
TITLE X⁹⁹⁸
IMPOUNDMENT
CONTROL

PART A
GENERAL PROVISIONS

DISCLAIMER

§ 1001 **SEC. 1001.⁹⁹⁹** Nothing contained in this Act,¹⁰⁰⁰ or in any amendments made by this Act, shall be construed as —

§ 1001(1) **(1) asserting or conceding the constitutional powers or limitations of either the Congress or the President;**

§ 1001(2) **(2) ratifying or approving any impoundment heretofore or hereafter executed or approved by the President or any other Federal officer or employee, except insofar as pursuant to statutory authorization then in effect;**

§ 1001(3) **(3) affecting in any way the claims or defenses of any party to litigation concerning any impoundment; or**

§ 1001(4) **(4) superseding any provision of law which requires**

⁹⁹⁸ Section 1(a) (*see supra* p. 3) provides that this title (*see infra* pp. 373-402) may be cited as the "Impoundment Control Act of 1974."

⁹⁹⁹ Section 1001 is codified at 2 U.S.C. § 681 (1988).

¹⁰⁰⁰ That is, the Impoundment Control Act of 1974. *See infra* pp. 373-402.

the obligation of budget authority¹⁰⁰¹ or the making of outlays¹⁰⁰² thereunder.¹⁰⁰³

¹⁰⁰¹ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

¹⁰⁰² Section 3(1) defines "outlays." *See supra* p. 11.

¹⁰⁰³ Public Law 97-258 repealed sections 1002 and 1003. *See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance," Pub. L. No. 97-258, § 5(b), 96 Stat. 877, 1082 (1982).* Section 1002 was codified in section 1512 of title 31. As originally enacted in 1974, sections 1002 and 1003 read as follows:

AMENDMENT TO ANTIDEFICIENCY ACT

SEC. 1002. Section 3679(c)(2) of the Revised Statutes, as amended (31 U.S.C. 665) is amended to read as follows:

"(2) In apportioning any appropriation, reserves may be established solely to provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements or greater efficiency of operations. Whenever it is determined by an officer designated in subsection (d) of this section to make apportionments and reapportionments that any amount so reserved will not be required to carry out the full objectives and scope of the appropriation concerned, he shall recommend the rescission of such amount in the manner provided in the Budget and Accounting Act, 1921, for estimates of appropriations. Except as specifically provided by particular appropriations Acts or other laws, no reserves shall be established other than as authorized by this subsection. Reserves established pursuant to this subsection shall be reported to the Congress in accordance with the Impoundment Control Act of 1974."

REPEAL OF EXISTING IMPOUNDMENT REPORTING PROVISION

SEC. 1003. Section 203 of the Budget and Accounting Procedures Act of 1950 is repealed.

**PART B
CONGRESSIONAL
CONSIDERATION OF
PROPOSED RESCISSIONS,
RESERVATIONS, AND
DEFERRALS OF BUDGET
AUTHORITY**

DEFINITIONS

§ 1011 **SEC. 1011.**¹⁰⁰⁴ For purposes of this part —

§ 1011(1) (1) "deferral of budget authority"¹⁰⁰⁵ includes —

§ 1011(1)(A) (A) withholding or delaying the obligation or expenditure of budget authority¹⁰⁰⁶ (whether by establishing reserves or otherwise) provided for projects or activities; or

§ 1011(1)(B) (B) any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority,¹⁰⁰⁷ including authority to obligate by contract in advance of appropriations as specifically authorized by law;

¹⁰⁰⁴ Section 1011 is codified at 2 U.S.C. § 682 (1988).

¹⁰⁰⁵ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

¹⁰⁰⁶ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

¹⁰⁰⁷ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

§ 1011(2) (2) "Comptroller General" means the Comptroller General of the United States;

§ 1011(3) (3) "rescission bill" means a bill or joint resolution which only rescinds, in whole or in part, budget authority¹⁰⁰⁸ proposed to be rescinded in a special message transmitted by the President under section 1012,¹⁰⁰⁹ and upon which the Congress completes action before the end of the first period of 45 calendar days¹⁰¹⁰ of continuous session of the Congress after the date on which the President's message is received by the Congress;

§ 1011(4) (4) "impoundment resolution" means a resolution of the House of Representatives or the Senate which only expresses its disapproval of a proposed deferral of budget authority¹⁰¹¹ set forth in a special message transmitted by the President under section 1013,¹⁰¹² and

§ 1011(5) (5) continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day period referred to in paragraph (3)¹⁰¹³ of this section and in section 1012,¹⁰¹⁴ and the 25-day peri-

¹⁰⁰⁸ Section 3(2) defines "budget authority." See *supra* pp. 11-13.

¹⁰⁰⁹ See *infra* pp. 378-380.

¹⁰¹⁰ Section 1011(5) defines this 45-day period. See *infra* p. 376.

¹⁰¹¹ Section 1011(1) defines "deferral of budget authority." See *supra* p. 375. Section 3(2) defines "budget authority." See *supra* pp. 11-13.

¹⁰¹² See *infra* pp. 381-384.

¹⁰¹³ See *supra* p. 376.

¹⁰¹⁴ See *infra* pp. 378-380.

ods referred to in sections 1016¹⁰¹⁵ and 1017(b)(1).¹⁰¹⁶ If a special message is transmitted under section 1012¹⁰¹⁷ during any Congress and the last session of such Congress adjourns sine die before the expiration of 45 calendar days of continuous session (or a special message is so transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the 45-day period referred to in paragraph (3)¹⁰¹⁸ of this section and in section 1012¹⁰¹⁹ (with respect to such message) shall commence on the day after such first day.

¹⁰¹⁵ See *infra* p. 392.

¹⁰¹⁶ See *infra* p. 396.

¹⁰¹⁷ See *infra* pp. 378-380.

¹⁰¹⁸ See *supra* p. 376.

¹⁰¹⁹ See *infra* pp. 378-380.

