

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
SEVENTEENTH CONGRESS
First Regular Session



HOUSE BILL No. 3878

Introduced by BAYAN MUNA Rep. CARLOS ISAGANI T. ZARATE

AN ACT
MANDATING THE OVERSIGHT AND AUDIT OF
GOVERNMENT INTELLIGENCE AND CONFIDENTIAL FUNDS
AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Billions of pesos in taxpayers' money have been allotted to intelligence and confidential funds, programs and activities of the government.

For instance, in 2015, state auditors found that the Department of National Defense failed to liquidate a total of P82.5 million in confidential and intelligence funds in 2011, 2012, and 2013. Almost the entire amount disbursed were only identified as "advances to officers and employees."

As these funds are prone to misuse, the Commission on Audit (COA), together with the Department of Budget and Management (DBM), Department of the Interior and Local Government (DILG), Department of National Defense (DND) and the Governance Commission for GOCCs (GCG) signed the Joint Circular on Guidelines on the Entitlement, Release, Use, Reporting and Audit of the Confidential and/or Intelligence Fund on January 8, 2015 for accountability and transparency.

Congressional oversight on intelligence and confidential funds in the 10th, 11th, 12th, 13th, 14th and 15th and 16th Congresses were done through a Senate Select Oversight Committee on Intelligence and Confidential funds, Programs and Activities that was created on August 1997, October 2001, January 2005, August 2009, and September 2010, respectively.

But the Select Oversight Committee initiative does not fully address the issues concerning transparency, accountability and other malevolent issues surrounding the use of intelligence and confidential funds that also target Filipino citizens who are private individuals, government critics, political activists and members of cause-oriented groups.

It is high time that the government rectify this unconstitutional mode of allocating intelligence and confidential funds that are free from audit, public scrutiny and official accountability.

Immediate approval of this measure is earnestly sought.

Approved,


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

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SECTION 1. Title. – This law shall be known as the “**Intelligence and Confidential Funds Transparency Act of 2016.**”

SECTION 2. Declaration of Policy. – The principle and practice of transparency in governance covers all branches, appendages, agencies, programs, policies and initiatives of the State.

The 1987 Constitution emphatically states that the State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption (Article II Section 27) and that no law shall be passed exempting any entity of the Government or its subsidiaries in any guise whatever, or any investment of public funds, from the jurisdiction of the Commission on Audit. (Article IX Section 3).

This Act shall widen the parameters of our country’s democracy by once and for all clearly defining that all State funds are *indeed* subject to audit, public scrutiny and official accountability.

SECTION 3. Definition of Terms. – For purposes of this Act, “**Intelligence funds**” are funds provided for those related to intelligence information gathering activities of uniformed and military personnel, and intelligence practitioners that have direct impact to national security.

“**Confidential funds**” are funds provided for those related to surveillance activities in civilian government agencies that are intended to support the mandate or operations of the agency. Intelligence funds shall only be released upon approval of the President, while Confidential

funds shall only be released or disbursed upon the approval of the Department Secretary concerned.

SECTION 4. Submission of Accomplishment Reports. All departments, bureaus, offices or agencies, shall submit to the Senate President, Speaker of the House of Representatives, and Chairperson of the COA, a detailed quarterly report on the disbursement of and use of intelligence and confidential funds, copy furnished the Senate Committee on Finance and House Committee on Appropriations.

SECTION 5. Joint Congressional Oversight Committee on Intelligence and Confidential Funds. Pursuant to its constitutional duties, Congress and the Commission on Audit shall discharge Oversight functions to wit:

- (a) There shall be a Joint Congressional Oversight Committee on Intelligence and Confidential Funds (JCOCIF) composed of five (5) members each from the Senate and the House of Representatives. The JCOCIF shall be co-chaired by the chairpersons of the Senate Committee on Accountability of Public Officers and Investigation, and the House Committee on Good Government and Public Accountability. It shall include the chairpersons of the Senate Committee on Finance and the House Committee on Appropriations as well as two members from the Senate and House minorities. The Joint Congressional Oversight Committee shall have its own independent counsel;
- (b) The Oversight Committee shall conduct a semi-annual review of the status and implementation of all programs and activities financed by intelligence and confidential funds, its compliance with this Act and existing laws of the Republic and report to Congress not later than June 30 of each year;
- (c) The Commission on Audit shall conduct a yearly special audit on all intelligence and confidential funds and report to Congress not later than June 30 of each year.

SECTION 6. Non-Interference in Oversight and Audit Functions. In no way shall any government agency, appendage, and its subsidiaries in any guise; or any private entity, interfere with the oversight functions of Congress and the constitutional mandate of the Commission on Audit.

SECTION 7. Use of Intelligence and Confidential Funds. Confidential and intelligence funds provided for in the budgets of departments, bureaus, offices or agencies of the National Government, to be used for intelligence, counter-intelligence and confidential activities, shall be released only upon the expressed recommendation of Congress via Joint Resolution, and the approval of the President of the Philippines.

SECTION 8. Penalties. The non-submission of accomplishment reports as defined in this Act shall bar the release of any and all allocations for intelligence and confidential funds until said agency complies with Section 4.

Any person who violates Section 4 of this Act shall result in the absolute perpetual disqualification from holding any public office, notwithstanding applicable administrative and criminal penalties.

SECTION 9. Separability Clause. Should any provision of this Act be declared unconstitutional, the validity or constitutionality of the other provisions shall not be affected thereby.

SECTION 10. Repealing Clause. All laws, decrees, letters of instruction, resolutions, orders, ordinances, issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SECTION 11. Effectivity. This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved,