Calendar No. 89

82d Congress } SENATE { Report
1st Session } { No. 92

RENEGOTIATION ACT OF 1951

February 14, 1951.—Ordered to be printed, under authority of the order of the Senate of February 12 (legislative day of January 29), 1951

Mr. George, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 1724]

The Committee on Finance, to whom was referred the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

General Statement

Your committee held hearings on H. R. 1724, at which representatives of the Defense Department and representatives of business and industry appeared. After studying the bill and hearing the testimony of witnesses, your committee made the following major changes in the bill:

1. The minimum amount subject to renegotiation in any fiscal year of a contractor or subcontractor is increased from $100,000 to $500,000.
2. The exemptions contained in the House bill with respect to contracts and subcontracts for agricultural commodities and for the products of mines, oil and gas wells, and mineral or natural deposits have been broadened to conform to the exemptions contained in the renegotiation law in effect during World War II.
3. In the case of contracts and subcontracts with a common carrier for transportation or with a public utility, your committee has provided a new mandatory exemption.
4. Your committee bill also exempts from renegotiation any contract with a charitable, educational or scientific institution, etc., exempt under section 101 (6) of the Internal Revenue Code, provided that the income from such contract or subcontract is not unrelated business income under the income-tax law.

5. The committee bill has also provided for a partial mandatory exemption in the case of subcontracts for durable productive equipment.

6. Your committee bill, like the House bill, provides for a Renegotiation Board to be composed of five members, all to be appointed by and with the advice and consent of the Senate. The House bill required all five members to be appointed by the President. Your committee bill provides for one to be appointed by the President to serve as Chairman, one each to be appointed by the Secretaries of the Army, Navy, and Air Force, respectively, subject to the approval of the Secretary of Defense, and one to be appointed by the Administrator of General Services. Under the House bill the compensation of each member of the Board was fixed at $12,500. Under your committee bill the compensation of the Chairman is fixed at the rate of $17,500 and of the other members at the rate of $15,000 per annum.

7. Under the House bill the President is given the authority to designate additional departments whose contracts shall be subject to renegotiation. Under the House bill, any department exercising functions in connection with the national defense might be designated. Your committee bill limits this power of the President to departments exercising functions having a direct and immediate connection with the national defense. While a literal wording of the bill would require all contracts with the departments specifically named or those designated by the President to be renegotiated, your committee contemplates that the Board by a judicious use of its power to make permissive exemptions of contracts by classes or types will properly limit the area of renegotiation where the contracts are not intimately related to the defense effort.

8. Under the House bill the profit limitation provisions of the Vinson-Trammel Act are made inapplicable to any contract or subcontract if any of the receipts or accruals therefrom are subject to this act. Your committee bill similarly suspends the profit limitation provisions of the Merchant Marine Act of 1936.

9. Under the House bill renegotiation could apply to amounts received or accrued after January 1, 1951, where the performance to which the receipts or accruals relate occurred prior to July 1, 1950. Your committee bill limits the applicability of renegotiation to receipts and accruals attributable to performance after June 30, 1950.

10. Under the House bill losses under renegotiable contracts for 1 year cannot be offset against excessive profits for subsequent years. Your committee bill relieves this situation to the extent of permitting losses incurred on renegotiable business in one fiscal year to be carried over as allowable costs in the renegotiation of the contractor's next fiscal year only.

11. It was not clear from the House bill whether sufficient incentive was provided to the contractor or subcontractor to reduce his costs and increase his productivity by efficiency in the use of facilities, materials, and manpower. Your committee bill makes it mandatory that favorable recognition be given to the efficiency of the contractor or subcontractor, with particular regard to attainment of quality and quantity production, reduction of costs, and economy in the use of facilities, materials, and manpower.

12. Under the House bill interest on unpaid renegotiation indebtedness accrued at the rate of 6 percent per annum. Your committee bill

reduces the rate of interest to be charged in such cases to 4 percent per annum and limits to 3 years the period during which interest shall accrue in certain cases where the contractor has filed a petition with the Tax Court. Interest payable to the contractor on overcollections is likewise reduced from 6 to 4 percent.

13. Your committee bill adds a new provision to make it clear that renegotiable contracts or subcontracts which have been assigned to banking institutions as collateral for loans are not subject to withholding for the renegotiation liability of their assignors.

Discussion of Major Provisions

1. THE DOLLAR LIMITATION

Under the House bill, no contractor or subcontractor may be renegotiated for any year unless more than $100,000 subject to the bill has been received or accrued by him, or persons under common control with him. The Renegotiation Act of World War II had a limitation of $100,000, which was later increased to $500,000. At the time the recommendation for the $500,000 limit was made, information available indicated that if the limit were left at $100,000, the workload of the renegotiation agencies would be approximately five times greater and that the additional recoveries resulting to the Government would be very small. With the reduction in value of the dollar since 1944, this problem is now much more serious. Experience under the World War II law indicated the difficulty in securing men with experience and judgment to exercise renegotiation functions. There is a greater shortage of such men today than in 1944. Furthermore, to make the limitation as low as under the House bill would create a considerable hardship on small business. It is believed that any excessive profits which might arise in cases under the $500,000 limit would not be great enough to warrant renegotiation because of the excess-profits tax. It is also the opinion of your committee that raising the limit to $500,000 will enable the renegotiators to concentrate on the larger cases.

Your committee bill continues the $25,000 limit contained in the House bill in the case of subcontractors whose income is derived from commissions and fees based upon renegotiation contracts and subcontracts.

Your committee bill also continues the "floor" provisions of the House bill so that no determination of excess profits to be eliminated may be in an amount greater than the amount by which the receipts or accruals exceed the "floor" of $500,000 or $25,000, as the case may be.

Like the House bill, the committee bill provides that if the fiscal year of a contractor or subcontractor is a fractional part of 12 months, the $500,000 or $25,000 limit, as the case may be, shall be reduced to the same fractional part thereof. Your committee bill, however, provides a special rule for a fiscal year beginning in 1950 and ending in 1951. In such a case, the $500,000 amount, or the $25,000 amount, is required to be reduced to an amount which bears the same ratio to $500,000 or $25,000 as the case may be, as the number of days in such fiscal year after December 31, 1950 bears to 365. However, this requirement for reduction of the limitation for a fiscal year beginning

in 1950 and ending in 1951 will not apply where the contractor or subcontractor has agreed to have renegotiated under this bill amounts received or accrued in such year prior to January 1, 1951.

