INTERSTATE & FOREIGN COMMERCE

OVERSIGHT & INVESTIGATIONS SUBCOMMITTEE -- ECONOMIC PROPOSALS

SYNOPSIS OF PRELIMINARY REPORT:

General Notes: 12-page report--Divided into 2 major areas--Current Economic Problems and Proposed Policies--Goes in-depth into 6 policy areas--WHIPPING INFLATION: SELECTIVE AND RESPONSIBLE PRICE AND WAGE CONTROLS; NON-INFLATIONARY ENERGY POLICIES; MORE ANTI-TRUST PROSECUTION: NEW ANTI-CONCENTRATION LAWS; REGULATORY REFORM: LESS TIGHT MONETARY POLICY, TIGHTER FISCAL POLICY.

1) CURRENT ECONOMIC PROBLEMS--Makes case against economic policies of Ford Administration which are "designed to help those least in need of help and to punish those most in need of protection...design public laws for private purposes."

A) THE FACTS--(Effects of Administration's recessionary policies.) In attempts to whip inflation Ford Administration relied on recessionary policies--high unemployment and tight monetary policies. (Unemployment reached 9.2% in May '75 when current recession finally bottomed out.) These policies did nothing for jobless and have forced already depressed housing industry to further nosedive--with interest rates rising, unemployment in construction was 19.2% in September. Policies also generated rash of business failures and bankruptcy rate still high. (During 1st 9 months of '75, inflation increased at annual rate of 8%, causing a further erosion of purchasing power.) (1st 6 months of '75, industrial prices rose 2.5% while fuel and power prices escalated at rate of 9.4%.) In short, Administration's answer to energy price inflation is still higher prices even though this would probably induce double-digit inflation. Administration's policies can't stop the price spiraling inherent in non-"free" market structure. (In non-"free" markets, a price hike will set off other price increases, then wages will be adjusted upwards igniting another round of price increases--in a free market, a recession will induce a producer to lower price of product. There is evi-ence that as demand has fallen during this recession, strong corporations have tried to maintain profits by raising prices. Gives effects of stagflation and explains Administration's proposal for reducing deficit and effects such policy would have.

2) PROPOSED CONGRESSIONAL ECONOMIC POLICIES--The most effective way of achieving goals of full employment, rising purchasing power, and stability would be selective price and wage controls; stable energy prices; regulatory reform promoting competition and helping small businesses; enforce anti-trust laws; enact pro-competitive, anti-concentration laws; tight fiscal policy coupled with spending priorities; and progressive tax reform.

A) WHIPPING INFLATION: SELECTIVE AND RESPONSIBLE PRICE AND WAGE CONTROLS--Controls would apply only to sectors of economy in which supply and demand are not substantial determinants of prices and wages or in which prices and wages are set relative to each other--Agricultural sector, small business, and much of the retail and service sectors would be exempt from controls. Review prices and wages by anti-inflation board composed of 5 members nominated by President and confirmed by Senate. Goes into functions of members and what sector they would represent. Each would serve 3-year term. Analyzes authority board would have--in limiting inflationary increases, freeze prices and wages or specify limits which average prices and wages could fluctuate--also have enforcement authority. (After reviewing prices and wages in non-exempt sectors, board would single out for selective controls those which have contributed significantly to wholesale and consumer inflationary price increases--Review prices in relation to normal profits, costs--both actual and anticipated decreases due to board action, and capital requirements for expanding supply, among other criteria.) Selective controls applied only to limited sectors and be tailored to peculiarities of each non-"free" market--not interfering with free markets--would also envision flexibility by specifying fluctuating ranges, thereby minimizing misallocations.

B) NON-INFLATIONARY ENERGY PRICES--Need to be brought under rational management--delegating the review of energy prices to the independent board would provide for more rational consideration from the perspective of the entire economy. (Domestic supply and demand forces have been rendered inoperative by the inflated crude oil prices set by OPEC cartel. Currently, economy is paying excessively for imports and the '74-'75 windfall profits have not generated new domestic supplies sufficient to bid energy prices down.

