



Republic of the Philippines
BANGSAMOROTRANSmONAUHORiY
Bangsamoro Autonomous Region in Muslim Mindanao
POLICY RESEARCH AND LEGAL SERVICES

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MEMORANDUM

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FOR

ENGR. BANTAN ADIL-AMPATUAN, CSEF;ff I , \ ! J J ;) U

Member of the Parliament

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Bangsamoro Transition Authority

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SUBJECT

Request for Legal Opinion on the Augmentation Bill

DATE

06 July 2021

This has reference to the request letter dated 21 June 2021 and received from your office requesting for legal opinion on the matter of the proposed measure entitled *"An Act Regulating the Power to Augment and Authority to Use Savings of the Chief Minister, the Speaker of the Parliament, and the Presiding Justice of the Shari'ah High Court, Pursuant to and in Implementation of Section 5 (E) of R.A. No. 11054 or the Bangsamoro Organic Law."*

This division, under the Policy Research and Legal Services, is pleased to transmit the attached notes and comments regarding the aforementioned request for legal opinion. We hope that our legal review is able to help your office improve the current draft of the bill, as proposed, to guide you accordingly.

For your ready reference.

ABD GCOPAN

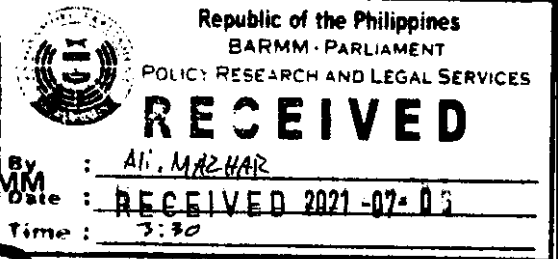
Attorney-at-law

OIC Head, Legislative Measures and Legal Assistance Division


- Attachment: (1) Request letter dated 21 June 2021 from MP ENGR. BANTAN ADIL-AMPATUAN, CSEE
 (2) Review of Proposed Draft Bill for the BTA Parliament Entitled the "Augmentation Act of 2021"
 (3) COMPARATIVE MATRIX OF proposed bill entitled "Augmentation Act of 2021", with COMMENTS OF THE POLICY RESEARCH AND LEGAL SERVICES LEGISLATIVE MEASURES AND LEGAL ASSISTANCE DIVISON as of 6 July 2021

cc: MP ATTY. UBAIDA PACASEM, CPA, Deputy Minister, Minister of Finance, Budget, and Management (MFBM)
 OIC-Director NASSEF MANABILANG ADIONG, PhD, PRLS

MINISTRY OF FINANCE, AND
 BUDGET AND MANAGEMENT-BAR



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BY:  DATE: 7/6/21 TIME: 3:30

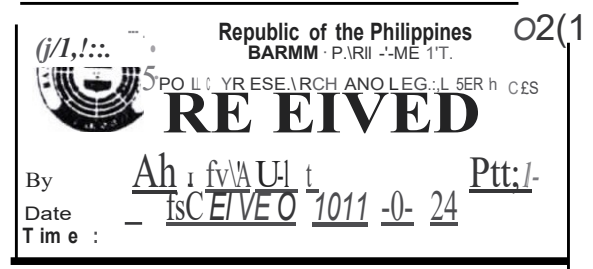


Republic of the Philippines
 Bangsamoro Autonomous Region in Muslim Mindanao
Bangsamoro Transition Authority
Office of Deputy Minority Floor Leader
ENGR. BAIN TAN ADIL-AMPATUAN, CSEE
 Bangsamoro Government Center, 9600 Cotabato City



21 June 2021

DR. NASEEF M. ADIONG
 Director II
 Policy Research and Legal Measures
 Bangsamoro Transition Authority
 Bangsamoro Government Center, Cotabato City



Dear Dir. Adiong:


Assalamu alaikum warahmatullahi wabarakatuhu.

The office of the undersigned intends to file in the BTA Parliament proposed measure entitled ***"An Act Regulating the Power to Augment and Authority to Use Savings of the Chief Minister, the Speaker of the Parliament, and the Presiding Justice of the Shari'ah High Court, Pursuant to and in Implementation of Section 5 (E) of R.A. No. 11054 or the Bangsamoro Organic Law."***

In line with this, the undersigned seeks for your legal opinion regarding the bill which can help us improve its current draft, and also guide us on whether or not to proceed in the filing considering that the proposed measure has no counterpart at the national level.

We hope for your prompt response on this request.

Thank you and Mabuhay!

