

SENATE

COMMITTEE REPORT NO. 295

Submitted jointly by the Committees on Education, Arts and Culture (*Sub-Committee on Basic and Higher Education and Culture*) and Finance on
FEB 07 2007

Re: **HB No. 5792**

Recommending its approval without amendment taking into consideration

Senate Bill No. 281

Sponsor: Senator Recto

Mr. President:

The Senate Committees on Education, Arts and Culture (*Sub-Committee on Basic and Higher Education and Culture*) and Finance, to which were referred **House Bill No. 5792**, introduced by **Reps. Reyes (E), et al**, entitled:

**“AN ACT
TO STRENGTHEN THE SYSTEM OF MANAGEMENT AND
ADMINISTRATION OF ARCHIVAL RECORDS,
ESTABLISHING FOR THE PURPOSE THE NATIONAL
ARCHIVES OF THE PHILIPPINES, AND FOR OTHER
PURPOSES”**

and **Senate Bill No. 281**, introduced by **Senator Osmeña III**, entitled:

**“AN ACT
ESTABLISHING THE NATIONAL ARCHIVES OF THE
PHILIPPINES, STRENGTHENING ITS POWERS,
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER
PURPOSES”**

have considered the same and have the honor to report them back to the Senate with the recommendation that **House Bill No. 5792** be approved without amendment.

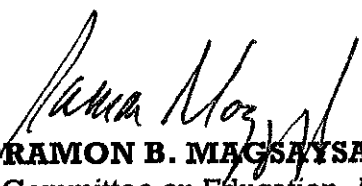
Respectfully submitted:


Chairmen:

FRANKLIN M. DRILON
Chairman, Committee on
Finance



RALPH G. RECTO
Chairman, Sub-Committee on Basic
and Higher Education and Culture

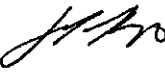
Members:



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MIRIAM DEFENSOR SANTIAGO
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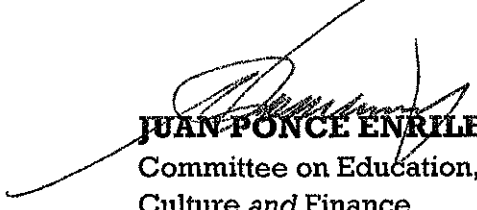

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Committee on Education, Arts and
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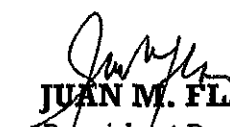

PANFILO M. LACSON
Committee on Finance

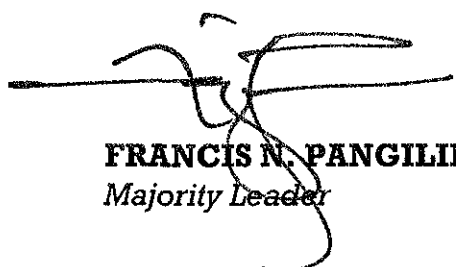

ALFREDO S. LIM
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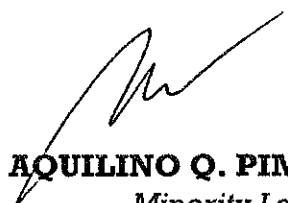
LUISA "LOI" EJERCITO ESTRADA
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AQUILINO Q. PIMENTEL, JR.
Minority Leader

HON. MANNY VILLAR
President
Senate of the Philippines
Pasay City



HOUSE OF REPRESENTATIVES

H. No. 5792

BY REPRESENTATIVES REYES (E.), ESCUDERO, LACSON, TAÑADA, KINTANAR, SUMULONG, APOSTOL, NICOLAS, DOMINGUEZ, MANGUDADATU, GULLAS, CARI, VILLAROSA, VALENCIA, ASISTIO, BANAAG, BIAZON, JALOSJOS-CARREON, CARMONA, MIRAFLORES, DUAVIT, ABAYA, MITRA, ZUBIRI, CODILLA, FIGUEROA, AQUINO (R.), PINGOY, GONZALEZ, REAL, SOLIS, PETILLA, ESPINO, DOMOGAN, CLARETE AND YAPHA, PER COMMITTEE REPORT NO 1942

AN ACT TO STRENGTHEN THE SYSTEM OF MANAGEMENT AND ADMINISTRATION OF ARCHIVAL RECORDS, ESTABLISHING FOR THE PURPOSE THE NATIONAL ARCHIVES OF THE PHILIPPINES, AND FOR OTHER PURPOSES

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

1 ARTICLE I

2 GENERAL PROVISIONS

3 SECTION 1. *Short Title.* – This Act shall be known as the “National
4 Archives of the Philippines Act of 2006”.

5 SEC. 2. *Declaration of Policy.* – It is the policy of the State to protect,
6 conserve, promote and popularize the nation’s historical and cultural heritage
7 and resources.

1 The State shall pursue, conserve and promote the Filipino cultural
2 heritage and resources including the documentary records of Filipino culture,
3 history and governance.

4 The State shall give utmost priority for the safeguard, protection and
5 preservation of its public documents and records, not only as fundamental
6 instruments for efficient and effective governance but also as essential tools
7 for the preservation of the country's history and cultural memory.

8 Towards this end, all public records with enduring value, held by
9 government offices, including, but not limited to, all branches of government,
10 constitutional offices, local government units (LGUs), government-owned and
11 -controlled corporations (GOCCs), state universities and colleges, Philippine
12 embassies, consulates and other Philippine offices abroad shall be transferred
13 to a permanent government repository for proper management, control and
14 regulation of record disposition.

