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WITHDRAWAL SHEET

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ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
252118	PAPER	DRAFT AMENDMENT - TITLE XI: EMERGENCY FEDERAL FINANCING, (P. 3, 4), PARTIAL, P.7 WHOLE	7	1/19/1984	B1

The above documents were not referred for declassification review at time of processing

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]
B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
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B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

TAB C

E-1

Outline of Controls on Prices, Wages, Salaries and Rents; Rationing of Consumer Goods; Controls on Credit; and Emergency Banking Measures For Possible Use in the Event of a National Emergency

I. Direct Controls

A. Prices, Wages and Salaries, and Rents

1. Presidential order

a. General freeze on all prices, wages and salaries, and rents.

b. Prescribe levels of wages and salaries to be paid personnel involved in public works.

c. Prescribe levels for all prices, wages and salaries and rents.

2. Economic Stabilization Agency

a. Authority to impose general freezes on prices wages and salaries, and rents.

b. Establish policies for determining appropriate levels of prices, wages and salaries, and rents.

c. Establish policies and procedures to settle labor disputes.

B. Rationing of Consumer Goods

1. Presidential order - establish consumer rationing of such commodities as he deems appropriate for the national defense.

2. Economic Stabilization Agency.

a. Establish policies for the rationing of consumer goods and expanding the supply of materials needed for national defense.

b. Ensure communication and cooperation between those agencies and officials responsible for procuring goods, materials, and other resources necessary for economic stabilization.

C. Credit Controls

1. Presidential order

a. Prescribe the maximum amount of credit which may be extended on loans.

b. Prescribe the maximum rate of interest, maximum maturity/minimum periodic payments or other specifications and conditions of the extension of credit.

c. Prohibit or limit any extensions of credit.

2. Delegation of authority to Federal Reserve Board.

II. Emergency Banking Measures

A. Monetary Policy - Federal Reserve Board

1. Imposition of special reserve requirements.

2. Imposition of selective credit controls.

B. Banking Measures

1. Imposition of banking practices to ensure that currency needs are met.

2. Imposition of bank holidays.

3. Limit cash withdrawals.

4. Establish credit standards.

5. Maintain emergency facilities.

6. Stockpile Currency.

7. Establish alternative check clearing capabilities.

8. Establish emergency engraving and minting facilities.

E-2

Outline of Foreign Trade Controls for Possible Use During a National Emergency

I. Price-oriented measures

A. Quoted price:

1. Direct price controls
2. International price-control compensation/countervalence
3. Anti-trust price-fixing exemptions

B. Effective price:

1. Tariff, border-tax manipulations
2. Exchange-budgets, auctions, etc.
3. International financial-organization exchange-Market policy

II. Quantity-oriented measures

A. Embargo

B. Buy-American regulations and/or propaganda

C. Preemptive purchases and sales

D. Buffer stock manipulation and posture (including privately held stocks)

III. Infrastructure and services-oriented measures (overall effective trade costs)

A. Finance

1. Export and import credit subsidies
2. International financial data-flow measures

B. Services

Maritime insurance controls and subsidies

C. Transportation

1. Maritime capacity subsidies (including labor)
2. Bottomage regulations
3. Flag-of-convenience regulations
4. Port-clearance, customs, and exchange procedures
5. Bunkerage leverage
6. Military port and line-of-communication defense

IV. <u>Measures affecting location of capacity and legal control (direction of trade and profit flows)</u>

A. Capacity subsidies and controls

B. Technology subsidies and controls

C. Understandings with international actors

D. Alien and alien-asset controls

E. Havens for refugee corporations

E-3

Outline of the Finance Measures that Could Be Used During a National Emergency

I. Fiscal Policies

A. Emergency appropriations for public spending.

B. Emergency tax measures.

1. Income
2. Surcharge
3. Wage Taxes
4. Business Activities Tax
5. Sales Taxes
6. Property Taxes

C. Federal agency borrowing authority.

D. Special borrowing authority by Treasury.

E. Deferral of expenditures.

F. Loan guarantees.

G. Forced Savings.

II. Monetary Policies

1. Federal Reserve/U.S. debt purchases.
2. Bank/U.S. debt purchases.
3. Removal or imposition of certain reserve requirements.
4. Selective credit controls.
5. Stabilization of international exchange.

TAB D

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I.

POLICY OPTIONS FOR CONTROLS ON PRICES, WAGES, SALARIES, AND RENTS; RATIONING OF CONSUMER GOODS; CONTROLS ON CREDIT; AND EMERGENCY BANKING MEASURES FOR POSSIBLE USE IN THE EVENT OF A NATIONAL EMERGENCY

Introduction

The individual policy options listed below are not all clear "options" in the sense of being clearly disjoined from each other. Monetary and fiscal measures are used in peacetime and surely would be used as stabilization measures in a national emergency. Whether or not direct measures would be appropriate would be a Presidential decision and would be dependent on the conditions existing at the time of the emergency. If used, direct measures, such as wage and price controls or consumer rationing would be supplemented by emergency monetary and fiscal measures which should enhance overall stabilization and permit a smoother transition to decontrol. Some strengths and weaknesses inherent in each measure are cited:

A. Price, Wage, Salary, and Rent Control; Consumer Rationing

Advantages:

1. Emergency price and wage controls may enhance production by stabilizing expectations, and eliminating forward buying for speculation. Controls may have the short-term merit of preventing inflation and protecting purchasing power.

2. Controls such as consumer rationing may prevent starvation, and other extreme human suffering by assuring minimal quantities of essentials to all consumers irrespective of ability to pay.

3. If controls are not imposed, wartime inflation may impede necessary production of essentials, destroy incentives and become permanently embedded in the country's wage-price structure.

Disadvantages:

1. Price and wage controls cause distortions in the economy because the

price mechanism is not allowed to operate freely to reallocate resources to critical areas.

2. Inposition and enforcement of direct controls in the past have required a large administrative apparatus. E.g. 60,000 paid personnel in World War II, and 17,000 in the Korean Conflict, when consumer rationing was not imposed.

B. Monetary Policy (As a Stabilization Measure)

Advantages:

1. Monetary restraint generally can be implemented faster than fiscal policy.

2. The Board of Governors and the Open Market Committee of the Federal Reserve can arrive at decisions relatively quickly. Most monetary measures would not require new legislation.

3. There is little or no additional administrative cost incurred by instituting restrictive monetary policy.

Disadvantages:

1. The Federal Reserve Board estimates that it takes about six months before a change in monetary policy can begin to affect economic activity significantly. For sudden national emergencies, the period could be even longer before a reduction in the demand for non-essentials occurs.

2. Monetary policy may be uneven in its effects upon various sectors of the economy.

3. Tight monetary policies may have limited effectiveness in fighting inflation during a mobilization crisis unless they are so restrictive that the level of real economic output is reduced to unacceptable levels.

C. Fiscal Policy (As a Stabilization Measure)

Advantages:

1. Fiscal policy may be an effective stabilization tool for promptly reducing purchasing power in the

economy on a general or selective basis.

2. The imposition of higher tax rates may not require substantially higher administrative or enforcement costs.

<u>Disadvantages:</u>

1. Proposed emergency tax legislation may take too long to debate, too long to become effective, and is uncertain of passage.

2. If the fiscal disincentive is too severe, workers and producers may become discouraged to the extent that production incentives in essential industries are destroyed.

D. <u>Selective Credit Controls</u>

<u>Advantages:</u>

1. Selective credit controls may direct funds toward defense and other essential industries and away from non-essential consumption.

2. Selective credit controls may retard aggregate demand for funds, helping to slow the rise in interest rates, thereby helping to keep down financing costs to essential industries.

<u>Disadvantages:</u>

Selective credit controls may cause the kind of distortions that generally come with intervention in the markets.

E. <u>Mandatory Settlement of Labor Disputes</u>

<u>Advantages:</u>

The mandatory settlement of labor disputes, at non-inflationary rates, could be highly instrumental in stabilizing the economy.

<u>Disadvantages:</u>

1. If organized labor leaders were to withhold support, the success of the program could be jeopardized.

2. The additional burden of arbitration or adjudication of labor disputes would be placed upon the public.

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II.

POLICY OPTIONS FOR FOREIGN-TRADE CONTROLS

Introduction

The advantages and disadvantages of various foreign-trade control measures are, of course, entirely dependent on the actual emergency situation and on the aims of the United States in response to that emergency situation. Moreover, the advantages and disadvantages depend on the exact structure, situation and political relationships of the adversary, neutral and allied states involved with that particular emergency. Furthermore, the impact of each of the foreign-trade controls measures in the context of the General Agreement on Tariffs and Trade may have to be considered.

A. Price-oriented measures

Advantages: The overall advantage of price-oriented foreign trade control measures would be that they may indirectly influence flows of trade by changing the relative prices that purchasers will have to pay.

Disadvantages: The overall disadvantage of price -oriented foreign trade control measures would be that they significantly disrupt existing market mechanisms.

If it is determined that price-oriented foreign trade control measures should be implemented then it may be appropriate to consider the following measures. It should be remembered, however, that each of these measures suffers from the overall disadvantages of price-oriented foreign trade control measures in general.

1. Measures that Affect Quoted Price:

a) Direct Price Controls

Advantages: Direct price controls can be used to target specific articles or commodities.

Disadvantages: These controls may be administratively difficult to administer and may require a large administrative apparatus.

b) International Compensation/Countervalence

<u>Advantages:</u>

1. This measure may help protect needed trade from the effects of domestic price controls.

2. This measure could protect neutral and allied countries from the effects of domestic price controls.

3. This measure could strengthen the effects of domestic price controls.

<u>Disadvantages:</u> The proposed controls are unwieldy and invidious.

c) <u>Anti-trust and Price-fixing Exemptions</u>

<u>Advantages:</u> Could expand capacity and enhance the ability of domestic industries to compete with foreign markets.

<u>Disadvantages:</u> Represents a change in policy that would be difficult to reverse.

2. <u>Measures That May Affect Effective Price</u>:

a) Tariff, Border-tax Manipulations

<u>Advantages:</u> Implementation of specific tariff increases or decreases would not require any new administrative machinery.

<u>Disadvantages:</u> Implementation of tariff increases or decreases may have unanticipated side effects (<u>e.g</u>. discouraging the importation of necessary goods).

b) Exchange-budgets, Auctions, etc.

<u>Advantages:</u> This measure is more market conformed than the other measures that affect either quoted price or effective price.

<u>Disadvantages:</u> This measure would require the establishment of a centralized

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administration that may be susceptible to improper influence.

c) International Financial Organizations Impact on Exchange-market policy

Advantages: It may be possible to use existing institutions (e.g. the International Monetary Fund) to influence an individual country's exchange rate policy.

Disadvantages: The international financial organizations are not subject to the control of the United States.

B. Quantity-oriented measures

Advantages: The overall advantage of quantity-oriented foreign trade control measures is that they could be used to influence flows of trade directly by controlling the quantity of goods available.

Disadvantages: The overall disadvantage of quantity-oriented foreign trade control measures would be that they significantly disrupt existing market mechanisms.

If it is determined that quantity-oriented foreign trade control measures should be implemented then it may be appropriate to consider the following measures. It should be remembered, however, that each of these measures suffers from the overall disadvantages of quantity-oriented foreign trade control measures in general.

1. Embargo

Advantage: The embargo could be targeted by specific commodity.

Disadvantages: An embargo would be readily evadable if it were targeted by specific country.

2. Buy-American Regulations and/or Propaganda

Advantages: Implementation of these measures may assist in ecouraging a stable supply of goods.

Disadvantages:

1. Implementation of thess measures may reduce the competitive pressure on United States firms, thereby reducing their efficiency.

2. Implementation of this measure could upset our allies or neutral countries and result in retaliatory measures.

3. Preemptive Purchases and Sales

Advantages:

1. Preemptive purchases could preclude the enemy from obtaining needed goods.

2. Preemptive sales could disrupt the international market so that an enemy could not raise ready cash.

Disadvantages:

1. Preemptive purchases could result in an accumulation of unneeded goods that would overhang the market.

2. Preemptive sales could deplete the stocks of goods needed during the emergency.

C. Infrastructure and Service-oriented Measures

Advantages: The overall advantage of infrastructure and service-oriented foreign trade control measures is that they could be used to influence indirectly flows of trade by increasing the costs of trading.

Disadvantages: The overall disadvantage of infrastructure and service-oriented foreign trade control measures is that they disrupt established trade relationships.

If it is determined that infrastructure and service-oriented foreign trade control measures should be implemented then it may be appropriate to consider the following measures. It should be remembered, however, that each of these measures suffers from the overall disadvantages of such trade control measures in general.

1. Finance Measures: Export and Import Credit Subsidies

<u>Advanatages:</u> Since import and export subsidies are currently used, no change in existing procedures would be required.

<u>Disadvantages:</u>

1. Use of export and import subsidies may affect the domestic credit position.
2. Use of the subsidies may take a substantial period of time to take effect. As a result, this option is more of a preparedness measure than an emergency response measure.
3. Miscalculation of the subsidy could result in an excess supply of unneeded goods or shortages of needed goods.

2. <u>Measures Affecting Services: Maritime Insurance Controls and Subsidies</u>

<u>Advantages:</u> This measure could assist in sustaining trade routes that would otherwise be abandoned due to the dangerous nature of the route.

<u>Disadvantages:</u>

1. Miscalculation of the subsidy could have unintended side effects.
2. Use of the subsidies may take a substantial period of time to have any effect. As a result, this option may be more of a preparedness measure than an emergency response measure.

3. <u>Transportation Measures:</u>

a) Maritime Capacity Subsidies, Including Labor Subsidies

<u>Advantages:</u> Use of these subsidies could assist in maintaining trade by increasing the number of resources directed to trade.