Very truly yours, 

ENGR. BAIN TAN ADIL-AMPATUAN, CSEE
 Member of the Parliament
 Bangsamoro Transition Authority

Copy furnished: **MP ATTY. UBAIDA PACASEM, CPA**
 Deputy Minister
 Ministry of Finance, Budget, and Management (MFBM)
 Bangsamoro Autonomous Region in Muslim Mindanao

Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO TRANSITION AUTHORITY
Cotabato City

Third Regular Session

BTA PARLIAMENT

BTA Parliament Bill No. ___

Introduced by

MP BAIN TAN ADIL-AMPATUAN, CSEE
MP ATTY. LAISA M. ALAMIA, CESE, RN
MP AMILBAHAR S. MAWALLIL
MP ATTY. SUHARTO M. AMBOLOD TO, CSEE, MNSA
MP ENGR. DON MUSTAPHA A. LOONG, JD, CESE
MP ATTY. RASOL Y. MITMUG, JR, CESE
MP RASUL E. ISMAEL

**AN ACT
REGULATING THE POWER TO AUGMENT AND
AUTHORITY TO USE SAVINGS OF THE CHIEF MINISTER,
THE SPEAKER OF THE PARLIAMENT, AND THE PRESIDING JUSTICE
OF THE *SHARI'AH* HIGH COURT, PURSUANT TO AND IN
IMPLEMENTATION OF SECTION 5 (e) OF R.A. NO. 11054 OR THE
BANGSAMORO ORGANIC LAW**

EXPLANATORY NOTE

The "power to augment" is sanctioned by the 1987 Philippine Constitution, more specifically Article VI, Section 25 (5) thereof, which provides:

"5. No law shall be passed authorizing any transfer of appropriation: however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the general

appropriations law for their respective offices from savings in other items of their respective appropriations."

At the national level, the use of savings in appropriations is authorized under Sections 39 and 49, Book VI of Executive Order No. 292 or the Administrative Code of 1987.

The Supreme Court of the Philippines, in the controversial Disbursement Acceleration Program (OAP) case, clarified that "'Savings' from appropriations for a branch or constitutional body may be transferred to another item of appropriation within the same branch or constitutional body, as set forth in the second clause of the same Section 25 (5)" (*Araullo vs. Aquino III*, G.R. No. 209287, July 1, 2014).

In the BARMM, the "power to augment" is likewise sanctioned. This power is specifically reiterated in Section 5(e) of Article VII of Republic Act No. 11054 or the Bangsamoro Organic Law (BOL), as one of the powers of the Bangsamoro Parliament - to enact a law that allows the Chief Minister, Speaker of the Parliament, and the Presiding Justice of the *Shari'ah* High Court, to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.

Aside from the grant of Congress through legislation under Section 5(e) of RA 11054, it is also bolstered by the fact that BARMM enjoys fiscal autonomy, which is a similar benefit granted to the Supreme Court and the Constitutional Commissions.

In the case of Maritime Industry Authority vs. COA (GR No. 185812), the Court held that the **fiscal autonomy** enjoyed by certain government units includes the judgment to use its funds i.e. to augment funds or provide additional allowances and benefits to its officials and employees deemed necessary in the performance of their functions in the office.

Although sanctioned by the Constitution and the BOL, the power to augment from or authority to use savings lies dormant until authorized by law.

The Bangsamoro Administrative Code is silent on this matter. The 2020 Bangsamoro Appropriations Act has provisions for the Authority to Use Savings as well as the Rules on Augmentation, but these provisions, by nature, are time-bound and generally applicable for a particular fiscal year only.

Hence , this proposed bill.

Be it enacted by the members of the BTA Parliament of the Bangsamoro Autonomous Region in Muslim Mindanao in session assembled:

Section 1. Title. - This Act shall be known as the "*Augmentation Act of 2021*".

Section 2. Declaration of Policy. - It is the policy of the Bangsamoro Government to formulate and implement a budget, as specified in the Bangsamoro Appropriations Act (BM), duly enacted by the Bangsamoro Parliament, that is an instrument of national and regional development, reflective of objectives, strategies and plans of the Bangsamoro Government. The budget shall be supportive of and consistent with the socio-economic development plan, and shall be oriented towards the achievement of explicit objectives and expected results, to ensure that funds are utilized and operations are conducted effectively, economically, and efficiently.

Section 3. Authority to Use Savings. - Except as otherwise provided in the Bangsamoro Appropriations Act, the Chief Minister, the Speaker of the Bangsamoro Parliament, and the Presiding Justice of the *Shari'ah* High Court, are authorized to declare and use savings in their respective appropriations authorized in the Bangsamoro Appropriations Act, for programs and projects of their respective offices, to augment actual deficiencies in any item within their respective regular appropriations: *provided*, that the creation of new positions or increase of salaries shall not be allowed to be funded from budgetary savings, except when specifically authorized by law.

The foregoing officers authorized to use savings shall be responsible for ensuring that a semestral and annual report on their respective use of savings shall be submitted to the Parliament through the Speaker, and copy furnished to the Ministry of Finance, Budget and Management. The report shall indicate, among others, the amount of savings generated, the sources and grounds used therefore, and the existing P/A/P in their respective appropriations augmented. They shall likewise ensure that said reports are posted on their respective websites.

