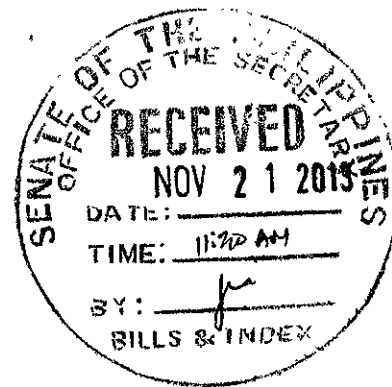


SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE

S. B. No. 1940

AN ACT CREATING THE EMERGENCY RESPONSE DEPARTMENT (ERD),
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

INTRODUCED BY SENATOR ALAN PETER "COMPAÑERO" S. CAYETANO

EXPLANATORY NOTE

"...for whatsoever a man soweth, that shall he also reap."

- Galatians 6:7 (KJV)

Yesterday was the best time to prepare our nation against calamities and disasters. Today is the best of time for change, to plant the seeds of prevention and preparedness.

Disaster preparedness and mitigation find basis in this biblical principle. When we sow love and respect for GOD's creations we reap/harvest a balance and harmonious ecology and prevent disasters and calamities, or at the very least mitigate the effects of natural disasters and prevent man made disasters. The more that we prepare, the more we are able to cope with disasters. The readiness and resilience of our nation against disasters and calamities lie significantly in our own actions. In general, this concerns protecting the environment. In particular, this deals with enacting proper regulation, ensuring preparations for disasters are in place, raising awareness on disaster risk reduction, and conducting trainings towards disaster resilience.

In the 2012 World Risk Report, the Philippines ranked third out of 173 countries in terms of disaster risk. Manila, the country's capital has also been ranked by the Climate Change Vulnerability Index (CCVI) as the most vulnerable of the world's 20 "high growth cities" to the effects of climate change. Further, according to Berlin-based environmental organization Germanwatch, the Philippines ranked 2nd among countries most affected by climate-related weather catastrophes in 2012. The Philippines came in second only to Haiti in terms of "relative and absolute number of human victims, and relative and absolute economic damage" caused by natural disasters.

In today's world, disasters are a fact of life. Some disasters and/or emergencies may be totally prevented, while others may not be averted, their effects may be mitigated. With the disasters that we may not be able to stop disaster, we can empower ourselves with knowledge, training/education, equipment/tools, and the right infrastructure to cope, so to save lives, prevent injuries, prevent damage and loss of property and prevent disruptions in a community. A window of opportunity exists to sow seeds of preparedness in order to reap resilience to disasters.

The Philippines is considered one of the nations “most at risk” of being struck by disasters and recurring hazards, such as typhoons, floods, earthquakes, and landslides, due to its geographical location. The country sits along the Pacific Ring of Fire, rendering it susceptible to various natural catastrophes. The problem is compounded by gaps in the implementation of laws and regulations. These include, but are not limited to, non-compliance with laws such as the National Building Code and Fire Code of the Philippines, the lack of evacuation procedures, the prevalence of illegal logging, the building of structures on rivers and waterways which impede the flow of water, and the non-segregation of garbage in violation of law.

This year, the country’s experience with recent disasters, both natural and human-made, including the armed conflict in Mindanao, Typhoon Santi in Central Luzon, the magnitude 7.2 earthquake in Central Visayas, and the more recent catastrophe caused by Super Typhoon Yolanda (Haiyan), how it was handled by our authorities and taking into consideration Filipino culture, prove that existing legislations, such as the Philippine National Disaster Risk Reduction and Management Act of 2010 and the Climate Change Act of 2009, needs updating and some strengthening.

According to the Asian Disaster Preparedness Center, there are different models on disaster management. The traditional approach to disaster management has been to regard it as a number of phased sequences of action or a continuum. This can be represented as a cycle. However, more modern models view it as a continuous process, or a sequence of cause and effect, or a system of addressing the underlying causes of disasters towards safer conditions. In many countries around the world, there are specialized agencies at the department level which deal with disasters. There are a few which have a task force model that the President/Prime Minister controls.

The present law on disasters, Republic Act No. 10121, otherwise known as the “Philippine Disaster Risk Reduction and Management Act of 2010”, revolutionized and pioneered disaster risk reduction and management in the country. Signed into law on May 27, 2010, it ordained a National Disaster Risk Reduction and Management Council with policy-making, coordination, integration, supervision, monitoring and evaluation functions. When the Act was signed into law some three years ago, it was hailed as a landmark legislation which adopts the pillars of disaster risk reduction and management in the country. Today, the Act continues to be relevant in preventing/mitigating, preparing for, and responding to disaster, yet recent experience shows as that our disaster risk reduction management model needs to adapt to our culture and existing circumstances.

