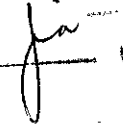


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SENATE  
S.B. No. 107

RECEIVED BY: 

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Introduced by Senator LOREN LEGARDA

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#### EXPLANATORY NOTE

The National Food Authority (NFA) was created to address goals of ensuring low and stable foodgrain prices for consumers, pursuant to our national policy of agricultural modernization and sustainable poverty reduction.

Historically, however, it has proven fiscally impossible to address all of these objectives. Support to rice farmers has often been compromised in favor of urban consumers, with the volume of releases in urban areas far outstripping procurement from farmers. A study conducted by the International Rice Research Institute has further revealed that under the NFA monopoly over rice importation, Filipino consumers have ended up paying more for rice than they would have had to under a free trade regime. There is a growing consensus among economists that with the NFA monopoly on rice importation, the costs imposed by NFA operations on the Philippine economy far outweigh the benefits to rice producers and consumers.

Meanwhile, the present rice policy is potentially very lucrative for well-connected rice traders and political insiders, creating opportunities for graft and corruption, hidden in the following<sup>1</sup>:

1. Unnecessarily high commissions paid to import-brokers.
2. Bribes paid by rice traders and/or wasteful lobbying/favor-currying to obtain import rights.
3. Government-to-government contracts whereby the Philippine government commits to buy low-quality rice at high market prices, with some parties pocketing the difference.
4. High-profits extracted by importers and wholesalers (above their legal and illicit payments for import rights and lobbying expenses).
5. High-profits extracted by cartelized retailers.
6. Other unnecessary costs due to inefficiencies in marketing and distribution.

Many of the anomalies associated with the NFA's operations may be traced to its charter which mandates it to exercise both proprietary and regulatory roles. In other words, the NFA participates in a market that it also regulates.

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<sup>1</sup> James A. Roumasset, "The Microeconomics of Agricultural Development in the Philippines," Working Paper No. 02-10, ADB, April 2002

This bill addresses the issue of conflict of interest with the reorganization of the NFA into the National Strategic Food Reserve Corporation, which will provide the government with a service arm for the maintenance of strategic reserves in basic food commodities. Regulatory functions of the NFA shall be reverted to the Department of Agriculture, while management of food subsidies for the poor shall be transferred to the Department of Social Welfare and Development, which is better equipped to implement a focused program. These changes shall minimize the redundancies prevalent in the previous NFA administration, heighten the focus of government efforts on essential public services, and reduce opportunities for graft and corruption.

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

  
**LOREN LEGARDA**  
Senator

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SENATE

S.B. No. 107

RECEIVED BY: *ji*

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Introduced by Senator LOREN LEGARDA

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AN ACT  
REORGANIZING THE NATIONAL FOOD AUTHORITY INTO THE  
NATIONAL STRATEGIC FOOD RESERVE CORPORATION AND  
REDEFINING ITS POWERS, APPROPRIATING FUNDS THEREFOR AND FOR  
OTHER PURPOSES

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

1       **SECTION 1. Title.** - This Act shall be known as the "National Food  
2       **Authority Reorganization Act of 2013."**

3

4       **SEC. 2. Declaration of Policy and Objectives.** - It is hereby declared the  
5       policy of the State to ensure food security for all Filipinos, attain sustainable  
6       development, reduce poverty and promote social justice, empower the rural sector,  
7       and improve the productivity and income of agricultural workers and producers.

8       Towards this end, the government shall orient its programs for the immediate  
9       attainment of the following objectives:

10       a) To establish linkages among the rice farmers, agricultural producers,  
11       agricultural support service providers and the market;

12       b) To rationalize government intervention in the rice sector by focusing its  
13       thrust on cost-effective, transparent and predictable programs aimed at  
14       improving market efficiency;

15       c) To promote private sector participation in ensuring the country's food  
16       security and price stabilization of staple crops especially rice; and

1 d) To focus government price subsidies to the most economically  
2 disadvantaged.

