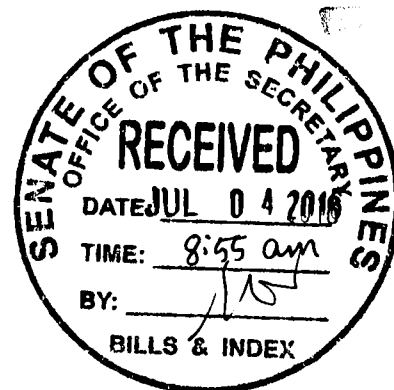


SEVENTEENTH CONGRESS OF THE REPUBLIC }  
OF THE PHILIPPINES }  
*First Regular Session* }



SENATE  
S.B. No. 258

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Introduced by **SENATOR LACSON**

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### EXPLANATORY NOTE

There is no doubt that corruption remains to be a major hindrance in the development and progress of our nation. The integrity and trustworthiness of our government will continue to be questioned until this perennial problem is finally resolved.

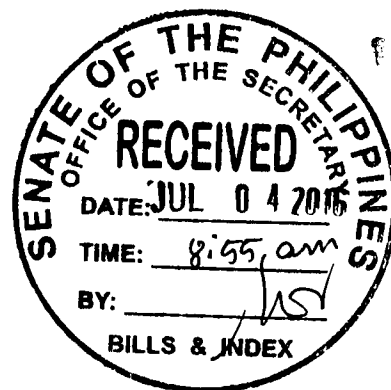
The difficulty in combating corruption lies in its very nature of being committed behind closed doors and well beyond the purview of the public eye. This is where the importance of obtaining credible witnesses with reliable information regarding the corrupt practices of government officials or employees comes into place.

This proposed legislation seeks to encourage whistleblowers to come out in the open and put an end to the corrupt practices of some government officials or employees. At the same time, it aims to strengthen the present machinery in ensuring the full protection and security of these brave witnesses against any form of retaliation or ostracism, and establish a rewards-and-benefits system in order to ensure the livelihood and welfare of these whistleblowers. In order, however, to protect the public, a rigid procedure will also be enforced in order to prevent any abuses of this bill as well as to prevent false testimonies that will only wreak more havoc into our society.

In view of the above premises, the immediate approval of this bill is urgently sought.

  
**PANFILO M. LACSON**  
Senator





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Introduced by SENATOR LACSON

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**“AN ACT  
PROVIDING FOR PROTECTION, SECURITY AND BENEFITS OF  
WHISTLEBLOWERS AND FOR OTHER PURPOSES.”**

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

1       Section 1. *Name of the Act.* – This Act shall be known as the “*Whistleblower Act*  
2 *of 2016*”.

3       Section 2. *Declaration of Policy.* - Public Office is a public trust. It is the policy  
4 of the State to promote and ensure full accountability in the conduct of its officers and  
5 employees, and exact full retribution from those who shall engage in graft and corrupt  
6 practices. Towards this end, the State shall:

7       (a) Maintain honest and high standards of integrity in the public service;

8       (b) Safeguard the national interest through the prosecution of corrupt and erring  
9 public officials and employees; and

10       (c) Encourage and facilitate the disclosure of corrupt conduct and practices in the  
11 public service by providing benefits and protection to whistleblowers.

12       Nothing in this Act shall diminish or restrict the entitlement, receipt or enjoyment  
13 by a whistleblower or an informant of more or higher benefits provided in existing laws.

14       Section 3. *Definition of Terms.* – As used in this Act, the following terms shall  
15 mean:

16       (a) “*Acts constituting graft and corruption*” shall mean any conduct, act or



omission of public officers and employees solely, or in cooperation or conspiracy with private persons which are covered by, or constitute as violations of:

(1) Republic Act No. 3019;

(2) Republic Act No. 6713;

(3) Republic Act No. 7080;

(4) Presidential Decree No. 46;

(5) Titles II and VII of Book Two of the Revised Penal Code.

