

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

Office of the Secretary

'12 MAR 22 7:20

SENATE

RECEIVED

BY: 

COMMITTEE REPORT NO. 138

Submitted jointly by the Committees on National Defense and Security; and Ways and

Means on MAR 22 2012.

Re: Senate Bill No. 3164

Recommending its approval in substitution of Senate Bill Nos. 351, 2705 and 2938

Sponsors: Senators Lacson and Recto

MR. PRESIDENT:

The Committees on National Defense and Security; and Ways and Means to which were referred Senate Bill No. 351, introduced by Senator Trillanes IV, entitled:

**“AN ACT
AMENDING SECTION 4 (B) OF REPUBLIC ACT NO. 7898,
OTHERWISE KNOWN AS THE AFP MODERNIZATION ACT”**

Senate Bill No. 2705, introduced by Senator Recto, entitled:

**“AN ACT
EXTENDING THE MODERNIZATION PROGRAM OF THE ARMED
FORCES OF THE PHILIPPINES, AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 7898, OTHERWISE KNOWN AS THE AFP
MODERNIZATION ACT”**

and Senate Bill No. 2938, introduced by Senator Lacson, entitled:

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


have considered the same and have the honor to report them back to the Senate with the recommendation that the attached bill, Senate Bill No. 3164, prepared by the Committees, entitled:

**"AN ACT
AMENDING REPUBLIC ACT NO. 7898, ESTABLISHING THE
REVISED AFP MODERNIZATION PROGRAM AND FOR OTHER
PURPOSES"**

be approved in substitution of Senate Bill Nos. 351, 2705 and 2938 with Senators Trillanes IV, Recto and Lacson as authors thereof.

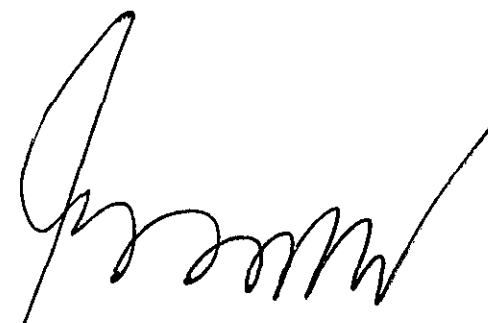
Respectfully submitted:

Chairmen:

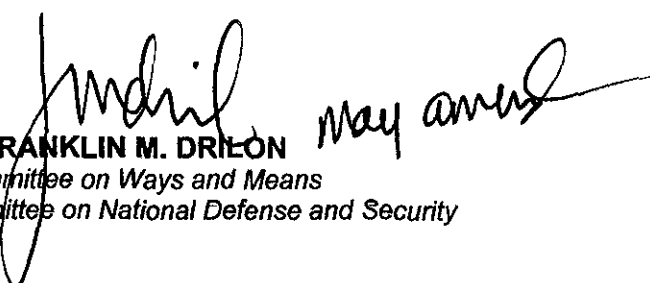
 may amend
RALPH G. RECTO
Committee on Ways and Means
Member, Committee on National Defense and Security


PANFILO M. LACSON
Committee on National Defense and Security


Vice- Chairmen:



GREGORIO B. HONASAN II
Committee on National Defense and Security
Member, Committee on Ways and Means



LOREN B. LEGARDA
Committee on National Defense and Security

 may amend
FRANKLIN M. DRILON
Committee on Ways and Means
Member, Committee on National Defense and Security

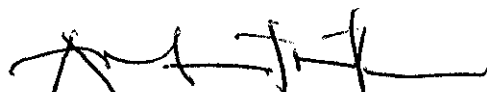
Members:



MIRIAM DEFENSOR SANTIAGO
Committee on Ways and Means



FERDINAND R. MARCOS, JR.
Committee on National Defense and Security

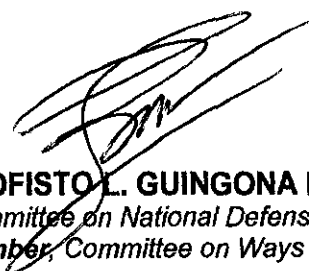

RAMON BONG REVILLA, JR.
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Committee on National Defense and Security



ANTONIO "SONNY" F. TRILLANES IV
Committee on National Defense and Security
Member, Committee on Ways and Means

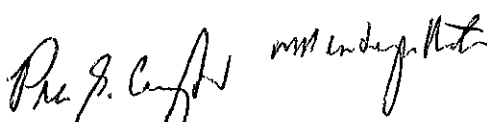

EDGARDO J. ANGARA
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Member, Committee on Ways and Means