Section 4. Meaning of Savings. - *Savings* refer to portions or balances of any programmed appropriation free from any obligation or encumbrance which are:

- (i) still available after the completion or final discontinuance or abandonment of the work, activity or purpose for which the appropriation is authorized;
- (ii) from appropriations balances arising from unpaid compensation and related costs pertaining to vacant positions and leaves of absence without pay: and
- (iii) from appropriations balances realized from the implementation of measures resulting in improved systems and efficiencies and thus enabled agencies to meet and deliver the required or planned targets, programs and services approved in this Act at a lesser cost (*Araullo v. Aquino, G.R. No. 209287*).

Allotments that were not obligated due to the fault of the Ministry or Office concerned shall not be considered savings.

Section 5. Rules on Augmentation. -*Augmentation* is the act of the officers mentioned in the preceding section, who are authorized to use savings in their respective appropriations to cover a deficiency in any existing item of appropriation within their respective offices. A *deficiency* in an item of appropriation may result from:

- (a) Unforeseen modifications or adjustments in the program, activity, or project; or
- (b) Re-assessment in the use, prioritization, or distribution of resources.

An item of appropriation shall pertain to the amount appropriated for an activity or project authorized under the BAA.

The particulars of the expenditures to be funded by augmentation from savings should be within the scope of or covered by an existing activity or project. The existence of an activity or project, regardless of the availability of allotments class(es), is sufficient for the purpose of augmentation.

In no case shall a non-existent activity or project be funded by augmentation from savings or by the use of an appropriation authorized in the BAA.

Section 6. *Separability Clause.* - If any provision of this Act, or any part thereof, is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions and portions of this Act.

Section 7. *Repealing Clause.* -All laws, decrees, orders, ordinances, rules, and regulations which are inconsistent with the provisions of this Act, are hereby repealed, modified, superseded, or amended accordingly.

Section 8. *Effectivity.* - This Act shall take effect after fifteen (15) days following its complete publication in a newspaper of general circulation in the Bangsamoro Autonomous Region in Muslim Mindanao.

Adopted,

Authors:

ENGR. BAIN TAN ADIL-AMPATUAN, CSEE

ATTY. LAISA M. ALAMIA, CESE, RN

AMILBAHAR S. MAWALLIL

ATTY. SUHARTO M. AMBOLOD TO, CSEE, MNSA

ENGR. DON MUSTAPHA A. LOONG, JD, CESE

ATTY. RASOL MITMUG, JR, CESE

RASUL E. ISMAEL

REVIEW OF PROPOSED DRAFT BILL FOR THE BTA PARLIAMENT ENTITLED THE “AUGMENTATION ACT OF 2021”

Republic Act No. 11054 or the Bangsamoro Organic Law (“BOL”), the primary source of all powers granted to the Bangsamoro Government, provides for the fiscal autonomy of the Bangsamoro Government. In Article XII, Section 1, it stipulates that the Bangsamoro Government is entitled to all fund sources enumerated therein, and that it shall have the power to create its sources of revenues as provided in this Organic Law. The provision further stipulates that “[it] shall prepare its budget and allocate funds in accordance with an annual appropriations law passed by the Parliament.”¹

Our review includes these comments and the attached comparative matrix and should be read together.

Power to Augment

The importance of legislating an appropriations act cannot be undermined. Given that (1) the Bangsamoro Autonomy Act No. 13 or the Bangsamoro Administrative Code is silent on the matter and (2) the Bangsamoro Appropriations Act is, by nature, time-sensitive and applicable only for a particular fiscal year, the proposed draft bill subject of our review for possible deliberation and adoption of the Bangsamoro Transition Authority entitled the “Augmentation Act of 2021” (“Bill”) is necessary to put into effect the power to augment.

Upon review, the Bill as proposed thus far accomplishes the objective. The provisions stipulated are in accordance with national laws, specifically the yearly General Appropriations Acts and the Bangsamoro Organic Law. Although the Bangsamoro Autonomy Act No. 3 or the 2020 Bangsamoro Appropriations Act (“2020 BAA) did not provide that the Presiding Justice of the *Shari’ah* High Court shall have the authority to use the savings, the addition thereof in the Bill is an apt correction. As a national statute, the BOL is controlling over the 2020 BAA, which is a local statute. The BOL identifies the following Bangsamoro government officials who shall have the power to augment items in the GAA: ²

1. Chief Minister;
2. Speaker of the Parliament; and
3. Presiding Justice of the Shari'ah High Court.

We note that for the entire country, the 1987 Philippine Constitution is the source of the power to augment granted to the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions while for BARMM, such power is authorized under the BOL. In contrast, the 2020 BAA vests the power to augment only in the Chief Minister and the Speaker of the Parliament. This is to be accepted in light of the non-constitution or non-activation yet of the Shari’ah High Court as ordered in the BOL. Notably, except for the addition of the Presiding Justice of the Shari’ah High Court, the enumeration in the BOL is similar to Section 336 of Republic Act No. 7160 or the Local Government Code. We are of the position however that the inclusion of the