15 SEC. 3. *Scope.* – This Act shall cover all public records with archival
16 value, held by either government offices or private collections; and shall also
17 cover archival and records management programs and activities in all branches
18 of government, whether national or local, constitutional offices, GOCCs,
19 government financial institutions, state universities and colleges, Philippine
20 embassies, consulates and other Philippine offices abroad.

21 SEC. 4. *Definition of Terms.* – For purposes of this Act, the following
22 definitions shall hereby apply:

23 (a) “Agency head” refers to the person responsible for the performance
24 of a government office and/or the person responsible for, the performance of
25 the LGU, such as the chief executive elected under the Local Government
26 Code of 1991.

27 (b) “Approved repository” refers to a repository to be established by
28 the President, which is provided under this Act.

1 (c) "Archives" shall refer to:

2 (1) Public records, papers, periodicals, books or other items, articles or
3 materials, whether in the form of electronic, audio-visual or print, which by
4 their nature and characteristics have enduring value, that have been selected
5 for permanent preservation;

6 (2) The place (building/room/storage area) where archival materials
7 are kept and preserved; and

8 (3) An organization (or part of an organization) whose main function is
9 to select, collect and preserve archival records and make such records
10 available for public use.

11 (d) "Controlling government agency" shall refer to:

12 (1) Public office that controls the public records;

13 (2) Public office that has the power to determine the conditions of
14 access to the public archives; and

15 (3) Any successor of a public office that is abolished, merged or
16 reorganized.

17 (e) "Controlling local government" shall refer to:

18 (1) The LGU that has custody and control over the local government
19 records; and

20 (2) Any successor to the LGU that is abolished, merged or
21 reorganized.

22 (f) "Executive Director" refers to the head of the National Archives of
23 the Philippines.

24 (g) "Disposal" refers to the act of selling, burning or any other way of
25 discarding valueless records in accordance with the provisions of this Act.

26 (h) "Disposition" refers to the systematic sorting out of records in the
27 office storage whereby those classified as valuable records are permanently
28 preserved and those which are classified as valueless are disposed of.

1 (i) "Estray record" refers to a public record that is no longer under the
2 custody and control of the National Archives or a controlling government
3 office.

4 (j) "Government office" refers to any public office, department,
5 bureau, agencies and instrumentality, whether belonging to the national
6 government or a LGU.

7 (k) "Judicial records" refer to records presented to, or belonging to the
8 Supreme Court including all the judicial courts and judicial organizations
9 under its jurisdiction.

10 (l) "Legislative records" refer to records presented to, or belonging to
11 the Philippine Senate and the House of Representatives or any of its
12 committees.

13 (m) "Local government archives" refer to local government records that
14 have been collected by the controlling LGU that served as historical evidences
15 in the performance of its duties.

16 (n) "Local government records" refer to records in any form, in whole
17 or in part, created or received, whether before or after the effectivity of this
18 Act, by a LGU in the conduct of its affairs.

19 "National Archives" refers to the National Archives of the Philippines,
20 which is established and strengthened under this Act.

21 (p) "Open access records" refers to:

22 (1) Public record that have been in existence for at least thirty (30)
23 years or have been transferred under the custody and control of the executive
24 director, and that are classified as open access records as referred to in Section
25 30 and to which public access have not been prohibited, under Section 31 of
26 this Act; and

27 (2) Local government archives that are no longer in use, or have been
28 in existence for at least thirty (30) years and are classified as open access

1 records referred under Section 32, and to which public access have not been
2 prohibited, under Section 33 of this Act.

3 (q) "President" refers to the President of the Republic of the
4 Philippines.

5 (r) "President's papers" refer to records created or received, whether
6 before or after the effectivity of this Act, by a President while holding office as
7 a President of the Philippines.

8 (s) "Protected record" refers to local government records containing
9 data that are important from economic, social, political, legal, national
10 security, scientific, cultural, technological or other aspects, which are
11 indispensable for the research of historical past, for becoming acquainted with
12 and understanding it, and/or for the continuous fulfillment of public duties and
13 the realization of citizens' rights, which are not or only partially available from
14 other sources.

15 (t) "Public access registry" refer to public access register containing
16 prohibition and restriction on the unauthorized disclosure and access of
17 information in any public records.

18 (u) "Private archives" refers to records belonging to private individuals
19 and/or entities which are of enduring archives value.

20 (v) "Public archives" refers to public records that are under the
21 custody and control of the executive director.

22 (w) "Public records" refers to record or classes of records, in any form,
23 in whole or in part, created or received, whether before or after the effectivity
24 of this Act, by a government agency in the conduct of its affairs, and have
25 been retained by that government agency or its successors as evidence or
26 because of the information contained therein.

1 (x) "Records" refers to information, whether in its original form or
2 otherwise, including documents, signatures, seals, texts, images, sounds,
3 speeches, or data compiled, recorded, or stored, as the case may be:

4 (1) In written form on any material;

5 (2) On film, negative, tape or other medium so as to be capable of
6 being reproduced; or

7 (3) By means of any recording device or process, computer or other
8 electronic device or process.

9 (y) "Records center" refers to an intermediate repository in which
10 noncurrent records of various government offices are stored until they can be
11 destroyed or transferred to the National Archives.

