

PRESIDENTIAL VETO MESSAGE

MALACANANG
Manila

December 29, 1995

**THE HONORABLE SPEAKER
LADIES AND GENTLEMEN OF
THE HOUSE OF REPRESENTATIVES**

I have this day signed into Republic Act No. 8174, the General Appropriations Bill for Fiscal Year 1996 (House Bill No. 3690), entitled "AN ACT APPROPRIATING FUNDS FOR THE OPERATION OF THE GOVERNMENT OF THE PHILIPPINES FROM JANUARY ONE TO DECEMBER THIRTY-ONE, NINETEEN HUNDRED AND NINETY-SIX, AND FOR OTHER PURPOSES."

I acknowledge the individual statesmanship of the leaders and members of Congress for mustering the collective will to expeditiously approve the 1996 budget beyond the ambit of parochial interests.

This singular act of statesmanship is a lasting manifestation and evidence of the acceptance by Congress of the joint Executive-Legislative responsibility to steer and accelerate our nation to prosperity.

I. GENERAL COMMENTS

I am elated with the zeal and enthusiasm of the Legislature in affirming our budgetary priorities that will enable the Philippines to ride the waves of progress and build a better life for our people.

I likewise salute the Senate President and the Speaker of the House and the other leaders and members of Congress for their collective beneficent actions on funds and appropriation items for education, peace and order, food security, infrastructure and other basic services which government is duty-bound to provide. I particularly note the creation of the POVERTY ALLEVIATION FUND as a positive step in the successful implementation of our common agenda for social reform.

II. DIRECT VETO

As in previous years' General Appropriations Bills passed by Congress, I find no occasion for the extensive exercise of my veto power in the CY 1996 budget. There are, however, few items which I consider in contravention of policies, existing laws, and the Constitution which I am duty bound to directly veto as follows:

A. SPECIAL PROVISIONS**1. DEPARTMENT OF EDUCATION, CULTURE AND SPORTS**

Office of the Secretary

Special Provision

12. *Restriction in the Creation of New Positions to be Funded from the Special Education Fund Created under R.A. No. 5447. Unless otherwise prohibited in the Local Government Code of 1991, and the provisions of Republic Act No. 6655, new positions which shall be funded from the Special Education Fund or the Local School Board Fund may be created especially administrative support staff by the Local School Boards and the Local Government Units (LGUs): PROVIDED, That the National Government shall not be obligated to nationalize such positions created locally.*

While this Special Provision is presented as a "restriction," it is in fact an authorization for the creation of new positions to be funded from the Special Education Fund or the Local School Board Fund. If approved, this will become a license for the creation of new positions which shall further bloat the bureaucracy and render nugatory the streamlining program of the government; hence, I am vetoing this provision.

Besides, the provision as worded tends to amend and vary the provisions of R.A. No. 5447 and R.A. No. 6655 which it seeks to implement. Pursuant to jurisprudence established under recent decisions of the Supreme

Court, special provisions of the annual General Appropriations Act cannot legally amend or vary the provisions of statutes or substantive law like the aforementioned Republic Acts.

2. STATE UNIVERSITIES AND COLLEGES

West Visayas State University

Special Provision

1. *Use of Income of the University Hospital and College of Medicine. The total current income of the University Hospital and College of Medicine shall be utilized to augment their current operating expenditures and capital outlay.*

This Special Provision shall place the West Visayas State University outside the coverage of the existing omnibus authorization for all state universities and colleges to use their income under the Unprogrammed Fund provided under this Act. Besides, this special treatment to use income to augment current operating expenditures and capital outlay without restrictions shall establish an unwarranted precedent which government may not be able to sustain. Hence, I am vetoing this provision.

Special Provisions Applicable to All State Universities and Colleges

Special Provision

11. *University Housing Program. Not more than Five Hectares (5 has.) not suitable for farming from each of the school sites of the University of Southern Mindanao and the Cotabato Foundation College of*

Science and Technology at Kabacan and Doroluman, Arakan, Cotabato respectively shall be surveyed, segregated, released and subject to sale for low-cost and socialized housing for their employees, staff, faculty members and beneficiaries of R.A. No. 7279. Proceeds from such housing projects shall be utilized solely to augment the funds needed to upgrade, operate and maintain student dormitories, to provide adequate basic services and to support their respective research, development and extension services.

I acknowledge the noble intentions of this Special Provision. However, I note that its coverage and operation is limited to a few educational institutions; hence, may be impugned and questioned as a "class legislation" under the Constitution. Furthermore, I am not convinced of the advisability of the intended use of the proceeds from the project as it is not sustainable. Finally, Congress itself has passed the Comprehensive and Integrated Shelter Financing Act under the ambit of which, housing programs may be undertaken. I am, therefore, vetoing this special provision.

3. DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS

Special Provision

2. *Release and Use of Road Maintenance Funds. Funds allotted for the maintenance and repair of roads which are provided in this Act for the Department of Public Works and Highways shall be released to the respective Engineering District, subject to such rules and regulations as may be prescribed by the Department of Budget and Management. Maintenance funds for roads and bridges shall be exempt from budgetary reserves.*

Of the amount herein appropriated for the maintenance of national roads and bridges, a maximum of thirty percent (30%) shall be contracted out in accordance with guidelines to be issued by the Department of Public Works and Highways. The balance shall be used for the maintenance by force account.

Five percent (5%) of the total road maintenance fund appropriated herein to be applied across-the-board to the allocation of each region shall be set aside for the maintenance of roads which may be converted to or taken over as national roads during the current year and the same shall be released to the central office of the said department for eventual sub-allotment to the concerned region and district: PROVIDED, That any balance of the said five percent (5%) shall be restored to the regions on a pro-rata basis for the maintenance of existing national roads.

I am vetoing this Special Provision for reason that it runs counter to the thrust of the government to privatize services such as road maintenance which could be more efficiently performed by the private sector. Besides, the provision, if approved, would reduce the amount to be contracted out to the private sector from the present maximum of 50% to only 30% which is not in keeping with the present policy of the government. Furthermore, DPWH records show that road maintenance projects executed by contract within a specific contract cost and time frame are more beneficial and advantageous to the government.

5. *Work by Administration. Except as may be expressly authorized by the President of the Philippines, any project in this Act with the cost of*

five million (P5,000,000.00) pesos or less, based on the approved program, may be done by administration or force account by the agency concerned without prior public bidding. A project costing over five million (P5,000,000.00) pesos may be prosecuted by administration by the agency concerned, only in case of: (a) emergency arising from natural calamities or where immediate action is necessary to prevent imminent loss of life and/or property or to comply with government commitments; (b) failure to award a contract after competitive public bidding for a valid cause; (c) termination or rescission of contract; (d) areas with critical peace and order problems as certified by the local peace and order council, provided, that prior authority shall be obtained from the Secretary of Public Works and Highways, if the project cost is ten million (P10,000,000.00) pesos or less, or from the President of the Philippines, upon recommendation of the Secretary of Public Works and Highways, if the project cost is more than ten million (P10,000,000.00) pesos.

I am vetoing this Special Provision for reason that it is inconsistent with the new Public Works Act, R.A. No. 8150, which provides for higher limits of Twenty Million Pesos (P20,000,000) for work by administration without prior bidding. The implementation of work by administration shall continue to be governed by existing law.

4. DEPARTMENT OF NATIONAL DEFENSE

Presidential Security Group

Special Provision

1. *Release of Fund. The amounts herein appropriated shall be released through the General Headquarters, AFP.*

Armed Forces of the Philippines Medical Center

Special Provision

1. *Release of Fund. The amounts herein appropriated shall be released through the General Headquarters.*

Philippine Military Academy

Special Provision

1. *Release of Fund. The amounts herein appropriated shall be released through the General Headquarters, AFP.*

I am vetoing all the above Special Provisions of the Presidential Security Group, the AFP Medical Center and the Philippine Military Academy for the reason that these run counter to the National Government policy of autonomy and decentralization. Moreover, I find no compelling reason to disturb the present system of directly releasing funds to these operating units.

B. DEBT SERVICE - INTEREST PAYMENTS

I am vetoing in its entirety the appropriations for Debt Service-Interest Payment, including its Special Provisions pursuant to the decision of the Supreme Court in cases (1) G.R. No. 13105 Philippine Constitution

Association, et al. vs. Hon. Salvador M. Enriquez, Jr., et al. and (2) G.R. No. 113174, Raul S. Roco, etc., et al. vs: the Executive Secretary, etc., et al., to wit:

LI. DEBT SERVICE- INTEREST PAYMENT

For payment of interest of foreign and domestic indebtedness as indicated hereunder P54,246,000,000

New Appropriations, by Purpose

	<u>Personal Services</u>	<u>Maintenance and Other Operating Expenses</u>	<u>Capital Outlays</u>	<u>Total</u>
A. PURPOSE				
1. <i>For the Payment of Interest of Foreign and Domestic Indebtedness</i>		<u>P54,246,000,000</u>		<u>P54,246,000,000</u>
TOTAL NEW APPROPRIATIONS		<u><u>P54,246,000,000</u></u>		<u><u>P54,246,000,000</u></u>

Special Provisions

1. *Use of the Fund. The appropriation authorized herein shall be used for payment of interest of foreign and domestic indebtedness.*
2. *Reporting Requirement. The Bangko Sentral ng Pilipinas and the Department of Finance shall submit a quarterly report of actual foreign and domestic debt service payments to the House Committee on Appropriations and Senate Finance Committee within one (1) month after each quarter.*

The Supreme Court has categorically ruled that appropriations for debt servicing, whether foreign or domestic, are automatically appropriated as they become due pursuant to the Foreign Borrowing Act and Section 31 of P.D. No. 1177 as reiterated under Section 26, Chapter 4, Book VI of E.O. No. 292, the Administrative Code of 1987. Hence, this debt service appropriation, including the Special Provisions, are unnecessary.