¹ Rep. Act No. 11054 (2018), art XII, sec. 3

² Rep. Act No. 11054 (2018), art XII, sec. 5

“Presiding Justice of the Shari’ah Court” may encounter a constitutional challenge insofar as it may be deemed to diminish the judiciary’s fiscal autonomy and the Chief Justice’s power to augment an item in the budget of the judicial branch. The Supreme Court of the Philippines still holds the duty to administratively supervise the Shari’ah Courts in the region. In *Maritime Industry Authority v. Commission on Audit*³, the Court defined “fiscal autonomy”, as follows:

“As envisioned in the Constitution, the fiscal autonomy enjoyed by the Judiciary, the Civil Service Commission, the Commission on Audit, the Commission on Elections, and the Office of the Ombudsman contemplates a guarantee of full flexibility to allocate and utilize their resources with the wisdom and dispatch that their needs require. It recognizes the power and authority to levy, assess and collect fees, fix rates of compensation not exceeding the highest rates authorized by law for compensation and pay loans of the government and allocate and disburse such sums as may be provided by law or prescribed by them in the course of the discharge of their functions.”

In this regard, it is recommended that the Bill follow the 2020 BAA insofar as it vests the power to augment in the Chief Minister and Speaker of the Parliament only to avoid encountering any legal issue in the future.

Definition of Savings

Generally, the Bill, as proposed, heavily derives its provisions from two sources: the old General Appropriations Acts (“GAA”) in the national level and the 2020 BAA in the local level. We pored over these GAAs starting from the present until 2014. Another resource used was the landmark case of *Araullo v. Aquino III*⁴ decided in 2015 with regard to appropriation and savings. However, the risk of that strategy is not being faithful or updated with the most recent statute.

It is therefore recommended that the Bill conform to the most recent definitions of savings, augmentation, and deficiency found in Republic Act No. 11518 or the General Appropriations Act of 2021 (“2021 GAA”). For instance, item (ii) and (iii) of Section 4 of the Bill, defining savings, as used in *Araullo v. Aquino III*, has already been consolidated into one item in the recent General Appropriations Act, including the 2021 GAA, as “implementation of measures resulting in improvised systems and efficiencies and thus enabled an agency to meet and deliver the required or planned targets, programs and services approved in this Act at a lesser cost.”⁵ Otherwise, is there a decisive intention for the Bill to follow the 2014 ‘meaning of savings’ as opposed to the most recent 2021 ‘meaning of savings’, which is found likewise in the 2020 BAA?

As a background, the national GAA with regard to the meaning of savings has gone through changes in the past decade. The GAA for the fiscal year 2014 and the prior fiscal years enumerates savings into three categories, as found in the case of *Araullo v. Aquino III*. 2015 onwards has since simplified the definition. The press release issued by the House of

³ G.R. No. 185812, January 13, 2015.

⁴ *Araullo v. Aquino III*, G.R. No. 209287, July 1, 2014

⁵ Rep. Act No. 11518 (2020), sec. 69

Representatives is elucidating and enlightening as to how the definition has evolved from the Bicameral Conference Committee to its current version now.⁶

Moreover, in recognition of COVID-19 and the ongoing pandemic, the 2021 GAA has adopted another definition of deficiency that may be augmented. The current GAA stipulates,

“A deficiency is an item of appropriation may result from:

xxx

(c) Additional requirements for a program, activity or project in view of a declaration of a state of national calamity.”⁷

We thus pose the suggestion to add provisions on the “priority in the use of savings.” Such stipulations are usually included in the General Appropriations Act, including the 2021 GAA and the 2020 Bangsamoro Appropriations Act. The addition thereto will define and limit the use of savings to curb the instances of possible abuse thereof. Aside from the above, Executive Order No. 292 or the Administrative Code of 1987 may also provide guidance specifically Section 49 of Book VI which enumerates the authority to use savings for certain purposes.

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⁶ Rowena Bundang, “Bicam body on 2015 national budget recommends new definition of savings and fund augmentation”, Press Release, 4 December 2014, *available at* <https://www.congress.gov.ph/press/details.php?pressid=8362>

⁷ Rep. Act No. 11518 (2020), sec. 70

COMPARATIVE MATRIX OF proposed bill entitled “Augmentation Act of 2021”, with COMMENTS OF THE POLICY RESEARCH AND LEGAL SERVICES LEGISLATIVE MEASURES AND LEGAL ASSISTANCE DIVISION as of 6 July 2021