C) MORE ANTITRUST PROSECUTION; NEW ANTI-CONCENTRATION LAWS--(Detailed discussion) Selective controls are necessary but insufficient along to realize long-run stability--marketplace must be substantially free of fixed pricing rules adhered to buy strong corporations. Distinguishes between bigness and market power--says bigness is not necessarily bad. Setting prices by (some specified) methods requires market strength, not just bigness. Economy is characterized by some very competitive markets and some very concentrated markets. Need to examine those market areas marked by strong concentration to determine whether or not antitrust action is warranted. Weaknesses of present antitrust laws relate to their inability to adapt to changing economic conditions. Gives background on Sherman Act of 1890 enacted to address problems of conspiracies in restraint of trade as well as large overpowering "trusts" such as the Standard Oil Trust of that era. Says Act fails to address oligopolies--the most important structural imperfection of the American economy. (Oligopolists tend to set prices well above the price that would exist if more firms were engaged in that market. According to economists, these artificially high prices are set by tacit not overt agreements.) Explains Clayton Act as amended in 1950--precludes the acquisition may be substantially to lessen competition, or tend to create a monopoly." (The sweep of this provision unassociated with a clear Congressional statement about the impact of market power--particularly oligopoly power--no competition has stalled this legislative vehicle.) Final problem, unrelated to the substantive provision of our antitrust laws is the lack of resources devoted to antitrust enforcement.

+ + + +(1) REFORM OF OUR ANTITRUST SYSTEM WOULD TAKE THE FOLLOWING FORM:

a) Market power alone should yield a presumptive finding of violation of the antitrust laws.

b) To guide Federal agencies and courts, this rebutable presumption should be triggered by legislatively-mandated definitions of anticompetitive market share. The initial legislative thrust should employ the economist's definition of oligopoly, four or fewer firms controlling 50% of more of a relevant market.

c) The importance of potential competitors should be recognized legislatively.

d) Antitrust enforcement agencies should be substantially strengthened.

D) REGULATORY REFORM--Consider reduced Federal regulation with respect to price-regulating agencies like CAB and ICC, which have sometimes kept fares and rates artificially high and imposed unnecessary barriers to entry.

E) LESS TIGHT MONETARY POLICY--As inflation is checked by selective wage and price controls and increased competition, Congress should insure that Federal Reserve Board implement more selective monetary policies rather than penalize all borrowers for the excesses of few. Example--if excessive expansion of bank loans is overriding problem, then the Federal Reserve could impose limits on bank loans as opposed to limiting all loans by raising interest rates.

F) TIGHTER FISCAL POLICY--In proposing a tighter fiscal policy, Congress must not be callous to victims of inflation and recessionary policies--relief by fiscal policies can be provided without increasing all Federal expenditures. Preference for directly financed employment, such as public works employment, as opposed to using the entire budget to stimulate the economy since general fiscal action has a predictable inflationary effect. Congress should also propose tax relief for low and middle-income families. Loss of these revenues could be compensated by instituting progressive tax reforms and eliminating tax loopholes for corporations and wealthy individuals. Tax measures could be implemented to encourage greater savings which also would boost capital formation. Balancing Federal budget alone would not be sufficient to transform economic reality into economic goals.

The panoply of economic policies proposed herein are designed to deal with current economic problems--high unemployment, high interest rates, decreasing purchasing power, larger Federal deficits--brought about in large party by destabilizing Administration economic policies and destabilizing centers of private market power.

INTERSTATE & FOREIGN COMMERCE

OVERSIGHT AND INVESTIGATIONS SUBCOMMITTEE -- REGULATORY AGENCIES

SYNOPSIS OF PRELIMINARY REPORT:

General Notes: 7-page report--gives general idea of shortcomings of regulatory agencies & 7 areas of further study and possible legislation--general conclusion of legislative reform areas.