Your committee bill eliminates the provision in the House bill that in computing the $500,000 and $25,000 limitations with respect to companies under common control, such computation shall be made without elimination of intercompany sales.

2. AGRICULTURAL AND RAW MATERIAL EXEMPTIONS

Your committee has adopted exemptions relating to contracts and subcontracts for agricultural commodities and for products of mines, oil and gas wells, and other mineral and natural deposits and timber, which are identical with the exemptions contained in the renegotiation statute in effect during World War II.

Section 106 (a) (2) of the committee bill grants an exemption to any contract or subcontract for an agricultural commodity in its raw or natural state, or, if it is not customarily sold or does not have an established market in such state, in the first form or state in which it is customarily sold or in which it has an established market. The definition of agricultural product is broad and includes not only products resulting from the cultivation of the soil but also natural resins, saps and gums of trees; animals, fish, and the produce of live animals such as wool, eggs, milk, and cream. Unlike the House bill, your committee bill does not limit the exemption to contracts or subcontracts with the producer of the agricultural commodity but applies it to all contracts and subcontracts for an agricultural commodity within the scope of the exemption.

Section 106 (a) (3) exempts from renegotiation any contract or subcontract for the product of a mine, oil or gas well or other mineral or natural deposit, or timber, which has not been processed, refined or treated beyond the first form or state suitable for industrial use. It is intended by this exemption to exempt all products which would have been exempt under the identical exemption contained in the renegotiation statute in effect during World War II. Thus, this exemption applies to contracts or subcontracts for the sale of pig iron, which is the first form or state of iron ore which is suitable for industrial use. This is to be contrasted with the provision in the House bill which makes the exemption inapplicable to iron ore if it has been processed, refined or treated beyond the first commercially marketable state as described in the House bill. Similarly, this exemption is intended to apply, as in the case of the comparable exemption in effect during World War II, to zinc ores which have not been processed, refined, or treated beyond the form or state of zinc ores and concentrates, anodes, bars, oxide, powder and slabs. As was the case under the statute in effect during World War II, certain by-products resulting from processes designed to produce an exempted product are also exempt. Examples of this are by-products resulting from the processing of natural gas, such as natural gasoline, butanes, propanes, and residue gas.

In order to place an integrated producer who acquires any of the products described in section 106 (a) (2) and (3) or produces them initially and processes them up to and beyond the last exempted form or state on a parity with a producer who sells at the last exempted

form or state, the Board is required in section 106 (b) to prescribe such regulations as may be necessary to give such integrated producer a cost allowance substantially equivalent to the amount which would have been realized by such producer if he had sold the product at its last exempted form or state.

Since contracts with the acquirer of a product at its last exempted form or state are entitled to the same exemption as contracts with the producer of such product under your committee bill, there has been added to section 106 (b) a provision, similar to that contained in the renegotiation statute in effect during World War II, whereby, to the extent that the profits realized by a contractor or subcontractor by reason of the increment in value of his excess inventory of the products described in section 106 (a) (2) and (3) in the form or state in which contracts therefor are exempted under such paragraphs are applicable to receipts and accruals subject to the provisions of the act, they shall be excluded from consideration in determining excessive profits. The test as to whether or not any contractor or subcontractor ahs an excess inventory of such materials turns upon whether or not the contractor or subcontractor has in inventory quantities of such materials in excess of the amount reasonably necessary to fulfill existing contracts or orders. The method of determining the portion of the profits applicable to receipts and accruals subject to this act realized by reason of the increment in value of an excess inventory and the method of excluding such portion of such profits from renegotiation will be set out in regulations prescribed by the Board.

The following example will show how the amendment operates. A has, through the purchase of long cotton, 600,000 pounds of cotton on hand on a particular date, which has a book cost of 30 cents a pound. On this date, A has future orders which will consume only 100,000 pounds of such cotton. A thus has a long position of 500,000 pounds of cotton. The next contract that A takes is for Government goods and requires the use of 500,000 pounds of such cotton. On the day A takes the Government contract, the current market price of such cotton is 35 cents a pound. In such a situation A has placed himself in a position to realize an inventory profit of $25,000. This inventory profit, if realized, is not a manufacturing profit but is in the nature of an investment or speculative profit which could be realized. It has no relationship to the profits to be derived from the Government contract, and, therefore, represents a profit from an excess inventory, which is excluded from renegotiation under the amendment.

3. PUBLIC UTILITY EXEMPTION

The House bill did not provide for an expressed exemption from renegotiation in the case of contracts with common carriers or public utilities. Your committee has added a specific mandatory exemption in such cases.

The committee amendment exempts any contract or subcontract with a common carrier for transportation or with a public utility for gas, electric energy, water, communications, or transportation, when made in either case at rates not in excess of published rates or charges filed with, fixed, approved, or regulated by a public regulatory body, State, Federal, or local, or at rates not in excess of unregulated rates of such public utility which are substantially as favorable to the users

and consumers as are the regulated rates. In the case of transportation, by common carrier by water, the exemption applies only to such furnishing or sale by the common carrier which is subject to the jurisdiction of the Interstate Commerce Commission under part III of the Interstate Commerce Commission Act, or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933.

It is believed desirable to specifically exempt contracts of this type since the vendor is subject to regulation by a public regulatory body, and where the vendor is not regulated the rates are substantially as favorable to users and consumers as are the regulated rates. This exemption will avoid possible complication between Federal and State or local authority in these fields as well as between different Federal departments or agencies.

4. CHARITABLE AND EDUCATIONAL EXEMPTION

The House bill contains no exemption of contracts or subcontracts entered into with charitable, educational, and scientific institutions exempt from taxation on the income from their related activities under section 101 (6) of the Internal Revenue Code.

Your committee bill adds a mandatory exemption with respect to such contracts. It provides that any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code is to be exempt from renegotiation where the income from such contract or subcontract does not constitute unrelated business income within the meaning of section 422 of the Internal Revenue Code. This exemption would particularly apply to contracts or subcontracts entered into with educational institutions to conduct research activities.

5. SUBCONTRACTS FOR DURABLE PRODUCTIVE EQUIPMENT

A new partial mandatory exemption has been added by your committee bill in favor of subcontracts for machinery, tools, or other so-called durable productive equipment which does not become a part of an end product or of an article incorporated therein and which is not acquired by the purchaser for the account of the Government. The exemption is limited to equipment of this description which has an average useful life of more than 5 years. It is provided that there shall be subject to renegotiation only that part of the receipts or accruals from subcontracts for such equipment which bears the same ratio to the total of such receipts or accruals as 5 years bears to the average useful life of such equipment. Average useful life is stated to be as specified in Bulletin F of the Bureau of Internal Revenue or, if not therein specified, then as estimated by the Board.

