, a joint resolution disapproving the extension of NTR treatment to the products of the People's Republic of China, was introduced by Representative Solomon. On July 20, 1998, the Committee reported H. J. Res. 121 adversely to the House without amendment (H. Rept. 105-638). On July 22, 1998, H. J. Res. 121 failed passage in the House, thereby continuing NTR treatment for China for one year.

#### *d. Trade relations with Japan*

H. Res. 392, a resolution calling on Japan to address its economic and financial problems and open its markets by eliminating informal barriers to trade and investment, and thereby make a more effective contribution to leading the Asian region out of its current financial crisis, was introduced by Representative Bereuter on March 3, 1998. The resolution was referred to the Committee on International Relations and in addition to the Committee on Ways and Means.

On June 25, 1998, the Committee on International Relations favorably reported H. Res. 392 to the House (H. Rept. 105-607, Part I).

On July 15, 1998, the Subcommittee on Trade held a hearing on U.S.-Japan trade relations. This hearing allowed the Subcommittee to address the necessity for Japanese implementation of broad structural reforms, including deregulation of its economy, reform of its banking system, improved transparency, and the opening of its distribution system to eliminate exclusionary business practices.

On July 16, 1998, Chairman Archer wrote to Chairman Gilman of the Committee on International Relations indicating that in

<sup>3</sup>This report uses the terminology "normal trade relations," or "NTR," to refer to "most favored nation" treatment, reflecting a terminology change in H.R. 2676, signed into law on July 22, 1998 (P.L. 105-206).

order to expedite consideration of the resolution, and based on testimony received at the July 15, 1998 Subcommittee hearing, a mark up of H. Res. 392 by the Committee on Ways and Means would not be necessary. On July 17, 1998, the Committee was discharged. The House passed H. Res. 392 on July 20, 1998.

*e. Trade relations with the Kyrgyz Republic, including normal trade relations*

On September 22, 1998, Representative Solomon introduced H.R. 4606, authorizing the President to determine that title IV of the Trade Act of 1974, commonly known as the Jackson-Vanik amendment, should no longer apply to the Kyrgyz Republic and to extend unconditional normal trade relations to that country. The bill was referred to the Committee on Ways and Means.

On October 7, 1998, Subcommittee Chairman Crane issued a request for written public comment on the extension of unconditional normal trade relations to the Kyrgyz Republic. In response, the Subcommittee received comments in support of the proposed extension and none opposed to it.

No further action was taken on this legislation.

*f. Trade relations with the Lao People's Democratic Republic, including normal trade relations*

On June 19, 1997, the Subcommittee on Trade issued a request for written public comment on the extension of normal trade relations ("NTR") to the products of the Lao People's Democratic Republic. In response, the Subcommittee received comments from the private sector in favor of the proposed extension and no comments in opposition to it.

On July 10, 1997, Subcommittee Chairman Crane and Representative Matsui introduced a bill, H.R. 2132, to provide for the extension of NTR treatment to the products of the Lao People's Democratic Republic by striking "Laos" from General note 3(b) from the Harmonized Tariff Schedule.

On July 15, 1997, the Subcommittee on Trade reported H.R. 2132 to the full Committee without amendment. No further action was taken on this legislation.

*g. Trade relations with Mongolia, including normal trade relations*

On January 21, 1997, the President transmitted a report to Congress indicating Mongolia's continued compliance with the freedom-of-emigration criteria contained in title IV of the Trade Act of 1974, commonly known as the Jackson-Vanik amendment (H. Doc. 105-24).

On May 30, 1997, the Subcommittee on Trade issued a request for written public comment on the extension of unconditional normal trade relations to the products of Mongolia. In response, the Subcommittee received comments from the private sector in favor of the proposed extension and no comments in opposition to it.

On July 10, 1997, Subcommittee Chairman Crane introduced H.R. 2133, to provide the President with the authority to determine that the Jackson-Vanik amendment should no longer apply with respect to Mongolia and to proclaim the extension of unconditional nondiscriminatory treatment to the products of that country.

On July 15, 1997, the Subcommittee on Trade reported H.R. 2133 to the full Committee without amendment.

On July 1, 1998, the Congress received a presidential message transmitting a reporting indicating Mongolia's continued compliance with the Jackson-Vanik freedom-of-emigration requirements (H. Doc. 105-283).

On October 12, 1998, Subcommittee Chairman Crane, Representative Matsui et alia introduced a bill, H.R. 4708, which was identical to H.R. 2133 except for corrections to reflect the change in terminology from most-favored-nation to normal trade relations enacted as part of the Internal Revenue Service Restructuring and Reform Act of 1998 (P.L. 105-206). The text of H.R. 4708 was then included in H.R. 4856, the Miscellaneous Trade and Technical Corrections Act of 1998, introduced by Chairman Archer on October 20, 1998 and passed by the House that day.

No further action was taken on this legislation.

Similar legislation was included in S. 2400, as reported by the Senate Committee on Finance, but no further action was taken on the bill.

#### *h. Trade relations with Vietnam*

On March 9, 1998, the President determined that a waiver for Vietnam from the freedom-of-emigration criteria in title IV of the Trade Act of 1974, commonly known as the Jackson-Vanik amendment, would substantially promote achievement of the objectives in the statute. On April 7, 1998, the President transmitted a letter to the Speaker of the House of Representatives containing a copy of Executive Order 13079, under which the President's Jackson-Vanik waiver determination entered into force (House Document 105-238).

Because Vietnam has not concluded a bilateral commercial agreement with the United States, which would have to be approved by Congress, it does not qualify for normal trade relations with the United States and is ineligible to receive normal tariff treatment. Therefore, the practical effect of the Jackson-Vanik waiver is to make Vietnam eligible for coverage by certain U.S. government credits, or investment or credit guarantee programs, provided that Vietnam meets the relevant program criteria. These programs, which lie outside the jurisdiction of the Committee on Ways and Means, include the Overseas Private Investment Corporation, the Export-Import Bank, and agricultural credit programs administered by the U.S. Department of Agriculture.

Under the statute, this initial waiver determination was scheduled to expire on July 2, 1998. On June 3, 1998, the President determined that a 12-month continuation of the waiver for Vietnam (from July 3, 1998 to July 2, 1999) would further promote achievement of the freedom-of-emigration criteria in the statute (House Document 105-263).

H. J. Res. 120 was introduced on June 4, 1998, by Representative Rohrabacher to disapprove of the extension of Vietnam's Jackson-Vanik waiver.

On June 18, 1998, the Subcommittee on Trade held a hearing on the issue of U.S.-Vietnam trade relations. At the hearing, testimony was received from Members of Congress, representatives of

POW/MIA families, veterans organization, refugees, Vietnamese-Americans, and U.S. business groups.

Former Member of Congress and the current U.S. Ambassador to Vietnam, Douglas "Pete" Peterson, presented testimony from the Administration in support of the President's waiver extension.

On June 23, 1998, the Subcommittee on Trade reported H. J. Res. 120 adversely to the Full Committee without amendment. On July 29, 1998, the Committee on Ways and Means reported H. J. Res. 120 adversely to the House of Representatives without amendment (H. Rept. 105-653).

On July 30, 1998, H.J. Res. 120 failed passage in the House, thereby continuing Vietnam's Jackson-Vanik waiver for a year.

*i. Unilateral trade sanctions*

On October 23, 1997, Representative Hamilton, for himself, Subcommittee Chairman Crane, and a number of other cosponsors, introduced the Enhancement of Trade, Security, and Human Rights through Sanctions Reform Act. The legislation would have established a framework for the consideration of unilateral economic sanctions by the legislative and executive branches. On October 23, 1997, the Subcommittee on Trade held a hearing on the use and effectiveness of unilateral trade sanctions, and the Subcommittee received testimony from the Administration, Members of Congress, and private sector witnesses.

In August, 1998, the International Trade Commission submitted a report to the Committee, requested by Chairman Archer, providing an overview and analysis of current U.S. unilateral economic sanctions.

No further action was taken on the legislation.

3. OPERATIONS OF THE U.S. CUSTOMS SERVICE, THE INTERNATIONAL TRADE COMMISSION, AND THE OFFICE OF THE U.S. TRADE REPRESENTATIVE

*a. Authorization of appropriations*

On March 11, 1997, the Committee on Ways and Means held a hearing on budget authorizations for fiscal years 1998 and 1999 for the Customs Service, the Office of the United States Trade Representative, and the International Trade Commission. Representatives of these agencies, the U.S. General Accounting Office, and invited private sector witnesses testified at the hearing.

On April 28, 1997, Subcommittee Chairman Crane introduced H.R. 1463, authorizing appropriations in the fiscal years 1998 and 1999 for the Customs Service for non-commercial and commercial operations, and air and marine interdiction programs; the Office of the United States Trade Representative; and the International Trade Commission. H.R. 1463 was referred to the Committee on Ways on Means.

The Committee considered H.R. 1463 on April 30, 1997, and ordered the legislation to be favorably reported, as amended. On May 1, 1997, the Committee reported the bill to the House, as amended (H. Rept. 105-85). The House passed the bill on May 6, 1997.

H.R. 1463 was received in the Senate and referred to the Committee on Finance. No further action was taken on the legislation.

However, similar provisions were included in H.R. 3809, the "Drug Free Border Act". (see below)

*b. Customs user fees*

On November 12, 1997, Representative Shaw introduced H.R. 3034, a bill to amend section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985, relating to customs user fees. The legislation would have allowed the Customs Service to use available customs user fees to provide salaries for up to 50 full-time equivalent inspectional positions through FY 1998 for inspectional services in Florida of passengers aboard commercial vessels, regardless of whether such passengers are required to pay fees. H.R. 3034 was referred to the Committee on Ways and Means.

H.R. 3034 was passed by the House on November 13, 1997. The bill was also received by the Senate and was passed without amendment by unanimous consent on November 13, 1997. The President signed the bill into law on December 16, 1997 (P.L. 105-150).

On April 1, 1998, Subcommittee Chairman Crane introduced H.R. 3644 authorizing the Customs Service to use Customs user fees for pre-clearance activities. Specifically, the legislation would have provided for the use of Customs user fees, to the extent funds remain available after making certain reimbursements, for up to 50 full-time equivalent inspectional positions to provide pre-clearance services at 11 locations in other countries where such services are provided.

In addition, the legislation would have directed the Commissioner of Customs to establish an advisory committee, consisting of representatives from the airline, cruise ship and other transportation industries, to advise the Commissioner on issues relating to the performance of U.S. Customs Service inspectional services.

H.R. 3644 was referred to the Committee on Ways and Means. On May 12, 1998, the Subcommittee on Trade considered the bill and ordered it reported to the full Committee, as amended. The provisions of H.R. 3644 were substantially included in H.R. 4608, H.R. 4819, and H.R. 4856. (see below)

On September 11, 1998, the Subcommittee favorably reported to the full Committee a draft bill consisting of, among other things, authorization to use of the Customs user fee account to pay for preclearance activities in certain areas; a collection of a \$1 fee from cruise ship passengers to be used to pay salaries of Customs inspectors for such passengers; and the establishment of a Customs Advisory Committee consisting of representatives of the airline, cruise ship and other transportation industries to consider issues relating to the performance of Customs Service inspectional services.

On September 23, 1998, Subcommittee Chairman Crane introduced the draft bill, and it was designated H.R. 4608. The bill was referred to the Committee on Ways and Means. No further action was taken on H.R. 4608, but its provisions were substantially included in H.R. 4856. (see below)

On October 13, 1998, Representative Shaw introduced H.R. 4819, the Passenger Services Enhancement Act and was referred to the Committee on Ways and Means. The legislation would have pro-

vided authority to use Customs user fees to pay salaries of up to 50 full-time equivalent Customs inspectional positions to provide pre-clearance services. In addition, the legislation would have given the Customs Service the authority to collect fees from passengers arriving aboard a commercial vessel from Canada, Mexico, and the Carribean in the amount of \$1.75 and would have permitted the use of Customs user fees to fund inspectional services for these passengers. H.R. 4819 would also have provided authorization for the Customs Service to use \$50 million of the surplus from the Merchandise Processing Fee for the Customs Automated Commercial Systems, and to establish an Advisory Committee consisting of representatives of the airline, cruise ship and other transportation industries to review the performance of the Customs Service inspectional services.

The provisions of the bill were substantially included in H.R. 4856, the Miscellaneous Trade and Technical Corrections Act of 1998.

H.R. 4856 was introduced by Chairman Archer on October 20, 1998, and was passed by the House later that day by a voice vote. The Senate took no action on this legislation. (see below)

*c. Drug Free Borders Act*

On May 7, 1998, Subcommittee Chairman Crane introduced H.R. 3809, the Drug Free Borders Act of 1998. Title I of the legislation would have authorized appropriations for the Customs Service in fiscal years 1999 and 2000 and would have increased Customs authorization by 31 percent for drug enforcement over the President's request for those fiscal years. Title II of the legislation would have enabled the Customs Service to rotate Customs officers to different assignments to help fight the war on drugs in emergency cases and to take action if a collective bargaining agreement has an adverse impact on drug interdiction. Title II would have also revised Customs overtime and premium pay to assure that such pay is awarded only for hours worked, as well as relaxed the manner of calculation of the \$30,000 cap for Customs officers premium and overtime pay.

H.R. 3809 was referred to the Committee on Ways and Means. On May 12, 1998, the legislation was marked up by the Trade Subcommittee and favorably reported to the full Committee. The Committee on Ways and Means then ordered the bill favorably reported, as amended, on May 14, 1998 (H. Rept. 105-541). The bill was called up by the House under suspension of the rules on May 19, 1998, and passed by a vote of 320 to 86.

H.R. 3809 was received in the Senate and referred to the Committee on Finance. On September 10, 1998, the Committee on Finance favorably reported the bill with an amendment in the nature of a substitute (S. Rept. 105-359). The Committee's amendment would have applied the bill to fiscal years 2000 and 2001, rather than 1999 and 2000 as passed by House, and did not contain the provisions of title II passed by the House. The bill passed the Senate, as amended, by unanimous consent on October 8, 1998.

No further action was taken on this legislation.

*d. Western Hemisphere Drug Elimination Act*

On July 22, 1998, Representative McCollum introduced H.R. 4300, the Western Hemisphere Drug Elimination Act. The bill was referred to the Committee on International Relations, and in addition to the Committees on Ways and Means, the Judiciary, National Security, and Transportation and Infrastructure. The bill included authorizations for appropriations for the U.S. Customs Service for drug interdiction purposes.

In a letter to the Speaker of the House dated September 14, 1998, Chairman Archer expressed concerns that the Customs Service have adequate resources to fulfill its drug interdiction and trade facilitation responsibilities, as reflected in H.R. 3809. Chairman Archer noted that it was his understanding that the Speaker was not seeking to diminish the funding levels in H.R. 3809 but was seeking supplemental funding for the Customs drug interdiction efforts contained in H.R. 4300. On the basis of this understanding, Chairman Archer agreed to forgo a Committee mark up of H.R. 4300, expressing that doing so did not prejudice the Committee's jurisdictional prerogatives. Finally, Chairman Archer reiterated his understanding that the Speaker would support the funding priorities and levels contained in H.R. 3809.

In a response to Chairman Archer dated September 15, 1998, the Speaker stated that it was his intention to seek additional and supplemental appropriations to carry out the drug interdiction efforts contained in H.R. 4300 and that H.R. 4300 should not be seen as a shift from the priorities outlined in H.R. 3809. The Speaker also acknowledged that Chairman Archer's action would not prejudice the jurisdictional prerogatives of the Committee on Ways and Means on H.R. 4300.

H.R. 4300 passed the House on September 16, 1998, as amended. The bill was received in the Senate and was referred to the Committee on Foreign Relations. The legislation was substantially incorporated in the conference report to H.R. 4328, the Omnibus Appropriation Bill for Fiscal Year 1999 (H. Rept. 105-825, p. 719), which was passed by the House on October 20, 1998, and by the Senate on the next day. H.R. 4328 was signed into law on October 21, 1998 (P.L. 105-277).

#### 4. GENERALIZED SYSTEM OF PREFERENCES

For a discussion of GSP issues included in the Taxpayer Relief Act of 1997, see I.A.2., above.

On September 23, 1998, Trade Subcommittee Chairman Crane introduced H.R. 4608, legislation which included a reauthorization of the GSP program through June 30, 2000. The provisions of the bill had been reported by the Trade Subcommittee to the full Committee, in draft form, on September 11, 1998. No further action taken on this bill.

However, a renewal of the GSP program through June 30, 1999, was included in the conference report to H.R. 4328, the Omnibus Appropriations Bill for Fiscal Year 1999 (H. Rept. 105-825, p. 932). The conference report passed the House on October 20, 1998, and the Senate on October 21, 1998. H.R. 4328 was signed into law on October 21, 1998 (P.L. 105-277).

## 5. TRADE ADJUSTMENT ASSISTANCE

H.R. 2621, the Reciprocal Trade Agreement Act (see above), as reported, contained a renewal of the general Trade Adjustment Assistance (TAA) programs for workers and firms, as well as the NAFTA-related TAA program (all of which were scheduled to expire on September 30, 1998) through fiscal year 2000. In addition, the bill contained a provision requiring the General Accounting Office to conduct a study of the general TAA and the NAFTA-related TAA program and report to Congress no later than October 1, 1999.

The manager's amendment to H.R. 2621 considered and adopted by the House on September 25, 1998 provided for an extension of the general TAA and NAFTA-related TAA programs through December 31, 1999. H.R. 2621 failed passage on September 25, 1998.

Renewal of the general TAA programs for workers and firms, as well as the NAFTA-related TAA program, through June 30, 1999, was later included in the conference report to H.R. 4328, the Omnibus Appropriations Bill for Fiscal Year 1999 (H. Rept. 105-825). The conference report was passed by the House on October 20, 1998, and by the Senate on the next day. H.R. 4328 was signed into law on October 21, 1998 (P.L. 105-277).

## 6. RESOLUTIONS CONCERNING TRADE IN STEEL

On September 18, 1998, Representative Regula introduced H. Con. Res. 328, a concurrent resolution calling on the President to take all necessary measures to respond to the surge of steel imports resulting from the financial crisis. The resolution was referred to the Committee on Ways and Means.

On October 12, 1998, Chairman Archer introduced H. Con. Res. 350, a concurrent resolution calling on the President to take all necessary measures under existing law to respond to the significant increase of steel imports resulting from the financial crisis. The resolution would have called upon the President to pursue vigorous enforcement of U.S. trade laws; pursue consultations with U.S. trading partners to eliminate import barriers that affect steel mill products and to increase access to their markets; closely monitor U.S. imports of steel and make the data gathered available to the public as soon as possible; and report to Congress by January 5, 1999, on the impact that the significant increase in steel imports is having on employment, prices and investment in the U.S. steel industry.

H. Con. Res. 350 was considered by the House on October 12, 1998, failed passage.

On October 14, 1998, Representative Traficant introduced H. Res. 598. This resolution expresses the sense of the House that its integrity has been impugned by the failure of the Administration to expeditiously enforce title VII of the Tariff Act of 1930 in response to the surge of steel imports resulting from the financial crisis. The resolution calls on the President to immediately review, for a ten-day period, the entry of all steel products from Australia, China, South Africa, Ukraine, Indonesia, India, Japan, Russia, South Korea, and Brazil. If, at the conclusion of this period, the President finds that these governments are not abiding by the spir-

it and letter of international trade agreements concerning steel, the resolution calls upon him to impose immediately a one-year ban on imports of all steel products from these countries. The resolution also establishes a task force within the executive branch to closely monitor steel imports and to report to Congress by January 5, 1999, on any other actions that the President has taken, or intends to take. The resolution passed the House on October 15, 1998.

The conference report to H.R. 4328, the Omnibus Appropriations Bill for fiscal year 1999 (H. Rept. 105-825, p. 612), which was signed into law on October 21, 1999 (P.L. 105-277), calls on the President to pursue enhanced enforcement of U.S. trade laws with respect to the increase in steel imports into the United States, using all remedies available under U.S. laws, including imposition of offsetting duties, quantitative restrictions, and other appropriate remedial measures; pursue all methods at the President's disposal to achieve a more equitable sharing of the burden of accepting imports of finished steel products from Asia and the former Soviet Union; establish a task force within the executive branch to closely monitor imports of steel; and report to Congress by January 5, 1999, with a comprehensive plan for responding to the increase in steel imports.

#### 7. TRADE PROVISIONS IN THE OMNIBUS APPROPRIATIONS BILL FOR FISCAL YEAR 1999

The conference report on the Omnibus Appropriations Bill for Fiscal Year 1999, H.R. 4328, included several trade provisions within the jurisdiction of the Committee on Ways and Means. Sec. 111 (H. Rept. 105-825, p. 612) calls upon the President to pursue enhanced enforcement of U.S. trade laws with respect to the importation of steel imports (see above); Sec. 127 (H. Rept. 105-825, p. 567) establishes an Emergency Trade Deficit Review Commission for purposes of reviewing the U.S. trade deficit; Sec. 622 (H. Rept. 105-825, p. 120) requires the U.S. Trade Representative to report to Congress on whether the Korean Government has provided subsidies to its domestic steel industry; Sec. 650 (H. Rept. 105-825, p. 546) requires the Customs Service to report to Congress on the efficiency and effectiveness of requiring that all spring wheat, durum and barley be imported into the United States through a single port of entry; Sec. 1102 (H. Rept. 105-825, p. 748) establishes an Advisory Commission on Electronic Commerce; Sec. 1203 (H. Rept. 105-825, p. 753) expresses the Sense of Congress that the Internet should be free of foreign tariffs, trade barriers, and other restrictions; Sec. 2808 (H. Rept. 105-825, p. 2808) states that the Congress favors public support by officials of the Department of State for the accession of Taiwan to the World Trade Organization; Sec. 1011 extends the GSP program through June 30, 1999; Sec. 1012 renews the TAA program for Workers and Firms through June 30, 1999 (H. Rept. 105-825, p. 932) (see above); and title VIII, the Western Hemisphere Drug Elimination Act, provides authorizations and appropriations for additional drug interdiction activities by the U.S. Customs Service (H. Rept. 105-825, p. 719). (see above)

The conference report on H.R. 4328 (H. Rept. 105-825) passed the House on October 20, 1998 and the Senate on October 21, 1998. H.R. 4328 was signed into law on October 21, 1998 (P.L. 105-277).

## 8. MISCELLANEOUS TRADE ISSUES

*a. Legislation making technical corrections and miscellaneous amendments to U.S. trade laws*

On June 30, 1997, Subcommittee Chairman Crane requested written comments from parties interested in miscellaneous trade proposals, technical corrections to the trade laws, and temporary duty suspensions on certain imports (Trade Advisory TR-10). These technical corrections related to the on-going process of identifying changes to improve the efficiency of the trade laws.

On October 7, 1997, Chairman Crane introduced H.R. 2622, the Miscellaneous Trade and Technical Corrections Act of 1997. This legislation included provisions which were non-controversial based on public comments received, Administration comments, and revenue analysis by the Congressional Budget Office. H.R. 2622 was referred to the Committee on Ways and Means.

H.R. 2622 contained two parts. The first part contained miscellaneous amendments intended to streamline Customs laws. The second part contained a group of provisions to provide for temporary duty suspensions, and related provisions, for certain imports.

The provisions of the first part of H.R. 2622 included legislation relating to: (1) review of protests against Customs Service decisions; (2) drawback and refund of packaging material; (3) including commercial importation data from foreign-trade zones under the National Customs Automation Program; (4) treatment of international travel merchandise held at custom-approved storage rooms; (5) entries of North American Free Trade Agreement (NAFTA)-origin goods, including any protest against a decision of the Customs service relating to NAFTA claims; and (6) overtime and premium pay for Customs officers.

The duty suspension provisions of the second part of H.R. 2622 related mostly to products for which there is no U.S. domestic manufacturer. The majority of these duty suspensions were chemicals, including those used to develop drugs to fight AIDS and cancer. Other duty suspension articles included skating boots for use in the manufacture of in-line roller skates and high tenacity and specified single yarn of viscose rayon. The legislation would have also provided for tariff treatment for certain components of scientific instruments and apparatus, as well as the application of the domestic equivalency test to such components.

In addition, H.R. 2622 would have directed the Secretary of the Treasury to convene a working group of interested parties, publish regulations by March 31, 1998, and if necessary, submit legislation to Congress to modify and simplify the processing of finished petroleum derivatives claims.

The Committee considered H.R. 2622 on October 8, 1997 and favorably reported the bill to the House (H. Rept. 105-367). No further action was taken on H.R. 2622, but its provisions were substantially incorporated in H.R. 4342 and H.R. 4856. (see below)

On December 22, 1997, Subcommittee Chairman Crane requested written public comments from parties interested on additional miscellaneous and technical proposals to amend U.S. trade laws (Trade Advisory TR-19). In response to the comments re-

ceived, Subcommittee Chairman Crane introduced H.R. 4342, the Miscellaneous Trade and Technical Corrections Act of 1998, on July 29, 1998. H.R. 4342 was referred to the Committee on Ways and Means.

H.R. 4342 contained two parts. The first part contained miscellaneous corrections to U.S. trade laws. The second part contained provisions for temporary duty suspensions and other trade provisions. The miscellaneous corrections portion of the bill would have made clerical amendments to the trade laws to bring them up to date with current institutions and statutes.

The second part of H.R. 4342 was in two sections. The first section would have provided temporary duty suspensions for specified chemicals and dyes, substantially including those contained in H.R. 2622, as well as duty suspensions for additional articles. The second section of H.R. 4342 substantially included the other provisions contained in H.R. 2622. In addition, this section contained provisions to (1) amend the Harmonized Tariff Schedule of the United States to extend to certain fine jewelry the trade benefits of insular possessions of the United States; (2) permit the deferral (until sale) of duty payment on any large yacht (exceeding 70 feet in length and used primarily for pleasure) that is imported for sale if the importer meets certain conditions; and (3) provide an exception to the five-year reviews of antidumping and countervailing orders in very limited circumstances.

On July 29, 1998, the Committee on Ways and Means considered H.R. 4342 and ordered it favorably reported to the House by voice vote (H. Rept. 105-671). On August 4, 1998, the bill was passed by the House.

On August 31, 1998, the Senate received H.R. 4342 and referred it to the Committee on Finance. On September 10, 1998, the Committee on Finance favorably reported the bill to the Senate with an amendment in the nature of a substitute (S. Rept. 105-356). No further action was taken on H.R. 4342, but its provisions were later substantially included in H.R. 4856. (see below)

On September 11, 1998, the Subcommittee considered and favorably reported to the full Committee a draft bill consisting of, among other things, a number of miscellaneous changes to the customs and tariff provisions of U.S. law. On September 23, 1998, Subcommittee Chairman Crane introduced the draft bill, and it was designated H.R. 4608. The bill was referred to the Committee on Ways and Means.

