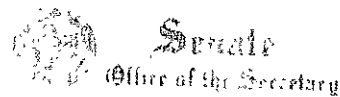


SIXTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )



13 OCT 21 P 2:08

SENATE  
P. S. R. No. 304

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Introduced by Senator Miriam Defensor Santiago

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RESOLUTION  
EXPRESSING THE SENSE OF THE SENATE THAT  
ALL MAJOR SOURCES OF NATIONAL REVENUES, ESPECIALLY THE  
FUNDS FROM MALAMPAYA, PCSO, AND PAGCOR, SHOULD BE  
INCLUDED IN THE BUDGET OF EXPENDITURES AND SOURCES OF  
FINANCING (BESF) REPORT SUBMITTED ANNUALLY BY THE  
PRESIDENT TO CONGRESS; AND REFERRING THIS RESOLUTION TO  
THE COMMITTEE ON CONSTITUTIONAL AMENDMENTS  
AND REVISION OF CODES

WHEREAS, the Constitution, Article 6, Sections 29 (1) provides: “No money shall be paid out of the Treasury except in pursuance of an appropriation made by law”;

WHEREAS, the Constitution, Article 6, Section 24 provides: “All appropriations, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills, shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments”;

WHEREAS, the Constitution, Article 6, Section 25 (1) provides: “The Congress may not increase the appropriations recommended by the President for the operation of the Government as specified in the budget. The form, content, and manner of preparation of the budget shall be prescribed by law”;

WHEREAS, pursuant to the budget process mandated in the Constitution, the President submits to Congress his Budget of Expenditures and Sources of Financing (BESF) Report, and National Expenditure Program (NEP) or the President’s budget every year; the BESF Report contains the sources of government revenues and their corresponding amounts, and how these funds shall be spent for the next fiscal year;

WHEREAS, the President’s BESF Report for the 2014 fiscal year does not include the off-budget sources of revenues, such as the Malampaya Fund, the Philippine Amusement and Gaming Corporation (PAGCOR) Social Fund, and the Philippine Charity Sweepstakes Office (PCSO) Fund; these funds are used, distributed, and disbursed outside the budget process;

WHEREAS, consistent with the principles of an open democratic society, the allocation and use of public funds should be transparent and decided by elected representatives of the people;

WHEREAS, the Malampaya Fund, comprised of royalties collected by the national government from the Malampaya Deep Water Gas-to-Power Project, is estimated to have amounted to a total of \$4 billion (₱170 billion) since 2001, and is expected to earn a total of \$10 billion after twenty years of the project's operations;

WHEREAS, Presidential Decree No. 910 provides in Section 8, paragraph 2 that collections from explorations of energy resources are principally intended for energy development projects, but further states that collections can also be spent "for such other purpose as the President may deem necessary," allowing the Office of the President to tap into the Malampaya Fund to finance non-energy-related projects under various agencies by mere executive orders;

WHEREAS, out of the total amount in the Malampaya Fund, ₱23.6 billion were spent during the administration of President Gloria Macapagal Arroyo, while ₱15.26 billion has been spent so far during the present administration;

WHEREAS, Republic Act No. 1169, also known as "An Act Providing For Charity Sweepstakes, Horse Races, And Lotteries", as amended by B. P. Blg. 42 and P. D. No. 1157, provides for the creation of a charity fund from the revenues from the activities of the PCSO;

WHEREAS, P. D. No. 1067-A created the PAGCOR, and provides that its Board allocate and distribute, with the approval of the President, the earnings of PAGCOR earmarked to finance infrastructure and socio-civic projects;

WHEREAS, sources of government revenues such as the Malampaya Fund, the PCSO Charity Fund, and the PAGCOR Social Fund are known as off-budget funds that are used, distributed, and disbursed outside the purview of the General Appropriations Act passed by Congress annually, and does not go through the national treasury;

WHEREAS, these off-budget funds have been subject to gross misuse and abuse: the Malampaya Fund, for example, has been used for other purposes other than the intended energy-related objectives:

- Some ₱900 million from the Malampaya fund was given to the Department of Agrarian Reform (DAR) meant to rehabilitate farmers whose livelihoods were ravaged by the typhoons in 2009, and allegedly ended up in the hands of the controversial bogus non-government organizations controlled by Janet Lim-Napoles;
- About ₱1.3 billion from the Fund was used by the present Aquino administration for the acquisition of a cutter from the US Coast

Guard, and for the transfer, dry-docking, and hull maintenance of the vessel;

- Another ₱4.95 billion was given to the Department of National Defense to upgrade its capabilities for the security and protection of the Malampaya gas project;

WHEREAS, the Malampaya, PAGCOR, and PCSO funds, which were created during martial law, should go to the national treasury pursuant to the sound one-fund concept; all government revenues, regardless of source, whether regular taxes, incomes from gambling (PAGCOR and PCSO revenues), royalties (Malampaya Fund), and others should go to the national treasury;

WHEREAS, the use of off-budget funds should be decided through the budget process, requiring congressional approval, in recognition of the Constitutional provision which says: "No money shall be paid out of the Treasury, except in pursuance of an appropriation made by law";

WHEREFORE, BE IT HEREBY RESOLVED by the Philippine Senate to express its sense that all sources of national revenues, especially the funds from Malampaya, PCSO, and PAGCOR, should be included in the Budget of Expenditures and Sources of Financing (BESF) Report submitted by the President to Congress;

BE IT HEREBY FURTHER RESOLVED, that after the 2014 General Appropriations Act is approved by Congress and signed into law by the President, the President shall submit a supplemental budget for the 2014 fiscal year to cover the planned expenditures corresponding to the off-budget sources of revenues;

BE IT HEREBY FINALLY RESOLVED, that this Resolution should be referred to the Committee on Constitutional Amendments and Revision of Codes, since the annual budgets can be assimilated to a code that in effect compiles all the laws concerning off-budget funds.

Adopted,

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO