

THIRTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

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S E N A T E

S. No. 489

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Due to various unforeseen economic developments, it has ceased in recent years to be exceptional for the executive branch to impound certain portions of the national budget as officially passed by Congress in the General Appropriations Act. The unilateral impoundment or non-release of funds has often led to delay and/or termination of critical and vital infrastructure and capital investments. Effectively, though perhaps unwittingly, this process virtually awards the Department of Budget and Management the power of veto over Congressional initiatives.

This bill formalizes the rules and procedures in the impoundment of budget funds for if and when necessary, and specified and valid reasons, and guidelines to be followed in the imposition of budgetary reserves. By preserving Congress' role in the budgetary process, it seeks to ensure that the national perspective is preserved in the implementation of budgetary allocations and that the national welfare is safeguarded even and especially during conditions of economic emergencies.

In view of the foregoing, the immediate approval of this bill is earnestly requested.

S. Osmeña III
SERGIO OSMEÑA III
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC)
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THE BUDGET IMPOUNDMENT CONTROL ACT

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

1 SECTION 1. *Title.* – This Act shall be known as the “**Budget**
2 **Impoundment Control Act of 2004.**”

3 SEC. 2. *Declaration of Policy.* – It is the policy of the State to formulate
4 and implement a National Budget that is truly an instrument of national
5 development. Towards this end, all appropriations, except those which shall be
6 deferred, rescinded, reserved, or otherwise provided in the General
7 Appropriations Act, shall be automatically released within the first semester of the
8 year through the issuance of advices of allotment in accordance with approved
9 work and financial plans, and shall be utilized according to the purposes provided
10 in the General Appropriations Act. Any deferral, rescission or reservation of
11 appropriations in the General Appropriations Act shall be in accordance with this
12 Act.

13 SEC. 3. *Definitions of Terms.* – For purposes of this Act:

14 (a) *Rescission* – means cancellation of all or parts of an enacted
15 appropriation which has not yet been spent or obligated.

16 (b) *Reservation* – means imposition of reserves on appropriated
17 amount for government expenditures.

1 (c) Deferral or releases – means withholding or delaying the release of
2 appropriated amounts provided for projects or activities.

3 (d) Impoundment resolution – means a joint resolution of both Houses
4 of Congress expressing its disapproval of a rescission, reservation or deferral of
5 an appropriation or several appropriation items as proposed by the President.

6 (e) Advice of allotment – the formal document issued by the
7 Department of Budget and Management which contains the authorizations,
8 conditions, and amount of obligations that an agency can incur pursuant to a
9 legislative appropriation.

10 (f) Work-and-financial plan – the monthly breakdown of financial
11 requirements and physical performance targets of an agency.

12 (g) Appropriations – unless otherwise described or specified herein,
13 the term appropriations refers to the appropriations included in the annual
14 General Appropriations Act.

15 SEC. 4. *Rescission and Reservation of a Budget Appropriation.* –
16 Whenever the President, upon the recommendation of the Secretary of Budget
17 and Management, determines that all or part of any budget appropriation will not
18 be required to carry out the full objectives or scope of programs for which it is
19 provided, or that such budget appropriation should be rescinded for fiscal policy
20 or other reasons, including the termination of authorized projects or activities, or
21 whenever all or part of any budget appropriation for the current fiscal year is to
22 be reserved from obligation for such fiscal year, the President shall transmit to
23 both Houses of Congress a special message specifying:

24 (1) the amount of budget appropriation which he proposes to be
25 rescinded or which is to be so reserved;

26 (2) any account, department, agency or instrumentality of the
27 government to which such budget appropriation is available for
28 obligation, and the specific projects or governmental functions
29 involved;

- 1 (3) the reasons why the budget appropriation should be rescinded or is
2 to be so reserved;
- 3 (4) the estimated fiscal, economic and budgetary effect of the
4 proposed rescission or reservation; and
- 5 (5) all facts, circumstances and considerations relating to or bearing
6 upon the proposed rescission of the proposed rescission of
7 reservation upon the purposes, programs, activities and projects for
8 which such appropriation is provided.

9 SEC. 5. *Approval of Rescission or Reservation.* – Both Houses of
10 Congress shall act on the proposed rescission/reservation within sixty (60)
11 calendar days after the receipt of such proposal from the President by issuing a
12 joint impoundment resolution: *Provided*, That if the President’s special message
13 is received within a period of less than sixty (60) calendar days before the end of
14 a regular session, the President’s message shall be deemed to have been
15 submitted on the first day of the succeeding regular session of Congress and the
16 sixty (60) day period referred to in this Section shall commence on the day after
17 such first day. If Congress does not issue an impoundment resolution within the
18 specified period, the President shall proceed with the rescission/reservation
19 procedures: *Provided*, That funds corresponding to the rescinded appropriations
20 shall revert to the un-appropriated surplus of the general fund and shall not be
21 made available for expenditure for any purpose except as provided for by a
22 subsequent legislative enactment.