<u>Disadvantages:</u> As with any other subsidy, the impact of this subsidy would be slow to take effect and could have unintended side effects. As a result, this option is more of a preparedness measure than an

emergency response measure.

b) Flag-of-convenience Regulations

<u>Advantages</u>: Would assist in controlling shipping.

<u>Disadvantages</u>: Could have an adverse impact on allied and neutral countries.

c) Port-clearance, Customs, and Exchange Procedures

<u>Advantages</u>:

1. These measures could be implemented rather easily to increase the costs of trading.
2. These measures could be implemented in a subtle fashion.
3. Administrative procedures already exist.

<u>Disadvantages</u>: To enforce these measures across the board would require increased administrative resources.

d) Military Port and Line-of-communication Defense

This measure is not an option but rather a factor that must be considered when any measure affecting transportation is considered. The military aspects of any of the transportation measures must be considered to assure that the measure is not working contrary to the military's needs.

D. <u>Measures Affecting Location of Capacity and Legal Control</u>

<u>Advantages</u>: Implementation of these measures could affect the direction of trade and the flow of profits.

<u>Disadvantages</u>: These measures could result in a substantial disruption of established trading arrangements.

1. <u>Capacity Subsidies and Controls</u>

These are basically long term measures that are more properly considered as preparedness measures and not as emergency response measures.

2. <u>Technology Subsidies and Controls</u>

These are basically long term measures that are more properly considered as preparedness measures and not as emergency response measures.

3. Invocation of Standby Understandings with Other Countries

Advantages: These understandings would provide for the transfer of excessive capacity or goods from countries where that capacity cannot be utilized or where the threat from an enemy is imminent, to countries where the capacity or goods can be fully employed.

Disadvantages: Understandings may exist with countries that prove to be hostile at the time of the national emegency.

4. Alien and Alien-asset Controls

Advantages:

1. There is historical precedent and experience for the use of these measures (e.g. Iran).

2. These measures can be invoked relatively rapidly.

Disadvantages: Resolution of disputes after the assets are unfrozen can be a complicated and time-consuming process.

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III.

EMERGENCY TAX MEASURES

Introduction

The critical elements of an Emergency Tax Program are: (a) perceived equity on the part of taxpayers, (b) administerability and enforceability by governmental authorities, and (c) the ablity to provide resources the government needs to accomplish its objectives. An important characteristic of our current tax structure is its high degree of voluntary compliance. Without this, either the amount of income raised by the tax system would be lower or the amount of resources expended in raising that money would be greater, or both. Voluntary compliance is facilitated by a widespread perception of tax equity. If certain segments of the economy perceive that other segments can avoid paying their fair share, one can expect less voluntary compliance and increased attempts at evasion.

A fair administration of the tax system is also a major contributor to a universal perception of tax equity. Administration means more than the simple collection function. The system must also provide sufficient information to verify that all taxpayers are indeed paying their fair share. In short, to be equitable the system selected must be capable of being fairly administered by the Federal Government.

The primary purpose of any tax system is to obtain resources needed to achieve government objectives. While tax systems raise money, the purpose of raising money is to obtain control over real resources. In an economy where capacity utilization is already strained (as would be expected in a mobilization or conflict) the tax system can reallocate resources from the private sector to the public sector with a minimum disruption of the private economy.

A. Provide necessary financing for the National Emergency through general revisions of the Internal Revenue Code.

Advantages:

1. The income tax system is generally preceived as an equitable means of raising revenue.

2. The wide base of a general income tax system provides a lower economic loss than other more specific tax mechanisms.

Disadvantages:

1. The change could require a great deal of time (over 18 months for the 1968 surcharge) to secure congressional legislation.

2. It is generally bad practice to make temporary changes in such a complex system as the current tax code.

3. Structural changes would be stubbornly resisted by those affected, making passage difficult.

4. In an attack situation, the income tax system is extremely vulnerable to losses of records of transactions. These records are required in order to determine the base for tax at any period of time. If sufficient damage is done, the tax system itself may have to be changed.

B. Provide necessary funding for the National Emergency through a general surcharge such as that imposed during the Vietnam conflict.

Advantages:

1. This proposal has a precedent and is simple.

2. The amount raised could be varied more quickly than a revision of the entire system.

Disadvantages:

1. This is an extremely progressive measure and will severely retard economic activity.

2. It will be very unpopular if retained for an extended period of time after the emergency is perceived to be over.

3. In an attack situation, the income tax system is extremely vulnerable to losses of records of transactions. These records are required in order to determine the base for tax at any period of time. If sufficient damage is done, the tax system itself may have to be changed.

C. Provide necessary funding through a wage tax.

Advantages:

1. A wage tax could be used as a post-attack alternative to the current income tax.

2. A wage tax base currently exists.

3. Employer withholding could be

implemented rather quickly.

4. The Internal Revenue Service has tentatively determined that with respect to ease of administration, difficulty of enforcement and possible ambiguity in interpretation, the wage tax would be easier to enforce than a sales tax or a business activities tax.

Disadvantages:

1. The tax would fall on top of a wage tax of 13.4% for Social Security. This is the largest tax for most workers and employers.

2. The tax would greatly distort the capital/labor mix for a time well past the emergency.

D. Provide necessary funding through a Business Activities Tax

Advantages:

1. A business activities tax could be used as a post-attack alternative to the current income tax.

2. The Internal Revenue Service has tentatively determined that with respect to ease of administration, difficulty in enforcement and possible ambiguity in interpretation, the business activities tax would be easier to administer than a wage tax or a sales tax.

Disadvantages:

1. The business activities tax probably could not be implemented in less than 2 years.

2. Notwithstanding its advantages over the sales tax and wage tax, the business activities tax would be an administrative nightmare as can be seen from the European experience.

3. When compared to the sales tax and the wage tax, the business activities tax would present the most difficult enforcement problems.

E. Provide necessary funding through a Sales Tax

Advantages:

A sales tax could be used as a post-attack alternative to the current income tax.

Disadvantages: 1. A sales tax could not be considered in a time frame of less than 2 years in a non-attack environment.

2. When compared to a business activites tax or a wage tax the sales tax would be the most difficult to enforce.

F. Provide necessary funding through a Property tax

Advantages: The property could be easily located.

Disadvantages: 1. The property tax could not be implemented in a timely manner.

2. The property tax would suffer from severe measurement (i.e. valuation) problems and this would greatly distort the capital base available to support the emergency.

3. Detailed records needed to eastablish ownership of property would be required.

TITLE VIII. CONTROL OF CREDIT

Section 801. The Congress finds that in order to ensure the maintenance of a sound economy and the protection of the monetary, banking and credit structure of the nation, it is necessary to provide for the nationwide control of credit.

