

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



Sixteenth Congress
First Regular Session

House Bill No. 2257

Introduced by AKBAYAN Representatives Ibarra Gutierrez III and Walden Bello

EXPLANATORY NOTE

Every year, the Government goes through a meticulous process of setting its goals and priorities, identifying necessary programs and projects, and putting the required budgetary allocations for the programs and projects it has identified. In the end, the preparation of the Government's annual appropriations ensures that its work plan promotes efficiency, generates more revenue for the government and responds effectively to national development requirements.

All government instrumentalities depend on the allocations made on the approved General Appropriations Act to realize set objectives, programs and projects. Each government instrumentality's efficiency lies in the regular availability of budgetary support to oil its machinery and accomplish its mandate.

The Local Government Code provided the impetus for local governments to chart their own destiny by allowing each local government to identify significant and necessary development initiatives for its respective localities. This is important for the progress and development of its citizenry.

In most cases, however, due to the uncertainty in the releases of allotment, government instrumentalities and local governments fall prey to the whimsical exercise of deferment, rescission or even reversion of appropriations. Such frustrates expectations of their

respective constituencies, leaving them with false promises of implementing development programs that may never be realized.

An updated and revised version of House Bill No. 2925 filed by Representatives Walden Bello and Kaka Bag-ao during the Fifteenth Congress, the Impoundment Control and Regulation Act of 2013 ensures that proper limits and procedures are put in place in the exercise of the President's authority to defer, rescind or reserve expenditures that have already been approved by Congress through the General Appropriations Act.

In addition, this proposed law safeguards the authority of the President so that succumbing to pressures and other influences that negate the very reason for the enactment of the General Appropriations Act is avoided.

In the end, the objective of this proposed legislation is to make both the national government and the local government units to work better for the citizenry towards national development.

In view of the foregoing, the passage of this bill is earnestly sought.



Ibarra Gutierrez III



Walden Bello

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**AN ACT REGULATING THE POWER OF THE PRESIDENT TO DEFER,
RESCIND, OR RESERVE EXPENDITURE OF APPROPRIATIONS
AUTHORIZED BY CONGRESS**

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

1 **SECTION 1. Title.**—This Act shall be known as the “*Impoundment Control and Regulation*
2 *Act of 2013.*”

3

4 **SECTION 2. Declaration of Policy.**—It is the policy of the State to formulate and
5 implement a National Budget that is anchored on a meticulous assessment of the
6 Government’s budgetary requirements based on clearly-defined national priorities, that
7 promotes efficiency and resolve in the Government’s revenue generation efforts, and is
8 truly responsive to the needs of national development. Towards this end, all
9 appropriations, except those which shall be expressly deferred, rescinded, reserved, or
10 provided for otherwise, in the General Appropriations Act, shall be automatically
11 released within the first semester of the year through the issuance of advices of allotment
12 in accordance with approved work and financial plans, and shall be utilized according to
13 the corresponding purposes provided for in the General Appropriations Act. Any other
14 deferral, rescission, or reservation of appropriations in the General Appropriations Act
15 shall be made in accordance with this Act.

16

1 SECTION 3. *Definition of Terms.*—Section 2, Chapter 1, Book VI of Executive
2 Order No. 292 otherwise known as the “*Administrative Code of 1987*,” is hereby amended
3 to read as follows:

4
5 “Section 2. *Definition of Terms.*—When used in this Book:

6
7 1. “*Appropriation*” refers to an authorization made by
8 law or other legislative enactment, directing payment out
9 of Government funds under specified conditions or for
10 specified purposes.

11
12 2. “*Allotment*” refers to an authorization issued by the
13 Department of Budget and Management to an agency,
14 which it allows the agency to incur obligation for specified
15 amounts contained in a legislative appropriation.

16
17 3. “*Advice of allotment*” refers to the formal document
18 issued by the Department of Budget and Management
19 which contains the authorizations, conditions, and
20 amount of obligations that an agency can incur pursuant
21 to a legislative appropriation.

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23 4. “*Budget*” refers to a financial plan required to be
24 prepared pursuant to Section 16(1), Article VIII of the
25 Philippine Constitution, reflective of national objectives,
26 strategies and programs.

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28 5. “*Current operating expenditures*” refers to
29 appropriations for the purchase of goods and services for
30 current consumption or for benefits expected to terminate
31 within the fiscal year.

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33 6. “*Capital outlay*” or “*capital expenditures*” refers to an
34 appropriation for the purchase of goods and services, the

1 benefits of which extend beyond the fiscal year and which
2 add to the assets of the Government, including
3 investments in the capital of government-owned or –
4 controlled corporations and their subsidiaries.

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6 7. “*Continuing appropriation*” refers to an appropriation
7 available to support obligations for a specified purpose or
8 project, even when these obligations are incurred beyond
9 the budget year.

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11 8. “*Deferral*” means withholding or delaying the
12 release of appropriated amounts provided for projects or
13 activities.

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15 9. “*Expected result*” means service, product, or benefit
16 that will accrue to the public, estimated in terms of
17 performance measurers or targets.