H.R. 4608 would have, among other things, allowed for the following: drawback of methyl tertiary-butyl ether (MTBE), if certain requirements are met; drawback for substituted petroleum derivatives; reliquidation of nuclear fuel assemblies and water resistant wool trousers and the issuance of a refund if applicable; reliquidation of certain entries of mueslix cereal using the Column 1 duty rate applicable to Canada for the period between 1992 through 1995 and issuance of refunds if applicable; expansion of the Foreign Trade Zone No. 163 area to include areas in the vicinity of Chico Municipal Airport; use of Customs user fee account to pay for preclearance activities in certain areas; a collection of a \$1 fee from cruise ship passengers to be used to pay salaries of Customs inspectors for such passengers; establishment of a Customs Advisory

Committee consisting of representatives of the airline, cruise ship and other transportation industries to consider issues relating to the performance of Customs Service inspectional services; and exemption of certain woven fabrics containing silk from country of origin marking under the applicable statute.

The Trade Subcommittee reported H.R. 4608 to the full Committee on September 11, 1998. No further action was taken on H.R. 4608, but its provisions were substantially included in H.R. 4856.

On October 20, 1998, Chairman Archer introduced H.R. 4856, the Miscellaneous Trade and Technical Corrections Act of 1998, which was referred to the Committee on Ways and Means. Later that day, the bill was passed by the House.

Among other things, H.R. 4856 contained substantially the provisions contained in H.R. 4342, as amended by the Senate Finance Committee, and H.R. 4608. The legislation was received in the Senate on October 21, 1998. No further action was taken on this legislation.

*b. Elimination of agricultural trade barriers*

On February 11, 1998, H. Con. Res. 213, a concurrent resolution expressing the Sense of Congress that the European Union is unfairly restricting the importation of U.S. agriculture products, was introduced by Representative Ewing. On February 12, 1998, the Subcommittee on Trade held a hearing on U.S. efforts to reduce barriers to trade in agriculture, and on July 28, 1998, the Subcommittee on Trade held a hearing on trade relations with Europe and the New Transatlantic Economic Partnership. An identical resolution to H. Con. Res. 213, S. Con. Res. 73, passed the Senate on May 21, 1998, by unanimous consent. S. Con. Res. 73 was referred to the Committee on Ways and Means on May 22, 1998. On August 3, 1998, the Committee reported H. Con. Res. 213, as amended, to the House (H. Rept. 105-672).

As reported by the Committee, H. Con. Res. 213 emphasized the importance of achieving the reduction of barriers to trade in agriculture by all U.S. trading partners and underscored that the elimination of these barriers should be a top priority of multilateral and bilateral trade negotiations. The resolution called on the President to: 1) develop a trade agenda that actively addresses agricultural trade barriers in multilateral and bilateral trade negotiations; 2) in conducting such negotiations, seek competitive opportunities for U.S. exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in U.S. markets, in consultation with Congress; and 3) aggressively pursue full compliance with dispute settlement decisions of the World Trade Organization (WTO).

On August 4, 1998, the House passed H. Con. Res. 213, as amended. There was no further action on H. Con. Res. 213.

*c. Freedom from Religious Persecution Act*

H.R. 2431, the Freedom from Religious Persecution Act of 1998, a bill to reduce and eliminate religious persecution taking place throughout the world, was introduced by Representative Wolf on September 8, 1997. On April 1, 1998, the Committee on International Relations reported H.R. 2431 to the House (H. Rept. 105-

480, Part I). On May 8, 1998, the Committee on Ways and Means reported H.R. 2431, as amended, to the House (H. Rept. 105-480, Part II). The effect of the amendments approved by the Committee was to strike all provisions that were within its jurisdiction, including a prohibition on imports from Sudan. On May 14, 1998, the House passed H.R. 2431, as amended. On October 9, 1998, the Senate passed H.R. 2431, as amended. On October 10, 1998, the House agreed to the Senate amendments, which were not within the jurisdiction of the Committee on Ways and Means. On October 27, 1998, H.R. 2431 was signed into law (P.L. 105-292).

*d. "Normal trade relations" terminology*

H.R. 2316, a bill to substitute the term "normal trade relations" for the term "most-favored-nation" in all trade laws and regulations in order to reflect more accurately the principles of U.S. trade policy, was introduced by Subcommittee Chairman Crane on July 31, 1997. The Subcommittee on Trade reported H.R. 2316 to the full Committee on June 23, 1998. No further action was taken on H.R. 2316.

However, the conference report on H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1997, which was approved by the House on June 25, 1998, included the text of H.R. 2316. On July 22, 1998, H.R. 2676 was signed into law (P.L. 105-206).

*e. Rhinoceros and Tiger Product Labeling Act*

On November 4, 1997, Representative Saxton introduced H.R. 2807, the Rhinoceros and Tiger Product Labeling Act. The bill was referred to the Committee on Resources.

On April 28, 1998, the Committee on Resources reported H.R. 2807 to the House of Representatives (H. Rept. 105-495).

On April 23, 1998, Chairman Archer wrote to Resources Chairman Young regarding the import prohibition in H.R. 2807 on substances derived, or purported to be derived, from any species of rhinoceros or tiger, as well as the forfeiture provisions contained in the bill affecting the U.S. Customs Service. In his letter, Chairman Archer noted that a mark up by the Committee on Ways and Means would not be necessary because H.R. 2807, as ordered reported by the Resources Committee, would apply the import ban in compliance with U.S. obligations under an existing multilateral agreement. With respect to the Customs forfeiture provisions, Chairman Archer stated that it was his understanding that Chairman Young would offer an amendment during House consideration of the bill to substitute language that would apply existing statutory Customs forfeiture provisions.

On April 28, 1998, H.R. 2807 was passed by the House with an amendment including the Customs forfeiture language recommended by Chairman Archer.

On October 8, 1998, the Senate passed a similar bill, S. 361, which also contained an import ban within the jurisdiction of the Committee on Ways and Means. Because S. 361 contained a revenue measure in contravention to the constitutional requirement that revenue measures originate in the House of Representatives, Subcommittee Chairman Crane introduced a resolution, H. Res.

601, to return S. 361 to the Senate. H. Res. 601 was considered and passed by the House on October 15, 1998.

On October 13, 1998, the Senate amended and passed H.R. 2807. Although the Senate language on Customs forfeiture was different from the House-passed bill, the intent and effect of the Senate version was the same as that recommended by Chairman Archer in the House version. On October 14, 1998, the House agreed to the Senate amendment with an amendment not affecting Ways and Means Committee provisions. On October 15, 1998, the Senate agreed to the House amendments. H.R. 2807 was signed into law on October 30, 1998 (P.L. 105-312).

*f. International Dolphin Conservation Program Act*

On January 9, 1997, Representative Gilchrest introduced H.R. 408, the International Dolphin Conservation Program Act. The bill was referred to the Committee on Resources, which reported the bill to the House on April 24, 1997 (H. Rept. 105-74, Part I). The bill was then referred sequentially to the Committee on Ways and Means for a period ending on May 5, 1997, for consideration of the provisions of the bill within the Committee's jurisdiction. On May 1, 1997, the Committee reported the bill to the House (H. Rept. 105-74, Part 2).

H.R. 408, as amended by the Committee on Resources and approved by the Committee on Ways and Means, maintains the current import ban for yellowfin tuna but changes the circumstances under which the ban would be imposed. Specifically, the bill permits importation if the harvesting nation complies with international standards, as follows: (1) the tuna was harvested by vessels of a nation that participates in the International Dolphin Conservation Program, the harvesting nation is either a member or has initiated steps to become a member of the Inter-American Tropical Tuna Commission, and the nation has implemented its obligations under the Program and the Commission; and (2) total dolphin mortality permitted under the Program is limited.

On May 21, 1997, the House passed the bill, as amended. On July 30, 1997, the Senate struck all after the enacting clause and substituted the language of S. 39, as amended. The bill then passed the Senate. On July 31, 1997, the House agreed to the Senate amendment, which made no change to provisions within the jurisdiction of the Committee on Ways and Means. On August 15, 1997, H.R. 408 was signed into law (P.L. 105-42).

*g. Customs rules of origin for certain textile products*

On September 14, 1998, the Subcommittee on Trade issued a request for written public comment (Trade Advisory TR-30) on H.R. 4526, a bill introduced by Representative Cardin to restore a pre-existing rule of origin for certain dyed and printed fabrics and certain silk accessory products. As part of a settlement to a complaint brought by the European Union (EU) in the World Trade Organization against the so-called "Breaux-Cardin" rules of origin, the United States and the EU agreed to a proces-verbal prepared on July 15, 1997. H.R. 4526, which was introduced on September 9, 1998, at the Administration's request, was intended by the Administration to implement this agreement. In response to the request,

the Subcommittee received several comments from the private sector in opposition to the proposed change.

*h. EU compliance with WTO dispute settlement decisions*

On October 7, 1998, Speaker Gingrich and Majority Leader Lott, in consultation with Chairman Archer, wrote to the President expressing strong concern that the WTO has determined in two separate instances that the EU is violating world trade laws. Speaker Gingrich and Majority Leader Lott stated that if the EU is permitted to ignore or delay these two WTO rulings, it will set a dangerous precedent that undermines the promise of an open global trading system governed by a rule of law. Specifically, the WTO determined that the EU's regime governing the importation of bananas is not in conformity with its WTO obligations. In addition, the WTO determined that the EU's ban on the use of hormones in livestock production is WTO-illegal. The letter indicated that if the Administration did not take action to protect trade agreements in these instances, that Congress would have no choice but to take action on its own.

On October 9, 1998, Subcommittee Chairman Crane introduced H.R. 4761, a bill to require the U.S. Trade Representative to take certain actions in response to the failure of the EU to comply with the rulings of the WTO. On October 10, 1998, the House approved a rule for consideration of the bill (H. Res. 588). Also on October 10, Erskine Bowles, White House Chief of Staff, wrote to the Leadership in Congress. He stated that unless the EU agreed to implement a WTO-consistent banana regime by January 2, 1999, the Administration would announce trade retaliation which would take effect on February 1, 1999, or on March 3, 1999, at the latest. Upon receipt of this letter, House consideration of H.R. 4761 was postponed, pending further developments in the WTO with respect to these two cases.

*i. Intelligence authorization bills for fiscal years 1998 and 1999*

On June 4, 1997, Chairman Goss of the House Permanent Select Committee on Intelligence introduced H.R. 1775, the Intelligence Authorization Act for Fiscal Year 1998. As introduced, the bill contained a provision (section 305) within the jurisdiction of the Committee on Ways and Means extending for one year, through January 6, 1998, existing law under the National Security Act of 1947. This provision dealt with the President's authority to delay imposition of sanctions upon his determination that proceeding with sanctions could compromise an ongoing criminal investigation or an intelligence source or method.

H.R. 1775 was referred to the House Permanent Select Committee on Intelligence and was reported to the House on June 18, 1997 with an amendment (H. Rept. 105-135, Pt. 1).

On June 9, 1997, Senator Shelby introduced a similar bill, S. 858. Section 305 of the bill, as introduced, contained a provision in the jurisdiction of the Committee on Ways and Means identical to that contained in the same section of H.R. 1775. S. 858 was reported by the Senate Select Committee on Intelligence on June 9, 1997 (S. Rept. 105-24) and by the Senate Committee on Armed

Services on June 18, 1997 (no written report filed). S. 858 was passed by the Senate on June 19, 1997, by a vote of 98 to 1.

On July 7, 1997, Chairman Archer wrote to Chairman Solomon of the Committee on Rules requesting that the rule providing for the consideration of H.R. 1775 strike section 305 from the bill. On July 8, 1997, House Intelligence Chairman Goss wrote to Chairman Archer regarding the jurisdictional objections raised by the Committee on Ways and Means to the inclusion of the provision in section 305 of H.R. 1775. In his letter, Chairman Goss noted the provision extended for one year an already existing application of sanctions law to intelligence activities and that it should in no way undermine the jurisdiction of the Committee on Ways and Means with respect to tax or revenue measures.

On July 9, 1997, the House passed H.R. 1775 including the provision of interest to the Committee on Ways and Means in section 305. On July 17, 1997, the House passed S. 858, as amended, in lieu of H.R. 1775. This bill also contained the language of section 305. The conference report on S. 858 included the sanctions provision in section 304 (H. Rept. 105-350). On November 6, 1997, the conference report on S. 858 passed the Senate and, on November 7, 1997, the House agreed to the conference report. S. 858 was signed into law on November 20, 1997 (P.L. 105-107).

On April 21, 1998, Intelligence Chairman Goss introduced H.R. 3694, the Intelligence Authorization Act for fiscal year 1999. As introduced, the bill contained a provision (section 303) extending for another year, until January 6, 2000, the provision in the National Security Act of 1947 pertaining to the President's authority to delay imposition of sanctions upon his determination that proceeding with sanctions could compromise an ongoing criminal investigation or an intelligence source or method. H.R. 3694 was referred to the House Permanent Select Committee on Intelligence.

On April 28, 1998, House Intelligence Chairman Goss wrote to Chairman Archer regarding the jurisdictional interest of the Committee on Ways and Means in the provision in section 303 of the H.R. 3694, stating that the provision is an extension of existing law and his intention to consult with the Committee on Ways and Means on any modifications to the provision. On May 4, 1998, Chairman Archer replied to Chairman Goss, indicating that because the provision is an extension of current law, a mark up by the Committee on Ways and Means would not be necessary.

On May 5, 1998, the Intelligence Committee reported H.R. 3694 to the House with an amendment (H. Rept. 105-508). On May 7, 1998, the House passed H.R. 3694, as amended.

On May 7, 1998, Senator Shelby introduced S. 2052, a similar bill to H.R. 3694, which also contained an extension of the sanctions waiver provision in section 303 of the legislation. S. 2052 was referred to the Senate Select Committee on Intelligence. Later that day, the Senate Intelligence Committee reported the bill favorably to the Senate (S. Rept. 105-185).

On June 26, 1998, the Senate incorporated the provisions of S. 2052 into H.R. 3694 and passed the House bill by unanimous consent. The conference report on H.R. 3694 included the sanctions provision in section 303 (H. Rept. 105-780). On October 7, 1998, the House agreed to the conference report. The Senate agreed to

the conference report on H.R. 3594 on October 8, 1998. The bill was signed into law on October 20, 1998 (P.L. 105–272).

*j. Trade in auto parts*

H.R. 3616, the National Defense Authorization Act for Fiscal Year 1999, was introduced on April 1, 1998. As it passed the Senate, H.R. 3616 included provisions establishing an initiative on automotive parts sales to Japan and a special advisory committee on automotive parts sales in Japanese and other Asian markets. On July 23, 1998, Chairman Archer wrote to Chairman Spence of the Committee on National Security to request that these provisions be dropped from the conference agreement because they are in the jurisdiction of the Committee on Ways and Means, which had not yet considered them. On September 24, 1998, the House agreed to a conference report on H.R. 3616 that included a provision entitled “The Fair Trade in Automotive Parts Act of 1998” (H. Rept. 105–736). The Senate agreed to the conference report on October 1, 1998. On October 17, 1998, the President signed the bill into law (P.L. 105–261).

*k. Trade in products made with forced labor*

On July 17, 1997, H.R. 2195, a bill to increase the monitoring of products of the People’s Republic of China made with forced labor, was introduced by Representative Smith of New Jersey. The bill was referred to the Committee on Ways and Means. On October 31, 1997, the Committee reported H.R. 2195, as amended, to the House (H. Rept. 105–366, Pt. 1). The amendment made several changes to the findings and modified language expressing the sense of Congress that the President should commence negotiations with the People’s Republic of China to replace the current memorandum of understanding on forced labor. The House passed H.R. 2195, as amended, on November 5, 1997. There was no further action on this bill.

On September 24, 1998, the House agreed to a conference report on H.R. 3616, the National Defense Authorization Act (H. Rept. 105–736), which contained the text of H.R. 2195. The Senate agreed to the conference report on October 1, 1998. On October 17, 1998, the President signed the bill into law (P.L. 105–261).

#### D. LEGISLATIVE REVIEW OF HEALTH ISSUES

##### 1. BALANCED BUDGET ACT OF 1997

For a discussion of health provisions in the Balanced Budget Act of 1997, see I.A.1. above.

##### 2. TAXPAYER RELIEF ACT OF 1997

For a discussion of health provisions in the Taxpayer Relief Act of 1997, see I.A.2. above.

##### 3. HEALTH CARE QUALITY REFORM

The Committee focused considerable attention on the issue of health care quality. The Committee held hearings on health care quality issues on February 26, March 3, 24, and April 23, 1998. A bill that was developed by the Republican Health Care Quality

Task Force, H.R. 4250, the “Patient Protection Act of 1998,” passed the House on July 24, 1998. The Senate did not consider the bill.

In general, H.R. 4250 would establish new protections for patients. Specifically, the bill would provide for improved patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, and pediatric care. In addition, the bill would provide for improved patient access to information regarding plan coverage, managed care procedures, health care providers, and quality of medical care. Procedures for initial coverage determinations, internal appeals, reconsideration of initial review decisions, and options for alternative dispute resolution are also included. The bill also would provide federal standards to assure the confidentiality of protected health information, expands the availability of medical savings account, and limits medical liability.

In addition, H.R. 4328, the Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999 includes a provision which in general requires group health plans and health insurance issuers in the individual market to cover breast reconstructive surgery following mastectomies. The bill also includes a provision which eliminates the use of funds for the promulgations or adoption of any final standard for purposes of a unique health identifier for individuals (as defined by the Health Insurance Portability and Accountability Act of 1996) until legislation is enacted specifically approving the standard.

#### 4. HOME HEALTH CARE

The Subcommittee held a hearing on the issue of Medicare home health care services on August 6, 1998. On September 15, 1998, Subcommittee Chairman Bill Thomas introduced H.R. 4567, the “Medicare Home Health Care Interim Payment System Refinement Act of 1998” to amend title XVIII of the Social Security Act to refine the Medicare home health care interim payment system. The Subcommittee favorably reported the bill, as amended, to the full Committee on September 15, 1998. The Full committee reported the bill to the House on October 5, 1998 (H. Rept. 105-773). The House passed the bill, as amended, on October 10, 1998 by a 412-2 vote. The Senate did not consider the bill. Similar provisions was included in the Omnibus Consolidated and Emergency Supplemental Appropriation For Fiscal Year 1999.

The home health provisions make refinements to Medicare’s interim payment system and delay the scheduled across-the-board 15 percent reduction in limits to coincide with the implementation of the prospective payment system on October 1, 2000. The refinements include increases in the per visit limits which apply to all agencies and increases in the per beneficiary limits for the lowest cost agencies. Some of the costs of these provisions are offset by decreases in the market basket update. In addition, the Health Care Financing Administration (HCFA) is required to report to Congress by January 1, 1999, on a timeline for implementing a prospective payment system and a list of related research. The General Accounting Office is asked to audit the HCFA’s expenditures related to the development of a prospective payment system.

## 5. MEDICARE PAYMENT ADVISORY COMMITTEE

On July 31, 1998, Rep. Jim Nussle introduced H.R. 4377 to amend title XVIII of the Social Security Act to expand the membership of the Medicare Payment Advisory Commission from 15 to 17 members. The Subcommittee favorably reported the bill to the full Committee on September 15, 1998. The full Committee reported the bill to the House on October 5, 1998 (H. Rept. 105-774, Pt. 1). A similar provision was included in H.R. 4567 which passed the House on October 10, 1998, and in H.R. 4328, the Omnibus Consolidated and Emergency Supplemental Appropriation For Fiscal Year 1999.

## 6. HIPAA TECHNICAL CORRECTION

On March 19, 1998, Health Subcommittee Chairman Bill Thomas introduced H.R. 3511 to amend title XI of the Social Security Act to allow the Inspector General of the Department of Health and Human Services to develop criteria for making limited exceptions to the current fraud and abuse laws. H.R. 3511 would amend HIPAA in several ways: First, the Inspector General of the Health and Human Services Department could create exceptions—known as “safe harbors”—to the fraud and abuse rules so as to exclude specific payment practices from the HIPAA provisions. Second, H.R. 3511 would allow medical facilities to obtain advisory opinions from the Inspector General. These opinions would provide legal and regulatory guidance to medical facilities as to whether payment of coinsurance or other premiums violates HIPAA’s fraud and abuse provisions. Finally, H.R. 3511 would also give the Secretary of HHS interim final rulemaking authority which would speed up the process whereby these safe harbors and advisory opinions become effective. The Subcommittee favorably reported the bill to the full Committee on September 15, 1998. The full Committee ordered the bill reported to the House on September 18, 1998 (H. Rept. 105-772, Pt. 1). A similar provision was included in the modified version of H.R. 4567 (see above). A similar provision was included in the Omnibus Consolidated and Emergency Supplemental Appropriation For Fiscal Year 1999.

## 7. VETERANS MEDICARE SUBVENTION

On May 12, 1998 Health Subcommittee Chairman Bill Thomas introduced H.R. 3828, the Veterans Medicare Access Improvement Act of 1998. H.R. 3828 would establish a subvention program for low-income veterans and a demonstration project for other veterans so that the Department of Veterans Affairs may offer certain veterans comprehensive Medicare health care services. Subvention is the term given to proposals which would permit the U.S. Department of Veterans Affairs to receive reimbursement from the Medicare trust funds for care provided to Medicare-eligible beneficiaries at VA medical facilities. Current law generally prohibits other government agencies from receiving reimbursements for providing Medicare-covered services to Medicare-eligible veterans. The Subcommittee favorably reported the bill to the full Committee on May 12, 1998. The full Committee ordered the bill reported to the House on May 14, 1998. The bill was reported on October 7, 1998, (H.

Rept. 105-793, Pt. 1). A similar provision was included in the modified version of H.R. 4567 (see above).

#### E. LEGISLATIVE REVIEW OF SOCIAL SECURITY ISSUES

##### 1. "TICKET TO WORK AND SELF-SUFFICIENCY ACT OF 1998"

Since 1995, the Subcommittee on Social Security has held five hearings, including testimony from 28 witnesses, addressing needed Social Security program changes to encourage individuals with disabilities to work. The Subcommittee held a two-part hearing on July 23 and July 24, 1997, to specifically address barriers preventing Social Security disability recipients from returning to work. The hearing included testimony from the Administration, the U.S. General Accounting Office, beneficiaries, rehabilitation experts, and providers of services.

On March 11, 1998, Subcommittee on Social Security Chairman Bunning, on behalf of himself and Mrs. Kennelly, introduced H.R. 3433, the "Ticket to Work and Self-Sufficiency Act of 1998." The Subcommittee held a hearing on March 17, 1998, and received testimony in support of H.R. 3433 from individuals with disabilities, advocates for the disabled, and providers of services. The Subcommittee on Social Security ordered favorably reported to the full Committee H.R. 3433, as amended, on March 25, 1998.

The bill would establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide Social Security and Supplemental Security Income (SSI) disability beneficiaries with meaningful opportunities to return to work. The Program would pay employment networks for results, rather than for the cost of their services, and would share in the savings to the Trust Funds and general revenues. An expert Advisory Panel would be created to advise the Commissioner and report to the Congress on Program implementation. SSA would be required to establish a corps of work incentive specialists and would be required to conduct a demonstration project to study the effects of replacing the current \$500 substantial gainful activity level with a \$1 reduction in Social Security disability insurance (SSDI) payments for every \$2 in earnings over a determined level. The General Accounting Office (GAO) would be required to study the effects of existing tax credits and other employer incentives on employers hiring and retaining individuals participating in the Program. In addition, GAO would be required to evaluate the coordination of SSDI and SSI programs as they relate to individuals who are eligible for both programs. The bill would also provide an additional two-year extension of Medicare. Other provisions include incentive payments to correctional institutions for reporting incarceration of SSDI beneficiaries, replacing the criteria for barring SSDI benefits to prisoners, and a number of other technical amendments.

On May 18, 1998, the full Committee favorably reported, H.R. 3433, as amended, to the House (H. Rept. 105-537).

On June 4, 1998, the House passed H.R. 3433. No action was taken by the Senate.

2. MISCELLANEOUS SOCIAL SECURITY PROVISIONS IN OTHER  
LEGISLATION

*a. "National Dialogue on Social Security Act of 1998"*

On April 1, 1998, the Committee on Ways and Means held a hearing to determine the merits of establishing a bipartisan panel of experts to design long-range Social Security reform and how best to engage the American public in the process. The Committee received the view of current and former Members of Congress, Social Security experts, and various stakeholder organizations.

On March 25, 1998, Chairman Archer, on behalf of himself and Subcommittee on Social Security Chairman Bunning and Mr. Kasich, introduced H.R. 3546, the "National Dialogue on Social Security Act of 1998," to provide for a national dialogue on Social Security and to establish the Bipartisan Panel to Design Long-Range Social Security Reform.

On April 23, 1998, the Committee reported to the House H.R. 3546, as amended (H. Rept. 105-493). On April 29, 1998, the House passed the bill, as amended. No action was taken by the Senate.

*b. Protect Social Security account*

Since March of 1997, the Subcommittee on Social Security has held a series of 11 hearings, including testimony from 88 witnesses, addressing the long-range insolvency of the Social Security system under present law and options for reform. Witnesses included; Members of Congress, the Commissioner of Social Security, representatives from the 1994-96 Advisory Council on Social Security, members of the Social Security Board of Trustees, representatives from the General Accounting Office, representatives from the Congressional Research Service, economists, social insurance policy experts, academics, representatives from business and labor groups, investment and financial experts, representatives from State and local government groups, advocates for people affected by proposed changes to the system, experts on social insurance programs in other countries and public opinion experts.

On March 5, 1998, Subcommittee on Social Security Chairman Bunning introduced H.R. 3351, a bill to establish a "Protect Social Security Account" in the Treasury into which would be deposited 100 percent of the unified budget surplus until such time as a solution to Social Security's long-term problem is enacted. On September 17, 1998, Mr. Rangel introduced H.R. 3207, a bill to establish a "Save Social Security First Reserve Fund" in the Treasury into which would be deposited 100 percent of the Social Security surplus until such time as a solution to Social Security's long-term problem is enacted.

On September 16, 1998, Chairman Archer introduced H.R. 4578, a bill to establish a "Protect Social Security Account" in the Treasury into which would be deposited 90 percent of the unified budget surplus until such time as a solution to Social Security's long-term problem is enacted.

On September 17, 1998, the full Committee ordered favorably reported, H.R. 4578, a bill to establish the "Protect Social Security Account," by a voice vote with a quorum present.

On September 23, 1998, the full Committee reported to the House H.R. 4578, as amended (H. Rept. 105-738). On September 25, 1998, the House passed the bill, as amended (the amendment included a provision that H.R. 4578 would be included in H.R. 4579). No action was taken by the Senate.

*c. "Taxpayer Relief Act of 1998"*

On September 16, 1998, Chairman Archer introduced H.R. 4579, the "Taxpayer Relief Act of 1998," which included provisions that would gradually raise the Social Security earnings limit for those between full retirement age (currently age 65) and age 70 beginning in calendar years 1999 to \$39,750 by 2008. Senior citizens between full retirement age (currently age 65) and 70 who earn over the given earnings limit for the year would continue to lose \$1 in benefits for every \$3 earned over the limit. After 2008, the annual exempt amounts would be indexed to growth in average wages.