(b) "*Employee*" shall mean any person who is made to suffer work by, or who renders service for, an employer. The term shall include public officers and employees as defined in this Act as well as any person considered an "employee" under the Labor Code.

(c) "*Employer*" shall mean any individual, partnership, association, corporation or entity, including the government, or any person or group of persons who shall directly or indirectly for or on behalf of said individual, partnership, association, corporation or entity, employs an employee as defined in this Act.

(d) "*Government*" includes the National Government, and any of its subdivisions, agencies or instrumentalities, including government-owned and controlled corporations and their subsidiaries, including the different Local Government Units.

(e) "*Whistleblower*" shall refer to an informant or any person who has privileged or personal knowledge or access to data, events or information and who shall deliberately disclose any individual, collective or organized conduct of any public officer/s and employees constituting graft and corruption as defined under this Act.

(f) "*Public officer*" shall refer to any person holding any public office in the Government of the Republic of the Philippines by virtue of an appointment, election or contract.

(g) "*Retaliatory action*" shall refer to any negative or obstructive responses,



1 reactions or reprisals to the disclosure made under this Act aimed at, pertaining to, or  
2 against a whistleblower or an informant or any of the members of his/her family and  
3 relatives up to the fourth civil degree of consanguinity or affinity. Said action shall  
4 include criminal, civil or administrative proceedings commenced or pursued against said  
5 whistleblower or any of the members of his family or relatives up to the second degree of  
6 consanguinity or affinity as well as retaliatory action in the workplace.

7 (h) "*Retaliatory action in workplace*" shall refer to any discriminatory conduct or  
8 policies which affect the promotion or job assignment including undue negative  
9 performance appraisal, close monitoring by supervisors, unwarranted criticisms or  
10 avoidance by co-employees, blacklisting from other job opportunities or prejudicial  
11 transfers by reason of the disclosure made under this Act.

12 (i) "*Qualified Whistleblower*" shall mean an informant or any person qualified  
13 and admitted into the Whistleblower's Program of either the Office of the Ombudsman or  
14 Senate/House of Representatives in accordance with this Act and its Implementing rules  
15 and regulations.

16 Section 4. *Coverage.* – Conduct constituting graft and corruption, whether  
17 commenced or consummated before the effectivity of this Act, shall mean any conduct,  
18 acts or omissions of public officers and employees solely, or in cooperation or conspiracy  
19 with private persons, which are covered by, or amount to violations of:

20 (1) Presidential Decree No. 46 otherwise known as "Making it Punishable for  
21 Public Officials and Employees to receive, and for Private Persons to Give, Gifts on any  
22 Occasion, including Christmas";

23 (2) Republic Act No. 3019 otherwise known as "Anti-Graft and Corrupt  
24 Practices Act";

25 (3) Republic Act No. 6713 otherwise known as "An Act Establishing a Code of  
26 Conduct and Ethical Standards for Public Officials and Employees";



1 (4) Republic Act No. 7080 otherwise known as the "Anti-Plunder Law";

2 (5) Titles II and VII of Book Two of the Revised Penal Code on "Crimes  
3 Against the Fundamental Laws of the State and Crimes Committed by Public Officers".

4 Section 5. *Admission to the Program.* – Whistleblowers or Informants whether  
5 from the public or private sector, shall be entitled to the benefits under this Act, provided,  
6 that all the following requisites concur:

7 (a) The disclosure is voluntary, in writing and under oath;

8 (b) The disclosure relates to conduct constituting graft and corruption under this  
9 Act;

10 (c) The disclosure is not yet subject of a complaint filed with the Office of the  
11 Ombudsman or investigated by any other investigating agency, unless in the opinion of  
12 the Ombudsman, such disclosure is necessary for an effective and successful  
13 investigation or prosecution, or essential for the acquisition of material evidence not yet  
14 in its possession;

15 (d) The information given by the whistleblower can be corroborated; and

16 (e) The information disclosed leads to a successful gathering of evidence and/or  
17 conduct of investigation sufficient to sustain a finding of probable cause for the filing of a  
18 criminal complaint or information before a court of competent jurisdiction.