TEOFISTO L. GUINGONA III
Committee on National Defense and Security
Member, Committee on Ways and Means


FRANCIS "CHIZ" G. ESCUDERO
Committee on National Defense and Security
Member, Committee on Ways and Means

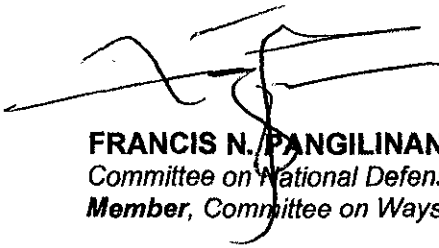

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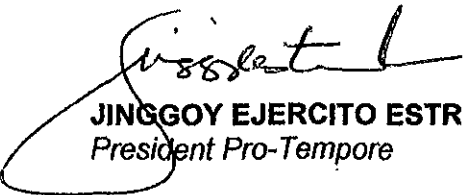


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Ex-Officio Members:



JINGGOY EJERCITO ESTRADA
President Pro-Tempore



With Information and May Arrend
ALAN PETER "COMPAÑERO" S. CAYETANO
Minority Leader



VICENTE C. SOTTO III
Majority Leader

Honorable JUAN PONCE ENRILE
Senate President

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SENATE

S. NO. 3164

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(In substitution of Senate Bill Nos. 351, 2705, and 2938)

Prepared by the Committee on National Defense and Security, *and* Ways and Means, with
Senators Lacson, Recto, and Trillanes IV as authors thereof

AN ACT
AMENDING REPUBLIC ACT NO. 7898, ESTABLISHING THE REVISED AFP
MODERNIZATION PROGRAM AND FOR OTHER PURPOSES

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

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

3 “(b) Capability, material, and technology development. — The AFP
4 modernization program entails the development and employment of certain
5 capabilities that can address the assessed threats: *Provided*, That the acquisition of
6 air force, navy and army equipment and material of such types and quantities shall
7 be made in accordance with the need to develop AFP capabilities pursuant to its
8 modernization objectives: *Provided, further*, That the acquisition of new
9 equipment and weapons systems, shall be synchronized with the phase-out of
10 uneconomical and obsolete major equipment and weapons systems in the AFP
11 inventory: *Provided, even further*, That no major equipment and weapons system
12 shall be purchased if the same are not being used by the armed forces in the
13 country of origin or used by the armed forces of [at least two countries]
14 **ANOTHER COUNTRY**: *Provided, furthermore*, That only offers from suppliers
15 who are themselves the manufacturers shall be entertained: *Provided, finally*, That
16 no supply contract shall be entered into unless such contract provides for, in clear
17 and unambiguous terms, an after-sales services and the availability of spare parts.

18 XXX

19 (e) Doctrines development. – [The transition of the AFP from an internal
20 security-oriented force to an external security-oriented force requires the review,

1 evaluation and validation of its present set of doctrines for the purpose of
2 formalizing such doctrines. Towards this end, t] The Department of National
3 Defense and the [general headquarters,] AFP, shall be responsible for the
4 generation, evaluation, consolidation and formalization of doctrines; the conduct
5 of periodic review and validation of doctrines through field application, testing
6 and exercises; and the dissemination of approved doctrines at all levels of
7 command.

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

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

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

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

19
20 “Sec. 7. *Submission of the REVISED AFP Modernization Program.* - (a) Within
21 [ninety (90)] **SIXTY (60)** days from the effectivity of this Act, the President,
22 upon the recommendation of the Secretaries of National Defense and Budget and
23 Management, shall submit the **REVISED AFP [m]Modernization [p]Program** as
24 provided for in this Act to Congress for its consideration and approval in a
25 [j]Joint [r]Resolution of the House of Representatives and the Senate. The
26 [p]Program shall indicate or show inter alia:

27
28 (1) The size and shape of the AFP in terms of personnel, equipment, and
29 facilities during the various phases of the modernization program;

30
31 (2) The modernization projects under it, including the major weapon and non-
32 weapon equipment and technology acquisitions sought by the respective
33 services and units of the AFP, any major infrastructure construction or
34 improvement to be made and the particular objective(s) and component(s)

1 under Sections 3 and 4, respectively, of this Act to which such intended
2 acquisition, construction or improvements belongs; and

3
4 (3) The priorities, schedules as well as estimated average cost of each
5 modernization project or upgrading to be undertaken.