Proposed Draft Bill on “Augmentation Act of 2021”	BARMM SOURCE – Bangsamoro Autonomy Act No. 3 (2019) or the 2020 Bangsamoro Appropriations Act	NATIONAL SOURCES	COMMENTS OF PRLS
<p>Section 1. Title. – This Act shall be known as the “Augmentation Act of 2021”.</p>	<p><u>No counterpart</u></p>	<p><u>No counterpart</u></p>	<p>We pose the question if it is proper to use “of 2021” when a careful perusal of the entire bill suggests it might cover even beyond 2021. Even the explanatory note in its second to the last paragraph states “The 2020 Bangsamoro Appropriations Act has provisions for the Authority to Use Savings as well as the Rules on Augmentation, but these provisions, by nature, are time-bound and generally applicable for a particular fiscal year only.”</p>
<p>Section 2. Declaration of Policy. – It is the policy of the Bangsamoro Government to formulate and implement in a budget, as specified in the Bangsamoro Appropriations Act (BAA), duly enacted by the Bangsamoro Parliament, that is an instrument of national and regional development, reflective of objectives, strategies and plans of the Bangsamoro Government. The budget shall be supportive of and consistent with the socio-economic development plan, and shall be oriented towards the achievement of explicit objectives and</p>	<p><u>No counterpart</u></p>	<p><u>No counterpart</u></p>	

COMPARATIVE MATRIX OF proposed bill entitled “Augmentation Act of 2021”, with COMMENTS OF THE POLICY RESEARCH AND LEGAL SERVICES LEGISLATIVE MEASURES AND LEGAL ASSISTANCE DIVISION as of 6 July 2021

<p>expected results, to ensure that funds are utilized and operations are conducted effectively, economically, and efficiently.</p>			
<p>Section 3. Authority to Use Savings. <u>Except as otherwise provided in the Bangsamoro Appropriations Act, the Chief Minister and the Speaker of the Parliament, and the Presiding Justice of the Shari’ah High Court, are hereby authorized to declare and use savings in their respective appropriations authorized in the Bangsamoro Appropriations Act, for programs and projects of their respective offices, to augment actual deficiencies incurred for the current year—in any item within their respective regular appropriations; provided, that the creation of new positions or increase of salaries shall not be allowed to be funded from budgetary savings, except when specifically authorized by law.</u></p> <p>The foregoing officers authorized to use savings shall be responsible for ensuring that a semestral and annual report on their respective use of savings shall be submitted to the Speaker, and copy furnished to the Ministry of Finance, Budget and Management. The report shall indicate</p>	<p>Sec. 51. Authority to Use Savings. <u>The Chief Minister and the Speaker of the Parliament</u> are hereby authorized to declare and use savings in their respective appropriations to augment actual deficiencies incurred for the current year in any item of their respective appropriations.</p> <p>The foregoing officers authorized to use savings shall be responsible for ensuring that a semestral and annual report on their respective use of savings shall be submitted to the Speaker of the Parliament, copy furnished the MFBM. The report shall indicate among others, the amount of savings generated, the sources and grounds used therefor, and the existing P/A/P in their respective appropriations augmented. They shall likewise ensure that said reports are posted on their respective websites.</p>	<p>RA No. 11054 (2018), SECTION 5. Powers. — The Parliament shall have the following powers:</p> <p>xxx</p> <p>(e) Enact a law that allows the Chief Minister, Speaker of the Parliament, and the <u>Presiding Justice of the Shari’ah High Court</u> to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations;</p> <p>EO No. 292 (1987), SECTION 39. Authority to Use Savings in Appropriations to Cover Deficits. — Except as otherwise provided in the General Appropriations Act, any savings in the regular appropriations authorized in the General Appropriations Act for programs and projects of any department, office or agency, may, with the approval of the President, be used to cover a deficit in any other item of the regular appropriations: <u>Provided</u>, that the creation of new positions or</p>	<p>1) Section 3 of the proposed draft bill is lifted significantly from Section 51 of the 2020 Bangsamoro Appropriations Act. Underlined in the first column are the additions/amendments from the source.</p> <p>2) The addition of the “Presiding Justice of the Shari’ah Court” as another authority who can declare the use of the savings is valid because RA No. 11054 or the Bangsamoro Organic Law provides this power. Understandably, there is no Shari’ah Court constituted yet hence it is not included in the Appropriations Act and the proposed draft bill.</p> <p>Looking forward, the inclusion of the “Presiding Justice of the Shari’ah Court” may encounter a constitutional challenge insofar as it may be deemed to diminish the judiciary’s fiscal autonomy and the Chief Justice’s power to augment an item in the budget of the judicial branch. All the Shari’ah Courts are</p>

COMPARATIVE MATRIX OF proposed bill entitled “Augmentation Act of 2021”, with COMMENTS OF THE POLICY RESEARCH AND LEGAL SERVICES LEGISLATIVE MEASURES AND LEGAL ASSISTANCE DIVISION as of 6 July 2021