Section 802. The President or his delegate is authorized to prescribe regulations with respect to such kind or kinds of credit as, in his judgment, are necessary or appropriate to regulate, to prevent, or reduce untimely use of or fluctuations in credit and to otherwise effectuate the foregoing objectives. Notwithstanding any other provision of law, such regulations may prescribe:

(a) aggregate amounts of credit extended by or to any person,

(b) maximum ratios, applicable to any class of either creditors or borrowers or both, of loans of one or more types or of all types --

(1) to deposits of one or more types or of all types,

(2) to assests of one or more types or of all types,

(c) rules against any credit in specified circumstances,

(d) maximum loan or credit values,

(e) minimum down payments in cash or property, trade-in or exchange values,

(f) maximum maturities,

(g) rules regarding the amount, form, and time of various payments,

(h) rules regarding consolidations, renewals, revisions, refinancing, transfers, pledges, or assignments of credit,

(i) and rules regarding other or similar related matters.

In addition the President or his delegate may classify persons, transactions, and types of credit and may apply different requirements thereto; and may include such administrative provisions as in the judgment of the President, or his delegate, are reasonably necessary to effectuate the purposes of this title or to prevent evasions thereof.

Section 803. Every person engaged (as principal, agent, broker, vendor, or otherwise, and whether or not in connection with the selling of goods or any other business) in the business of extending or maintaining credit, including the renewing, revising, consolidating, refinancing, purchasing, selling, discounting, or lending on, any credit obligation or arranging for any of the foregoing, shall make, keep, and preserve for such periods, such accounts, correspondence, memoranda, papers, books, and other records, and make such reports, under oath or otherwise, as the President, or his delegate, may by regulation require as necessary or appropriate in order to effectuate the purposes of this section. The President, or his delegate, by regulation, may require transactions or persons or classes thereof subject to this title to be registered or licensed and may prescribe such fees or charges with respect to borrowings thereunder as he may deem necessary or appropriate in order to effectuate the purposes of this title.

Section 804. No persons engaged in any business described in the preceding section shall extend or maintain any credit or renew, revise, consolidate, refinance, purchase, sell, discount, or lend or borrow on, any obligation or arrange for any of the foregoing, in contravention of any regulation prescribed by the President, or his delegate, pursuant to this title: Provided, That any such transaction pursuant to a credit commitment entered into prior to the effective date of this title, and of a class or classes specified by regulations, shall not be considered to be in noncompliance with this title.

Section 805. (a) Reports concerning the kinds, amounts, and characteristics of any extensions of credit subject to this title, or concerning circumstances related to such extensions of credit, shall be filed on such forms, under oath or otherwise, at such times and by such persons, as the President or his delegate may prescribe by regulation or order. Any person may be required to furnish, under oath or otherwise, complete information relative to any transaction within the scope of this Act, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person.

(b) Whenever it appears that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation under this title, the Attorney General may bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices. Upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any regulation under this Act.

<u>Section 806</u>. Any person who willfully violates any provision of this title or any regulation issued thereunder, upon conviction thereof, shall be fined not more than $ ________ or imprisoned not more than _____ years, or both.

Section 807. For purposes of this title, unless the context otherwise requires, the following terms shall have the following meanings, but the President, or his delegate, may by regulation give such terms more restricted meanings and, in addition, may define technical, trade, accounting, and other terms, insofar as such definitions are not inconsistent with the provisions of this section.

(a) "Credit" includes any loan, mortgage, deed of trust, advance, or discount; any conditional sale contract; any contract to sell or sale or contract of sale, of property or services, either for present or future delivery, under which part or all of the price is payable subsequent to the making of such sale or contract; any rental-purchase contract, any contract or arrangement for the hire, bailment, or leasing of property; any option, demand, lien, pledge, or other claim against, or for the delivery of, property or money, any purchase, discount, or other acquisition of, or any credit upon the security of, any obligation or claim arising out of any of the foregoing; and any transaction or series of transactions having a similar purpose or effect, including an indebtedness or unpaid balance of an account arising from one or more of the foregoing; and without limiting the generality of the foregoing, "credit" as used herein includes also the supplying of funds through the underwriting, distribution, or acquisition of securities, the making or assisting in the making of direct placement, or otherwise participating in the offering, distribution, or acquisition of securities.

(b) "Organization" means any corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(c) "Person" means a natural person or an organization.

(d) "Creditor" refers to any person who extends, or arranges for the extension of credit, whether in connection with a loan, a sale of property or other services, or otherwise.

(e) "Credit sale" refers to any sale with respect to which credit is extended or arranged by the seller. The term includes any rental-purchase contract and any contract or arrangement for the bailing or leasing of property when used as a financing device.

(f) "Extension of credit" and "credit transaction" include loans, credit sales, the supplying of funds through the underwriting, distribution, or acquisition of securities, the making or assisting in the making of a direct placement, or otherwise participating in the offering, distribution of securities.

(g) "Borrower" includes any person to whom credit is extended.

(h) "Loan" includes any type of credit, including credit extended in connection with a credit sale.

(i) "State" refers to any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

TITLE IX. SETTLEMENT OF LABOR DISPUTES

Section 901. The Congress finds that the settlement of labor disputes through the procedures and practices of collective bargaining, subject to the necessity of uninterrupted production for national defense should be encouraged.

Section 902. Whenever the President determines that in the interests of national defense, the settlement of labor disputes requires the practices and procedures of collective bargaining, the President is empowered to establish one or more Boards (hereinafter referred to as the "Board") which shall have jurisdiction over any labor dispute which is not resolved by collective bargaining or by the prior use of conciliation and mediation facilities and which threatens an interruption of work affecting the national defense. The members of the Board shall be appointed by and shall serve at the pleasure of the President.

Section 903. Whenever the President finds that a labor dispute exists which may lead to substantial interference with activities essential to the national defense, the President or his delegate, is authorized to refer it to the appropriate Board. Such Board shall act upon all labor disputes referred to it by the President, or his delegate. The Board shall hold such hearings as it deems proper, and shall, whenever the parties to the dispute fail to agree, provide by order the wages and hours and all other terms and conditions (customarily included in collective bargaining agreements) governing the relations between the parties. Such orders shall remain in effect until further order of the Board. In making any order, the Board shall conform to the extent practicable to the provisions of the Fair Labor Standards Act of 1939, as amended; the National Labor Relations Act, as amended; and all other applicable provisions of law; and, in those cases in which no other law is applicable, the order of the Board shall provide for terms and conditions to govern the relations which shall be fair and equitable to employer and employee under all the circumstances of the case.

<u>Section 904</u>. In the event of non-compliance with a Board order by any party to a dispute the Board may petition any United States Court of Appeals within any circuit in which a non-complying party to a dispute resides or transacts business, for the enforcement of an order made or issued by it, and the court shall have jurisdiction to act on such petition notwithstanding the Act of March 23, 1932 (29 U.S.C. 101-115).

