

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

OFFICE OF THE CLERK

9 JAN 20 P 2:03

SENATE

S. B. No. 2995

RECEIVED



---

INTRODUCED BY THE HONORABLE MAR ROXAS

---

EXPLANATORY NOTE

Enshrined in the 1987 Constitution is Congress' power over the purse which endows Congress with the exclusive authority to formulate a national budget that is an instrument of national development. At the same time, being the executor of the national budget, the President is provided by the Constitution with a line-item veto power that empowers the President to delete any appropriation that the President may deem unnecessary. If Congress disagrees with the judgment of the President, Congress may choose to override the veto. This Executive-Legislative tension, with regard to the national budget, as embodied in the Constitution, aims to create an effective check-and-balance on government spending to ensure that the people's money is spent responsibly and effectively.

However, this check-and-balance mechanism embodied in the 1987 Constitution was undermined by Revised Administrative Code of 1987 when it granted the President the authority to suspend or stop further expenditure of any expenditure authorized in the General Appropriations Act without giving Congress the corresponding power to overturn the President's decision to suspend or stop the expenditure. This authority allowed the President to control government expenditures to prevent unmanageable deficits but it also increased the discretionary power of the President in releasing funds that have already been authorized by Congress.

Thus, for the purpose of restoring Congress' power over the purse, while maintaining the national government's ability to manage expenditures to prevent a possible fiscal crisis, this bill, limits the discretionary power of the President in releasing funds by requiring Congressional participation in the suspension or cancellation of the expenditure of appropriated funds.

Furthermore, to increase the transparency in the release of appropriated funds, this bill compels the Secretary of Budget and Management to submit to Congress a quarterly report containing a summary of releases of allotments and cash allocations for each department, agency, corporation and fund.

In view of the foregoing, the immediate enactment of this measure is earnestly sought.




MAR ROXAS  
Senator

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

9 JAN 20 P2 302

SENATE

S. B. No. 2995

REF: V... 

---

INTRODUCED BY THE HONORABLE MAR ROXAS

---

1 AN ACT  
2 REGULATING THE POWER OF THE PRESIDENT TO RESCIND OR  
3 RESERVE EXPENDITURE OF APPROPRIATIONS AUTHORIZED BY  
4 CONGRESS, AND FOR OTHER PURPOSES.

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

5 SECTION 1. *Title.* – This Act shall be known as the “*Budget Impoundment Control*  
6 *and Regulation Act of 2009.*”

7 SECTION 2. *Declaration of Policy.* – It is the policy of the State to formulate and  
8 implement a National Budget that is an instrument of national development, reflective of  
9 national objectives, strategies and plans. Towards this end, all appropriations, except those,  
10 which shall be explicitly rescinded, reserved, or provided for otherwise in the General  
11 Appropriations Act, shall be automatically released through the issuance of advices of  
12 allotment in accordance with the quarterly allotment period or any other period prescribed  
13 by the Secretary of Budget and Management, and shall be utilized according to the  
14 corresponding purposes provided for in the General Appropriations Act. Any rescission or  
15 reservation of appropriations in the General Appropriations Act shall be made in accordance  
16 with this Act.

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

1 (a) Appropriation – refers to an authorization made by law or other legislative  
2 enactment, directing payment out of government funds under specified  
3 conditions or for specified purposes.

4 (b) Allotment – refers to an authorization issued by the Department of Budget and  
5 Management to an agency, which allows it to incur obligation for specified  
6 amounts contained in a legislative appropriation.

7 (c) Rescission – means cancellation of all or parts of an enacted appropriation which  
8 has not yet been spent or obligated

9 (d) Reservation – means imposition of reserves on an appropriated amount for  
10 government expenditures thus withholding or delaying the release of  
11 appropriated amounts provided for projects or activities.

12 (e) Impoundment resolution – means a joint resolution of both Houses of Congress  
13 expressing either approval or disapproval of a rescission or reservation of an  
14 appropriation or several appropriation items as proposed by the President.