18
19 10. “*Fiscal year*” refers to the period beginning with
20 the first day of January and ending with the thirty-first day
21 of December of each calendar year.

22
23 11. The “*Government*” means the National
24 Government, including the Executive, the Legislative and
25 the Judicial branches, and the Constitutional
26 Commissions.

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28 12. “*Department and agency*” and “*department or agency*”
29 include all departments, bureaus, offices, boards,
30 commissions, courts, tribunals, councils, authorities,
31 administrations, centers, institutes, state colleges and
32 universities, and all other establishments and
33 instrumentalities of the National Government as defined
34 in the preceding paragraph.

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13. “Impoundment Resolution” means a joint resolution of both Houses of Congress expressing approval or disapproval of a rescission, reservation, deferral, or suspension of an appropriation or several appropriation items as proposed by the President.

14. “Obligation” refers to an amount committed to be paid by the Government for any lawful act made by an authorized officer for and in behalf of the Government.

15. “Program” refers to the functions and activities necessary for the performance of a major purpose for which a government agency is established.

16. “Project” means a component of a program covering a homogenous group of activities which results in the accomplishment of an identifiable output.

17. “Rescission” means cancellation of all or parts of an enacted appropriation which has not yet been spent or obligated.

18. “Reservation” means imposition of reserves on an appropriated amount for government expenditures.

SECTION 4. Section 37 of Chapter 5, Book VI of Executive Order No. 292 otherwise known as the “*Administrative Code of 1987*,” is hereby repealed and replaced with the following provision:

“Section 37. Rescission and Reservation of Appropriation.—Whenever the President 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

1 provided, or that such budget appropriation should be
2 rescinded for fiscal policy or other reasons, including the
3 termination of authorized projects or activities, or
4 whenever all or part of any budget appropriation for the
5 current fiscal year is to be reserved from obligation for
6 such fiscal year, the President shall transmit to both
7 Houses of Congress a Special Message specifying;

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9 1. The amount of budget appropriation which the
10 President proposes to be rescinded or which is to be so
11 reserved;

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13 2. Any account, department, agency or
14 instrumentality of the Government to which such budget
15 appropriation is available for obligation, and the specific
16 projects or governmental functions involved;

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18 3. The reasons why the budget appropriation should
19 be rescinded, or is to be so reserved;

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21 4. The estimated fiscal, economic and budgetary
22 effect of the proposed rescission or reservation; and

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24 5. All facts, circumstances and considerations
25 relating to the proposed rescission or reservation
26 including its bearing upon the purposes, programs,
27 activities and projects for which such appropriation is
28 provided.”

29
30 **SECTION 5.** There shall be incorporated into Chapter 5, Book VI of Executive Order
31 No. 292 otherwise known as the “*Administrative Code of 1987*” four (4) new provisions
32 after Section 37, to read as follows:
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1 “Section 37-A. Approval of Rescission or Reservation.—Both
2 Houses of Congress shall act on the proposed rescission
3 or reservation within forty-five (45) calendar days after the
4 receipt of the Special Message from the President made
5 pursuant to Section 37 by issuing a joint Impoundment
6 Resolution, approving or disapproving the proposal:
7 Provided, That if the President’s Special Message is received
8 within a period of less than forty-five (45) calendar days
9 before the end of a regular session, the President’s Special
10 Message shall be deemed to have been submitted on the
11 first day of the succeeding regular session of Congress,
12 and the forty-five (45) day period referred to in this
13 Section shall commence on the day after such first day:
14 Provided, further, That if Congress does not issue an
15 Impoundment Resolution within the specified period, the
16 proposed rescission or reservation shall be deemed
17 disapproved: Provided, finally, That funds corresponding to
18 the rescinded appropriations shall revert to the
19 unappropriated surplus of the general fund and shall not
20 be made available for expenditure for any purpose except
21 as may be provided for in a subsequent law enacted by
22 Congress.

23
24 “Section 37-B. Use of Reserves.—When changes in conditions
25 during the year justify the use of the reserved
26 appropriations which have been imposed under this
27 Book, as amended, or the General Appropriations Act,
28 the amount involved shall be allocated back for the use
29 by, and upon the request of, the department, office or
30 agency on whose appropriation the reserve was originally
31 imposed.

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33 “Section 37-C. Deferral of Releases.—Whenever the President,
34 the Secretary of Budget and Management, the head of any

1 department, agency or instrumentality of the Government
2 proposes to defer the release of a specific appropriation,
3 the President shall transmit to the House of
4 Representatives and the Senate a Special Message
5 specifying:

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7 1. The amount of the appropriation proposed to be
8 deferred;

9
10 2. Any account, department, agency or instrumentality of
11 the Government to which such appropriation is
12 available for obligation, and the specific projects or
13 governmental functions involved;

14
15 3. The period of time during which the appropriation is
16 proposed to be deferred;

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18 4. The reasons for the proposed deferral, including any
19 legal authority invoked by him to justify the proposed
20 deferral;

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22 5. The estimated fiscal, economic and budgetary effect
23 of the proposed deferral;

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25 6. All facts, circumstances and considerations relating to
26 or bearing upon the proposed deferral and the
27 decision to effect the proposed deferral, including any
28 analysis of such facts, circumstances and
29 considerations in terms of their application to any
30 legal authority and specific elements of legal authority
31 invoked by him to justify such proposed deferral upon
32 the objects, purposes, program, activities and projects
33 for which such appropriation is provided.