The Board shall certify and file in the appropriate court of appeals a transcript of the proceedings before the Board upon which such order was based, including the findings and order of the Board. Upon such filing, the Board may petition the court (or any judge thereof) for such temporary relief or restraining order as may be necessary to bring about compliance with its order. The court or a judge thereof may grant such temporary relief or restraining order.

The orders of the Board shall be conclusive and final.

Section 905. As used in this title --

(a) The term "wages, salaries, and other benefits" shall include but not be limited to all forms of remuneration to employees by their employers for personal services, including but not limited to, life insurance, health insurance, vacation and holiday payments, shift differentials, incentive payments, bonuses, stock option, and stock purchase plans, employer contributions to or payments of insurance or welfare benefits, employer contributions to a pension fund or annuity or payments of pensions or annuities, employer contributions to or payments of profit-sharing, payments in kind, premium pay relative to days and hours of work, and overtime payments.

(b) The term "labor dispute" does not include a labor dispute between a government agency and employees of the government. However, settlements reached in government agencies which exceed criteria established by the Board shall be submitted to the Board for approval before they are put into effect.

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252118	PAPER DRAFT AMENDMENT - TITLE XI: EMERGENCY FEDERAL FINANCING, (P. 3, 4), PARTIAL, P.7 WHOLE	7	1/19/1984	B1

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]
B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

TAB E

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JAN 19 1984

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PROPOSED AMENDMENTS TO THE DRAFT DEFENSE RESOURCES ACT (NOVEMBER 1972 VERSION)

Economic Stabilization & Public Finance Working Group (EMPB)

M-DD 07/18/97

Derivatively Class by Jordan Lite
Office Asst. Gen. Couns. (E & O)
Derived from Treasury Emerg. Doc. K
Declassify on OADR

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The Economic Stabilization and Public Finance Working Group (Emergency Mobilization Preparedness Board) recommends that Titles VII, VIII, IX and XI of the Draft Defense Resources Act be amended to read as follows:

TITLE VII. PRICE, WAGE, AND RENT STABILIZATION, CONSUMER RATIONING

Section 701. The Congress finds that immediate steps must be taken to prevent inflationary increases in price, wage, and rent levels, and that the President is in a position to implement promptly and effectively the program authorized by this title.

Section 702. (a) The President is authorized to establish ceilings, including a general freeze, with respect to (1) prices, rentals, commissions, margins, markups, rates, fees, charges, allowances, or any other form of compensation paid or received on the sale or delivery, or the purchase or receipt, by or to any person, of commodities, services, and real property; (2) wage and salary rates, and other benefits paid or received with respect to employment; and (3) rents paid and received for the use or occupancy of any or all rental accommodations.

(b) The base period used to determine the appropriate level of ceilings under subsection (a) shall be such period as may be deemed by the President to be most appropriate to the effectuation of the objectives of this title.

(c) The President may make such adjustments, suspensions, exemptions, and exceptions and may issue such orders, regulations, schedules, and other requirements as may be necessary in the interest of national defense or to further the administration and objectives of this title. He shall have power to issue subpoenas requiring the attendance and testimony of witnesses, and the production of any books, papers, records, or other documents material to any investigation or proceeding under this title, and such subpoenas shall be enforceable by order of the appropriate district court of the United States.

(d) The President is authorized to establish consumer rationing of such commodities as he deems appropriate to the national defense or to further the administration and objectives of this title.

(e) The President may require the licensing of business establishments subject to any order, regulation, schedule or other requirement herein authorized.

(f) The President may delegate the performance of any function under this title to such officers, departments and agencies of the United States as the President deems appropriate.

Section 703. (a) Any person, regardless of any obligation heretofore or hereafter entered into, who willfully and knowingly violates any of the provisions of section 702 of this title, or any order, regulation, schedule, or other requirement prescribed thereunder shall, in addition to other penalties provided by law, be guilty of a misdemeanor and shall be subject to a fine of not more than $________ or to imprisonment for not more than one year, or both.

(b) Any person who violates any of the provisions of section 702 of this title, or any order, regulation, schedule, or other requirement prescribed thereunder, shall, in addition to other penalties provided by law, be subject to a civil penalty of not more than $_________ for each violation.

(c) If any person selling any commodity, real property or service, or receiving rents for the use or occupancy of rental accommodations, violates any of the provisions of section 702 of this title, or any order, regulation, schedule or other requirement prescribed thereunder, the person who pays rent for the accommodations or who buys such commodity, real property, or service for use or consumption may, within one year from the date of the occurrence of the violation, bring an action to recover private damages in the amount of $100 or treble the amount of any overcharge, whichever sum is greater, plus costs and reasonable attorney's fees. For purposes of this section the term "overcharge" shall mean the amount by which consideration for the rental of property or the sale of goods or services exceeds the applicable ceiling prescribed under section 702 of this title. However, if the defendant demonstrates that the violation complained of was not willful and was not the result of a failure to take reasonable precautions, then damages shall be limited to the amount of the overcharge, plus costs and reasonable attorney's fees. Suit under this subsection may be brought in any Federal, State or local court of general jurisdiction in the area in which the violation is alleged to have occurred.

(d) Whenever it appears that any individual or organization has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any of the provisions of section 702 of this title, or any order, regulation, schedule, or other requirement prescribed thereunder, the Attorney General of the United States may bring an action in the appropriate district court of the United States to enjoin such acts or practices and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted. The court may also issue mandatory injunctions commanding any person to comply with any such order or regulation. The court may also order restitution of moneys received in violation of any such order or regulation.

(e) The President shall prescribe the extent to which any payment made by way of fine, pursuant to subsections (a) and (b) of this section, or any payment made pursuant to subsection (c) of this section, shall be disregarded by agencies of the United

States in determining the costs or expenses of any such person for the purpose of any other law or regulation, including bases in determining gain for tax purposes.

(f) The President shall determine whether, and prescribe the extent to which, any payment made by employers in violation of section 702 of this title shall be disregarded by agencies of the United States Government in determining the costs or expenses of any such person for the purposes of any other law or regulation, including bases in calculating deductions for tax purposes. Where payments are found to have been made in violation of section 702 of this title, the entire amounts of such payments, not merely increases, shall be so disregarded unless the President finds extenuating and mitigating circumstances, in which case, lesser amounts may be determined and certified as nondeductible. Disallowance under this subsection shall be determined in accordance with regulations prescribed by the President.

Section 704. (a) The district courts of the United States shall have original jurisdiction of cases or controversies arising under this title, or under regulations or orders issued thereunder.

(b) No regulations, order or schedule issued under this title shall be enjoined or set aside, in whole or in part, unless the court determines in a final judgment that such issuance was in excess of the agency's authority, was arbitrary or capricious, or was otherwise unlawful under the criteria set forth in 5 U.S.C. § 706(2).

(c) Cross Reference: For jurisdiction of the Supreme Court and the Courts of Appeals see 28 U.S.C. §§ 1251-1296.

ALTERNATIVE Section 704.