23 SEC. 6. *Use of Reserves.* – When changes in conditions during the year
24 justify the use of the reserved appropriations which have been imposed under
25 this Act or under the General Appropriations Act, the amount involved shall be
26 allocated back for the use by, and upon the request of the department, office or
27 agency on whose appropriation the reserve was originally imposed.

28 SEC. 7. *Deferral of Releases.* – (a) Whenever the President, the
29 Secretary of Budget and Management, the head of any department, agency or

1 instrumentality of the Government proposes to defer the release of any
2 appropriation for a specific purpose, program, activity, or project, the President
3 shall transmit to the House of Representatives and the Senate a special
4 message specifying:

- 5 (1) the amount of the appropriation proposed to be deferred;
- 6 (2) any account, department, agency or instrumentality of the
7 Government to which such appropriation is available for obligation,
8 and the specific projects or governmental functions involved;
- 9 (3) the period of time during which the appropriation is proposed to be
10 deferred;
- 11 (4) the reasons for the proposed deferral, including any legal authority
12 invoked by him to justify the proposed deferral;
- 13 (5) the estimated fiscal, economic and budgetary effect of the
14 proposed deferral;
- 15 (6) all facts, circumstances and considerations relating to or bearing
16 upon the proposed deferral and the decision to effect the proposed
17 deferral, including any analysis of such facts, circumstances and
18 considerations in terms of their application to any legal authority
19 and specific elements of legal authority invoked by him to justify
20 such proposed deferral upon the objects, purposes, program,
21 activities and projects for which such appropriation is provided.

22 (b) A deferral may not be proposed for any period of time extending
23 beyond the end of the fiscal year in which the special message proposing the
24 deferral was transmitted to the House of Representatives and the Senate.

25 SEC. 8. *Approval of Release Deferral.* - Both Houses of Congress shall
26 act on the proposed deferral within sixty (60) calendar days after the receipt of
27 the proposal from the President: *Provided, That if the President's special*
28 *message is received within a period of less than sixty (60) calendar days before*
29 *the end of a regular session, the President's message shall be deemed to have*

1 been submitted on the first day of the succeeding regular session of Congress
2 and the sixty (60) day period referred to in this Section shall commence on the
3 day after such first day. If Congress does not issue an impoundment resolution
4 within the specified period, the President shall proceed with the deferral
5 procedures.

6 SEC. 9. *Submission of Quarterly Reports.* – Within thirty (30) days after
7 the end of each quarter, the Secretary of Budget and Management shall submit
8 to the Committee on Appropriations of the House, of Representatives and the
9 Committee on Finance of the Senate, a list of releases made out of reserved and
10 deferred appropriations, and comparative statements showing the annual general
11 appropriations, the annual program of continuing and automatic appropriations,
12 and the corresponding releases of allotments and cash allocations for each
13 department, agency, corporation and fund: Provided, That the releases from
14 each lump-sum or special-purpose fund shall be supported with schedules
15 indicating the specific departments/agencies, corporations or entities which
16 received the fund releases and the purposes of such releases. The quarterly
17 reports shall also include a cumulative summary of all appropriations rescinded,
18 deferred or reserved.

19 SEC. 10. *Mode of Transmittal of the Special Message of the President.* -
20 The President shall transmit to Congress at any time during the budget year but
21 not later than the fifteenth day of October of the budget year the special message
22 which may include one or more proposals for impoundment, reservation, or
23 deferral on one or more appropriation items through the Committee on Finance
24 of the Senate and the Committee on Appropriations of the House of
25 Representatives.

26 SEC. 11. *Penal Provision.* – Any violation of the Section 2, 4, 5, 6, 7, 8,
27 and 9 of this Act shall be punished by a fine not exceeding One hundred
28 thousand pesos (P100,000.00) and the penalty of temporary special
29 disqualification.

1 SEC. 12. *Repealing Clause.* – All laws, decrees, executive orders, letters
2 of instructions, letters of implementation, rules and regulations or parts thereof
3 inconsistent with the provisions of this Act are hereby repealed, modified,
4 superseded or amended accordingly.

5 SEC. 13. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
6 after its complete publication in the *Official Gazette* or in at least two (2) national
7 newspapers of general circulation, whichever comes earlier.

Approved,