

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



Senate
Office of the Secretary

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SENATE

RECEIVED BY: 

Senate Bill No. 1234

Introduced by **SENATOR JOSEPH VICTOR G. EJERCITO**

EXPLANATORY NOTE

The digital age is upon us, yet we have been behind the curve for far too long.

Since the 12th Congress, this bill has been repeatedly introduced but failed to pass as a law.

It cannot be argued that BPO industry has contributed much to the economy. It created so many jobs to our skilled professionals. Business analysts predict that by 2016, revenues derived from IT-BPO industry will be as much as US\$ 25 Billion and employment increase to about 1.3 million. These figures alone will contribute amounts to 8.6 percent of our country's Gross Domestic Product.

The Philippines have already overtook India as the contact center capital of the world in 2010 and add to this the recognition of the IBM company by being the top destination country for business support functions such as shared services and the Business Processing Outsourcing (BPO).

It is clear that what is at stake in the Information and Communication Technology industry is growth and jobs. Thus, there is a need to have a dedicated premier government agency devoted to developing and promoting a national ICT strategy.

Through the DICT, we can now focus government resources on ensuring universal access and literacy, expanding the use of emerging technologies, and fostering an effective regulatory system for business—three crucial elements of a national ICT strategy.

Thus, the prompt approval of this bill is most earnestly sought.

JOSEPH VICTOR G. EJERCITO

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AN ACT CREATING THE DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY, DEFINING ITS POWERS AND FUNCTIONS, 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 “Department of Information and Communications Technology Act of 2013”.

SECTION 2. Creation of the Department. – There is hereby created the Department of Information and Communications Technology, hereinafter referred to as the Department.

SECTION 3. Declaration of Policy. – It is the policy of the State to promote the utilization of information and communications technology, hereinafter referred to as ICT, as a vital tool for nation-building and economic growth that is government-enabled, private sector-led, citizen-centric and market-based. Towards this end, the government shall prioritize the effective coordination and implementation of its national and local ICT and ICT-enabled services, programs, projects and other related initiatives, and reorganize and revitalize all relevant governmental institutions in order to achieve a streamlined and efficient structure that is responsive and attuned to national goals and objectives. It shall likewise be the policy of the State to provide an environment that will support investments in cost-efficient ICT infrastructure, systems and resources to ensure universal access and high-speed connectivity at fair and reasonable costs; a level-playing field for strategic alliances with investors in order to have balanced investments between high-growth and economically depressed areas; ensure consumer protection and welfare as well as preserve the rights of individuals and entities to privacy and confidentiality of information; and promote accountability through transparent governance and effective delivery of government frontline services.

SECTION 4. Definition of Terms. – As used in this Act, the following terms are defined as follows:

(a) *Broadcast* refers to the sending of information to two (2) or more receiving devices simultaneously – over a data communications network, voice mail, electronic mail system, local TV/radio station or satellite system. Broadcast involves sending a transmission simultaneously to all members of a group. In the context of an intelligent communications network, such devices could be host computers, routers, workstations, voice mail systems or just about anything else. In the less intelligent world of “broadcast media”, a local TV or radio station might use a terrestrial antenna or a satellite system to transmit information from a single source to any TV set or radio capable of receiving the signal within the area of coverage.

(b) *Chief Information Officer (CIO)* refers to a third-ranking career executive in charge of the information and communications technology/information technology/management information systems (ICT/IT/MIS) office in a department, bureau or government-owned or controlled corporation/government financial institution, including legislative, judicial and constitutional offices.

(c) *Cybersecurity* refers to securing the cyberspace from known and unknown attacks from d dos, Malwares and Trojans, among others, through the creation of technical defenses.

(d) *E-Governance or Electronic Governance* refers to the application of information communications technology to the processes of government functioning to bring about efficient, ethical, accountable, responsive and transparent governance.

(e) *Information and communications technology (ICT)* refers to the totality of electronic means to collect, store, process and present information to end-users in support of their activities and services. It consists of computer systems, office systems and consumer electronics as well as networked information infrastructure, the components of which include the telephone system, the Internet, fax machines and computers.

(f) *ICT-enabled service providers* refer to offshoring and outsourcing service providers, including contact centers, medical or legal transcription, animation, engineering or architectural design services, software development, business process outsourcing services and other providers of services that require the intrinsic use of a networked information infrastructure.

