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SENATE

P. S. R. NO. 287

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INTRODUCED BY SENATOR JOSEPH VICTOR G. EJERCITO

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RESOLUTION

DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE 2011 DISBURSEMENT ACCELERATION PROGRAM OF THE CURRENT ADMINISTRATION IMPLEMENTED FROM THE YEAR 2011 UP TO YEAR 2013 WITH THE END VIEW OF FORMULATING LAWS, POLICIES AND REGULATIONS WITH REGARD TO THE USE OF SAVINGS AND PROPER BUDGET AUGMENTATION OF THE GOVERNMENT

WHEREAS, the 1987 Philippine Constitution provides that no law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.<sup>1</sup>

WHEREAS, the General Appropriations Act (GAA) defines and limits the use of saving of the government, to wit,: Savings refer to portions or balances of any programmed appropriation in this Act free from any obligation or encumbrance which are: (i) still available after the completion or final discontinuance or abandonment of the work, activity or purpose for which the appropriation is authorized; (ii) from appropriations balances arising from unpaid compensation and related costs pertaining to vacant positions and leaves of absence without pay; and (iii) from appropriations balances realized from the implementation of measures resulting in improved systems and efficiencies and thus enabled agencies to meet and deliver the required or planned targets, programs and services approved in this Act at a lesser cost.<sup>2</sup>

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<sup>1</sup> Article VI, Section 25 (5)

<sup>2</sup> Sec. 53, R.A. 10352, General Appropriations Act for the Fiscal Year 2013; Sec. 54, R.A. 10155, General Appropriations Act for the Fiscal Year 2012; Sec. 60, R.A. 10147, General Appropriations Act for the Fiscal Year 2011; Sec. 61, R.A. 9970, General Appropriations Act for the Fiscal Year 2010

WHEREAS, the GAA also provides that Augmentation implies the existence in the General Appropriations Act of a program, activity, or project with an appropriation, which upon implementation, or subsequent evaluation of needed resources, is determined to be deficient. In no case shall a non-existent program, activity, or project, be funded by augmentation from savings or by the use of appropriations otherwise authorized in this Act.<sup>3</sup>

WHEREAS, the Supreme Court declared that the President cannot indiscriminately transfer funds from one department, bureau, office or agency of the Executive Department to any program, project or activity of any department, bureau or office included in the General Appropriations Act or approved after its enactment, without regard to whether the funds to be transferred are actually savings in the item from which the same are to be taken, or whether or not the transfer is for the purpose of augmenting the item to which the transfer is to be made.<sup>4</sup>

WHEREAS, according to the Supreme Court, there are two essential requisites in order that a transfer of appropriation with the corresponding funds may legally be effected. **First**, there must be savings in the programmed appropriation of the transferring agency. **Second**, there must be an existing item, project or activity with an appropriation in the receiving agency to which the savings will be transferred.<sup>5</sup>

WHEREAS, on October 12, 2011, the Department of Budget and Management declared that the Aquino government will implement P72.11 billion in additional projects in order to fast-track disbursements and push economic growth in light of the global slowdown and the onslaught of recent calamities otherwise known as Disbursement Acceleration Program (DAP).<sup>6</sup>

WHEREAS, the DBM further declared that of the P72.11 billion, P37.92 billion will be released to national government agencies; P7.25-billion to LGUs; and P26.90 billion to government-owned or -controlled corporations (GOCCs). Funding will be sourced from pooled savings from unused appropriations in 2010 and 2011, windfall revenue from GOCC dividends, and realignments within agencies in favour of fast-disbursing projects.<sup>7</sup>

WHEREAS, the DBM Secretary explained that these new programs and projects will be provided with appropriation cover by: unreleased appropriations for personal services in 2011, to be pooled as savings and realigned (P30 billion); unreleased appropriations for discontinued or slow-moving projects in 2011 (P482 million); the realignment of 2011

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<sup>3</sup> *Id.*

<sup>4</sup> *Sanchez, et.al vs. Commission on Audit, G.R. No. 127545, April 23, 2008*

<sup>5</sup> *Id.*

<sup>6</sup> <http://www.gov.ph/2011/10/12/aquino-government-pursues-p72-11-b-disbursement-acceleration-plan/>

<sup>7</sup> *Id.*

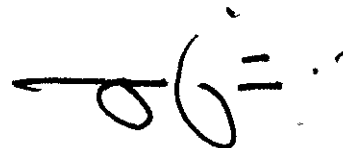
budgetary items within agencies in favour of fast-disbursing projects (P7.75 billion); the 2010 unprogrammed fund, to be supported by windfall dividends from GOCCs (P12.34 billion); and unreleased appropriations for discontinued or slow-moving projects in 2010, which are carried-over as pooled savings in 2011 (P21.54 billion).<sup>8</sup>

WHEREAS, there have been allegations that the funds used in the Disbursement Acceleration Program (DAP) were not actually taken from the savings of the government but was taken from discontinued or slow-moving projects in 2010 thus, a clear violation of the provisions of the Philippine Constitution as to the use of the government's money.

WHEREAS, there were also allegations that funds from Disbursement Acceleration Program were used to 'bribed' or give incentives to Senators and Congressmen who voted for the impeachment of the former Supreme Court Chief Justice Renato Corona and were used for projects and programs not included in the General Appropriations Act.

NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED by the Philippine Senate, to direct the proper committee to conduct an inquiry, in aid of legislation, to examine and scrutinize the Disbursement Acceleration Program (DAP) of the current administration with the aim of recommending and formulating laws, policies and regulations for the proper use of the savings of different departments of the governments and proper use of budget augmentation.

ADOPTED,



**JOSEPH VICTOR G. EJERCITO**

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<sup>8</sup> *Ibid.*