

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE
OFFICE OF THE SECRETARY

10 AUG 17 P 2:35

SENATE
S. No. 2426

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Enshrined in the 1987 Constitution is Congress' power over the purse which endows Congress with the exclusive authority to formulate a national budget that is an instrument of national development. At the same time, being the executor of the national budget, the President is provided by the Constitution with a line-item veto power that empowers the President to delete any appropriation that the President may deem unnecessary. If Congress disagrees with the judgment of the President, Congress may choose to override the veto. This Executive-Legislative tension, with regard to the national budget, as embodied in the Constitution, aims to create an effective check-and-balance on government spending to ensure that the people's money is spent responsibly and effectively.

However, this check-and-balance mechanism embodied in the 1987 Constitution was undermined by Revised Administrative Code of 1987 when it granted the President the authority to suspend or stop further expenditure of any expenditure authorized in the General Appropriations Act without giving Congress the corresponding power to overturn the President's decision to suspend or stop the expenditure. This authority allowed the President to control government expenditures to prevent unmanageable deficits but it also increased the discretionary power of the President in releasing funds that have already been authorized by Congress.

Thus, for the purpose of restoring Congress' power over the purse, while maintaining the national government's ability to manage expenditures to prevent a possible fiscal crisis, this bill, limits the discretionary power of the President in releasing funds by requiring Congressional participation in the suspension or cancellation of the expenditure of appropriated funds.

Furthermore, to increase the transparency in the release of appropriated funds, this bill compels the Secretary of Budget and Management to submit to Congress a quarterly report containing a summary of releases of allotments and cash allocations for each department, agency, corporation and fund.

In view of the foregoing, the immediate enactment of this measure is earnestly sought.

This bill was originally filed by Senator Mar Roxas during the Second Regular Session of the Fourteenth Congress.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

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1 AN ACT
2 REGULATING THE POWER OF THE PRESIDENT TO RESCIND OR
3 RESERVE EXPENDITURE OF APPROPRIATIONS AUTHORIZED BY
4 CONGRESS, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

5 SECTION 1. **Title.** - This Act shall be known as the "*Budget Impoundment Control and*
6 *Regulation Act.*"

7 SECTION 2. **Declaration of Policy.** - It is the policy of the State to formulate and
8 implement a National Budget that is an instrument of national development, reflective of national
9 objectives, strategies and plans. Towards this end, all appropriations, except those, which shall
10 be explicitly rescinded, reserved, or provided for otherwise in the General Appropriations Act,
11 shall be automatically released through the issuance of advices of allotment in accordance with
12 the quarterly allotment period or any other period prescribed by the Secretary of Budget and
13 Management, and shall be utilized according to the corresponding purposes provided for in the
14 General Appropriations Act. Any rescission or reservation of appropriations in the General
15 Appropriations Act shall be made in accordance with this Act.

16 SECTION 3. **Definition of Terms.** - For purposes of this Act:
17 (a) Appropriation - refers to an authorization made by law or other legislative enactment,
18 directing payment out of government funds under specified conditions or for specified purposes.

1 (b) Allotment - refers to an authorization issued by the Department of Budget and Management
2 to an agency, which allows it to incur obligation for specified amounts contained in a legislative
3 appropriation.

4 (c) Rescission - means cancellation of all or parts of an enacted appropriation which has not yet
5 been spent or obligated

6 (d) Reservation - means imposition of reserves on an appropriated amount for government
7 expenditures thus withholding or delaying the release of appropriated amounts provided for
8 projects or activities.

9 (e) Impoundment resolution - means a joint resolution of both Houses of Congress expressing
10 either approval or disapproval of a rescission or reservation of an appropriation or several
11 appropriation items as proposed by the President.