TWO TYPES OF REGULATION
1) economic regulation wherein price is set by an agency and health;
2) safety or consumer protection regulation

FLAWS IN PRESENT SYSTEM
- Some areas of economic regulation serve only to shelter industries from effect of competition--therefore raise prices.
- In health, safety, consumer and certain economic areas, regulation inadequate to protect public interest properly.

REASONS FOR SHORTCOMINGS OF REGULATORY AGENCIES
1) inadeauate enforcement powers and staff resources
2) lack of access to industry data
3) excessive influence by regulated industries upon regulatory agencies

FURTHER STUDY AND POSSIBLE LEGISLATION
1) Quality and Selection of Regulators--many appointees employed because of political connections--senior staff and regulators have been previously employed by industry which they are charged with regulating with intentions of returning to that industry at future date--presents conflict of interest.
2) Execessive Delays--Procedural roadblocks--allow industry gain maximum advantage from delay & provide incentive to further delay. Complicated procedures--limited funds and personnel to present effective alternative to industry's position.
3) Access to Data--Access to basic corporate data free from any self-serving interpretations--attempts to gather info. in past met with "fierce opposition" by business & resulted in long delays through extensive litigation by industry.
4) Citizen Participation--Little citizen input now--disseminate understandable information to public--need Agency for Consumer Advocacy--Act as consumer advocate before regulatory agencies and courts--having no more power in proceedings than business already has. (FTC and consumer Product Safety Commission only ones who have adequate provision for consumer participation in regulatory proceedings)
5) Enforcement Authority--Give agencies authority to prosecute their own civil cases--Justice Department resisted attempts of independent commissions to control own litigation but force agencies work through JD for both crimunal & civil matters --leaves too much room for political interference & unreasonable delays.
6) Insulation Against Industry Pressures--(regarding pending decisions)--pressure generated in off-the-record communications which no response can be made because no public knowledge of contacts. Staff members or commissioners who want employment in regulated industry--pressure may affect ability to objectively decide issues--Require records of contacts & public access to records to shield staff from pressure & improper communications.

7) Accountability to Congress--Lack of accountability to Congress by agencies--oversight insuring intent of Congress being carried out--develop new mechanisms for oversight or affirm intention use existing mechanisms more effectively.

LEGISLATIVE REFORM AREAS

1) Legislation encouraging election of higher quality regulators by increasing public input into process--Presidential pre-selection stage.

2) Legislation streamlining regulatory process & reduce delay by making procedures less complicated.

3) Legislation giving more authority to collect data in area where information is vital.

4) Legislation increasing citizen & consumer input into regulatory process by making more understandable and mandating agency commitment to seek such input.

5) Legislation which would effectively insulate regulators against improper industry pressures.

6) Legislation which would increase accountability of agencies to Congress by providing more structured mechanisms for Congressional oversight and better flow of information to Congress.

INTERSTATE & FOREIGN COMMERCE

OVERSIGNT & INVESTIGATIONS SUBCOMMITTEE -- HEALTH

SYNOPSIS OF PRELIMINARY REPORT:

General Notes: 5-page report -- divided into 2 sections -- National Health Insurance Legislation & Inadequacy of Present Legislation.

Elements of National Health Insurance Program

1) Proposed National Health Insurance --"...should be considered a right not a privilege" Government share of expenditures is now 38% of total. During 13 months following removal of controls (didn't say when), hospital service charges rose by 16.2% and physicians fees by 13.2%.

a) Prospective Reimbursement System -- participating institutions -- budgeting set in advance -- institutional incentive to save money -- institution not expect expenses over & above budget automatically reimbursed.

b) Program reimbursement based on actual costs & not charges. "Charges reimbursement scheme." Allows physicians to determine rates for given procedure leading to astronomical income return.

c) Prospective reimbursement system must reimburse on uniform, independently derived cost criteria -- change current system of historical costs & charges. Example -- surgeons charging large fees not allowed to continue under Federal reimbursement.

d) Authority for reviewing & imposing prospective rates must rest with Federal Government -- Task undertaken at state level if Federal standards & safeguards.