RESCISSION OF BUDGET AUTHORITY

§ 1012(a) **SEC. 1012.**¹⁰²⁰ (a) TRANSMITTAL OF SPECIAL MESSAGE. — Whenever the President determines that all or part of any budget authority¹⁰²¹ will not be required to carry out the full objective or scope of programs for which it is provided or that such budget authority should be rescinded for fiscal policy or other reasons (including the termination of authorized projects or activities for which budget authority has been provided), or whenever all or part of budget authority provided for only one fiscal year is to be reserved from obligation for such fiscal year, the President shall transmit to both Houses of Congress a special message specifying —

- § 1012(a)(1) (1) the amount of budget authority which he proposes to be rescinded or which is to be so reserved;
- § 1012(a)(2) (2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;
- § 1012(a)(3) (3) the reasons why the budget authority should be rescinded or is to be so reserved;
- § 1012(a)(4) (4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and
- § 1012(a)(5) (5) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescis-

¹⁰²⁰ Section 1012 is codified as amended at 2 U.S.C. § 683 (1988).

¹⁰²¹ Section 3(2) defines "budget authority." See *supra* pp. 11-13.

sion or the reservation, and to the maximum extent practicable, the estimated effect of the proposed rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

§ 1012(b) (b) **REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.** — Any amount of budget authority¹⁰²² proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period,¹⁰²³ the Congress has completed action on a rescission bill¹⁰²⁴ rescinding all or part of the amount proposed to be rescinded or that is to be reserved.¹⁰²⁵

¹⁰²² Section 3(2) defines "budget authority." *See supra* pp. 11-13.

¹⁰²³ Section 1011(5) defines this 45-day period. *See supra* p. 376.

¹⁰²⁴ Section 1011(3) defines "rescission bill." *See supra* p. 376.

¹⁰²⁵ The Senate has repeatedly rejected attempts to change this law. *See, e.g.*, 138 CONG. REC. S2457-78 (daily ed. Feb. 27, 1992) (McCain motion to waive Sasser point of order under section 306 rejected 44-54 regarding his amendment no. 1698 to enhance the President's rescission authority); *id.* at S2268-312 (daily ed. Feb. 26, 1992) (further debate on same); 136 CONG. REC. S7457-78 (daily ed. June 6, 1990) (McCain motion to waive point of order under section 306 rejected 43-50 regarding his amendment no. 1995 to enhance the President's rescission authority); 135 CONG. REC. S15,336-58 (daily ed. Nov. 9, 1989) (Coats motion to waive point of order under section 306 rejected 40-51 regarding his amendment no. 1092 to enhance the President's rescission authority). On February 26 and 27 of 1992, on the occasion of one of these attempts to change the law, Senator Byrd's delivered a series of exhaustive statements on the subject. *See* 138 CONG. REC. S2278-86 (daily ed. Feb. 26, 1992) (history of the congressional power of the purse); *id.* at S2286-95 ("The Item Veto; Why Follow the States"); *id.* at S2295-300 ("Enhanced Rescission Power Means Enhanced Executive Power"); *id.* at S2300-02 ("The GAO Report on the Line-Item Veto"); *id.* at S2304-11 ("The Real Issue Is Power"); *id.* at S2465-68, S2476-77 (daily ed. Feb. 27, 1992) (closing arguments). *See also id.* at S3737-50 (daily ed. Mar. 17, 1992) (statement of Sen. Byrd: "A Line-Item Veto in the Constitution? 'It Is Not There'").

Several bills introducing in the 101st Congress sought to change what would happen if the Congress failed to act. *See* S. 6, 101st Cong., 1st Sess., 135 CONG. REC. S206-08 (daily ed. Jan. 25, 1989) (Sen. Dole, "To grant the power to the President to reduce appropriated funds within ten days after the date of enactment of a bill appropriating such funds"); S. Con. Res. 9, 101st Cong., 1st Sess., 135 CONG. REC. S770-72 (daily ed. Jan. 25, 1989) (Sen. Humphrey, "Establishing procedures for expedited consideration by the Congress of certain bills and joint resolutions submitted by the President"); S. 21, 101st

(continued...)

Funds made available for obligation under this procedure may not be proposed for rescission again.¹⁰²⁶

¹⁰²⁵(...continued)

Cong., 1st Sess., 135 CONG. REC. S283-84 (daily ed. Jan. 25, 1989) (Sen. Roth, "To provide the President with line-item veto authority"); S. 155, 101st Cong., 1st Sess., 135 CONG. REC. S500-01 (daily ed. Jan. 25, 1989) (Sen. Armstrong, "To amend the Impoundment Control Act of 1974 to provide for enhanced rescission procedures"); S. 207, 101st Cong., 1st Sess., 135 CONG. REC. S614-17 (daily ed. Jan. 25, 1989) (Sen. Dixon, "To amend the Congressional Budget and Impoundment Control Act of 1974 to require expeditious consideration by the Congress of a proposal by the President to rescind all or part of any item of budget authority if the proposal is transmitted to the Congress on the same day on which the President approves the bill or joint resolution providing such budget authority"); S. 829, 101st Cong., 1st Sess., 135 CONG. REC. S4183-84 (daily ed. Apr. 18, 1989) (Sen. Roth, "To provide the President with enhanced rescission authority at such time as the debt of the United States Government held by the public exceeds \$2,378,000,000,000"); S. 1553, 101st Cong., 1st Sess., 135 CONG. REC. S10,293-96 (daily ed. Aug. 4, 1989) (Sen. Coats, "To grant the power to the President to reduce budget authority").