Differences between the national government and local governments as regards structures should be reconciled, where appropriate, and areas for improvement addressed. For instance, in the present law, there must be a mechanism that responds to the eventuality of a total or considerable breakdown of authority resulting from a humanitarian emergency or disaster. This requires response that goes beyond the mandate or capacity of the local government unit concerned. Otherwise, there would be a paralysis in the disaster response system and people affected by the disaster would not be able to receive critical life-saving interventions and relief.

This proposed legislation seeks to create an accountable, capable and reliable partner department, namely, the Emergency Response Department (ERD), and to upgrade the capacity of government to respond to disasters – simplify/streamline, create clear focus, and hold stakeholders in disaster risk reduction and management efforts accountable.

Philippine experience shows that there is a need to establish a clear chain of command in times of major disasters, a focused and specialized single government agency that functions not only after the occurrence of disasters, but works all-year-round to ensure that effective mechanisms for disaster risk reduction are in place even before a disaster occurs. The effects of climate change and the prevalence of more devastating disasters

(stronger storms and devastating flooding) now seem to constitute the “new normal”. Such specialized department shall stubbornly focus bear laser-like preciseness in focus, give primacy to pre-disaster resilience-building, and prioritize life preservation and basic subsistence needs in the communities affected by a disaster. The dignity and value of the human life must be its guidepost and the deterrence of loss of lives its ultimate mission. It shall prevent human misery because disasters often cause the loss of life, human suffering, loss of income, and property loss and damage. Disasters also disrupt the normal functioning of governments and communities, adversely affecting individuals and families.

The department must be simple in character, independent yet connected and coordinated, empowered, capacitated, national in scope, and civilian in character in order to carry out its mandate effectively. It must not be a mere coordinating body which operates on an *ad hoc* basis. It has long been established that, under the principle of administrative convenience, the efficiency of the delivery of frontline services is enhanced through the creation of a full pledged department which is dedicated to an area of service within its primary competence.

The proposed legislation establishes the ERD, which shall be in charge of the policy-making, coordination, integration, supervision, monitoring and evaluation functions of the present *ad hoc* inter-agency council. The proposed department is equipped with bureaus specifically tasked to deal with concerns related to the pillars of disaster risk reduction and management, namely, disaster prevention and mitigation; disaster preparedness; and humanitarian and disaster response. The functions of the bureaus are specified to ensure performance of their critical mandates and roles before, during and after a humanitarian emergency or disaster.

The department is given supervisory functions over the Philippine Atmospheric, Geophysical and Astronomical Services Administration and the Philippine Institute of Volcanology and Seismology to ensure that its goal of saving lives and property, during the onslaught of a disaster, is better fulfilled.

In order to ensure accountability and the responsible use of public funds, the proposed legislation designates the Department as the manager of the Humanitarian Emergency Assistance and Disaster (HEAD) Fund, and all donations, monetary or otherwise, and establishes mechanisms of audit, reporting, and public information with regard to the funds and donations received. Moreover, the legislation penalizes, in clear and unequivocal terms, the corruption of funds and/or donations devoted to disaster risk reduction and management efforts. The penalty for such corruption of funds and/or donations is heavier than those penalties prescribed under the Philippine Disaster Risk Reduction and Management Act of 2010. This would express a strong policy of the State against corruption and its intolerance of greed, during times of utmost need, in times of disasters.

Furthermore, the Department is given visitatorial powers to ensure that funding and donations to all entities are used actually, directly, and exclusively/solely for disaster risk reduction efforts. To further strengthen its mandate of ensuring the protection and preservation of life and properties before, during and after the occurrence of disasters, the Department is also equipped with emergency and contingency powers, such as commandeering private property for public purpose and calling out the Armed Forces of the Philippines and the Philippine National Police in order to repress lawlessness and maintain peace and order in a disaster-stricken area. The Department is also empowered to declare a state of calamity in a locality, in consultation with the local government unit concerned, according to established guidelines and protocols developed by the Department.

The ultimate goal of this proposed legislation is to uphold the value of human life and the dignity of every person by efficiently and effectively addressing humanitarian emergencies, including disasters, through the establishment of such specialized agency on

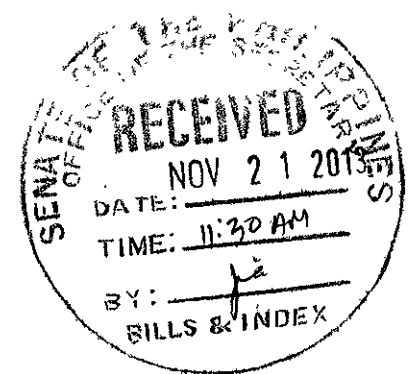
disaster risk reduction and management. The end in view consists of preventing or deterring the loss of lives and the social, economic, cultural, and environmental assets of the country, before, during and after a disaster or other humanitarian emergency.