The cost of long-lived equipment which does not become property of the Government is ordinarily reimbursed to the owner over a period of years in the form of the depreciation charge for the use of the equipment on Government work. Reimbursement is completed, therefore, only when the entire service life of the equipment is exhausted in such work. Where only a fraction of the life is so consumed, reimbursement through ordinary means is also partial. It is therefore considered proper that renegotiation should apply only to that portion of the

profit which corresponds to the portion of the service life of the equipment that is exhausted in the performance of renegotiable contracts and subcontracts.

The method adopted in your committee bill to effectuate this principle is to invoke an arbitrary assumption calculated to work substantial over-all justice and at the same time to provide a workable rule. The assumption made is that the first 5 years of the service life of equipment originally acquired for defense production will be devoted entirely to such work, and that the remainder of the service life will be devoted to ordinary commercial work. Proceeding upon this assumption, the renegotiable portion of the sales of such equipment by suppliers is stated to be the proportion which 5 years is of its normal service life. Thus, for 10-year equipment, one-half of the receipts, or accruals would be subject to renegotiation; for 15-year equipment, one-third; for 20-year equipment, one-quarter; and so forth. To apply this rule, Bulletin F issued by the Bureau of Internal Revenue is designated as the measure of normal service life of durable equipment. Where Bulletin F does not specify such life for particular equipment, the Board is to estimate the same.

As stated above, the exemption does not apply to sales made directly to the Government or for Government account. As used in the bill, the phrase "acquired * * * for the account of the Government" means acquired pursuant to an arrangement by the Government and the purchaser of such equipment, whereby title to such equipment will, or may, at the option of the Government, vest in the Government.

6. RENEGOTIATION BOARD

Your committee bill provides that the primary responsibility for renegotiation of contracts shall be vested in an independent establishment in the executive branch of the Government, to be known as the Renegotiation Board. The organization of the Renegotiation Board provided by your committee bill differs from that provided by the House bill in that only the Chairman of the Board is to be appointed by the President and the other four members are to be appointed one each by the respective Secretaries of the Army, the Navy, and the Air Force, subject to the approval of the Secretary of Defense, and one by the Administrator of General Services. Your committee bill, like the House bill, requires all five members to be appointed by and with the advice and consent of the Senate. Under the House bill all five members of the Board were to be appointed by the President by and with the advice and consent of the Senate. The provision for the appointment of four members by officials of the four indicated agencies recognizes the fact that such agencies initiate substantially all of the contracts subject to renegotiation.

Your committee bill also differs from the House bill in that the compensation for the Chairman is fixed at $17,500 per annum and the compensation for the other members is fixed at $15,000 per annum. The House bill provides that each member shall receive compensation at the rate of $12,500 per annum. Your committee feels that the members of the Board must be men of the highest qualifications, both as to integrity and experienced business judgment, in order to properly discharge their responsibilities. Therefore, the compensation must be

at a rate commensurate with other governmental officials having similar responsibilities.

The House bill also provided that no member of the Board might engage in any other business, vocation, or employment. This provision has been eliminated from your committee bill in order that the selection of Board members shall not be unduly circumscribed. It is intended that Board members shall devote their full time to the performance of their duties as such, and it is believed that the provision for Senate confirmation of Board appointments will afford adequate opportunity to insure that no outside interests of any appointee will interfere with the proper discharge of his responsibilities as a Board member.

7. DESIGNATION OF ADDITIONAL DEPARTMENTS BY THE PRESIDENT

This subject is fully discussed in paragraph 7 of the general statement.

8. SUSPENSION OF PROFIT LIMITATION PROVISIONS OF MERCHANT MARINE ACT

Subsection (d) of section 201 suspends the profit limitation provisions of the act of March 27, 1934 (Vinson-Trammel Act) and of section 505 (b) of the Merchant Marine Act, 1936, with respect to any contract or subcontract if any of the receipts or accruals therefrom are subject to this act. The House bill suspends only the profit limitation provisions of the Vinson-Trammel Act.

9. CONTRACTS SUBJECT TO RENEGOTIATION

It is provided in subsection (b) of section 102 that even though a contractor or subcontractor receives or accrues amounts on or after January 1, 1951, such amounts shall not be subject to the provisions of title I if such receipts or accruals are attributable to performance prior to July 1, 1950.

Subsection (c) corresponds to section 102 (b) of the House bill but represents a departure from the provisions of the House bill. It is provided by subsection (c) that the Renegotiation Act of 1948 shall not be applicable to any contract or subcontract to the extent of the amounts received or accrued by a contractor or subcontractor on or after the 1st day of January 1951 and attributable to performance after June 30, 1950. Thus, with one exception, the Renegotiation Act of 1948 cannot apply to any amounts received or accrued by a contractor or subcontractor on or after January 1, 1951. The exception is that the 1948 act would continue to apply to any amounts received on or after January 1, 1951, if such amounts are attributable to performance prior to July 1, 1950.

Subsection (c) also provides that if a contractor having a fiscal year beginning in 1950 and ending in 1951 has receipts or accruals prior to January 1, 1951, from contracts or subcontracts subject to the Renegotiation Act of 1948 and also has receipts or accruals after December 31, 1950, to which the provisions of title I are applicable, the contractor or subcontractor and the Board may agree that the provisions of title I shall be applicable to all such receipts or accruals and in the event of such an agreement the Renegotiation Act of 1948

shall not apply to any of the receipts or accruals for the fiscal year. This provides a means of avoiding the conduct of two renegotiation proceedings with respect to one fiscal year.

10. ONE YEAR CARRY-OVER OF LOSS

Your committee bill contains a provision permitting the excess of costs paid or incurred with respect to renegotiable contracts and subcontracts in any fiscal year over the amount received or accrued in such fiscal year to be carried over and applied as an item of cost in the next succeeding fiscal year, subject to regulations of the Board.

It is deemed desirable to allow such losses to be reflected in the costs for the succeeding year, particularly because such losses are frequently incurred at the beginning of production under such contracts as a result of tooling-up, starting-load, and other nonrecurrent charges. This is particularly true with respect to new items not previously manufactured by the contractor or subcontractor. It is not believed that any major administrative difficulty will result from this amendment.

