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SENATE
S.B. No. 2938

RECEIVED

Introduced by Senator Lacson

EXPLANATORY NOTE

In recognition of the need to modernize the Armed Forces of the Philippines (AFP), Congress enacted Republic Act No. 7898, otherwise known as the AFP Modernization Act on February 23, 1995. The law envisioned, among others, to develop the Armed Forces of the Philippines' capability to a level where it can effectively and fully perform its constitutional mandate to uphold the sovereignty and preserve the patrimony of the Republic of the Philippines.

Section 7 of the said law mandated the submission of a modernization program for the AFP by the President, upon the recommendation of the Secretaries of National Defense and Budget and Management, to be approved through a Joint Resolution by the Senate and House of Representatives. Thus, on December 19, 1996, Joint Resolution No. 28 entitled, "*Joint Resolution Expressing The Approval By Both Houses Of Congress Of The AFP Modernization Program, Pursuant To Republic Act No. 7898, Otherwise Known As "The AFP Modernization Act,"*" was approved.

Pursuant to Section 6 of RA No. 7898 in relation to Joint Resolution No. 28, the AFP Modernization Program will expire by December of this year. After almost fifteen years, the AFP still lacks the needed weapons and equipment in order to fulfill its mandate as enshrined in the 1987 Constitution. In order to finish the modernization program with concrete results, there is a need to extend said program for another 15 years.

However, certain provisions of RA 7898 and the AFP Modernization Program also need to be adjusted to make them more responsive to a continuously changing international and regional security environment. The law was based on the assumption that counter insurgency operations or threats to the State's internal security will no longer be the prime responsibility of the AFP. It was crafted in order to address the country's defense against threats to its external security. To date, counter insurgency responsibility is still principally lodged with the AFP as mandated by Republic Act No. 8551 otherwise known as the "*Philippine National Police Reform and Reorganization Act of 1998*". The country continues to be beleaguered by one of the longest communist insurgencies in the world, secessionist movements in the South, and terrorist organizations that continue to wreak havoc on the country and our people.


It is therefore imperative and vital to enact a new piece of legislation that would amend RA 7898 in order to adjust it to current situation. The revised AFP Modernization Program shall be focused and directed initially towards addressing the internal security threats to the country and then developing it towards having an AFP organization with a shifting capability to meet both internal and external security threats.

In light of the foregoing, the early passage of this bill is earnestly requested.


PANFILO M. LACSON
Senator

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AN ACT
AMENDING REPUBLIC ACT NO. 7898, OTHERWISE KNOWN AS THE AFP
MODERNIZATION ACT, AND FOR OTHER PURPOSES.

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

SECTION ONE. Section 4 (e) of Republic Act No. 7898, otherwise known as the AFP Modernization Act, is hereby amended to read as follows:

“(e) Doctrines development. – [The transition of the AFP from an internal security-oriented force to an external security-oriented force requires the review, evaluation and validation of its present set of doctrines for the purpose of formalizing such doctrines. Towards this end, t] The Department of National Defense and the [general headquarters,] AFP, shall be responsible for the generation, evaluation, consolidation and formalization of doctrines; the conduct of periodic review and validation of doctrines through field application, testing and exercises; and the dissemination of approved doctrines at all levels of command.

The Secretary of National Defense shall formulate guidelines to implement this section in accordance with the objectives of the modernization program enumerated in the preceding section.”

Sec. 2. Section 6 of the same Act is hereby amended to read as follows:

“Sec. 6. Period of Implementation. – The **REVISED AFP [m]Modernization [p]Program** under this Act shall be implemented over a period of fifteen (15) years **EFFECTIVE UPON THE DATE OF THE APPROVAL OF THIS ACT**: *Provided, however,* That payments for amortization of outstanding multi-year contract obligations incurred under the “**REVISED AFP Modernization Act**” may extend beyond this period.”

Sec. 3. Section 7 of the same Act is hereby amended to read as follows:

“Sec. 7. *Submission of the REVISED AFP Modernization Program.* - (a) Within [ninety (90)] **SIXTY (60)** days from the effectivity of this Act, the President, upon the recommendation of the Secretaries of National Defense and Budget and Management, shall submit the **REVISED AFP [m]Modernization [p]Program** as provided for in this Act to Congress for its consideration and approval in a [j]Joint [r]Resolution of

the House of Representatives and the Senate. The [p]Program shall indicate or show inter alia:

- (1) The size and shape of the AFP in terms of personnel, equipment, and facilities during the various phases of the modernization program;
- (2) The modernization projects under it, including the major weapon and non-weapon equipment and technology acquisitions sought by the respective services and units of the AFP, any major infrastructure construction or improvement to be made and the particular objective(s) and component(s) under Sections 3 and 4, respectively, of this Act to which such intended acquisition, construction or improvements belongs; and
- (3) The priorities, schedules as well as estimated average cost of each modernization project or upgrading to be undertaken.