The cost would be offset by recomputation of benefits resulting from earnings in the year after a worker reaches normal retirement age (currently age 65) and later would be reflected in the recipient's benefit check, effective with the January of the second year after the year of the earnings. An exception would be provided for recipients who have one or more "zero" years of earnings in their wage averaging computation. Earnings would continue to be credited as under current law for purposes of establishing entitlement. The bill would be effective for earnings beginning in 1998.

On September 23, 1998, the full Committee reported to the House H.R. 4579, as amended (H. Rept. 105-739). On September 26, 1998, the House passed the bill as amended. No action was taken by the Senate.

*d. Tax extension legislation*

On October 8, 1998, Chairman Archer introduced H.R. 4738, which included a provision to allow a limited window of time (January 1 through March 31, 1999) for States to modify existing State agreements to exempt students (including graduate assistants) from Social Security coverage who are employed by a public school, university, or college in a non-exempted State. The exemption would be effective for services performed after June 30, 2000.

On October 9, 1998, the Committee ordered favorably reported, as amended, H.R. 4738, (H. Rept. 105-817). On October 12, 1998, the House passed H.R. 4738, as amended. The student exemption was later included in H.R. 4328, the "Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999," which was signed into law on October 21, 1998 (P.L. 105-277).

*e. Omnibus appropriations*

H.R. 4328, the "Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999," contained two Social Security provisions. The first provision allows a limited window of time (January 1 through March 31, 1999) for States to modify existing State agreements to exempt students (including graduate assistants) from Social Security coverage who are employed by a public school, university, or college in a non-exempted State. The exemp-

tion would be effective for services performed after June 30, 2000. (See d. above)

A second provision amended the Social Security Act anti-assignment section to allow the withholding of taxes from any benefit pursuant to the Internal Revenue Code of 1986. It also allocated funding for the Social Security Administration to administer the tax-withholding provision. (This technical amendment provision has been included in the following House passed bills: H.R. 4039, the “Social Security Miscellaneous Amendments Act of 1996,” H.R. 1048, the “Welfare Reform Technical Corrections Act of 1997,” H.R. 2015, “The Balanced Budget Act of 1997,” and H.R. 3433, “Ticket to Work and Self-Sufficiency Act of 1998.”)

The President signed H.R. 4328 into law on October 21, 1998 (P.L. 105–277).

*f. “Federal Retirement Coverage Correction Act”*

H.R. 3249, “The Federal Retirement Coverage Correction Act” as introduced was referred to the Committee on Ways and Means. Social Security provisions would provide that (1) retroactive earnings are credited and the Social Security Trust Funds are made whole in situations where individuals change to one of the retirement systems that provide Social Security coverage, (2) necessary conforming changes are made to the coverage provisions of the Social Security Act, and (3) the Commissioner of Social Security has the authority to: receive necessary information from agencies, notify the Secretary of the Treasury to transfer taxes paid as a result of elections under H.R. 3249 to the Social Security Trust Funds, and to correct earnings records.

On July 20, 1998, the full Committee reported to the House H.R. 3249, as amended (H. Rept. 105–625, Pt. 1). On July 20, 1998, the House passed the bill, as amended. No action was taken by the Senate.

## F. LEGISLATIVE REVIEW OF HUMAN RESOURCES ISSUES

### 1. THE BALANCED BUDGET ACT OF 1997

For a discussion of the human resources provisions in the Balanced Budget Act of 1997, see I.A. above.

### 2. CHILD PROTECTION, FOSTER CARE, AND ADOPTION

*a. The Adoption and Safe Families Act of 1997 (ASFA)*

H.R. 867, the Adoption and Safe Families Act of 1997 establishes significant new procedural requirements to promote child safety, to shorten the time a child spends in foster care, and to expedite the adoption process. In addition, the law reauthorizes and expands an existing program that provides States with funding for their child protection programs. The bill makes a child’s health and safety the paramount concern in any efforts made by States to preserve or reunify families. The legislation establishes exceptions to the requirement that States make “reasonable efforts” to keep families together. These exceptions include parents who have killed another of their children, committed felony assault against a child, or had their parental rights to another child involuntarily terminated. In

addition, the new law establishes that efforts to keep families together are not required if the court finds that a parent had subjected the child to “aggravated circumstances”. Aggravated circumstances are defined by the States but the new law cites abandonment, torture, chronic abuse, and sexual abuse as examples. The new law requires States to initiate proceedings to terminate parental rights after a child has been in foster care for 15 of the previous 22 months, except in specified circumstances. States are prohibited from postponing or denying adoptions while looking for an in-State placement when a suitable out-of-State adoption is possible.

The legislation also contains provisions that provide States with additional resources from the Federal government. These include financial incentive payments to States that increase the number of adoptions from foster care, a requirement that States and the Federal government provide health insurance coverage to adopted children with special needs who are not eligible for Federal subsidies, and a reauthorization and expansion of the family preservation program.

Mr. Camp and Mrs. Kennelly introduced H.R. 867 on February 27, 1997; also on February 27, 1997, the Subcommittee conducted a hearing on the legislation. While commenting on the specific provisions of the Camp/Kennelly legislation, witnesses discussed methods of reducing the length of time children spend in foster care. A second hearing on the legislation was conducted on April 8, 1997. On April 23, 1997 the Subcommittee reported H.R. 867 to the full Committee, and on April 28 the full Committee ordered the bill reported to the House (H. Rept. 105–77).

The House approved the legislation with amendments on April 30, 1997. On November 8, 1997, the bill passed the Senate with an amendment. The House agreed to the Senate amendment with an amendment on November 13, 1997. The Senate agreed to the House amendment on November 13, 1997. The legislation was signed into law by the President on November 19, 1997 (P.L. 105–89).

*b. Child protection penalty provision in the Child Support Performance and Incentive Act of 1998*

Enacted as part of H.R. 2487, the Child Support Performance and Incentive Act of 1998 (see below), this provision terminated the penalty for violating the Adoption and Safe Families Act provision on adoption across jurisdictional lines and substituted a penalty equal to 2 percent of the Federal funds for foster care and adoption under Title IV–E of the Social Security Act for the first violation, 3 percent for the second violation, and 5 percent for the third and subsequent violations. A technical correction regarding how to calculate the adoption incentive payment was also made.

The Subcommittee held two hearings on the provisions of the Adoption and Safe Families Act on February 27 and April 8, 1997. These hearings addressed strategies for shortening the time that children spend in foster care, implementation of the interethnic adoption statute that would eliminate racial barriers to adoption, and the effectiveness of services designed to keep families together.

## 3. WELFARE REFORM

*a. Technical correction provisions*

The 1996 welfare reform law (P.L. 104–193) substantially reformed the nation’s welfare policy. The scope of this legislation was exceptionally broad, amending most of the social programs under the Subcommittee’s jurisdiction, often substantially. Because of this broad scope, and because other legislation, notably the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of P.L. 104–208), contained provisions affecting the welfare reform legislation, both the Administration and Congress anticipated the need to prepare follow-up legislation to correct drafting errors, amend incompatibilities, clarify ambiguities, and make minor changes to better achieve the purposes of the original legislation. Section 113 of the welfare reform law required the Secretary of Health and Human Services and the Commissioner of the Social Security Administration to submit to the Committee a legislative proposal for technical and conforming amendments. Thus the Subcommittee crafted a bipartisan technical corrections bill to make technical and conforming amendments, based on the Administration’s December 1996 proposal. This legislation contained provisions applying to all the major programs amended by the welfare reform law.

The Subcommittee also solicited and received recommendations for technical amendments from interested individuals and groups. Only those recommendations judged to be of a technical nature and that were agreed to by both Republicans and Democrats in the House and Senate and by the Administration were included in the Committee bill; in all, more than 200 technical corrections and minor amendments were incorporated into the Committee bill.

The Subcommittee held a hearing February 26, 1997 on technical amendments to the welfare reform law. Based in part on testimony from this hearing, Chairman Shaw and Mr. Levin introduced the welfare reform technical corrections bill (H.R. 1048) on March 12, 1997. The Subcommittee considered H.R. 1048 and ordered it favorably reported, as amended, on April 9, 1997. The full Committee considered and ordered the legislation reported, as amended, on April 23, 1997, and reported it on April 23, 1998 (H. Rept. 105–78, Pt. 1). The legislation was added to H.R. 2015, the Balanced Budget Act of 1997, which was signed into law by the President on August 5, 1997 and became Public Law 105–33. (For further information on the Balanced Budget Act, see I.A. above.)

*b. Fatherhood initiative*

One purpose of the 1996 welfare reform law is to encourage the formation of two-parent families and, if possible, to foster marriage especially among needy parents with children. Studies have consistently shown that across a broad variety of social indicators, including avoidance of poverty, educational attainment, and self-support as an adult, children raised by single parents—and especially by young, poor mothers—fare worse than children raised in two-parent, married households.

To counter these risks and promote the goals of welfare reform, on March 3, 1998 Chairman Shaw, along with several other Mem-

bers of the Subcommittee, introduced legislation (H.R. 3314) designed to reinvigorate families by reintroducing fathers to family life, especially in needy communities. H.R. 3314, the "Fathers Count Act of 1998," would provide \$2 billion in block grants to States over 5 years to support primarily private-sector, including faith-based, programs designed to achieve several purposes: (1) promoting marriage among parents; (2) helping poor and low-income fathers establish positive relationships with their children and the children's mothers; (3) promoting responsible parenting; and (4) increasing family income apart from government benefits.

The Subcommittee held a July 30, 1998 hearing to examine the social, economic, and legal difficulties faced by unmarried fathers of children on welfare, receiving testimony from fathers whose children are on welfare, individuals who have designed and conducted programs for low-income fathers, advocates for fathers, and researchers.

No further action was taken.

#### 4. CHILD SUPPORT ENFORCEMENT

H.R. 3130, the Child Support Performance and Incentive Act of 1998 has two major provisions. One provision modifies a penalty procedure that has been part of the child support program almost since its inception. Specifically, the statute imposes the severe penalty of complete termination of child support funds (and eventually of other funds as well) on States for violations of the State plan section of the statute. One requirement of the State plan section mandates that States implement an approved and statewide automatic data processing system to conduct its child support enforcement program by October 1, 1997. As it became evident that several States would find it impossible to meet the October 1, 1997 deadline (even though this deadline had already been extended once by Congress), the Committee decided that it would be best to provide an alternative penalty procedure rather than either change the deadline again or completely terminate the child support funding of several states. After meeting with child advocates, State officials, representatives of the Clinton Administration, and various officials from the House and Senate, Chairman Shaw and Mr. Levin developed a bill designed to balance the need of the Federal government to require States to establish automatic data processing systems in a timely fashion and the need of States to have additional time to design and implement their systems. The major feature of the bill, was to require States to pay 4, 8, 16, 25, and 30 percent of their Federal child support funds for the first through fifth and subsequent years, respectively, that they remain in violation of Federal data processing requirements. The bill also grants a 75 percent penalty forgiveness for the year in which States complete their data systems. In addition, the legislation contains a procedure for States to develop a data system that is not a single, Statewide system; this procedure can be approved by the Secretary of Health and Human Services only for States that submit detailed plans and justifications for such alternative data systems.

The second major provision of the bill is a complete reform of the incentive system that has been a part of the child support program since its inception in 1975. The goal of the incentive system is to

provide financial rewards to States for good performance in conducting their child support program. The major problem with the previous incentive system was that it provided a substantial portion of incentive payments irrespective of State performance. In view of this problem, the 1996 welfare reform law directed the Secretary of HHS to propose a new incentive system in a report to Congress. Once the Secretary's report was received in March 1997, the Subcommittee formed a bipartisan work group that developed a legislative proposal in cooperation with the Administration. The new law provides States with payments based on their actual performance in establishing paternity, establishing child support orders, collecting child support payments, and conducting efficient child support programs.

In addition to these two major provisions, the Child Support Performance and Incentive Act of 1998 contains a minor provision on adoption and foster care (see 4 above).

The Subcommittee conducted extensive hearings on both major provisions of this legislation. Regarding the new child support incentive system, two hearings were conducted. First, after receiving the Administration's report and proposal for a new incentive system, the Subcommittee conducted a hearing on March 20, 1997 that featured the reactions of State administrators, child advocates, and other interested parties to the Administration proposal. Chairman Shaw and Mr. Levin then formed a bipartisan work group including representatives from the Administration that worked for several months to develop the Subcommittee legislation. After a hearing on September 10 that addressed major features of the legislative proposal, a bill, H.R. 2487, was introduced on September 17, 1997. The Subcommittee approved the bill without amendment on September 18; the full Committee approved the bill without amendment on September 23, 1997, and reported the bill on September 26, 1997 (H. Rept. 105-272). The bill was then approved on the House floor on September 29, 1997. All votes during committee and floor consideration were by voice vote.

The penalty provision of the legislation was developed after several months of negotiations with the States, the Administration, and the Senate, Chairman Shaw and Mr. Levin introduced a bill, H.R. 3130, on January 28, 1998 and then conducted a hearing on its provisions on January 29, 1998 to get comments from witnesses concerned with child support enforcement. Because the Senate had not yet acted on H.R. 2487, the Subcommittee's incentive bill was combined with the penalty bill to create the Child Support Performance and Incentive Act of 1998, as amended. The Subcommittee reported H.R. 3130, as amended to the full Committee on February 3, 1998; full Committee approval followed on February 25, 1998, as amended. The bill was reported on February 27, 1998. The bill was approved on the House floor with amendment on March 5, 1998.

The Senate passed the House bill on April 2, 1998, with amendments. The House disagreed to the Senate amendments and asked for a conference on April 23, 1998. The Senate insisted on its amendments and agreed to a conference on May 20, 1998. The House then agreed to the Senate amendments with an amendment of its own on June 25, 1998. The Senate agreed to the House

amendment on June 26, 1998. The legislation was approved by the President on July 16, 1998 (P.L. 105–200).

#### 5. SUPPLEMENTAL SECURITY INCOME

For a discussion of SSI provisions in the Balanced Budget Act of 1997, see I.A. above.

##### *a. Ricky Ray Hemophilia Relief Fund Act of 1997*

On April 22, 1998, the full Committee approved H.R. 1023, the Ricky Ray Hemophilia Relief Fund Act of 1997. H.R. 1023 provides for “compassionate payments” to individuals with blood-clotting disorders such as hemophilia who contracted human immunodeficiency virus (HIV) from tainted blood products. Authorization of the \$750 million federal fund to make payments of \$100,000 to eligible individuals who contracted HIV from the tainted blood products is under the jurisdiction of the Committee on the Judiciary; the Committee on Ways and Means has jurisdiction over how payments to eligible individuals would be treated for purposes of determining eligibility and benefit levels under the SSI program. Without Committee action, Federal payments under H.R. 1023 as well as payments from a class action lawsuit brought against pharmaceutical companies that supplied tainted blood would be treated as income or resources under SSI. As a result, most individuals receiving such payments would either lose or experience a sharp reduction in their SSI benefit payments; the Committee’s action is designed to prevent this loss of benefits. The bill was reported on May 7, 1998.

H.R. 1023 was approved by the House on May 19, 1998 and by the Senate on October 21, 1998; the bill was signed into law on November 12, 1998 (P.L. 105–369).

##### *b. Eligibility for certain children receiving charitable gifts*

H.R. 4558, the Noncitizen Benefit Clarification and Other Technical Amendments Act (P.L. 105–306) (see below), includes a provision that requires SSA to disregard cash gifts of up to \$2,000 given by non-profit foundations to children with life-threatening conditions who are applying for or receiving SSI benefits.

#### 6. UNEMPLOYMENT COMPENSATION

On April 24, 1997, the Subcommittee on Human Resources held a hearing on unemployment compensation (UC) proposals. The Subcommittee examined proposals to expand State flexibility in administering the UC system by assuring State control over “base periods” used to determine whether a worker’s employment record is sufficient to warrant benefits (thus overturning an Illinois Federal court ruling in the *Pennington* case). Other topics included the way UC affects Native Americans, actors, poll workers, and prisoners. The Subcommittee also considered proposals supported by several States and business groups to reform the administrative financing of the UC system (for further discussion see below). Witnesses included Representatives Bill Thomas, Phil English, Fred Upton, Sam Farr, and John Shadegg; State labor and employment officials from Georgia, Ohio, Illinois, and California; labor policy experts;

business leaders; and representatives of Native American tribes, religious schools, and actors.

Several provisions considered at this hearing were included in the Balanced Budget Act of 1997 (P.L. 105-33). For a discussion of these provisions, see I.A.1. above.

*a. Permanent authorization of the Self-Employment Assistance Program*

H.R. 4558, the Noncitizen Benefit Clarification and Other Technical Amendments Act (P.L. 105-306)(see below), permanently extended the authorization of the Self-Employment Assistance (SEA) program, which is designed to help unemployed workers become self-employed.

*b. Administrative financing reform*

On June 23, 1998, the Subcommittee held a hearing on H.R. 3684, the "Employment Security Financing Act of 1998" introduced by Chairman Shaw on April 1, 1998. The bill proposed reforms in the administrative financing of the UC system increasing State flexibility and accountability, cutting business paperwork, improving efficiency in labor markets, cutting Federal payroll taxes, and financing more and better employment services for jobless workers. Witnesses included Grace A. Kilbane of the Department of Labor, who discussed an alternative proposal (H.R. 3697) introduced by Mr. Levin and Mr. English. Other witnesses included State legislators and labor officials from Ohio, New Hampshire, and Florida, labor policy experts, and business leaders. No further action was taken on the bill.

#### 7. BENEFITS FOR NONCITIZENS

a. For a discussion of noncitizen provisions in the Balanced Budget Act of 1997, see I.A.1. above.

*b. Provisions in the Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998*

The Committee considered legislation (H.R. 4558) providing for certain technical and substantive program changes. The major purpose of the legislation introduced by Chairman Shaw and Mr. Levin, is to extend SSI benefits of certain "nonqualified" aliens who were receiving benefits before the enactment of welfare reform. This group of about 12,000 aliens would have become ineligible for benefits after October 1, 1998 unless Congress acted. H.R. 4558 permanently extended the SSI benefits of this group, although the Subcommittee expects the Social Security Administration to continue reviewing their cases to determine whether some are ineligible for benefits as illegal aliens.

In addition to this major provision, the Subcommittee proposal also: extends an expiring unemployment insurance program designed to help unemployed workers become self-employed; allows States to offset any penalties incurred because of failure to meet Federal automatic data processing requirements if they achieve superior performance in their child support enforcement program; allows noncitizens to renew professional licenses without being present in the United States; clarifies that in some circumstances

States have up to 3 years to obligate funds under the Welfare-to-Work program; requires SSA to disregard cash gifts of up to \$2,000 given by non-profit foundations to children with life-threatening conditions; and allows SSA to reduce Social Security benefits of individuals to recover overpayments in the SSI program.

During the 105th Congress, the Subcommittee held numerous hearings on the several provisions in H.R. 4558, including: (1) on extending public benefits for certain aliens, a February 13, 1997 hearing on the President's FY 1998 budget proposal and a February 26, 1997 hearing on various technical corrections to the welfare reform law affecting noncitizens; (2) on extending UC Self-Employment Assistance programs, April 24, 1997 and June 23, 1998 hearings; (3) on reducing child support penalties, hearings on March 20, 1997, September 10, 1997, January 29, 1998, May 19, 1998, June 12, 1998, and August 24, 1998; (4) on the treatment of welfare-to-work funds, a February 13, 1997 hearing on the President's FY 1998 budget proposal on welfare-to-work funding; and (5) on SSI benefits for certain children with life-threatening conditions and on enhancing the recovery of SSI overpayments, a joint hearing with the Subcommittee on Social Security on March 12, 1998, and a hearing on various SSI reform proposals on April 21, 1998.

On September 15, 1998, the Subcommittee reported the legislation to the full Committee. On September 18, 1998, the full Committee considered the legislation, and reported it to the House, as amended, on September 22, 1998 (H. Rept. 105-735, Pt. 1). On September 23, 1998, H.R. 4558, as amended, passed the House. The Senate approved H.R. 4558 on October 8, 1998, and the President signed it into law on October 28, 1998 (P.L. 105-306).

#### G. LEGISLATIVE REVIEW OF DEBT ISSUES

On June 12, 1998, as part of its budget reconciliation recommendations, the Committee recommended permanent increase in the public debt limit to \$5.95 trillion. That increase was included in H.R. 2155, the Balanced Budget Act of 1997.

On June 24, 1998, the Committee held a hearing on the debt management practices of the U.S. Department of the Treasury in an era of budget surpluses.

## II. Oversight Review

### A. OVERSIGHT AGENDA

COMMITTEE ON WAYS AND MEANS,  
U.S. HOUSE OF REPRESENTATIVES,  
*Washington, DC, February 12, 1997.*

Hon. DAN BURTON,  
*Chairman, Committee on Government Reform and Oversight, Rayburn House Office Building, Washington, DC.*

Hon. WILLIAM M. THOMAS,  
*Chairman, Committee on House Oversight, Longworth House Office Building, Washington, DC.*

DEAR CHAIRMAN BURTON AND CHAIRMAN THOMAS: In accordance with the requirements of Clause 2 of Rule X of the rules of the House of Representatives, the following is a list of oversight hear-

ings and other oversight-related activities which the Committee on Ways and Means and its subcommittees plan to conduct during the 105th Congress. The list has been broken down by Subcommittee, and is prioritized to reflect the likely order in which the listed activities are expected to occur. This list is not intended to be exclusive; the Committee anticipates that additional oversight activities will be scheduled as issues arise or as time permits.

#### FULL COMMITTEE

1. Tax Proposals in Administration's Fiscal Year 1998 Budget. The full Committee will hold a series of hearings beginning on February 11, 1997, to examine the tax proposals in the Administration's Fiscal Year 1998 budget.

2. Fundamental Tax Reform. The full Committee will hold a series of hearings throughout 1997 to examine the impact of replacing the current income tax with a broad-based consumption tax.

#### SUBCOMMITTEE ON TRADE

1. World Trade Organization ("WTO"). The Subcommittee will hold a hearing on February 26, 1997, to examine the outcome of the WTO Singapore Ministerial Meeting and the future direction of the WTO.

2. Budget Issues. The Subcommittee will hold a hearing in early spring to consider biannual authorizations for the United States Trade Representative, the Customs Service, and the International Trade Commission as well as the portions of the budget of other agencies that have functions within the oversight jurisdiction of the Committee on Ways and Means, such as the Commerce Department, State Department, etc.

3. Trade Policy. The Subcommittee will hold a hearing in early spring to consider U.S. trade policy objectives in Latin America, in the Pacific Basin, with Japan, and with newly emerging markets; to review anti-competitive practices (particularly bribery and corruption) as it affects trade agreements; and to examine the extent to which benefits to U.S. businesses derived from existing agreements to which the United States is a party may be eroded by agreements to which the United States is not a party, such as MERCOSUR.

4. China Most-Favored Nation Status. The Subcommittee will hold a hearing in early summer to consider whether the annual renewal process of China's most-favored-nation status under the Jackson-Vanik provision continues to be effective or whether new options should be considered.

5. North American Free Trade Agreement ("NAFTA") Accession Issues. The Subcommittee will hold a hearing in the spring to consider appropriate mechanisms for approving the agreement by which Chile or other countries will accede to the NAFTA, either under the terms of a renewed broad fast-track authority, special authority for this particular agreement once concluded, or regular legislative procedures.

6. NAFTA Overview. The Subcommittee will hold a hearing in early summer to consider the Administration's legislatively mandated overview of the NAFTA, due June 30, and to review its effectiveness and operation.

7. Trade Expansion. The Subcommittee will hold a hearing in the spring to consider expansion of trade with sub-Saharan Africa.

8. Antidumping and Countervailing Duty Issues. The Subcommittee will hold a hearing in late spring to examine regulations issued by the Department of Commerce concerning antidumping and countervailing duty investigations.

9. Trade Adjustment Assistance Program. The Subcommittee will hold a hearing in the spring to consider possible extension or reforms of the Trade Adjustment Assistance program.

10. Rules of Origin. The Subcommittee will hold a hearing in late summer/early fall to review rules of origin and country of origin marking to determine if they reflect current business production, sales, and distribution practices, and whether U.S. laws and practices are effective in preventing unlawful transshipment.

11. Oversight of Customs Laws and Practices. The Subcommittee will hold a hearing in late summer/early fall to review customs laws and practices to ensure that they are not creating an unnecessary burden and cost to U.S. producers and users; to review overtime and nighttime pay for Customs inspectors; and to review Customs' accounting for drug interdiction and investigation costs and verification of operational enhancements.

#### SUBCOMMITTEE ON HEALTH

1. Medicare Proposals in the President's Fiscal Year 1998 Budget. The Subcommittee will hold a hearing on February 13, 1997 to examine the Medicare proposals included in the President's FY 1998 budget. This hearing will assess the effect that the President's FY 1998 budget proposals will have on the financial stability of the Medicare Hospital Insurance ("HI") Trust Fund and the Supplementary Medical Insurance ("SMI") Trust Fund. It will also provide an opportunity to inquire concerning many aspects of the current operations of Medicare.

2. Medicare Health Maintenance Organization ("HMO") Payment Policy. The Subcommittee will hold a hearing on February 25, 1997 to examine Medicare HMO payment policy. This hearing will assess concerns about current HMO payment policy for Medicare beneficiaries and solutions to this issue offered by the President's FY 1998 budget, the Prospective Payment Assessment Commission and the Physician Payment Review Commission, and the Balanced Budget Act of 1995.

3. Medicare Home Health and Skilled Nursing Facility Payment Policies. The Subcommittee will hold a hearing in late winter/early spring to examine reforms of payment policies for Medicare home health and skilled nursing facility services. Medicare home health and skilled nursing facility services are two of the fastest growing sectors of Medicare spending. Concern over potential fraud and abuse regarding these services and excessive or unjustified spending have resulted in reform proposals from the President in his FY 1998 budget, the Prospective Payment Assessment Commission, and in the Balanced Budget Act of 1995. The hearing will consider the extent of the problems cited by the General Accounting Office and others and review proposed solutions.

4. Medicare HMO Regulation. The Subcommittee will hold a hearing in late winter/early spring to examine developments in

Medicare HMO regulation. Medicare currently contracts with over 350 HMOs. This hearing will examine the Health Care Financing Administration's ("HCFA") oversight of these contracts to ensure quality of care and protect consumers. The hearing will compare oversight of contracts by ("HCFA") with mechanisms for oversight of health plans providing coverage in the private sector.

5. Medicare Payments for Teaching and Disproportionate Share Hospitals. The Subcommittee will hold a hearing in late winter/early spring to examine Medicare payments for Teaching and Disproportionate Share Hospitals. Medicare currently provides special payments to teaching hospitals and hospitals which provide care to a disproportionate share of indigents.

Concerns have been raised about the levels of these payment adjustments and the correct relevance of the formula used for setting these payments to the goals of the law which established these payments. The hearing will assess these concerns and review proposals to resolve these concerns.