19 Section 6. *Necessity of Testimony.* - The testimony of a whistleblower in court  
20 shall not be necessary for the entitlement or enjoyment of the benefits of this Act. In the  
21 event that the whistleblower's testimony is required as found by the Office of the  
22 Ombudsman to be necessary and indispensable for the successful prosecution of a case,  
23 he shall be entitled to the additional benefits and protection under Republic Act No. 6981  
24 otherwise known as the Witness Protection Program.

25 Section 7. *Memorandum of Agreement with the Person to be Protected.* – Before  
26 a person is provided protection as a whistleblower or informant for the State, he shall first



1 execute a *Memorandum of Agreement* which shall set forth his/her responsibilities  
2 including the following:

3 (a) To provide information to and testify before all appropriate law enforcement  
4 officials concerning any appropriate proceeding in connection with or arising from the  
5 activities involved in the offense subject matter thereof;

6 (b) To avoid the commission of a crime;

7 (c) To take all necessary precautions to avoid detection by others of the facts  
8 concerning the protection provided him under this Act;

9 (d) To cooperate with respect to all reasonable requests of officers and  
10 employees of the government who are providing him/her protection under this Act; and

11 (e) To regularly inform the appropriate program official of his current activities  
12 and address.

13 Section 8. *Breach of the Memorandum of Agreement.* – Substantial breach of  
14 the *Memorandum of Agreement* shall be a ground for the termination of the protection  
15 provided under this Act; *Provided*, however, that before terminating the same, the  
16 Ombudsman shall send notice to a whistleblower concerned, stating therein the reason for  
17 such termination. Reasonable time shall be afforded the informant to take the appropriate  
18 and necessary measures for his/her protection and security in view thereof.

19 Section 9. *Protection Against other Actions.* – A whistleblower or any person  
20 who has made a disclosure under this Act shall not be subject to any liability, whether  
21 administrative, civil, criminal or other proceedings for making such a disclosure or acts in  
22 relation thereto. No action, claim or demand may be taken against a whistleblower for  
23 making such disclosure nor shall any evidence presented be used against him in court and  
24 other administrative or quasi-judicial agency/body.

25 This protection shall also operate as immunity in favor of a whistleblower or  
26 informant against any action or proceeding taken against him/her by any person subject



1 of the disclosure, by reason thereof and acts in relation to the subject of disclosure.

2       Section 10. *Defense of Privileged Communication.* – A whistleblower or any  
3 person who has made a disclosure under this Act shall have, as defense in any other  
4 inquiry or proceeding, the absolute privilege with respect to the subject matter of his/her  
5 disclosure or information given to the proper authorities.

6       Section 11. *Confidentiality.* – Except insofar as allowed by this Act, during and  
7 after the disclosure, and throughout and after any proceeding taken thereafter, a  
8 whistleblower or an informant is entitled to absolute confidentiality as to:

9       (a) His identity;

10       (b) The subject matter of his disclosure; and

11       (c) The person to whom such disclosure was made.

12       There shall be no such confidentiality in his/her identity if a whistleblower or an  
13 informant makes a public disclosure of a conduct constituting graft and corruption as  
14 defined in this Act unless, notwithstanding such public disclosure, he has taken means  
15 and measures obviously intended to preserve his anonymity.

16       Section 12. *No Breach of Duty of Confidentiality.* – An informant who has made a  
17 disclosure under this Act on whom a provision of law, regulation, issuance, practice or  
18 other convention, imposes upon him/her a duty to maintain confidentiality with respect to  
19 any information disclosed, is considered not to have committed a breach thereof.

20       Section 13. *Confidential Information.* – No person to whom a disclosure has been  
21 made or referred shall disclose any information that may identify or tend to identify a  
22 whistleblower or informant or reveal the subject matter of such disclosure, except only as  
23 to the following circumstances:

24       (a) The whistleblower consents in writing prior to the disclosure of an  
25 information;

26       (b) The disclosure is indispensable and essential as determined by the Office of



1 the Ombudsman, having regard to the necessary proceedings to be taken after the  
2 disclosure; or

3 (c) The disclosure or referral is made pursuant to an obligation under this Act.