11. RECOGNITION OF EFFICIENCY

Section 103 (e), which defines excessive profits, states the factors which are required to be taken into consideration in every case in determining the existence and amount of excessive profits. Among these factors, in the House bill as in the renegotiation law in effect during World War II, is "efficiency of contractor or subcontractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower."

Your committee believes that this statement of the efficiency factor fails to require that favorable consideration be given thereto. It is considered that a provision requiring favorable recognition of this factor will promote efficient operations by furnishing a strong practical incentive therefor. Accordingly, instead of requiring merely that efficiency be "taken into consideration" in determining excessive profits, it is now provided that "favorable recognition must be given" to this factor in making such determinations. The remaining factors set forth in the House bill remain unchanged.

12. INTEREST

The House bill provides that interest shall accrue on unpaid renegotiation indebtedness at the rate of 6 percent per annum. Your committee bill provides that such interest shall accrue at the rate of 4 percent per annum.

In addition your committee has modified the interest provisions of the House bill in several other respects. It has provided that no interest shall accrue after 3 years from the date of filing a petition with the Tax Court pursuant to section 108 of the bill in any case in which there has not been a final determination by the Tax Court with respect to such petition within such 3-year period.

Your committee bill also provides that, in the event that the Tax Court determines excessive profits in a lesser amount than the amount determined by the Board, no interest shall accrue on the lesser

amount determined by the Tax Court, where prior to the filing of the petition with the Tax Court, the contractor tendered in payment an amount equal to or greater than the amount determined by the Tax Court. Even though the Board has already issued an order, it would of course have the right to accept such a tender made prior to the filing of a petition with the Tax Court.

In addition to the foregoing provisions with respect to the accrual of interest, your committee bill provides that interest shall accrue from the thirtieth day after the date of the order of the Board or from the date fixed for repayment by agreement of the parties instead of, as provided in the House bill, from the date fixed for repayment by order of the Board or by agreement of the parties.

Finally, your committee bill provides that in the case of an overcollection of excess profits, any amounts refunded to the contractor or subcontractor shall be refunded with interest thereon at the rate of 4 percent per annum instead of 6 percent per annum.

18. ASSIGNMENT OF CLAIMS

Your committee has added a new provision to protect banking institutions against the issuance of withholding orders as a means of collecting excessive profits of contractors or subcontractors who have assigned their contracts or subcontracts to such institutions as collateral for loans. It is considered that this protection will facilitate the execution of the national defense program by enabling banks, trust companies, and other financing institutions to advance funds needed by contractors and subcontractors without incurring the liability that money due or to become due under the assigned contract or subcontract may be withheld for the collection of the renegotiation liabilities of their assignors.

DISCUSSION OF MINOR CHANGES MADE BY THE SENATE FINANCE COMMITTEE BILL

A. RECONSTRUCTION FINANCE CORPORATION INCLUDED IN THE DEFINITION OF DEPARTMENTS

Under the House bill the Reconstruction Finance Corporation was not included in the definition of departments whose contracts, and related subcontracts, are subject to renegotiation. Its contracts and subcontracts were subject to renegotiation under the World War II statute. The Reconstruction Finance Corporation has requested through its Chairman that it be included in the 1951 statute as a named Department for the reason that its synthetic rubber, tin, and abacá operations are within the area of contracts for defense materials which are properly subject to renegotiation. Your committee, therefore, has included this agency as a Department whose contracts, and related subcontracts, will be covered.

B. PARTNERSHIP FISCAL YEAR

In this subsection, the definition of the term "fiscal year" has been modified to make it clear that the Board shall not have the right to determine the fiscal year of a partnership in all cases, but only in those

cases where a readjustment of partnership interests occurs. In other words, where a partnership completes an entire fiscal year without any change of membership or other readjustment of interests, its fiscal year is, as in the case of any other contractor or subcontractor, its taxable year under chapter 1 of the Internal Revenue Code. It is only where the composition of a partnership changes before the completion of a full fiscal year by reason of the death, withdrawal, or addition of a partner, or other cause, that the Board is empowered to determine, for purposes of renegotiation, the fiscal year of the partnership or partnerships involved. Difficulties encountered in the administration of the renegotiation law in effect during World War II would thus be avoided.

C. MANDATORY CONSOLIDATION OF AFFILIATED GROUPS

Under the House bill, by agreement with any contractor or subcontractor, and pursuant to regulations promulgated by it, the Board may in its discretion conduct renegotiations on a consolidated basis in order properly to reflect excessive profits of two or more related contractors or subcontractors. The Finance Committee has added an amendment which requires the Board to conduct renegotiation on a consolidated basis with a parent and its subsidiary corporations which constitute an affiliated group for Federal income-tax purposes.

The Board is required to make this consolidation only where the corporations involved request such consolidation and consent to such regulations as the Board shall prescribe with respect to the determination and elimination of excessive profits of such group.

D. NET WORTH

Under your committee bill the Board, in determining excessive profits, is required to consider the factor of net worth, with particular regard to the amount and source of public and private capital employed. Under the House bill the Board was required under this factor to consider only the reasonableness of return on net worth. Your committee believes that the House bill is too restrictive, since the reasonableness of return on net worth might not in many cases be an adequate measure of fair profits.

E. SUBCONTRACTS

Your committee bill restores the provision of the World War II law specifically excluding from the term "subcontract" any purchase order or agreement to furnish office supplies.

F. STAY OF COLLECTION

Under the House bill the filing of a petition with the Tax Court operates as a stay of the execution of an order of the Board if, within 5 days after the filing of the petition, the petitioner files with the Tax Court a good and sufficient bond, approved by such court, in such amount as may be fixed by the court. Your committee extends this 5-day period to 10 days in order that the petitioner may have adequate time to secure a bond.

G. ACCOUNTING METHODS

Your committee made several technical changes in section 103 (j) of the House bill setting forth the standards for allowance of costs and expenses for renegotiation purposes. The word "books" is changed to "records" because books may be only records of cost allocations, etc., for various management or control purposes. The last sentence of this subsection appears redundant and contradictory and is, therefore, eliminated.

H. EMPLOYMENT OF BOARD PERSONNEL

Under your committee bill the Board may employ personnel without regard to the civil-service laws and regulations. This amendment is deemed necessary in order that the Board may secure qualified and experienced personnel. The House bill required such employment to be subject to the civil-service laws and regulations. Like the House bill, the Finance Committee bill requires the compensation of such personnel to be subject to the pay limitations of the Classification Act of 1949.

