DESCRIPTION OF S. 1354
(EMERGENCY PREPAREDNESS ACT OF 1981)

Relating to

STANDBY REVENUE RECYCLING AUTHORITY TO DEAL WITH PETROLEUM SUPPLY DISRUPTIONS

BY THE

Subcommittee on Energy and Agricultural Taxation
of the
Senate Committee on Finance

on

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Prepared by the Staff

of the

Joint Committee on Taxation

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INTRODUCTION

The Senate Finance Subcommittee on Energy and Agricultural Taxation has scheduled a public hearing on December 8, 1981, on the tax aspects of S. 1354, the Emergency Preparedness Act of 1981. The bill (introduced by Senators Bradley and Percy) would require the President to develop a standby plan to recycle Federal tax revenues during an oil supply disruption (title I). The bill also would require the President to report to the Congress on the possibility of competitive sales of oil out of the strategic petroleum reserve as an alternative to a standby crude oil allocation program (title II). In addition, the bill would require the President to report to the Congress on the possible use of tax incentives to encourage increased oil storage by the private sector and more rapid use of inventories in the case of an oil supply disruption (title III). Titles I and III have been referred to the Committee on Finance for its consideration; and titles II and III have been referred to the Committee on Energy and Natural Resources.

This document, prepared in connection with the Subcommittee hearing, provides a description of the provisions of the bill. Part I is a summary of the bill. Part II is a brief description of the relevant provisions of present law; and Part III is an explanation of the provisions of each of the three titles of the bill.

I. Summary

Title I

The President would be required to submit to Congress a standby plan for recycling to U.S. residents and State governors the additional tax revenues which would result, from the crude oil windfall profit tax or from other sources, from a severe petroleum supply disruption. For it to go into effect, this plan would have to be approved by both Houses of Congress.

Title II

The President would be required to report to Congress on the possibility of competitive sales of oil out of the strategic petroleum reserve as an alternative to a standby crude oil allocation program.

Title III

The President would report to Congress on the use of tax incentives to encourage increased oil storage by the private sector and more rapid depletion of inventories in the case of an oil supply disruption.

II. Present Law

Windfall profit tax

Under the crude oil windfall profit tax, increases in price of crude oil lead to significant increases in Federal revenues. Currently a $1 per barrel increase in crude oil prices would increase revenues by approximately $750 million a year.

Oil import fee

The President has the authority, subject to congressional veto, to impose oil import fees in certain cases. These would also raise substantial amounts of revenue. For example, a $1 per barrel import fee would increase revenues by about $1-1/2 billion.

Strategic Petroleum Reserve

Current law provides for the creation of a Strategic Petroleum Reserve as a means of ameliorating the effect on domestic crude oil markets of a severe energy supply interruption. It also provides for the drawdown and distribution of the Reserve according to rules promulgated by the Secretary of Energy.

Currently, the Distribution Plan for the Strategic Petroleum Reserve describes the use of competitive pricing, under certain circumstances, as a means of crude oil allocation. It does not appear, however, that the advisability and methods of competitive sales of petroleum products from the Strategic Petroleum Reserve as a means of assuring the efficient and orderly allocation of the Reserve to domestic markets in the case of a severe petroleum supply disruption has itself been the focus of detailed study.

LIFO inventory rules

Taxpayers are allowed to claim refunds of taxes paid on LIFO inventory profits when those profits result from inventory liquidations during energy emergencies if the inventories are replaced within three years.

III. Explanation of the Bill

Findings and Definitions

The bill includes certain findings by Congress relating to problems likely to occur during oil supply disruptions and states that the purpose of the Act is to grant the President authority during severe oil supply disruptions to recycle Federal tax revenues to U.S. residents and State governors for the purpose of minimizing the adverse effects of such supply disruptions on the nation.

The bill defines a severe petroleum supply disruption to mean a reduction in the volume of oil available on the world oil market which is the cause of a 20-percent increase in oil prices over a 3-month period and which will have a major adverse effect on public health, welfare, safety or the national economy.

Title I--Standby Revenue Recycling Authority

This title of the bill would require the President to submit to Congress a standby plan for recycling of Federal tax revenues to U.S. residents and State governors during a severe petroleum supply disruption. Procedures for congressional approval of the plan and of implementation of the plan are also provided.