This alternative section would create a new Court of Appeals to handle cases arising under this title. The section is based on § 211 of the Economic Stabilization Act of 1970 (Title 11 of Pub. L. 91-379, 84 Stat. 799 (Aug. 5, 1970).

Alternative Section 704.

(a) The district courts of the United States shall have exclusive original jurisdiction of cases or controversies arising under this title, or under regulations or orders issued thereunder, except that nothing in this subsection or in subsection (h) of this section affects the power of any court of competent jurisdiction to consider, hear, and determine any issue by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this title) raised in a proceeding before such court. If in any such proceeding an issue by way of defense is raised based on the constitutionality of this title or the validity of agency action under this title, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of 28 U.S.C. Chap. 89.

(b)(1) There is hereby created a court of the United States to be known as the Economic Stabilization and Rationing Court of Appeals, which shall consist of three or more judges to be designated by the Chief Justice of the United States from judges of the United States district courts and circuit courts of appeals. The Chief Justice of the United States shall designate one of such judges as chief judge of the Economic Stabilization and Rationing Court of Appeals, and may, from time to time, designate additional judges for such court and revoke previous designations. The chief judge may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court. Except as provided in subsection (d)(2) of this section, the court shall not have power to issue any interlocutory decree staying or restraining in whole or in part any provision of this title or the effectiveness of any regulation or order issued thereunder. In all other respects, the court shall have the powers of a circuit court of appeals with respect to the jurisdiction conferred on it by this title. The court shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases over which it has jurisdiction under this title. The court shall have a seal, hold sessions at such places as it may specify, and appoint a clerk and such other employees as it deems necessary or proper.

(2) Except as otherwise provided in this section, the Economic Stabilization and Rationing Court of Appeals shall have exclusive jurisdiction of all appeals from the district

courts of the United States in cases and controversies arising under this title or under regulations or orders issued thereunder. Such appeals shall be taken by the filing of a notice of appeal with the Economic Stabilization and Rationing Court of Appeals within thirty days of the entry of judgment by the district court.

(c) In any action commenced under this title in any district court of the United States in which the court determines that a substantial constitutional issue exists, the court shall certify such issue to the Economic Stabilization and Rationing Court of Appeals. Upon such certification, the Economic Stabilization and Rationing Court of Appeals shall determine the appropriate manner of disposition which may include a determination that the entire action be sent to it for consideration or it may, on the issues certified, give binding instructions and remand the action to the certifying court for further disposition.

(d)(1) Subject to paragraph (2), no regulation, order or schedule of any agency exercising authority under this title shall be enjoined or set aside, in whole or in part, unless the court in a final judgment determines that the issuance of such regulation was in excess of the agency's authority, was arbitrary or capricious, or was otherwise unlawful under the criteria set forth in 5 U.S.C. § 706(2).

(2) A district court of the United States or the Economic Stabilization and Rationing Court of Appeals may enjoin temporarily or permanently the application of a particular regulation or order issued under this title to a person who is a party to litigation before it. Appeals from interlocutory decisions by a district court of the United States under this paragraph may be taken in accordance with the provisions of 28 U.S.C. § 1292(b) except that reference in such section to the courts of appeals shall be deemed to refer to the Economic Stabilization and Rationing Court of Appeals.

(e)(1) Except as provided in subsection (d) of this section, no interlocutory or permanent injunction restraining the enforcement, operation, or execution of this title, or any regulation or order issued thereunder, shall be granted by any district court of the United States or judge thereof. Any such court shall have jurisdiction to declare that a regulation, order or schedule of an agency exercising authority under this title is in excess of the agency's authority, is arbitrary or capricious, or is otherwise unlawful under the criteria set forth in 5 U.S.C. § 706(2).

(2) Any party aggrieved by a declaration of a district court of the United States respecting the validity of any regulation or order issued under this title may, within

thirty days after the entry of such declaration, file a notice of appeal therefrom in the Economic Stabilization and Rationing Court of Appeals. In addition, any party that believes it is entitled by reason of such declaration to a permanent injunction restraining the enforcement, operation, or execution of such regulation or order may file, within the same thirty-day period, a motion in the Economic Stabilization and Rationing Court of Appeals requesting such injunctive relief. Following consideration of such appeal or motion, the Economic Stabilization and Rationing Court of Appeals shall enter a final judgment affirming, reversing, or modifying the determination of the district court and granting such permanent injunctive relief, if any, as it deems appropriate.

(f) The effectiveness of a final judgment of the Economic Stabilization and Rationing Court of Appeals enjoining or setting aside in whole or in part any provision of this title, or any regulation or order issued thereunder, shall be postponed until the expiration of thirty days from the entry thereof, except that if a petition for a writ of certiorari is filed with the Supreme Court under subsection (g) within such thirty days, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the action by the Supreme Court.

(g) Within thirty days after entry of any judgment or order by the Economic Stabilization and Rationing Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in 28 U.S.C. § 1254. The Economic Stabilization and Rationing Court of Appeals, and the Supreme Court upon review of judgments and orders of the Economic Stabilization and Rationing Court of Appeals, shall have exclusive jurisdiction to determine the constitutional validity of any provision of this title or of any regulation or order issued under this title. Except as provided in this section, no court, Federal or State, shall have jurisdiction or power to consider the constitutional validity of any provision of this title or of any such regulation or order, or to stay, restrain, enjoin, or set aside in whole or in part, any provision of this title authorizing the issuance of such regulations or orders, or any provison of any such regulation or order, or to restrain or enjoin the enforcement of any such provision.

(h) The provisions of this section apply to any actions or suits pending in any court, Federal or State, on the date of enactment of this title in which no final order or judgment has been rendered. Any affected party seeking relief shall be required to follow the procedures of this title.

Section 705. As used in sections 702 to 704 of this title:

(a) The term "commodities" shall include raw materials, processed materials, articles, goods, merchandise, products, fuels, supplies, components, technical information, and processes.

(b) The term "rental accommodations" shall include any building, structure, or part thereof, or land appurtenant thereto, or any other real or personal proprety rented or offered for rent for living, dwelling, or commercial purposes, together with all privileges, services, furnishing, furniture, equipment, facilities, and improvements connected with the use or occupancy of such property.

(c) The term "wages, salaries, and other benefits" shall include all forms of remuneration to employees by their employers for personal services, including, but not limited to, life insurance, health insurance, vacation and holiday payments, shift differentials, incentive payments, bonuses, stock option and stock purchase plans, employer contributions to a pension fund or annuity or payments of pensions or annuities, employer contributions to or payments of profit-sharing plans, payments in kind, premium pay relative to days and hours of work, and overtime payment.

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TITLE XI. EMERGENCY FEDERAL FINANCING

Section 1101. The Congress finds that emergency authority is necessary to finance the essential functions of the Government to meet the demands of the national defense emergency.

