

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL No. **3449**

Introduced by Reps. NERI J. COLMENARES, CARLOS ISAGANI T. ZARATE,
LUZVIMINDA C. ILAGAN, EMMI A. DE JESUS, ANTONIO L. TINIO,
FERNANDO HICAP and TERRY RIDON

THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT

EXPLANATORY NOTE

This bill aims to strengthen the "Congressional power of the purse" as enshrined in the 1987 Constitution in light of current developments wherein massive corruption involving billions of public funds happen right under our nose. The public is outraged by the news of the public coffers being used by individuals for their own personal benefit, depriving the masses of the people of basic services they desperately need.

Article VI, Section 25 (5) of the 1987 Constitution states that "No law shall be passed authorizing any transfer of appropriations ..." Further, Article VI, Section 24 of the 1987 Constitution also states that "Section 24. All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills, shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments."

It was President Benigno S. Aquino III himself, during his term as a Senator in the Fourteenth Congress, who introduced a bill seeking Congressional control over the power of the president on budget impoundment. However, when he became the President, he must have forgotten this bill that he himself submitted for Congress' enactment. The President is now exercising the same power he previously wanted Congress to control. As explained by then Sen. Aquino in his bill, "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." Yet, it appears that Pres. Aquino is now doing the same thing as was done by his predecessor.

Despite the provisions of the Constitution granting powers to the Congress to control the appropriation of public fund, the President still wields considerable control over public spending through the exercise of budget impoundment. The President and the Department of Budget and Management are able to circumvent the General Appropriations Act by impounding the release of public funds in the middle of a fiscal year, trampling upon the Congressional power over the purse. As a result, billions of pesos in public funds are being spent on items not appropriated by Congress, in violation of the provisions of the Constitution.

This bill will protect the public fund from unbridled and arbitrary realignment of funds for activities that are not authorized by Congress.

In this light, the passage of this bill is earnestly sought.

Approved,



Rep. NERI J. COLMENARES
Bayan Muna Party-list



Rep. CARLOS ISAGANI T. ZARATE
Bayan Muna Party-list



Rep. LUZVIMINDA C. ILAGAN
Gabriela Women's Party



Rep. EMMI A. DE JESUS
Gabriela Women's Party



Rep. ANTONIO L. TINIO
ACT Teachers Party-list



Rep. FERNANDO HICAP
Anakpawis Party-list



Rep. TERRY RIDON
Kabataan Party-list

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL No. **3449**

Introduced by
BAYAN MUNA Rep. Neri Colmenares, GABRIELA Women's Party Rep. Luz Ilagan, ACT
Teachers Party-List Rep. Antonio Tinio, GABRIELA Women's Party Rep. Emmi de Jesus,
ANAKPAWIS Rep. Fernando Hicap, BAYAN MUNA Rep. Carlos Isagani Zarate and
KABATAAN Rep. Terry Ridon

THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT

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

SECTION 1. Title. - This Act shall be known as "The Congressional Budget and 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. The National Budget, as approved and enacted by Congress through the General Appropriations Act, should be faithfully executed to the letter. No amount of money coming from the public fund should be spent on activities that are not authorized by Congress.

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. The Congress declares that it is essential -

- 1) to assure effective congressional control over the budgetary process;

- 2) to provide for the congressional determination each year of the appropriate level of national revenues and expenditures;
- 3) to provide a system of impoundment control;
- 4) to establish national budget priorities; and
- 5) that Congress be provided by the executive branch with full and detailed information for Congress to effectively discharge its duties.

SECTION 4. Definition of Terms. - For purposes of this Act:

- a) Lump sum - means funds allocated without being broken down into detailed purpose, program, activity or project.
- b) Rescission - means cancellation of all or part of an enacted appropriation, which has not yet been spent or obligated.
- c) Reserve - means the amount set aside from a particular appropriation to provide for contingencies and emergencies which may arise later in the calendar year.
- d) Reservation - means imposition of reserves on appropriated amounts for government expenditures.
- e) Deferral of releases - means withholding or delaying the release of appropriated amounts provided for projects or activities.
- f) 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.
- g) 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.
- h) Unobligated allotment - means the portion of allotment that has not yet been incurred or paid by the department, agency or any instrumentality of the government upon which the allotment was issued.
- i) Work-and-financial plan - means the monthly breakdown of financial requirements and physical performance targets of an agency.
- j) Appropriations - unless otherwise described or specified herein, the term appropriations refers to the appropriations included in the annual General Appropriations Act and as defined in the Administrative Code of 1987.

- k) Unreleased appropriation - means the portion of appropriation that has not yet been made available for allotment to the department, agency or instrumentality of Government upon which an appropriation was authorized by Congress.

SECTION 5. Submission of the Proposed National Budget by the President to Congress. -

Whenever the President submits to Congress the proposed National Budget, it must include a detailed enumeration of items for appropriation including but not limited to the, special purpose funds, unprogrammed funds, the automatic appropriations and debt-service payments.

SECTION 6. Lump Sum Appropriations.-No lump sum amounts, upon which its disbursement shall be under the discretion of the President or head of any agency/department of the government, that does not contain specific items enumerated for allocation shall be included in any annual General Appropriations Act. Each item in the proposed budget shall contain the detailed purpose for which funds will be appropriated.

Lump sum amounts for Calamity Fund shall be appropriated by Congress, Provided, That expenditures for this particular appropriation shall require a report by the recipient agency/department to the House of Representatives and the Senate, in the event of its disbursement. Lump sum appropriation to cover for contingencies may be authorized by Congress, Provided, That the amount to be set aside for contingency funds shall not exceed one percent (1%) of the total appropriations for a calendar year.

SECTION 7. Automatic and Debt-Servicing Appropriations.- Provisions for automatic appropriations and debt-service amortizations shall indicate the institutions, banks or lending corporations from where the loans are obtained and the principal amounts and interests obligated for each loan.

SECTION 8. 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 9. 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 approved in Plenary: 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 first day of such succeeding regular session. 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 General Fund and shall not be made available for expenditure for any purpose except as provided for by a subsequent legislative enactment.

SECTION 10. Use of Reserves. - When changes in conditions during the year, as determined by Congress, 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 11. 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.

SECTION 12. 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 first day of such succeeding regular session. If Congress does not issue an impoundment resolution within the specified period, the President shall not proceed with the deferral procedures.

SECTION 13. 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 specialpurpose 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 14. 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 15. Withdrawal of Unobligated Allotments. - The President, through the recommendation of the Secretary of Budget and Management, may withdraw unobligated allotments whenever a program, activity or project from which an allotment was made has been discontinued or abandoned with finality. The withdrawn unobligated allotments shall revert to the General Fund and shall not thereafter be made available for expenditure except by subsequent legislative enactment.

SECTION 16. Unreleased Appropriation. - All unreleased appropriation and unexpended balances of appropriations shall revert to the General Fund and shall not thereafter be made available for expenditure except by subsequent legislative enactment or authorization.

SECTION 17. Penal Provision. - Any violation of the provisions of this Act shall be punished by a fine not exceeding Five Hundred Thousand Pesos (P500,000.00) and the penalty of perpetual special disqualification.

SECTION 18. Repealing Clause.-The provisions in the annual General Appropriations Act, specifically, but not limited to, the provisions on impoundment, retention or deduction of allotment, and lump sum appropriations and 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 19. 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,