I. TREATMENT OF RECOVERIES

Your committee bill provides that all money recaptured shall be covered into the Treasury as miscellaneous receipts. The House bill provided that all money recovered in respect of amounts paid to the contractor from corporate or other revolving funds should be restored to such funds. Your committee believes that all moneys recaptured by renegotiation should be covered into the Treasury.

J. PROSECUTION OF CLAIMS AGAINST THE UNITED STATES BY FORMER PERSONNEL

The House bill provides that certain specified provisions of law shall not prevent any person, by reason of service prior to January 1, 1954, in performance of duties required by the act, from acting as counsel, agent, or attorney for prosecuting claims against the United States after such person is no longer employed in a department or the Board. Your committee bill extends this provision to any person employed in a named or designated department or the Board during the period (or a part thereof) beginning July 1, 1950, and ending December 31, 1953. A similar provision was included in the World War II statute. This provision is necessary in order to secure experienced professional personnel in the performance of duties connected with the defense effort.

Section-by-Section Analysis of the Bill

TITLE I—RENEGOTIATION OF CONTRACTS

SECTION 101. DECLARATION OF POLICY

This section takes cognizance of the extensive funds that have been provided for the execution of the national defense program, and declares it to be the considered policy of the Congress, in the interests of the national defense and the general welfare of the Nation, that

excessive profits from contracts made with the United States, and from related subcontracts, be eliminated as provided in the bill.

SECTION 102. COVERAGE OF THE ACT

The provisions of title I are made applicable to all contracts with the departments specifically named in the bill, and related subcontracts, to the extent the amounts received or accrued by a contractor on or after January 1, 1951, irrespective of whether such contracts were made on, before, or after January 1, 1951, provided such receipts and accruals are not attributable to performance under such contracts or subcontracts prior to July 1, 1950.

The provisions of title I are also made applicable to all contracts with the departments designated by the President pursuant to authority granted in the bill, and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of the first month beginning after the date of such designation. Here again the provisions of this title shall apply regardless of the date of the affected contracts or subcontracts so long as the amounts received or accrued after the first day of the first month following the date of designation are not attributable to performance under such contracts or subcontracts prior to July 1, 1950.

The provisions of this title are made inapplicable to receipts or accruals attributable to performance, under contracts or subcontracts, after December 31, 1953. Amounts received or accrued after December 31, 1953, will be subject to the title only if such receipts or accruals are attributable to performance prior to that date, and renegotiation shall not apply to amounts received or accrued on or prior to December 31, 1953, if such receipts or accruals are attributable to performance subsequent to that date.

It is provided in subsection (c) that the Renegotiation Act of 1948 shall not be applicable to any contract or subcontract to the extent of the amounts received or accrued by a contractor or subcontractor on or after January 1, 1951, and attributable to performance after June 30, 1950.

Subsection (c) also provides that, if a contractor having a fiscal year beginning in 1950 and ending in 1951 has receipts or accruals prior to January 1, 1951, from contracts or subcontracts subject to the Renegotiation Act of 1948 and also has receipts or accruals after December 31, 1950, to which the provisions of title I are applicable, the contractor or subcontractor and the Board may agree that the provisions of title I shall be applicable to all such receipts or accruals and in the event of such an agreement the Renegotiation Act of 1948 shall not apply to any of the receipts or accruals for the fiscal year.

It is provided in subsection (d) that the profit-limitation provisions of the act of March 27, 1934 (Vinson-Trammell Act) and section 505 (b) of the Merchant Marine Act, 1936, shall not apply to any contract or subcontract if any of the receipts or accruals therefrom are subject to this title.

SECTION 103. DEFINITIONS

For the purposes of this title, the term "Department" is defined to mean the Departments of Defense, Army, Navy, Air Force, and

Commerce, the General Services Administration, the Atomic Energy Commission, the Reconstruction Finance Corporation, and such other agencies of the Government exercising functions having a direct and immediate connection with the national defense as the President shall designate.

The definition of "excessive profits" contained in the bill states that, in determining excessive profits, favorable recognition must be given to the efficiency of the contractor or subcontractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower. This definition also sets forth certain factors to be taken into consideration in connection with determining excessive profits. These factors are: Reasonableness of costs and profits, with particular regard to volume of production, normal earnings, and comparison of war and peacetime products; the net worth, with particular regard to the amount and source of public and private capital employed; extent of risk assumed, including the risk incident to reasonable pricing policies; nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance; character of business, including source and nature of materials, complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over; and such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

"Profits derived from contracts and subcontracts" subject to this title are defined to mean the excess of the amount received or accrued thereunder over the costs paid or incurred with respect thereto and determined to be allocable thereto. All items estimated to be allowable as deductions and exclusions under chapter 1 of the Internal Revenue Code (excluding taxes measured by income) are, to the extent allocable to such contracts and subcontracts, allowed as items of cost, but no amount is allowed as an item of cost by reason of the application of a carry-back. There is allowed as an item of cost a carry-over of a loss on renegotiable business in the preceding year. Such costs generally are to be determined in accordance with the method of accounting regularly employed by the contractor or subcontractor in keeping its records. Federal income taxes are not allowable as items of cost. However, after the excessive profits have been determined, credit is allowed for any Federal income and excess-profits taxes paid with respect thereto.

In addition to the foregoing, this section contains definitions of the following terms: "Secretary," "Board," "subcontract," "fiscal year," "renegotiate," "renegotiation," "received or accrued," "paid or incurred," "person," "materials," and "agency of the Government."

SECTION 104. RENEGOTIATION CLAUSE IN CONTRACTS

This section requires the Secretary of each department to whose contracts the provisions of this title are applicable to insert in each contract a provision whereby the contractor agrees to the elimination of excessive profits through renegotiation, and to certain procedures relating to the repayment of such excessive profits, and agrees to insert

a similar provision in each subcontract entered into by such contractor. The section provides specifically that the provisions of this title will apply to a contract or subcontract within the purview of this title, whether or not such contract or subcontract contains a renegotiation clause.

SECTION 105. RENEGOTIATION PROCEEDINGS

Renegotiation proceedings are commenced by the mailing of notice to that effect, by registered mail, to the contractor or subcontractor. The Board then endeavors to make an agreement with the contractor or subcontractor with respect to the elimination of excessive profits, if any. If no agreement is concluded, the Board issues an order determining the amount, if any, of such excessive profits, giving notice thereof by registered mail to the contractor or subcontractor. Unless a timely petition is filed with the Tax Court of the United States, such order is final and conclusive and not subject to review or redetermination by any court or other agency.