PROVIDED, THAT THE FIRST FIVE (5) YEARS OF THE IMPLEMENTATION OF THE PROGRAM SHALL BE SUBSTANTIALLY FOCUSED AND DIRECTED INITIALLY TOWARDS ADDRESSING THE INTERNAL SECURITY THREATS TO THE COUNTRY, UNLESS THE NATIONAL SECURITY SITUATION, AS DETERMINED BY THE NATIONAL SECURITY COUNCIL, REQUIRES A SHIFT TOWARDS MEETING THE THREATS TO ITS EXTERNAL SECURITY: PROVIDED, FURTHER, THAT THE FOLLOWING FIVE (5) YEARS OF THE PROGRAM SHALL BE DEVOTED TOWARDS THE DEVELOPMENT OF THE AFP WITH THE SHIFTING CAPABILITY TO MEET INTERNAL AND EXTERNAL SECURITY THREATS: PROVIDED, FINALLY, THAT THE FINAL FIVE (5) YEARS OF THE PROGRAM SHALL BE GEARED TOWARDS THE DEVELOPMENT OF A HIGHLY MODERNIZED ARMED FORCES TO MEET EXTERNAL SECURITY THREATS TO THE COUNTRY.

(b) In the event Congress approves the **REVISED** AFP [m]Modernization [p]Program, the [j]Joint [r]Resolution shall be the basis for subsequent executive and legislative actions to implement the AFP [m]Modernization [p]Program from year to year until its complete and full realization.”

Sec. 4. Section 8 of the same Act is hereby amended to read as follows:

“Sec. 8. *Appropriations for the **REVISED** AFP Modernization Program.* – The annual appropriations for the **REVISED** AFP [m]Modernization [p]Program shall include the amounts necessary to support the funding requirements for all modernization projects approved by Congress under the preceding section[.]: **PROVIDED, THAT UNDISBURSED AMOUNTS AT THE END OF ANY YEAR SHALL BE CARRIED OVER TO THE SUCCEEDING YEAR.**”

The funds to be appropriated by Congress under this Act shall be treated as a distinct and separate budget item from the regular appropriation for the Department of National Defense (DND) and the AFP and shall be administered by the Secretary of National Defense.

[The proposed program shall be based on a ceiling, for the first five (5) years, of Fifty billion pesos (P50,000,000,000.00): provided, that

thereafter, this amount may be increased commensurate to the increase in the Gross National Product (GNP).]"

Sec. 5. Section 11 of the same Act is hereby amended to read as follows:

"Sec. 11. *AFP Modernization Act Trust Fund.* – There is hereby created a trust fund, to be known as the AFP Modernization Act Trust Fund. Said trust fund, which shall be used exclusively for the AFP modernization program **INCLUDING ALL NECESSARY EXPENSES TO IMPLEMENT THE PROCUREMENT OF EQUIPMENT SUCH AS EXPENSES FOR PRE-QUALIFICATION AND POST-QUALIFICATION STAGES**, but not to include salaries and allowances, shall be funded out of the following:

- (a) Appropriations for the AFP [m]Modernization [p]Program;
- (b) The proceeds from the sale[, lease or joint development] of military reservations, as may be authorized by Congress, **PURSUANT TO THE PROVISIONS OF EXISTING LAWS AND REGULATIONS GOVERNING SALES OF GOVERNMENT PROPERTIES**, including such immovable and other facilities as may be found therein, not **OTHERWISE** covered by the Bases Conversion Development Authority, as provided for in Republic Act No. 7227, **AS AMENDED**;
- (c) **THE PROCEEDS FROM THE LEASE OR JOINT DEVELOPMENT OF MILITARY RESERVATIONS, AS MAY BE AUTHORIZED BY THE PRESIDENT, PURSUANT TO THE PROVISIONS OF EXISTING LAWS AND REGULATIONS GOVERNING LEASE OR JOINT DEVELOPMENT OF GOVERNMENT PROPERTIES, INCLUDING SUCH IMMOVABLES AND OTHER FACILITIES AS MAY BE FOUND THEREIN, NOT SPECIFICALLY ENUMERATED UNDER REPUBLIC ACT NO. 7227, AS AMENDED**;
- [(c)] (D) Shares of the AFP from the proceeds of the sale of military camps provided for under Republic Act No. 7227, **AS AMENDED, AS WELL AS THE PROCEEDS FROM THE LEASE AND/OR JOINT VENTURE AGREEMENTS AND SUCH OTHER DISPOSITIONS PERTAINING TO THE SAME CAMPS**;
- (E) **THE PROCEEDS DERIVED FROM PUBLIC-PRIVATE PARTNERSHIPS ENTERED INTO BY THE DEPARTMENT OF NATIONAL DEFENSE OR THE ARMED FORCES OF THE PHILIPPINES, AS MAY BE AUTHORIZED BY THE PRESIDENT, PURSUANT TO THE PROVISIONS OF EXISTING LAWS AND REGULATIONS**;
- [(d)] (F) Proceeds from the sale of the products of the [g]Government [a]Arsenal **AND/OR, IN CASE OF JOINT VENTURE, ALL INCOMES EARNED FROM THE EQUITY SHARE OF THE GOVERNMENT ARSENAL FROM THE JOINT VENTURE**;
- [(e)] (G) The proceeds from the disposal of excess and/or uneconomically repairable equipment and other movable assets of the AFP and the government arsenal;
- [(f)] (H) Funds from budgetary surplus, if any, as may be authorized by Congress subject to the provisions of Section 8 of this Act; [and]

- (I) DONATIONS COMING FROM LOCAL AND FOREIGN SOURCES, SPECIFICALLY EARMARKED TO BE USED FOR THE AFP MODERNIZATION PROGRAM;
- (J) THIRTY-FIVE PERCENT (35%) OF THE NATIONAL GOVERNMENT'S SHARE IN THE MALAMPAYA OIL AND GAS EXPLORATION AND SUCH OTHER SIMILAR OR RELATED EXPLORATIONS FOR ENERGY; AND
- [(g)] (K) All interest income of the trust funds.

[The trust fund] **NOTWITHSTANDING THE PROVISIONS OF REPUBLIC ACT NO. 7227, OTHERWISE KNOWN AS THE BASES CONVERSION AND DEVELOPMENT ACT OF 1992, AS AMENDED, OTHER EXISTING LAWS, AND PRESIDENTIAL ISSUANCES TO THE CONTRARY, FUNDS FROM THE FOREGOING SOURCES SHALL BE DEPOSITED DIRECTLY WITH THE AFP MODERNIZATION TRUST FUND, WHICH** shall be administered by the Secretary of National Defense in accordance with existing government auditing rules and regulations. **THE DEPARTMENT OF NATIONAL DEFENSE SHALL CONDUCT PERIODIC STUDIES ON HOW TO MAXIMIZE THE UTILIZATION OF THE TRUST FUND AND HOW ADDITIONAL REVENUES CAN BE GENERATED TO FUND THE AFP MODERNIZATION PROGRAM.**

Sec. 6. Section 12 of the same Act is hereby amended to read as follows:

"Sec. 12. Modernization of the Government Arsenal. – The modernization of the government arsenal, for the development of production capabilities to enhance self-sufficiency in defense requirements, shall be part of the AFP modernization program. The government arsenal shall be effectively utilized in the production of basic weapons, ammunition and other munitions for the use of the AFP, [and] the Philippine National Police (PNP) **AND OTHER UNIFORMED GOVERNMENT AGENCIES**, and for the sale and export of products in excess of [AFP/PNP] **THE requirements OF THE AFP, PNP AND OTHER UNIFORMED GOVERNMENT AGENCIES.** The government arsenal may use such production facilities as it may own or be provided with under this Act or as it may arrange, under joint venture, co-production or similar agreements with local and foreign entities. **THE PRESENT SITE OF THE GOVERNMENT ARSENAL, AS DEFINED BY PRESIDENTIAL PROCLAMATION NUMBER 361-A DATED 7 MARCH 1968, IS HEREBY DECLARED A DEFENSE INDUSTRIAL ECONOMIC ZONE WITH INVESTMENTS THEREAT ENTITLED TO SUCH TAX PRIVILEGES AND OTHER APPROPRIATE INCENTIVES THAT ARE ALLOWED UNDER REPUBLIC ACT NO. 7042, AS AMENDED, AND OTHER EXISTING LAWS.**

