

## IMPOUNDMENT CONTROL ACT OF 1974

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### JOINT EXPLANATORY STATEMENT ON THE COMMITTEE OF CONFERENCE ON H.R. 7130 (1975)<sup>1</sup>

#### TITLE X. IMPOUNDMENT CONTROL

The House bill provided for a procedure which would require impoundment actions to be reported to Congress by the President within ten days after they were taken. In the event that either House of Congress passed a resolution of disapproval within sixty calendar days of continuous session after the date on which the Presidential message was received by the Congress, the impoundment would have to cease. The Senate amendment tightened the authority in the Antideficiency Act to place funds in reserve by deleting an "other developments" clause. Moreover, it prohibited the use of budget reserves for fiscal policy purposes or to achieve less than the full objectives and scope of programs enacted and funded by Congress, and authorized the Comptroller General to bring a civil action in the U.S. District Court for the District of Columbia to enforce those provisions.

The conference substitute combines features from each version. The "other developments" clause is deleted from the Antideficiency Act, permitting reserves solely to provide for contingencies, or to effect savings whenever savings are made possible by or through change in requirements or greater efficiency of operations. Whenever an officer responsible for making apportionments and reapportionments determines 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 that amount.

If the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs, or that such budget authority should be rescinded for fiscal policy or other reasons, including the termination of authorized project, or whenever all or part of budget authority provided for only one fiscal year (one-year money) is to be reserved from obligation for such fiscal year, he shall transmit a special message requesting a *rescission* of the budget authority. The message shall include the amount of budget authority involved; the appropriation account or agency affected; the reason for rescission or placing the budget authority in reserve; the fiscal, economic, and budgetary effect; and all facts, circumstances, considerations, and effects of the proposed rescission or reservation. Unless both Houses of

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<sup>1</sup> Joint Explanatory Statement on the Committee of Conference on H.R. 7130; (Committee Print), Committee on the Budget, House of Representatives, 93d Congress, 2d Session, Washington D.C. 1975.

Congress complete action on a rescission bill within 46 days, the budget authority shall be made available for obligation.

A second type of special message concerns *deferrals*. This category includes any withholding or delaying the availability for obligation of budget authority (whether by establishing reserves or otherwise), or any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority, including authority to obligate by contract in advance of appropriations as specifically authorized by law. Such action or inaction may occur at the level of the Office of Management and Budget, such as through the apportionment process, or at the departmental and agency level. The special message from the President shall contain basically the same types of information included in a rescission special message. However, the procedure for congressional action is different in that the President will be required to make the budget authority available for obligation if either House of Congress passes an "impoundment resolution" disapproving such proposed deferral at any time after receipt of the special message. The authority to propose deferral is limited to the fiscal year in which the special message making the proposal is submitted to the House and Senate.

Each special message—whether for rescission or for deferral—shall be referred to the appropriate committee of the House of Representatives and the Senate and printed as a document of each House and in the Federal Register. A copy of each special message shall also be transmitted to the Comptroller General, who shall review each message and the probable effects. In the case of deferrals, he shall state whether or not (or to what extent) he determines the proposed deferral to be in accordance with existing statutory authority. Any revision of proposed rescissions or deferrals shall be transmitted by the President in a supplementary message.

If the Comptroller General finds that an action or inaction that constitutes a reserve or deferral has not been reported to Congress in a special message as required, he shall report to Congress on such reserve or deferral. His report will have the same effect as if it had been transmitted by the President in a special message. Moreover, if the Comptroller General believes that the President has transmitted an impoundment action incorrectly such as by including it in a deferral special message when it should have been included in a rescission special message, or vice versa, he shall report to both Houses setting forth his reasons.

Congressional action with respect to a proposed rescission or deferral shall take the form of a "rescission bill" or "impoundment resolution." Any rescission bill or impoundment resolution shall be referred to the appropriate committee of the House of Representatives or the Senate. If the committee fails

to report a rescission bill or impoundment resolution at the end of 25 calendar days of continuous session after its introduction, it is in order to move to discharge the committee from further consideration. 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.

If budget authority is not made available for obligation as required by the impoundment control title, the Comptroller General is empowered, through attorneys of his own choosing, to bring a civil action in the United States District Court for the District of Columbia in order to obtain any decree, judgment, or order which may be necessary or appropriate to make such budget authority available for obligation. However, no such action may be brought until the expiration of 25 calendar days of continuous session after the Comptroller General files with the Speaker of the House of Representatives and the President of the Senate an explanatory statement setting forth the circumstances giving rise to the action contemplated. The Courts shall give precedence to this type of civil action.

Cumulative reports of proposed rescissions, reservations, and deferrals shall be submitted by the President in a report to the House of Representatives and the Senate not later than the 10<sup>th</sup> day of each month during a fiscal year. This monthly report shall be printed in the first issue of the Federal Register published after its submission.

Congressional action depends greatly on the quality of these reports and the quality of special message transmitted by the President. The managers recognize that each proposed impoundment action may be unique, reflecting a complex mixture of various forces. Rather than a few generalized codes to cover all impoundments—which has been the practice of the Office of Management and Budget in implementing the Federal Impoundment and Information Act—the managers expect that the monthly reports and the special messages will provide more specialized treatment. A narrative section should explain clearly and completely the factors that prompted the Administration to propose to impound the funds.