12 SECTION 4. *Rescission of Appropriations.* - Whenever the President, upon the
13 recommendation of the Secretary of the Department of Budget and Management, determines that
14 all or part of any budget appropriation will not be required to carry out the full objectives or
15 scope of programs for which it is provided, or that such budget appropriation should be rescinded
16 for fiscal policy or other reasons, including the termination of authorized projects or activities,
17 the President shall transmit to both Houses of Congress a special message specifying all of the
18 following:

- 19 (1) the amount of budget appropriation which he proposes to be rescinded;
- 20 (2) any account, department, agency or instrumentality of the government to which such budget
21 appropriation is available for obligation, and the specific projects or governmental functions
22 involved;
- 23 (3) the reasons why the budget appropriation should be rescinded;
- 24 (4) the estimated fiscal, economic and budgetary effect of the proposed rescission; and
- 25 (5) all facts, circumstances and considerations relating to or bearing upon the proposed
26 rescission, and the estimated effect of the propose rescission upon the purposes, programs,
27 activities and projects for which such appropriation is provided.

1 *Provided*, that no personal services appropriations used for permanent officials and employees
2 shall be subject to rescission. *Provided further*, that the President shall transmit to Congress at
3 any time during the calendar year but not later than the thirtieth day of September the special
4 message referred to above, which may include one or more proposals for rescission on one or
5 more appropriation items, through the Committee on Finance of the Senate and the Committee
6 on Appropriations of the House of Representatives.

7 **SECTION 5. *Approval of Rescission.*** - Both Houses of Congress shall act on the
8 proposed rescission within thirty calendar days after the receipt of such proposal from the
9 President by issuing a joint impoundment resolution, either approving or disapproving the same.
10 If request for rescission is denied, the amount requested to be rescinded shall be immediately
11 released. *Provided*, that if the President's special message is received within a period of less than
12 thirty calendar days before the end of a regular session, the President's message shall be deemed
13 to have been submitted on the first day of the succeeding regular session of Congress and the
14 thirty day period referred to in this Section shall commence on the day after such first day.
15 *Provided further*, that if Congress does not issue an impoundment resolution within the specified
16 period, the proposed rescission shall be deemed disapproved and the amount proposed to be
17 rescinded shall be immediately released. *And provided furthermore*, that by the first day of
18 October all proposals for rescission that have not been acted upon by Congress shall be deemed
19 disapproved and the amount proposed to be rescinded shall be immediately released.

20 **SECTION 6. *Use of Rescinded Appropriations.*** - Funds corresponding to the rescinded
21 appropriations shall revert to the unappropriated surplus of the general fund and shall not be
22 made available for expenditure for any purpose except as may be provided for in a subsequent
23 appropriation law enacted by Congress.

24 **SECTION 7. *Reservation of Appropriations.*** - Whenever the President, the Secretary of
25 Budget and Management, the head of any department, agency or instrumentality of the

1 Government proposes to reserve from obligation all or part of any appropriation for a specific
2 purpose, program, activity, or project, the President shall transmit to the House of
3 Representatives and the Senate a special message specifying all of the following:

4 (1) the amount of the appropriation proposed to be reserved;

5 (2) any account, department, agency or instrumentality of the Government to which such
6 appropriation is available for obligation, and the specific projects or governmental functions
7 involved;

8 (3) the period of time during which the appropriation is proposed to be reserved, provided that
9 any proposals for reservation must not extend beyond the end of the fiscal year;

10 (4) the reasons for the proposed reservation;

11 (5) the estimated fiscal, economic and budgetary effect of the proposed reservation;

12 (6) all facts, circumstances and considerations relating to or bearing upon the proposed
13 reservation, and the estimated effect of the propose reservation upon the purposes, programs,
14 activities and projects for which such appropriation is provided.

15 *Provided*, that no personal services appropriations used for permanent officials and employees
16 shall be subject to reservation. *Provided further*; that the President shall transmit to Congress at
17 any time during the calendar year but not later than the thirtieth day of September the special
18 message referred to above, which may include one or more proposals for reservation on one or
19 more appropriation items, through the Committee on Finance of the Senate and the Committee
20 on Appropriations of the House of Representatives.