(g) *ICT sector or ICT industry* refers to all telecommunications carriers/operators, ICT equipment and solutions manufacturers and providers, Internet service providers, ICT training institutions, software developers and ICT-enabled service providers.

(h) *M-Governance or Mobile Governance* refers to the application of mobile technology to the process of government functioning to bring about efficient, ethical, accountable, responsive and transparent governance.

SECTION 5. Mandate. – The Department shall be the primary policy, planning, coordinating, implementing, regulating and administrative entity of the executive branch of the government that will

plan, promote and help develop the country's ICT sector and ensure reliable and cost-efficient communications facilities, other multimedia infrastructure and services.

The Department shall likewise be responsible for overseeing the government's integrated and strategic ICT systems and improving the acquisition, utilization and optimization of government's ICT in order to improve the productivity, efficiency, effectiveness and responsiveness of national and local government programs. The Department shall furthermore be responsible for ensuring the application of ICT to the various processes and functions of the government.

In fulfilling its mandate, the Department shall be guided by the following strategic objectives:

(a) Ensure the provision of a strategic, reliable, cost-efficient and citizen-centric ICT infrastructure, systems and resources as instruments of nation-building and global competitiveness;

(b) Foster a policy environment that will promote a broader market-led ICT and ICT-enabled services sector, a level playing field, partnership between the public and the private sectors, strategic alliance with foreign investors and balanced investments between high-growth and economically-depressed areas;

(c) Foster and accelerate the convergence of ICT facilities such as, but not limited to, the development of networks;

(d) Ensure universal access and high-speed connectivity at fair and reasonable costs;

(e) Ensure the availability and accessibility of ICT services in areas not adequately served by the private sector;

(f) Promote and encourage the widespread use, creative development and access to ICT with priority consideration on the requirements for growth of the Philippine ICT industry;

(g) Promote and assist the development of local and national content application and services in the area of ICT by sourcing or providing funds and construction assistance for ICT-hubs and/or technical support to local-based providers in these endeavors and in the marketing of the local products to the global community;

(h) Establish a strong and effective regulatory and monitoring system that will ensure investor and consumer protection and welfare, and foster a healthy competitive environment;

(i) Promote the development of ICT expertise in the country's human capital to enable Filipinos to compete in a fast-evolving information and communication age;

(j) Ensure the growth of ICT and ICT-enabled industries, including mobile technologies, application and services;

(k) Protect the rights of individuals to privacy and confidentiality of their personal information;

(l) Encourage the use of ICT in support of efforts or endeavors for the development and promotion of the country's agriculture, arts and culture, history, education, public health and safety, and other socio-civic purposes;

(m) Sustain the development of the nationwide postal system as an integral component of the overall development of ICT in the country;

(n) Ensure the security of ICT infrastructure and assets of individuals and businesses; and

(o) Empower, through the use of ICT, the disadvantaged segments of the population, including persons with disabilities (PWDs) or who are differently-abled.

SECTION 6. Powers and Functions. – To carry out its mandate, the Department shall exercise the following powers and functions:

(a) Formulate, recommend and/or implement national policies and guidelines in the ICT sector that will promote wider use and development of ICT, and its applications, such as e-commerce, in coordination with the Department of Trade and Industry (DTI), among others;

(b) Initiate, harmonize and/or coordinate all ICT plans and initiatives of government agencies to ensure overall consistency and harmony with e-governance objectives, in particular, and national objectives, in general;

(c) Represent and negotiate for Philippine interests on matters pertaining to ICT in international bodies;

(d) Develop and maintain national ICT development plans and establish and administer comprehensive and integrated programs for ICT with due consideration to advances in convergence and other emerging technologies; and for this purpose, invite any agency, corporation or organization, whether public or private, whose development programs in ICT are integral parts thereof, to participate and assist in the preparation and implementation of various programs among which are an integrated National Government Portal and the National Government Data Center;

(e) Leverage resources and activities in the various National Government Agencies (NGAs) for database building activity, information and resource sharing and agency networking linkages;

(f) Design, implement and ensure the protection of an integrated government information and communications infrastructure development program that will coordinate all relevant government entities, taking into consideration the inventory of existing and projected manpower, plans, programs, proposals, software and hardware, and the installed systems and programs;

(g) Provide an integrated framework in order to optimize all government ICT resources and networks and the identification and

prioritization of all e-governance systems and applications as provided for in the Government Information Systems Plan and/or the Medium-Term Development Plan (MTDP);