3

4 **SEC. 3. *Definition of Terms.*** - For purposes of this Act:

5 a) "Calamity" shall refer to a fortuitous event which brings great loss or  
6 destruction, including acts of God such as a typhoon, flood, drought,  
7 earthquake or volcanic eruption, and acts of man such as political and/or  
8 civil disturbances or widespread civil unrest;

9 b) "Capitalization" shall refer to resources invested in the different lines of  
10 activity in the foodgrains industry, including the cost of stocks, whether  
11 on consignment or cash basis, cost of facilities and equipment, and loans  
12 used directly and exclusively for the business;

13 c) "Diversion" shall mean any of the following circumstances:

14 i) Unreasonable depletion of stocks;

15 ii) Selling or lending of government stocks to another grains  
16 businessmen;

17 iii) Selling or offering to sell government stocks beyond the  
18 maximum quantity or price allowed by law, rules and  
19 regulations; or

20 iv) Storing or selling government stocks in places other than those  
21 duly authorized by law;

22 d) "Farmgate Price" shall refer to the prevailing buying price of a certain  
23 commodity at the farm level in a certain locality at a given time;

24 e) "Farmers" shall refer to agricultural producers of foodgrains, whether  
25 tillers or administrators of land;

26 f) "Foodgrains" shall refer to palay, rice, white corn or corngrits;

- 1 g) "Food Security" shall refer to the policy objective of substantially meeting  
2 the food requirements of present and future generations of Filipinos,  
3 ensuring that food is affordable and available to all, through a  
4 combination of domestic production and importation, and consistent with  
5 the overall national development objectives;
- 6 h) "Hoarding" shall mean the undue accumulation by any person or group  
7 of persons of foodgrains beyond normal inventory levels, or the  
8 unreasonable limitation or refusal to dispose of, sell or distribute stocks of  
9 any prime commodity to the general public or the unjustified taking out of  
10 any prime commodity from the channels of production, trade commerce  
11 and industry;
- 12 i) "Licensing" shall refer to the act of granting an authority or privilege to a  
13 qualified applicant to engage in a particular line of activity in the  
14 foodgrains industry;
- 15 j) "Price Manipulation" shall refer to the act of causing prices of essential  
16 commodities to fall or rise for one's own profit by falsifying figures,  
17 accounts and other related information thereon;
- 18 k) "Price Stabilization" shall refer to measures which ensure that realized  
19 fluctuations of the price of foodgrains conform to people's expectations;
- 20 l) "Government Rice Buffer Stock" shall refer to the inventory of rice  
21 equivalent to at least thirty (30) days national rice consumption by July 1 of  
22 every year, for stabilization purposes particularly in deficit areas and  
23 during lean production periods. This shall be inclusive of the 15-day  
24 Strategic Rice Reserve;
- 25 m) "Service Corporation" shall refer to the concept of a government-owned  
26 corporation performing the food security function of the State with  
27 minimum government subsidy; and

1 n) "Strategic Rice Reserve" shall refer to the minimum inventory of rice  
2 equivalent to at least fifteen (15) days national rice consumption, to be  
3 maintained year-round under government control to ensure food security  
4 during times of calamities.

5

6 **SEC. 4. *Reorganization of the National Food Authority.*** - To execute the  
7 foregoing policy, goals and objectives, there is hereby created a body corporate  
8 known as the National Strategic Food Reserve Corporation (NSFRC) which shall be  
9 attached to the Department of Agriculture (DA).

10

11 **SEC. 5. *Board of Directors.*** - The powers and functions of the NSFRC shall be  
12 vested in a Board of Directors which shall have the responsibility of formulating a  
13 comprehensive program for the development of the foodgrains industry. The Board  
14 shall be composed of a Chairman, President, and three (3) Members who shall be  
15 Filipino citizens, at least thirty-five (35) years of age, with sufficient experience in  
16 agri-business and management, and of proven honesty, integrity and competence.  
17 Both the Chairman and the President shall be appointed by the President of the  
18 Philippines from nominees to be recommended by the Secretary of the DA within  
19 thirty (30) days from the creation of the NSFRC.

20 Within the same period, the Secretaries of the DA, Department of Social  
21 Welfare and Development (DSWD), and Department of Trade and Industry (DTI)  
22 shall recommend fifteen (15) nominees from which the President of the Philippines  
23 shall choose the remaining three (3) members of the Board. The first member shall  
24 serve for a term of three (3) years, the second member for two (2) years, and the  
25 third member for one (1) year. Subsequent vacancies in the Board shall be filled up  
26 from a list to be submitted by the Secretaries consisting of three (3) nominees for

1 each vacancy, from which the President of the Philippines shall choose a  
2 replacement to serve for a term of three (3) years.