e) Require physicians to treat poor patients (in nursing homes & hospitals.) Report says majority of physicians won't treat Medicaid patients while accepting good parts of Federal reimbursement programs. Example -- utilize all Federally reimbursed equipment & capital that goes into facilities in nursing homes & hospitals.

f) Fee-for service system inflationary -- provides incentives, particularly in surgery, for unwarranted treatment.

g) "Quality Control" -- Estimated that over $1 billion Federal dollars expended past year on marginal, questionable, and totally unnecessary surgical procedures.

h) Public accountability -- Must be strong planning & data to relate hospital construction to demonstrated need, handle institutionalization, & cut down on duplicative and substandard services. Emphasizes NHI won't pay for services that don't meet acceptable standards. Restrictions on providers -- hospitals and physicians -- who try to recover funds for unnecessary procedures from consumers.

2) Shortcomings in Present Health Legislation

Oversight Responsibility -- 1) Development of regulations by appropriate agency impementing such legislative intent; 2) proper execution & enforcement of statute; 3) prosecution of cases that need such attention.

Specific Health Areas

a) Health Services -- Medicaid program inadequate -- not monitored in way intended. Oversight subcommittee appealed to White House -- also hope action by HEW -- so far nothing done with suggestions.

Cites series of hearings on costs & quality of care for surgery. Criticizes HEW for not containing costs properly, not insuring quality in way Congress intended & not providing sufficient data to judge merits of program.

Report states that maladministration by HEW cost taxpayer over $1 billion a year & causing several thousand unnecessary deaths.

b) Health & Safety Protection -- Food & Drug Administration slow implementation of regulations & administrative procedures protecting safety of consumers under Food, Drug, & Cosmetic Act.

c) Health Quality -- Federal Government spending millions on care -- not high quality. Oversight on utilization review & control -- provisions of Medicare and Medicaid laws & forthcoming PSRO's. HEW "totally reluctant" to insure quality provisions mandated by statutes.

d) Health Research -- Shift funds into basic research -- eliminate & control major diseases.

INTERSTATE & FOREIGN COMMERCE

OVERSIGHT & INVESTIGATIONS SUBCOMMITTEE -- CONSUMER PROTECTION

SYNOPSIS OF PRELIMINARY REPORT:

General Notes: 10-page report--divided into 3 parts--introduction, specific legislation recommended, and regulatory agencies. Future legislative emphasis on No-Fault Insurance and Toxic Substances--not much detail.

1. INTRODUCTION: divides legislation into 3 categories--(a) safety or reform of tort system; (b) improvement of regulatory agencies; (c) access to forums balancing conflicting interests.

   Mentions past achievements--Consumer Product Safety Act, Moss-Magnuson Warranties & Guarantees Act (makes warranties less confusing).

   Expand provisions of CPSA--independence & openness; self-representation authority given to FTC in FTC Improvements Act should be mandated for all regulatory agencies. Guarantee consumers access to public participation in process.

2. SPECIFIC LEGISLATIVE RECOMMENDATIONS:

   (a) No-Fault Auto Insurance--tort liability system now too expensive and inequitable-passage would mean reduction in average bodily injury premium 9.3% or 10% according to State Farm & All-State Insurance Companies--also offers option of recovery within few days--also all would receive benefits if suffered damage.

   (b) Toxic Substances--Product safety--regulation of Toxic Substances.

   (c) Advertising standards for health & life insurance(S.2065--Sen.Hart)helps consumers evaluate different policies.

3. CHANGES IN LAW TO STRENGTHEN REGULATORY AGENCIES:

   (a) Authority to litigate own cases independent of Justice Department.

   (b) Strict conflict-of-interest standards.

   (c) Eliminate political control of regulatory process by White House & Office of Management & Budget.

   (d) Greater involvement by Congress in selecting appointees.

4. CONSUMER ACCESS TO FORUMS:

   ACA has no regulatory power--acts as consumer advocate before regulatory agencies and courts. Could intervene in formal & informal proceedings before agencies. Could get internal information from business through court enforced questionaires and discovery proceedings. Would give consumers same power in regulatory proceedings as business.