12 (z) "Records management" refers to the managerial activities involved
13 with respect to records creation, records maintenance and use, transmission,
14 retention and records disposition in order to achieve adequate and proper
15 documentation of policies and transactions of government for its efficient,
16 effective and economical operation.

17 (aa) "Restricted access records" refers to records which access have
18 been restricted because there exists a legal impediment and/or standard or
19 advice issued by the executive director that requires such public records to be
20 withheld from public access.

21 (bb) "Standards" refers to the circulars and orders issued by the
22 executive director pursuant to the provisions of this Act.

23 (cc) "Vital records" refers to records containing information essential
24 for: emergency operation during a disaster; the resumption and/or continuation
25 of operations; the re-establishment of the legal, financial and/or functional
26 status of the organization; and the determination of the rights and obligations
27 of individuals and corporate bodies with respect to the organization.

ARTICLE II

PURPOSE, OTHER PRELIMINARY PROVISIONS,
AND KEY ADMINISTRATIVE PROVISIONS

SEC. 5. *Objectives.* – This Act is primarily aimed at:

(a) Strengthening the existing system of management and administration of government archival records;

(b) Defining the role of the executive director in developing and supporting government records keeping, including independent determinations on the disposal of public records and certain local government archives;

(c) Mandating government accountability in ensuring that full and accurate records of the affairs of national government and the LGUs are maintained and preserved;

(d) Enhancing public confidence in the integrity of public records keeping and management;

(e) Ensuring the accessibility of public records that are relevant to the promotion and preservation of Philippine cultural heritage; and

(f) Supporting the safekeeping of private records.

SEC. 6. *Establishment, Mandate and Functions.* – (a) There is hereby established a National Archives of the Philippines where public archives shall be stored, preserved, conserved and made available to the public. The National Archives of the Philippines shall be attached to the National Commission for Culture and the Arts (NCCA) for budgetary purposes.

(b) The National Archives of the Philippines shall be primarily responsible for the implementation of the objectives and provisions of this Act. It shall plan, develop, prescribe, disseminate and enforce policies, rules and regulations and coordinate government-wide programs governing the creation, general protection, use, storage and disposition of public records

1 including the acquisition, storage and preservation of public archives and
2 providing facilities for reference, research or other purposes.

3 (c) The National Archives of the Philippines shall have the following
4 functions:

5 (1) Conduct archival researches using archival materials here and
6 abroad and cause the publication and dissemination of valuable archival
7 information subject to the open access provisions of this Act and other existing
8 laws;

9 (2) Facilitate the acquisition of a permanent and suitable building for
10 the National Archives to house the country's archival holdings and public
11 records;

12 (3) Plan, formulate and implement a records management and archival
13 administration program for the efficient creation, utilization, maintenance,
14 retention, preservation, conservation and disposal of public records including
15 the adoption of security measures and vital records protection program for the
16 government;

17 (4) Give technical assistance to all branches of government, whether
18 national or local, constitutional offices, GOCCs, government financial
19 institutions, state universities and colleges, Philippine embassies, consulates
20 and other Philippine offices abroad in the planning, implementation and
21 evaluation of their public records management and archives administration
22 programs;

23 (5) Conduct training programs on records and archives management
24 including the establishment of an archival system of both public and private
25 sectors;

26 (6) Acquire through transfer, donation, purchase or any other means
27 public records and private archives which in the judgment of the executive
28 director has enduring archival value;

1 (7) Ensure the preservation and conservation of existing and future
2 archival resources of the government;

3 (8) Issue, transmit and/or authenticate reproduced copies, certified true
4 copies or certifications on public archives and/or extracts thereof;

5 (9) Keep a registry of all public records under the custody and control
6 of the National Archives of the Philippines which shall be made available for
7 public inspection, to include among others:

8 (9.1) All public records transferred to regional archives, records center
9 and the national archives;

10 (9.2) Public records disposed of under Sections 18 and 19;

11 (9.3) A public access register that contains information on:

12 (i) Restrictions on public access to public records imposed under
13 Section 34;

14 (ii) Prohibitions imposed under Section 36 on public access to public
15 archives or protected records in the control of the executive director;

16 (iii) The grounds for the prohibitions and restrictions recorded under
17 this paragraph; and

18 (iv) The conditions agreed to under Section 23 as to public access for
19 protected records transferred to the control of the executive director.

20 (10) Obtain, recover, transfer and have custody and management of all
21 the public archives not in the custody of the national archives;

22 (11) Accept, store, preserve and conserve any public archive
23 transferred to the National Archives;

24 (12) Establish, maintain, operate regional archives and records centers
25 and/or provide technical assistance to government agencies on the
26 establishment of agency records centers;

27 (13) Identify and make copies of vital public records which are
28 essential to the continuous operation or reconstruction of an organization

1 during and after an emergency and also those records essential to the
2 protection of rights and interests of that organization and of the individuals
3 directly affected by its activities; and

4 (14) Publish any public archives or any part of the archives subject to
5 the terms and conditions on which they are obtained and subject to copyright
6 laws.

7 SEC. 7. *Officials and Staff.* – (a) The National Archives of the
8 Philippines shall be headed by an executive director with a rank equivalent to
9 a bureau director and who shall be assisted by two deputy executive directors
10 who shall be responsible for archives administration and records management.