15 SECTION 4. *Rescission of Appropriations.* – Whenever the President, upon the  
16 recommendation of the Secretary of the Department of Budget and Management, determines  
17 that all or part of any budget appropriation will not be required to carry out the full  
18 objectives or scope of programs for which it is provided, or that such budget appropriation  
19 should be rescinded for fiscal policy or other reasons, including the termination of  
20 authorized projects or activities, the President shall transmit to both Houses of Congress a  
21 special message specifying all of the following:

- 22 (1) the amount of budget appropriation which he proposes to be rescinded;  
23 (2) any account, department, agency or instrumentality of the government to which  
24 such budget appropriation is available for obligation, and the specific projects or  
25 governmental functions involved;

1 (3) the reasons why the budget appropriation should be rescinded;

2 (4) the estimated fiscal, economic and budgetary effect of the proposed rescission; and

3 (5) all facts, circumstances and considerations relating to or bearing upon the  
4 proposed rescission, and the estimated effect of the propose rescission upon the  
5 purposes, programs, activities and projects for which such appropriation is  
6 provided.

7 *Provided*, that no personal services appropriations used for permanent officials and employees  
8 shall be subject to rescission. *Provided further*, that the President shall transmit to Congress at  
9 any time during the calendar year but not later than the thirtieth (30<sup>th</sup>) day of September the  
10 special message referred to above, which may include one or more proposals for rescission on  
11 one or more appropriation items, through the Committee on Finance of the Senate and the  
12 Committee on Appropriations of the House of Representatives.

13 **SECTION 5. *Approval of Rescission.*** – Both Houses of Congress shall act on the  
14 proposed rescission within thirty (30) calendar days after the receipt of such proposal from  
15 the President by issuing a joint impoundment resolution, either approving or disapproving  
16 the same. If request for rescission is denied, the amount requested to be rescinded shall be  
17 immediately released. *Provided*, that if the President's special message is received within a  
18 period of less than thirty (30) calendar days before the end of a regular session, the  
19 President's message shall be deemed to have been submitted on the first day of the  
20 succeeding regular session of Congress and the thirty (30) day period referred to in this  
21 Section shall commence on the day after such first day. *Provided further*, that if Congress  
22 does not issue an impoundment resolution within the specified period, the proposed  
23 rescission shall be deemed disapproved and the amount proposed to be rescinded shall be  
24 immediately released. *And provided furthermore*, that by the first (1<sup>st</sup>) day of October all

1 proposals for rescission that have not been acted upon by Congress shall be deemed  
2 disapproved and the amount proposed to be rescinded shall be immediately released.

3       **SECTION 6. *Use of Rescinded Appropriations.*** - Funds corresponding to the rescinded  
4 appropriations shall revert to the unappropriated surplus of the general fund and shall not be  
5 made available for expenditure for any purpose except as may be provided for in a  
6 subsequent appropriation law enacted by Congress.

7       **SECTION 7. *Reservation of Appropriations.*** - Whenever the President, the Secretary  
8 of Budget and Management, the head of any department, agency or instrumentality of the  
9 Government proposes to reserve from obligation all or part of any appropriation for a specific  
10 purpose, program, activity, or project, the President shall transmit to the House of  
11 Representatives and the Senate a special message specifying all of the following:

- 12       (1) the amount of the appropriation proposed to be reserved;
- 13       (2) any account, department, agency or instrumentality of the Government to which  
14       such appropriation is available for obligation, and the specific projects or  
15       governmental functions involved;
- 16       (3) the period of time during which the appropriation is proposed to be reserved,  
17       provided that any proposals for reservation must not extend beyond the end of the  
18       fiscal year;
- 19       (4) the reasons for the proposed reservation;
- 20       (5) the estimated fiscal, economic and budgetary effect of the proposed reservation;
- 21       (6) all facts, circumstances and considerations relating to or bearing upon the  
22       proposed reservation, and the estimated effect of the propose reservation upon the  
23       purposes, programs, activities and projects for which such appropriation is  
24       provided.

