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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 495

Introduced by **Hon. Arthur "Dodo" Y. Pingoy, Jr., M.D.**

Explanatory Note

Section 20, Article VII of the 1987 Constitution contains the "borrowing power" of the President of the Philippines as termed by a former justice of the Supreme Court and an eminent author of Philippine constitutional law books. It states:

> "The President may contract or guarantee foreign loans on behalf of the Republic of the Philippines with the prior concurrence of the Monetary Board, and **subject to such limitations as may be provided by law**. The Monetary Board shall, within thirty days from the end of every quarter of the calendar year, submit to Congress a complete report of its decisions on applications for loans to be contracted or guaranteed by the Government or government-owned and controlled corporations which would have the effect of increasing the foreign debt, and **containing other matters as may be provided by law.**" (*underscoring supplied*)

This provision has been circumscribed by the requirement that it must have the prior concurrence of the Monetary Board, and further, that it will be reported to Congress. However, such requirements have been ineffective and inadequate controls in limiting such foreign borrowings as evidenced by the continued unbridled binge of the executive branch in contracting loans which started during the Marcos administration.

This, along with the predilection of national leaders in making a quick recourse to huge loans as a way of financing and propping up big programs, contributed to the perpetration of disastrous policies in debt management and debt payments.

Recent estimates reveal that our country's national debt has grown from P 2.8 trillion pesos by the end of year 2001 to P 3.3 trillion by end of 2002. Even the incumbent Secretary of the Department of Budget and Management admitted that it might even be more than that. Senator Recto claims that our debt increases by around P 1 million a minute, P 57.1 million an hour and P 1.37 billion a day.

The cost of the government's mismanagement is not just staggering but also appalling. Consider the debt service alone. From 1990 to 1997, it is the single highest budgetary item in the resource appropriations of the government and had an average share of 33%. Sadly, this trend, started during the Aquino regime where a non-confrontational style of debt management was again adopted despite the very auspicious opportunity then for a selective repudiation of illegal and fraudulent loans contracted during the Marcos regime.

For the year 2000 alone, the amount of P 80 billion went to the servicing of domestic debt, while P 28.8 billion was utilized for the payment of foreign debt. These figures are even separate from the P 65.97 billion payment of principal amortization of the national debt, which was considered an off-budget expenditure item. All in all, during the aforementioned year, the government dished out P 175.29 billion or 27% of the national budget.

In a study analyzing the opportunity costs foregone by the government as a consequence of the reduction of government spending in favor of debt service, it was noted that the education sector suffered and shouldered the greatest financial burden. New classrooms are reduced by 2,567 units and school desks by 59,353 units affecting as many as 160,000 students.

The study also noted that as for non-formal education, almost 60% of the total printing and distribution of learning materials is reduced from its original number, undermining the 631,750 non-formal public school students.

Consider these facts, too, in a study entitled "Deep in Debt, Staggering in Debt Payment" excerpted from a research paper entitled "Automatic Appropriations Law: Palabra de Honor or Palabra Que Horror" published two years ago:

> "In 1998, there was a requirement of 16,969 teachers to teach a maximum class size of 56, but the government was only able to provide 7,209 teachers. Thus, there was a shortage of 9,760 teachers. The P 3 billion used (yearly allocation) for the Philippine Nuclear Power Plant (also known as the Bataan Nuclear Power Plant) can be utilized to finance the stipend of teachers. Taking into account that the annual compensation of teachers is P 149,571, the budget for the PNPP debt service would have been re-allocated for the payment of the annual compensation of around 20,057 more teachers, thereby solving the teacher backlog suffered by public schools. With P 3 billion, there would even be an excess of 10,297 teachers.
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> The 2000 budget of DECS only provides a total of 8,197 classrooms, 6,755 of which are for elementary schools, while 1,442 are for secondary schools. Such a budgetary allocation is not enough to meet the classroom requirement because there is still a backlog of 28,139 classrooms, 25,412 of which are for elementary schools and 2,727 of which are for public high schools. With an estimated cost of P 305,000 for each classroom (P5,446 per square meter), the P 3 billion PNPP debt fund would have constructed 9,836 additional classrooms, thereby reducing the backlog to 18,303 classrooms. Following the trend, the process of reallocating the PNPP fund to classroom construction can solve the backlog in two years.
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> In school year 1999-2000, the country needed a total of P 93,441,102 textbooks. With only 18,295,743 estimated usable textbooks and 7,869,051 new textbooks acquisitions (for a total of 26,164,794 books), there is a backlog of 67,276,308 books. This yields to a textbook student ratio of 1:4. To improve this ratio to 1:1, the Philippine needs at least P 3 billion. Thus, if the government decides to re-channel the P 3 billion allocated for PNP to textbook acquisition, DECS would need only 300 million pesos more to make sure every student would have his own textbooks."