6. Medicare Coverage for Preventative Benefits. The Subcommittee will hold a hearing in late winter/early spring to examine concerns which have been raised about the lack of Medicare coverage for certain preventative benefits. This hearing will review the cost effectiveness of benefits not currently covered and the implications of covering these benefits. It will specifically focus on the benefits which would be included in Medicare under the Medicare Preventive Benefit Improvement Act of 1997, H.R. 15.

7. Medicare Oversight Reports. The Subcommittee will hold a hearing in late winter/early spring to examine the annual reports of the Prospective Payment Assessment Commission ("ProPAC") and the Physician Payment Review Commission ("PPRC") (Late Winter, 1997). ProPac and PPRC provide guidance regarding Medicare to the Congress and its Committees with jurisdiction over the program. The Commissions annually review Medicare payment policy and make recommendations for improvement in these policies. This hearing will focus on concerns regarding hospital and physician payment.

8. Medicare Coverage Policy. The Subcommittee will hold a hearing in the spring to examine Medicare coverage policy. Medicare policy regarding payment for new or changing treatments and procedures is not formally promulgated in regulation and does vary under certain circumstances between the carriers and intermediaries that actually pay for the services provided to Medicare beneficiaries. The hearing will examine current ("HCFA") policy regarding coverage, and certain recent coverage decisions made by ("HCFA").

9. Medicare Provider Sponsored Organizations. The Subcommittee will hold a hearing in the spring to examine Medicare Provider Sponsored Organizations. Medicare currently allows beneficiaries to join HMOs which are state licensed and meet other regulatory requirements. Concerns have been raised by hospitals and physicians that they are unable under current law to form such health plans. This hearing will examine the possible constraints to the organization of hospitals and physicians forming for the purpose of providing risk-based coverage for Medicare beneficiaries.

10. Other Issues. Further hearings will be scheduled as time permits to examine certain additional aspects of Medicare program management.

SUBCOMMITTEE ON OVERSIGHT

*A. Subcommittee hearings for 1997*

1. Taxpayer Advocate Report. The Subcommittee will hold a hearing on February 25, 1997, to examine the first annual report of the Internal Revenue Service ("IRS") Taxpayer Advocate to the tax-writing committees. This report, which was mandated by the Taxpayer Bill of Rights 2 ("TBOR2"), the Taxpayer Advocate to identify initiatives undertaken to improve taxpayer services and IRS responsiveness, and to provide recommendations from the Problem Resolution Officers in IRS District Offices on ways to resolve problems which taxpayers experience in their dealings with the IRS. Any additional taxpayer protections proposed by the Administration as part of its FY 1998 budget submission to the Congress also will be evaluated as part of the hearing.

2. IRS Fiscal Year 1998 Budget/1997 Tax Return Filing Season. The Subcommittee will hold a hearing in March to review the Administration's request for the IRS FY 1998 budget and the status of the 1997 tax return filing season. Among other things, the Subcommittee will review IRS's plans for contracting out development of Tax Systems Modernization to the private sector, IRS taxpayer services activities (including telephone tax assistance, walk-in service, distribution of forms and publications), and IRS lock-box operations. Information developed at the hearing will be used as background in preparing the full Committee's recommendations to the Appropriations Committee regarding funding priorities for the IRS for FY 1998.

3. General Accounting Office ("GAO") "High Risk" Report. The Subcommittee will hold a hearing in March to receive testimony from GAO and the Inspectors General from agencies under the Committee's jurisdiction, regarding high risk programs (i.e., programs vulnerable to waste, fraud or abuse) within the Committee's jurisdiction. The information obtained at this hearing about high risk programs (e.g., Medicare claims fraud, IRS Accounts Receivable) will lay the groundwork for additional oversight activities in the 105th Congress.

4. TBOR2 Studies. TBOR2 required the Department of the Treasury and GAO to conduct studies evaluating: (1) problems that divorced taxpayers experience under the U.S. tax system's joint and several liability scheme; and (2) the manner in which IRS has implemented (or failed to implement) a system for comprehensive netting of interest on overpayments and underpayments and the policy and administrative implications of global interest netting. These studies were due on January 31, 1997, and the Subcommittee will hold hearings in the spring on them as the first stage in developing recommendations to the full Committee.

5. Low-Income Housing Credit. At the request of Chairman Archer, GAO has been conducting a study of how the States and the IRS administer the low-income housing credit. GAO is expected to issue a report presenting its findings in March and the Subcommit-

tee will hold hearings in the spring with a view toward developing bipartisan recommendations to the full Committee for possible legislative revisions to the credit.

6. Oversight of IRS Tax Debt Collection Issues. The Subcommittee will hold a hearing in late spring to continue the Subcommittee's examination of various tax debt collection issues, including status of the IRS Accounts Receivable Dollar Inventory, oversight of the ongoing IRS private debt collection pilot program, and oversight of the IRS's tax refund offset program, particularly as it relates to collection of past-due child support payments.

7. Electronic Federal Tax Payment System. The Subcommittee will hold a hearing to examine the IRS's implementation of a provision in the North American Free Trade Agreement ("NAFTA") required IRS to implement a nationwide system for receiving federal depository taxes electronically. The "Electronic Federal Tax Payment System ("EFTPS"), is intended to replace the paper coupon system used to pay federal depository taxes. IRS was required to phase-in EFTPS from 1994–1999 and to collect a statutorily specified percentage of business taxes through electronic payment in each year. The third phase of the program, in which approximately 1.2 million small to medium-sized businesses will be required to enroll in EFTPS, is now being implemented. Concerns were raised last year about whether EFTPS was going to be operational in time to enroll the 1.2 million mandated taxpayers by the end of 1996. To address these concerns, a provision was included in the Small Business Jobs Protection Act of 1996 delaying the deadline for enrolling new mandated taxpayers in EFTPS until July 1, 1997. The Subcommittee will hold an oversight hearing in the spring to examine the implementation of EFTPS by the IRS and the costs and benefits to small businesses of this mandatory program.

8. Impact of the Tax Laws on Land Use Decisions. The Subcommittee will continue its examination of the impact of the tax laws on land use decisions (a hearing was held on this issue in July, 1996), including evaluation of tax legislative proposals to establish conservation easements to preserve open spaces, encourage clean-up of "brownfields fields" (contaminated industrial sites), and encourage economic development in inner cities and rural areas. A Subcommittee hearing will be held in June, with follow-up hearings later in the year if necessary.

9. Report of the National Commission on Restructuring the IRS. The National Commission on Restructuring the IRS is examining ways to restructure the IRS in order to improve the quality of the agency's service to the nation's taxpayers and to ensure greater accountability for financial management and meeting performance goals in connection with the agency's mission. The Commission Report is expected on July 1, 1997, and portions of the Commission's recommendations which are within the jurisdiction of Committee on Ways and Means will be evaluated by the Subcommittee in a July hearing.

10. IRS Employee Misconduct Report. TBOR2 required the IRS to establish a system for monitoring taxpayer complaints about IRS employee misconduct, and to begin providing an annual report to the tax-writing committees beginning July 1, 1997, regarding the Service's handling of such cases. The Subcommittee will likely hold

a hearing in July to review the report and the effectiveness of IRS' complaint monitoring system in improving IRS's accountability for addressing taxpayer complaints about IRS employee misconduct.

*B. Other oversight subcommittee activities*

1. Year 2000 Crisis. The Subcommittee will meet with senior officials from agencies under the jurisdiction of the Committee on Ways and Means (e.g., IRS, Social Security Administration) to be briefed on their plans for managing the risks posed by the so-called "Year 2000 crisis," the world-wide problem of computers needing to be reprogrammed for the next century. For the IRS, for example, millions of lines of computer code will need to be reprogrammed, posing significant risks for the stability of IRS's legacy computer systems.

2. Earned Income Credit (EIC). The Subcommittee will continue its review of administrative issues relating to the EIC in meetings with officials from Treasury, IRS, and GAO, plus a cross-section of tax professionals. The Subcommittee will examine, among other things, recent IRS data regarding overpayments and other refund fraud problems, the adequacy of IRS efforts to assist taxpayers in claiming the EIC the status of IRS plans for addressing fraud and errors in the 1997 filing season, the complexity of eligibility rules for the credit and possible options for simplification, and the complexity of EIC forms and instructions and whether these can be simplified. A Subcommittee hearing may be scheduled as time permits.

3. Small Business Tax Simplification. The Subcommittee is concerned that the current income tax system and the rules which have been designed to accurately measure income and track transactions undertaken by large corporations place an extraordinary compliance burden on the nation's small businesses. The Subcommittee is interested in reviewing options for simplifying those provisions of the Internal Revenue Code that are particularly burdensome for small business (e.g., rules relating to employee pension plans and stock ownership programs, rules governing the choice of accounting methods or conventions, the alternative minimum tax, etc.). Subcommittee hearings may be scheduled as time permits.

4. Worker Classification Issues. The Subcommittee will continue its examination of issues relating to the classification of workers for tax purposes and the IRS's enforcement activities in this area. Two hearings were held by the Subcommittee on these issues in 1996. The Subcommittee also will examine the employee benefits aspects of worker classification, and explore the development of legislation to establish an objective test for classifying workers both as employees and as independent contractors. Additional Subcommittee hearings may be scheduled as time permits.

5. Pension and Retiree Health Issues. The Subcommittee will conduct oversight activities with respect to workers' pension benefits, including an examination of Federal pension plan enforcement activities at the Departments of Labor and Treasury and the Pension Benefit Guaranty Corporation, funding levels of Federally-insured plans, and the sufficiency of protections for retirees receiving pension benefits through insurance annuities. The Subcommittee may also examine recent trends with regard to terminations of em-

ployer-provided retiree health plans, their implications for retiree health insurance coverage, and options for addressing this issue. Subcommittee hearings may be scheduled as time permits.

6. Tax Exempt Organizations. The Subcommittee will conduct oversight activities with regard to certain tax exempt organization issues, including: (1) mergers and joint venture activity between non-profit hospitals and for-profit entities and managed care organizations; (2) the recently-issued GAO report on Indian gaming; (3) the adequacy of Form 990 and other public information relating to tax-exempt organization activities; (4) and selected unrelated business income tax ("UBIT") issues. Subcommittee hearings may be scheduled as time permits.

7. Other Issues. The Subcommittee will examine other issues in support of the full Committee's activities as they arise (through briefings, meetings, or hearings if appropriate), including, among other things, any forthcoming Administration proposals to simplify the tax laws which relate to IRS practice and procedural rules, and the administrative and policy implications of the Administration's educational and job training tax incentives and other expiring tax provisions.

8. Field Investigations and Hearings. The Subcommittee will conduct such field investigations and hearings as Committee staffing and budget resources permit, and as are necessary for purposes of evaluating the effectiveness of and compliance with the programs and laws under the jurisdiction of the Committee on Ways and Means.

#### SUBCOMMITTEE ON HUMAN RESOURCES

1. Welfare Reform. The subcommittee plans to hold hearings throughout 1997 on implementation of last year's welfare reform legislation, the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996." Hearing topics for early in 1997 will include work programs, job availability, anti-illegitimacy provisions, benefits for noncitizens, and Supplemental Security Income benefits for children. Later in the year, the Subcommittee is likely to consider issues including state use of waivers, data processing, the effect of time limits, and overall program evaluation during the first year of the new Temporary Assistance for Needy Families program.

2. Child Support. As part of its welfare reform oversight hearings, the Subcommittee intends to hold several hearings on implementation of child support provisions of the new law. The first hearing will take place in late winter/early spring. Following the Department of Health and Human Services' submission of written suggestions for reforming the child support incentive system (expected by mid-summer), the Subcommittee may consider legislation to reform the incentive system.

3. Unemployment Insurance. The Subcommittee intends to conduct a series of hearings, beginning in the spring, on the nation's unemployment insurance (UI) system. Several issues, including comprehensive reform proposals increasing state flexibility in program design and state authority to set base periods for determining benefit eligibility, will be examined in detail.

4. Adoption Incentives. The Subcommittee will hold a hearing to investigate barriers to adoption and specific state-level solutions; further oversight hearings may be held as the Subcommittee considers legislation throughout 1997 in this area.

5. Welfare and Drugs. The Subcommittee may conduct a hearing late in 1997 on the frequency of drug use by welfare parents, the relationship between drug use and child abuse and neglect, and possible approaches to both detecting drug use and reducing its frequency and consequences.

6. Job Development. During mid-1997, the Subcommittee intends to consider strategies for encouraging job creation in areas heavily impacted by welfare reform. One or more hearings on tax incentives, jobs programs, and related issues is likely.

7. Budget Issues. The Subcommittee will conduct a hearing on February 13, 1997, regarding the impact of the President Clinton's budget proposal on programs under the Subcommittee's jurisdiction.

#### SUBCOMMITTEE ON SOCIAL SECURITY

1. Social Security Trust Fund Solvency Issues. The Subcommittee will hold a series of hearings beginning in the spring to examine the long-term solvency of the Social Security Trust Funds. According to the 1996 Trustees' Report, the Trust Funds are now projected to become insolvent in 2029. The Subcommittee will examine the recommendations of the Advisory Council on Social Security and receive testimony from other invited witnesses.

2. Social Security Disability Insurance Trust Fund Solvency and Process. The Subcommittee will hold a series of hearings beginning in the spring to continue its examination of the solvency of the Social Security Disability Insurance Trust Fund, as well as process issues. In particular, the Subcommittee will examine the effectiveness of the Social Security Administration's ("SSA") continuing disability review ("CDR") program plus efforts to help beneficiaries return to work. Last year, Congress authorized more than \$4 billion in additional funding over the next seven years for SSA to conduct continuing disability reviews. SSA plans to eliminate the Social Security CDR backlog over this period. The hearings will focus on SSA's progress in this regard, suggestions to improve the CDR process, and the effectiveness of work incentives available to disability recipients under current law.

3. Social Security Disability Appeals Process. The Subcommittee will hold a hearing in the summer to examine the Social Security disability appeals process. This hearing will focus on the extent of SSA's backlog of appealed cases, reasons for the growth of the backlog, how SSA is addressing the backlog, and what needs to be done in both the short and long term so that the public is better served in the disability appeals process.

4. Social Security Disability Claims Process. The Subcommittee will continue its oversight into the progress SSA is making in redesigning the disability determination claims process to reduce administrative costs and improve public service. Subcommittee hearings are tentatively scheduled for the fall.

5. Progress of Social Security Administration as an Independent Agency. The Subcommittee will hold an oversight hearing to exam-

ine the continued progress of SSA as an independent agency, with a specific focus on the role of the Advisory Board. This Subcommittee hearing is tentatively scheduled for the fall.

6. Taxpayer-financed Union Activity. The Subcommittee will hold an oversight hearing to examine the report of the SSA Office of Inspector General regarding taxpayer-financed union activity at SSA. This Subcommittee hearing is tentatively scheduled for the fall.

7. SSA Administrative Oversight. The Subcommittee also plans to hold a number of general SSA administrative oversight hearings during 1997 and 1998.

Sincerely,

BILL ARCHER, *Chairman*.

B. ACTIONS TAKEN AND RECOMMENDATIONS MADE WITH RESPECT TO OVERSIGHT PLAN

*Full Committee*

1. Tax proposals in Administration's Fiscal Year 1998 Budget.

*Action taken:* The Committee held a series of hearings on the President's FY 1998 budget proposal. The Committee heard from Administration witnesses on February 11 and 12, 1997, and held hearings on the education and training tax provisions on March 5, 1997, the revenue raising provisions on March 12, 1997, and the savings and investment provisions of the President's budget proposal on March 19, 1997.

2. Fundamental Tax Reform.

*Action taken:* On April 15, 1997, the Committee held a hearing on the impact on individuals and families of replacing the Federal income tax with an alternative tax system.

*Subcommittee on Trade*—Comparison of oversight plan developed in January 1997 to actual activities of the Subcommittee during the 105th Congress:

1. Hearing to examine the outcome of the World Trade Organization Singapore Ministerial Meeting and the future direction of the WTO.

*Action taken:* The Subcommittee hearing was held on February 26, 1997. Testimony taken helped form Committee action on the Reciprocal Trade Agreements Act, H.R. 2621, the renewal of fast-track negotiating authority, which would apply to new agreements being negotiated in the WTO.

2. Hearing on biannual authorizations for the United States Trade Representative, the Customs Service, and the International Trade Commission.

*Action taken:* The Subcommittee hearing was held on March 11, 1997. Testimony received helped form the basis for consideration of H.R. 1463, legislation authorizing appropriations for fiscal years 1998 and 1999 for the United States Trade Representative, the U.S. Customs Service, and the International Trade Commission.

3. Hearing on U.S. trade policy objectives in Latin America, in the Pacific Basin, with Japan, and with newly emerging markets.

*Action taken:* The Subcommittee held a hearing on March 18, 1997, to review U.S. trade policy objectives and initiatives. In addition, the Subcommittee held hearings on the Free Trade Area of the Americas on July 22, 1997, and March 31, 1998.

The Subcommittee also held a hearing on Asia trade issues on February 24, 1998, and on U.S.-Japan trade relations on July 15, 1998. In December 1998, the Subcommittee led a trade mission to Australia and New Zealand to gather information relevant to the Committee's consideration of fast track, possible future free trade agreements in the region, and trade liberalization in the Asia-Pacific Economic Cooperation forum.

Testimony and information gathered by the Subcommittee helped form the basis for consideration of H.R. 2621, the Reciprocal Trade Agreements Act, providing for the renewal of fast-track negotiating authority, as well as H. Res. 392, a resolution relating to the importance of Japanese American economic relations.

4. Hearing on Normal Trade Relations with China.

*Action taken:* Subcommittee hearings were held on June 17, 1997, and June 17, 1998 on the renewal of normal trade relations with China. The Committee also held a hearing on November 4, 1997, on the possible accession of China to the World Trade Organization. Testimony taken helped form the basis for consideration of whether legislative efforts with respect to China would be appropriate, including extension of normal trade relations. In 1997 and 1998, the Committee reported adversely legislation that would disapprove the extension of normal trade relations to China.

In addition, testimony received formed the basis for Subcommittee Chairman Crane's introduction of H.R. 2316, a bill changing the terminology used in U.S. trade statutes from "most-favored-nation" to "normal trade relations." H.R. 2316 was enacted as part of the conference agreement on H.R. 2676, the International Revenue Service Restructuring and Reform Act (P.L. 105-206).

Finally, on April 17, 1997, Chairman Crane requested that the General Accounting Office conduct an analysis of the negotiations with China regarding its accession to the WTO. The Committee expects the results of this study in 1999.

5. Hearing to consider mechanisms for approving the agreement by which Chile or other countries will accede to the NAFTA.

*Action taken:* The Subcommittee hearing was held on September 30, 1997, to examine implementation issues related to the renewal of the President's fast-track negotiating authority. Testimony taken helped form the basis for Committee action on the Reciprocal Trade Agreements Act, H.R. 2621.

6. Hearing on the Administration's legislatively mandated overview of the NAFTA.

*Action taken:* The hearing was held on September 11, 1997. In addition to the testimony presented at the hearing, the General Accounting Office testified as to the results of a study requested by Subcommittee Chairman Crane on the various economic analyses available on NAFTA's effects, the implementation of NAFTA's trilateral side agreements, and NAFTA's dispute settlement processes.

7. Hearing on expansion of trade with sub-Saharan Africa.

*Action taken:* The Subcommittee hearing was held on April 29, 1997. Testimony taken at the hearing served as the basis for Committee consideration of H.R. 1432, the African Growth and Opportunity Act.

8. Hearing on antidumping and countervailing duty issues.

*Action taken:* In June 1998, the Congressional Budget Office submitted a report requested by the Committee on Ways and Means examining the antidumping activity of U.S. trading partners to determine trends, comparing U.S. activity with that of other countries, and analyzing claims made by various participants in the debate over U.S. policy.

In response to allegations of steel being dumped in the U.S. market by U.S. trading partners, Chairman Archer introduced H. Con. Res. 350, calling on the President to take all necessary action under existing law to respond to the significant increase in steel imports resulting from the financial crisis in Asia, Russia, and other regions.

9. Hearing on possible extension or reforms of the Trade Adjustment Assistance (TAA) program.

*Action taken:* The Subcommittee took testimony on the effects of trade agreements on U.S. workers at its September 11, 1997, hearing on the President's Comprehensive Review of the NAFTA and at its September 30, 1997, hearing on the implementation of fast track authority. The testimony received formed the basis for Committee consideration of the reauthorization of the general TAA program and the NAFTA-related TAA program as part of the Reciprocal Trade Agreements Act, H.R. 2621. Reauthorization of the general and NAFTA-related TAA programs was later included in the conference report on H.R. 4328, the Omnibus Appropriations Bill for Fiscal Year 1999 (P.L. 105-277).

10. Hearing to review rules of origin and country of origin marking.

*Action taken:* Because the negotiations in the World Trade Organization on Rules of Origin harmonization did not conclude as scheduled in July 1998, the Subcommittee on Trade postponed the anticipated hearing on rules of origin pending the outcome of those negotiations.

On September 14, 1998, the Subcommittee requested written public comment on H.R. 4526, a bill making changes in rules of origin of certain textile products.

11. Hearing on Customs laws and practices.

*Action taken:* Subcommittee hearings were held on May 15, 1997, and April 30, 1998. Testimony taken helped form the basis for Committee consideration of H.R. 3644, a bill providing for the use of Customs user fees for additional preclearance activities of the U.S. Customs Service, and H.R. 3809, the Drug Free Borders Act.

In addition, the Subcommittee initiated a number of studies by the General Accounting Office relating to the U.S. Customs Service. Specifically, Subcommittee Chairman Crane requested a study, in conjunction with Chairman Horn of the Government Reform and Oversight Subcommittee on Government Management, Information and Technology, on how the U.S. Customs Service allocates its inspectional resources. Chairman Crane also requested separate studies on the status of the implementation of the Customs Modernization Act and Customs reorganization, the air program and international activities of the U.S. Customs Service, and on audits and investigations conducted by Customs to target trade violations.

*Subcommittee on Health*—Comparison of oversight plan developed in January 1997 to actual activities of the Subcommittee during the 105th Congress.

1. Hearing to examine Medicare proposals in the President's Fiscal Year 1998 Budget.

*Action taken:* The Subcommittee hearing was held on February 13, 1997. Testimony taken at the hearing helped form the basis of legislation considered by the Committee which was included in H.R. 2015, the "Balanced Budget Act of 1997" (P.L. 105-33).

2. Hearing to examine Medicare Health Maintenance Organization Payment Policy.

*Action taken:* The Subcommittee hearing was held on February 25, 1997. Testimony taken at the hearing helped form the basis of legislation considered by the Committee which was included in H.R. 2015, the "Balanced Budget Act of 1997" (P.L. 105-33).

3. Hearing to examine Medicare Home Health and Skilled Nursing Facility Payment Policies.

*Action taken:* The Subcommittee hearing was held on March 4, 1997. Testimony taken at the hearing helped form the basis of legislation considered by the Committee which was included in H.R. 2015, the "Balanced Budget Act of 1997" (P.L. 105-33).

4. Hearing to examine Medicare Health Maintenance Organization Regulation.

*Action taken:* The Subcommittee hearing was held on March 6, 1997. Testimony taken at the hearing helped form the basis of legislation considered by the Committee which was included in H.R. 2015, the "Balanced Budget Act of 1997" (P.L. 105-33).

5. Hearing to examine Medicare Payments for Teaching and Disproportionate Share Hospitals.

*Action taken:* The Subcommittee hearing was held on March 11, 1997. Testimony taken at the hearing helped form the basis of legislation considered by the Committee which was included in H.R. 2015, the "Balanced Budget Act of 1997" (P.L. 105-33).

6. Hearing to examine Medicare Coverage for Preventive Benefits.

*Action taken:* The Subcommittee hearing was held on March 13, 1997. Testimony taken at the hearing helped form the basis of legislation considered by the Committee which was included in H.R. 2015, the "Balanced Budget Act of 1997" (P.L. 105-33).

7. Hearing to examine Medicare Oversight Reports.

*Action taken:* The Subcommittee hearing was held on March 20, 1997 and again on March 3, 1998. Testimony taken at the 1997 hearing helped form the basis of legislation considered by the Committee which was included in H.R. 2015, the "Balanced Budget Act of 1997" (P.L. 105-33). Testimony from the 1998 hearing helped to form some of the policies in H.R. 4567, the Medicare Home Health Care and Veterans' Health Improvement Act of 1998."

8. Hearing to examine Medicare Coverage Policy.

*Action taken:* The Subcommittee hearing was held on April 17, 1997. Testimony assisted the Committee in understanding the Health Care Financing Administration's coverage policies. Following the hearing, the Committee on Ways and Means Subcommittee on Health requested the General Accounting Office to conduct a legal analysis of whether the Health Care Financing Administra-

tion's Technical Advisory Committee (TAC) was in compliance with the requirements of the Federal Advisory Committee Act. The GAO found the TAC to be in violation and the TAC was subsequently disbanded. HCFA is currently developing a proposal which meets compliance and increases private-sector input on Medicare coverage decision-making. Letters of correspondence have been exchanged through the 1998 calendar year.

9. Hearing to examine Medicare Provider Sponsored Organizations.

*Action taken:* The Subcommittee hearing was held on April 24, 1997. Testimony taken at the hearing helped form the basis of legislation considered by the Committee which was included in H.R. 2015, the "Balanced Budget Act of 1997" (P.L. 105-33).

#### *Subcommittee on Oversight*

##### A. Subcommittee Hearings for 1997.

###### 1. Taxpayer Advocate Report.

*Action taken:* The Subcommittee held a hearing on February 25, 1997, to review the 1997 Annual Report of the IRS Taxpayer Advocate. The Subcommittee held a hearing on February 3, 1998, to review the 1998 Annual Report of the Taxpayer Advocate. Testimony taken at the hearings helped in the development of the Taxpayer Bill of Rights 3 portion of H.R. 2676, the IRS Restructuring and Reform Act of 1998 (P.L. 105-206).

###### 2. IRS Fiscal Year 1998 Budget/1997 Tax Return Filing Season.

*Action taken:* The Subcommittee held a hearing on March 18, 1997, to review the IRS' budget request for FY 1998 and the 1997 tax return filing season. The Subcommittee held a hearing on March 31, 1998, to review the IRS' budget request for FY 1999 and the 1998 tax return filing season. Testimony taken at the hearings helped in the development of H.R. 2676, the IRS Restructuring and Reform Act of 1998 (P.L. 105-206).

###### 3. General Accounting Office ("GAO") "High Risk" Report.

*Action taken:* The Subcommittee held a hearing on March 4, 1997, on the GAO "high risk" reports related to Internal Revenue Service (IRS) financial management, IRS receivables, filing fraud, IRS Tax Systems Modernization, Customs Service financial management, customs asset forfeiture programs, the year 2000 problem, government-wide information security, Medicare, Supplemental Security Income (SSI) and Superfund program management. The Subcommittee has monitored progress of the high risk programs with the IG offices of the Department of the Treasury, Department of Health and Human Services, and the Social Security Administration, as well as the GAO.