1 *Provided*, that no personal services appropriations used for permanent officials and employees  
2 shall be subject to reservation. *Provided further*, that the President shall transmit to Congress  
3 at any time during the calendar year but not later than the thirtieth (30<sup>th</sup>) day of September  
4 the special message referred to above, which may include one or more proposals for  
5 reservation on one or more appropriation items, through the Committee on Finance of the  
6 Senate and the Committee on Appropriations of the House of Representatives.

7         **SECTION 8. *Approval of Reservation.*** – Both Houses of Congress shall act on the  
8 proposed reservation within thirty (30) calendar days after the receipt of the proposal from  
9 the President. If request for reservation is denied, amount proposed to be reserved shall be  
10 immediately released. *Provided*, that if the President's special message is received within a  
11 period of less than thirty (30) calendar days before the end of a regular session, the  
12 President's message shall be deemed to have been submitted on the first day of the  
13 succeeding regular session of Congress and the thirty (30) day period referred to in this  
14 Section shall commence on the day after such first day. *Provided further*, that if Congress  
15 does not issue an impoundment resolution within the specified period, the President shall  
16 proceed with the reservation. *And provided furthermore*, that by the first (1<sup>st</sup>) day of  
17 October all proposals for reservation, that have not been acted upon by Congress shall be  
18 deemed disapproved and the amount proposed to be reserved shall be immediately released.

19         **SECTION 9. *Submission of Quarterly Reports.*** – Within thirty (30) days after the end  
20 of each quarter, the Secretary of Budget and Management shall submit to the Committee on  
21 Appropriations of the House, of Representatives and the Committee on Finance of the  
22 Senate, comparative statements showing the annual general appropriations, the annual  
23 program of continuing and automatic appropriations, and the corresponding releases of  
24 allotments and cash allocations for each department, agency, corporation and fund. The  
25 quarterly reports shall also include a cumulative summary of all appropriations rescinded,

1 and reserved, including, where applicable, the corresponding impoundment resolution/s  
2 approving such rescissions, and reservations. *Provided*, that the releases from each lump-sum  
3 or special-purpose fund shall be supported with schedules indicating the specific  
4 departments, agencies, corporations, or entities which received the fund releases and the  
5 purposes of such releases.

6       **SECTION 10. *Penal Provision.*** – Any violation of this Act shall be punished by  
7 imprisonment from three (3) years to nine (9) years, a fine not less than one hundred fifty  
8 thousand pesos (P150,000.00) but not exceeding three hundred thousand pesos  
9 (P300,000.00), and the penalty of temporary special disqualification.

10       **SECTION 11. *Administrative Liabilities.*** - Any violation of this Act shall cause the  
11 suspension of payment of the violators' salaries including retirement and separation benefits  
12 until they have complied with the requirements of this Act and such compliance is upheld  
13 by final judgment of the courts. No appropriation authorized in the General Appropriations  
14 Act shall be made available to pay the salary of any official or employee who violates the  
15 provisions of this Act. Any rescission or reservation in violation of the procedures for  
16 Congressional authorization stipulated in this Act shall be illegal and every official or  
17 employee authorizing or making such rescission or reservation, or taking part therein, shall  
18 be held liable to the agencies whose appropriation were rescinded or reserved for the full  
19 amount rescinded or reserved. In addition, the amount of the appropriation illegally  
20 rescinded or reserved shall be subtracted from the total appropriations of the Office of the  
21 President, the Department of Budget and Management, and the Contingent Fund  
22 administered by the Office of the President. If the allotments released against the  
23 appropriations under these three accounts are greater than the balances of the appropriations  
24 for these three accounts after subtracting the illegally rescinded and reserved amounts, then  
25 the President and the Secretary of Budget and Management shall be made personally liable

1 to the Government for the difference between the allotments already released and the  
2 adjusted appropriations.

3         **SECTION 12. *Separability Clause.*** – If any provision of this Act, or any part thereof, is  
4 declared unconstitutional, the same shall not affect the validity and effectivity of the other  
5 portions.

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

10         **SECTION 14. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its  
11 complete publication in the Official Gazette or in at least two (2) national newspapers of  
12 general circulation, whichever comes earlier.

Approved,