In view of the foregoing, approval of this bill is most urgently and earnestly recommended.



ALAN PETER "COMPAÑERO" S. CAYETANO
Senator

SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



Senate

S. B. No. 1940

Introduced by Senator Alan Peter "Compañero" S. Cayetano

**AN ACT CREATING THE EMERGENCY RESPONSE DEPARTMENT (ERD),
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

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

SECTION 1. Short Title. - This Act shall be known as the "Emergency Response Department (ERD) Act of 2013."

SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State:

(a) To uphold the sacredness and dignity of human life by efficiently and effectively addressing humanitarian emergencies, including calamities and disasters, through the establishment of a focused, streamlined, independent, empowered, capacitated, full-time, specialized agency on disaster risk reduction and management as well as emergency response, which is national in scope and civilian in character. The people are the most important assets of the nation, and all disaster risk reduction and management efforts shall be responsive to the humanitarian needs of the people, the dignity and value of the human person, and respect for property;

(b) To promote a simplified, strategic, systematic, continuous, comprehensive, inclusive, and integrated approach to disaster risk reduction and management, with the end in view of substantially reducing vulnerabilities and the risk of disasters and other humanitarian emergencies, towards the preservation of life and property, thereby ultimately preventing or deterring the loss of lives and the social, economic, cultural, and environmental assets of the country;

(c) To establish a permanent, institutionalized, cohesive and comprehensive framework for disaster preparedness, prevention and mitigation, and response, to be implemented by a full-time and focused specialized agency with its own mandate, powers, and funding, in coordination and with the participation of the Philippine government, other foreign governments and financial institutions, international organizations, the private sector, and civil society.

In disaster risk reduction and management, disaster prevention and mitigation shall, first of all, aim the outright avoidance of the adverse impacts of hazards and related disasters. However, with the knowledge and capacities to effectively anticipate, respond to, and recover from, the impacts of likely, imminent or current hazard events or conditions, preparedness action shall be carried out in the most effective and efficient manner. In a disaster scenario, the response shall ensure the provision of emergency services and public assistance, before, during or immediately after, a disaster;

(d) To create an integrated, systematic, comprehensive, and cohesive plan to simplify,

streamline, integrate, and coordinate the various programs, projects, and activities of the Government and such other actors/stakeholders in disaster risk reduction and management to ensure accountability, responsibility, and transparency, as well as to achieve efficiency and effectiveness of in the performance of their functions.

SEC. 3. Definition of Terms. For purposes of this Act, the following shall refer to:

(a) Contingency Planning - a management process that analyzes specific potential events or emerging situations that might threaten society or the environment and establishes arrangements in advance to enable timely, effective and appropriate responses to such events and situations;

(b) Disaster - a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources;

(c) Emergency - any occasion or instance for which, in the determination of the President, national assistance is needed to supplement local government efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the country;

(d) Emergency Management - the organization and management of resources and responsibilities for addressing all aspects of emergencies, in particular preparedness, response and initial recovery steps;

(e) Geographic Information System - a database which contains, among others, geo-hazard assessments, information on climate change, and climate risk reduction and management;

(f) Government - includes the National Government, and any of its subdivisions, agencies or instrumentalities, including government-owned and controlled corporations and their subsidiaries, and Local Government Units;

(g) Hazard - a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihood and services, social and economic disruption, or environmental damage;

(h) Humanitarian - one devoted to the promotion of human welfare and the advancement of social reform;

(i) Response - any and all projects, programs, plans, and activities pertaining to action or inaction to prevent/mitigate, prepare for, and generally perform any and all activities in relation to, disasters and other humanitarian emergencies. This includes, but is not limited to, the provision of emergency services and public assistance during or immediately after a disaster. Disaster response that is predominantly focused on immediate and short-term needs and is sometimes called "disaster relief"; and

(j) State of Calamity - a condition involving mass casualty and/or major damages to property, disruption of means of livelihoods, roads and normal way of life of people in the affected areas as a result of the occurrence of natural or human-induced hazard.

Chapter 1
THE DEPARTMENT PROPER

SEC. 4. Emergency Response Department. - To carry out the above-declared policy, there is hereby created the Emergency Response Department, hereinafter referred to as the Department, which shall prepare, integrate, coordinate, implement, supervise, control, monitor, and evaluate all plans, programs, projects, and activities of the Government on humanitarian emergency assistance and disaster risk reduction and management.

SEC. 5. Powers and Functions. - In addition to the powers and functions provided by this Act, the Department shall also assume the policy-making, coordination, integration, supervision, monitoring and evaluation functions currently lodged with the existing National Disaster Risk Reduction and Management Council (NDRRMC), and shall take over all of the latter's responsibilities enumerated in Section 6 of Republic Act No. 10121. It shall also assume the powers and functions of the Office of the Civil Defense (OCD) as enumerated in Section 9 of Republic Act No. 10121.