In the name of debt service, health services also suffer tremendously because of its budget reduction. The same account revealed the following: a) 27 % reduction in case findings and treatment of malaria control which can possibly lead to 29,000 deaths; b) 90,000 tuberculosis patients will not be treated, which in turn can cause the viral contamination of 1.8 million more people c) immunization targets are reduced by 23.3% d) nutrition program beneficiaries are significantly eroded, since 436,090 children are not given Vitamin A, 749,893 are not given iodine and 166,667 pregnant women are not given iron supplements.

We are only dealing with a fragment of our debt service and crucial opportunities lost because of it. What more if we probe the total amount of services sacrificed when we look at the overall amount of debt service, and more than that, those completely foregone for many more years because of big principal payments.

Last year, the Arroyo administration spent at least P 230.7 billion of its 2003 national budget just to service its debt, bigger than its projected deficit of P 202 billion budget deficit for the year. According to recently published accounts, out of the P 804.2 billion that the government spent last year, about 29% went to interest payments. This figure can be higher if one takes into account the off-budget expenditures allotted by the government for the payment of principal amounts.

What is made clear for so many years now is that our debt woes has constricted inordinately government efforts to adequately finance basic social service. Debt service alone eats up a huge chunk of our budget which otherwise should have gone to spur economic growth and again contribute to a promotion of the delivery of basic services.

The bill, therefore, seeks to institutionalize an effective balance to a vast and delicate power of the executive branch, which if exercised in an unlimited and unbridled manner as proven during the past

decades will have deleterious and adverse effects to the economy. The constitutional provision that encapsulates this power was precisely written and included therein to make possible that needed check on the borrowing power of the President.

Such control can be exercised by no other than the legislature which, in accordance to prevailing constitutional precepts, republicanism and governmental practice, does not only hold the "power of the purse" and oversight functions but also enjoys the highest position in the domain of policymaking. It need not be emphasized that Congress has the exclusive power to determine the use of public funds and how much should be allocated for a particular purpose.

If Congress abdicates again from its constitutionally-ordained powers and from wielding this proposed control over the executive branch, the country's fiscal position and economic development will not only be compromised but will be headed to further ruins and will again make a repeat of condemnable episodes in our nation's history.

Furthermore, this legislative initiative will also afford us all relevant facts which are used as a basis for our debt policies and its management, which is in consonance to the constitutional right of the people to information and the constitutional policy of full disclosure of its transactions involving public interest. This information will not be limited for Congress' consumption but will also be published in at least two papers of national circulation.

From both policy and constitutional standpoints, this bill must be approved and should not suffer any further delay, if our leaders are indeed serious in making significant recovery from our worsening economic woes and in truly ameliorating the life of every Filipino and not just to arrest our mounting debts and a mind-boggling budget deficit and to attain the ideals of fiscal prudence and viable debt management.

Let it be stressed that our miseries as a nation for the past decades have yielded more than ample proofs and impetus to break away from the vicious debt cycle and to give birth to this primordial landmark legislation. We are duty-bound to safeguard a future that will no longer repeat past patterns of debt policies and management that will again make the already impoverished Filipinos plunge to fast deepening quagmires of poverty.

It is worthy to mention that no less than former Finance Secretary Jose Isidro Camacho asked Congress (Philippine Star, February 6, 2003) to legislate a debt cap as a way of controlling expenditures that would also force government to scrap projects without the corresponding funding mechanism. He also said that we have to take pro-active measures to control spending, increase revenues and consequently remove the pressure on increased borrowing.