3         Within thirty (30) days from the submission of the list of nominees, the  
4 President of the Philippines shall constitute the Board.

5         The Board shall meet at least once a month on any date to be determined by  
6 the Chairman; Provided, that the Chairman may convene special meetings to discuss  
7 any matter needing immediate resolution. The Board shall be entitled to a per diem  
8 for each meeting actually attended by them and other remuneration as may be  
9 determined by the Board in accordance with existing policies of the government.

10

11         **SEC. 6. *Organization.*** - Within ninety (90) days from the constitution of the  
12 Board, it shall approve the NSFRC's organizational structure, and salary and staffing  
13 pattern. For this purpose, the salary standardization law shall be applicable, except  
14 with respect to the authority of the Board to give performance incentives to  
15 employees of the NSFRC; Provided, that performance incentives may only be  
16 allowed if the NSFRC registers a profit and their yearly cost does not exceed the  
17 equivalent of 10% of the NSFRC's net income before taxes nor 100% of the gross pay  
18 of its employees.

19         The President shall have the authority to appoint, promote, transfer, assign,  
20 reassign, remove, suspend or otherwise discipline officers and employees of the  
21 NSFRC as may be delegated to him by the Board.

22

23         **SEC. 7. *Management.*** - The President shall direct and manage the affairs of  
24 the NSFRC subject to the policy formulations of the Board. The President shall  
25 receive the same salary and emoluments of a Department Secretary.

26         There shall be two (2) Executive Vice Presidents appointed by the Board for a  
27 term of three (3) years who shall assist the President in the performance of his

1 functions. Either of the Executive Vice Presidents shall exercise the powers and  
2 functions of the President in his absence. The Executive Vice Presidents shall receive  
3 the same salary and emoluments of a Department Undersecretary.

4 The Executive Vice Presidents and Vice President shall be citizens of the  
5 Philippines, at least thirty-five (35) years of age, of proven honesty and integrity and  
6 of recognized managerial competence.

7  
8 **SEC. 8. Powers and Functions.** - The NSFRC shall exercise the following  
9 powers and functions:

- 10 a) To undertake the duty and tariff-free importation of rice for the  
11 government in order to maintain the appropriate volume of the  
12 Strategic Rice Reserve and Government Rice Buffer Stock by July 1  
13 of each year;
- 14 b) To own, lease, acquire by purchase or otherwise, hold, sell or  
15 dispose of stocks or bonds or any interest in either or any obligation  
16 or evidence of indebtedness of any person, partnership, firm or  
17 corporation;
- 18 c) To issue debt instruments that are agri-agra eligible and guaranteed  
19 by the national government up to a maximum amount of Five  
20 Billion Pesos (P5,000,000,000), beyond which the approval of the  
21 President of the Philippines shall be required;
- 22 d) To own, lease, operate or otherwise hold land, buildings,  
23 equipment, facilities and such other properties as may be necessary  
24 to carry out its functions;
- 25 e) To establish its internal organization and fix the remuneration,  
26 emoluments, allowances and other benefits of its officers and  
27 employees;



- 1 f) To exercise the rights and powers of a domestic corporation; and  
2 g) Subject to the guidelines to be formulated by the Board, to negotiate  
3 with private or government entities in the business of trading,  
4 marketing, importing and exporting of commodities.

5  
6 **SEC. 9. Capitalization.** - The NSFRC shall have a total authorized  
7 capitalization of Fifteen Billion Pesos (P15,000,000,000) consisting of One Hundred  
8 Fifty Million (150,000,000) shares with par value of One Hundred Pesos (P100) per  
9 share. From this amount Twelve Billion Pesos (P12,000,000,000) shall be in the form  
10 of assets from the NFA and Three Billion Pesos (P3,000,000,000) shall be in the form  
11 of cash to be appropriated by the national government over a period not exceeding  
12 ten (10) years. The Department of Budget and Management (DBM) shall include  
13 annually during the three (3) year transition period the amount of Five Hundred  
14 Million (P500,000,000) in the President's Budget submitted to Congress.