To this end, all references to the powers and functions of the NDRMMC and the OCD in Republic Act No. 10121 shall be understood to refer to the Department created under this Act.

The Department shall also have administrative supervision and control over the existing Regional Disaster Risk Reduction and Management Offices (RDRRMOs), and the Local Disaster Risk Reduction and Management Offices (LDRRMOs), organized in all provinces, cities/municipalities and barangays in the country, which are hereby thereafter called Regional Emergency Response Offices (REROs) and Local Emergency Response Offices (LEROs), respectively.

SEC. 6. Composition. - The Department Proper shall be composed of the Office of the Secretary and the Offices of the Undersecretaries and Assistant Secretaries, and the bureaus and services of the Department as well as Regional and Local Offices.

The Provincial, City, Municipal and Barangay Emergency Response Offices and Rescue Teams shall be under the control and supervision of their respective local government units. The ERD shall exercise supervisory powers over such offices.

SEC. 7. Office of the Secretary. - The Office of the Secretary shall consist of the Secretary and his/her immediate staff.

SEC. 8. The Secretary. - The Secretary shall be appointed by the President, subject to confirmation by the Commission on Appointments.

The Secretary shall have the following powers and functions:

(a) Advise the President in issuing executive orders, regulations, proclamations and other issuances, the promulgation of which is expressly vested by law in the President relative to matters under the jurisdiction of the Department;

(b) Establish the policies and standards for the effective, efficient, and economical operation of the Department pursuant to a national disaster risk reduction and management framework which shall provide for a comprehensive, all-hazards, multi-sectoral, inter-agency and community-based approach to humanitarian emergency assistance and disaster risk reduction and management, in line with Section 6(a) of the Philippine Disaster Risk Reduction and Management Act of 2010;

(c) Promulgate rules and regulations necessary to carry out department objectives,

policies, functions, plans, programs, and projects;

(d) Promulgate administrative issuances necessary for the efficient administration of the offices under his/her jurisdiction and for the proper execution of the laws relative thereto;

(e) Exercise direct supervision and control over all functions and activities of the Department, as well as all its officers and personnel;

(f) Create regional offices and such other service units and divisions, as may be necessary; and

(g) Perform such other functions as may be necessary and/or proper to attain the objectives of this Act.

SEC. 9. The Undersecretaries. - The Secretary shall be assisted by three (3) Undersecretaries in the performance of the Department's functions and duties related to the pillars of disaster risk reduction and management, namely, (a) disaster preparedness, (b) disaster response, and (c) disaster prevention and mitigation. Another undersecretary shall be in charge of administrative and finance services.

The Undersecretaries shall be appointed by the President upon the recommendation of the Secretary. They shall have the powers and functions, as provided for in Section 10, Chapter 2, Book IV of the Administrative Code of 1987, relative to the scope of their responsibilities as provided above.

The Office of the Undersecretaries shall consist of the Undersecretaries and their respective immediate staff.

SEC. 10. Assistant Secretaries. - The Secretary shall also be assisted by three (3) Assistant Secretaries, one (1) for training, one (1) for operations, and one (1) for legal affairs. The Assistant Secretaries shall be appointed by the President upon the recommendation of the Secretary.

SEC. 11. Qualifications. - No person shall be appointed Secretary, Undersecretary, or Assistant Secretary of the Department, unless he/she is a citizen and resident of the Philippines, of good moral character, and of proven experience or competence/expertise in humanitarian emergency assistance and disaster management over the course of his/her career. The Secretary, Undersecretary, or Assistant Secretary shall not hold any other position, public or private, during his/her tenure.

SEC. 12. Bureaus and Service. - Subject to the power of the Secretary, with the approval of the President, to reorganize, restructure, and redefine the functions of the bureaus and services for the effective discharge of the powers and functions of the Department under this Act, the Department shall have the following bureaus and service:

(a) Bureau of Hazard Education and Risk Mitigation;

(b) Bureau of Disaster Preparedness;

(c) Bureau of Humanitarian Emergency Relief Operations; and

(d) Bureau of Administration and Finance.