34

1 A deferral may not be proposed for any period of time
2 extending beyond the end of the fiscal year in which the
3 Special Message proposing the deferral was transmitted to
4 the House of Representatives and the Senate.

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6 “Section 37-D. Approval of Release Deferral.—Both Houses of
7 Congress shall act on the proposed deferral within forty-
8 five (45) calendar days after the receipt of the Special
9 Message from the President made pursuant to Section 37-
10 C. Provided, That if the President’s Special Message is
11 received within a period of less than forty-five (45)
12 calendar days before the end of a regular session, the
13 President’s Special Message shall be deemed to have been
14 submitted on the first day of the succeeding regular
15 session of Congress and the forty-five (45) day period
16 referred to in this Section shall commence on the day
17 after such first day: Provided, further, That if Congress does
18 not issue an Impoundment Resolution within the
19 specified period, the President shall proceed with the
20 deferral procedures.”

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22 **SECTION 6.** Section 38 of Chapter 5, Book VI of Executive Order No. 292 otherwise
23 known as the “*Administrative Code of 1987*,” is hereby repealed and replaced with the
24 following provision:

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26 “Section 38. Mode of Transmittal of the Special Message of the
27 President.—The President shall transmit to Congress at any
28 time during the budget year but not later than the
29 fifteenth (15th) day of October of the budget year the
30 Special Message referred to in Section 37 and Section 37-
31 C of this Book, which may include one or more proposals
32 for rescission, reservation, or deferral on one or more
33 appropriation items, through the Committee on Finance

1 of the Senate and the Committee on Appropriations of
2 the House of Representatives.”

3
4 **SECTION 7.** There shall be incorporated into Chapter 5, Book VI of Executive Order
5 No. 292 otherwise known as the “*Administrative Code of 1987*” a new provision after
6 Section 38, to read as follows:

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8 “Section 38-A. Submission of Quarterly Reports.—Within thirty
9 (30) days after the end of each quarter, the Secretary of
10 Budget and Management shall submit to the Committee
11 on Appropriations and the Committee on Finance, of the
12 House of Representatives and the Senate, respectively, a
13 list of releases made out of reserved and deferred
14 appropriations, and comparative statements showing the
15 annual general appropriations, the annual program of
16 continuing and automatic appropriations, and the
17 corresponding releases of allotments and cash allocations
18 for each department, agency, corporation and fund;
19 Provided, That the releases from each lump-sum or special
20 purpose fund shall be supported with schedules indicating
21 the specific departments, agencies, corporations, or
22 entities which received the fund releases and the purpose
23 of such releases. The quarterly reports shall also include a
24 cumulative summary of all appropriations rescinded,
25 deferred, or reserved, including, where applicable, the
26 corresponding Impoundment Resolutions approving such
27 rescissions, deferrals, or reservations.”

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29 **SECTION 8.** Section 33(6) of Chapter 5, Book VI of Executive Order No. 292
30 otherwise known as the “*Administrative Code of 1987*” is hereby amended to read as
31 follows:
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*“Section 33. Allotment of Appropriations.—*Authorized appropriations shall be allotted in accordance with the procedure outlined hereunder:

x x x x x x x x x x

6. Pursuant to Sections 37, 37-A, 37-B, 37-C, and 37-D of this Book, the Secretary shall have no authority to modify or amend any allotment previously issued. In case he shall find, at any time, that the probable receipts from taxes or other sources of any fund will be less than anticipated and that as a consequence the amount available for the remainder of the term of the appropriations or for any allotment period will be less than the amount estimated or allotted therefor, he shall ~~with the approval of the President and after notice to the department of agency concerned~~ recommend to the President the ~~redtee~~ reduction of the amount or amounts allotted he deems necessary to conform to the targeted budgetary goals. The President, in turn, shall follow the procedure prescribed in Sections 37, 37-A, 37-B, 37-C, 37-D and 38 of this Book for the approval of requests for authority for the suspension of expenditures of appropriations.”

SECTION 9. There shall be incorporated into Chapter 5, Book VI of Executive Order No. 292 otherwise known as the “*Administrative Code of 1987*” a new provision after Section 50, to read as follows:

“Section 50-A. Penal Provision.—Any violation of Sections 33, 37, and 38, as amended, and Sections 37-A, 37-B, 37-C, 37-D, and 38-A, as incorporated, shall be considered misuse of government funds and illegal expenditures and punished as such in accordance with Sections 80 and 43 of Book VI.”

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2 **SECTION 10. *Separability Clause.***—If any provision of this Act, or any part thereof,
3 is declared unconstitutional, the same shall not affect the validity and effectivity of the
4 other provisions and portions of this Act.

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6 **SECTION 11. *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.

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

Approved,