¹⁰²⁶ Section 207 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, entitled "Clarification of Congressional Intent Regarding Rescission Authority," added the sentence "Funds made available for obligation under this procedure may not be proposed for rescission again." Pub. L. No. 100-119, § 207, 101 Stat. 754, 786 (1987). The joint statement of managers accompanying the conference report on that bill explained:

10. Clarification of Congressional Intent
Regarding Rescission Authority

Current Law

Section 1012(b) of the 1974 Impoundment Control Act empowers the President to withhold spending appropriated funds during a period of 45 days of continuous session while Congress considers a rescission proposal. Under General Accounting Office interpretations which allow preparation time for the submittal message, and because certain days are not counted as days of continuous session, rescission proposals sometimes result in appropriated funds being withheld for up to 75 or more calendar days. Seriatim proposals covering the same subject matter have the effect of extending indefinitely the period of unavailability.

Senate Amendment

The Senate amendment (Section 230) adds language to Section 1012(b) to prohibit the Executive practice of submitting seriatim rescission messages covering similar matter when Congress fails to act on such proposals within the statutory 45-day period. The Senate amendment limits the

(continued...)

PROPOSED DEFERRALS OF BUDGET AUTHORITY¹⁰²⁷

§ 1013(a) **SEC. 1013.**¹⁰²⁸ (a) TRANSMITTAL OF SPECIAL MESSAGE. — Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the

¹⁰²⁸(...continued)

Executive to one rescission proposal in any year regarding substantially the same budget authority.

Conference Agreement

The conference agreement amends Section 1012(b) of the Impoundment Control Act of 1974 to prohibit proposals to rescind budget authority which were the object of a previous rescission proposal not accepted by Congress. The conferees intend that the President be allowed to propose one rescission for any given activity. If the rescission proposal for that activity is not agreed to by Congress, no further rescission proposal for that activity would be allowed during the availability of that appropriation.

The conference agreement is not meant to diminish the restriction on the Executive from the Senate amendment. The conferees intend that the conference agreement will cover cases in which the Executive seeks to rescind substantially the same budget authority, not just exactly the same budget authority.

The conferees intend that authority granted to the President under this Act regarding the sequestration process shall in no way augment the authority available to him, and the requirements imposed on him, under existing law regarding the deferral or rescission of funds.

H.R. CONF. REP. No. 100-313, 100th Cong., 1st Sess. 67-68 (1987), reprinted in 1987 U.S.C.A.N. 739, 767-68.

¹⁰²⁷ Section 1011(1) defines "deferral of budget authority." See *supra* p. 375. Section 3(2) defines "budget authority." See *supra* pp. 11-13.

¹⁰²⁸ Section 1013 is codified as amended at 2 U.S.C. § 684 (1988).

United States proposes to defer any budget authority¹⁰²⁹ provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message specifying —

- § 1013(a)(1) (1) the amount of the budget authority proposed to be deferred;**
- § 1013(a)(2) (2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific projects or governmental functions involved;**
- § 1013(a)(3) (3) the period of time during which the budget authority is proposed to be deferred;**
- § 1013(a)(4) (4) the reasons for the proposed deferral, including any legal authority invoked to justify the proposed deferral;**
- § 1013(a)(5) (5) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and**
- § 1013(a)(6) (6) all facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority, including specific elements of legal authority, invoked to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed deferral upon the objects, purposes, and programs for which the budget authority is provided. A special message may include one or more proposed deferrals of budget author-**

¹⁰²⁹ Section 1011(1) defines "deferral of budget authority." See *supra* p. 375. Section 3(2) defines "budget authority." See *supra* p. 11-13.

ity. A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate.

§ 1013(b) (b)¹⁰³⁰ **CONSISTENCY WITH LEGISLATIVE POLICY. —**
 Deferrals¹⁰³¹ shall be permissible only —

§ 1013(b)(1) (1) to provide for contingencies;

§ 1013(b)(2) (2) to achieve savings made possible by or through
 changes in requirements or greater efficiency of operations;
 or

§ 1013(b)(3) (3) as specifically provided by law.

No officer or employee of the United States may defer any budget authority¹⁰³² for any other purpose.¹⁰³³

¹⁰³⁰ Section 206 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, entitled "Codification of Law Regarding Deferral Authority," revised subsection (b) to read as it currently does. Pub. L. No. 100-119, § 206, 101 Stat. 754, 785-86 (1987). Compare the similar provisions of 31 U.S.C. § 1512(c)(1) (1988). For legislative history of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, see *infra* note 1033.

¹⁰³¹ Section 1011(1) defines "deferral of budget authority." See *supra* p. 375.

¹⁰³² Section 3(2) defines "budget authority." See *supra* pp. 11-13.

¹⁰³³ Section 206 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, entitled "Codification of Law Regarding Deferral Authority," revised subsection (b) to read as it currently does. Pub. L. No. 100-119, § 206, 101 Stat. 754, 785-86 (1987). The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 patterned its revision on the similar provisions of 31 U.S.C. § 1512(c)(1) (1988). The joint statement of managers accompanying the conference report on the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 explained:

9. Codification of Law Regarding Deferral Authority

Current Law

(continued...)

§ 1013(e)

(c) EXCEPTION. — The provisions of this section do not apply to any budget authority¹⁰³⁴ proposed to be rescinded or that is to be reserved as set forth in a special message required to be transmitted under section 1012.¹⁰³⁵

¹⁰³³(...continued)

The Supreme Court in *Immigration and Naturalization v. Chadha*, 462 U.S. 919 (1983), held legislative vetoes unconstitutional. Applying *Chadha*, the Court of Appeals in *City of New Haven v. United States*, 809 F. 2d 900 (D.C. Cir. 1987), struck down Section 1013 of the 1974 Impoundment Control Act, dealing with deferrals, thereby denying the President his sole statutory authority to make deferrals for policy reasons. The Court noted its view that the Executive's power to defer was now limited to so-call programmatic deferrals under the Antideficiency Act, which it characterized as dealing with "routine" and "trivial" matters "relating to the normal and orderly operation of the Government that Congress expected to present little controversy." The reporting requirements of Section 1013 have continued in force by virtue of other statutory reference to that section.

....