SEC. 13. Powers and Functions of the Bureaus and Service. - The bureaus and service shall have the following powers and functions:

(a) The Bureau of Hazard Education and Risk Mitigation shall assist the Secretary in the formulation of policies, programs, and plans related to disaster prevention and mitigation, as defined in Sections 2(k) and 2(i), respectively, of the Philippine Disaster Risk Reduction and Management Act of 2010. In particular, it shall take the lead in:

(1) Making an inventory and checklist of all personnel, equipment, and supplies critical during disasters in all local government units, in accordance with protocols and contingency plans, and endeavouring that the same be provided to the local government unit within a period of twelve (12) months upon the passage into law of this Act;

(2) Conducting a review of the National Building Code and Fire Code of the Philippines, together with the relevant government department, and submitting the results thereof to the Senate and House of Representatives of the Philippines, with a view of developing legislation which seeks to strengthen infrastructure in line with disaster prevention and mitigation;

(3) Developing, updating, and maintaining a national geographic information system which shall be the basis of national, regional, and local disaster protocols and contingency plans, which shall be under the control and custody of the Department. The same shall also be maintained at all local government units, as possible;

(4) Mainstreaming and integrating disaster risk reduction and management (DRRM) and climate change adaptation (CCA) in all national, sectoral, regional and local development policies, plans and budgets, relating to environmental protection, including, but not limited to, those for land use and natural resource management, enforcement and updating of all national legislation relating to modification of infrastructure towards resiliency;

(5) Developing and implementing community-based and scientific DRR-CCA hazard assessment, mapping, analysis, and monitoring;

(6) Establishing disaster risk financing, insurance, and other risk transfer mechanisms at the community level;

(7) Establishing, developing and improving the end-to-end monitoring and forecasting of hazards, including early warning systems and practices; and

(8) Such other functions relevant to its mandate of disaster prevention and mitigation.

(b) The Bureau of Disaster Preparedness shall assist the Secretary in the formulation of policies, programs, and plans related to disaster preparedness, as defined in Section 2(j) of the Philippine Disaster Risk Reduction and Management Act of 2010. In particular, it shall take the lead in:

(1) Developing DRRM and CCA information, education, communication and advocacy plans;

(2) Developing standard DRRM training modules and the conduct of trainings, simulation exercises, and other capacity-building activities for communities and specific groups, including, but not limited to, quick respond teams, frontline government and private responders, and humanitarian aid workers;

(3) Developing and monitoring the implementation of locality-based DRRM contingency plans, and establishing/monitoring the operations of national and local Emergency Response Operation Centers;

(4) Developing and implementing comprehensive, scenario-based national and local preparedness policies, plans and systems, in primary coordination with the local government unit/s concerned, in the wake of an imminent humanitarian emergency and/or disaster. Such policies, plans, and systems include, but are not limited to, preventive evacuation; the procurement of facilities, equipment, tools, systems and other mechanisms to cope with the effects thereof; the deployment of essential personnel and manpower in critical areas of concern; and the formulation of such other courses of action to avert the loss of lives, livelihood and/or property;

(5) Strengthening the partnership and coordination between and among all key players and stakeholders in a humanitarian emergency and/or disaster;

(6) Preparing the criteria and procedure for the enlistment of accredited community disaster volunteers (ACDVs), and the drafting of a manual of operations for ACDVs, in consultation with relevant stakeholders; and

(7) Such other functions relevant to its mandate of disaster preparedness.

(c) The Bureau of Humanitarian Emergency Relief Operations shall assist the Secretary in the formulation and implementation of policies, programs, and plans related to disaster response, as defined in Section 2(1) of the Philippine Disaster Risk Reduction and Management Act of 2010. In particular, it shall take the lead in the following activities, in primary coordination with the local government unit/s concerned:

(1) Establishing and implementing a comprehensive, well-coordinated, effective and efficient Disaster Response Action Plan (DRAP) for every humanitarian emergency or disaster, with the primary goal of preventing or deterring the loss of lives, property and livelihood;

(2) Developing and implementing an integrated and coordinated system of search, rescue and retrieval (SRR), and evacuations procedure;

(3) Establishing a mechanism to ensure the prompt and accurate assessment of damage in disaster areas, including, but not limited to, the loss of lives, bodily injuries, damages to infrastructure and public facilities, and the destruction of social, economic, cultural, and environmental assets;

(4) Establishing a mechanism to ensure the prompt and accurate assessment of humanitarian needs in disaster areas, including, but not limited to, food, nutrition, health, clothing, shelter, livelihoods, water, sanitation, hygiene, protection, and the preservation of peace and order;

(5) Identifying standard-based relief shelters and sites for internally displaced persons, as well as developing and implementing of a set of minimum standards for such temporary shelters;

(6) Supplementing the efforts of the local government unit concerned in providing basic social services, livelihood-oriented activities and psychosocial interventions to the affected population, whether inside or outside temporary shelters; and

(7) Such other functions relevant to its mandate of disaster response.

In case there is total or considerable breakdown of authority resulting from the humanitarian emergency or disaster, which requires response that goes beyond the mandate or capacity of the local government unit/s concerned, the Bureau shall, with prior

authorization from the Department, directly formulate, implement, manage and coordinate all disaster response activities. In such case, the Department shall be possessed with the power to call upon other agencies and instrumentalities of government, and neighboring local government units, to augment, supplement and/or implement disaster response efforts. Further, the authority of the Bureau shall be provided, described, and limited in the authorization.