###### 4. Taxpayer Bill of Rights 2 (TBOR2) Studies.

*Action taken:* The Subcommittee held a hearing on February 24, 1998, to examine the Treasury Department Report to the Congress on Joint Liability and Innocent Spouse Issues, as well as the GAO report, Information on the Joint and Several Liability Standard. On March 19, 1998, the Subcommittee issued a Report to the full Committee on Relief from Joint and Several Liability for Separated and Divorced Taxpayers. The Subcommittee's work provided the foundation for the innocent spouse provisions of H.R. 2676, the In-

ternal Revenue Service Restructuring and Reform Act of 1998, signed into law on July 22, 1998 (P.L. 105-206).

H.R. 2676, as reported, also established a net interest rate of zero on equivalent amounts of overpayment and underpayment of income tax that exist for any period, a provision retained in the measure as signed into law.

#### 5. Low-Income Housing Credit.

*Action taken:* The Subcommittee held hearings on April 23, 1997, and May 1, 1997, and received testimony from GAO, the IRS, the National Council of State Housing Agencies and 14 public witnesses. On May 22, 1997, the Subcommittee issued a report outlining GAO's report findings and recommendations to improve the monitoring of enforcement and compliance, and identifying several recommendations for reform, including the need to target limited tax resources to families with children, the need for a market study requirement and a need for more emphasis on rehabilitation of existing housing stock.

#### 6. Oversight of IRS Tax Debt Collection Issues.

*Action taken:* The Subcommittee staff met with officials with the GAO on May 13, 1997. A letter was sent to the Department of Treasury by Rep. Jim Kolbe, Chairman, Subcommittee on Treasury, Postal Service, and General Government, Committee on Appropriations, Rep. Nancy L. Johnson, Chairman, Subcommittee on Oversight, Committee on Ways and Means and Stephen Horn, Chairman, Subcommittee on Government Management, Information, and Technology, Committee on Government Reform and Oversight on June 10, 1997, directing the Department to discontinue the IRS pilot program to test the use of private collection companies to assist the IRS in collecting delinquent federal taxes until further notice based on input by GAO. On December 10, 1997, the Subcommittee requested that GAO examine and report on the key statutory and administrative issues that need to be addressed in order to design a more effective pilot program to test the use of private companies to collect delinquent taxes than the previous pilot program in use during fiscal years 1996 and 1997.

#### 7. Electronic Federal Tax Payment System.

*Action taken:* The Subcommittee held a hearing on April 16, 1997, to examine: (1) the status of IRS implementation of EFTPS; (2) concerns about specific EFTPS features identified by small business, payroll service providers, the banking industry, and others. The hearing provided the basis for the IRS to extend a waiver of a 10 percent penalty for taxpayers required to enroll in EFTPS for filing their payroll and other business taxes. The IRS has further extended the waiver while working to increase participation in this program.

#### 8. Impact of the Tax Laws on Land Use Decisions.

*Action taken:* The Subcommittee held a hearing on October 28, 1997 to examine the performance of the Empowerment Zone/Enterprise Community program.

#### 9. Report of the National Commission on Restructuring the IRS.

*Action taken:* The Subcommittee held a hearing on July 24, 1997 to provide the Members with a general overview of the Commission's findings and recommendations, as well as the Administration's position on the Commission's recommendations; on Septem-

ber 2, 1997, on the Commission's recommendations for expanding electronic filing and other actions that could be taken to help achieve the goal of receiving 80 percent of tax returns electronically within 10 years; and on September 17, 1997, on the Commission's recommendations for taxpayer rights, as well as other taxpayers rights initiatives. The Subcommittee's report, issued October 20, 1997, provided for the basis for the Taxpayer Bill of Rights 3 provisions of the IRS Restructuring and Reform Act of 1998.

#### 10. IRS Employee Misconduct Report.

*Action taken:* The conference report on the IRS Restructuring and Reform Act of 1998 (P.L. 105-206) requires that, in collecting data for the annual report on employee misconduct, records of taxpayer complaints of misconduct by IRS employees must be maintained on an individual basis.

#### B. Other Oversight Subcommittee Activities.

##### 1. Year 2000 Crisis.

*Action taken:* On May 7, 1998, the Subcommittee held its first hearing on Y2K to examine the implications of Y2K for various program beneficiaries, potential risks to program missions, and major remaining program vulnerabilities. Both public and private sector witnesses testified on the risks and mitigation strategies related to Y2K issues. The Subcommittee's second Y2K hearing was held on June 16, 1998, and focused on the implications of Y2K on the nation's telecommunications infrastructure—which is composed of the public sector network of telephone systems, the Internet, and millions of government and private sector telecommunications and computer networks. Specifically, the Subcommittee explored the impacts of critical infrastructure component failures on Social Security, tax administration, Medicare, and other major programs within the Committee's jurisdiction. The public and private sector witnesses testified on the Y2K readiness of the telecommunications industry, and the remaining risks and challenges. The meetings and two hearings produced the basis for Subcommittee's August 6, 1998, report to the Committee (WMCP 105-10), which included recommendations to preclude the disruption of major programs or the discontinuance of vital services.

##### 2. Earned Income Credit (EIC).

*Action taken:* The full Committee held a hearing on May 8, 1997 to examine the Earned Income Credit Compliance Study released by the IRS on April 21, 1997. The Committee received testimony from the IRS, Treasury and GAO. In response to the study's findings, an additional \$500 million was appropriated for an EIC compliance initiative.

##### 3. Small Business Tax Simplification.

*Action taken:* The Subcommittee held a hearing on June 23, 1998, on the impact of the complexity of the Code on individual taxpayers and small businesses, including the Alternative Minimum Tax (AMT) and increased expensing limits for small businesses.

##### 4. Worker Classification Issues.

*Action taken:* The Subcommittee held two hearings on these issues in the 104th Congress. The House version of the Taxpayer Relief Act of 1997 included a statutory safe harbor for determining

worker classification for federal income tax purposes. The provision was dropped in conference.

5. Pension and Retiree Health Issues.

*Action taken:* The Subcommittee held a hearing on March 10, 1998, to review pension issues of primary importance to small business, and retiree health issues. Testimony taken at the hearing indicated that there was support for a simplified defined benefit pension plan targeted to small businesses. The Subcommittee held a hearing on May 5, 1998 to explore the simplification and reform of the pension tax law. Testimony taken at these hearings helped form the basis for the Subcommittee Chairman's interim progress report to the full Committee Chairman on the Subcommittee's activities on pension matters.

6. Tax Exempt Organizations.

*Action taken:* The Subcommittee continued to monitor issues effecting tax exempt organizations. The Subcommittee also monitored major IRS regulations effecting tax exempt organizations, such as regulations dealing with the intermediate sanction penalty, and joint ventures between non-profit hospitals and for-profit entities, as well as the public disclosure rules for public charities including private foundations. The disclosure rules were included in H.R. 4328, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999. (P.L. 105-277)

7. Other Issues. The Subcommittee will examine other issues in support of the full Committee's activities as they arise (through briefings, meetings, or hearings if appropriate), including, among other things, any forthcoming Administration proposals to simplify the tax laws which relate to IRS practice and procedural rules, and the administrative and policy implications of the Administration's educational and job training tax incentives and other expiring tax provisions.

*Action taken:* See Section C. below for discussion of additional oversight activities.

8. Field Investigations and Hearings. The Subcommittee will conduct such field investigations and hearings as Committee staffing and budget resources permit, and as are necessary for purposes of evaluating the effectiveness of and compliance with the programs and laws under the jurisdiction of the Committee on Ways and Means.

*Action taken:* The Subcommittee did not deem it necessary to hold field hearings during the 105th Congress.

*Subcommittee on Human Resources*—Comparison of oversight plan developed in January 1997 to actual activities of the Subcommittee during the 105th Congress:

1. Welfare Reform.

*Action taken:* The Subcommittee held a hearing on February 26, 1997 on technical corrections to the welfare reform law, which included testimony from Representative Herger and Olivia Golden of the Department of Health and Human Services, among other witnesses. The Subcommittee proceeded to consider H.R. 1048, technical corrections legislation, on April 9, 1997, with full Committee consideration on April 23, 1997. This technical corrections bill was included in the Balanced Budget Act of 1997 (P.L. 105-33).

The Subcommittee conducted several oversight hearings about the Supplemental Security Income (SSI) program. On March 12, 1998, the Subcommittee conducted a joint hearing with the Subcommittee on Social Security on challenges facing the Social Security Administration (SSA), including SSA's workload management as it effects the SSI disability program, the implementation of SSI changes in the welfare reform law, and the ongoing risk of SSI fraud. On April 21, 1998, the Subcommittee held an oversight hearing on specific examples of SSI fraud and abuse.

#### 2. Child Support.

*Action taken:* The Subcommittee held a hearing on the Administration's child support incentive system proposal on March 20, 1997, which included testimony from the U.S. Department of Health and Human Services and the California Department of Social Services. The Subcommittee also held a hearing on September 10, 1997 on child support system improvements. On September 18, 1997, the Subcommittee considered child support incentives legislation (H.R. 2487), which was followed by full Committee consideration on September 23, 1997. The Subcommittee also held a hearing on January 29, 1998 on modifying child support penalties related to automatic data processing, and a markup on February 3, 1998 on H.R. 3130, the Child Support Performance and Incentive Act of 1998. This legislation—providing for both reform of the child support incentives system and modifying child support data processing penalties—was signed into law on July 16, 1998 (P.L. 105–200).

#### 3. Unemployment Compensation.

*Action taken:* The Subcommittee held a hearing on April 24, 1997 on unemployment compensation reform issues. The Subcommittee also held a hearing on June 23, 1998 on a specific reform proposal, H.R. 3684, as well as other proposed changes to the UC system.

#### 4. Adoption Incentives.

*Action taken:* The Subcommittee held a hearing on strategies to encourage adoption on February 27, 1997, featuring witnesses from the U.S. General Accounting Office and a variety of private groups. On April 8, 1997, the Subcommittee held a hearing on H.R. 867, the Adoption Promotion Act of 1997. The Subcommittee considered H.R. 867 on April 16, 1997, followed by full Committee consideration on April 23, 1997. The "Adoption and Safe Families Act of 1997," was signed into law on November 19, 1997 (P.L. 105–89). The Subcommittee held a field hearing in Ft. Lauderdale, Florida on December 14, 1998 on State implementation of the adoption reform law.

#### 5. Welfare and Drugs.

*Action taken:* The Subcommittee held a hearing on October 28, 1997 on the impacts of substance abuse on families receiving welfare.

#### 6. Job Development and Budget Issues.

*Action taken:* The Subcommittee held a hearing on February 13, 1997 on the President's FY 1998 budget proposal, including provisions that would provide additional welfare-to-work assistance, especially job development assistance, to parents struggling to leave welfare for work. Representatives of the departments of Health and Human Services and Labor and the Social Security Administration

and Representative Lamar Smith, in addition to several outside groups, testified. On June 5, 1997, the Subcommittee considered its budget reconciliation recommendations that included a new \$3 billion grant program for job development and other activities designed to help welfare recipients with the most serious barriers to work. Full Committee consideration followed on June 10, 1997. H.R. 2015, the “Balanced Budget Act of 1997” was signed into law by the President on August 5, 1997 (P.L. 105–33).

*Subcommittee on Social Security*—Comparison of oversight plan developed in January 1997 to actual activities of the Subcommittee during the 105th Congress:

1. Hearing series to examine proposals to restore long-term solvency to the Social Security Trust Funds.

*Action taken:* The Subcommittee began a hearing series on “The Future of Social Security for this Generation and the Next” on March 6, 1997. The 1994–96 Advisory Council on Social Security was asked to examine the program’s long-range financial status, as well as the adequacy and equity of its benefits. The Advisory Council issued its report in January 1997, but was unable to reach a consensus, so the report included three different approaches to restoring financial solvency. These approaches ranged from keeping the program’s benefit structure essentially the same while eventually raising payroll taxes and considering investing part of the Social Security Trust Funds in the stock market, to reducing benefits and imposing a new mandatory employee contribution to individual savings accounts, to a major redesign of the system that gradually replaces a major portion of the Social Security retirement benefit with individual private savings accounts. Testimony was heard from selected members of the Advisory Council who supported each of the different plans. The Subcommittee fully explored the major areas of concern identified by the Council, along with the Council’s specific findings and recommendations.

The Subcommittee held the second hearing in the series on April 10, 1997. A wide range of experts in economics and public policy testified about the fundamental issues to consider when evaluating options for Social Security reform.

The Subcommittee held the third hearing in the series on May 22, 1997, to examine the findings of the 1997 Annual Report of the Board of Trustees on the financial status of the Social Security Trust Funds. Testimony was heard from the two current public representatives on the Board of Trustees. In addition, the Subcommittee heard from organizations with different generational perspectives on Social Security reform.

The Subcommittee held the fourth hearing in the series on June 24, 1997. Testimony was heard from policy experts on Social Security reform regarding the degree to which reform is necessary. Witnesses provided an assessment of the Advisory Council recommendations, other reform proposals, and offered specific recommendations for Congress to consider as it moves forward.

The Subcommittee held the fifth hearing in the series on July 10, 1997 to receive the views of Members of Congress and representatives of business and labor groups on Social Security reform.

The Subcommittee held the sixth hearing in the series on September 18, 1997, to examine the views of experts on the Social Se-

curity reform experiences of other countries. Testimony was received from witnesses from Chile, Sweden, Australia, and the United Kingdom and focused on: prevailing factors contributing to Social Security reform, national budget and macroeconomic effects of the reforms, problems faced during the transition to the new Social Security system (including transition costs and how such costs were paid for), the degree of individual risk and reward assumed, the degree to which protections against inflation are contained in the new Social Security system, and the degree to which features of the Social Security system are applicable to the United States situation.

The Subcommittee held the seventh hearing in the series on October 23, 1997, to examine the current state of public opinion on the future of Social Security. Testimony was received from public forum facilitators and polling experts on what Americans are saying about the future of Social Security (including Americans' understanding of how Social Security works and why the program is facing long-term insolvency), and American's views on what changes are necessary to fix Social Security.

The Subcommittee held the eighth hearing in the series on February 26, 1998, to examine the implications of raising the retirement age. Testimony was received from actuaries, social insurance experts, employers, and employee representatives on proposals to raise the normal retirement age and what intended and unintended effects they foresee.

The Subcommittee held the ninth hearing in the series on May 21, 1998, to examine the implications of proposals affecting Federal, State, and local government employees. Testimony was received from Members of Congress, the U.S. General Accounting Office, Federal and State government employee representatives, and social insurance experts on the implications of extending mandatory Social Security coverage to all newly hired State and local employees, and altering current law provisions affecting the Social Security benefits of persons who receive government pensions.

The Subcommittee held the tenth hearing in the series on June 3, 1998, to examine the proposals regarding personal accounts. Testimony was received by Social Security experts on how personal accounts would be administered, how personal accounts would be financed, how personal accounts would be accessed and dispersed, what investment vehicles for the personal accounts are appropriate, how personal accounts would be integrated with other private pensions and government benefits, and how these personal accounts would work within current tax law.

The Subcommittee held the eleventh hearing in the series on June 18, 1998, to examine in detail the structure of individual savings accounts within the Social Security system and the effects that individually-owned investments would have for retirees, financial markets, the investment community, individual investors and businesses, both large and small. Testimony was received by experts in the field of investments and capital markets and representatives of institutions that might become participants in a system of individual savings accounts.

On April 1, 1998, the full Committee held a hearing on the use of an expert panel to design long-range Social Security reform. On

April 23, 1998, the Committee reported H.R. 3546, the “National Dialogue on Social Security Act of 1997.” The bill passed the House on April 29, 1998.

On November 19, 1998, the full Committee held a hearing to address the role past policy changes and legislative processes have played in the current and future financial condition of Social Security. Testimony from the Administration, former Administration officials, and social insurance experts included the challenges facing the program in the next century and the legislative process required for a successful reform of the program.

2. Hearings to examine the long-term solvency of the Social Security Disability Insurance Trust Fund and oversight of the disability process.

*Action taken:* The Subcommittee held a hearing on July 23–24, 1997, to receive the views of various agencies, experts, consumers, and providers regarding the barriers which prevent Social Security disability recipients from returning to work. Witnesses offered recommendations for changes to the law that would remove these barriers. Testimony at the hearing formed the basis of H.R. 3433, the “Ticket to Work and Self-Sufficiency Act of 1998,” which was introduced by Subcommittee on Social Security Chairman Bunning, on behalf of himself and Mrs. Kennelly.

The Subcommittee held a hearing on September 25, 1997, to review the current status of the continuing disability review (CDR) workload, examine the Social Security Administration’s (SSA’s) use of the additional funds made available in 1996 for CDRs, and to consider the findings of the GAO regarding SSA’s management of the CDR process.

The Subcommittee held a hearing on March 17, 1998, to examine H.R. 3433, the “Ticket to Work and Self-Sufficiency Act of 1998.” Testimony in support of the bill was received by the Social Security Administration, individuals with disabilities, and providers of rehabilitation and support services.

3. Hearing to examine the disability appeals process.

*Action taken:* The Subcommittee held a hearing on April 24, 1997, to review the current status of the Office of Hearings and Appeals workloads and their impact on service to the public; to examine the effects of SSA’s short- and long-term initiatives to address those workloads; and to consider the findings of the GAO regarding SSA’s timeliness and consistency in managing disability decisions.

4. Oversight hearing on the Social Security Administration’s progress in redesigning the disability claims process.

*Action taken:* Subcommittee on Social Security Chairman Bunning requested that the General Accounting Office continue their audit of the Social Security Administration’s progress in their redesign of the disability claims process. The GAO report is expected to be completed by March of 1999. Redesign progress was addressed during the March 12, 1998 joint Subcommittee hearing to examine the challenges facing the new Commissioner of Social Security.

5. Joint oversight hearing on the continued progress of the Social Security Administration as an Independent Agency.

*Action taken:* The Subcommittee on Social Security and the Subcommittee on Human Resources held a joint hearing on March 12,

1998, to examine the challenges facing the new Commissioner of Social Security, Kenneth Apfel. Testimony focused on the views of the Commissioner, along with the findings of recent audits and studies conducted by the General Accounting Office and SSA's Office of the Inspector General.

6. Oversight hearing on the report of the SSA Office of Inspector General on taxpayer-financed union activity at SSA.

*Action taken:* The Subcommittee held three days of hearings on July 22, 23 and 24, 1998, to examine labor-management relations at the Social Security Administration. Testimony was provided by SSA's Acting Inspector General, SSA employees, SSA officials and the President of the union who represents many of the Social Security field office employees. Testimony focused on the findings of the Inspector General with respect to the accuracy and completeness with which union activity spending is accounted for by SSA management, the scope of non-agency activities at SSA, the extent to which these non-agency activities are subsidized by taxpayers, and suspected abuse of official time.

Following the hearings, Subcommittee Chairman Bunning asked SSA's Office of Inspector General to conduct an in-depth audit to follow through on the preliminary findings presented by the General Accounting Office in 1996. GAO's findings were addressed during an oversight hearing in July 1998. SSA reported that in fiscal year 1996, spending for union activities increased to \$14.7 million. This represents a 17% increase over the prior year, and a 145% increase since 1993. Subcommittee on Social Security Chairman Bunning worked closely with the Appropriations Subcommittee on Labor, Health, and Human Services, and Education Chairman Porter to prevent Social Security Trust Fund spending on union activities at SSA. As a result, the SSA appropriation included language which provided that expenditures by the Social Security Trust Funds for union activities shall be reimbursed, with interest.

7. General SSA administrative oversight hearings.

*Action taken:* The Subcommittee held a hearing on May 6, 1997, to review on-line access to Social Security earnings records offered through the SSA's web site. SSA, GAO, and privacy experts gave testimony as to how privacy and security of information can be protected on-line, whether violations of the process can be detected, and if such violations can be investigated and prosecuted.

### C. ADDITIONAL OVERSIGHT ACTIVITIES AND ANY RECOMMENDATION OR ACTIONS TAKEN

#### 1. ADDITIONAL OVERSIGHT ACTIVITIES OF THE TRADE SUBCOMMITTEE

In addition to the oversight activities detailed above with respect to the Committee's oversight plan, the Subcommittee held a number of hearings to address various topics concerning trade policy: U.S. economic and trade policy toward Cuba on May 7, 1998; trade with the European Union, including the New Transatlantic Agenda and the New Transatlantic Economic Partnership on July 23, 1997 and July 28, 1998; U.S.-Vietnam trade relations on June 18, 1998; U.S. efforts to reduce barriers to trade in agriculture on February 12, 1998; and the use and effect of unilateral trade sanctions on October 23, 1998.

The Subcommittee also requested written public comment on several trade issues and pending legislation: extension of unconditional normal trade relations with Mongolia; extension of unconditional normal trade relations to the Lao People's Democratic Republic; and legislation introduced in the 105th Congress proposing miscellaneous and technical changes to U.S. trade statutes.

Finally, the Subcommittee requested and received a number of reports not listed in its oversight plan, as follows: requested a study by the General Accounting Office to review the state of implementation of the United States-Japan agreements on insurance signed in 1994 and 1996; requested a study by the General Accounting Office to evaluate how well the United States Trade Representative and the Department of Commerce monitor and enforce compliance with existing trade agreements and trade laws; received a study from the International Trade Commission providing an overview and analysis of current U.S. unilateral economic sanctions; requested and received a report from the International Trade Commission concerning the structure of the global large civil aircraft industry and market; requested a study from the ITC on the competitive condition of the U.S. piano industry.

#### 2. ADDITIONAL OVERSIGHT ACTIVITIES OF THE OVERSIGHT SUBCOMMITTEE

The Subcommittee held a hearing on April 23, 1998 to review the operation of the tax law related to health insurance. Testimony taken at the hearing helped in the development of legislation to improve the deductibility of health insurance premiums paid by self-employed persons which was included in H.R. 4328, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999.

The Subcommittee also held a hearing on August 4, 1998, to review whether the funding mechanisms of the schools and libraries fund, *a.k.a.* the e-rate program, enacted as part of Telecommunications Act of 1996. Testimony was taken in order that the Subcommittee might consider whether the funding mechanisms of the e-rate program, as implemented by the Federal Communications Commission, involves revenue or tax matters and whether the program was properly authorized.

#### 3. ADDITIONAL OVERSIGHT ACTIVITIES OF THE HUMAN RESOURCES SUBCOMMITTEE

In addition to the Subcommittee's oversight activities on welfare reform and other legislative issues described above, on March 19, 1998, the Subcommittee conducted a hearing on general oversight issues involving the implementation of the welfare reform law. The Subcommittee also held a hearing on fatherhood and welfare reform on July 20, 1998. The Subcommittee also conducted two field hearings that included panels devoted to testimony on implementation of both the 1996 welfare reforms and the child support reforms. These field hearings were conducted in Phoenix, Arizona on June 12, 1998 and in Carson City, Nevada on August 24, 1998. The Subcommittee also held an oversight hearing on State implementation of the child support enforcement provisions of the 1996 welfare reform law on May 19, 1998. On child welfare issues, in addition

to hearings on specific legislation developed by the Subcommittee, three oversight hearings were held on October 28, 1997, June 11, 1998, and September 15, 1998. These hearings addressed the impact of substance abuse on the child welfare caseload, the establishment of a federal register to facilitate adoption reunions, and the implementation of the interethnic adoption amendments to remove barriers to adoption across race.

#### 4. ADDITIONAL OVERSIGHT ACTIVITIES OF THE HEALTH SUBCOMMITTEE

In addition to the activities detailed above, the Subcommittee on Health continued its oversight investigations into the Health Care Financing Administration's (HCFA) development of the Medicare Transaction System (MTS). The system was originally designed to replace the numerous Medicare claims review systems under which Medicare claims are paid. MTS would have allowed HCFA to evaluate claims under a single review system, which HCFA believed would improve efficiency and would assist the agency in combating Medicare fraud and abuse. The Subcommittee discovered that system development was behind schedule and over budget. Eventually, due to Congressional pressure, HCFA's contract with contractors for development of MTS was terminated in August 1997. Estimates of total HCFA expenditures on MTS software range from \$41 to \$50 million. However, the GAO reported to the Subcommittee that HCFA spent closer to \$80 million on MTS, including \$50 million for software development and \$30 million for "internal HCFA costs."

The Subcommittee on Health also held a number of other hearings to examine the operations of the Department of Health & Human Services (HHS) in general. These hearings included a hearing on April 8, 1997 on Children's Access to Health Coverage, a hearing on April 29, 1997 into Coordinated Care Options, a hearing on July 17, 1997 regarding the Inspector General's audit of HCFA, a hearing on September 25, 1997 regarding implementation of the Health Insurance Portability and Accountability Act, a hearing on October 9, 1997 regarding Health Care Waste, Fraud and Abuse.

During 1998, the Subcommittee on Health held the following hearings: a hearing on January 29, 1998 preparing HCFA for the 21st Century; a hearing on February 26, 1998 assessing Health Care Quality; a hearing on March 24, 1998 regarding Patient Confidentiality; a hearing on April 23, 1998 regarding Patient Appeals and a hearing on August 6, 1998 regarding Medicare Home Health.

#### 5. ADDITIONAL OVERSIGHT ACTIVITIES OF THE SOCIAL SECURITY SUBCOMMITTEE

The SSA submitted a draft strategic plan to Congress on June 30, 1997, as part of the statutory requirement of the Government Performance and Results Act to "consult" with Congress prior to submission of a final strategic plan on September 30, 1997. In order for the Subcommittee to solicit constructive feedback on improving the plan, two working group meetings were held, including former SSA officials, representatives from the Congressional Research Service, Congressional Budget Office, along with SSA employee groups and advocates. A letter providing formal feedback to SSA regarding the draft strategic plan was sent by Chairman

Bunning, Ranking Member Mrs. Kennelly, and the Appropriations Subcommittee on Labor, Health, and Human Services and Education Chairman Porter.

The Subcommittee continues to closely monitor SSA's problem of uncredited earnings reports in the agency's "suspense file," including regular staff briefings by the Office of Inspector General who is conducting an ongoing investigation.

Subcommittee on Social Security Chairman Bunning requested a number of reports from the General Accounting Office, including requests to: study a proposal to report estimated rates of return to Social Security contributions on the Personal Earnings and Benefit Estimate Statement; study SSA's management of information technology (including year 2000 readiness, the status of SSA's efforts to implement its new modernized information systems infrastructure, efforts to improve its software development process, and SSA's Internet service delivery initiatives); investigate the potential consequences from extending Social Security coverage to state and local government workers and examine alternative state and local retirement systems to determine if there are lessons to be learned for Social Security reform from these other systems; determine the extent to which the Social Security number is being used in government and private entities and estimate the impacts of restricting the use of the Social Security number; and evaluating the extent to which attorneys and other individuals representing claimants for benefits under title II of the Social Security Act and supplemental security income benefits under title XVI of the Act in administrative hearings before administrative law judges adequately represent their client's interests.