6
7 **PROVIDED, THAT IN THE IMPLEMENTATION OF THE AFP**
8 **MODERNIZATION PROGRAM, THE ACQUISITION OF EQUIPMENT**
9 **OR UPGRADING TO BE UNDERTAKEN SHALL BE DEVOTED**
10 **TOWARDS THE DEVELOPMENT OF THE AFP WITH SHIFTING**
11 **CAPABILITY TO MEET INTERNAL AND EXTERNAL THREATS.**

12
13 (b) In the event Congress approves the **REVISED AFP [m]Modernization**
14 **[p]Program**, the **[j]Joint [r]Resolution** shall be the basis for subsequent executive
15 and legislative actions to implement the AFP **[m]Modernization [p]Program** from
16 year to year until its complete and full realization.”

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

18 “Sec. 8. *Appropriations for the REVISED AFP Modernization Program.* – The
19 annual appropriations for the **REVISED AFP [m]Modernization [p]Program**
20 shall include the amounts necessary to support the funding requirements for all
21 modernization projects approved by Congress under the preceding section.”

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

26 [The proposed program shall be based on a ceiling, for the first five (5)
27 years, of Fifty billion pesos (P50,000,000,000.00): provided, that thereafter, this
28 amount may be increased commensurate to the increase in the Gross National
29 Product (GNP).]”

30 Sec. 5. Section 11 of Republic Act No. 7898, otherwise known as the AFP
31 Modernization Act, is hereby amended to read as follows:

32 “Sec. 11. *AFP Modernization Act Trust Fund.* – There is hereby created a trust
33 fund, to be known as the AFP Modernization Act Trust Fund. Said trust fund
34 shall be used exclusively for the AFP modernization program **INCLUDING**

1 **ALL NECESSARY EXPENSES TO IMPLEMENT THE PROCUREMENT**
2 **OF EQUIPMENT SUCH AS EXPENSES FOR PRE-SELECTION AND**
3 **POST-QUALIFICATION STAGES**, but not to include salaries and allowances,
4 shall be funded out of the following:

5 (a) Appropriations for the AFP [m]Modernization [p]Program;

6 (b) The proceeds from the sale[, lease or joint development] of military
7 reservations, as may be authorized by Congress, **PURSUANT TO THE**
8 **PROVISIONS OF EXISTING LAWS AND REGULATIONS**
9 **GOVERNING SALES OF GOVERNMENT PROPERTIES**, including
10 such immovable and other facilities as may be found therein, not
11 **OTHERWISE** covered by the Bases Conversion Development Authority, as
12 provided for in Republic Act No. 7227, **AS AMENDED**;

13 **(C) THE PROCEEDS FROM THE LEASE OR JOINT DEVELOPMENT**
14 **OF MILITARY RESERVATIONS, AS MAY BE AUTHORIZED BY**
15 **THE PRESIDENT, PURSUANT TO THE PROVISIONS OF**
16 **EXISTING LAWS AND REGULATIONS GOVERNING LEASE OR**
17 **JOINT DEVELOPMENT OF GOVERNMENT PROPERTIES,**
18 **INCLUDING SUCH IMMOVABLES AND OTHER FACILITIES AS**
19 **MAY BE FOUND THEREIN, NOT SPECIFICALLY ENUMERATED**
20 **UNDER REPUBLIC ACT NO. 7227, AS AMENDED**;

21 **[(c)] (D) Shares of the AFP from the proceeds of the sale of military camps**
22 **provided for under Republic Act No. 7227, AS AMENDED, AS**
23 **WELL AS THE PROCEEDS FROM THE LEASE AND/OR**
24 **JOINT VENTURE AGREEMENTS AND SUCH OTHER**
25 **DISPOSITIONS PERTAINING TO THE SAME CAMPS**;

26 **(E) THE PROCEEDS DERIVED FROM PUBLIC-PRIVATE**
27 **PARTNERSHIPS ENTERED INTO BY THE DEPARTMENT OF**
28 **NATIONAL DEFENSE OR THE ARMED FORCES OF THE**
29 **PHILIPPINES, AS MAY BE AUTHORIZED BY THE PRESIDENT,**
30 **PURSUANT TO THE PROVISIONS OF EXISTING LAWS AND**
31 **REGULATIONS**;

32 **[(d)] (F) Proceeds from the sale of the products of the [g]Government [a]Arsenal**
33 **AND/OR, IN CASE OF JOINT VENTURE, ALL INCOMES**

1 **EARNED FROM THE EQUITY SHARE OF THE**
2 **GOVERNMENT ARSENAL FROM THE JOINT VENTURE;**

3 [[e)] **(G)** The proceeds from the disposal of excess and/or uneconomically
4 repairable equipment and other movable assets of the AFP and the
5 government arsenal;

6 [[f)] **(H)** Funds from budgetary surplus, if any, as may be authorized by
7 Congress subject to the provisions of Section 8 of this Act; [and]

8 **(I) DONATIONS COMING FROM LOCAL AND FOREIGN**
9 **SOURCES, SPECIFICALLY EARMARKED TO BE USED FOR**
10 **THE AFP MODERNIZATION PROGRAM; AND**

11
12 [[g)] **(J)** All interest income of the trust fund.