III. CONDITIONAL IMPLEMENTATION

Aside from the directly vetoed Special Provisions, I have observed the inclusion by Congress of other special authorizations for allocation and earmarking of appropriations for new programs, payment of claims and automatic release of funds, as well as the amendments of old and long existing Special Provisions either restricting their scope and operations or broadening the uses of income or certain funds in contravention with existing laws and policies. As a rule, such authorizations should be discouraged.

There is, therefore, an imperative need to rationalize their implementation, applicability and operation. Thus, in order to substantiate the purpose and intention of said provisions, I hereby declare the operationalization of the following Special Provisions during budget implementation subject to the guidelines issued by the President pursuant to

Sections 1 and 17 of Article VII of the Constitution, Section 35, Chapter 5, Book VI, of E.O. No. 292, and Sections 65 and 66 of the Government Auditing Code of the Philippines:

Department of Education, Culture and Sports:

Special provisions

1. **Allocation and Identification of Appropriations**
(p. 81, FY 1996 GAA)
21. **Release of Scholarship Funds**
(p. 82, FY 1996 GAA)

Other Executive Offices

A. **Commission on Higher Education:**

New Special Provision

3. **Release of Scholarship Fund**
(p. 951, FY 1996 GAA)

Calamity Fund

1. **Use of the Fund**
(p. 1168, FY 1996 GAA)

DECS-SUCS Computerization Fund

1. **Release and Use of the Fund**
(p. 1179, FY 1996 GAA)

General Fund Adjustment

1. **Use of the Fund**
 - 1.7 **Payment of claims for additional IRA resulting from adjustments pertaining to the allocation formula to Iligan City, municipality of Cateel, Davao Oriental, and other cities and municipalities similarly situated.**
(p. 1183, FY 1996 GAA)

- 1.8 Budgetary aid to Baguio City under R.A. No. 4708
(p. 1183, FY 1996 GAA)

Unprogrammed Fund

11. Use / Charging of Income
(p. 1208, FY 1996 GAA)

General Provisions

Release and Use of Funds

- Sec. 71. Government Compulsory Contribution
(p. 1423, FY 1996 GAA)

IV. GENERAL OBSERVATIONS

A. BUDGETARY CUTS

I am gratified to note Congress' assiduous exercise of its power over the purse as manifested by its incisive budgetary cuts. I fully recognize the legislative authority to effect these budgetary cuts. However, when said cuts shall render difficult the implementation of urgent administration programs and curtail the effective delivery of essential public services, I shall exercise my Constitutional prerogative to augment the affected programs and items of appropriations and implement the same pursuant to Section 25 (5) of Article VI and Sections 1 and 17 of Article VII of the Constitution.

B. INCREASES, INITIATIVES AND NEW BUDGETARY ITEMS

The budgetary realignments effected by Congress which resulted in the increase of the appropriations of certain offices and agencies or the additional allocation for agency programs or projects or new items in the budgets of offices or agencies shall be reallocated, released and disbursed during budget implementation subject to Executive approval pursuant to the above-stated Constitutional authority and the provisions of Section 35, Chapter 5, Book VI of E.O. No. 292. The reallocation of agency appropriations for projects and activities which are beyond the mandated and functional responsibility of recipient implementing agencies as well as the realigned or new appropriation items shall be subject to the exercise of the same Executive prerogative.

C. OTHER CHANGES AND AMENDMENTS

I likewise note with interest various other changes and amendments incorporated by Congress in the Bill, the implementation and operation of which shall equally be subject to guidelines that will be issued in accordance with existing budgetary rules and regulations.

V. CLOSING STATEMENT

In closing, I would like to put on record my deep gratitude to the leadership of Congress, most especially to the House Committee on Appropriations and the Senate Committee on Finance for the timely enactment of the General Appropriations Bill for CY 1996. While this was scrutinized by all concerned, I observed that it was designed, molded and crafted with the welfare of the Filipino people and the national interest of our beloved Philippines in mind.

This Bill has become Republic Act No. 8174.

Very truly yours,



THE HOUSE OF REPRESENTATIVES
Congress of the Philippines
Manila

Copy Furnished:

The Hon. Senate President
Senate of the Philippines
Manila