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## REPORTS BY COMPTROLLER GENERAL

§ 1015(a) **SEC. 1015.<sup>1062</sup> (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 authority<sup>1063</sup> with respect to which the President is required to transmit a special message under section 1012<sup>1064</sup> or 1013,<sup>1065</sup> 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

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<sup>1062</sup> 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).

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

<sup>1064</sup> See *supra* pp. 378-380.

<sup>1065</sup> See *supra* pp. 381-384.

a special message transmitted by the President under section 1012<sup>1066</sup> or 1013,<sup>1067</sup> and, for purposes of this part, such report shall be considered a special message transmitted under section 1012<sup>1068</sup> or 1013.<sup>1069</sup>

§ 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 1012<sup>1070</sup> or 1013,<sup>1071</sup> 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.<sup>1072</sup>

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<sup>1066</sup> See *supra* pp. 378-380.

<sup>1067</sup> See *supra* pp. 381-384.

<sup>1068</sup> See *supra* pp. 378-380.

<sup>1069</sup> See *supra* pp. 381-384.

<sup>1070</sup> See *supra* pp. 378-380.

<sup>1071</sup> See *supra* pp. 381-384.

<sup>1072</sup> 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...)

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<sup>1072</sup>(...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.