<p>among others, the amount of savings generated, the sources and grounds used therefor, and the existing P/A/P in their respective appropriations augmented. They shall likewise ensure that said reports are posted on their respective websites.</p>		<p><u>increase of salaries shall not be allowed to be funded from budgetary savings except when specifically authorized by law:</u> Provided, further, that whenever authorized positions are transferred from one program or project to another within the same department, office or agency, the corresponding amounts appropriated (for personal services are also deemed transferred, without, however increasing the total outlay for personal services of the department, office or agency concerned.</p> <p>RA No. 11465 – GAA, FY 2020 (2019). Sec. 66. Authority to Use Savings. The President of the Philippines, the President of the Senate of the Philippines, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, the Heads of the Civil Service Commission, the Commission on Elections, and the COA are hereby authorized to declare and use savings in their respective appropriations to augment actual deficiencies incurred for the current year in any item of their respective appropriations.</p>	<p>still well within the administrative supervision of the Supreme Court of the Philippines, pursuant to Article X of RA No. 11054.</p> <p>3) The last clause in the first paragraph of Section 3 of the proposed bill is in consonance with EO No. 292 or the Administrative Code.</p> <p>4) The second paragraph of Section 3 of the proposed bill is in consonance with the General Appropriations Act’s duty to report.</p>
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COMPARATIVE MATRIX OF proposed bill entitled “Augmentation Act of 2021”, with COMMENTS OF THE POLICY RESEARCH AND LEGAL SERVICES LEGISLATIVE MEASURES AND LEGAL ASSISTANCE DIVISION as of 6 July 2021

		<p>The foregoing constitutional officers authorized to use savings shall be responsible for ensuring that a semestral and annual report on their respective use of savings shall be submitted to the President of the Senate of the Philippines and the Speaker of the House of Representatives, copy furnished the DBM. The report shall indicate among others, the amount of savings generated, the sources and grounds used therefor, and the existing program, activity or project in their respective appropriations augmented. They shall likewise ensure that said reports are posted on their respective websites.</p>	
<p>Section 4. <i>Meaning of Savings.</i> – <i>Savings</i> refer to portions or balances of any programmed appropriation free from any obligation or encumbrance which are:</p> <p>(i) still available after the completion or final discontinuance or abandonment of the work, activity or purpose for which the appropriation is authorized;</p> <p>(ii) <u>from appropriations balances arising from unpaid compensation and</u></p>	<p>Sec. 52. <i>Meaning of Savings.</i> Savings refer to portions or balances of any released appropriations in this Act which have not been obligated as a result of any of the following:</p> <p>(a) Completion, final discontinuance, or abandonment of a program, activity or project for which the appropriation is authorized; or</p> <p>(b) Implementation of measures resulting in improved systems and efficiencies and thus enabled a Ministry or Office to meet and deliver the required or planned</p>	<p>RA No. 11465 – GAA, FY 2020 (2019). Sec. 67. <i>Meaning of Savings.</i> Savings refer to portions or balances of any released appropriations in this Act which have not been obligated of any of the following:</p> <p>(a) completion, final discontinuance, or abandonment of a program, activity or project for which the appropriation is authorized; or</p> <p>(b) implementation of measures resulting in improvised systems and efficiencies and</p>	<p>1) Subsection 4 (i) of the proposed draft bill is derived from the 2020 Bangsamoro Appropriations Act, which is in line with the general provisions of the General Appropriations Act.</p> <p>2) Subsection 4 (ii) and (iii) of the proposed draft bill is lifted from the General Appropriations Acts of 2011, 2012, and 2013, which has been reviewed by the SC in the case of <i>Araullo v. Aquino</i>.</p>

COMPARATIVE MATRIX OF proposed bill entitled “Augmentation Act of 2021”, with COMMENTS OF THE POLICY RESEARCH AND LEGAL SERVICES LEGISLATIVE MEASURES AND LEGAL ASSISTANCE DIVISION as of 6 July 2021