Sec. 7. Section 14 of the same Act is hereby amended to read as follows:

"Sec. 14. AFP Procurement System. – The DND-AFP shall strengthen its systems and procedures for equipment acquisition, taking into account new requirements under the AFP modernization program. Contract negotiations and equipment acquisition shall be treated as two sequential but separate steps, each requiring the separate decision of the

Secretary of National Defense. The decision making process for equipment acquisition shall start at the appropriate service command and submitted to the AFP Weapons Systems Board, while contract negotiation shall start at general headquarters AFP level. In its system and procedures for equipment acquisition, the provisions of Presidential Decree No. 1594, as amended, and other applicable laws shall apply.

UPON PRIOR APPROVAL BY THE PRESIDENT OF THE PHILIPPINES, AND WHEN THE PROCUREMENT FOR USE BY THE AFP INVOLVES MAJOR DEFENSE EQUIPMENT IN ACCORDANCE WITH THE DEFENSE SYSTEM OF MANAGEMENT, WHEN THE EQUIPMENT OR MATERIAL REQUIRED IS NOT AVAILABLE LOCALLY, AND THE SECRETARY OF NATIONAL DEFENSE HAS DETERMINED THAT THE INTERESTS OF THE COUNTRY SHALL BE PROTECTED BY NEGOTIATING DIRECTLY WITH A MANUFACTURER OR AN INSTRUMENTALITY OF ANOTHER COUNTRY WITH WHICH THE PHILIPPINES HAS ENTERED INTO A DEFENSE COOPERATION AGREEMENT OR OTHERWISE MAINTAINS DIPLOMATIC RELATIONS, THE PROCUREMENT BY THE ARMED FORCES OF THE PHILIPPINES OF THE EQUIPMENT ABOVEMENTIONED SHALL BE EXEMPTED FROM THE REQUIREMENT OF PUBLIC BIDDING UNDER REPUBLIC ACT NO. 9184: PROVIDED, HOWEVER, THAT THE PERFORMANCE BY THE SUPPLIER OF ITS OBLIGATIONS UNDER THE PROCUREMENT CONTRACT SHALL BE COVERED BY A PERFORMANCE SECURITY IN ACCORDANCE WITH SECTION 39 OF REPUBLIC ACT NO. 9184: PROVIDED, FINALLY, THAT MAJOR DEFENSE EQUIPMENT SHALL REFER TO AIRCRAFTS, VESSELS, TANKS, ARMORED VEHICLES, COMMUNICATION EQUIPMENT AND HIGH-POWERED FIREARMS.

Sec. 8. Section 16 of the Same Act is hereby amended to read as follows:

“Sec. 16. [Annual] Reports. – [Not later than the end of the first quarter of the succeeding year:]

- (a) **NOT LATER THAN THE END OF THE FIRST QUARTER OF THE SUCCEEDING YEAR,** [T]the Secretary of National Defense shall submit to the President and Congress an annual report on the status of the AFP Modernization Act Trust Fund, as provided for in Section 11 of this Act;
- (b) The Chief of Staff, AFP, shall submit to the President and Congress **QUARTERLY**, through the Secretary of National Defense, a[n annual] report containing the progress of the implementation of the modernization program under this Act to include the AFP modernization activities implemented prior to the approval of this Act.”

Sec. 9. There will be a new section inserted after Section 16 of the same Act which shall now become the new Section 17 which shall read as:

“SEC. 17. EXEMPTION FROM FEES, TAXES, DUTIES AND ASSESSMENTS. – ALL PROJECTS, UNDERTAKINGS, ACTIVITIES AND PROGRAMS UNDER THIS ACT SHALL BE EXEMPT FROM AND ALL FEES, TAXES, DUTIES AND ASSESSMENTS IMPOSED AND/OR

REQUIRED BY GOVERNMENTAL AND NON-GOVERNMENTAL AGENCIES, BODIES AND/OR ENTITIES.”

Sec. 10. The succeeding sections of the same Act are hereby amended and renumbered accordingly.

Sec. 11. *Repealing Clause.* – All laws, executive orders, rules and regulations inconsistent with or contrary to this Act, are hereby deemed accordingly repealed or amended.

Sec. 12. *Separability Clause.* – If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, the other sections or provisions not affected thereby shall remain in full force and effect.

Sec. 13. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days from its publication in at least two (2) newspapers of national circulation.

Approved,