Senate Amendment

The Senate amendment (Section 229) enacts a new Section 1013 that codifies the *New Haven* decision and General Accounting Office administrative interpretations by prohibiting policy deferrals and providing that deferrals will be permissible only: (1) for contingencies, (2) for efficiency, or (3) as specifically provided for by law. Programmatic deferrals must be reported to the Congress and be accompanied by a detailed description and justification of the proposal. Deferrals may not be proposed for any period extending beyond the end of the fiscal year in which the proposal is reported.

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Conference Agreement

The House recedes and concurs in the Senate amendment.

H.R. CONF. REP. No. 100-313, 100th Cong., 1st Sess. 66-67 (1987), reprinted in 1987 U.S.C.A.N. 739, 766-67.

¹⁰³⁴ Section 3(2) defines "budget authority." See *supra* pp. 11-13.

¹⁰³⁵ See *supra* pp. 378-380.

TRANSMISSION OF MESSAGES; PUBLICATION

§ 1014(a) **SEC. 1014.**¹⁰³⁶ (a) **DELIVERY TO HOUSE AND SENATE.** — Each special message transmitted under section 1012¹⁰³⁷ or 1013¹⁰³⁸ shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committee of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

§ 1014(b) (b) **DELIVERY TO COMPTROLLER GENERAL.** — A copy of each special message transmitted under section 1012¹⁰³⁹ or 1013¹⁰⁴⁰ shall be transmitted to the Comptroller General on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under sections 1012¹⁰⁴¹ and 1013,¹⁰⁴² the Comptroller General shall review each such message and inform the House of Representatives and the Senate as promptly as practicable with respect to —

¹⁰³⁶ Section 1014 is codified as amended at 2 U.S.C. § 685 (1988).

¹⁰³⁷ See *supra* pp. 378-380.

¹⁰³⁸ See *supra* pp. 381-384.

¹⁰³⁹ See *supra* pp. 378-380.

¹⁰⁴⁰ See *supra* pp. 381-384.

¹⁰⁴¹ See *supra* pp. 378-380.

¹⁰⁴² See *supra* pp. 381-384.

- § 1014(b)(1) (1) in the case of a special message transmitted under section 1012,¹⁰⁴³ the facts surrounding the proposed rescission or the reservation of budget authority¹⁰⁴⁴ (including the probable effects thereof); and
- § 1014(b)(2) (2) in the case of a special message transmitted under section 1013,¹⁰⁴⁵
- § 1014(b)(2)(A) (A) the facts surrounding each proposed deferral of budget authority¹⁰⁴⁶ (including the probable effects thereof) and
- § 1014(b)(2)(B) (B) whether or not (or to what extent), in his judgment, such proposed deferral is in accordance with existing statutory authority.
- § 1014(c) (c) TRANSMISSION OF SUPPLEMENTARY MESSAGES. — If any information contained in a special message transmitted under section 1012¹⁰⁴⁷ or 1013¹⁰⁴⁸ is subsequently revised, the President shall transmit to both Houses of Congress and the Comptroller General a supplementary message stating and explaining such revision. Any such supplementary message shall be delivered, referred, and printed as provided in subsection (a).¹⁰⁴⁹ The Comptroller General shall promptly notify the House of Representatives and the Senate of any changes in

¹⁰⁴³ See *supra* pp. 378-380.

¹⁰⁴⁴ Section 3(2) defines "budget authority." See *supra* pp. 11-13.

¹⁰⁴⁵ See *supra* pp. 381-384.

¹⁰⁴⁶ Section 1011(1) defines "deferral of budget authority." See *supra* p. 375. Section 3(2) defines "budget authority." See *supra* pp. 11-13.

¹⁰⁴⁷ See *supra* pp. 378-380.

¹⁰⁴⁸ See *supra* pp. 381-384.

¹⁰⁴⁹ See *supra* p. 385.

the information submitted by him under subsection (b)¹⁰⁵⁰ which may be necessitated by such revision.

§ 1014(d) (d) **PRINTING IN FEDERAL REGISTER.** — Any special message transmitted under section 1012¹⁰⁵¹ or 1013,¹⁰⁵² and any supplementary message transmitted under subsection (c),¹⁰⁵³ shall be printed in the first issue of the Feral Register published after such transmittal.

§ 1014(e) (e) **CUMULATIVE REPORTS OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY.** —

§ 1014(e)(1) (1) The President shall submit a report to the House of Representatives and the Senate not later than the 10th day of each month during a fiscal year, listing all budget authority¹⁰⁵⁴ for that fiscal year with respect to which, as of the first day of such month —

§ 1014(e)(1)(A) (A) he has transmitted a special message under section 1012¹⁰⁵⁵ with respect to a proposed rescission or a reservation; and

§ 1014(e)(1)(B) (B) he has transmitted a special message under section 1013¹⁰⁵⁶ proposing a deferral.¹⁰⁵⁷

¹⁰⁵⁰ See *supra* pp. 385-386.

¹⁰⁵¹ See *supra* pp. 378-380.

¹⁰⁵² See *supra* pp. 381-384.

¹⁰⁵³ See *supra* p. 386.

¹⁰⁵⁴ Section 3(2) defines "budget authority." See *supra* pp. 11-13.

¹⁰⁵⁵ See *supra* pp. 378-380.

¹⁰⁵⁶ See *supra* pp. 381-384.

¹⁰⁵⁷ Section 1011(1) defines "deferral of budget authority." See *supra* p. 375.

Such report shall also contain, with respect to each such proposed rescission or deferral,¹⁰⁵⁸ or each such reservation, the information required to be submitted in the special message with respect thereto under section 1012¹⁰⁵⁹ or 1013.¹⁰⁶⁰

§ 1014(e)(2) (2) Each report submitted under paragraph (1)¹⁰⁶¹ shall be printed in the first issue of the Federal Register published after its submission.

¹⁰⁵⁸ Section 1011(1) defines "deferral of budget authority." *See supra* p. 375.

¹⁰⁵⁹ *See supra* pp. 378-380.