21 SECTION 8. *Approval of Reservation.* - Both Houses of Congress shall act on the
22 proposed reservation within thirty calendar days after the receipt of the proposal from the
23 President. If request for reservation is denied, amount proposed to be reserved shall be
24 immediately released. *Provided*, that if the President's special message is received within a
25 period of less than thirty calendar days before the end of a regular session, the President's
26 message shall be deemed to have been submitted on the first day of the succeeding regular
27 session of Congress and the thirty day period referred to in this Section shall commence on the

1 day after such first day. *Provided further*, that if Congress does not issue an impoundment
2 resolution within the specified period, the President shall proceed with the reservation. *And*
3 *provided furthermore*, that by the first day of October all proposals for reservation, that have not
4 been acted upon by Congress shall be deemed disapproved and the amount proposed to be
5 reserved shall be immediately released.

6 **SECTION 9. *Submission of Quarterly Reports.*** - Within thirty days after the end of each
7 quarter, the Secretary of Budget and Management shall submit to the Committee on
8 Appropriations of the House of Representatives and the Committee on Finance of the Senate,
9 comparative statements showing the annual general appropriations, the annual program of
10 continuing and automatic appropriations; and the corresponding releases of allotments and cash
11 allocations for each department, agency, corporation and fund. The quarterly reports shall also
12 include a cumulative summary of all appropriations rescinded, and reserved, including, where
13 applicable, the corresponding impoundment resolutions approving such rescissions, and
14 reservations. *Provided*, that the releases from each lump-sum or special-purpose fund shall be
15 supported with schedules indicating the specific departments, agencies, corporations, or entities
16 which received the fund releases and the purposes of such releases.

17 **SECTION 10. *Penal Provision.*** - Any violation of this Act shall be punished by
18 imprisonment from three years to nine years, a fine not less than one hundred fifty thousand
19 pesos (P150,000.00) but not exceeding three hundred thousand pesos (P300,000.00), and the
20 penalty of temporary special disqualification.

21 **SECTION 11. *Administrative Liabilities.*** - Any violation of this Act shall cause the
22 suspension of payment of the violators' salaries including retirement and separation benefits until
23 they have complied with the requirements of this Act and such compliance is upheld by final
24 judgment of the courts. No appropriation authorized in the General Appropriations Act shall be
25 made available to pay the salary of any official or employee who violates the provisions of this

1 Act. Any rescission or reservation in violation of the procedures for Congressional authorization
2 stipulated in this Act shall be illegal and every official or employee authorizing or making such
3 rescission or reservation, or taking part therein, shall be held liable to the agencies whose
4 appropriation were rescinded or reserved for the full amount rescinded or reserved. In addition,
5 the amount of the appropriation illegally rescinded or reserved shall be subtracted from the total
6 appropriations of the Office of the President, the Department of Budget and Management, and
7 the Contingent Fund administered by the Office of the President. If the allotments released
8 against the appropriations under these three accounts are greater than the balances of the
9 appropriations for these three accounts after subtracting the illegally rescinded and reserved
10 amounts, then the President and the Secretary of Budget and Management shall be made
11 personally liable to the Government for the difference between the allotments already released
12 and the adjusted appropriations.

13 SECTION 12. *Separability Clause.* - If any provision of this Act, or any part thereof, is
14 declared unconstitutional, the same shall not affect the validity and effectivity of the other
15 portions.

16 SECTION 13. *Repealing Clause.* - All laws, decrees, executive orders, letters of
17 instructions, letters of implementation, rules and regulations or parts thereof inconsistent with the
18 provisions of this Act are hereby repealed, modified, superseded, or amended accordingly.

19 SECTION 14. *Effectivity Clause.* - This Act shall take effect fifteen days after its
20 complete publication in the Official Gazette or in at least two (2) national newspapers of general
21 circulation, whichever comes earlier.

Approved,