(h) Coordinate and support the generation and/or acquisition of all necessary resources and facilities as may be appropriate in and for the development, marketing, growth and competitiveness of the Philippine ICT and ICT-enabled services sector;

(i) Develop, implement and improve, in coordination with concerned government agencies and industry associations, the government's ICT application capabilities and determine the personnel qualification and other standards essential to the integrated and effective development and operation of government information and communications infrastructure;

(j) Encourage and establish guidelines for private sector funding of ICT projects for government agencies in order to fast-track said projects which provide reasonable cost-recovery mechanisms for the private sector including, but not limited to, build-operate-transfer (BOT) mechanisms;

(k) Assess, review and provide direction to ICT research and development programs of the government in coordination with the Department of Science and Technology (DOST) and other institutions concerned;

(l) Establish and prescribe rules and regulations for the establishment, operation and maintenance of ICT facilities in areas not adequately served by the private sector, in consultation with the private business sector, local government units (LGUs) and the academe;

(m) Provide policy direction and guidance on ICT-related aspects for the operation and maintenance of a nationwide postal system that shall include mail processing, logistics services, money remittance and payment services and other banking services, in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas;

(n) Administer and enforce all laws, standards, rules and regulations governing ICT;

(o) Ensure the protection of ICT-related intellectual property rights in coordination with the Intellectual Property Office (IPO), the Optical Media Board (OMB) and other concerned agencies;

(p) Protect the rights of consumer and business users to privacy, security and confidentiality in coordination with concerned agencies;

(q) Harmonize, synchronize and coordinate with appropriate agencies all ICT and e-commerce policies, plans and programs;

(r) Coordinate with the DTI in the promotion of trade and investment opportunities in ICT and ICT-enabled services;

(s) Promote strategic partnership and alliances among and between local and international ICT firms and institutions, research and development, educational and training institutions, and technology providers, developers and manufacturers to speed up industry growth

and enhance global competitiveness, in coordination with concerned agencies;

(t) Plan and/or implement such activities as may be appropriate and/or necessary to enhance the competitiveness of Philippine workers, firms and small-to-medium enterprises in the global ICT market and ICT-enabled services market in coordination with concerned agencies;

(u) Undertake initiatives to promote ICT and ICT-enabled services in education and training and the development, promotion and application of ICT in education in a manner that is consistent with national goals and objectives, and responsive to the human resources needs of the ICT and ICT-enabled services sector in particular in coordination with concerned agencies;

(v) Maximize the use of existing government assets and infrastructure by encouraging private sector investments and partnerships in its operation to achieve total digital inclusion and access to the global information highway; and

(w) Formulate guidelines and policies defining the manner of cooperation among Internet service providers (ISPs), telecommunication companies (TELCOs) and law enforcement agencies during official investigations on violations of existing laws relating to ICT.

SECTION 7. *Composition.* – The Department shall be headed by a Secretary to be appointed by the President, subject to confirmation by the Commission on Appointments. The President shall also appoint not more than four (4) Undersecretaries and four (4) Assistant Secretaries. Any person appointed as Undersecretary or Assistant Secretary of the Department must be a citizen and resident of the Philippines, of good moral character, of proven integrity and with experience or expertise in either of the following: electronic governance, cyber services, information technology infrastructure, e-commerce, cyber security, data privacy or human capital development.

At least one (1) of the Undersecretaries and one (1) of the Assistant Secretaries shall be a member of the Philippine Bar. The Assistant Secretaries referred to herein shall be career officers with appropriate eligibilities as prescribed by the Civil Service Commission.

SECTION 8. *Secretary of Information and Communications Technology.* – The authority and responsibility for the exercise of the mandate of the Department and for the discharge of its powers and functions shall be vested in the Secretary of ICT, hereinafter referred to as the Secretary, who shall have supervision and control over the Department. For such purposes, the Secretary shall:

(a) Provide executive direction and supervision over the entire operations of the Department and its attached agencies;

(b) Establish policies and standards for the effective, efficient and economical operation of the Department, in accordance with the programs of the government;

(c) Rationalize delivery systems necessary for the effective attainment of the objectives of the Department, including the creation of such offices as may be necessary to ensure the fulfillment of the Department's mandate, subject to the approval of the Department of Budget and Management (DBM);

(d) Review and approve requests for financial and manpower resources of all operating offices of the Department;