¹⁰⁶⁰ *See supra* pp. 381-384.

¹⁰⁶¹ *See supra* pp. 387-388.

REPORTS BY COMPTROLLER GENERAL

§ 1015(a) **SEC. 1015.¹⁰⁶² (a) FAILURE TO TRANSMIT SPECIAL MESSAGE.** — If the Comptroller General finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States —

§ 1015(a)(1) (1) is to establish a reserve or proposes to defer budget authority¹⁰⁶³ with respect to which the President is required to transmit a special message under section 1012¹⁰⁶⁴ or 1013;¹⁰⁶⁵ or

§ 1015(a)(2) (2) has ordered, permitted, or approved the establishment of such a reserve or a deferral of budget authority;

and that the President has failed to transmit a special message with respect to such reserve or deferral, the Comptroller General shall make a report on such reserve or deferral and any available information concerning it to both Houses of Congress. The provisions of this part shall apply with respect to such reserve or deferral in the same manner and with the same effect as if such report of the Comptroller General were

¹⁰⁶² Section 1015 is codified at 2 U.S.C. § 686 (1988). Section 206(c) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, entitled "Codification of Law Regarding Deferral Authority," provides: "Sections 1015 and 1016 of the Impoundment Control Act of 1974 are reaffirmed." Pub. L. No. 100-119, § 206(c), 101 Stat. 754, 786 (1987). For an excerpt from the joint statement of managers accompanying that bill, see *infra* note 1072 (at the end of this section).

¹⁰⁶³ Section 1011(1) defines "deferral of budget authority." See *supra* p. 375. Section 3(2) defines "budget authority." See *supra* pp. 11-13.

¹⁰⁶⁴ See *supra* pp. 378-380.

¹⁰⁶⁵ See *supra* pp. 381-384.

a special message transmitted by the President under section 1012¹⁰⁶⁶ or 1013,¹⁰⁶⁷ and, for purposes of this part, such report shall be considered a special message transmitted under section 1012¹⁰⁶⁸ or 1013.¹⁰⁶⁹

§ 1015(b) **(b) INCORRECT CLASSIFICATION OF SPECIAL MESSAGE.**
 — If the President has transmitted a special message to both Houses of Congress in accordance with section 1012¹⁰⁷⁰ or 1013,¹⁰⁷¹ and the Comptroller General believes that the President so transmitted the special message in accordance with one of those sections when the special message should have been transmitted in accordance with the other of those sections, the Comptroller General shall make a report to both Houses of the Congress setting forth his reasons.¹⁰⁷²

¹⁰⁶⁶ See *supra* pp. 378-380.

¹⁰⁶⁷ See *supra* pp. 381-384.

¹⁰⁶⁸ See *supra* pp. 378-380.

¹⁰⁶⁹ See *supra* pp. 381-384.

¹⁰⁷⁰ See *supra* pp. 378-380.

¹⁰⁷¹ See *supra* pp. 381-384.

¹⁰⁷² Section 206(c) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, entitled "Codification of Law Regarding Deferral Authority," provides: "Sections 1015 and 1016 of the Impoundment Control Act of 1974 are reaffirmed." Pub. L. No. 100-119, § 206(c), 101 Stat. 754, 786 (1987). The joint statement of managers accompanying the conference report on the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 explained:

9. Codification of Law Regarding Deferral Authority

Current Law

The Supreme Court in *Immigration and Naturalization v. Chadha*, 462 U.S. 919 (1983), held legislative vetoes unconstitutional. Applying *Chadha*, the Court of Appeals in *City of New Haven v. United States*, 809 F. 2d 900 (D.C. Cir. 1987), struck down Section 1013 of the 1974 Impoundment Control Act, dealing with deferrals

(continued...)

¹⁰⁷²(...continued)

Section 1015 of the 1974 Impoundment Control Act directs the Comptroller General to report to Congress when he determines that the President has failed to transmit a special message with respect to a deferral or rescission, or has incorrectly classified an action in such message. Section 1016 of the Act empowers the Comptroller General to bring a civil action to require that unlawfully impounded budget authority be made available for obligation. The Comptroller General has expressed the view that he lacks authority to take any action to compel the release of impounded funds since such authority was linked to the invalidated Section 1013.

Senate Amendment

The Senate amendment (Section 229) enacts a new Section 1013 that codifies the *New Haven* decision and General Accounting Office administrative interpretations by prohibiting policy deferrals and providing that deferrals will be permissible only: (1) for contingencies, (2) for efficiency, or (3) as specifically provided for by law. . . .

The Senate amendment also reaffirms the Comptroller General's authority under Sections 1015 and 1016 of the Act to initiate suits to compel the release of impounded funds and his duty to safeguard Congress' institutional interest in the spending process.

Conference Agreement

The House recedes and concurs in the Senate amendment.

H.R. CONF. REP. No. 100-313, 100th Cong., 1st Sess. 66-67 (1987), reprinted in 1987 U.S.C.A.N. 739, 766-67.

SUITS BY COMPTROLLER GENERAL

§ 1016 **SEC. 1016.**¹⁰⁷³ If, under this title, budget authority¹⁰⁷⁴ is required to be made available for obligation and such budget authority is not made available for obligation, the Comptroller General is hereby expressly empowered, through attorneys of his own selection, to bring a civil action in the United States District Court for the District of Columbia to require such budget authority to be made available for obligation, and such court is hereby expressly empowered to enter in such civil action, against any department, agency, officer, or employee of the United States, any decree, judgment, or order which may be necessary or appropriate to make such budget authority available for obligation. The courts shall give precedence to civil actions brought under this section, and to appeals and writs from decisions in such actions, over all other civil actions, appeals, and writs. No civil action shall be brought by the Comptroller General under this section until the expiration of 25 calendar days¹⁰⁷⁵ of continuous session of the Congress following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Speaker of the House of Representatives and the President of the Senate.