15  
16 **SEC. 10. Assets and Liabilities.** - All assets and liabilities of the NFA not  
17 transferred to the NSFRC shall be retained and administered, disposed of and  
18 liquidated by the NFA itself, which shall continue to exist as the NFA Board of  
19 Liquidators (BOL). The NFA-BOL shall receive budgetary support from the national  
20 government and be manned by personnel detailed from the NFSRC. It shall be  
21 deemed abolished upon full disposition of assets and liquidation of liabilities of the  
22 NFA within a period not to exceed ten (10) years, after which all remaining assets  
23 and liabilities shall be deemed transferred to the national government.

24 Assets pertaining to the regulatory, developmental and research functions of  
25 the NFA shall be transferred to the DA.

26

1           **SEC. 11. Penal Provisions.** - The following acts or omissions shall be  
2 punishable as follows:

3  
4           a) Serious Offenses:

- 5                   i) Cornering or hoarding of foodgrains resulting in an artificial shortage  
6                   or scarcity of supply and increase of prices thereof in any part of  
7                   the country;
- 8                   ii) Unreasonable depletion of stocks; selling or lending of government  
9                   stocks to another foodgrains seller; selling or offering to sell  
10                  government stocks beyond the maximum quantity or price allowed  
11                  by the DA; or storing or selling government stocks in other places  
12                  other than those duly authorized by law;
- 13                  iii) Causing prices of essential commodities to fall or rise for one's  
14                  own profit by changing or falsifying figures, accounts and other  
15                  related information pertaining thereto;
- 16                  v) Printing, issuing, or knowingly using, processing or negotiating, a  
17                  cancelled, unauthorized, illegal, counterfeit or falsified warehouse  
18                  receipt;
- 19                  vi) Failure or unlawful refusal of an accountable official to turn over or  
20                  remit collection within a reasonable period of time; or
- 21                  vii) Failure or unlawful refusal of a foodgrains warehouseman to  
22                  deliver foodgrains deposited with him; Provided, that the  
23                  warehouseman shall be entitled to the allowance authorized for  
24                  depreciation of the foodgrains deposited.

25           The offender shall, upon conviction, be punished by imprisonment of not less  
26 than six (6) years and one (1) day to not more that twelve (12) years, or a fine of not

1 less than Two Hundred Thousand Pesos (P200,000) to not more than Two Million  
2 Pesos (P2,000,000), or both, at the discretion of the court.

3

4 b) Less Serious Offenses:

5 i) Conniving in the concealment of stock shortage in a foodgrains  
6 warehouse;

7 ii) Knowingly submitting any report containing false information or  
8 data; or

9 iii) Failure or refusal of a warehouseman to allow the inspection of his  
10 foodgrain stocks to misrepresent their quantity or quality or to  
11 conceal a shortage, including the impeding of such inspection and  
12 examination by abandonment, absence or other similar means.

13 The offender shall, upon conviction, be punished by imprisonment of not less  
14 than four (4) years and one (1) day to not more than eight (8) years, or by a fine of  
15 not less than One Hundred Thousand Pesos (P100,000) to not more than One Million  
16 Pesos (P1,000,000), or both, at the discretion of the court.

17

18 c) Light Offenses:

19 i) Willful non-compliance with any official order, circular or directive  
20 lawfully issued by the DA, unless such constitutes a higher offense  
21 under this Act, in which case the offender shall be penalized under  
22 the latter offense;

23 ii) Selling or offering to sell to the NSFRC foodgrains other than those  
24 directly produced by them as farmer or shared by them as tenant or  
25 landlord, or knowingly buying such foodgrains ostensibly for the  
26 NSFRC or conspiring in such fraud; or

1           iii) Committing any other violation of a provision of this Act for which  
2                   no specific penalty is prescribed and which is not punished under  
3                   any other existing law.

4           The offender shall, upon conviction, be punished by imprisonment of not less  
5 than two (2) years to not more than four (4) months, or a fine of not less than Fifty  
6 Thousand Pesos (P50,000) to not more than Five Hundred Thousand Pesos  
7 (P500,000), or both, at the discretion of the court.