Provision is made that renegotiation shall be conducted with respect to the aggregate of the amounts received or accrued by a contractor or subcontractor under subject contracts or subcontracts during his fiscal year or such other period as may be fixed by mutual agreement, and not separately with respect to amounts received or accrued under separate contracts or subcontracts. However, at the request of the contractor or subcontractor, the Board may renegotiate amounts received or accrued under any one or more separate contracts or subcontracts. The Board is also authorized in its discretion, by agreement with a contractor or subcontractor, to conduct renegotiation on a consolidated basis in order properly to reflect excessive profits of two or more related contractors or subcontractors. The Board must conduct renegotiation on a consolidated basis with a parent and its subsidiary corporations which constitute an affiliated group under the Internal Revenue Code if all of the corporations request such consolidation and consent to the regulations prescribed by the Board. In any case where a determination of excessive profits is made by order, the Board is required, at the request of the contractor or subcontractor, to furnish a statement of the amount of such determination, of the facts used as a basis therefor, and of its reasons for such determination; but such statement may not be used in the Tax Court of the United States as proof of the facts or conclusions stated therein.

The amount of excessive profits having been determined, whether by agreement or order, the Board is required in subsection (b) to authorize and direct the Secretaries or any one of them to eliminate such excessive profits by reducing the amounts otherwise payable to the contractor; by withholding from amounts otherwise due to the contractor; by directing any person having a contract with any agency of the Government, or any subcontractor thereunder, to withhold for the account of the United States from any amounts otherwise due from such person or subcontractor to the contractor or subcontractor having excessive profits to be eliminated; by recovery from the contractor or subcontractor or from any person or subcontractor directed to withhold as above stated, through payment, repayment, credit, or suit; or by any combination of these methods deemed desirable. Interest at the rate of 4 percent is payable on unpaid excessive profits from the thirtieth day after the date of the order of the Board or from the date fixed for repayment by agreement.

Actions in the appropriate courts of the United States may be brought to recover excessive profits determined and not withheld or otherwise eliminated.

The surety under a contract or subcontract is not liable for the repayment of any excessive profits thereon.

Subsection (b) (5) provides that nothing in this subsection shall be construed to authorize any agency of the Government, except as provided in the Assignment of Claims Act of 1940, as now or hereafter amended, to withhold from an assignee any moneys due or to become due under any contract with a department where such moneys have been assigned pursuant to such act, or to authorize any agency of the Government to direct the withholding pursuant to subsection (b) (1) (c) of this section from an assignee bank (as defined in section 104 (a) of the Internal Revenue Code) or from an assignee Federal lending agency of any moneys due or to become due under any subcontract where such moneys have been assigned to such an assignee as collateral for a loan.

All persons are indemnified by the Government against claims on amounts withheld and paid to the United States. All moneys recovered by way of repayment or suit are to be covered into the Treasury as miscellaneous receipts.

Credit is to be allowed the contractor or subcontractor for Federal income and excess-profits taxes as provided in section 3806 of the Internal Revenue Code.

Subsection (c) prohibits the commencement of any proceeding to determine the amount of excessive profits for any fiscal year more than 1 year after the financial statement required from the contractor or subcontractor for such year is filed with the Board, and requires the completion of said proceeding, by agreement or order, within 2 years after commencement. If the proceeding is not commenced and completed within said respective periods, all liabilities of the contractor or subcontractor for excessive profits received or accrued during such fiscal year are thereupon discharged, except that such 2-year period may be extended by mutual agreement and such 2-year limitation does not apply to review by the Board of an order made within such 2 years pursuant to any delegation of authority from the Board.

The Board is given authority in subsection (d) to make final or other agreements with a contractor or subcontractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under title I. Any such agreement is conclusive according to its terms and, in the absence of fraud, malfeasance, or a willful misrepresentation of a material fact, shall not be reopened or modified by the Government and shall not be modified or set aside in any suit, action, or proceeding. The Board may, however, modify any agreement or order for the purpose of extending the time for payment of sums due thereunder.

Subsection (e) requires every person holding contracts or subcontracts subject to the provisions of title I to file with the Board, on or before the first day of the fourth calendar month following the close of his fiscal year, in such form and detail as the Board may by regulations prescribe, a financial statement setting forth such information as the Board may by regulations prescribe. Any additional information, records, or data specified by the Board are also required to be filed by every such person at such time or times and in such form

and detail as the Board may by regulations prescribe. The willful failure or refusal to furnish any such statement or other material, or the filing of any such statement or other material known to be false or misleading in any material respect, is punishable, upon conviction thereof, by a fine of not more than $10,000 or imprisonment for not more than 1 year, or both.

Subsection (e) also confers upon the Board the right to audit the books or records of any contractor or subcontractor subject to title I. For this purpose, in the interest of economy and to avoid duplicate inspections and audits, it is provided that the services of the Bureau of Internal Revenue shall, upon request of the Board and the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury.

In the case of subcontracts described in section 103 (g) (3), if the aggregate of amounts subject to the provisions of title I received or accrued from such subcontracts during a fiscal year by any subcontractor, and all persons under control of or controlling or under common control with him, is not more than $25,000, subsection (f) provides that such receipts or accruals shall not be renegotiated under this title. If the aggregate of amounts subject to the provisions of title I received or accrued from all other contracts and subcontracts during a fiscal year by any contractor or subcontractor, and all persons under control of or controlling or under common control with such contractor or subcontractor, is not more than $500,000, the bill provides that such receipts or accruals shall not be renegotiated under this title. In either case, no determination of excessive profits to be eliminated for such year may be in an amount greater than the amount by which such aggregate exceeds $25,000 or $500,000, as the case may be.

Provision is made that, if the fiscal year of a contractor or subcontractor is a fractional part of 12 months, the $500,000 amount and the $25,000 amount shall be reduced by the same fractional part thereof for the purposes of subsection (f). Provision is made for the proration of the $500,000 amount and the $25,000 amount in the case of a fiscal year beginning in 1950 and ending in 1951 unless the contractor and the Board make an agreement pursuant to section 102 (c).

SECTION 106. EXEMPTIONS

This section exempts from renegotiation—

1. Contracts by a department with any Territory, possession, or State, or any agency or political subdivision thereof, or with any foreign government or any agency thereof.