Content of standby plan

The standby plan, which the President would be required to submit within 180 days after the bill is enacted, would specify a combination of mechanisms for recycling of revenues. These could include changes in income tax withholding rates, reductions in payroll taxes, additions to social security and supplemental security income payments, and distribution to State governors for use in their States. The formula for distribution of funds among various distribution mechanisms would be designed to give priority to those individuals or regions who are most adversely affected and least capable of absorbing higher oil prices. The plan generally would provide for: (1) economic efficiency, (2) mitigation of extreme personal hardship, (3) national defense and other essential public services, (4) protection of public health, safety and welfare, (5) prompt recycling of revenues, (6) eligibility for assistance for every U.S. resident, (7) high priority for enforcement of antitrust statutes against anticompetitive practices, and (8) fulfillment of international treaty obligations.

The plan would also include adjustments to the existing crude oil windfall profit tax that would eliminate the tax on oil discovered during and after the supply disruption and would increase the tax rate on incremental revenues resulting from the disruption. The adjusted tax would apply to all oil flowing from wells in production prior to the disruption.

Approval of proposed standby plan

In order to be in effect, any plan submitted by the President would have to be approved by both Houses of Congress within 60 days (of continuous session of Congress) after the date on which it was submitted. Procedures are provided for expedited consideration of the approval resolutions. If either House rejects the plan, the President would be required to resubmit a revised plan within 30 days of the rejection.

Implementation of approved standby plan

The President could implement the approved standby plan whenever he determines that a severe petroleum supply disruption exists, and only with the President's request for, and passage by Congress of, a joint resolution which authorizes a specific amount of Federal tax revenues to be recycled. Expedited procedures are provided for the consideration of the joint resolution. In addition to the President, either House may initiate the necessary joint resolution. If the President vetos the measure so initiated, the Congress could attempt to override the veto in the usual manner. Regardless of the revenue figure specified in the joint resolution, the President could not recycle revenues in excess of the amount of incremental revenues collected during, and as a primary result of, the severe petroleum supply disruption.

Reimbursement to States

The President could reimburse any State for expenses incurred in preparation for, or execution of, responsibilities under the bill delegated to it by the President.

Expiration

The provisions of this title would expire on the date of the expiration of the crude oil windfall profit tax. This tax expires thirty-three months after the later of December 31, 1987, or when cumulative net revenues raised by the tax reach $227.3 billion, but the expiration date is no later than 33 months after December 31, 1990.

Title II--Report on Use of the Strategic Petroleum Reserve

Section 201 of the bill would direct the President to submit a report to Congress describing the benefits and detriments of a free market method of crude oil allocation in an oil supply disruption. The purpose of such allocation method would be to assure that crude oil refiners particularly affected by such a disruption would have access to crude oil from the Strategic Petroleum Reserve.

The report would reach a conclusion with respect to whether or not such an allocation procedure should be undertaken in the case of a severe petroleum supply disruption in lieu of a standby crude oil allocation program. It would also examine the particular methods of competitive sales possible, and would establish criteria for determining whether or not a refiner is a "particularly affected" refiner. In so doing the report would consider the effects of that refiner's production on the national and regional economies and would reach conclusions on whether or not any particular group of petroleum consumers should be preferred over others. The report would consider the amounts of crude oil to be released from the Strategic Petroleum Reserve in any given set of facts and the amount of crude oil required to be retained in the reserve. It would, in establishing these volumes, consider current and probable future volumes of crude oil held in the Strategic Petroleum Reserve.

If the report required an amendment to the Strategic Petroleum Reserve Plan in order to make the plan workable, then the bill directs the President to submit to Congress an amendment or amendments to the Strategic Petroleum Reserve Plan proposing such changes within six months of its enactment.

Title III--Other Investigations and Reports

Section 301 of the bill requires that the President submit to Congress, within six months after the date of enactment of the bill, a full report on the issue of whether or not the use of tax incentives to encourage private oil stockpile drawdowns during an oil supply disruption and to encourage increased private oil stockpiling is advisable. The President would be directed to include in his report a detailed discussion of the alternative means of reducing the tax liability of persons drawing down private oil reserves during an oil supply disruption and of increasing, through tax incentives, private-sector oil storage capacity and actual private-sector oil reserves. The report would address, for example, the use of tax credits or deductions based on per barrel usage or additional storage capacity. The report would also discuss means of establishing total oil reserve drawdowns, or total additional oil reserve storage capacity.

The President would also be directed to report to the Congress on the means which have been or may be undertaken to coordinate oil stockpiling and usage by, among and between our allies and trading partners.