8  
9           **SEC. 12. *Appropriation and Transfer of Mandates.*** - The following powers  
10 and functions of the NFA shall be transferred to the following agencies:

- 11           a) Programs directly relating to food subsidies for the poor, particularly  
12                   the Targeted Rice Distribution Program (TRDP) and Coconut Farmers  
13                   Food Access Program (CFFAP), shall be transferred to the DSWD;
- 14           b) Programs for the stabilization of prices and foodgrains supply at the  
15                   *farm gate shall be transferred to the DA;*
- 16           c) Programs for the stabilization of rice supply and prices at the  
17                   consumer level shall be transferred to the DA;
- 18           d) Regulation of foodgrains trading and marketing, including the  
19                   registration and licensing of warehouses, determination of quality  
20                   standards, and determination of the requirements of a national  
21                   strategic rice reserve shall be transferred to the DA.

22           These government agencies shall be responsible for sourcing funds for these  
23 programs, for which they shall exclusively commission the NSFRC as a Service  
24 Corporation. To allow for the continued implementation of the above mandate, the  
25 DBM shall during the transition period include in the President's budget proposal,  
26 the minimum amounts of One Billion Pesos (P1,000,000,000) for use by the DA in  
27 farmgate price and supply stabilization, Two Hundred Fifty Million Pesos

1 (P250,000,000) for use by the DA in consumer price and supply stabilization, and  
2 Five Hundred Million Pesos (P500,000,000) for the DSWD.

3

4 **SEC. 13. *Service Incentive Package.*** - Permanent officials and employees  
5 of the NFA who choose to leave government service, or who shall choose to retire if  
6 eligible, shall be given a Separation Incentive Package (SIP) in addition to other  
7 retirement benefits to which they may be entitled under existing laws and  
8 regulations, based on the following scale:

9 a) 1.5 x gross monthly pay for every year of service up to 20 years; and

10 b) 2.0 x gross monthly pay for every year of service in excess of 20 years.

11 Employees who opt to retire under the provisions of Republic Act No.  
12 1616 shall receive the equivalent of 1.5 gross monthly pay for every year of service.  
13 Employees not retiring who are not absorbed in the NSFRC shall be placed in the  
14 DA, without loss of seniority and benefits. The existing number of NFA personnel  
15 shall not be increased and no new hiring shall be allowed until all NFA employees  
16 shall have been placed.

17 For the purpose of implementing this provision, there is hereby  
18 appropriated the necessary amount out of any funds or resources of the NFA. Any  
19 deficiency shall be automatically appropriated in the General Appropriations Act of  
20 the succeeding year.

21 To provide continuity in operations, all incumbent personnel of the NFA  
22 shall continue to exercise their respective duties and functions and receive the  
23 corresponding salaries and benefits until the organizational structures and staffing  
24 patterns of the NSFRC shall have been approved.

25

26 **SEC. 14. *Transitory Provisions.*** - Officials and employees of NFA may be  
27 directed to remain in the service for a period not exceeding three (3) years, without

1 losing their right to avail of the SIP within this period. The Board shall each appoint  
2 three (3) representatives to constitute a mediation group that shall settle issues on  
3 the distribution of assets and personnel, to be headed by a Chairman appointed by  
4 the President of the Philippines.

5

6 **SEC. 15. *Suppletory Application of the Corporation Code.*** - In the absence  
7 of any applicable provision under this Act, the pertinent provisions of Batas  
8 Pambansa Blg. 68, otherwise known as the Corporation Code of the Philippines,  
9 may be applied suppletorily.

10

11 **SEC. 16. *Repealing Clause.*** - All laws, decrees, executive orders, rules and  
12 regulations, issuances or parts thereof inconsistent with the provisions of this Act  
13 are hereby repealed or modified accordingly.

14

15 **SEC. 17. *Separability Clause.*** - The provisions of this Act are hereby  
16 declared to be separable, and in the event one or more such provisions are held  
17 unconstitutional, the validity of the other provisions shall not be affected thereby.

18

19 **SEC. 18. *Effectivity.*** - This Act shall take effect fifteen (15) days after its  
20 publication in English or Filipino in the official gazette or in at least two (2)  
21 newspapers of general circulation, whichever comes first.

22

23 Approved,

24