(e) Designate and/or appoint all officers and employees of the Department, except the Undersecretaries, Assistant Secretaries and Regional and Assistant Regional Directors, in accordance with civil service laws, rules and regulations;

(f) Establish coordinative mechanisms to ensure the successful implementation of national ICT policies, initiatives and guidelines in coordination with concerned government units, LGUs, public and private interest groups, including nongovernment organizations (NGOs) and people's organizations (POs);

(g) Advise the President on the promulgation of executive and administrative orders and regulatory and legislative proposals on matters pertaining to ICT development and promotion;

(h) Serve as member of the Government Procurement Policy Board as established by Republic Act No. 9184, otherwise known as the "Government Procurement Reform Act";

(i) Serve as the Chairperson of the Board of the Philippine Postal Corporation in accordance with Republic Act No. 7354, otherwise known as the "Postal Service Act of 1992", and the Corporation Law;

(j) Formulate such rules and regulations and exercise such other powers as may be necessary to implement the objectives and purposes of this Act; and

(k) Perform such other tasks as may be provided by law or assigned by the President from time to time.

SECTION 9. *Regional Offices.* – The Department shall be authorized to establish, operate and maintain a regional office in each of the administrative regions of the country as the need arises. The regional office shall be headed by a Regional Director, who may be assisted by one (1) Assistant Regional Director. The regional offices shall have, within their respective administrative regions, the following functions:

(a) Implement laws, policies, plans, programs, projects, rules and regulations of the Department;

(b) Provide efficient and effective service to the people;

(c) Coordinate with regional offices of other departments, offices and agencies;

(d) Coordinate with LGUs; and

(e) Perform such other functions as may be provided by law or assigned by the Secretary.

SECTION 10. Periodic Performance. – The Secretary is hereby required to formulate and enforce a system of measuring and evaluating periodically and objectively the performance of the Department and to submit the same annually to the President and to appropriate congressional committees.

SECTION 11. Council of Chief Information Officers. – Every department and agency of the national government or its equivalent office in any constitutional body, state college or university and government-owned and -controlled corporation is hereby directed to appoint or designate at least a third (3rd) ranking official as a Chief Information Officer.

The Council of Chief Information Officers shall be composed of eleven (11) members with fixed terms of office, to be appointed by the Secretary from sectoral representatives of government departments, constitutional bodies, the academe, LGUs and private sector ICT-oriented NGOs. The Secretary shall be the Chairperson of the Council.

The Council shall serve as a coordinating body to assist the Secretary in the establishment of policies, standards, rules and guidelines for the provision and other ICTe-governance initiatives. It shall also assist the Secretary in the monitoring and evaluation of the Government Information System Plan.

The Secretary shall convene the Council *en banc* or by sector at least once every semester within a calendar year.

SECTION 12. E-Government Fund. – There shall be an e-government fund to be appropriated annually under the General Appropriations Act (GAA) to be administered by the Department, specifically to fund cross-agency government ICT projects which shall be used to support and co-finance projects that enable the government to expand its ability to conduct activities electronically and provide frontline services through the development and implementation of innovative uses of the internet or other emerging technologies: *Provided*, That the fund shall not be used to cover personal services expenditures: *Provided, further*, That the rules and regulations on the utilization of the fund shall be jointly formulated by the Department and the DBM.

The Department may accept donations, contributions and grants from various sources, domestic or foreign: *Provided*, That in case of donations from foreign governments, acceptance thereof shall be subject to the prior clearance or approval of the President of the Philippines upon recommendation of the Secretary of Foreign Affairs. Receipts from donations shall be accounted for in the books of the Department in accordance with pertinent accounting and auditing rules and regulations.

In order to ensure full transparency, accountability and integrity on the use of e-government funds, a set of guidelines for the disbursement and management of the fund, including the monitoring and evaluation system of projects funded under the e-government fund,

shall be formulated, developed and published by the Department, in coordination with the DBM. In the preparation of said guidelines, consultations shall also be made with the respective umbrella organizations of the ICT sector.

The implementing agencies, which were granted funding under the e-government fund, shall maintain primary responsibility over the use and management of the allocated funds. The agencies concerned shall regularly submit performance and monitoring reports on the use of said funds to the Department.

In connection with the implementation of the e-government fund, the Department shall provide or arrange the appropriate or relevant ICT education or training program in order to enable the trainees to comprehend the ICT development cycle appropriate to a given project, as well as to ensure that government project managers shall acquire expertise for the timely delivery of systems according to a prescribed content and budget.