<p><u>related costs pertaining to vacant positions and leaves of absences without pay; [emphasis by legislators]</u> and</p> <p>(iii) from appropriations balances realized from the implementation of measures resulting in improved systems and efficiencies and thus enabled agencies to meet and deliver the required or planned targets, programs and services approved in this Act at a lesser cost (<i>Araullo v. Aquino, G.R. No. 209287</i>).</p> <p>Allotments that were not obligated due to the fault of the Ministry or Office concerned shall not be considered savings.</p>	<p>targets, programs and services approved in this Act at a lesser cost.</p> <p>In case final discontinuance or abandonment is used as basis in the declaration of savings, such discontinued or abandoned program, activity or project shall no longer be proposed for funding in the next two (2) fiscal years.</p> <p>Allotments that were not obligated due to the fault of the Ministry or Office concerned shall not be considered savings.</p>	<p>thus enabled an agency to meet and deliver the required or planned targets, programs and services approved in this Act at a lesser cost.</p> <p>In case final discontinuance or abandonment is used as basis for declaration of savings, such discontinued or abandoned program, activity or project shall no longer be proposed for funding in the next two (2) fiscal years.</p> <p>Allotments that were not obligated due to the fault of the agency concerned shall not be considered savings.</p> <p><i>Araullo v. Aquino III (2015), G.R. No. 209287.</i> [The case cites the General Provisions of the GAA of 2011, 2012, and 2013 to define ‘savings’. Specifically, the Court used the then most recent GAA, GAA of FY 2014, to define savings. All four statutes have identical definitions of savings stipulated below.]</p> <p>RA No. 10633 – GAA, FY 2014 (2013). Sec. 68. Meaning of Savings and Augmentation. Savings refer to portions or balances of any</p>	<p>The Supreme Court has not objected thereto.</p> <p>However, we are curious and ask this question as to the intention for the proposed draft bill to follow the 2014 ‘meaning of savings’ as opposed to the 2020 and even the most recent 2021 ‘meaning of savings’ found likewise in the 2020 Bangsamoro Appropriations Act?</p> <p>3) It might be a matter of style but in the final version of the bill to be filed in the Parliament, we recommend to take out the cited case of <i>Araullo v. Aquino</i> as source, as it is not usual to put the jurisprudence as source of law to be put into the main text of the bill.</p>
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COMPARATIVE MATRIX OF proposed bill entitled “Augmentation Act of 2021”, with COMMENTS OF THE POLICY RESEARCH AND LEGAL SERVICES LEGISLATIVE MEASURES AND LEGAL ASSISTANCE DIVISION as of 6 July 2021

		<p>programmed appropriation in this Act free from any obligation or encumbrance which are:</p> <p>(i) still available after the completion or final discontinuance or abandonment of the work, activity or purpose for which the appropriation is authorized;</p> <p>(ii) <u>from appropriations balances arising from unpaid compensation and related costs pertaining to vacant positions and leaves of absence without pay;</u> and</p> <p>(iii) from appropriations balances realized from the implementation of measures resulting in improved systems and efficiencies and thus enabled agencies to meet and deliver the required or planned targets, programs and services approved in this Act at a lesser cost.</p> <p>X X X</p>	
<p>Section 5. Rules on Augmentation. – <i>Augmentation</i> is the act of the officers mentioned in the preceding section, who are authorized to use savings in their respective appropriations to cover a deficiency in any existing item of appropriation within their respective offices. A <i>deficiency</i> is an item of appropriation may result from:</p>	<p>Sec. 53. Rules on Augmentation. <i>Augmentation</i> is the act of the officers mentioned in the preceding section who are authorized to use savings in their respective appropriations to cover a deficiency in any existing item of appropriation within their respective offices. A deficiency in an item of appropriation may result from:</p>	<p>RA No. 11518 – GAA, FY 2021 (2020). Sec. 70. Rules on Augmentation. <i>Augmentation</i> is the act of the constitutional officers authorized to use savings in their respective appropriations to cover a deficiency in any existing item of appropriation within their respective offices. A deficiency is an item of appropriation may result from:</p>	<p>1) Section 5 of the proposed draft bill is lifted directly from the 2020 Bangsamoro Appropriations Act, which is in line with the General Appropriations Acts.</p> <p>2) It is significant to note that the GAA for FY 2021 has added subparagraph (c) to add to the definition of deficiency. Perhaps this</p>