13 The trust fund shall be administered by the Secretary of National Defense
14 in accordance with existing government auditing rules and regulations. **THE**
15 **DEPARTMENT OF NATIONAL DEFENSE SHALL CONDUCT**
16 **PERIODIC STUDIES ON HOW TO MAXIMIZE THE UTILIZATION OF**
17 **THE TRUST FUND AND HOW ADDITIONAL REVENUES CAN BE**
18 **GENERATED TO FUND THE AFP MODERNIZATION PROGRAM.**

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

20
21 “Sec. 12. Modernization of the Government Arsenal. – The modernization of
22 the government arsenal, for the development of production capabilities to
23 enhance self-sufficiency in defense requirements, shall be part of the AFP
24 modernization program. The government arsenal shall be effectively utilized in
25 the production of basic weapons, ammunition and other munitions for the use of
26 the AFP, [and] the Philippine National Police (PNP) **AND OTHER**
27 **UNIFORMED GOVERNMENT AGENCIES**, and for the sale and export of
28 products in excess of [AFP/PNP] **THE requirements OF THE AFP, PNP AND**
29 **OTHER UNIFORMED GOVERNMENT AGENCIES**. The government
30 arsenal may use such production facilities as it may own or be provided with
31 under this Act or as it may arrange, under joint venture, co-production or similar
32 agreements with local and foreign entities.

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

1
2 **“SEC. 14. MODERNIZATION PLANNING AND PROCUREMENT. – THE**
3 **AFP MODERNIZATION PROGRAM PLANNING AND PROCUREMENT**
4 **SHALL BE CONDUCTED IN ACCORDANCE WITH THE DEFENSE**
5 **SYSTEM OF MANAGEMENT (DSOM) WHICH IS DEFINED AS A**
6 **STRATEGY-DRIVEN, CAPABILITY-BASED MULTI-YEAR PLANNING**
7 **AND EXECUTION PROCESS. IN THIS REGARD, STRATEGIC**
8 **PLANNING, CAPABILITY ASSESSMENT AND PLANNING,**
9 **ACQUISITION PLANNING, PROCUREMENT AND CONTRACTING,**
10 **AND RESOURCES PLANNING AND FINANCIAL MANAGEMENT**
11 **SHALL BE TREATED AS AN INTEGRATED AND WHOLISTIC**
12 **PROCESS.**

13 **UPON PRIOR APPROVAL BY THE PRESIDENT OF THE**
14 **PHILIPPINES, WHEN THE PROCUREMENT FOR USE BY THE AFP**
15 **INVOLVES MAJOR DEFENSE EQUIPMENT IN ACCORDANCE WITH**
16 **THE DEFENSE SYSTEM OF MANAGEMENT, AND THE EQUIPMENT**
17 **OR MATERIAL REQUIRED IS NOT AVAILABLE LOCALLY AND THE**
18 **SECRETARY OF NATIONAL DEFENSE HAS DETERMINED THAT**
19 **THE INTERESTS OF THE COUNTRY SHALL BE PROTECTED BY**
20 **NEGOTIATING DIRECTLY WITH A MANUFACTURER OR AN**
21 **INSTRUMENTALITY OF ANOTHER COUNTRY WITH WHICH THE**
22 **PHILIPPINES HAS ENTERED INTO A DEFENSE COOPERATION**
23 **AGREEMENT OR OTHERWISE MAINTAINS DIPLOMATIC**
24 **RELATIONS, THE PROCUREMENT BY THE ARMED FORCES OF**
25 **THE PHILIPPINES OF THE EQUIPMENT ABOVEMENTIONED**
26 **SHALL BE EXEMPTED FROM THE REQUIREMENT OF PUBLIC**
27 **BIDDING UNDER REPUBLIC ACT NO. 9184: PROVIDED, HOWEVER,**
28 **THAT THE PERFORMANCE BY THE SUPPLIER OF ITS**
29 **OBLIGATIONS UNDER THE PROCUREMENT CONTRACT SHALL BE**
30 **COVERED BY A PERFORMANCE SECURITY IN ACCORDANCE**
31 **WITH SECTION 39 OF REPUBLIC ACT NO. 9184; PROVIDED,**
32 **FINALLY, THAT MAJOR DEFENSE EQUIPMENT SHALL REFER TO**
33 **AIRCRAFTS, VESSELS, TANKS, ARMORED VEHICLES,**
34 **COMMUNICATION EQUIPMENT, RADAR SYSTEMS AND HIGH-**
35 **POWERED FIREARMS.”**