However, internal IT systems meant to support the agencies' IT operations shall be charged against the agencies' own budgetary allocation.

SECTION 13. *Transfer of Agencies and Personnel.* – (a) The following agencies are hereby abolished, and their powers and functions, applicable funds and appropriations, records, equipment, property and personnel transferred to the Department:

- (1) All operating units currently existing in the Commission on Information and Communications Technology (CICT);
- (2) National Computer Center (NCC); and
- (3) Telecommunications Office (TELOF).

All offices, services, divisions, units and personnel not otherwise covered by this Act for transfer or absorption into the new Department shall continue to perform their transportation-related functions and, therefore, shall be retained under the Department of Transportation and Communications (DOTC), which is hereby renamed as the Department of Transportation.

(b) The following agencies are hereby attached to the Department for policy and program coordination, and shall continue to operate and function in accordance with the charters, laws or orders creating them, insofar as they are not inconsistent with this Act:

- (1) National Telecommunications Commission (NTC); and
- (2) Philippine Postal Corporation.

The Department shall not exercise any power which will have the effect of modifying the exercise by the NTC of its quasi-judicial function.

(c) The laws and rules on government reorganization as provided for in Republic Act No. 6656, otherwise known as the Reorganization Law, shall govern the reorganization process of the Department.

SECTION 14. *Postal Regulatory Authority.* – The exclusive power and authority to regulate the postal delivery services industry, as provided for under Presidential Decree No. 240 and Republic Act No. 7354, is hereby transferred to the Department.

SECTION 15. *Sectoral and Industry Task Forces.* – The Department may create sectoral and industry task forces, technical working groups, advisory bodies or committees for the furtherance of its objectives. Additional private sector representatives, such as from the academe and the federation of private industries directly involved in ICT, as well as other NGAs, LGUs and government-owned and -controlled corporations (GOCCs), may be appointed to these working groups. Government IT professionals may also be tapped to partake in the work of the Department through these working groups.

SECTION 16. *Structure and Staffing Pattern.* – The Department shall determine its organizational structure and create new divisions or units as it may deem necessary, subject to the approval of the DBM, and shall appoint officers and employees of the Department in accordance with the Civil Service Law, rules and regulations.

SECTION 17. *Magna Carta.* – Employees of the Department shall be covered by Republic Act No. 8439, which provides a magna carta for scientists, engineers, researchers and other science and technology personnel in the government.

SECTION 18. *Separation from Service.* – Employees separated from the service as a result of the reorganization shall, within ninety (90) days therefrom, receive the retirement benefits to which they may be entitled under existing laws, rules and regulations.

Incumbents whose positions are not included in the new position structure and staffing pattern of the Department or who are not reappointed shall be deemed separated from the service, whether permanent, temporary, contractual or casual employees, and shall, within ninety (90) days therefrom, receive the retirement benefits to which they may be entitled to under existing laws, rules and regulations.

SECTION 19. *Appropriations.* – The amount needed for the initial implementation of this Act shall be taken from the current year's appropriations of the CICT and all government agencies herein absorbed or attached to the Department. 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: *Provided*, That the amount to be appropriated for the new Department shall be based on the organizational structure and staffing pattern approved by the DBM.

The budget of the Philippine Postal Corporation shall be charged from its internally generated funds.

SECTION 20. *Transitory Provisions.* – Within sixty (60) to ninety (90) days after the approval of this Act, the organizational structure, including the creation of new offices, divisions or units as may be deemed necessary for the Department to carry out its powers and

functions under this Act, shall be determined by the Secretary through a committee that shall be established for the purpose.

The new organizational structure and staffing pattern of the Department shall be evaluated and approved by the DBM.

The authorized positions created under the organizational or reorganization plan shall be filled with regular appointments, as the exigencies of the service will require and depending upon the position involved, by the President or the Secretary of the Department, as the case may be, in accordance with the civil service rules and regulations.

SECTION 21. *Implementing Rules and Regulations.* - The Department shall promulgate and issue such rules and regulations and other issuances as may be necessary to ensure the effective implementation of this Act within one hundred twenty (120) days from the approval thereof.

SECTION 22. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations and other issuances or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SECTION 23. *Separability Clause.* - If any provision of this Act shall be declared unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SECTION 24. *Effectivity Clause.* - This Act shall take effect after fifteen (15) days from its publication in at least two (2) newspapers of general circulation.

Approved,