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<p>(a) Unforeseen modifications or adjustments in the program, activity, or project; or (b) Re-assessment in the use, prioritization, <u>or</u> distribution of resources.</p> <p>An item of appropriation shall pertain to the amount appropriated for an activity or project authorized <u>under the BAA</u>.</p> <p>The particulars of the expenditures to be funded by augmentation from savings should be within the scope of or covered by an existing activity or project. The existence of an activity or project, regardless of the availability of allotments class(es), is sufficient for the purpose of augmentation.</p> <p>In no case shall a non-existent activity or project be funded by augmentation from savings or by use of an appropriation authorized <u>in the BAA</u>.</p>	<p>(a) Unforeseen modifications or adjustments in the program, activity or project; or (b) Re-assessment in the use, prioritization <u>or</u> distribution of resources.</p> <p>An item of appropriation shall pertain to the amount appropriated for an activity or project authorized in this Act.</p> <p>The particulars of the expenditures to be funded from savings should be within the scope of, or covered by an existing activity or project. The existence of an activity or project regardless of the availability of allotments class/es is sufficient for the purpose of augmentation.</p> <p>In no case shall a non-existent activity or project be funded by augmentation from savings or by the use of an appropriation authorized in this Act.</p>	<p>(a) Unforeseen modifications or adjustments in the program, activity or project; or (b) Re-assessment in the use, prioritization <u>and/or</u> distribution of resources. (c) <u>Additional requirements for a program, activity or project in view of a declaration of a state of national calamity.</u></p> <p>An item of appropriation shall pertain to the amount appropriated for an activity or project authorized in this Act.</p> <p>The particulars of the expenditures to be funded from savings should be within the scope of, or covered by an existing activity or project. The existence of an activity or project regardless of the availability of allotments class/es is sufficient for the purpose of augmentation.</p> <p>In no case shall a non-existent activity or project be funded by augmentation from savings or by the use of an appropriation authorized in this Act.</p> <p>RA No. 11465 – GAA, FY 2020 (2019). Sec. 68. Rules on</p>	<p>is to address the concern of the COVID-19 pandemic. Should the BTA Parliament adopt a similar addition in the definition?</p>
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		<p>Augmentation. Augmentation is the act of the constitutional officers authorized to use savings in their respective appropriations to cover a deficiency in any existing item of appropriation within their respective offices. A deficiency is an item of appropriation may result from:</p> <p>(a) Unforeseen modifications or adjustments in the program, activity or project; or</p> <p>(b) Re-assessment in the use, prioritization <u>and/or</u> distribution of resources.</p> <p><u>[Note that there is no c.]</u></p> <p>An item of appropriation shall pertain to the amount appropriated for an activity or project authorized in this Act.</p> <p>The particulars of the expenditures to be funded from savings should be within the scope of, or covered by an existing activity or project. The existence of an activity or project regardless of the availability of allotments class/es is sufficient for the purpose of augmentation.</p> <p>In no case shall a non-existent activity or project be funded by</p>	
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		<p>augmentation from savings or by the use of an appropriation authorized in this Act.</p> <p>RA No. 10633 – GAA, FY 2014 (2013). Sec. 68. <i>Meaning of Savings and Augmentation.</i></p> <p>x x x</p> <p>Augmentation implies the existence in this Act of a program, activity, or project with an appropriation, which upon implementation or subsequent evaluation of needed resources, is determined to be deficient. In no case shall a non-existent program, activity, or project, be funded by augmentation from savings or by the use of appropriations otherwise authorized in this Act.</p>	
<p><u>No counterpart</u></p>	<p>Sec. 54. <i>Priority in the Use of Savings.</i> In the use of savings, priority shall be given to the payment of compensation, year-end bonus and cash gift, retirement gratuity, terminal leave benefits, old-age pension of veterans and other personnel benefits authorized by law and in this Act, as well as the implementation of priority project or activity covered in this Act.</p>	<p>RA No. 11465 – GAA, FY 2020 (2019). Sec. 69. <i>Priority in the Use of Savings.</i> In the use of savings, priority shall be given to the payment of compensation, year-end bonus and cash gift, retirement gratuity, terminal leave benefits, old-age pension of veterans and other personnel benefits authorized by law and in this Act, as well as the implementation of priority project or activity covered in this Act.</p>	<p>In line with our previous comment above, we propose that Sec. 69 (which is the exact same provisions found in Sec. 71 of RA No. 11518 or GAA, FY 2021) also be adopted regarding the addition of a similar provision on the priority in the use of savings.</p>

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<p>Section 6. <i>Separability Clause.</i> – If any provision of this Act, or any part thereof, is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions and portions of this Act.</p>	<p>Sec. 71. <i>Separability Clause.</i> If for any reason, any section or provision of this Act is declared unconstitutional or invalid, other sections or provisions which are not affected thereby shall continue to be in full force and effect.</p>	<p><u>No counterpart</u></p>	
<p>Section 7. <i>Repealing Clause.</i> – All laws, decrees, orders, ordinances, rules, and regulations which are inconsistent with the provisions of this Act, are hereby repealed, modified, superseded, or amended accordingly.</p>	<p><u>No counterpart</u></p>	<p><u>No counterpart</u></p>	<p>We suggest taking out “ordinances” as the subject matter of this bill is not within the purview of the LGU to exercise authority over.</p> <p>“Decrees” are also not common, considering that the legislative measures of the BTA Parliament only include bills and resolutions. Should this refer to Presidential Decrees which were an innovation made by President Ferdinand E. Marcos with the proclamation of Martial Law and served to arrogate unto the Chief Executive the lawmaking powers of Congress, and are indeed valid unless otherwise repealed, they are still of national stature, a law which is still superior and cannot go lower than that one passed by the Parliament such as the proposed bill subject of this review.</p>
<p>Section 8. <i>Effectivity.</i> – This act shall take effect after fifteen days following its complete publication in a</p>	<p>Sec. 72. <i>Effectivity.</i> The provisions of this Act, shall take effect on January</p>	<p>RA No. 11518 – GAA, FY 2021 (2020). Sec. 101. <i>Effectivity.</i> The provisions of this Act, detailed in</p>	<p>The current Effectivity Clause, as worded, is consistent with the prevailing rules of the requirement of</p>

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newspaper of general circulation in the Bangsamoro Autonomous Region in Muslim Mindanao.	One, Two Thousand and Twenty, unless otherwise provided herein.	Volumes Nos I-A, I-B, I-C and II shall take effect on January One, Two Thousand and Twenty One, unless otherwise provided herein.	publication vis-à-vis effectivity of an act.
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