The swift passage of this bill and strong support of our colleagues in the legislature is, therefore, earnestly sought.

Arthur "Dodo' Y. Pingoy, Jr., M.D.

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HOUSE BILL NO. 495

Introduced by **Hon. Arthur "Dodo" Y. Pingoy, Jr., M.D.**

AN ACT
LIMITING THE BORROWING POWER OF THE PRESIDENT BY PRESCRIBING CERTAIN REQUIREMENTS FOR ALL FORMS OF FOREIGN AND DOMESTIC INDEBTEDNESS AND ALL MATTERS RELATING TO THE COUNTRY'S DEBT MANAGEMENT STRATEGIES AND FOR OTHER PURPOSES

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

SECTION 1. *Declaration of Policy.*-- a) In consonance with the constitutional provisions that seek to promote a just and social order and to promote social justice in all phases of national development as well as in the enactment of measures to protect and enhance the right of all people to human dignity and reduce social and economic inequalities, it is hereby declared the policy of the State to give a priority to the delivery of basic social and health services for the well-being of the Filipino people over the need to make payments of existing national debts;

b) It is a policy of the State to exercise a more judicious use of our country's financial resources, fiscal prudence in the contracting of loans and a more viable debt management strategy, taking into account the state of the national economy and of the paramount importance of responsive and vital appropriations for the effective delivery and promotion of basic services;

c) It is also a policy of the State that contracting loans from both internal and external sources must not serve as the only or first resort in raising additional revenues. Debt repayments must always be congruent with the fiscal standing and targets set by the country's policymakers.

d) All relevant information used as bases for current and intended debt policies and debt management strategies are matters of public concern and must, therefore, be made available to the public not only to ensure a stronger and broader monitoring of performance indicators but also to promote public awareness of our country's debt and the government's debt policies as well as our people's understanding of the economy and economic issues.

SEC. 2. No loan, whether foreign or domestic, shall be negotiated and contracted in the name and liability of the national government, including those of the government-owned and controlled corporations and local government units without the prior approval of the Congress of the Philippines.

SEC. 3. The preceding provision also applies in the payment of loan interests, restructuring, re-scheduling and repayment programs for subsisting foreign debts, government guarantee of private loans and public assumption of private sector debts that may be proposed or entered into by the President of the Republic of the Philippines and by monetary and economic-planning agencies of the executive branch of government and by any officer or body tasked or appointed by these bodies or the President.

SEC. 4. The Monetary Board, in coordination with the Department of Budget and Management (DBM), National Economic and Development Authority (NEDA) and Bureau of Treasury, must present to Congress annual report on the capacity of the national government to pay vis-à-vis its targeted loans for the ensuing fiscal year and the projected revenues and existing financial reserves of the country.

SEC. 5. The Congressional Planning and Budget Office (CPBO) of the House of Representatives shall prepare a counterpart report of what is provided in the preceding section and an evaluation of the report that will be submitted by the Monetary Board including its recommendations on how Congress

must act on proposed initiatives related with the contracting of loans and payments of the country's existing debt.

SEC. 6. All pertinent facts which are used as bases for our debt policies and its management by the Executive Branch, the format, contents and presentation of which shall be determined by Congress, shall be published in at least two national newspapers which will contain but not limited to the following:

a) amount of exiting loans and its schedule of payments, including payments of interest and principal amounts, terms and conditions, maturity period and penalties in case of defaults, late payments and unilateral actions by both the creditor banks or countries and our responses thereto;

b) loans to be contracted, including all that is mentioned in the preceding paragraph;

c) amount of its foreign reserves.

SEC. 7. Any public official or employee who shall willfully withhold or deny access to any information enumerated hereunder shall suffer the penalty of *prision mayor* and a fine not exceeding P 100,000.00, including a perpetual disqualification to be elected and appointed to public office, and in case of an incumbent officer or employee in the government service, forfeiture of retirement benefits and without any possibility of reinstatement to public office.

SEC. 8. All laws, decrees and orders or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly. In the event that a part of this Act is declared unconstitutional, the other provisions not affected thereby shall remain valid.

Sec. 9. This Act shall take effect within fifteen (15) days after its publication in the Official Gazette or in two newspapers of general circulation.

Approved,