11 The executive director shall be appointed by the President. The
12 incumbent director and assistant director of the Records Management and
13 Archives Office shall continue to serve in their respective capacity as the
14 director and assistant director of the herein established National Archives of
15 the Philippines for one year after the effectivity of this Act or until the
16 completion of their respective terms of office or unless such terms of office are
17 extended by the President: *Provided*, That such extension shall not exceed the
18 five-year term of office allowed under this Act.

19 The executive director shall have a fixed term of five years. In case of
20 vacancy in the position of the executive director, the appointee shall serve the
21 unexpired term of the predecessor.

22 (b) The National Archives of the Philippines shall maintain the
23 existing staffing pattern provided under Executive Order No. 285 which
24 provides that the executive director shall within a year after the enactment of
25 this Act, recommend the reorganization and restructuring of the National
26 Archives of the Philippines needed to carry out the provisions of this Act
27 subject to the rules and regulations of the Department of Budget and
28 Management (DBM) and the Civil Service Commission (CSC).

1 SEC. 8. *Qualification and/or Appointment of Executive Director and*
2 *Deputy Executive Directors.* -- No person shall be appointed or designated as
3 executive director and deputy executive directors of the National Archives of
4 the Philippines unless he/she possesses the following minimum qualifications:
5 a Filipino citizen, of good moral character, and of unquestionable integrity, a
6 holder of a master's degree in history, political science, public
7 administration/government management, library science, information
8 management or similar fields of study and ten (10) years of actual experience
9 in records management and archives administration in the case of the
10 executive director and five years experience in the case of the deputy
11 executive directors.

12 SEC. 9. *Functions.* -- The executive director shall have the following
13 functions:

14 (a) Establish policies, standards and guidelines related to public
15 records management and archives administration programs, including the
16 publication of guides, inventories and finding aids required to disseminate
17 information on the holdings of the National Archives;

18 (b) Examine, identify and determine records of government agencies
19 and classify and preserve those which are of permanent or enduring historical
20 value and/or advise on the creation, maintenance, storage, use and disposition
21 of such records;

22 (c) Direct and determine the mode of disposing of or destroying or
23 authorizing the disposal or destruction of public records;

24 (d) Take suitable measures in preserving and conserving public
25 archives which are under the custody and control of the National Archives;

26 (e) Acquire through transfer, donation, purchase or any other means
27 public records and private archives which his judgment has enduring historical
28 value;

1 (f) Determine and establish measures on access and usage of public
2 archives;

3 (g) Provide maintenance and security and report to the President any
4 loss of public records in the custody and control of the National Archives and
5 initiate appropriate action to recover them;

6 (h) Enter into agreements with any archival or historical institutions
7 here and abroad to acquire or copy original documents or archival materials to
8 enhance the archival and historical holdings of the Philippines;

9 (i) Establish and implement government-wide program on public
10 records and archives counter disaster planning;

11 (j) Establish linkages with local and foreign organizations engaged in
12 public records management and archives administration;

13 (k) Ensure the safekeeping of a Registry in accordance with the
14 requirements of this Act;

15 (l) Issue rules and regulations for all or any of the following purposes:

16 (1) Regulating the transfer of public records from any government
17 office to National Archives or to an approved repository;

18 (2) Regulating the manner of destruction or other disposal of public
19 records;

20 (3) Regulating the admission of the public to National Archives and
21 the use by the public of public archives deposited in National Archives;

22 (4) Providing for the custody and preservation of Presidents' papers
23 and private records deposited in the national archives, and prescribing the fees
24 to be charged for custody and preservation thereof; and

25 (5) Prescribing forms for the proper and effective implementation of
26 this Act.

27 (m) Perform such other functions as may be necessary.

1 SEC. 10. *Power of Review.* – (a) The executive director shall, from
2 time to time, review or cause the review of any classified records which are in
3 *the custody and under the control* of the National Archives.

4 (b) For the purpose of subsection (a) and subject to subsection (c), the
5 executive director shall have the power to inspect the contents of any
6 classified records and declassify those classified records which are in the
7 *custody and under the control* of the National Archives.

8 (c) The review and reclassification or declassification of any classified
9 records shall be carried out in accordance with existing laws, issuances and
10 regulations on classified documents.

11 SEC. 11. *Power to Delegate.* – (a) The executive director may, by an
12 instrument in writing, delegate and/or appoint an acting director designated as
13 officer-in-charge whenever he/she shall be unable to perform the duties of
14 his/her office due to illness, absence or other cause, and in such case the
15 person so appointed may perform all the duties imposed on the executive
16 director by law until such temporary designation is deemed revoked.

17 Such power to delegate shall be subject to the provision of Section 40,
18 Chapter 8, Book IV of Executive Order No. 292.

19 (b) The executive director may also, in writing, delegate any of his
20 functions under this Act, subject to conditions, limitations or restrictions as
21 he/she thinks fit, to a person or class of persons who may perform those
22 functions in the same manner and with the same effect as if those functions
23 had been conferred on him or them under this Act, subject to the provision of
24 Section 40, Chapter 8, Book IV of Executive Order No. 292.

25 (c) A person purporting to act pursuant to a delegation made under this
26 section shall, in the absence of proof to the contrary, be presumed to be acting
27 in accordance with the terms of the delegations.

1 SEC. 12. *Appointment of Consultant.* – The executive director may,
 2 from time to time, as and when necessary, appoint any person who possesses
 3 the ability and expertise to carry out archival research and documentation
 4 work.