¹⁰⁷³ Section 1016 is codified as amended at 2 U.S.C. § 687 (1988). Section 206(c) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, entitled "Codification of Law Regarding Deferral Authority," provides: "Sections 1015 and 1016 of the Impoundment Control Act of 1974 are reaffirmed." Pub. L. No. 100-119, § 206(c), 101 Stat. 754, 786 (1987). For an excerpt from the joint statement of managers accompanying the conference report on that bill, see *supra* note 1072 (at the end of the previous section).

¹⁰⁷⁴ Section 3(2) defines "budget authority." See *supra* pp. 11-13.

¹⁰⁷⁵ Section 1011(5) defines this 25-day period. See *supra* p. 376.

PROCEDURE IN HOUSE AND SENATE

§ 1017(a) **SEC. 1017.**¹⁰⁷⁶ (a) REFERRAL. — Any rescission bill¹⁰⁷⁷ introduced with respect to a special message or impoundment resolution¹⁰⁷⁸ introduced with respect to a proposed deferral of budget authority¹⁰⁷⁹ shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be.¹⁰⁸⁰

¹⁰⁷⁶ Section 1017 is codified at 2 U.S.C. § 688 (1988).

¹⁰⁷⁷ Section 1011(3) defines "rescission bill." *See supra* p. 376.

¹⁰⁷⁸ Section 1011(4) defines "impoundment resolution." *See supra* p. 376.

¹⁰⁷⁹ Section 1011(1) defines "deferral of budget authority." *See supra* p. 375. Section 3(2) defines "budget authority." *See supra* pp. 11-13.

¹⁰⁸⁰ The Senate requires joint referral to the Budget and Appropriations Committees of all special messages from the President on recommended rescissions and deferrals and all bills and resolutions introduced with respect to such messages under the senate resolution the referral of impoundment legislation:

S. RES. 45

Resolved,

1. That messages received pursuant to title X of the Congressional Budget and Impoundment Control Act be referred concurrently to the Appropriations Committee, to the Budget Committee, and to any other appropriate authorizing committee.

2. That bills, resolutions, and joint resolutions introduced with respect to rescissions and deferrals shall be referred to the Appropriations Committee, the Budget Committee, and pending implementation of section 410 of the Congressional Budget Impoundment Control Act and subject to section 401(d), to any other committee exercising jurisdiction over contract and borrowing authority programs as defined by section 401(c)(2) (A) and (B). The Budget Committee and such other committees shall report their views, if any, to the Appropriations Committee within 20 days following referral of such messages, bills, resolutions, or joint resolutions. The Budget Committee's consideration shall extend only to macroeconomic implications, impact on priorities and aggregate spending levels, and the legality of the

(continued...)

¹⁰⁰⁰(...continued)

President's use of the deferral and rescission mechanism under title X. The Appropriations and authorizing committees shall exercise their normal responsibilities over programs and priorities.

3. If any Committee to which a bill or resolution has been referred recommends its passage, the Appropriations Committee shall report that bill or resolution together with its views and reports of the Budget and any appropriate authorizing committees to the Senate within:

A. the time remaining under the Act in the case of rescissions, or

B. within 20 days in the case of deferrals.

4. The 20 day period referred to herein means 20 calendar days; and for the purposes of computing the 20 days, recesses or adjournments of the Senate for more than 3 days to a day certain shall not be counted; and for recesses and adjournments of more than 30 calendar days, continuous duration or the sine die adjournment of a session, the 20 day period shall begin anew on the day following the reconvening of the Senate.

The resolution appears at 121 CONG. REC. S1280 (daily ed. Jan. 30, 1975) and was adopted by reference at 121 CONG. REC. S1302 (daily ed. Jan. 30, 1975).

The Senate revised paragraph 2 of the standing order on April 11, 1986. As originally agreed to on January 30, 1975, paragraph 2 read as follows:

2. That bills and resolutions introduced with respect to such messages shall be referred to the Appropriations Committee, the Budget Committee, and pending implementation of section 401 of the Congressional Budget and Impoundment Control Act and subject to sec. 401(d), to any other committee exercising jurisdiction over contract and borrowing authority programs as defined by sec. 401(c)(2) (A) and (B). The Budget Committee and such other committees shall report their views, if any, to the Appropriations Committee within 20 days following referral of such messages, bills, or resolutions. The Budget Committee's consideration shall extend only to macroeconomic implications, impact on priorities and aggregate spending levels, and the legality of the President's use of the deferral and rescission mechanism under title X. The Appropriations and authorizing committees shall exercise their normal responsibilities over programs and priorities.

S. Res. 45, 94th Cong., 1st Sess., § 2, 121 CONG. REC. S1280 (daily ed. Jan. 30, 1975).

In making the unanimous consent request to change this paragraph, Senator Rudman, acting on behalf of the Majority Leader, made the following statement:

(continued...)

¹⁰⁰⁰(...continued)

Mr. RUDMAN. Mr. President, Senate Resolution 45 adopted under a unanimous consent agreement on January 30, 1975, governs the referral of impoundment legislation in the Senate. Under this order, all special messages from the President pursuant to title X of the Congressional Budget and Impoundment Control Act and all bills and resolutions introduced with respect to such messages are referred concurrently to the Appropriations Committee, the Budget Committee, and to the appropriate authorizing committee. Section 1011 of the Impoundment Control Act provides that deferral disapprovals take the form of a simple resolution of one House. This is no longer a proper course of action, given the Supreme Court decision in *INS versus Chadha* that the one-House legislative veto is unconstitutional. Deferral disapprovals must now take the form of a bill or joint resolution.

Given this, I ask unanimous consent that the second paragraph of the standing order governing the referral of matters dealing with rescissions and deferrals be revised, as of January 21, 1986, to allow the re-referral of bills and joint resolutions disapproving deferrals to the same committees now having jurisdiction over title X impoundment resolutions.

