

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

SENATE

S. B. No. 2119

Introduced by Senator FRANCIS G. ESCUDERO

EXPLANATORY NOTE

This bill is an offshoot of the highly controversial, if not anomalous, National Broadband Network (NBN) project of the government.

In the course of the ongoing investigation being conducted by this chamber, it has been determined that the NBN project is to be funded through foreign borrowing or loan. Such being the case, legal issues have been raised as to whether or not the government complied with the requisites provided for by pertinent laws.

One for instance is that if the NBN project is an Official Development Assistance (ODA) program, congressional approval is required as mandated by Section 4 of Republic Act No. 4860.

Another is that if the NBN is not an ODA project compliance should still be had with Executive Order No. 459 dated 25 November 1997.

The government apparently failed to meet the above statutory requirements.

Equally important, nonetheless, is the way the government has handled our country's debt management which undeniably resulted in an unprecedented and unreasonable growth. Recent estimates on our national debt indicate a rise from Php2.8 trillion by the end of 2001 to Php3.3 trillion by the end of 2002 - this translates to an appalling increase of almost a trillion pesos a year!

To put it in a practical manner, our debt increases by a million per minute or Php60 million an hour or Php1.4 billion daily.

Hence, debt servicing has been getting the highest budgetary allocation of 25% at the average, more or less, of our national budget since the 1980s.

Consequently, with debt servicing, other sectors that require funding continuous to suffer and these include education, health, science and technology, and other government programs on social progress and human development.

This bill therefore seeks not only to rectify the mistakes discovered in the NBN investigation but also to *institutionalize* an effective check and balance on the executive power to contract and guarantee loans. Such power if left unchecked and unbridled shall continue, as it has been, to be detrimental to the economic and social interest of our country given its limited resources.

It is for the above reasons, perhaps, that Section 20, Article VII of the Constitution is crafted in a manner that subject the above executive power, albeit foreign loans only, to "such limitations as may be provided by law."

And certainly, for the same above reasons that Congress, as an independent and a co-equal branch of government, must effectively pursue and insist on its power and prerogative to approve, determine and allocate the national budget of the government.

In view of the foregoing, passage of this piece of legislation with dispatch is sincerely sought.



FRANCIS G. ESCUDERO

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S. B. No. 2119

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Introduced by Senator FRANCIS G. ESCUDERO

AN ACT

CONSTITUTING A CONGRESSIONAL OVERSIGHT COMMITTEE ON DEBT MANAGEMENT TO LOOK INTO ALL FOREIGN AND DOMESTIC BORROWINGS NEGOTIATED, CONTRACTED OR GUARANTEED BY THE PRESIDENT ON BEHALF OF THE PHILIPPINES AS WELL AS THOSE BY THE GOVERNMENT OR GOVERNMENT OWNED AND CONTROLLED CORPORATIONS AND FOR OTHER PURPOSES

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

SECTION 1. *Declaration of Policy.* - In accordance with the constitutional prescription on transparency and accountability, the State shall endeavor and pursue a debt management system that shall be made available to public scrutiny and subject to strict adherence to existing pertinent laws and rules and regulations.

The State shall likewise ensure the most appropriate use of its limited resources bearing in mind the constitutional mandate of giving priority to education, health, science and technology, acceleration of social progress and promotion of total human liberation and development.

SEC. 2. *The Congressional Oversight Committee.* - A Congressional Oversight Committee on Debt Management, hereinafter referred to as the Committee, is hereby constituted in accordance with the provisions of this Act.

The Committee shall be composed of the Chairpersons of the Committee on Ways and Means of the Senate and the House of Representatives and three (3) additional members from each chamber to be designated by the Senate President and the House Speaker, respectively. One (1) of the said three (3) additional members shall come from the minority members of each chamber.

The Congressional Oversight Committee constituted under Section 8, paragraph c) of Republic Act No. 8182 shall cease to exist and is hereby replaced by the Committee.

SEC. 3. *Functions and Duties of the Committee.* - The Committee shall among others, in aid of legislation:

a) Monitor and ensure the proper implementation of all laws, implementing rules and regulations, and executive issuances relating to foreign and domestic borrowings such as, but not limited to, Republic Act Nos. 4860 and 8182;

b) Review all documents relating to contracts, guarantees and negotiations on foreign and domestic borrowings.

c) Review all subsisting contracts and guarantees on foreign and domestic borrowings; and

d) Determine that the power of the President of the Republic, the government and government owned and controlled corporation to negotiate, contract and guarantee foreign and domestic borrowings is reasonably and legally exercised.

The phrase foreign and domestic borrowings shall refer to such borrowings or loans negotiated, contracted and/or guaranteed by the President on behalf of the Philippines, the government or government owned and controlled corporations.

SEC. 4. *Requisite Authority of the Committee.* - In furtherance of the above enumerated functions and duties of the Committee, the Committee is empowered to require all government agencies concerned, including the Office of the President, the submission of all pertinent information and data on foreign and domestic borrowings. Provided, however, that information or data that are privileged shall be furnished the Committee only in Executive Session.

SEC. 5. *Separability Clause.* - If any provision of this Act or the application of such provision to any person or circumstance is declared invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected thereby.

Sec. 6. *Repealing Clause.* - All laws, decrees and orders or parts thereof inconsistent herewith are deemed repealed or modified accordingly.

Sec. 7. *Effectivity.* - This Act shall take effect after thirty (30) days following the completion of its publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,