

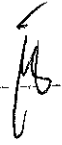
FOURTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Second Regular Session )

9 MAR -4 P8:05

SENATE

S. NO. 3121

RECEIVED BY



Introduced by Senator Benigno S. Aquino III

**EXPLANATORY NOTE**

Article VI Section 25 (1) of the 1987 Constitution provides that "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." Clearly then, while it is the President who proposes the national budget it is the Congress that prescribes *the form, content and manner of budget preparation* albeit subject to the limitations found in the Constitution. Hence, as the "power of the sword" belongs to the President, "the power of the purse" resides in Congress.

In practice however, the President still wields considerable control over public spending through the exercise of budget impoundment.

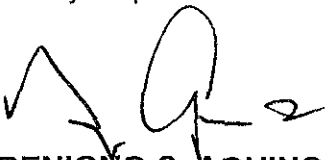
Impoundment refers to the refusal of the President, for whatever reason, to release funds appropriated by Congress. It is the failure to spend or obligate budget authority of any type.

While its constitutional conferment is not expressed, the Administrative Code has given the President specific authority, when in his judgment the public interest requires and upon due notice to the head of office concerned, to suspend or otherwise stop further expenditure of funds allotted for any agency.<sup>1</sup>

Of recent times however, this presidential prerogative has been misused and abused, and has emasculated Congress' authority to check the President's discretionary power to spend public funds. In effect, the President seems to have a vast and unbridled control over the national budget.

This bill seeks to increase congressional oversight and to limit executive influence over specific appropriations in the General Appropriations Act. This undertaking is urgently needed in the light of the current economic crisis confronting the whole world, the consequences of which are deemed to severely affect our country in the coming years.

For these reasons, the approval of this bill is being earnestly requested.

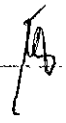
  
**BENIGNO S. AQUINO III**  
Senator

<sup>1</sup> Section 38, Chapter 5 Book VI of E.O. No. 292

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## THE BUDGET IMPOUNDMENT CONTROL ACT

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

SECTION 1. Title. - This Act shall be known as "The Budget Impoundment Control Act"

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

SECTION 3. Definition of Terms. - For purposes of this Act:

- (a) Rescission - means cancellation of all or part of an enacted appropriation, which has not yet been spent or obligated.
- (b) Reservation - means imposition of reserves on appropriated amounts for government expenditures.
- (c) Deferral of releases - means withholding or delaying the release of appropriated amounts provided for projects or activities.
- (d) Impoundment resolution - means a joint resolution of both Houses of Congress expressing its approval of a rescission, reservation or deferral of an appropriation or several appropriation items as *proposed by the President.*
- (e) Advice of allotment - the formal document issued by the Department of Budget and Management, which contains authorizations, conditions, and amount of *obligations that an agency can incur pursuant to a legislative appropriation.*
- (f) Work-and-financial plan - the monthly breakdown of financial requirements and physical performance targets of an agency.
- (g) Appropriations - unless otherwise described or specified herein, the term appropriations refers to the appropriations included in the annual General Appropriations Act.

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

- 1). The amount of budget appropriation which he proposes to be rescinded or which is to be so reserved;
- 2). Any account, department, agency or instrumentality of the government to which such budget appropriation is available for obligation, and the specific projects or governmental functions involved;
- 3). The reasons why the budget appropriations should be rescinded or is to be so reserved;
- 4) The estimated fiscal, economic and budgetary effect of the proposed rescission or reservation; and
- 5) All facts, circumstances and considerations relating to or bearing upon the proposed rescission or reservation, and the estimated effect of the proposed rescission or reservation upon the purposes, programs, activities and projects for which such appropriation is provided.

SECTION 5. Approval of Rescission or Reservation. - Both Houses of Congress shall act on the proposed rescission or reservation within sixty (60) calendar days after the receipt of such proposal from the President by issuing a joint impoundment resolution: Provided, That if the President's special message is received within the period of less than sixty (60) calendar days before the end of a regular session, the President's message shall be deemed to have been submitted on the first day of the succeeding regular session of Congress and the sixty (60) day period referred to in this Section shall commence on the day after such first day. If Congress does not issue an impoundment resolution within the specified period, the President shall **not** proceed with the rescission or reservation procedures. **Provided, however, that in the event of a Congressional approval to rescind**, the funds corresponding to the rescinded appropriations shall revert to the unappropriated surplus of the general fund and shall not be made available for expenditure for any purpose except as provided for by a subsequent legislative enactment.

SECTION 6. Use of Reserves. - When changes in conditions during the year justify the use of the reserved appropriations which have been imposed under this Act or under the General Appropriations Act, the amount involved shall be allocated back for the use by, and upon the request of the Department, office or agency on whose appropriation the reserve was originally imposed.

SECTION 7. Deferral of Releases.

a) Whenever the President, the Secretary of Budget and Management, the head of any department, agency or instrumentality of the Government proposes to defer the release of any appropriation for a specific purpose, program, activity, or project, the President shall transmit to the House of Representatives and the

Senate a special message specifying:

- (1) The amount of the appropriation proposed to be deferred;
- (2) Any account, department, agency or instrumentality of the Government to which such appropriation is available for obligation, and the specific projects or governmental functions involved;
- (3) The period of time during which the appropriation is proposed to be deferred;
- (4) The reasons for the proposed deferral, including any legal authority invoked by him to justify the proposed deferral;
- (5) The estimated fiscal, economic and budgetary effect of the proposed deferral;
- (6) All facts, circumstances and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances and considerations in terms of their application to any legal authority and specific elements of legal authority invoked by him to justify such proposed deferral, and the estimated effect of the proposed deferral upon the objects, purposes, program, activities and projects for which such appropriation is provided.

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

*SECTION 8. Approval of Release Deferral.* - Both Houses of Congress shall act on the proposed deferral within sixty (60) calendar days after the receipt of the proposal from the President: Provided That if the President's special message is received within a period of less than sixty (60) calendar days before the end of a regular session, the President's message shall be deemed to have been submitted on the first day of the succeeding regular session of Congress and the sixty (60) day period referred to in this Section shall commence on the day after such first day. If Congress does not issue an impoundment resolution within the specified period, the President shall **not** proceed with the deferral procedures.

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

*SECTION 10. Mode of Transmittal of the Special Message of the President,* - The President shall transmit to Congress at any time during the budget year but not later than the fifteenth day of October of the budget year the special message

which may include one or more proposals for impoundment, reservation, or deferral on one or more appropriation items through the Committee on Finance of the Senate and the Committee on Appropriations of the House of Representatives.

SECTION 11. Penal Provision. - Any violation of the Sections 2,4,5,6,7,8, and 9 of this Act shall be punished by of fine not exceeding Five Hundred Thousand Pesos (P500,000.00) and the penalty of perpetual special disqualification.

SECTION 12. Repealing Clause. - All laws, decrees, executive orders, letters of instructions, letters of implementation, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, modified, superseded or amended accordingly.

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

Approved,