2. Contracts and subcontracts for an agricultural commodity in its raw or natural state or, in the case of a commodity not customarily sold or not having an established market in its raw or natural state, in the first form or state beyond the raw or natural state in which it has an established market.

The definition of an agricultural product is broad and includes not only products resulting from the cultivation of the soil but also includes natural resins, saps, and gums of trees; animals, fish, and the produce of live animals, such as wool, eggs, milk, and cream.

3. Contracts and subcontracts for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has

not been processed, refined, or treated beyond the first form or state suitable for industrial use.

4. Contracts and subcontracts with common carriers for transportation or with public utilities for gas, electric energy, water, communications, or transportation, when made in either case at rates not in excess of published rates or charges filed with, fixed, approved, or regulated by public regulatory body, either State, Federal, or local. This exemption is limited in the case of the furnishing or sale of transportation by common carrier by water to those which are subject to the jurisdiction of the Interstate Commerce Commission under part III of the Interstate Commerce Act or are subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933.

5. Contracts and subcontracts with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, provided that the income does not constitute "unrelated business income" within the meaning of section 422 of the Internal Revenue Code.

6. Any subcontract directly or indirectly under a contract or subcontract of the kind described in 1, 2, 3, 4, and 5, above.

7. A partial exemption is provided for durable productive equipment. It is provided that only that part of the receipts or accruals from subcontracts for durable productive equipment which bears the same ratio to the total receipts or accruals therefrom as 5 years bears to the average useful life of such equipment shall be subject to renegotiation. "Durable productive equipment" is defined to mean machinery, tools, or other equipment which does not become a part of an end product or of an article incorporated therein and which has average useful life of more than 5 years. This partial exemption does not apply to the sale of such equipment to the Government by prime contract, nor does it apply to subcontracts where the purchaser of such durable productive equipment has acquired it for the account of the Government.

To insure the equitable treatment of contractors or subcontractors who produce or acquire minerals, oil or gas, or timber, and who process, refine, or treat such products beyond the first form or state suitable for industrial use, or who produce or acquire agricultural products and process, refine, or treat them beyond the first form or state in which they are customarily sold or in which they have an established market, the Board is required to prescribe such regulations as may be necessary to give the contractor or subcontractor a cost allowance for products produced or acquired by him substantially equivalent to the amount which would have been realized by him if he had sold such products in their first form or state.

There is excluded from renegotiation that portion of a contractor or subcontractor's profits which are attributable to the increment in value of such contractor or subcontractor's excess inventory. Excess inventory means inventory of products described in 2 and 3, above, acquired by the contractor or subcontractor in their exempt state which is in excess of the inventory reasonably necessary to fulfill the contractor or subcontractor's existing contracts or orders.

This section also authorizes the Board, in its discretion, to exempt from renegotiation contracts or subcontracts which fall within certain specified categories, either individually or by general classes or types. These categories with one exception were contained in the Renegotia-

tion Act in effect during World War II. The category added by this bill is as follows:

Any contract or subcontract the renegotiation of which would jeopardize secrecy required in the public interest.

In addition to the foregoing the Board would have the authority under this section to exempt from renegotiation, in its discretion, such contracts as the following: Contracts to be performed in a foreign country; contracts and subcontracts under which, in the opinion of the Board, the profits can be determined with reasonable certainty when the contract price is established; contracts the provisions of which are otherwise adequate to prevent excessive profits; and contracts with respect to which it is not administratively feasible to determine and segregate the renegotiable profits from the profits attributable to activities not subject to renegotiation.

SECTION 107. RENEGOTIATION BOARD

Section 107 of the bill contains provisions relating to the creation, organization, and operation of the Renegotiation Board.

The Renegotiation Board is created under subsection (a) as an independent establishment in the executive branch of the Government and is to be composed of five members to be appointed by and with the advice and consent of the Senate. One member, who shall be the Chairman, shall be appointed by the President; one member each shall be appointed by the Secretaries of the Army, the Navy, and the Air Force, respectively, subject to the approval of the Secretary of Defense; and one member shall be appointed by the Administrator of General Services. The Chairman is to receive compensation at the rate of $17,500 per annum. The other members shall receive compensation at the rate of $15,000 per annum. The Board is to have a seal which shall be judicially noticed.

Subsection (b) provides that three members of the Board shall constitute a quorum.

Subsections (b) and (c) provide authority for the Board to establish offices, employ personnel, and utilize services of officers and employees of other agencies of the Government.

Subsection (d) authorizes the Board to delegate in whole or in part any function, power, or duty other than its power to promulgate regulations and rules. The delegation power is limited in that no function, power, or duty shall be delegated or redelegated to any person engaged on behalf of any department in the making of contracts for procurement of supplies or services or engaged in the supervision of such activity. Furthermore, any delegatee must be directly responsible to the Board or to the person making such delegation or redelegation. The Board is to make a determination that delegants and redelegants have been made subject to such limitations.

Subsection (e) authorizes the Chairman of the Board to divide the Board into divisions, assign members thereto, and (where a division has more than one member) designate the chief thereof. In addition the Board is authorized, by regulation or otherwise, to determine the character of cases to be conducted initially (1) by the Board through an officer or officers of, or utilized by, the Board; (2) by agencies of the Government to which the Board has delegated power to conduct cases; (3) by divisions of the Board; and (4) by the Board itself. The

Board is authorized to review any determination in any case not initially conducted by it either on its own motion or (in its discretion) at the request of any contractor or subcontractor aggrieved thereby. Such determination becomes the determination of the Board unless (1) the Board initiates on its own motion a review within 90 days from the date of the determination or (2), at the request of the contractor or subcontractor made within 90 days from the date of the determination, the Board initiates a review within 90 days from the date of the request. If such determination was made by an order with respect to which notice was given by registered mail (as required by sec. 105 (a)) the Board is required to give notice by registered mail to the contractor or subcontractor of its decision not to review the case. If the Board reviews the determination, it is required to issue and enter an order under section 105 (a) determining the amount (if any) of excessive profits and forthwith give notice thereof by registered mail to the contractor or subcontractor. The amount of the excessive profits determined upon review may be less than, equal to, or greater than the amount determined by the officer or officers, division of the Board, or other agency of the Government whose action is reviewed.