5 The term of appointment of a consultant shall be prescribed in a
 6 contract of service.

7 The functions of a consultant are as follows:

8 (1) To assist documentation work;

9 (2) To do research for the purpose of, and compile and produce,
 10 archival publications; and

11 (3) To assist in any activities as may be deemed necessary by the
 12 executive director.

13 ARTICLE III

14 MANAGEMENT OF PUBLIC RECORDS

15 SEC. 13. *Establishment of Archives and Records Offices/Units.* – All
 16 government offices shall each establish their archives and records office/unit
 17 in coordination with the DBM and the National Archives from their organic
 18 personnel within a year from the date of effectivity of this Act. The records
 19 officer or an archivist of a government office shall head the said archives and
 20 records office/unit.

21 SEC. 14. *System of Registration and Accreditation.* – Pursuant to the
 22 provisions of this Act, the National Archives of the Philippines shall institute a
 23 comprehensive program for the registration and accreditation of various public
 24 archives nationwide. Such system of registration and accreditation shall
 25 include among others, the mechanism for updating public archives of recent
 26 methods, techniques and procedures in records management and the annual
 27 reportorial requirements of their archival holdings. Towards this end, the

1 National Archives of the Philippines shall conduct an archival audit consistent
2 with the provision of Section 34 hereof.

3 SEC. 15. *Inventory of Public Records.* – All government offices shall
4 regularly conduct an inventory of their public records and shall be mandated to
5 keep the following data in their respective registry:

6 (a) All public records under its custody;

7 (b) All public records transferred to the National Archives;

8 (c) Public records disposed of with authority under Sections 18 and 19
9 hereof;

10 (d) Data of deferred transfer under Section 21; and

11 (e) A public access register that contains information on:

12 (1) Restrictions on public access to public records imposed under
13 Section 31(g) hereof;

14 (2) Prohibitions imposed under Section 36 hereof on public access to
15 public archives or protected records under the control of the executive
16 director;

17 (3) The grounds for the prohibitions and restrictions stipulated under
18 Sections 36 and 37 of this Act; and

19 (4) The conditions agreed to under Section 23 hereof as to public
20 access for protected records is transferred to the control of the executive
21 director.

22 Heads of all government departments, bureaus, agencies and
23 instrumentalities concerned shall endeavor and ensure the full public
24 accessibility of said registry.

25 SEC. 16. *Agency Records Disposition Schedule.* – All government
26 offices, including GOCCs shall prepare and submit a records disposition
27 schedule in the prescribed form, which upon approval by the executive

1 director shall govern the disposition of all the records of that government
2 office.

3 SEC. 17. *General Records Disposition Schedule.* – The National
4 Archives shall develop a general records disposition schedule that shall
5 prescribe the disposal of public records common to all government offices.

6 SEC. 18. *Disposal of Public Records.* – No government department,
7 bureau, agency and instrumentality shall dispose of, destroy or authorize the
8 disposal or destruction of any public records, which are in the custody or
9 under its control except with the prior written authority of the executive
10 director.

11 SEC. 19. *Authority for the Disposition of Public Records.* – (a) The
12 executive director shall authorize in writing the disposition of a public record
13 other than those referred hereunder:

- 14 (1) Transferring control of the public record to another government
15 office;
- 16 (2) Transferring control of the public record to the executive director;
- 17 (3) Destroying the public record; or
- 18 (4) Selling the public record.

19 (b) Before authorizing a disposition of a public record under
20 subsection (a), the head of a government office shall give the executive
21 director at least thirty (30) days notice prior to:

- 22 (1) The intention to transfer control of the public record, with a
23 general list and description of the public record concerned;
- 24 (2) The intention to dispose the public record, with a general list and
25 description of the public record concerned; and
- 26 (3) The place where additional information may be obtained on the
27 public record concerned and the person to whom any comments may be sent.

1 SEC. 20. *Transfer of Public Records.* – This section shall apply to all
2 public records regardless of whether they were taken possession of before or
3 after the effectivity of this Act.

4 (a) Heads of government offices shall cause the transfer of the
5 following public records under their control and custody, to the control and
6 custody of the National Archives:

7 (1) Archival materials or collections of any government office which
8 are more than thirty (30) years old and which it can no longer be maintained
9 and preserved;

10 (2) Noncurrent public records that, in the judgment of the executive
11 director, are of permanent and enduring archival value or both to warrant their
12 preservation;

13 (3) Public records of a government office that ceases to exist as a
14 public office, or ceases to exercise a function to which its public records
15 relate, unless otherwise provided by law that a government agency shall take
16 over the responsibilities for those public records; and

17 (4) Noncurrent public records of a government office that has thirty
18 (30) years or more retention periods including inactive personnel records
19 which often referred to as the 201 files.

20 (b) The executive director may defer the transfer of any public records
21 if he/she is satisfied that by reason of the nature of the public records
22 concerned, the immediate transfer of the public records shall prejudice the
23 administration of any public office or would be contrary to public interest.

24 (c) Nothing in this section shall be deemed to authorize the transfer of
25 classified records except with prior written consent of the head of the
26 government office charged with the control and custody of public records.

27 (d) Nothing in this section shall be construed as affecting or extending
28 the law relating to copyright.