(d) The Bureau of Administration and Finance shall be composed of the Office of the Legal Counsel and the Financial and Management Office. The Office of the Legal Counsel shall be responsible for providing legal services and advice on all policies, programs, and operational matters of the Department. It shall provide legal counseling services in cases where the Department is a party and shall also handle administrative cases against any personnel of the Department and submit recommendations pertaining thereto.

The Financial and Management Office, which shall consist of the Human Resources Management Division, General Services Division, and the Finance Division, shall be responsible for providing the Department with services relative to personnel information, records, supplies, equipment, collection and disbursements, security, and custodial work. It shall also be responsible for providing the Department with staff advice and assistance on budgetary, financial, and management improvement matters.

Chapter 2 ATTACHED AGENCIES AND COORDINATION WITH OTHER GOVERNMENT DEPARTMENTS

SEC. 14. Relationship with Other Government Departments. - In the discharge of their respective responsibilities, the Department's bureaus shall coordinate with the relevant Government departments, agencies, offices and instrumentalities, whose powers and functions are relevant to the each bureau's respective focus area.

SEC. 15. Coordination with Other Government Entities. - The Secretary is hereby empowered to constitute, call, convene, meet with, and/or deputize agencies of government, or an aggregation or cluster thereof, to assist, advise or otherwise coordinate with the Secretary. The representatives from the civil society/non-governmental organizations and the private sector may also be included, as necessary, as members of the coordination mechanism called for by the Secretary.

SEC. 16. Attached Agencies. - The Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAG-ASA) and the Philippine Institute of Volcanology and Seismology (PHIVOLCS) are hereby placed under the supervision of the Department; *Provided*, however, that they shall continue to perform their respective functions as provided by law.

Chapter 3 THE HUMANITARIAN EMERGENCY ASSISTANCE AND DISASTER FUND, DONATIONS, AND ACCOUNTABILITY

SEC. 17. Humanitarian Emergency Assistance and Disaster Fund (Calamity Fund). - At least one percent (1%) of the estimated revenue from regular sources of government, or Twenty Billion Pesos (PhP 20,000,000,000.00), whichever is higher, shall be set aside as an annual lump sum appropriation for unforeseen expenditures arising from the occurrence of calamities; *Provided*, however, That such appropriation shall be used only in the area, or a portion thereof, of the country declared as in a state of calamity.

The present National Disaster Risk Reduction and Management Fund (NDRRMF) and the Local Disaster Risk Reduction and Management Fund (LDRRMF) shall henceforth be known as the Humanitarian Emergency Assistance and Disaster Fund (HEAD Fund) and Local Humanitarian Emergency Assistance and Disaster Fund (Local HEAD Fund), respectively.

The Department shall manage, mobilize, and with the approval of the President, release resources for disaster risk reduction and management, including the funds herein provided for. It shall also monitor and provide the necessary guidelines and procedures for the release, utilization, accounting, and auditing of the Local HEAD Fund.

There shall also be created a regular fund for the personnel, resource requirements, and other administrative costs related to the operations of the Department.

SEC. 18. Donations. - All monetary contributions, and donations in kind, including, but not limited to, equipment, food, clothing, medicine, and related supplies from international and local sources, shall be coordinated with the Department. This central coordination mechanism would ensure that the same are equitably and properly allocated and utilized actually, directly and solely/exclusively for disaster risk reduction and management efforts.

The Department shall maintain and make publicly available a complete, accurate, timely, and separate record of such donations, indicating the particular areas where such were allocated, and the exact purposes for which the same were utilized.

SEC. 19. Accountability, Responsibility, Transparency, and Access to Information. - The Department and all regional and local councils and offices under its supervision or control, shall make available to the public for scrutiny, copying, and reproduction, (i) any and all records of their financial transactions, including, but not limited to, donations received, funds allocated, and amounts disbursed; (ii) all information pertaining to their official acts, transactions or decisions; and (iii) relevant research data used as basis for policy development, regardless of the physical form or format in which such record, information, or data is contained.

The Department and the LGUs concerned shall also upload such records, information or data on their websites, which shall be regularly updated every fifteen (15) days. In case of voluminous records, information or data, the Department and/or local government units concerned may, in its/their discretion, upload only an executive summary thereof, with a note outlining the procedure/requirements to obtain full access to the complete record, information, or data.

The record, information, or data uploaded in the websites may be withdrawn after a period of three (3) years from the time of uploading; *Provided*, That an abstract thereof shall remain uploaded in the website, with an indication of the dates of posting and withdrawal, and a note outlining the procedure/requirements to obtain full access to the withdrawn record, information, or data.

Chapter 4 TRANSITORY PROVISIONS

SEC. 20. Abolition of the Office of Civil Defense; Transfer of Powers and Functions. - The Office of Civil Defense is hereby abolished, and its powers and functions are hereby transferred to the Department. The foregoing transfer of powers and functions shall include all applicable funds and appropriations, records, equipment, property, and

personnel, as may be necessary.