Subsection (f) of section 107 requires the Board to accept and perform such renegotiation powers, duties, and functions as may be delegated to it under any other law requiring or permitting renegotiation and permits the Board to redelegate, within limits specified by it, the powers, duties, or functions delegated to it. This subsection also authorizes the Secretary of Defense to delegate to the Board, in whole or in part, the powers, functions, and duties conferred upon him by any other renegotiation law.

SECTION 108, REVIEW BY THE TAX COURT

This section provides that any contractor or subcontractor aggrieved by an order of the Board determining the amount of excessive profits received or accrued by him may, within the time limitations prescribed in the section, file a petition with the Tax Court for a redetermination thereof; that the court shall then have exclusive jurisdiction, by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor; and that such determination shall not be reviewed or redetermined by any court or agency. The court may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the Board. The proceeding before the Tax Court is to be a proceeding de novo.

In addition to certain provisions relating to administrative matters connected with the proceedings in the Tax Court, the section also provides that the filing of a petition in the Tax Court shall operate to stay the execution of the order of the Board if a good and sufficient bond is filed with the approval of the Tax Court. Where the United States has collected amounts, under an order of the Board, greater than the amount determined by the court, the excess shall be refunded to the contractor with interest thereon at the rate of 4 percent per annum.

SECTION 109. RULES AND REGULATIONS

The Board is granted authority to make such rules, regulations, and orders as it deems necessary or appropriate to carry out this title.

SECTION 110. COMPLIANCE WITH REGULATIONS, ETC.

This section provides that no person shall be held liable for damages or penalties for any act resulting from his compliance with a rule, regulation, or order of the Board, even though the order is thereafter declared invalid.

SECTION 111. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT

This section provides that the functions exercised under this title shall be excluded from the operation of the Administrative Procedure Act, except as to the requirements of section 3 thereof. Section 3 of that act relates to publishing rules and regulations and to making information available to the public.

SECTION 112. APPROPRIATIONS

Section 112 authorizes the appropriation of funds sufficient to carry out this title. It also provides that funds made available to carry out the title may, with the approval of the Bureau of the Budget, be transferred among the agencies carrying out the title and that the funds so transferred shall remain available for such period as may be provided in the acts making the funds available.

SECTION 113. PROSECUTION OF CLAIMS AGAINST THE UNITED STATES BY FORMER PERSONNEL

This section provides that certain specified provisions of law shall not prevent any person, by reason of service in a department or the Board during the period (or part thereof) beginning July 1, 1950, and ending December 31, 1953, from acting as counsel, agent, or attorney for prosecuting any claim against the United States after such person is no longer employed in an agency or the Board, if the subject matter of the claim does not involve any subject matter directly connected with which such person was employed.

TITLE II—MISCELLANEOUS PROVISIONS

SECTION 201. FUNCTIONS UNDER WORLD WAR II RENEGOTIATION ACT

Subsection (a) abolishes the War Contracts Price Adjustment Board created by the Renegotiation Act in effect in World War II.

Subsection (b) transfers to the Renegotiation Board created by this bill all of the powers, functions, and duties of the War Contracts Price Adjustment Board not specifically transferred to another agency of the Government by this title.

Subsection (c) amends the Renegotiation Act in effect during World War II by adding two sentences to the end of section (a) (4) (D) of that act. The first such sentence provides a deadline for the filing of renegotiation rebate claims arising as a result of the recomputation

of the amortization deduction allowed in World War II. The second such sentence provides that a claim shall be deemed to have been filed when received by the War Contracts Price Adjustment Board or the Administrator of General Services even though it is not accompanied by a statement of the Commissioner of Internal Revenue showing the amortization deduction allowed for the renegotiated year.

Subsection (d) transfers to the Administrator of General Services all of the powers, functions, and duties of the War Contracts Price Adjustment Board relating to the payment of renegotiation rebates.

Subsection (e) requires each Secretary of a department named in the Renegotiation Act in effect during World War II to complete the elimination of excessive profits under all existing renegotiation agreements and orders resulting from renegotiations conducted initially by his department, and to complete any uncompleted administration of such agreements and orders. The subsection provides that such records as may be required for this purpose shall be retained by the departments for so long as they may be needed, but that all records of the War Contracts Price Adjustment Board, whether in the custody of the Board or in the custody of the several departments, shall become the records of the Renegotiation Board.

Subsection (f) transfers to the Administrator of General Services from the War Contracts Price Adjustment Board the responsibility for certifying for payment refunds under the Renegotiation Act in effect during World War II in the following types of claims:

1. Renegotiation rebate claims;
2. Excess inventory claims; and
3. Refunds of excessive profits resulting from redetermination of the Tax Court in lesser amounts. Interest at the rate of 4 percent per annum is provided on such refunds.

Subsection (g) provides that existing policies, procedures, etc., of the War Contracts Price Adjustment Board, or issued under delegations of authority from it, shall continue in full force and effect unless specifically superseded.

Subsection (h) contains a saving provision to provide against the impairment of regulations or orders issued by the War Contracts Price Adjustment Board, and to protect against the lapse of litigation conducted in its name.

Subsection (i) provides that the World War II Renegotiation Act continues in full force and effect. While the work of the War Contracts Price Adjustment Board is virtually completed, there remain three principal activities which require the exercise of authority vested in it under the Renegotiation Act:

1. The payment of renegotiation rebates and other refunds;
2. The collection of moneys due under renegotiation agreements and orders; and
3. The conduct of any uncompleted renegotiations.

Subsection (j) provides for the extension of the terms "Secretary" or "Secretaries" and "Department" or "Departments" to successors in function of these officers or offices specifically named in the Renegotiation Act.

Subsection (k) provides that section 201 shall take effect 60 days after the enactment date of this act.

SECTION 202. PERIOD OF LIMITATIONS FOR RENEGOTIATION ACT OF 1948

This section provides a statute of limitations for proceedings under the Renegotiation Act of 1948. That act does not now contain any such limitation.

SECTION 203. AMENDMENT OF SECTION 3806 OF THE INTERNAL REVENUE CODE

Section 3806 of the Internal Revenue Code provides, in general, that the amount of excessive profits to be eliminated shall be credited by the amount of Federal income and excess profits taxes paid with respect to such excessive profits. This section of the bill amends section 3806 of the code to make the appropriate references to the Renegotiation Act of 1948 and the Renegotiation Act of 1951.

SECTION 204. SEPARABILITY PROVISION

This section provides that, if any provision of this act or the application of any provision to any person or circumstance is held invalid, the validity of the remainder of the act and of the application of its provisions to other persons and circumstances shall not be affected thereby.