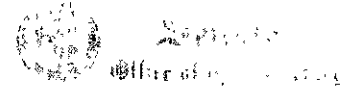


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



13 JUL -3 P 2 38

SENATE
S. No. 404

REPLACES: *jin*

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The 1987 Constitution, Article 6, Section 25 (1) 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."

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.

In practice, however, the past presidents wielded 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 (E.O. No. 292, Book 6, Chapter 5, Section 38).

Of recent times, however, this presidential prerogative has been allegedly 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.

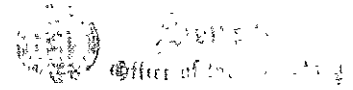
This bill seeks to increase congressional oversight and to limit executive influence over specific appropriations in the General Appropriations Act. This undertaking is urgently needed

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.

Congress included some provisions of this bill in the General Appropriations Act (GAA) of 2010. However, the proper way of introducing the budget impoundment reform is not as a special provision in the annual GAA; but by introducing it as a separate piece of legislation so that a full and open discussion may ensue.¹

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
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¹ This bill was originally filed by President Benigno S. Aquino III during the Fourteenth Congress.



13 JUL -3 P2:18

SENATE
S. No. 404

RECEIVED

Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 LIMITING THE POWER OF THE PRESIDENT TO IMPOUND APPROPRIATIONS

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

3 SECTION 1. *Short Title.* – This Act shall be known as “The Budget Impoundment
4 Control Act.”

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7 end, all appropriations, except those which shall be deferred, rescinded, reserved, or otherwise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

13 SECTION 3. *Definition of Terms.* – For purposes of this Act:

14 (a) “Rescission” means cancellation of all or part of an enacted appropriation, which has
15 not yet been spent or obligated.

16 (b) “Reservation” means imposition of reserves on appropriated amounts for government
17 expenditures.

18 (c) “Deferral of releases” means withholding or delaying the release of appropriated
19 amounts provided for projects or activities.

1 (d) "Impoundment resolution" means a joint resolution of both Houses of Congress
2 expressing its approval of a rescission, reservation or deferral of an appropriation or several
3 appropriation items as proposed by the President.

4 (e) "Advice of allotment" refers to the formal document issued by the Department of
5 Budget and Management containing authorizations, conditions, and amount of obligations that
6 an agency can incur pursuant to a legislative appropriation.

7 (f) "Work-and-financial plan" refers to the monthly breakdown of financial requirements
8 and physical performance targets of an agency.

9 (g) "Appropriations" refer to the appropriations included in the annual General
10 Appropriations Act, unless otherwise described or specified in this Act.

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

19 (a) The amount of budget appropriation which he proposes to be rescinded or which is to
20 be so reserved;

21 (b) Any account, department, agency or instrumentality of the government to which such
22 budget appropriation is available for obligation, and the specific projects or governmental
23 functions involved;

24 (c) The reasons why the budget appropriations should be rescinded or is to be so
25 reserved;

26 (d) The estimated fiscal, economic and budgetary effect of the proposed rescission or
27 reservation; and

1 (e) All facts, circumstances and considerations relating to or bearing upon the proposed
2 rescission or reservation, and the estimated effect of the proposed rescission or reservation upon
3 the purposes, programs, activities and projects for which such appropriation is provided.

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

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

21 SECTION 7. *Deferral of Releases.* –

22 (a) Whenever the President, the Secretary of Budget and Management, the head of any
23 department, agency or instrumentality of the Government proposes to defer the release of any
24 appropriation for a specific purpose, program, activity, or project, the President shall transmit to
25 the House of Representatives and the Senate a special message specifying:

26 (1) The amount of the appropriation proposed to be deferred;

1 (2) Any account, department, agency or instrumentality of the Government to which such
2 appropriation is available for obligation, and the specific projects or governmental
3 functions involved;

4 (3) The period of time during which the appropriation is proposed to be deferred;

5 (4) The reasons for the proposed deferral, including any legal authority invoked by him
6 to justify the proposed deferral;

7 (5) The estimated fiscal, economic and budgetary effect of the proposed deferral;

8 (6) All facts, circumstances and considerations relating to or bearing upon the proposed
9 deferral and the decision to effect the proposed deferral, including an analysis of such
10 facts, circumstances and considerations in terms of their application to any legal
11 authority and specific elements of legal authority invoked by him to justify such
12 proposed deferral, and the estimated effect of the proposed deferral upon the objects,
13 purposes, program, activities and projects for which such appropriation is provided.

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

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

25 SECTION 9. *Submission of Quarterly Reports.* – Within thirty (30) days after the end of
26 each quarter, the Secretary of Budget and Management shall submit to the Committee on
27 Appropriations of the House of Representatives and the Committee on Finance of the Senate, a

1 list of releases made out of reserved and deferred appropriations, and comparative statements
2 showing the annual general appropriations, the annual program of continuing and automatic
3 appropriations, and the corresponding releases of allotments and cash allocations for each
4 department, agency, corporation and fund: *Provided that* the releases from each lump-sum or
5 special-purpose fund shall be supported with schedules indicating the specific
6 departments/agencies, corporations or entities which received the fund releases and the purposes
7 of such releases. The quarterly reports shall also include a cumulative summary of all
8 appropriations rescinded, deferred, or reserved.

9 SECTION 10. *Mode of Transmittal of the Special Message of the President.* – The
10 President shall transmit to Congress at any time during the budget year but not later than the
11 fifteenth day of October of the budget year the special message which may include one or more
12 proposals for impoundment, reservation, or deferral on one or more appropriation items through
13 the Committee on Finance of the Senate and the Committee on Appropriations of the House of
14 Representatives.

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

18 SECTION 12. *Separability Clause.* – If any provision of this Act or part hereof is
19 declared unconstitutional or invalid, the other sections or provisions which are not affected
20 thereby shall continue to be in full force and effect.

21 SECTION 13. *Repealing Clause.* – All laws, decrees, executive orders, letters of
22 instructions, letters of implementation, rules and regulations or parts thereof inconsistent with the
23 provisions of this Act are hereby repealed, modified, superseded or amended accordingly.

1 SECTION 14. *Effectivity Clause.* -- This Act shall take effect fifteen (15) days after its
2 complete publication in at least two (2) national newspapers of general circulation.

Approved,