The Department shall, by virtue of this Act, be subrogated to all the rights and assume all the liabilities of the Office of Civil Defense, and all other agencies, or government units whose functions and powers have been transferred to the Department, and all their funds, records, property, assets, equipment, and such personnel as necessary, including unexpended appropriations and/or allocations. All contracts and liabilities of the said offices, agencies, and government units are hereby transferred to and assumed by the Department and shall be acted upon in accordance with the Auditing Code and other pertinent laws, rules, and regulations; *Provided*, That the officers and employees of said offices, agencies, and government units shall continue in a holdover capacity until such time as the new officers and employees of the Department shall have been duly appointed pursuant to the provisions of this Act.

The same shall apply to agencies and government units which have not been abolished, but whose functions have been transferred to the Department.

SEC. 21. Structure and Staffing Pattern. - The organizational framework and staffing pattern of the Department shall be prescribed and approved by the Secretary within sixty (60) days after the approval of this Act and the authorized positions created therein shall be filled by regular appointments by the President or the Secretary as the case may be; *Provided*, That, in the filling of positions created, preference shall be given to the personnel of the Office of Civil Defense.

SEC. 22. Separation from Service. - Employees separated from the service as a result of this reorganization shall, within six (6) months from their separation from the service, receive the retirement benefits to which they may be entitled under existing laws, rules, and regulations.

SEC. 23. Appropriations. - The amount needed for the initial implementation of this act shall be taken from the current year's appropriations of the National Disaster Risk Reduction and Management Council, the Local Disaster Risk Reduction and Management Councils, and the Office of Civil Defense. Thereafter, the amount needed for the operation and maintenance of the Department and its Line Agencies shall be included in the annual General Appropriations Act.

Chapter 5 MISCELLANEOUS PROVISIONS

SEC. 24. Visitorial Powers. - The Secretary of the Department and/or his/her authorized representative shall have visitorial and examining authority over governmental and non-governmental entities engaged in post-disaster relief in order to ensure that all donations, financial or otherwise, coursed through them, are actually used for disaster risk reduction and management efforts.

During such examination, the entity concerned shall produce all the reports, records, books of accounts, and other papers that may be required.

The refusal by any such entity to allow an examination of its books of accounts and pertinent records, or the concealment of any material information concerning its financial status, shall constitute a legal ground for the cancellation of its registration, and the revocation of all tax-exemption privileges and other benefits granted to it by law, in the case of a non-governmental entity, or the institution of any proper legal action against the erring official concerned, in case of a governmental entity.

SEC. 25. Stand-by Arrangements with the Private Sector. At any time, the Secretary of the Department shall have the power to negotiate, enter into, institutionalize, and coordinate arrangements with any private person, natural or juridical, for the purpose of ensuring the adequate, prompt, and ready availability of all goods and services, necessary for disaster response, for as long as the emergency circumstances require, to be deployed before, during, and after an emergency or disaster, subject to the payment of just compensation in appropriate cases.

SEC. 26. Commandeering Private Property for Public Purpose. - The Secretary of the Department shall have the power to commandeer any private property for urgent public purpose, subject to payment of just compensation in appropriate cases, when there is a clear and present danger that a disaster or humanitarian emergency would cause imminent loss of lives and/or the massive destruction of property, and time is of the essence. The commandeering powers shall last no longer than necessary or for as long as the circumstances require.

The refusal by any such person or entity to be commandeered, shall constitute a legal ground for the cancellation of its registration, if any, and the revocation of all tax-exemption privileges and other benefits granted to it by law, in the case of a non-governmental entity, or the institution of any proper legal action against the erring official concerned, in case of a governmental entity. In addition, the official of the establishment, institution, or functionality shall be subjected to a fine and/or imprisonment as provided for in Sec. 28 of this Act.

SEC. 27. Declaration of State of Calamity. - Whenever warranted by circumstances, the Department shall recommend to the President of the Philippines the declaration of a state of national calamity and the lifting thereof. It shall also have the power to, *motu proprio* or upon the favorable recommendation of the LDRRMCs, declare a cluster of barangays, municipalities, cities, provinces, and regions under a state of calamity, and the lifting thereof, based on the criteria set by the Department. The President's declaration shall entail access to international humanitarian assistance, as deemed necessary.

The declaration and lifting of the state of calamity shall be based on the results of the damage assessment and needs analysis. The causes, effects and incidents of the calamity and the need for the declaration shall be specified.

SEC. 28. Emergency and Contingency Powers. - Whenever it becomes necessary, the Department Secretary, subject to the chain of command and with the consent of the President, may call out the Armed Forces of the Philippines and/or the Philippine National Police to prevent or suppress lawless violence, and to ensure the protection and preservation of life and/or properties, in the whole range of disaster risk reduction and management.