1 (e) Public records shall be surrendered on demand:

2 (1) Public records, in the possession of a private person who has
3 special permission to keep and handle records in the course of his official
4 duties, which in the opinion of the executive director are or likely to be of
5 permanent and enduring archival value, shall, on demand by the executive
6 director or a proper officer be surrendered to the custody and control of the
7 National Archives; and

8 (2) A public record, which is demanded, need not be surrendered if the
9 head of the government office has permitted the person referred to in the
10 immediately preceding subsection to retain possession of the record.

11 SEC. 21. *Deferred Transfers of Public Records.* – (a) The requirement
12 to transfer public records under Section 20(a) does not apply to the following:

13 (1) Public records whose disposition are under or part of specific acts,
14 laws or regulations;

15 (2) If the head of the controlling government office and the executive
16 director have agreed in writing that the transfer of the public records may be
17 deferred for a specified period on any conditions that the head and the
18 executive director consider appropriate; or

19 (3) Public records that are in electronic form, if the executive director
20 instructs the controlling government office in writing to continue to maintain
21 and control those records after the expiry of the thirty (30) year period.

22 (b) An agreement entered into under subsection (a)(2) hereof may be
23 renewed for further specified periods by agreement between the administrative
24 head of the controlling public office and the executive director.

25 (c) An instruction issued under subsection (a)(3) hereof:

26 (1) Must identify the public records to which the instruction relates;

27 (2) May contain conditions relating to the preservation and use of the
28 public records concerned; and

1 (3) May specify a date for the transfer of the records to the control of
2 the executive director.

3 (d) Every deferred transfer under this section shall be noted in the
4 Registry of Deferred Transfers, in accordance with Section 15(e).

5 SEC. 22¹ *Regional Archives, Records Center and Agency Records*
6 *Center, Establishment.* – Pursuant to the objectives of this Act, the following
7 may be established, maintained and operated by the National Archives:

8 (1) Regional Archives – They shall be responsible for the storage,
9 processing, servicing and preservation of public archives of government
10 offices in a region or regions.

11 (2) Records Centers – They shall be responsible for the storage,
12 processing and servicing of the noncurrent records transferred in the Records
13 Centers.

14 (3) Agency Records Centers – To be managed and operated by each
15 government office concerned, they shall be responsible for the maintenance
16 and preservation of public records under the custody and control of each
17 government office.

18 SEC. 23. *Protected Records of Local Governments.* – (a) The
19 executive director may, by notice in the *Official Gazette* made after
20 consultation with any local government concerned, declare that a local
21 government record is a protected record for purposes of this Act.

22 (b) A LGU shall provide for the adequate protection and preservation
23 of a protected record it holds, in accordance with any applicable standards or
24 instructions issued by the executive director.

25 (c) A LGU shall not dispose of a protected record unless it has:

26 (1) Notified in writing the executive director of its intention to dispose
27 of the protected record;

28 (2) Identified the protected record concerned; and

1 (3) Specified how it intends to dispose of the protected record.

2 (d) Not later than three months after receiving written notification
3 under subsection (c)(1), the executive director shall:

4 (1) Direct the local government in writing to transfer the protected
5 record to the control of the executive director, subject to conditions agreed by
6 the head of a LGU and the executive director; or

7 (2) Authorize the disposal of the protected record identified under
8 subsection (c)(2).

9 SEC. 24. *Approvals of Repositories.* – (a) The executive director may:

10 (1) Bestow upon an appropriate archives, such as a museum, a library,
11 another archive or a local government repository, as an approved repository
12 where public archives may be deposited for safekeeping; and

13 (2) Amend or revoke such grant of approval as stipulated under
14 paragraph (a), item (1) herein.

15 (b) The executive director may:

16 (1) At any time after giving reasonable notice, inspect an approved
17 repository;

18 (2) With the agreement of the head of the controlling government
19 office and the consent of the approved repository, deposit public archives in an
20 approved repository, or conditions on, or issue instructions to, an approved
21 repository for the purpose;

22 (3) Impose standards of ensuring that the national interests in the
23 public archives are preserved; the public archives are properly maintained and
24 appropriate public access to the public archives is maintained; and

25 (4) Direct an approved repository to transfer public archives to the
26 possession of the National Archives, another approved repository or the
27 controlling government office.

ARTICLE IV

STANDARDS, INSPECTION, REPORTING AND AUDIT

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3 SEC. 25. *Effectivity of Standards.* – All standards issued by the
4 executive director shall be published in the *Official Gazette* or in a newspaper
5 of general circulation not later than ninety (90) days before its effectivity. In
6 the absence of such required publication, the National Archives shall deem it
7 not effective.

8 SEC. 26. *Inspection Powers.* – The executive director may, after giving
9 reasonable notice to a government office inspect the system and procedure of
10 maintaining, including the storage or condition, of such public records that are
11 under the possession, custody or control of that office: *Provided, however,*
12 That the executive director is prohibited from exercising such power to inspect
13 in cases where public records:

- 14 (1) Carry security classifications; and
15 (2) Are restricted by other legislation without the consent of the head
16 of the controlling government office.

17 The provision of this section applies, with the necessary modifications,
18 to local government records and local government archives.

19 SEC. 27. *Direction to Report to the Executive Director.* – The
20 executive director may give notice in writing directing the head of a
21 government office or of an approved repository to report to the executive
22 director or to any other person on:

- 23 (1) Any specified aspect of its record keeping practice; or
24 (2) The public records that it controls or, in the case of an approved
25 repository, has possession of.