5. ACCESS TO COURTS

   (a) Small Claims Court Legislation--Legislative extension of concept & consumer education of benefits.

   (b) Attorney's Fees for Suits in Public Interest--Democratic Party insure courts grant fees--Report says Burger Courts limited in recent cases recompense for litigation. Says this should be a high priority in 1976.

   (c) Class Actions--Criticizes Burger Court again for stifling development of class action suits.

6) SPECIFIC LEGISLATIVE ACTION:

a) Amendment of law allowing courts to aggregate claims to meet $10,000 "claim or controversy" jurisdictional threshold.

b) Legitimize pre-trial orders imposing part of cost of notice to class in cases which plaintiff likely to prevail on merits.

c) Consistent with Constitution--reform requirements of notice to members of plaintiff class so notice by publication be enough if enough members of class receive personal notice.

d) Reform remedial provisions of Federal Code--legality of price rollback by defendant be substituted for difficult payments to injured consumers.

7) ACCESS TO MARKET PLACE

a) Consumer Product Testing Legislation--(H.R. 10177) pending in House and Senate--provide information on product performance to consumers at point of sale, prior to sale.

b) Access to Corporate Decision Making--Public participation in decisions which have public impact. "Public director concept" directors have access to all books and records of company & be supported with staff to make effective participation possible.

INTERSTATE & FOREIGN COMMERCE

OVERSIGNT AND INVESTIGATIONS SUBCOMMITTEE -- ENERGY

SYNOPSIS OF PRELIMINARY REPORT:

General Notes: 4-page report--generally written with some documentation and footnotes. Builds up argument at end--quotes outside sources throughout--then gives position.

Basic Thesis: "Deregulation of the price of interstate natural gas will result in consumers having to pay billions of dollars more for essentially the same amount of gas."

SOME OF THE FACTS:

- FEA projects U.S. network of interstate pipelines will be short 1.3 trillion cubic feet of natural gas needed this winter--long-term estimate -- 29% decline in proved reserves in lower 48 states.
- Administration says shortage of gas because of "unrealistically low prices" which FPC has set for new natural gas sold in interstate commerce.
- Current price--52 cents per thousand cubit feet--250% higher than 16.5% to 20 cents ceiling set by FPC in 1969. 52 cents per MCF provides producers what FPC describes as a 15% "generous rate of return."
- FPC says "this rate of return compares favorably with returns earned by other extractive industries, utility companies, industrial concerns, and overall earnings of large integrated producers."
- So FPC said found 15% rate sufficient to attract new capital to natural gas exploration and development for interstate market.
- In setting 52 cent ceiling, FPC also authorized producers to petition the FPC for higher prices to cover deep drilling expenses.

BACKGROUND INFORMATION

Report states--FPC's 52 cents per MCF rate for gas will fail to generate enough supplies until Congress convinces gas industry it won't be "panicked into abandoning regulation." Says producers can't be expected to maximize exploration and production at 52 cents in expectation of $2.25 windfall price for new natural gas if decontrol.

Says '71 ceiling of 26 cents failed and "did not elicit promised gas." FPC established 26 cent price for new gas produced in Southern Louisiana. Documents Haskell P. Wald, Chief Economist at FPC as saying '71 ceiling failed because of "damaging effects of public pronouncements by government officials that FPC regulation of gas producers was unworkable and should be abandoned."

RECOMMENDATION: Continued price regulation of natural gas.

Analogized need with'50 when Truman vetoed bill to end Federal regulation of natural gas "well-head" prices in citing need for continued Federal regulation--preventing "unreasonable and excessive prices" giving "large windfall profits to gas producers at the expense of consumers."

Says Truman recognized that little reason to believe unregulated natural gas prices will lead to significant increase in production--limited effort of price on energy production.

Price of new oil increased 3-fold in '74 yet production continues to decline--700,000 barrels per day lower than it was in '73.

Says deregulation of price won't put more gas in ground but will result in more gas being left in the ground.