

§ 13214 **SEC. 13214. THE BYRD RULE ON EXTRANE-  
OUS MATTER IN RECONCILIATION.**

§ 13214(a) **(a) THE BYRD RULE ON EXTRANE-  
OUS MATTER IN RECON-  
CILIATION. — Section 20001 of the Consolidated Omnibus  
Budget Reconciliation Act of 1985 is amended —**

§ 13214(a)(1) **(1) in subsection (a) —**

§ 13214(a)(1)(A) **(A) by inserting after "(a)" the following: "IN**

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<sup>1229</sup>(...continued)

in limited circumstances. These changes guard against what the conferees believe might be an overly broad interpretation of an opinion of the Attorney General issued on January 16, 1981, regarding the authority for the continuance of Government functions during the temporary lapse of appropriations, and affirm that the constitutional power of the purse resides with Congress.

H.R. CONF. REP. No. 101-964, 101st Cong., 2d Sess. 1170 (1990), *reprinted in* 1990 U.S.C.C.A.N. 2017, 2875.

The managers referred to the opinion of Attorney General Benjamin R. Civiletti of January 16, 1981, regarding the authority of the Government to continue certain functions during a temporary lapse in appropriations. The opinion interpreted section 1342 of title 31, which stated (in relevant part):

**§ 1342. Limitation on voluntary services**

An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law *except for emergencies involving the safety of human life or the protection of property.*

31 U.S.C. § 1342 (1988) (emphasis added) (subsequently amended).

The opinion spun the highlighted language out to cover more than it would appear to cover on its face. To qualify for the exception (according to the opinion) "there must be some reasonable and articulable connection between the function to be performed and the safety of human life or the protection of property." In sum, the President would have been able to rely on this opinion to continue many public safety functions without seeking appropriations from Congress. The change limits the President more closely to the language of section 1342.



“ . . . . ” 1829

§ 13214(b)(1) (b) **TRANSFER OF BYRD RULE.** — (1) Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by subsection (a), is transferred to the end of title III of the Congressional Budget Act of 1974, and designated as section 313 of that Act.

§ 13214(b)(2) (2) Section 313 of the Congressional Budget Act of 1974 is amended by —

§ 13214(b)(2)(A) (A) adding at the beginning the following center heading:

“EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION”;

§ 13214(b)(2)(B) (B) striking subsection (b), subsection (c), and the last sentence of subsection (a); and

§ 13214(b)(2)(C) (C) redesignating subsections (d) (e), (f), and (g) as subsections (b), (c), (d) and (e), respectively.

§ 13214(b)(3) (3) Subsection (a) of the first section of Senate Resolution 286 (99th Congress, 1st Session), as amended by Senate Resolution 509 (99th Congress, 2d Session) is enacted as subsection (c) of section 313 of the Congressional Budget Act of 1974.

§ 13214(b)(4) (4) Section 313 of the Congressional Budget Act of 1974 is amended —

§ 13214(b)(4)(A) (A) in subsections (a), (b)(1)(A), and (c), by striking “of the Congressional Budget Act of 1974”;

- § 13214(b)(4)(B) (B) in subsection (a), by striking "(d)" and inserting "(b)";
- § 13214(b)(4)(C) (C) in subsection (b)(2)(C), by adding "or" at the end thereof;
- § 13214(b)(4)(D) (D) in subsection (c), by striking "when" and inserting "When";
- § 13214(b)(4)(E) (E) in subsection (c)(1), by striking "(d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985" and inserting "(b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F)"; and
- § 13214(b)(4)(F) (F) in subsection (c)(2), by striking "this resolution" and inserting "this subsection".
- § 13214(b)(5) (5) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 312 the following new item:

**"Sec. 313. Extraneous matter in reconciliation legislation."**