26 SEC. 28. *Annual Report on Record Keeping.* – The executive director
27 shall make an annual report to the President on the state of record keeping

1 within government offices. Such report shall be included in the annual report
2 given to the President where the same shall be furnished to the Congress.

3 SEC. 29. *Records Management Audit.* – The executive director shall
4 conduct a periodic inspection of the records holdings of the National Archives
5 and of other government offices, whether national or local. All heads of each
6 government office, whether national or local, shall have the duty to grant
7 access to all of its records for audit purposes. Records found not included in
8 above-said office's records disposition schedule shall be entered in Form 2 for
9 approval of the National Archives.

10 Such audit shall be conducted after five years from the date of
11 effectivity of this Act and thereafter.

12 ARTICLE V

13 ADMINISTRATION OF PUBLIC ARCHIVES

14 SEC. 30. *Public Access, Determination of Access Status as Open or*
15 *Restricted.* – When public records have been in existence for thirty (30) years
16 or more are about to be transferred to the custody and control of the executive
17 director under Section 20, the head of the controlling government office shall,
18 in accordance with this Section and Section 31 hereof, classify the records as
19 either:

- 20 (1) Open access records; or
21 (2) Restricted access records.

22 The head of a controlling government office may, at any time, change
23 the classification of a public record, referred to in accordance with Section 25.

24 SEC. 31. *Grounds for Determining Access Status.* – (a) In classifying
25 the access status of a public record under Section 30, the head of the
26 controlling government office shall consider existing rules and regulations on
27 classified records.

1 (b) If there are no good reasons to restrict public access under
2 subsection (a), or if no legal impediment exists that requires a public record to
3 be withheld from public access, the head of the controlling government office
4 shall classify the record as an open access record.

5 (c) If there are good reasons for restricting public access under
6 subsection (a), or if such legal impediment exists requiring such public record
7 to be withheld from public access, the head of the controlling government
8 office shall, in consultation with the executive director, determine the
9 necessity to restrict public access to the public record for a specified period of
10 time or permit such public access on conditions.

11 (d) The head of a controlling government agency may, at any time, in
12 consultation with the executive director, vary or withdraw a condition imposed
13 on public access records.

14 (e) A public record subject to a restriction under subsection (c)
15 becomes an open access record on the withdrawal of the restriction.

16 (f) National Archives shall comply with the conditions of public
17 access imposed under subsection (c).

18 (g) A restriction on public access to a public record shall be noted in
19 the public access registry, in accordance with Section 15(e)(1) of this Act.

20 (h) Every controlling government office is responsible for dealing with
21 requests for official and personal information under the existing laws and
22 regulations on access to classified matters.

23 *SEC. 32. Access Status of Local Government Records.* -- (a) When a
24 local government record becomes a local government archive, the head of the
25 local government shall classify it as either:

26 (1) An open access record; or

27 (2) A restricted access record.

1 (b) The head of a local government may, at any time, change the
2 classification of a local government record.

3 SEC. 33. *Grounds for Determining Access Status of Local Government*
4 *Records.* -- (a) In classifying the access status of a local government record,
5 the head of the controlling local government shall consider the following:

6 (1) There are good reasons to restrict public access to the local
7 government record, having regard to any relevant standard or advice issued by
8 the executive director; or

9 (2) There exists a legal impediment that requires such local
10 government record to be withheld from public access.

11 (b) If there are no good reasons to restrict public access under
12 subsection (a)(1), or if no legal impediment exists that requires a local
13 government record to be withheld from public access, the head of the
14 controlling government office shall classify the record as an open access
15 record.

16 (c) However, if there are good reasons to restrict public access under
17 subsection (a)(1), or if a legal impediment so requires a local government
18 record to be withheld from public access, the head of the controlling local
19 government shall, having regard to any relevant standard or advice issued by
20 the executive director determine whether it is necessary to restrict public
21 access to the local government record for a specified period of time, but which
22 shall not be for a period exceeding thirty (30) years or permit public access
23 subject to the appropriate conditions;

24 (d) Despite subsection (c), the head of the local government may, if
25 there is good reason to do so, restrict public access to the local government
26 record for one or more further specified periods not exceeding thirty (30)
27 years for each further period.

1 (e) At any time, the head of the controlling local government, having
2 regard to any relevant standard or advice issued by the executive director, may
3 vary or withdraw a condition imposed.

4 (f) A local government record, subject to a restriction under
5 subsection (c)(i), becomes an open access record on the withdrawal of the
6 restriction.

7 SEC. 34: *Public Inspections of Open Access Records.* – Unless this Act
8 provides otherwise, an open access record shall be made available for
9 inspection by the public as soon as is reasonably practicable after a request to
10 inspect the record is made to the government office, the LGU, the approved
11 repository, or National Archives, whichever has possession of the open access
12 record.

13 SEC. 35: *Publication or Copying of Public Archives.* – The executive
14 director may, subject to condition that he/she deems appropriate, authorize, in
15 writing, the publication or replication of a public archive that is an open access
16 record.

17 SEC. 36: *Prohibition on Public Access or Replication.* – Accessing or
18 replicating a public archive or protected record which is under the control and
19 custody of the National Archives shall be deemed prohibited. Such
20 prohibition on public access shall be noted in the public access registry, in
21 accordance with Section 15(e)(2) of this Act.