132 CONG. REC. S4157 (daily ed. Apr. 11, 1986). In the absence of any objection, it was so ordered. *Id.* Senator Rudman referred to *Immigration and Naturalization Serv. v. Chadha*, 462 U.S. 919 (1983).

For examples of instances when the Budget Committee has submitted its views, see S. REP. NO. 563, 95th Cong., 1st Sess. 5 (1977) ("The Committee recommends that rescission R77-16, as contained in H.R. 9019, be approved. The national priorities set forth in the second concurrent resolution on the budget for fiscal year 1978 adopted by the Congress on September 15, 1977, assumed rescission of this budget authority. With respect to rescission R77-17, . . . the committee notes that the economic policy and national priorities set forth in the second concurrent resolution on the budget for fiscal year 1978 assume expenditure of these funds to aid in reduction of the high level of unemployment. . . ."); S. REP. NO. 41, 95th Cong., 1st Sess. 8 (1977) ("The Committee recommends that Rescissions . . . contained in H.R. 3839 be approved. The national priorities set forth in the Third Concurrent Resolution of the Budget for fiscal year 1977, adopted by the Congress on March 3, 1977, assume rescission of this budget authority."); S. REP. NO. 29, 95th Cong., 1st Sess. 3 (1977) ("The matters contained in H.R. 3347 do not have significant macroeconomic effects, nor do they significantly affect national priorities. The Committee therefore has no recommendation on this bill."); S. REP. NO. 640, 94th Cong., 2d Sess. 8 (1976) ("The matters contained in H.R. 11665 do not appear to have significant macroeconomic effects, nor do they significantly affect national priorities. The Committee therefore has no recommendation on this bill."); S. REP. NO. 403, 94th Cong., 1st Sess. 11-12 (1975) ("The matter contained in H.R. 9600 . . . does not appear to have significant macroeconomic effects, nor does it significantly affect national priorities. The Committee therefore has no recommendation on this rescission request."); S. REP. NO. 35, 94th Cong., 1st Sess. 38 (1975) ("The Committee on the Budget has considered each of the provisions of the bill separately and concurs in Chapter I . . . and Chapter II The Committee

(continued...)

§ 1017(b) (b) DISCHARGE OF COMMITTEE. —

§ 1017(b)(1) (1) If the committee to which a rescission bill¹⁰⁸¹ or impoundment resolution¹⁰⁸² has been referred has not reported it at the end of 25 calendar days¹⁰⁸³ of continuous session of the Congress after its introduction, it is in order to move either to discharge the committee from further consideration of the bill or resolution or to discharge the committee from further consideration of any other rescission bill with respect to the special message or impoundment resolution with respect to the same proposed deferral,¹⁰⁸⁴ as the case may be, which has been referred to the committee.

§ 1017(b)(2) (2) A motion to discharge may be made only by an individual favoring the bill or resolution, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a bill or resolution with respect to the same special message or the same proposed deferral,¹⁰⁸⁵ as the case may be); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those

¹⁰⁸⁰ (...continued)

makes no recommendation on Chapter IV The Committee recommends against the rescission contained in Chapter II of the bill, which would reduce appropriations for the Consumer Product Safety Commission. Congress has clearly identified consumer protection as an important national priority and created the Consumer Product Safety Commission in 1972 pursuant to that priority. . . .").

¹⁰⁸¹ Section 1011(3) defines "rescission bill." See *supra* p. 376.

¹⁰⁸² Section 1011(4) defines "impoundment resolution." See *supra* p. 376.

¹⁰⁸³ Section 1011(5) defines this 25-day period. See *supra* p. 376.

¹⁰⁸⁴ Section 1011(1) defines "deferral of budget authority." See *supra* p. 375.

¹⁰⁸⁵ Section 1011(1) defines "deferral of budget authority." See *supra* p. 375.

favoring and those opposing the bill or resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order,¹⁰⁸⁶ and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.



§ 1017(o) (c) FLOOR CONSIDERATION IN THE HOUSE. —

§ 1017(o)(1) (1) When the committee of the House of Representatives has reported, or has been discharged from further consideration of, a rescission bill¹⁰⁸⁷ or impoundment resolution,¹⁰⁸⁸ it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the bill or resolution. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

§ 1017(o)(2) (2) Debate on a rescission bill¹⁰⁸⁹ or impoundment resolution¹⁰⁹⁰ shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to

¹⁰⁸⁶ Cf. 131 CONG. REC. S4503-04 (1985); Senate Precedent PRL19850422-002 (Apr. 22, 1985) (LEGIS, Rules database) (When the Senate suspends the rules and thereby calls up an amendment to a measure which the provisions of public law provide is unamendable (under Public Law 98-473, for military or paramilitary assistance to the contra forces in Nicaragua), the amendment need not be germane to the measure.).

¹⁰⁸⁷ Section 1011(3) defines "rescission bill." See *supra* p. 376.

¹⁰⁸⁸ Section 1011(4) defines "impoundment resolution." See *supra* p. 376.

¹⁰⁸⁹ Section 1011(3) defines "rescission bill." See *supra* p. 376.

¹⁰⁹⁰ Section 1011(4) defines "impoundment resolution." See *supra* p. 376.

limit debate shall not be debatable. In the case of an impoundment resolution, no amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a rescission bill or impoundment resolution is agreed to or disagreed to.



§ 1017(c)(3) (3) Motions to postpone, made with respect to the consideration of a rescission bill¹⁰⁹¹ or impoundment resolution,¹⁰⁹² and motions to proceed to the consideration of other business, shall be decided without debate.

§ 1017(c)(4) (4) All appeals from the decisions of the Chair relating to the applications of the Rules of the House of Representatives to the procedure relating to any rescission bill¹⁰⁹³ or impoundment resolution¹⁰⁹⁴ shall be decided without debate.

§ 1017(c)(5) (5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any rescission bill¹⁰⁹⁵ or impoundment resolution¹⁰⁹⁶ and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

§ 1017(d) (d) FLOOR CONSIDERATION IN THE SENATE. —

¹⁰⁹¹ Section 1011(3) defines "rescission bill." See *supra* p. 376.