#### 6. ADDITIONAL OVERSIGHT ACTIVITIES OF THE FULL COMMITTEE

The Committee investigated and conducted oversight on areas within its jurisdiction, as follows.

On February 5, 1997, the Committee held a hearing on maintaining the solvency of the Airport and Airway Trust Fund. On February 12, 1997, the Committee considered H.R. 668, the "Airport and Airway Trust Fund Tax Reinstatement Act of 1997." H.R. 668 passed the House and became Public Law 105-2.

On May 8, 1997, the Committee held a hearing on the IRS's 1995 Earned Income Tax Credit Compliance Study. Certain Earned Income Credit reforms were incorporated into the Taxpayer Relief Act of 1997.

The Committee held a series of hearings on various tax reduction proposals. On January 28, 1998, the Committee held a hearing on proposals intended to rectify perceived unfair provisions in the tax code, focusing on the "marriage tax penalty" and the estate and gift tax. On February 4, 1998, the Committee held a hearing on tax rates, addressing alternative minimum tax relief for individuals, proposals to reduce Federal income or payroll taxes, and provisions in the tax code that operate as "hidden rates." On February 12, 1998, the Committee held a hearing on new savings incentives, including modifications to the new capital gains law and proposals to provide an exclusion for interest and dividend income. Several of these proposals were incorporated into legislation, including H.R. 2676, the "Internal Revenue Service Restructuring and Reform Act

of 1998,” H.R. 4579, the “Taxpayer Relief Act of 1998,” and the “Tax and Trade Relief Act of 1998” in H.R. 4328, the “Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999.”

The Committee heard from Administration witnesses on February 25, 1998, regarding the revenue provisions in the President’s FY 1997 budget proposal.

On June 24, 1998, the Committee held a hearing on the debt management practices of the U.S. Department of the Treasury in an era of budget surpluses.

## **Appendix I. Jurisdiction of the Committee on Ways and Means**

### A. U.S. CONSTITUTION

Article I, section 7, of the Constitution of the United States provides as follows:

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

In addition, Article I, Section 8, Constitution of the United States provides the following:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and . . . To borrow Money on the credit of the United States.

### B. RULE X, CLAUSE 1, RULES OF THE HOUSE OF REPRESENTATIVES

Rule X, clause 1(s), of the Rules of the House of Representatives, in effect during the 105th Congress, provides for the jurisdiction of the Committee on Ways and Means, as follows:

(s) Committee on Ways and Means.

(1) Customs, collection districts, and ports of entry and delivery.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to the insular possessions.

(5) The bonded debt of the United States (subject to the last sentence of clause 4(g) of this rule). [The last sentence of clause 4(g) requires the Committee on Ways and Means to include in its annual February 25 report to the Budget Committee a specific recommendation as to the appropriate level of the public debt which would then be set forth in the concurrent resolution on the budget and serve as the basis for an increase or decrease in the statutory limit on the debt.]

(6) The deposit of public moneys.

(7) Transportation of dutiable goods.

(8) Tax-exempt foundations and charitable trusts.

(9) National Social Security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.

### C. BRIEF DESCRIPTION OF COMMITTEE'S JURISDICTION

The foregoing recitation of the provisions of House Rule X, clause 1, paragraph (s), does not convey the comprehensive nature of the jurisdiction of the Committee on Ways and Means. The following summary provides a more complete description:

(1) *Federal revenue measures generally*.—The Committee on Ways and Means has the responsibility for raising the revenue required to finance the Federal Government. This includes individual and corporate income taxes, excise taxes, estate taxes, gift taxes, and other miscellaneous taxes.

(2) *The bonded debt of the United States*.—The Committee on Ways and Means has jurisdiction over the authority of the Federal Government to borrow money. Title 31 of Chapter 31 of the U.S. Code authorizes the Secretary of the Treasury to conduct any necessary public borrowing subject to a maximum limit on the amount of borrowing outstanding at any one time. This statutory limit on the amount of public debt (“the debt ceiling”) currently is \$5.95 trillion. The committee’s jurisdiction also includes conditions under which the Department of the Treasury manages the Federal debt, such as restrictions on the conditions under which certain debt instruments are sold.

(3) *National Social Security programs*.—The Committee on Ways and Means has jurisdiction over most of the programs authorized by the Social Security Act, which includes not only those programs that are normally referred to colloquially as “Social Security” but also social insurance programs and a whole series of grant-in-aid programs to State governments for a variety of purposes. The Social Security Act, as amended, contains 20 titles (a few of which have either expired or have been repealed). The principal programs established by the Social Security Act and under the jurisdiction of the Committee on Ways and Means in the 105th Congress can be outlined as follows:

(a) Old-age, survivors, and disability insurance (title II)—At present, there are approximately 148 million workers in employment covered by the program, and as of December 1997, \$366 billion in benefits were being paid annually to 44 million individuals.

(b) Medicare (title XVIII)—Provides hospital insurance benefits to 33.4 million persons over the age of 65 and to 5.1 million disabled persons. Voluntary supplementary medical insurance is provided to 32.3 million aged persons and 4.4 million disabled persons. Expenditures under these programs were \$213.6 billion in fiscal year 1998.

(c) Supplemental security income (title XVI)—The SSI program was inaugurated in January 1974 under the provisions of Public Law 92–603, as amended. It replaced the former Federal-State programs for the needy aged, blind, and disabled. In 1997, 6.5 million persons received federally administered benefits under the SSI program. Of these 6.5 million persons, approximately 1.4 million received benefits on the basis of age, and 5.1 million on the basis of blindness or disability. Total federally adminis-

tered payments during fiscal year 1997 amounted to approximately \$29.4 billion, of which \$26.5 billion were basic Federal benefits and \$2.9 billion were federally administered State supplements to the payments.

(d) Temporary Assistance for Needy Families (TANF) (part A of title IV)—The TANF program is a block grant of about \$16.5 billion awarded to states to provide income assistance to poor families, to end dependency on welfare benefits, to prevent nonmarital births, and to encourage marriage. TANF also includes incentive funds for states that achieve the overall program goals and additional incentive funds for states that are successful in reducing nonmarital births. In most cases, TANF benefits for individuals are limited to 5 years and individuals must work to maintain their eligibility. In June of 1998, about 3 million families and 12.2 million individuals received benefits from the TANF program. In fiscal year 1997, Federal administrative expenditures totaled \$2.3 billion for the child support enforcement program. Child support collections for that year totaled \$13.4 billion.

(e) Social services (title XX)—Title XX authorizes the Federal Government to reimburse the States for money spent to provide persons with various services. Generally, the specific services provided are determined by each State. The statutory ceiling on Federal matching funds available to the States for fiscal year 1999 was \$1.9 billion. These funds are allocated on the basis of population.

(f) Unemployment compensation programs (titles II, IX, etc.)—These titles include the State unemployment compensation programs and the permanent extended benefits program. In fiscal year 1997, an estimated \$21.0 billion was paid in unemployment compensation benefits, with approximately 7.5 million workers receiving unemployment benefits.

(g) Child welfare, foster care and adoption assistance (parts B and E of title IV)—Provides funds to States for child welfare services, for abused and neglected children; foster care for AFDC children and adoption assistance for children with special needs. In fiscal year 1999, Federal expenditures for child welfare services totaled \$292 million. Federal expenditures for foster care were approximately \$3.5 billion.

(4) *Trade and tariff legislation.*—The Committee on Ways and Means has responsibility over legislation relating to tariffs, import trade, and trade negotiations. In the early days of the Republic, tariff and customs receipts were major sources of revenue for the Federal Government. As the committee with jurisdiction over revenue-raising measures, the Committee on Ways and Means thus evolved as the primary committee responsible for international trade policy.

The Constitution vests the power to levy tariffs and to regulate international commerce specifically in the Congress as one of its enumerated powers. Any authority to regulate imports or to negotiate trade agreements must therefore be delegated to the executive

branch through legislative action. Statutes including the Reciprocal Trade Agreements Acts beginning in 1934, the Trade Expansion Act of 1962, the Trade Act of 1974, the Trade Agreements Act of 1979, the Trade and Tariff Act of 1984, the Omnibus Trade and Competitiveness Act of 1988, the North American Free Trade Agreement Implementation Act, and the Uruguay Round Agreements Act provide the basis for U.S. bargaining with other countries to achieve the mutual reduction of tariff and nontariff trade barriers under reciprocal trade agreements.

The committee's jurisdiction includes the following authorities and programs:

(a) The tariff schedules and all tariff preference programs, such as the Generalized System of Preferences and the Caribbean Basin Initiative;

(b) Laws dealing with unfair trade practices, including the antidumping law, countervailing duty law, section 301, and section 337;

(c) Other laws dealing with import trade, including section 201 (escape clause), section 232 national security controls, section 22 agricultural restrictions, international commodity agreements, textile restrictions under section 204, and any other restrictions or sanctions affecting imports;

(d) General and specific trade negotiating authority, as well as implementing authority for trade agreements and the grant of normal-trade- relations (NTR) status;

(e) General and NAFTA-related trade adjustment assistance programs for workers, and trade adjustment assistance for firms;

(f) Customs administration and enforcement, including rules of origin and country-of origin marking, customs classification, customs valuation, customs user fees, and U.S. participation in the World Customs Organization (WCO);

(g) Authorization of the budget for the U.S. International Trade Commission (ITC), the U.S. Customs Service, and the Office of the U.S. Trade Representative (USTR).

#### D. REVENUE ORIGINATING PREROGATIVE OF THE HOUSE OF REPRESENTATIVES

The Constitutional Convention debated adopting the British model in which the House of Lords could not amend revenue legislation sent to it from the House of Commons. Eventually, however, the Convention proposed and the States later ratified the Constitution providing that "All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills." (Article 1, Section 7, clause 1.)

In order to pass constitutional scrutiny under this "origination clause," a tax bill must be passed first by the House of Representatives. After the House has completed action on a bill and approved it by a majority vote, the bill is transmitted to the Senate for formal action. The Senate may have already reviewed issues raised by the bill before its transmission. For example, the Senate Committee on Finance frequently holds hearings on tax legislative proposals before the legislation embodying those proposals is transmitted

from the House of Representatives. On occasion, the Senate will consider a revenue bill in the form of a Senate or "S." bill, and then await passage of a revenue ("H.R.") bill from the House. The Senate then will add or substitute provisions of the "S." bill as an amendment to the "H.R." bill and send the "H.R." bill back to the House of Representatives for its concurrence or for conference on the differing provisions.

E. THE HOUSE'S EXERCISE OF ITS CONSTITUTIONAL PREROGATIVE:  
"BLUE-SLIPPING"

When a Senate bill or amendment to a House bill infringes on the constitutional prerogative of the House to originate revenue measures, that infringement may be raised in the House as a matter of privilege. That privilege has also been asserted on a Senate amendment to a House amendment to a Senate bill (see 96th Congress, 1st Session, November 8, 1979, Congressional Record, p. H10425).

Note that the House in its sole discretion may determine that legislation passed by the Senate infringes on its prerogative to originate revenue legislation. In the absence of such determination by the House, the Federal courts are occasionally asked to rule a certain revenue measure to be unconstitutional as not having originated in the House (see *U.S. v. Munoz-Flores*, 495 U.S. 385 (1990)).

Senate bills or amendments to nonrevenue bills infringe on the House's prerogative even if they do not raise or reduce revenue. Such infringements are referred to as "revenue affecting." Thus, any import ban which could result in lost customs tariffs must originate in the House (100th Congress, 1st Session, July 30, 1987 100th Congress, 2d Session, June 16, 1988, Congressional Record, p. H4356).

Offending bills and amendments are returned to the Senate through the passage in the House of a House Resolution which states that the Senate provision: "in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privilege of the House and that such bill be respectfully returned to the Senate with a message communicating this resolution" (e.g., 100th Congress, 1st Session, July 30, 1987, Congressional Record, p. H6808) This practice is referred to as "blue slipping" because the resolution returning the offending bill to the Senate is printed on blue paper.

In other cases, the Committee of the Whole House has passed a similar or identical House bill in lieu of a Senate bill or amendment (e.g., 91st Congress, 2d Congress, May 11, 1970, Congressional Record, pp. H14951-14960). The Committee on Ways and Means has also reported bills to the House which were approved and sent to the Senate in lieu of Senate bills (e.g., 93d Congress, 1st Session, November 6, 1973, Congressional Record, pp. 36006-36008). In other cases, the Senate has substituted a House bill or delayed action on its own legislation to await a proper revenue affecting bill or amendment from the House (see 95th Congress, 2d Session, September 22, 1978, Congressional Record, p. H30960; January 22, 1980, Congressional Record, p. S107).

Any Member may offer a resolution seeking to invoke Article I, Section 7. However, the determination that a bill violates the Origination Clause has been traditionally made by members of the Committee on Ways and Means, and the resolution has been offered by the Chairman or another Member of the Committee on Ways and Means. Because Article I, Section 7 involves the privileges of the House, a blue-slip resolution offered by the Chairman or other member of the Committee on Ways and Means has been typically adopted by voice vote on the House Floor. However, in cases where the Chairman of the Committee on Ways and Means did not believe that the bill in question violated the Origination Clause or the objection had been dealt with in another manner, resolutions offered by other Members of the House have been tabled. [See adoption of motion by Mr. Rostenkowski to table H. Res. 571, 97–2, p. 22127.]

BLUE SLIP RESOLUTIONS—97TH CONGRESS THROUGH 105TH CONGRESS CHRONOLOGICAL LIST

[Resolutions passed by the House returning to the Senate bills passed in violation of the origination clause of the United States Constitution (Clause 1, Section 7 of Article 1)]

H. Res., sponsor, and date of House passage	Description of Senate action (and related House action, if any)
<b>105th Congress:</b>	
H. Res. 601, Mr. Crane, Oct. 15, 1998.	On October 8, 1998, the Senate passed S. 361, the Tiger and Rhinoceros Conservation Act of 1998. This legislation would have had the effect of creating a new basis and mechanism for applying import restrictions for products intended for human consumption or application containing (or labeled as containing) any substance derived from tigers or rhinoceroses. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues.
H. Res. 379, Mr. Ensign, Mar. 5, 1998.	On April 15, 1997, the Senate passed S. 104, the Nuclear Waste Policy Act of 1997. This legislation would have repealed a revenue provision and replaced it with a user fee. The revenue provision in question was a fee of 1 mill per kilowatt hour of electricity generated by nuclear power imposed by the Nuclear Waste Policy Act of 1982. The proposed user fee in the legislation would have been limited to the amount appropriated for nuclear waste disposal. The original fee was uncapped, and, in fact, because the fees collected exceeded the associated costs, it was being used as revenue to finance the federal government generally. Its proposed repeal therefore constituted a revenue measure in the constitutional sense because it would have had a direct impact on federal revenues.
<b>104th Congress:</b>	
H. Res. 554, Mr. Crane, Sept. 28, 1996.	On June 30, 1996, the Senate passed H.R. 400, the Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act of 1995, with an amendment. Section 204(a) of the Senate amendment would have overridden existing tax law by expanding the definition of actions not subject to federal, state, or local taxation under the Alaska Native Claims Settlement Act. These changes constituted a revenue measure in the constitutional sense because they would have had a direct impact on federal revenues.
H. Res. 545, Mr. Archer, Sept. 27, 1996.	On September 25, 1996, the Senate passed S. 1311, the National Physical Fitness and Sports Foundation Establishment Act. Section 2 of the bill would have waived the application of certain rules governing recognition of tax-exempt status for the foundation established under this legislation. This exemption constituted a revenue measure in the constitutional sense because it would have had a direct impact on federal revenues.

BLUE SLIP RESOLUTIONS—97TH CONGRESS THROUGH 105TH CONGRESS CHRONOLOGICAL LIST—  
Continued

[Resolutions passed by the House returning to the Senate bills passed in violation of the origination clause of the United States Constitution (Clause 1, Section 7 of Article 1)]

H. Res., sponsor, and date of House passage	Description of Senate action (and related House action, if any)
H. Res. 402, Mr. Shaw, Apr. 16, 1996.	On January 26, 1996, the Senate passed S. 1463, to amend the Trade Act of 1974. The bill would have changed the authority and procedure for investigations by the International Trade Commission for certain domestic agricultural products. Such investigations are a predicate necessary for achieving access to desired trade remedies that the President may order, such as tariff adjustments, tariff-rate quotas, quantitative restrictions, or negotiation of trade agreements to limit imports. By creating a new basis and mechanism for import restrictions under authority granted to the President, the bill constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.
H. Res. 387, Mr. Crane, Mar. 21, 1996.	On February 1, 1996, the Senate passed S. 1518, repealing the Tea Importation Act of 1897. Under existing law in 1996, it was unlawful to import substandard tea, except as provided in the Harmonized Tariff Schedule. Changing import restrictions constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.
<b>103d Congress:</b>	
H. Res. 577, Mr. Gibbons, Oct. 7, 1994.	On October 3, 1994, the Senate passed S. 1216, the Crow Boundary Settlement Act of 1994. The bill would have overridden existing tax law by exempting certain payments and benefits from taxation. These exemptions constituted a revenue measure in the constitutional sense because they would have had a direct impact on federal revenues.
H. Res. 518, Mr. Gibbons, Aug. 12, 1994.	On July 20, 1994, the Senate passed H.R. 4554, the Agriculture and Rural Development Appropriation for FY1995, with amendments. Senate amendment 83 would have provided authority for the Food and Drug Administration to collect fees to cover the costs of regulation of products under their jurisdiction. However, these fees were not limited to covering the cost of specified regulatory activities, and would have been charged to a broad cross-section of the public (rather than been limited to those who would have benefited from the regulatory activities) to fund the cost of the FDA's activities generally. These fees constituted a revenue measure in the constitutional sense because they were not based on a direct relationship between their level and the cost of the particular government activity for which they would have been assessed, and would have had a direct impact on federal revenues.
H. Res. 487, Mr. Gibbons, July 21, 1994.	On May 25, 1994, the Senate passed S. 1030, the Veterans Health Programs Improvement Act of 1994. A provision in the bill would have exempted from taxation certain payments made on behalf of participants in the Education Debt Reduction Program. This provision constituted a revenue measure in the constitutional sense because it would have had a direct impact on federal revenues.
H. Res. 486, Mr. Gibbons, July 21, 1994.	On May 29, 1994, the Senate passed S. 729, to amend the Toxic Substances Control Act. Title I of the bill included several provisions to prohibit the importation of specific categories of products which contained more than specified quantities of lead. By establishing these import restrictions, the bill constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.
H. Res. 479, Mr. Rangel, July 14, 1994.	On June 22, 1994, the Senate passed H.R. 4539, the Treasury, Postal Service, and General Government Appropriation for FY1995, with amendments. Senate amendment 104 would have prohibited the Treasury from using appropriations to enforce the Internal Revenue Code requirement for the use of undyed diesel fuel in recreational motorboats. This prohibition therefore constituted a revenue measure in the constitutional sense because it would have had a direct impact on federal revenues.

BLUE SLIP RESOLUTIONS—97TH CONGRESS THROUGH 105TH CONGRESS CHRONOLOGICAL LIST—  
Continued

[Resolutions passed by the House returning to the Senate bills passed in violation of the origination clause of the United States Constitution (Clause 1, Section 7 of Article 1)]

H. Res., sponsor, and date of House passage	Description of Senate action (and related House action, if any)
<b>102d Congress:</b>	
H. Res. 373, Mr. Rostenkowski, Feb. 25, 1992.	On August 1, 1991, the Senate passed S. 884 amended, the Driftnet Moratorium Enforcement Act of 1991; This legislation would require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing. Foremost among the sanction provisions are those which impose a ban on certain imports into the United States from countries which continue to engage in driftnet fishing on the high seas after a certain date. These changes in our tariff laws constitute a revenue measure in the constitutional sense, because they would have a direct effect on customs revenues.
H. Res. 267, Mr. Rostenkowski, Oct. 31, 1991.	On February 20, 1991, the Senate passed S. 320, to reauthorize the Export Administration Act of 1979. This legislation contains several provisions which impose, or authorize the imposition of, a ban on imports into the United States. Among the provisions containing import sanctions are those relating to certain practices by Iraq, the proliferation and use of chemical and biological weapons, and the transfer of missile technology. These changes in our tariff laws constitute a revenue measure in the constitutional sense, because they would have a direct effect on customs revenues.
H. Res. 251, Mr. Russo, Oct. 22, 1991.	On July 11, 1991, the Senate passed S. 1241, the Violent Crime Act of 1991. This legislation contains several amendments to the Internal Revenue Code. Sec. 812(f) provides that the police corps scholarships established under the bill would not be included in gross income for tax purposes. In addition, secs. 1228, 1231, and 1232 each make amendments to the Tax Code with respect to violations of certain firearms provisions. Finally, title VII amends sec. 922 of title VIII of the U.S. Code, making it illegal to transfer, import or possess assault weapons. These changes in our tariff and tax laws constitute revenue measures in the constitutional sense, because they would have an immediate impact on revenues anticipated by U.S. Customs and the Internal Revenue Services.
<b>101st Congress:</b>	
H. Res. 287, Mr. Cardin, Nov. 9, 1989.	On August 4, 1989, the Senate passed S. 686, the Oil Pollution Liability and Compensation Act of 1989. This legislation contained a provision which would have allowed a credit against the oil spill liability tax for amounts transferred from the Trans-Alaska Pipeline Trust Fund to the Oil Spill Liability Trust Fund.
H. Res. 177, Mr. Rostenkowski, June 15, 1989.	On Apr. 19, 1989, the Senate passed S. 774, the Financial Institution Reform, Recovery and Enforcement Act of 1989. This legislation would create two corporations to administer the financial assistance under the bill: the Resolution Trust Corporation and the Resolution Financing Corporation. S. 774 would have conferred tax-exempt status to these two corporations. Without these two tax provisions, these two corporations would be taxable entities under the Federal income tax.
<b>100th Congress:</b>	
H. Res. 235, Mr. Rostenkowski, July 30, 1987.	On Mar. 30, 1987, the Senate passed S. 829, legislation which would authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1988, and for other purposes. In addition, the bill contained a provision relating to imports from the Soviet Union which amends provisions of the Tariff Act of 1930.
H. Res. 474, Mr. Rostenkowski, June 16, 1988 (see also H.R. 3391).	On Oct. 6, 1987, the Senate passed S. 1748, legislation which would prohibit the importation into the United States of all products from Iran. (The House passed H.R. 3391, which included similar provisions, on Oct. 6, 1987.)
H. Res. 479, Mr. Rostenkowski, June 21, 1988 (see also H.R. 2792 and H.R. 4333).	On May 13, 1987, the Senate passed S. 727, legislation which would clarify Indian treaties and Executive orders with respect to fishing rights. This legislation dealt with the tax treatment of income derived from the exercise of Indian treaty fishing rights. (The House passed H.R. 2792, which included similar provisions, on June 20, 1988, under suspension of the rules and was enacted into law as part of Public Law 100-647, H.R. 4333.)
H. Res. 544, Mr. Rostenkowski, Sept. 23, 1988 (see also H.R. 1154).	On Sept. 9, 1988, the Senate passed S. 2662, the Textile and Apparel Trade Act of 1988. This legislation would impose global import quotas on textiles and footwear products.

BLUE SLIP RESOLUTIONS—97TH CONGRESS THROUGH 105TH CONGRESS CHRONOLOGICAL LIST—  
Continued

[Resolutions passed by the House returning to the Senate bills passed in violation of the origination clause of the United States Constitution (Clause 1, Section 7 of Article 1)]

H. Res., sponsor, and date of House passage	Description of Senate action (and related House action, if any)
H. Res. 552, Mr. Rostenkowski, Sept. 28, 1988.	On Sept. 9, 1988, the Senate passed S. 2763, the Genocide Act of 1988. This legislation contained a ban on the importation of all oil and oil products from Iraq.
H. Res. 603, Mr. Rostenkowski, Oct. 21, 1988.	On Mar. 30, 1988, the Senate passed S. 2097, the Uranium Mill Tailings Remedial Action Amendments of 1987. This legislation would establish a Federal fund to assist in the financing of reclamation and other remedial action at currently active uranium and thorium processing sites and would increase the demand for domestic uranium. The fund would be financed in part by what are called "mandatory fees" which are equal to \$22 per kilogram for uranium contained in fuel assemblies initially loaded into civilian nuclear power reactors during calendar years 1989- 1993. In addition, S. 2097 would impose charges on domestic utilities that use foreign-source uranium in new fuel assemblies loaded in their nuclear reactors.
H. Res. 604, Mr. Rostenkowski, Oct. 21, 1988.	On Aug. 8, 1988, the Senate passed H.R. 1315, legislation which would authorize appropriations for the Nuclear Regulatory Commission for fiscal years 1988 and 1989. Title IV of the legislation would, among other things, establish a Federal fund to assist in the financing of reclamation and other remedial action at currently active uranium and thorium processing sites and would assist the domestic uranium industry by increasing the demand for domestic uranium. The fund would be financed in part by what are called "mandatory fees" equal to \$72 per kilogram of uranium contained in fuel assemblies initially loaded into civilian nuclear power reactors on or after Jan. 1, 1988. These fees would be paid by licensees of civilian nuclear power reactors and would be in place until \$1 billion had been raised.
<b>99th Congress:</b>	
H. Res. 283, Mr. Rostenkowski, Oct. 1, 1985.	On Sept. 26, 1985, the Senate passed S. 1712, legislation which would extend the 16-cents-per-pack cigarette excise tax rate for 45 days, through Nov. 14, 1985. (The House passed H.R. 3452, which included a similar extension, on Sept. 30, 1985.)
H. Res. 562, Mr. Rostenkowski, Sept. 25, 1986.	The Senate passed S. 638, legislation to provide for the sale of Conrail to the Norfolk Southern Railroad. The legislation contained numerous provisions relating to the tax treatment of the sale of Conrail.
<b>98th Congress:</b>	
H. Res. 195, Mr. Rostenkowski, June 17, 1983.	On Apr. 21, 1983, the Senate passed S. 144, a bill to insure the continued expansion of international market opportunities in trade, trade in services and investment for the United States, and for other purposes.
<b>97th Congress:</b>	
None.	

F. PREROGATIVE UNDER THE RULES OF THE HOUSE OVER "REVENUE MEASURES GENERALLY"

In the House of Representatives, tax legislation is initiated by the Committee on Ways and Means. The Committee's exclusive prerogative to report "revenue measures generally" is provided by Rule X(1)(v) of the Rules of the House of Representatives. The jurisdiction of the Committee on Ways and Means under Rule X(1)(v) is protected through the exercise of Rule XXI(5)(b) which states:

No bill or joint resolution carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures, nor shall an amendment in the House or proposed by the Senate carrying a tax or tariff measure be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on a tax or tariff measure in any such bill, joint resolution, or amendment thereto may be raised at any time.

Based on the precedents of the House, especially those involving Rule XXI(5)(b), the following statements can be made concerning points of order made under the rule.