22 SEC. 37: *Restricted Access Records.* – The period for which public
23 access to a public record may be restricted under Section 30, may upon the
24 written request of the executive director, be reviewed after the expiry of ten
25 (10) years from the date that the restriction is recorded in the Public Access
26 Registry: *Provided,* That before its expiry, it may be extended for further
27 periods as specified by the head of the controlling government office.

ARTICLE VI

MISCELLANEOUS PROVISIONS

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3 SEC. 38. *Abolition and Transfer.* – The Records Management and
4 Archives Office is hereby abolished, all its assets, fixed and movable, and all
5 contracts, records and documents relative to its operation are hereby
6 transferred to the National Archives.

7 All agreements and contracts entered into by the Record Management
8 and Archives Office shall remain in full force and effect unless otherwise
9 terminated, modified or amended by the National Archives of the Philippines.

10 Officials and employees of the Records Management and Archives
11 Office shall be absorbed by the National Archives on the basis of merit and
12 fitness: *Provided*, That officers and employees who shall be separated from
13 the service as a result of the abolition hereof shall receive retirement and other
14 benefits to which they are entitled under existing laws.

15 SEC. 39. *Reorganization.* – The executive director shall have the
16 authority to reorganize the structure of the National Archives of the
17 Philippines, including its staffing pattern in order to carry out its functions.

18 Incumbents in the leadership structure of the existing Records
19 Management and Archives Office shall automatically be upgraded to their
20 analogous positions. With respect to the rest of the personnel, they shall be
21 extended automatic reappointment except those who opt to avail of an early
22 retirement scheme.

23 SEC. 40. *Offenses.* – A person who, willfully or negligently, damages a
24 public record or disposes of or destroys a public record other than in
25 accordance with the provisions of this Act or contravenes or fails to comply
26 with any provision of this Act or any regulations made under this Act shall be
27 deemed to have committed an offense.

1 SEC. 41. *Penalties for Violations.* – (a) Any public officer committing
2 any of the unlawful acts or omissions mandated under this Act shall be
3 punished by a fine of not less than Five hundred thousand pesos (P500,000.00)
4 but not exceeding One million pesos (P1,000,000.00) or be imprisoned for not
5 less than five years but not more than fifteen (15) years and/or both fine and
6 imprisonment at the discretion of the court without prejudice to the filing of
7 administrative charges that would result to such public officer's perpetual
8 disqualification from public office, and forfeiture, in favor of the government,
9 of his salary and other lawful income.

10 (b) The violation of the provision of Section 44 proven in a proper
11 administrative proceeding shall be sufficient cause for removal or dismissal of
12 a public officer, even if no criminal prosecution is instituted against him.

13 (c) A person convicted of an offense under Section 44 may, in addition
14 to any penalty imposed for violation, be prohibited by order of the court from
15 having access to the National Archives for any period that the court deems
16 appropriate.

17 SEC. 42. *Competent Court.* – Until otherwise provided by law, all
18 prosecutions under this Act shall be within the original jurisdiction of the
19 proper regional trial court.

20 SEC. 43. *Prescription of Offenses.* – All offenses punishable under this
21 Act shall prescribe in twenty-five (25) years.

22 SEC. 44. *Termination of Office.* – No public officer shall be allowed to
23 resign or retire pending an investigation, criminal or administrative, or
24 pending a prosecution against him, for any offense under this Act or under the
25 relevant provisions of the Revised Penal Code.

26 SEC. 45. *Suspension and Loss of Benefits.* – Any public officer against
27 whom any criminal prosecution under a valid information under this Act or
28 under the relevant provisions of the Revised Penal Code is pending in court

1 shall be suspended from office. Should he/she be convicted by final judgment,
2 he/she shall lose all retirement or gratuity benefits under any law, but if he/she
3 is acquitted, he/she shall be entitled to reinstatement and to the salaries and
4 benefits which he/she failed to receive during suspension, unless in the
5 meantime administrative proceedings have been filed against him.

6 SEC. 46. *Permanent Buildings.* – The National Archives of the
7 Philippines shall acquire buildings and facilities to be developed for the
8 purpose of accommodating all permanent and other vital public records in its
9 custody.

10 SEC. 47. *Rules and Regulations.* – The current director of the Records
11 Management and Archives Office, in coordination with the National Historical
12 Institute, the NCCA, the National Library, the Department of the Interior and
13 Local Government and the Department of Finance shall promulgate the
14 necessary implementing rules and regulations within ninety (90) days after the
15 approval of this Act: *Provided,* That the first executive director to be
16 appointed shall fully implement the principle expounded herein within two
17 years after the approval of this Act.

18 ARTICLE VII

19 FINAL PROVISIONS

20 SEC. 48. *Repealing Clause.* – Executive Order No. 290, series of 1958
21 and the applicable provisions of Executive Order No. 80, series of 1999 are
22 hereby repealed. Any other law, presidential decree or issuance, executive
23 order, letter of instruction, administrative order, proclamation, charter, rule or
24 regulation and/or parts thereof contrary to or inconsistent with the provisions
25 of this Act is hereby repealed, modified or amended accordingly.

26 SEC. 49. *Separability Clause.* – If for any reason, any portion or
27 provision of this Act be declared unconstitutional, other parts or provisions

1 hereof which are not affected thereby shall continue to be in full force and
2 effect.

3 SEC. 50. *Effectivity* .— This Act shall take effect fifteen (15) days after
4 its publication in the *Official Gazette* or in at least two national newspapers of
5 general circulation whichever comes earlier.

Approved,

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