36 Sec. 8. Section 16 of the Same Act is hereby amended to read as follows:
37

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

3 (a) **NOT LATER THAN THE END OF THE FIRST QUARTER OF**
4 **THE SUCCEEDING YEAR, [T]the Secretary of National Defense shall**
5 submit to the President and Congress an annual report on the status of the
6 AFP Modernization Act Trust Fund, as provided for in Section 11 of this
7 Act;

8
9 (b) The Chief of Staff, AFP, shall submit to the President and Congress
10 **QUARTERLY**, through the Secretary of National Defense, a[n annual]
11 report containing the progress of the implementation of the modernization
12 program under this Act to include the AFP modernization activities
13 implemented prior to the approval of this Act.”

14
15 Sec. 9. Insert three sections after Section 16 of the same Act which shall now become the
16 new Sections 17, 18 and 19 respectively, which shall read as:

17 **“SEC. 17. EXEMPTION FROM VALUE-ADDED TAX AND CUSTOMS**
18 **DUTIES.- THE SALE OF WEAPONS, EQUIPMENT AND**
19 **AMMUNITIONS TO THE AFP, WHICH ARE DIRECTLY AND**
20 **EXCLUSIVELY USED FOR ITS PROJECTS, UNDERTAKINGS,**
21 **ACTIVITIES AND PROGRAMS UNDER THE AFP MODERNIZATION**
22 **ACT, SHALL BE EXEMPT FROM THE VALUE-ADDED TAX:**
23 **PROVIDED, THAT THE IMPORTATION OF THE SAME BY THE AFP**
24 **SHALL LIKEWISE BE EXEMPT FROM THE VALUE-ADDED TAX**
25 **AND CUSTOMS DUTIES.”**

26 **SEC. 18. CONGRESSIONAL OVERSIGHT COMMITTEE. THERE IS**
27 **HEREBY CREATED A CONGRESSIONAL OVERSIGHT COMMITTEE**
28 **TO MONITOR AND OVERSEE THE IMPLEMENTATION OF THE**
29 **PROVISIONS OF THIS ACT. THE COMMITTEE SHALL BE**
30 **COMPOSED OF SIX (6) MEMBERS FROM THE SENATE AND SIX (6)**
31 **MEMBERS FROM THE HOUSE OF REPRESENTATIVES WITH THE**
32 **CHAIRPERSONS OF THE COMMITTEE ON NATIONAL DEFENSE**
33 **AND SECURITY OF BOTH HOUSES AS JOINT CHAIRPERSONS OF**
34 **THIS COMMITTEE. THE FIVE (5) OTHER MEMBERS FROM EACH**
35 **CHAMBER SHALL BE DESIGNATED BY THE SENATE PRESIDENT**
36 **AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,**

1 **RESPECTIVELY. THE MINORITY SHALL HAVE AT LEAST TWO**
2 **REPRESENTATIVES FROM BOTH CHAMBERS.**

3 **SEC. 19. *SUNSET REVIEW.* – AS THE NEED ARISES OR WITHIN FIVE**
4 **(5) YEARS AFTER ITS EFFECTIVITY, THE CONGRESSIONAL**
5 **OVERSIGHT COMMITTEE SHALL CONDUCT A SUNSET REVIEW OF**
6 **THIS ACT. THE TERM “SUNSET REVIEW” SHALL MEAN A**
7 **SYSTEMATIC EVALUATION OF THE ACCOMPLISHMENTS AND**
8 **IMPACT OF THIS ACT, AS WELL AS THE PERFORMANCE AND**
9 **ORGANIZATIONAL STRUCTURE OF ITS IMPLEMENTING**
10 **AGENCIES, FOR PURPOSES OF DETERMINING REMEDIAL**
11 **LEGISLATION.”**

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

14
15 Sec. 11. *Repealing Clause.* – All laws, executive orders, rules and regulations
16 inconsistent with or contrary to this Act, are hereby deemed accordingly repealed or amended.

17
18 Sec. 12. *Separability Clause.* – If, for any reason, any section or provision of this Act is
19 declared unconstitutional or invalid, the other sections or provisions not affected thereby shall
20 remain in full force and effect.

21
22 Sec. 13. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
23 publication in at least two (2) newspapers of national circulation.