1. *Timeliness.*—The point of order can be raised at any point during consideration of the bill. However, that section of the bill in which the “tax or tariff” provision lies must either have been previously read or currently open for amendment. A point of order may not be raised after the Committee of the Whole has risen and reported the bill to the House. A point of order against an amendment must be made prior to its adoption.

2. *Effect.*—If a point of order is sustained, the effect is that the provision in the bill or amendment is automatically deleted.

3. *Substance over form.*—A provision need not involve an amendment to the Internal Revenue Code (IRC) or the Harmonized Tariff Schedule (HTS) in order to be determined to be a “tax or tariff” provision.

4. *Revenue decreases and increases.*—A provision need not raise revenue in order to be found to be a “tax or tariff measure.” Provisions which would have the effect of decreasing revenues are also covered by the rule. Similarly, provisions which could have a revenue effect have been determined to be covered by the rule.

The following is a detailed listing of each of the occasions on which points of order relating to the rule have been sustained:

G. POINTS OF ORDER—HOUSE RULE XXI, CLAUSE 5, PARAGRAPH (b)  
CHRONOLOGICAL LIST

*September 3, 1997*

*H.R. 2159, Foreign Operations Appropriations for FY 1998*

A point of order was raised against section 539 of the bill, which would have restricted the President’s ability to issue an executive order lifting import sanctions against Yugoslavia (Serbia). The Chair ruled that since current law allowed the President to waive the application of certain sanctions, including import prohibitions which affect tariff collections, the provision in question was a tariff measure within the meaning of Rule XXI, clause 5(b). The point of order was sustained, and the provision stricken from the bill. [105–1, p. H 6731]

*July 17, 1996*

*H.R. 3756, Treasury, Postal Service, and General Government Appropriations Act of 1997*

A point of order was raised against an amendment which prohibited the use of funds by the United States Customs Service to take any action that allowed certain imports into the United States from the People’s Republic of China. The point of order was sustained. [104–2, p. H 7708]

*May 9, 1995*

*H.R. 1361, Coast Guard authorization*

A point of order was raised against an amendment which increased certain fees for large foreign-flag cruise ships. The Chair

ruled that by increasing the fees charged by the Coast Guard for inspecting large foreign-flag cruise ships by an unspecified amount in order to offset a decrease in fees for other vessels, the amendment attenuated the relationship between the amount of the fee and the cost of the particular government activity for which it was assessed. Therefore the increased fee qualified as a tax or tariff within the meaning of Rule XXI, clause 5(b). The point of order was sustained, and the amendment ruled out of order. [1-4-1, p. H 4593]

*June 15, 1994*

*H.R. 4539, Treasury, Postal Service, and General Government Appropriation for FY 1995*

A point of order was raised against section 527 of the bill, which would have amended the Harmonized Tariff Schedule to create a new tariff classification. The new classification would have changed the rate of duty on the import of certain fabrics intended for use in the manufacture of hot air balloons, thus having direct impact on customs revenues. The point of order was conceded and sustained, and the provision was stricken from the bill. [103-2, p. H 4531]

*September 16, 1992*

*H.R. 5231, The National Competitiveness Act of 1992*

A point of order was raised against an amendment offered by Rep. Walker. The bill was reported solely from the Committee on Science and Technology and amended the Internal Revenue Code to provide, inter alia, changes in the tax treatment of capital gains.

The Chair sustained the point of order without elaboration. [H102-p. H8621]

*October 23, 1990*

*H.R. 5021, Department of Commerce, Justice and State, the Judiciary and related Agencies Appropriations Act, 1991*

A point of order was raised against amendment 139 which increased the rate of fees paid to the Securities and Exchange Commission at the time of filing a registration statement. The Chair ruled that since the amendment provided that the increased level of fees would be deposited in the Treasury, the fee involved was in reality a tax and the revenues were to be used to defray general governmental costs. The point of order was conceded and sustained. [101-2, p. H 11412]

*July 13, 1990*

*H.R. 5241, Treasury, Postal Service and General Government Appropriations Act of 1991*

A point of order was raised against section 528 which prohibited that "no funds appropriated" would be used to impose or assess any tax under section 4181 of the Internal Revenue Code relating to the excise tax on the manufacture of firearms. The point of order was conceded and sustained. [101-2, p. H 4692]

July 13, 1990

*H.R. 5241, Treasury, Postal Service and General Government Appropriations Act of 1991*

A point of order was raised against section 524 which prohibited the Internal Revenue Service from enforcing rules governing the antidiscrimination rules of the exclusion for employer provided health-care plans (section 89 of the Internal Revenue Code). The point of order was conceded and sustained. [101-2, p. H 4692]

October 5, 1989

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 3201 which imposed fees on the filing of certain forms required to be filed annually in connection with maintaining pension and benefit plans. The point of order was sustained with the Chair ruling that the revenue raised funded “general government activity.” [101-1, p. H 6662]

October 4, 1989

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 3156 which imposed a “Termination Fee.” Under the provision of the bill, an employer who terminated a pension plan in a standard termination was required to pay a \$200-per-participant fee to the Pension Benefit Guaranty Corporation (PBGC), the Federal insurance agency established to insure defined benefit pension plans against insolvency. The point of order was conceded and sustained. [101-1, p. H 6621]

October 4, 1989

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 3131(b) which exempted multi-employer pension plans from the full funding limits of the Internal Revenue Code, section 412(c)(7). This provision directly amended the Internal Revenue Code to allow the deductibility of contributions to a multi-employer pension plan in excess of the full funding limit. The point of order was conceded and sustained. [101-1, p. H 6622]

October 4, 1989

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 7002 which imposed an annual fee of \$1 per acre on the holder of Outer Continental Shelf leases. This fee has been designated to offset the costs of ocean related environmental research, assessment, and protection programs. The point of order was sustained with the Chair stating that “a provision raising revenue to finance general government functions improperly characterized as a tax within the jurisdiction of Clause 5(b) of Rule XXI. [101-1, p. H 6610]

October 4, 1989

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 7002 which imposed a fee of \$20 per passenger on vessels engaged in U.S. cruise trade or which offer off-shore gambling. The proceeds of this fee were to be deposited in both the Harbor Maintenance Trust Fund and the Treasury's general fund. The point of order was conceded and sustained. [101-1, p. H 6620]

September 30, 1988

*H.R. 4637, Conference Agreement to accompany the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1989*

A point of order was raised against the motion to concur in the Senate amendment No. 176 which provided that S. 2848 (Sanctions Against Iraqi Chemical Weapons Use Act), be added to the bill. The point of order was conceded and sustained. [100-2, p. H 9236]

June 25, 1987

*H.R. 3545, Budget Reconciliation Act of 1987*

A point of order was raised against the section of the bill providing that "all earnings and distributions" from the Enjebi Community Trust Fund, "shall not be subject to any form of Federal, State, or local taxation." The point of order was conceded and sustained. [100-1, p. H 5539-40]

August 1, 1986

*H.R. 5294, Appropriations, Treasury, Postal Service and General Government Appropriations, 1987*

A point of order was raised against section 103 which denied funds to the Internal Revenue Service to impose vesting requirements for qualified pension funds more stringent than 4/40. As a result, legally collectible taxes on employer contributions to such plans would be indefinitely deferred. The point of order was conceded and sustained. [99-2, p. H 5311]

August 1, 1986

*H.R. 5294, Appropriations, Treasury, Postal Service and General Government Appropriations, 1987*

A point of order was raised against section 3 which prohibited the use of funds to implement regulations issued by the Department of the Treasury to implement section 274(d) of the Internal Revenue Code relating to the duty imposed on taxpayers to substantiate deductibility of certain expenses relating to travel, gifts, and entertainment.

The Chair sustained the point of order stating that a limitation otherwise in order under Clause 2(c), of House Rule XXI which "effectively and inherently either preclude[s] the IRS from collecting revenues otherwise due to be [owed] under provision of the Internal Revenue Code or require[s] the collection of revenue not legally due

and owing constitutes a tax provision within the meaning of Rule XXI, Clause 5(b).”

The Chair also noted that when the point of order was raised that under the rule the point of order against the provision could be raised at any point during the consideration of the bill. [99–2, p. H 5310]

*October 24, 1986*

*H.R. 3500, Budget Reconciliation Act of 1985*

A point of order was raised against section 3113. The provision in the reconciliation bill reported from the Budget Committee contained a recommendation from the Committee on Education and Labor to exclude certain interest on obligations to Student Loan Marketing Association from Application of Internal Revenue Code (IRC), section 265 which denies a deduction for certain expenses and interest relating to the production of tax-exempt income. The point of order was sustained. [99–1, p. H 5310]

*October 24, 1985*

*H.R. 3500, Budget Reconciliation Act of 1985*

A point of order was raised against section 6701 which had been reported from the Committee on the Budget containing a recommendation of the Committee on Merchant Marine and Fisheries. Section 6701 expanded tax benefits available to ship owners through the “capital construction fund” (section 7518 of the Internal Revenue Code), by permitting repatriation of foreign-source income to avoid U.S. taxes and expanding the definition of vessels eligible to establish such tax-exempt funds. [99–1, p. H 9189]

*July 26, 1985*

*H.R. 3036, Appropriations, Treasury, Postal Service, and General Government Appropriation, 1986*

A point of order was raised against section 106 which prohibited the use of funds to implement or enforce regulations imposing or collecting a tax on the interest deferral from entrance or accommodation fees paid by elderly residents of continuing care facilities (section 7872 of the Internal Revenue Code). The Chair sustained the point of order against the provision as a tax provision within the meaning of House Rule XXI, Clause 5(b). [99–1, p. H 6418]

*July 11, 1985*

*H.R. 1555, International Security and Development Act of 1985*

A point of order was raised against section 1208 which denied trade benefits to Afghanistan, provided for the denial of most favored nation status to Afghanistan and denied trade credits to Afghanistan. The point of order was conceded and sustained. [99–1, p. H 5489]

*June 4, 1985*

*H.R. 1460, Anti-Apartheid Act of 1985*

A point of order was raised against an amendment to prohibit the entry of South African Krugerrands or gold coins into the customs territory of the United States unless uniform 5 percent fees were paid. The point of order was sustained on the grounds that the fee was equivalent to a tariff uniform charge imposed at ports of entry with proceeds deposited in the Treasury. [99-1, p. H 3762]

*September 12, 1984*

*H.R. 5798, Conference Report to accompany the Appropriations, Treasury, Postal Service, Executive Office of the President and certain independent agencies Appropriation, 1985*

A point of order was raised against a Senate amendment, No. 92 which amended the existing customs law under the Tariff Act of 1930 with respect to seizures and forfeitures of property by the Customs Service. The point of order was conceded and sustained. [98-2, p. H 9407]

*September 12, 1984*

*H.R. 5798, Conference Report to accompany the Appropriations, Treasury, Postal Service, Executive Office of the President and certain independent agencies Appropriation, 1985*

A point of order was raised against a Senate amendment, No. 26 which amended the tariff schedule of the United States (TSUS) to provide duty-free importation of a telescope for the University of Arizona. The point of order was conceded and sustained. [98-2, p. H 9396]

*September 12, 1984*

*H.R. 5798, Conference Report to accompany the Appropriations, Treasury, Postal Service, Executive Office of the President and certain independent agencies Appropriation, 1985*

A point of order was raised against a Senate amendment, No. 24 which provided that "none of the funds appropriated by this act or any other act" shall be used to impose or assess the manufacturer's excise tax on sporting goods. The point of order specifically stated that the terms "tax" and "tariff" under House Rule XXI, Clause 5(b), included provisions such as these contained in the amendment which would result in less revenue spent than under the operation of existing law. The point of order was conceded and sustained. [98-2, p. H 9395-9396]

October 27, 1983

*H.R. 4139, Conference Report to accompany the Appropriations, Treasury, Postal Service, Executive Office of the President and certain independent agencies Appropriation, 1984*

The Chair sustained a point of order against section 511 which would have prohibited the Customs Service from enforcing a provision of law permitting agricultural products to enter the United States duty-free under the Caribbean Basin Initiative. The Chair ruled that the effect of the provision was to cause duties on certain imports to be imposed where none is required and to require collections of revenue contrary to existing tariff laws and that, as a result, section 511 was a tariff provision rather than a limitation of appropriated funds. [98-1, p. H 8717]

September 21, 1983

*H.R. 1036, Community Renewal Employment Act*

The Chair sustained a point of order against a motion to recommit a bill to a committee without jurisdiction over revenue measures (the Committee on Education and Labor), and to report the bill back to the House with tax provisions relating to "enterprise zones." The motion was ruled to violate House Rule XVI, Clause 7, and House Rule XXI Clause 5(b). [98-1, p. H 7244]

#### H. RESTRICTIONS ON "FEDERAL INCOME TAX RATE INCREASES"

House Rule XXI, clause 5(c) and (d) prohibit retroactive Federal income tax rate increases and require a supermajority [3/5] vote for any bill containing a prospective Federal income tax rate increase. The wording of the rule and its legislative history make it clear that the rule applies only to increases in specific statutory rates in the Internal Revenue Code and not to provisions merely because they raise revenue or otherwise modify the income tax base.

### **Appendix II. Historical Note**

The Committee on Ways and Means was first established as an ad hoc committee in the first session of the First Congress, on July 24, 1789. Mr. Fitzsimons, from Pennsylvania, in commenting on the report of a select committee concerning appropriations and revenues, pointed out the desirability of having a committee to review the expenditure needs of the Government and the resources available, as follows:

The finances of America have frequently been mentioned in this House as being very inadequate to the demands. I have never been of a different opinion, and do believe that the funds of this country, if properly drawn into operation, will be equal to every claim. The estimate of supplies necessary for the current year appears very great from a report on your table, and which report has found its way into the public newspapers. I said, on a former occasion, and I repeat it now, notwithstanding what is set forth in the estimate, that a revenue of \$3 million in specie, will enable us to provide every supply necessary to support the Government, and pay the interest and installments on the foreign and domestic debt. If we

wish to have more particular information on these points, we ought to appoint a Committee of Ways and Means, to whom, among other things, the estimate of supplies may be referred, and this ought to be done speedily, if we mean to do it this session.

After discussion, the motion was agreed to and a committee consisting of one member from each State (North Carolina and Rhode Island had not yet ratified the Constitution) was appointed as follows: Messrs. Fitzsimons (Pennsylvania), Vining (Delaware), Livermore (New Hampshire), Cadwalader (New Jersey), Laurance (New York), Wadsworth (Connecticut), Jackson (Georgia), Gerry (Massachusetts), Smith (Maryland), Smith (South Carolina), and Madison (Virginia).

While there does not appear to be any direct relationship, it is interesting to note that the appointment of this ad hoc committee came within a few weeks after the House, in Committee of the Whole, had spent a good part of the months of April, May, and June in wrestling with the details involved in writing bills "for laying a duty on goods, wares, and merchandises imported into the United States" and for imposing duties on tonnage. Tariffs, of course, became a prime revenue source for the new government.

However, the results of this ad hoc committee are not clear. It existed for a period of only 8 weeks, being dissolved on September 17, 1789, with the following order:

That the Committee on Ways and Means be discharged from further proceeding on the business referred to them, and that it be referred to the Secretary of the Treasury to report thereon.

It has also been suggested by one student that the committee was dissolved because Alexander Hamilton had become Secretary of the newly created Department of the Treasury, and thus it was presumed that the Treasury Department could provide the necessary machinery for developing information which would be needed. During the next 6 years there was no Ways and Means Committee or any other standing committee for the examination of estimates. Rather, ad hoc committees were appointed to draw up particular pieces of legislation on the basis of decisions made in the Committee of the Whole House. On November 13, 1794, a rule was adopted providing that:

All proceedings touching appropriations of money shall be first moved and discussed in a Committee on the Whole House.

In the next Congress historians have suggested that the House was determined to curtail Secretary Hamilton's influence by first setting up a Committee on Ways and Means and requiring that committee to submit a report on appropriations and revenue measures before consideration in the Committee of the Whole House. It was also said that this Ways and Means Committee was put on a more or less standing basis since such a committee appeared at some point in every Congress until it was made a permanent committee.

In the first session of the 7th Congress, Tuesday, December 8, 1801, a resolution was adopted as follows:

*Resolved*, That a standing Committee of Ways and Means be appointed, whose duty it shall be to take into

consideration all such reports of the Treasury Department, and all such propositions, relative to the revenue as may be referred to them by the House; to inquire into the state of the public debt, of the revenue, and of the expenditures; and to report, from time to time, their opinion thereon.

The following Members were appointed: Messrs. Randolph (Virginia), Griswold (Connecticut), Smith (Vermont), Bayard (Delaware), Smilie (Pennsylvania), Read (Massachusetts), Nicholson (Maryland), Van Rensselaer (New York), Dickson (Tennessee).

On Thursday, January 7, 1802, the House agreed to standing rules which, among other things, provided for standing committees, including the Committee on Ways and Means. The relevant part of the rules in this respect read as follows:

A Committee of Ways and Means, to consist of seven members;

\* \* \* \* \*

It shall be the duty of the said Committee of Ways and Means to take into consideration all such reports of the Treasury Department, and all such propositions relative to the revenue, as may be referred to them by the House; to inquire into the state of the public debt, of the revenue, and of the expenditures, and to report, from time to time, their opinion thereon; to examine into the state of the several public departments, and particularly into the laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such laws; and also to report, from time to time, such provisions and arrangements, as may be necessary to add to the economy of the departments, and the accountability of their officers.

It has been said that the jurisdiction of the committee was so broad in the early 19th century that one historian described it as follows:

It seemed like an Atlas bearing upon its shoulders all the business of the House.

The jurisdiction of the committee remained essentially the same until 1865 when the control over appropriations was transferred to a newly created Committee on Appropriations and another part of its jurisdiction was given to a newly created Committee on Banking and Currency. This action followed rather extended discussion in the House, too lengthy to review here.

During the course of that discussion, however, the following observations are of some historical interest. Mr. Cox, who was handling the motion to divide the committee, gave a very picturesque discussion of the many varied and heavy duties which had fallen on the committee over the years. He observed:

And yet, sir, powerful as the committee is constituted, even their powers of endurance, physical and mental, are not adequate to the great duty which has been imposed by the emergencies of this historic time. It is an old adage, that "whoso wanteth rest will also want of might"; and even an Olympian would faint and flag if the burden of Atlas is not relieved by the broad shoulders of Hercules.

He continued:

I might give here a detailed statement of the amount of business thrown upon that committee since the commencement of the war. But I prefer to append it to my remarks. Whereas before the war we scarcely expended more than \$70 million a year, now, during the five sessions of the last two Congresses, there has been an average appropriation of at least \$800 million per session. The statement which I hold in my hand shows that during the first and extra session of the 37th Congress there came appropriation bills from the Committee on Ways and Means amounting to \$226,691,457.99. I say nothing now of the loan and other fiscal bills emanating from that committee. \* \* \* During the present session I suppose it would be a fair estimate to take the appropriations of the last session of the 37th Congress, say \$900 million.

These are appropriation bills alone. They are stupendous, and but poorly symbolize the immense labors which the internal revenue, tariff, and loan bills imposed on the committee. \* \* \* And this business of appropriations is perhaps not one-half of the labor of the committee. There are various and important matters upon which they act, but upon which they never report. Their duties comprehend all the varied interests of the United States; every element and branch of industry, and every dollar or dime of value. They are connected with taxation, tariffs, banking, loan bills, and ramify to every fiber of the body-politic. All the springs of wealth and labor are more or less influenced by the action of this committee. Their responsibility is immense, and their control almost imperial over the necessities, comforts, homes, hopes, and destinies of the people. All the values of the United States, which in the census of 1860 (page 194) amount to nearly \$17 billion, or, to be exact, \$16,159,616,068, are affected by the action of that committee, even before their action is approved by the House. Those values fluctuate whenever the head of the Ways and Means rises in his place and proposes a measure. The price of every article we use trembles when he proposes a gold bill or a loan bill, or any bill to tax directly or indirectly. \* \* \* the interests connected with these economical questions are of all questions those most momentous for the future. Parties, statesmanship, union, stability, all depend upon the manner in which these questions are dealt with.

Congressman Morrill (who was subsequently appointed chairman of the Ways and Means Committee in the succeeding Congress, and who still later became chairman of the Senate Finance Committee after he became a Senator) observed as follows:

I am entirely indifferent as to the disposition which shall be made of this subject by the House. So far as I am myself concerned, I have never sought any position upon any committee from the present or any other Speaker of the House, and probably never shall. I have no disposition to press myself hereafter for any position. In relation to the

proposed division of the Committee on Ways and Means, the only doubt that I have is the one expressed by my colleague on that committee, Mr. Stevens, in regard to the separation of the questions of revenue from those relating to appropriations. In ordinary times of peace I should deem it almost indispensable and entirely within their power that this committee should have the control of both subjects, in order that they might make both ends meet, that is, to provide a sufficient revenue for the expenditures. That reason applies now with greater force; but it may be that the committee is overworked. It is true that for the last 3 or 4 years the labors of the Committee on Ways and Means have been incessant, they have labored not only days but nights; not only weekends but Sundays. If gentlemen suppose that the committee have permitted some appropriations to be reported which should not have been permitted they little understand how much has been resisted.

The influence the committee emanated came not only from the nature of its jurisdiction but also because for many years the chairman of the committee was also ad hoc majority floor leader of the House.

When the revolt against Speaker Cannon took place, and the Speaker's powers to appoint the members of committees were curtailed, the Majority Members on the Committee on Ways and Means became the Committee on Committees. Subsequently, this power was disbursed to the respective party caucuses, beginning in the 94th Congress.

Throughout its history, many famous Americans have served on the Committee on Ways and Means. The long and distinguished list includes 8 Presidents of the United States, 8 Vice Presidents, 4 Justices of the Supreme Court, 34 Cabinet members, and quite interestingly, 21 Speakers of the House of Representatives. This latter figure represents nearly one-half of the 47 Speakers who have served since 1789 through the end of the 104th Congress. See the alphabetical list which follows for names.

*Major positions held by former members of the Committee on Ways and Means*

President of the United States:

George H. W. Bush, Texas  
 Millard Fillmore, New York  
 James A. Garfield, Ohio  
 Andrew Jackson, Tennessee  
 James Madison, Virginia  
 William McKinley, Jr., Ohio  
 James K. Polk, Tennessee  
 John Tyler, Virginia

Vice President of the United States:

John C. Breckinridge, Kentucky  
 George H. W. Bush, Texas  
 Charles Curtis, Kansas  
 Millard Fillmore, New York

John N. Garner, Texas  
 Elbridge Gerry, Massachusetts  
 Richard M. Johnson, Kentucky  
 John Tyler, Virginia  
 Justice of the Supreme Court:  
 Philip P. Barbour, Virginia  
 Joseph McKenna, California  
 John McKinley, Alabama  
 Fred M. Vinson, Kentucky (Chief Justice)  
 Speaker of the House of Representatives:  
 Nathaniel P. Banks, Massachusetts  
 Philip P. Barbour, Virginia  
 James G. Blaine, Maine  
 John G. Carlisle, Kentucky  
 Langdon Cheves, South Carolina  
 James B. (Champ) Clark, Missouri  
 Howell Cobb, Georgia  
 Charles F. Crisp, Georgia  
 John N. Garner, Texas  
 John W. Jones, Virginia  
 Michael C. Kerr, Indiana  
 Nicholas Longworth, Ohio  
 John W. McCormack, Massachusetts  
 James K. Polk, Tennessee  
 Henry T. Rainey, Illinois  
 Samuel J. Randall, Pennsylvania  
 Thomas B. Reed, Maine  
 Theodore Sedgwick, Massachusetts  
 Andrew Stevenson, Virginia  
 John W. Taylor, New York  
 Robert C. Winthrop, Massachusetts  
 Cabinet Member:  
 Secretary of State:  
 James G. Blaine, Maine  
 William J. Bryan, Nebraska  
 Cordell Hull, Tennessee<sup>4</sup>  
 Louis McLean, Delaware  
 John Sherman, Ohio  
 Secretary of the Treasury:  
 George W. Campbell, Tennessee  
 John G. Carlisle, Kentucky  
 Howell Cobb, Georgia  
 Thomas Corwin, Ohio  
 Charles Foster, Ohio  
 Albert Gallatin, Pennsylvania  
 Samuel D. Ingham, Pennsylvania  
 Louis McLean, Delaware  
 Ogden L. Mills, New York  
 John Sherman, Ohio  
 Philip F. Thomas, Maryland  
 Fred M. Vinson, Kentucky  
 Attorney General:

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<sup>4</sup>Recipient of Nobel Peace Prize in 1945.

James P. McGranery, Pennsylvania  
 Joseph McKenna, California  
 A. Mitchell Palmer, Pennsylvania  
 Caesar A. Rodney, Delaware  
 Postmaster General:  
 Samuel D. Hubbard, Connecticut  
 Cave Johnson, Tennessee  
 Horace Maynard, Tennessee  
 William L. Wilson, West Virginia  
 Secretary of the Navy:  
 Thomas W. Gilder, Virginia  
 Hilary A. Herbert, Alabama  
 Victor H. Metcalf, California  
 Claude A. Swanson, Virginia  
 Secretary of the Interior:  
 Rogers C. B. Morton, Maryland  
 Jacob Thompson, Mississippi  
 Secretary of Commerce and Labor:  
 Victor H. Metcalf, California  
 Secretary of Commerce:  
 Rogers C. B. Morton, Maryland  
 Secretary of Agriculture:  
 Clinton P. Anderson, New Mexico

### Appendix III. Statistical Review of the Activities of the Committee on Ways and Means

#### A. NUMBER OF BILLS AND RESOLUTIONS REFERRED TO THE COMMITTEE

As of the close of the 105th Congress on October 21, 1998, there had been referred to the Committee a total of 1,509 bills, representing 25.2 percent of all the public bills introduced in the House of Representatives.

The following table gives a more complete statistical review since 1967.

TABLE 1.— NUMBER OF BILLS AND RESOLUTIONS REFERRED TO THE COMMITTEE, 90TH THROUGH 105TH CONGRESSES

	Introduced in House	Referred to Committee on Ways and Means	Percentage
90th Congress .....	24,227	3,806	15.7
91st Congress .....	23,575	3,442	14.6
92d Congress .....	20,458	3,157	15.4
93d Congress .....	21,096	3,370	16.0
94th Congress .....	19,371	3,747	19.3
95th Congress .....	17,800	3,922	22.0
96th Congress .....	10,196	2,337	22.9
97th Congress .....	9,909	2,377	26.4
98th Congress .....	8,104	1,904	23.5
99th Congress .....	7,522	1,568	20.8
100th Congress .....	7,043	1,419	22.1
101st Congress .....	7,640	1,737	22.7
102d Congress .....	7,771	1,972	25.4
103d Congress .....	6,645	1,496	22.5
104th Congress .....	5,329	1,071	20.1

TABLE 1.— NUMBER OF BILLS AND RESOLUTIONS REFERRED TO THE COMMITTEE, 90TH THROUGH 105TH CONGRESSES—Continued

	Introduced in House	Referred to Committee on Ways and Means	Percentage
105th Congress .....	5,976	1,509	25.2

## B. PUBLIC HEARINGS

In the course of the 105th Congress, the full Committee on Ways and Means held public hearings on a total of 17 days, including 10 days in the first session and 7 days in the second session. Many of these hearings dealt with major subjects including the President's fiscal year 1998 and 1999 budgets, replacing the Federal income tax, and reducing the tax burden. The full Committee also focused on such issues as the solvency of the airport and airway trust fund; the education and training provisions, revenue raising provisions, and savings and investment provisions in the Administration's fiscal year 1998 budget proposals; and Social Security reform.