¹⁰⁹² Section 1011(4) defines "impoundment resolution." See *supra* p. 376.

¹⁰⁹³ Section 1011(3) defines "rescission bill." See *supra* p. 376.

¹⁰⁹⁴ Section 1011(4) defines "impoundment resolution." See *supra* p. 376.

¹⁰⁹⁵ Section 1011(3) defines "rescission bill." See *supra* p. 376.

¹⁰⁹⁶ Section 1011(4) defines "impoundment resolution." See *supra* p. 376.

§ 1017(d)(1)

(1) Debate in the Senate on any rescission bill¹⁰⁹⁷ or impoundment resolution,¹⁰⁹⁸ and all amendments thereto (in the case of rescission bill) and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.



§ 1017(d)(2)

(2) Debate in the Senate on any amendment to a rescission bill¹⁰⁹⁹ shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the bill. Debate on any amendment to an amendment, to such a bill, and debate on any debatable motion or appeal in connection with such a bill or impoundment resolution¹¹⁰⁰ shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or resolution, except that in the event the manager of the bill or resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. No amendment¹¹⁰¹ that is not germane¹¹⁰² to the provisions of a rescission bill shall be



¹⁰⁹⁷ Section 1011(3) defines "rescission bill." See *supra* p. 376.

¹⁰⁹⁸ Section 1011(4) defines "impoundment resolution." See *supra* p. 376.

¹⁰⁹⁹ Section 1011(3) defines "rescission bill." See *supra* p. 376.

¹¹⁰⁰ Section 1011(4) defines "impoundment resolution." See *supra* p. 376.

¹¹⁰¹ An amendment is subject to points of order under the Congressional Budget Act even if the Senate has specified by unanimous consent that the amendment is one of the amendments in order and the yeas and nays have been ordered. Cf. *supra* note 295 (regarding section 303(a)).

¹¹⁰² For a discussion of germaneness, see *supra* note 352.

received.¹¹⁰³ Such leaders, or either of them, may, from the time under their control on the passage of a rescission bill or impoundment resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.¹¹⁰⁴

§ 1017(d)(3)

(3) A motion to further limit debate is not debatable. In the case of a rescission bill,¹¹⁰⁵ a motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution. In the case of an impoundment resolution,¹¹⁰⁶ no



¹¹⁰³ The language that such amendments "shall not be received" merely permits a Senator to raise a point of order after time on the amendment has expired, and does not authorize the Chair to rule on the amendment at the Chair's initiative. *See supra* note 353 (regarding that language in section 305(b)(2)).

¹¹⁰⁴ An amendment to a rescission bill to restore funding resulting from appropriations enacted in a previous year does not give rise to a point of order under the Congressional Budget Act. 125 CONG. REC. 4987 (1981) (inquiry of Sen. Johnston regarding an amendment by Sen. Kennedy); Senate Precedent PRL19790314-001 (Mar. 14, 1979) (LEGIS, Rules database); ALAN S. FRUMIN, RIDDICK'S SENATE PROCEDURE 630 (1992). This is so because the amendment does not provide new budget authority. 125 CONG. REC. 4987 (1981) (statement of Presiding Officer); Senate Precedent PRL19790314-001 (Mar. 14, 1979) (LEGIS, Rules database). The Senate Parliamentarian disapproves of authority to the contrary. *See* 127 CONG. REC. H2124-25 (1981); Senate Precedent PRL19810512-002 (May 12, 1981) (LEGIS, Rules database) (reporting a ruling of the Chair in the House of Representatives sustaining a point of order under Congressional Budget Act section 311). Contrast the case of an amendment to an *appropriations* bill to restore funding that such a bill seeks to rescind. As that bill would (in the words of section 302(f)) "provide[] for budget outlays, new budget authority, or new spending authority," such an amendment could cause the appropriate allocation to be exceeded. *See supra* note 258.

¹¹⁰⁵ Section 1011(3) defines "rescission bill." *See supra* p. 376.

¹¹⁰⁶ Section 1011(4) defines "impoundment resolution." *See supra* p. 376.

amendment or motion to recommit is in order.¹¹⁰⁷

§ 1017(d)(4)

(4) The conference report on any rescission bill¹¹⁰⁸ shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

§ 1017(d)(5)

(5) During the consideration of the Senate of the conference report on any rescission bill,¹¹⁰⁹ debate shall be limited to 2 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.



§ 1017(d)(6)

(6) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the con-



¹¹⁰⁷ Cf. 131 CONG. REC. S4503-04 (1985); Senate Precedent PRL19850422-002 (Apr. 22, 1985) (LEGIS, Rules database) (When the Senate suspends the rules and thereby calls up an amendment to a measure which the provisions of public law provide is unamendable (under Public Law 98-473, for military or paramilitary assistance to the contra forces in Nicaragua), the amendment need not be germane to the measure.).

¹¹⁰⁸ Section 1011(3) defines "rescission bill." See *supra* p. 376.

¹¹⁰⁹ Section 1011(3) defines "rescission bill." See *supra* p. 376.

ferrees are named, debate on such motion shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

§ 1017(d)(7)

(7) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment¹¹¹⁰ that is not germane¹¹¹¹ to the provisions of such amendments shall be received.¹¹¹²

¹¹¹⁰ An amendment is subject to points of order under the Congressional Budget Act even if the Senate has specified by unanimous consent that the amendment is one of the amendments in order and the yeas and nays have been ordered. *Cf. supra* note 295 (regarding section 303(a)).

¹¹¹¹ For a discussion of germaneness, see *supra* note 352.

¹¹¹² The language that such amendments "shall not be received" merely permits a Senator to raise a point of order after time on the amendment has expired, and does not authorize the Chair to rule on the amendment at the Chair's initiative. See *supra* note 353 (regarding that language in section 305(b)(2)).