Section 1102. Whenever the President determines that emergency federal financing is needed to conduct the essential functions of the Federal Government, the President may:

(a) authorize any Government agency to borrow such amounts from the Secretary of the Treasury as the President may specify and to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, with such maturities and subject to such interest and other terms and conditions as the President may prescribe. The Secretary of the Treasury is authorized and directed to purchase any such notes and other obligations and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under 31 U.S.C. §§ 3101-3112 and the purposes for which securities may be issued under those sections, are extended to include any purchases of such notes and obligations. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

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(b) authorize the expenditure and utilization of funds and financing authorizations available to agencies of the Government prior to any such emergency, and he may, to the extent he deems necessary, transfer such funds and authorizations between agencies and appropriations.

Section 1103. Any obligations or expenditures authorized by or pursuant to this title may, when so provided for by the President or his delegate, be incurred or made without regard to the limitations of any provision of law relating to the obligation or expenditure of public funds, or of any provision of law providing fiscal limitations or procedures: Provided, that officers accountable for public funds or property shall be held responsible for loss or misuse of funds resulting from their bad faith or lack of due care.

Section 1104. Funds and authorizations made available or transferred pursuant to the provisions of this title shall not remain available, except as may be specifically provided in appropriation acts, for any particular function after the 30th day following (1) enactment into law of any definite financial provision or appropriation for that function, or (2) enactment of the applicable appropriation act without any provision for that function.

Section 1105. The President shall cause to be established an Emergency Financial System for the obligation, expenditure,

(u) accounting, and reporting for public funds and authorization, by the agencies of the Government in the exercise of functions under this title. Such a system shall be consistent with emergency accounting principles and standards established under section 1106 hereof.

(u) Section 1106. The Comptroller General of the United States shall prescribe emergency accounting principles and standards to be used to carry out the functions authorized by this title.

(u) Section 1107. Whenever the President makes the determination described in section 1102 of this title, the limitation on obligations issued under 31 U.S.C. § 3101(b) is repealed as of that date and no such limit shall apply.

(u) Section 1108. The President shall prescribe such regulations as may be necessary to carry out the provisions of this title, which may include appropriate provision for determining which functions of the Government constitute essential functions within the meaning of this title.

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(u) Section 1110. The Internal Revenue Code of 1954, as amended, is further amended, as follows:

(u) (a) Subchapter A of chapter 1 (relating to determination of tax liability) is amended by inserting at the end thereof the following new part:

(u) " PART ___ -- TAX SURCHARGE

(u) "SEC. ___. TAX SURCHARGE

(u) "(a) Imposition of Tax.

"(1) Calender Years. In addition to the other taxes imposed by this chapter there is hereby imposed on the income of every person a tax equal to _____ percent of the adjusted tax (as defined in subsection (b)) for the taxable year.

"(2) Fiscal and Short Taxable Years. In addition to the other taxes imposed by this chapter, in the case of taxable years ending on or after ____________ [the effective date of this title] there is hereby imposed on the income of every person whose taxable year is other than the calender year, a tax equal to --

"(i) ___ percent of the adjusted tax for the taxable year, multiplied by

"(ii) a fraction, the numerator of which is the number of days in the taxable year occurring on and after _____ [the effective date of this title] and the denominator of which is the number of days in the entire taxable year.

"(b) Adjusted Tax Defined. For purposes of this section, the term 'adjusted tax' means, with respect to any taxable year, the tax imposed by this chapter for such taxable year, determined without regard to --

"(1) the taxes imposed by this section, section 56, section 871(a) and section 881; and

"(2) any increases in tax under section 47(a) (relating to certain dispositions, etc. of section 38 property),

and reduced by an amount equal to the amount of any credit which would be allowable under section 37 (relating to credit for the elderly) and section 43 (relating to earned income) if no tax were imposed by this section for such taxable year.

"(c) Estimated Tax. For purposes of applying the provisions of this title with respect to payments of estimated tax the time prescribed for filing or payment of which is after [the effective date of this title], sections 6654(d)(1) and 6655(d)(1) shall not apply with respect to any taxable year for which a tax is imposed by this section.

"(d) Special Rule. For purposes of this title, to the extent the tax imposed by this section is attributable (under regulations prescribed by the Secretary or his delegate) to a tax imposed by another section of this chapter, such tax shall be deemed to be imposed by such other section."

(b) Clerical Amendment.

The table of parts of subchpater A of chapter 1 is amended by adding:

JAN 19 1984

"Part 1 Tax Surcharge"

(c) Effective Date. The amendments made by this section shall apply _____.

Section-by-Section Explanation of Proposed Amendments to the Draft Defense Resources Act

TITLE VII. PRICE, WAGE AND RENT STABILIZATION, CONSUMER RATIONING

The proposed amendments to Title VII of the Draft Defense Resources Act are patterned, in part, after the Draft "Economic Stabilization Act of ______" (July 12, 1983), submitted by the Economic Stabilization and Public Finance Working Group to the Chairman of the Emergency Mobilization Preparedness Board on July 13, 1983. The Draft "Economic Stabilization Act of _____" (July 12, 1983) was a simplified version of the Economic Stabilization Act of 1970 (Title II of Pub. L. 91-379, 84 Stat. 799 (Aug. 5, 1970), as amended.

General.

In general the proposed amendments track the existing Draft Defense Resources Act. In addition the proposed amendments are intended to broaden the flexibility of the President to act, while preserving the authority to impose a comprehensive system of direct controls for prices, rents, wages, salaries, etc. and to impose consumer rationing.

Specific.

Section 701. The proposed amendment would relieve the President of the responsibility of having to make a specific finding concerning inflationary pressures. The Congressional finding makes it clear that the Congress has already found that an emergency situation with respect to inflation exists and that once the legislation has been enacted the President has the authority to act.

Section 702.

Paragraph (a). The reference to subsequent legislative enactments would be deleted as unnecessary since subsequent inconsistent legislation would always control. The phrase "a general freeze which imposes" has been deleted as too restrictive. There may be instances where a "rollback" rather than a freeze would be appropriate. The proposed amendment, which makes it clear that a freeze could be imposed, would preserve this added flexibility.

Paragraph (b). The reference to a specific time period for determining the ceilings under paragraph (a) of the 1972 version is too restrictive. The proposed amendment would afford decision- makers the flexibility of choosing whatever time period they deem appropriate under the circumstances. The last sentence in the 1972 version of this paragraph would be deleted as redundant of the provisions in section 703.

Paragraph (c). The proposed amendment would substitute United States district courts for courts of appeals with respect to the enforceability of subpoenas. This change reflects the manner in which subpoenas are normally enforced.

Paragraph (d). The proposed amendment would delete the requirement that consumer rationing and price controls be linked. There may be circumstances under which rationing without a general freeze order would be appropriate. The proposed amendment preserves this flexibility.

Paragraph (e). There are no proposed amendments to this paragraph.

Paragraph (f). The proposed amendment would delete the requirement that prices, wages and salaries be controlled together. The proposed amendment would add the flexibity needed to deal with emergency situations as they arise.