The following table specifies the statistical data on the number of days and witnesses published on each of the subjects covered by public hearings in the full Committee during the 105th Congress.

TABLE 2.—PUBLIC HEARINGS CONDUCTED BY THE FULL COMMITTEE ON WAYS AND MEANS

Subject and date	Number of	
	Days	Witnesses
1997:		
Solvency of the Airport and Airway Trust Fund, Feb. 5 .....	1	2
President's Fiscal Year 1998 Budget, Feb. 11, 12 .....	2	2
Education and Training Tax Provisions of the Administration's Fiscal Year 1998 Budget Proposal, Mar. 5 .....	1	14
Revenue Raising Provisions in the Administration's Fiscal Year 1998 Budget Proposal, Mar. 12 .....	1	13
Savings and Investment Provisions in the Administration's Fiscal Year 1998 Budget Proposals, Mar. 19 .....	1	27
Impact on Individuals and Families of Replacing the Federal Income Tax, Apr. 15 .....	1	7
Internal Revenue Service's 1995 Earned Income Tax Credit Compliance Study, May 8 .....	1	3
Recommendations of the National Commission on Restructuring the IRS on Executive Branch Governance and Congressional Oversight of the IRS, Sept. 16, 17 .....	2	22
Total for 1997 .....	10	90
1998:		
Reducing the Tax Burden, Jan. 28, Feb. 4, 12 .....	3	37
Revenue Provisions in President's Fiscal Year 1999 Budget, Feb. 25 .....	1	1
Use of an Expert Panel to Design Long-Range Social Security Reform, Apr. 1 .....	1	9
Managing the Public Debt in an Era of Surpluses, June 24 .....	1	5
Saving Social Security, Nov. 19 .....	1	6
Total for 1998 .....	7	58
Total for both sessions .....	17	148

The five subcommittees of the Committee on Ways and Means were also very active in conducting public hearings during the 105th Congress. The following table specifies in detail the number of days and witnesses published by each of the subcommittees.

TABLE 3.—PUBLIC HEARINGS CONDUCTED BY THE SUBCOMMITTEES OF THE COMMITTEE ON WAYS AND MEANS

Subject and date	Number of	
	Days	Wit- nesses
SUBCOMMITTEE ON TRADE		
1997:		
WTO Singapore Ministerial Meeting, Feb. 26 .....	1	17
Budget Authorizations for Fiscal Years 1998 and 1999 for the U.S. Customs Service, the U.S. International Trade Commission, and the Office of the United States Trade Representative, Mar. 11 ..	1	8
Review U.S. Trade Policy Objectives and Initiatives, Mar. 18 .....	1	16
Expanding U.S. Trade with Sub-Saharan Africa, Apr. 29 .....	1	20
Oversight of the U.S. Customs Service, May 15 .....	1	11
U.S.-China Trade Relations and Renewal of China's Most-Favored-Nation Status, June 17 .....	1	26
Free Trade Area of the Americas, July 22 .....	1	16
New Transatlantic Agenda, July 23 .....	1	8
President's Comprehensive Review of the NAFTA, Sept. 11 .....	1	26
Implementation of Fast Track Trade Authority, Sept. 30 .....	1	17
Use and Effect of Unilateral Trade Sanctions, Oct. 23 .....	1	14
Future of United States-China Trade Relations and the Possible Accession of China to the World Trade Organization, Nov. 4 .....	1	16
1998:		
U.S. Efforts to Reduce Barriers to Trade in Agriculture, Feb. 12 .....	1	11
Asia Trade Issues, Feb. 24 .....	1	11
Free Trade Area of the Americas, Mar. 31 .....	1	9
U.S. Customs Service Issues, Apr. 30 .....	1	12
U.S. Economic and Trade Policy Toward Cuba, May 7 .....	1	20
U.S.-China Trade Relations and Renewal of China's Most-Favored-Nation Status, June 17 .....	1	18
U.S.-Vietnam Trade Relations, June 18 .....	1	20
United States-Japan Trade Relations, July 15 .....	1	11
Trade Relations with Europe and the New Transatlantic Economic Partnership, July 28 .....	1	11
Total .....	21	318
SUBCOMMITTEE ON OVERSIGHT		
1997:		
Annual Report of the Internal Revenue Service Taxpayer Advocate, Feb. 25 .....	1	6
"High-Risk" Programs Within the Jurisdiction of the Committee on Ways and Means, Mar. 4 .....	1	7
IRS Budget for Fiscal Year 1998 and the 1997 Tax Return Filing Season, Mar. 18 .....	1	5
Electronic Federal Tax Payment System, Apr. 16 .....	1	14
Low-Income Housing Tax Credit, Apr. 23, May 1 .....	2	19
Report of the National Commission on Restructuring the Internal Revenue Service, July 24 .....	1	9
Recommendations of the National Commission on Restructuring the IRS to Expand Electronic Filing of Tax Returns, Sept. 9 .....	1	9
Recommendations of the National Commission on Restructuring the Internal Revenue Service on Taxpayer Protections and Rights, Sept. 26 .....	1	13
Performance of the Empowerment Zone/Enterprise Community Program, Oct. 28 .....	1	15
1998:		
Annual Report of the Internal Revenue Service Taxpayer Advocate, Feb. 3 .....	1	7
Treasury Department Report on Innocent Spouse Relief, Feb. 24 .....	1	2
Oversight of Pension Issues, Mar. 10 .....	1	8
1998 Tax Return Filing Season and the IRS Budget for Fiscal Year 1999, Mar. 31 .....	1	4
Oversight of Tax Law Related to Health Insurance, Apr. 23 .....	1	6
Oversight of Pension Issues, May 5 .....	1	15
Year 2000 Computer Problem, May 7 .....	1	14
Year 2000 Problem and Telecommunication Systems, June 16 .....	1	8
Impact of Complexity in the Tax Code on Individual Taxpayers and Small Businesses, June 23 .....	1	6
Funding Mechanisms of the "E-Rate" Program, Aug. 4 .....	1	5
Total .....	20	172
SUBCOMMITTEE ON HEALTH		
1997:		
Medicare Provisions in the President's Budget, Feb. 13 .....	1	4
Medicare HMO Payment Policies, Feb. 25 .....	1	8

TABLE 3.—PUBLIC HEARINGS CONDUCTED BY THE SUBCOMMITTEES OF THE COMMITTEE ON WAYS AND MEANS—Continued

Subject and date	Number of	
	Days	Wit- nesses
Medicare Home Health Care, Skilled Nursing Facility, and Other Post-Acute Care Payment Policies, Mar. 4 .....	1	6
Medicare HMO Regulation and Quality, Mar. 6 .....	1	8
Teaching Hospitals and Medicare Disproportionate Share Hospital Payments, Mar. 11 .....	1	7
H.R. 15, the "Medicare Preventive Benefit Improvement Act of 1997," Mar. 13 .....	1	13
Recommendations Regarding Medicare Hospital and Physician Payment Policies, Mar. 20 .....	1	9
Children's Access to Health Coverage, Apr. 8 .....	1	6
Rehabilitation and Long-Term Care Hospitals Payments, Apr. 10 .....	1	7
Issues Relating to Medicare's Coverage Policy, Apr. 17 .....	1	7
Medicare Provider-Sponsored Organizations, Apr. 24 .....	1	6
Coordinated Care Options for Seniors, Apr. 29 .....	1	6
Inspector General Audit of Health Care Financing Administration Financial Statements, July 17 .....	1	2
Implementation of the Health Insurance Portability and Accountability Act, Sept. 25 .....	1	9
Health Care Waste, Fraud, and Abuse, Oct. 9 .....	1	5
1998:		
Preparing the Health Care Financing Administration for the 21st Century, Jan. 29 .....	1	5
Assessing Health Care Quality, Feb. 26 .....	1	9
Reports Regarding Medicare Payment Policies, Mar. 3 .....	1	6
Patient Confidentiality, Mar. 24 .....	1	6
Patient Appeals in Health Care, Apr. 23 .....	1	6
Administration's Plan to Delay Implementation of the Balanced Budget Act of 1997, July 16 .....	1	9
Payment Systems for Medicare's Home Health Benefit, Aug. 6 .....	1	9
Total .....	22	153
SUBCOMMITTEE ON SOCIAL SECURITY		
1997:		
"The Future of Social Security for this Generation and the Next": 1994–1996 Advisory Council on Social Security, Mar. 6 .....	1	3
Establishing a Framework for Evaluating Options for Social Security Reform, Apr. 10 .....	1	6
Oversight of the Disability Appeals Process, Apr. 24 .....	1	7
Social Security Administration's Website, May 6 .....	1	7
"The Future of Social Security for this Generation and the Next": Findings of the 1997 Annual Report of the Board of Trustees and Different Generational Perspectives on Social Security Reform, May 22 .....	1	7
"The Future of Social Security for this Generation and the Next": Social Security Policy Experts, June 24 .....	1	6
"The Future of Social Security for this Generation and the Next": Members of Congress and Business and Labor Groups, July 10 .....	1	23
Barriers Preventing Social Security Disability Recipients from Return to Work, July 23, 24 .....	2	21
"The Future of Social Security for this Generation and the Next": Experiences of Other Countries, Sept. 18 .....	1	7
Social Security Administration's Continuing Disability Review Process, Sept. 25 .....	1	2
"The Future of Social Security for this Generation and the Next": Current State of Public Opinion on the Future of Social Security, Oct. 23 .....	1	5
1998:		
"The Future of Social Security for this Generation and the Next": Examining the Implications of Raising the Retirement Age, Feb. 26 .....	1	8
Review the Challenges Facing the New Commissioner of Social Security (held jointly with Subcommittee on Human Resources), Mar. 12 .....	1	4
"Ticket to Work and Self-Sufficiency Act of 1998," Mar. 17 .....	1	11
"The Future of Social Security for this Generation and the Next": Examining the Implications of Proposals Affecting Federal, State, and Local Government Employees, May 21 .....	1	12
"The Future of Social Security for this Generation and the Next": Examining Proposals Regarding Personal Accounts, June 3 .....	1	6
"The Future of Social Security for this Generation and the Next": Examining the Structure of Personal Savings Accounts Within the Social Security System Structure and the Effects Individual-Owned Investments Would have for Retirees, June 18 .....	1	9
Labor-Management Relations at the Social Security Administration, July 22, 23, 24 .....	3	7

TABLE 3.—PUBLIC HEARINGS CONDUCTED BY THE SUBCOMMITTEES OF THE COMMITTEE ON WAYS AND MEANS—Continued

Subject and date	Number of	
	Days	Witnesses
Total .....	21	151
SUBCOMMITTEE ON HUMAN RESOURCES		
1997:		
President's Fiscal Year 1998 Budget, Feb. 13 .....	1	7
Technical Corrections to Welfare Reform Legislation, Feb. 26 .....	1	6
Encouraging Adoption, Feb. 27 .....	1	9
Administration's Child Support Enforcement Incentive Payment Proposal, Mar. 20 .....	1	6
H.R. 867, the "Adoption Promotion Act of 1997," Apr. 8 .....	1	10
Unemployment Insurance Issues, Apr. 24 .....	1	18
Child Support System Improvement, Sept. 10 .....	1	10
Protecting Children From the Impact of Substance Abuse on Families Receiving Welfare, Oct. 28 ..	1	10
1998:		
Modifying Child Support Penalties for Automatic Data Processing, Jan. 29 .....	1	10
Review the Challenges Facing the New Commissioner of Social Security (held jointly with Subcommittee on Social Security), Mar. 12 .....	1	4
Oversight of Welfare Reform, Mar. 19 .....	1	9
Supplemental Security Income Fraud and Abuse, Apr. 21 .....	1	5
Child Support Enforcement, May 19 .....	1	10
Adoption Reunion Registries and Screen of Adults Working with Children, June 11 .....	1	12
Welfare Reform and Child Support Enforcement, June 12 .....	1	8
H.R. 3684, the "Employment Security Financing Act of 1998," June 23 .....	1	8
Fatherhood and Welfare Reform, July 30 .....	1	9
Welfare Reform and Child Support Impacts, Aug. 24 .....	1	13
Implementation of the Interethnic Adoption Amendment, Sept. 15 .....	1	10
Child Protection, Dec. 14 .....	1	12
Total .....	19	170

As the foregoing statistics indicate, during the 105th Congress the full Committee and its five subcommittees held public hearings aggregating a grand total of 120 days, during which time 1,124 witnesses testified. There were three field hearings held by the Human Resources Subcommittee in Phoenix, Arizona; Carson City, Nevada; and Ft. Lauderdale, Florida.

In addition, written comments were printed after having been requested and received by the Subcommittee on Trade on the extension of unconditional most-favored-nation treatment to Mongolia and Laos; miscellaneous corrections to trade legislation and miscellaneous duty suspension bills; two requests for additional miscellaneous trade and tariff legislation; H.R. 4526, a bill which would change Customs rules-of-origin for certain textile products; and extension of normal trade relations to the Kyrgyz Republic; and by the Subcommittee on Oversight on taxpayer rights proposals.

### C. MARKUP SESSIONS

With respect to markup or business sessions during the 105th Congress, the full Committee and its five subcommittees were also very actively engaged. The full Committee held such sessions on 24 working days, usually both morning and afternoon sessions, and the subcommittees an aggregate of 19 working days, making a grand total of 43 working days of markup or business sessions for

the full Committee and its subcommittees during the 105th Congress.

D. NUMBER AND FINAL STATUS OF BILLS REPORTED FROM THE  
COMMITTEE ON WAYS AND MEANS IN THE 105TH CONGRESS

During the 105th Congress, the Committee reported to the House a total of 39 bills, 36 favorably and 3 adversely. Forty-eight bills containing provisions within the purview of the Committee were passed by the House and 21 were enacted into law. It should be noted that this total is not at all indicative of the total number of bills considered by the Committee, because when the Committee goes into session on major tax, tariff, Social Security, health, unemployment compensation, or human resources matters, it very often considers the broad subject rather than certain specific bills, and in the course of consideration of the subject makes every attempt to review all of the pertinent bills pending before the Committee which are encompassed within that subject. Further, it is the practice of the Committee normally to report bills on a major subject which may involve many sections containing subjects included in perhaps as many as several hundred bills pending before the Committee.

**Appendix IV. Chairmen of the Committee on Ways and Means and Membership of the Committee From the 1st Through the 105th Congresses**

A. CHAIRMEN OF THE COMMITTEE ON WAYS AND MEANS, 1789 TO  
PRESENT

Name	State	Party	Term of service
Thomas Fitzsimons .....	Pennsylvania .....	Federalist .....	1789.
William L. Smith .....	South Carolina .....	.....do .....	1794 to 1797.
Robert G. Harper .....	South Carolina .....	.....do .....	1797 to 1800.
Roger Griswold .....	Connecticut .....	.....do .....	1800 to 1801.
John Randolph .....	Virginia .....	Jeffersonian Republican .....	1801 to 1805, 1827.
Joseph Clay .....	Pennsylvania .....	.....do .....	1805 to 1807.
George W. Campbell .....	Tennessee .....	.....do .....	1807 to 1809.
John W. Eppes .....	Virginia .....	.....do .....	1809 to 1811.
Ezekiel Bacon .....	Massachusetts .....	.....do .....	1811 to 1812.
Langdon Cheves .....	South Carolina .....	.....do .....	1812 to 1813.
John W. Eppes .....	Virginia .....	.....do .....	1813 to 1815.
William Lowndes .....	South Carolina .....	.....do .....	1815 to 1818.
Samuel Smith .....	Maryland .....	.....do .....	1818 to 1822.
Louis McLane .....	Delaware .....	.....do .....	1822 to 1827.
George McDuffie .....	South Carolina .....	Democrat .....	1827 to 1832.
Gulian C. Verplanck .....	New York .....	.....do .....	1832 to 1833.
James K. Polk .....	Tennessee .....	.....do .....	1833 to 1835.
C. C. Cambreleng .....	New York .....	.....do .....	1835 to 1839.
John W. Jones .....	Virginia .....	.....do .....	1839 to 1841.
Millard Fillmore .....	New York .....	Whig .....	1841 to 1843.
James Iver McKay .....	North Carolina .....	Democrat .....	1843 to 1847.
Samuel F. Vinton .....	Ohio .....	Whig .....	1847 to 1849.
Thomas H. Bayly .....	Virginia .....	Democrat .....	1849 to 1851.
George S. Houston .....	Alabama .....	.....do .....	1851 to 1855.
Lewis D. Campbell .....	Ohio .....	Republican .....	1855 to 1857.
J. Glancy Jones .....	Pennsylvania .....	Democrat .....	1857 to 1858.
John S. Phelps .....	Missouri .....	.....do .....	1858 to 1859.
John Sherman .....	Ohio .....	Republican .....	1859 to 1861.
Thaddeus Stevens .....	Pennsylvania .....	.....do .....	1861 to 1865.
Justin S. Morrill .....	Vermont .....	Republican .....	1865 to 1867.

Name	State	Party	Term of service
Robert C. Schenck	Ohio	.....do	1867 to 1871.
Samuel D. Hooper	Massachusetts	.....do	1871.
Henry L. Dawes	Massachusetts	.....do	1871 to 1875.
William R. Morrison	Illinois	Democrat	1875 to 1877.
Fernando Wood	New York	.....do	1877 to 1881.
John R. Tucker	Virginia	.....do	1871.
William D. Kelley	Pennsylvania	Republican	1881 to 1883.
William R. Morrison	Illinois	Democrat	1883 to 1887.
Roger Q. Mills	Texas	.....do	1887 to 1889.
William McKinley, Jr.	Ohio	Republican	1889 to 1891.
William M. Springer	Illinois	Democrat	1891 to 1893.
William L. Wilson	West Virginia	.....do	1893 to 1895.
Nelson Dingley, Jr.	Maine	Republican	1895 to 1899.
Serenio E. Payne	New York	.....do	1899 to 1911.
Oscar W. Underwood	Alabama	Democrat	1911 to 1915.
Claude Kitchin	North Carolina	.....do	1915 to 1919.
Joseph W. Fordney	Michigan	Republican	1919 to 1923.
William R. Green	Iowa	.....do	1923 to 1928.
Willis C. Hawley	Oregon	.....do	1929 to 1931.
James W. Collier	Mississippi	Democrat	1931 to 1933.
Robert L. Doughton	North Carolina	.....do	1933 to 1947, 1949 to 1953.
Harold Knutson	Minnesota	Republican	1947 to 1949.
Daniel A. Reed	New York	Republican	1953 to 1955.
Jere Cooper	Tennessee	Democrat	1955 to 1957.
Wilbur D. Mills	Arkansas	.....do	1957 to 1975.
Al Ullman	Oregon	.....do	1975 to 1981.
Dan Rostenkowski	Illinois	.....do	1981 to 1994.
Bill Archer	Texas	Republican	1995.

## B. TABLES SHOWING PAST MEMBERSHIP OF THE COMMITTEE

### 1. MEMBERS OF THE COMMITTEE ON WAYS AND MEANS FROM THE 1ST THROUGH THE 105TH CONGRESS, BY STATE

Alabama:		<i>Congress(es)</i>
John McKinley	.....	23
David Hubbard	.....	26
Dixon H. Lewis	.....	27-28
George S. Houston	.....	29-30, 32-33
James F. Dowdell	.....	35
Hilary A. Herbert	.....	48
Joseph Wheeler	.....	53-55
Oscar W. Underwood	.....	56, 59-63
Ronnie G. Flippo	.....	98-101
Arizona:		
J.D. Hayworth	.....	105-
Arkansas:		
James K. Jones	.....	48
Clifton R. Breckinridge	.....	49-51, 53
William A. Oldfield	.....	64-70
Heartsill Ragon	.....	70-73
William J. Driver	.....	72
Claude A. Fuller	.....	73-75
Wilbur D. Mills	.....	77-94
Jim Guy Tucker, Jr.	.....	95
Beryl Anthony, Jr.	.....	97-102
California:		
Joseph McKenna	.....	51-52
Victor H. Metcalf	.....	57-58
James C. Needham	.....	58-62
William E. Evans	.....	73
Frank H. Buck	.....	74-77
Bertrand W. Gearhart	.....	76-80
Cecil R. King	.....	78-79, 81-90

	<i>Congress(es)</i>
James B. Utt .....	83, 86-91
James C. Corman .....	90-96
Jerry L. Pettis .....	91-94
William M. Ketchum .....	94-95
Fortney Pete Stark .....	94-
John H. Rousselot .....	95-97
Robert T. Matsui .....	97-
William M. Thomas .....	98-
Wally Herger .....	103-
Xavier Becerra .....	105-
Colorado:	
Robert W. Bonyng .....	60
Charles B. Timberlake .....	66-72
John A. Carroll .....	81
Donald G. Brotzman .....	92-93
George H. "Hank" Brown .....	100-101
Connecticut:	
Jeremiah Wadsworth .....	1
Uriah Tracy .....	3
James Hillhouse .....	4
Nathaniel Smith .....	4-5
Joshua Coit .....	5
Roger Griswold .....	5-8
John Davenport .....	8
Jonathan O. Moseley .....	9, 14, 16
Benjamin Tallmadge .....	10-11
Timothy Pitkin .....	12-13, 15
Ralph I. Ingersoll .....	21-22
Samuel D. Hubbard .....	30
James Phelps .....	45-46
Charles A. Russell .....	54-57
Ebenezer J. Hill .....	58-62, 64-65
John Q. Tilson .....	66-68
Antoni N. Sadlak .....	83-85
William R. Cotter .....	94-97
Barbara B. Kennelly .....	98-105
Nancy L. Johnson .....	101-
Delaware:	
John Vining .....	1
Henry Latimer .....	3
John Patten .....	4
James A. Bayard, Sr. ....	5, 7
Caesar A. Rodney .....	8
Louis McLane .....	16-19
Florida:	
A. S. Herlong, Jr. ....	84-90
Sam M. Gibbons .....	91-104
L. A. (Skip) Bafalis .....	94-97
E. Clay Shaw, Jr. ....	100-
Karen L. Thurman .....	105-
Georgia:	
James Jackson .....	1
Abraham Baldwin .....	3-5
Benjamin Taliaferro .....	6
John Milledge .....	7
David Meriwether .....	8-9
William W. Bibb .....	12-13
Joel Abbott .....	15
Joel Crawford .....	15-16
Wiley Thompson .....	17-18
George R. Gilmer .....	20
Richard H. Wilde .....	22-23
George W. Owens .....	24-25
Charles E. Haynes .....	25
Mark A. Cooper .....	26
Absalom H. Chappell .....	28
Seaborn Jones .....	29

	<i>Congress(es)</i>
Robert Toombs .....	30–31
Alexander H. Stephens .....	30–31, 33
Marshall J. Wellborn .....	31
Howell Cobb .....	34
Martin J. Crawford .....	35–36
Benjamin H. Hill .....	44
Henry R. Harris .....	45, 49
William H. Felton .....	46
Emory Speer .....	47
James H. Blount .....	48
Henry G. Turner .....	50–54
Charles F. Crisp .....	54
James M. Griggs .....	60–61
William G. Brantley .....	61–62
Charles R. Crisp .....	64–72
Albert S. Camp .....	78–83
Phillip M. Landrum .....	89–94
Ed Jenkins .....	95–102
Wyche Fowler, Jr. ....	96–99
John Lewis .....	103–
Mac Collins .....	104–
Hawaii:	
Cecil (Cec) Heftel .....	96–99
Illinois:	
Daniel P. Cook .....	19
John A. McClernand .....	37
John Wentworth .....	39
John A. Logan .....	40
Samuel S. Marshall .....	41
Horatio C. Burchard .....	42–45
William R. Morrison .....	44, 46–49
William M. Springer .....	52
Albert J. Hopkins .....	52–57
Henry S. Boutell .....	58–61
Henry T. Rainey .....	62–66, 68–72
John A. Sterling .....	65
Ira C. Copley .....	66–67
Carl R. Chindblom .....	68–72
Chester C. Thompson .....	74–75
Raymond S. McKeough .....	76–77
Charles S. Dewey .....	78
Thomas J. O'Brien .....	79, 81–88
Noah M. Mason .....	80–87
Harold R. Collier .....	88–93
Dan Rostenkowski .....	88–103
Abner J. Mikva .....	94–96
Philip M. Crane .....	94–
Marty Russo .....	96–102
Mel Reynolds .....	103
Jerry Weller .....	105–
Indiana:	
David Wallace .....	27
Cyrus L. Dunham .....	32
William E. Niblack .....	40, 43
Godlove S. Orth .....	41
Michael C. Kerr .....	42
Thomas M. Browne .....	48–50
William D. Bynum .....	50, 53
Benjamin F. Shively .....	52
George W. Steele .....	54–57
James E. Watson .....	58–60
Edgar D. Crumpacker .....	60–61
Lincoln Dixon .....	62–65
Harry C. Canfield .....	71–72
John W. Boehne, Jr. ....	73–77
Robert A. Grant .....	80
Andy Jacobs, Jr. ....	94–104

	<i>Congress(es)</i>
Iowa:	
John A. Kasson .....	38, 43, 47–48
William B. Allison .....	39–41
John H. Gear .....	51, 53
Jonathan P. Dolliver .....	54–56
William R. Green .....	63–70
C. William Ramseyer .....	70–71
Otha D. Wearin .....	75
Lloyd Thurston .....	75
Thomas E. Martin .....	80–83
Fred Grandy .....	102–103
Jim Nussle .....	104–
Kansas:	
Dudley C. Haskell .....	47
Chester I. Long .....	56–57
Charles Curtis .....	58–59
William A. Calderhead .....	60–61
Victor Murdock .....	63
Guy T. Helvering .....	64–65
Frank Carlson .....	76–79
Martha E. Keys .....	94–95
Kentucky:	
Alexander D. Orr .....	3
Christopher Greenup .....	4
Thomas T. Davis .....	5
John Boyle .....	8
Richard M. Johnson .....	11–12
Thomas Montgomery .....	13
David Trimble .....	15–16
Nathan Gaither .....	22
John Pope .....	25
Thomas F. Marshall .....	27
Garrett Davis .....	28
Charles S. Morehead .....	30–31
John C. Breckinridge .....	33
Robert Mallory .....	38
James B. Beck .....	42–43
Henry Watterson .....	44
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<sup>6</sup> Appointed January 25, 1996.

<sup>7</sup> Appointed July 10, 1995.

## 2. COMMITTEE MEMBERSHIP, 105TH CONGRESS

## COMMITTEE ON WAYS AND MEANS

One Hundred Fifth Congress

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