In times of disasters, and whenever warranted by the circumstances, the Department Secretary may call upon other instrumentalities or entities of the government and nongovernment and civic organizations for assistance in terms of the use of their facilities and resources for the protection and preservation of life and properties in the whole range of disaster risk reduction and management. This authority includes the power to call on the reserve force as defined in Republic Act No. 7077 to assist in relief and rescue during disasters or calamities.

SEC. 29. Prohibited Acts. - In addition to the prohibited acts penalized under Section 20, in relation to Section 19, of the Philippine Disaster Risk Reduction and Management Act of 2010:

(a) Any person, group or corporation who directly or indirectly requests or receives any part of the funds devoted to disaster risk reduction and management, as well as

monetary contributions and donations in kind, where such person, group or corporation has no right to receive such proceeds from the fund, in whole or in part, monetary contribution or donation, shall be guilty of the crime of corruption of calamity funds or donations, and shall be prosecuted and upon conviction shall suffer a fine of not less than One Hundred Fifty Thousand Pesos (Php150,000.00) or any amount not to exceed One Million Five Hundred Thousand Pesos (Php1,500,000.00), or imprisonment of not less than twelve (12) years and one (1) day, nor more than twenty (20) years, or both, at the discretion of the court, including perpetual disqualification from public office if the offender is a public officer, and confiscation or forfeiture in favor of the government of the objects and the instrumentalities used in committing the herein prohibited act;

(b) Any person who, with intent to gain, but without violence against or intimidation of persons nor force upon things, shall take personal property devoted to any disaster risk reduction and management activity, without the consent of the Secretary, shall be guilty of the crime of qualified theft, and shall be prosecuted and upon conviction shall be punished by the penalties next higher by three degrees than those respectively specified in Article 309 of the Revised Penal Code;

(c) Any public officer who, by reason of the duties of his office, is accountable for calamity funds or property devoted to disaster risk reduction and management efforts, shall appropriate the same or shall take or misappropriate or shall consent, through abandonment or negligence, shall permit any other person to take such public funds, or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall be punished by the penalties next higher by three degrees than those respectively specified in Article 217 of the Revised Penal Code;

In all the above, if the offender is a corporation, partnership or association, or other juridical entity, the penalty shall be imposed upon the officer or officers of the corporation, partnership, association or entity responsible for the violation, without prejudice to the cancellation or revocation of these entities license or accreditation issued to them by any licensing or accredited body of the government. If such offender is an alien, he or she shall, in addition to the penalties prescribed in this Act, be deported without further proceedings after service of the sentence.

The prosecution for the offenses shall be without prejudice to any liability for violation of Republic Act No. 3185, as amended, otherwise known as the Revised Penal Code, and other civil liabilities.

SEC. 30. Implementing Rules and Regulations. - The Department shall issue the necessary rules and regulations for the effective implementation of this Act within ninety (90) days after approval of this Act. The Secretary, in consultation with relevant government agencies and other key stakeholders, shall take the lead in the preparation of the implementing rules and regulations.

SEC. 31. Annual Report. - The Department shall submit to the Office of the President, the Senate, and the House of Representatives, within the first quarter of the succeeding year, an annual report relating to the progress of the implementation of all disaster risk reduction and management efforts, and a detailed inventory of available personnel, supplies and equipment. Such report shall be made available to the public for scrutiny, copying, and reproduction, and shall also be uploaded in the Department's website.

SEC. 32. Congressional Oversight Committee. - There is hereby created a Congressional Oversight Committee to monitor and oversee the implementation of the provisions of this Act. The Committee shall be composed of six (6) members from the Senate and six (6) members from the House of Representatives with the Chairpersons of the Committees on National Defense and Security of both the Senate and the House of Representatives as joint Chairpersons of this Committee. The five (5) other members from

each Chamber are to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The minority shall be entitled to *pro rata* representation but shall have at least two (2) representatives from each Chamber.

SEC. 33. Sunset Review. - Within five (5) years after the effectivity of this Act, or as the need arises, the Congressional Oversight Committee shall conduct a systematic evaluation of the accomplishments and impact of this Act, as well as the performance and organizational structure of the Department, for purposes of determining remedial legislation.

SEC. 34. Repealing Clause. - All references to the NDRMMC in existing laws, including, but not limited to, the Philippine National Disaster Risk Reduction and Management Act of 2010, shall be understood to refer to the Department created under this Act.

All other laws, decrees, executive orders, proclamations, and other executive issuances which are inconsistent with or contrary to the provisions of this Act are hereby amended or repealed accordingly.

SEC. 35. Separability Clause. - If any provision of this law is declared unconstitutional, the remaining provisions thereof not affected thereby shall remain in full force and effect.

SEC. 36. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,