New Paragraph (f). The proposed amendment would make it clear that the President can delegate any authority conferred by this title.

Section 703.

Paragraphs (a) and (b). The proposed amendments would combine these two paragraphs to make it clear that any willful violation of section 702 can result in a fine and/or imprisonment. The language in the 1972 version of paragraph (b) is not necessarily coextensive with the proscriptions in section 702.

Paragraph (c). As with the proposed amendment to paragraphs (a) and (b) this paragraph would be amended to make it clear that violations of section 702 or the regulations or orders issued thereunder are covered.

Paragraph (d). The proposed amendment would delete the authority of the United States to bring a suit for damages and instead authorize the United States to bring an action to enjoin such practices. This would alleviate the problem of the United States having to prove the damages of an unjoined third party.

Paragraph (e). The proposed amendment would delete the language qualifying the types of payments that can be disregarded. This amendment would remove the possibility that a payment made under paragraph c, as amended, could not be disregarded in determining costs, etc.

Paragraph (f). The proposed amendments merely clarify that any violation of Section 702 is covered.

Section 704.

Under 5 U.S.C. § 553(e) any person has the right to petition for the issuance, amendment or repeal of a rule. Therefore the portions of section 704 authorizing administrative review of the rules and regulations themselves are unnecessary. In addition, to the extent administrative review of the application of the rules and regulations to specific factual circumstances is deemed to be appropriate, the regulations issued under section 702 could include administrative review provisions. Based on this rationale, the proposed amendments would delete the 1972 version of section 704(a).

The proposed amendments would establish jurisdiction over cases arising under this title in the district courts. This proposed amendment incorporates the assumption that the existing judicial system will be capable of handling the impact of this Title.

Alternative Section 704

In the event it is determined that the existing judicial system is incapable of handling the impact of this title, the proposed legislation contains an alternative section which would establish an Economic Stabilization and Rationing Court of Appeals. This Court would have primary responsibility for handling matters arising under this title.

Section 705. There are no substantive changes to this section.

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TITLE VIII. CONTROL OF CREDIT

The proposed amendments to Title VIII of the Draft Defense Resources Act are patterned, in part, after the Draft "Credit Control Act of _____ " (July 12, 1983) submitted by the Economic Stabilization and Public Finance Working Group to the Chairman of the Emergency Mobilization Preparedness Board on July 13, 1983. The proposed amendments also incorporate portions of the Credit Control Act of 1969, (Title II, Pub. L. 91-151 (1969)).

General.

In general the proposed amendments track the existing Draft Defense Resources Act. The proposed amendments are intended to maximize the flexibility to deal with circumstances as they arise, while preserving the authority to impose broad credit controls.

Specific.

Section 801. The proposed amendment changes this section from an expression of Congressional intent to one of Congressional findings which reflect the emergency circumstances on which passage of the Draft Defense Resources Act is premised.

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Section 802. The proposed amendment deletes the factors that the President must consider in regulating the use of credit. These factors would be deleted in order to ensure that the President has the maximum flexibility to deal with the situation.

Section 803. There are no substantive changes proposed to this section.

Section 804. There are no substantive changes proposed to this section.

Section 805. In the interests of simplicity the reference to the Securities Exchange Act of 1934, as amended, would be deleted and a new section setting forth specific provisions covering the filing of reports, the issuance of subpoenas and the authority to seek injunctions would be added.

Section 806. There are no substantive changes proposed to this section.

Section 807. The proposed amendment would add various definitions to the definition of credit already included.

TITLE IX. SETTLEMENT OF LABOR DISPUTES

General.

In general the proposed amendments track the Draft Defense Resources Act.

Specific.

Section 901. The proposed amendment changes this section from an expression of Congressional intent to one of Congressional findings.

Paragraph (a). The proposed amendment would change this paragraph to a new section -- Section 902. The new section would delete the requirement that the President consult with representatives of labor and management before he is empowered to act. Since there may be situations where such consultations would be impossible, unnecessary, or unproductive, such a provision would unduly restrict the President's authority to deal with emergency situations contemplated by this title. However, nothing in this section would prohibit consultations with labor and management which could facilitate acceptance of a Board and settlement of disputes.

In addition the proposed amendment would delete the reference to the Board's authority to stabilize salaries and wages since these functions are covered under Title VII of the Act.

Paragraph (b). The proposed amendment would change this paragraph to a new section -- Section 903. Otherwise, there are no proposed changes to this paragraph.

Paragraph (c), (d) and (e). The proposed amendment would change these paragraphs to a new section -- Section 904. In addition the proposed amendment would delete the reference to voluntary compliance as unnecessary.

Section 902. The proposed amendment would renumber this section as 905. Otherwise there are only minor changes to this section.

TITLE XI. EMERGENCY FEDERAL FINANCING

General.

In general the proposed amendments track the Draft Defense Resources Act (November 1972 version). However, the section authorizing borrowing directly from the Federal Reserve Banks is patterned after "Proposed Legislation to Suspend the Existing Limitation on Purchase of Public Debt Obligations by Federal Reserve Banks Directly from the Treasury" (Draft October 20, 1983, Maintained as Treasury Emergency Preparedness Document K) and the section authorizing a tax surcharge is based on the "Draft Surcharge Tax Act of _____ " (July 12, 1983), which was submitted by the Economic Stabilization and Public Finance Working Group to the Chairman of the Emergency Mobilization Preparedness Board on July 13, 1983.

Specific.

Section 1101. The proposed amendment changes this section from an expression of Congressional intent to one of Congressional findings.

Section 1102. The proposed amendment would add a new requirement that the President make an affirmative finding that emergency financing measures are needed.

Paragraph (a). The reference to the Second Liberty Bond Act, as amended, would be deleted and the appropriate references to Title 31, United States Code, would be substituted. (The Second Liberty Bond Act was permanently codified as a result of Public Law 97-258, 96 Stat. 974 (September 13, 1982)).

Paragraph (b). The proposed amendment would conform this paragraph to the amended version of section 1102.

Section 1103. There are no proposed changes to this section.

Section 1104. There are no proposed changes to this section.

Section 1105. There are no proposed changes to this section.

Section 1106. There are no proposed changes to this section.

Section 1107. The only proposed change to this section would be to change the reference from the Second Leberty Bond Act to 31 U.S.C. § 3101(b).

Section 1108. There are no proposed changes to this section.

<u>Section 1109</u>. The proposed amendment would add a new section authorizing the Treasury to borrow funds directly from Federal Reserve banks.

<u>Section 1110</u>. The proposed amendment would add a new section authorizing the imposition of a federal income tax surcharge to finance the response to the national defense emergency. The tax surcharge simply imposes an additional tax on the tax already imposed under the Internal Revenue Code of 1954. Generally, the tax is imposed before credits. The section is a revision of the "Revenue and Expenditure Control Act of 1968" (Pub. L. 90-364, 82 Stat. 251). The actual amount of the surcharge would have to be determined at the time of the emergency.