4 The prohibition on disclosure under this Section shall apply to any person who has  
5 become privy to any confidential information, whether officially or by other means.

6 Section 14. *Protection against Disciplinary Action or Reprisals.* – A  
7 whistleblower or a person who has made or is believed or suspected to have made a  
8 disclosure under this Act is not liable to disciplinary action for making said disclosure.

9 Prohibited acts under this section include retaliatory action in the workplace or  
10 prejudicial conduct towards the whistleblower, such as: discriminatory actions behind  
11 policies and procedures, reprimand, punitive transfers, unwarranted referral to a  
12 psychiatrist or counselor, and undue poor performance reviews. Other prejudicial  
13 conducts include obstruction of an investigation, withdrawal of essential resources, undue  
14 reports and the attachment of unfair personnel file notes.

15 To this end, any employer who shall discourage and impose sanctions on reprisals  
16 based on workplaces interaction, which shall include workplace ostracism, questions and  
17 attacks on motives, accusations of disloyalty and dysfunction, public humiliation, and the  
18 denial of work or promotion, or who encourages, causes or does retaliatory action or  
19 reprisal against an informant or anyone believed or suspected to be one shall be liable for  
20 an offense defined under this Act.

21 Any employee who refuses to follow orders of employers that would cause them  
22 to violate any provision of this Act shall likewise be protected from reprisals and  
23 retaliatory action in the workplace.

24 For purposes of this protection, an applicant for employment shall be deemed an  
25 employee and entitled to such protection.

26 Provided however, that an employer of a whistleblower shall be notified through a



1 certification issued by the Office of the Ombudsman, within a period of thirty (30) days,  
2 from the date when the informant last reported for work. Provided further that an  
3 employer shall have the option to remove such whistleblower from employment after  
4 securing a clearance from the Office of the Ombudsman and the Department of Labor  
5 and Employment in case of a prolonged absence due to transfer or permanent relocation  
6 under this Act or R.A. 6891.

7       Section 15. *Security and Protection of a Whistleblower.* – When determined to be  
8 necessary and appropriate by the Office of the Ombudsman, a whistleblower, even if the  
9 disclosure is made in confidence, shall be entitled to personal security. Should, at  
10 anytime, the identity of the informant be revealed, or his anonymity compromised, the  
11 whistleblower shall, in addition to the other benefits under this Act, and when warranted,  
12 be entitled to the benefits of R. A. No. 6981.

13       Section 16. *Confidentiality of the Proceedings.* – All proceedings involving  
14 application and/or enjoyment of the benefits under this Act, under the Office of the  
15 Ombudsman, including any action taken thereon, shall be confidential in nature. No  
16 information or documents given or submitted in support thereof shall be released except  
17 upon written order of the Office of the Ombudsman, and provided such disclosure shall  
18 not endanger the life of a qualified whistleblower.

19       Section 17. *Financial Rewards for Informants.* – The whistleblower shall be  
20 entitled to a corresponding monetary reward in accordance with the provisions of this Act  
21 and the implementing Rules and Regulations.

22       The informant shall receive an amount in accordance with the following schedule:

23	SALARY GRADE OF	FINANCIAL REWARD OF
24	MOST SENIOR RESPONDENT	QUALIFIED WHISTLEBLOWER
25	33	5,000,000
26	32	4,000,000



1	31	3,000,000
2	30	2,500,000
3	29	2,000,000
4	28	1,500,000
5	27	1,000,000
6	26	900,000
7	24-25	800,000
8	22-23	700,000
9	20-21	600,000
10	18-19	500,000
11	16-17	400,000
12	14-15	300,000
13	12-13	200,000
14	10-11	100,000
15	5-9	75,000
16	1-4	50,000

17       Upon being qualified as a whistleblower and admitted to the program by the  
 18 Office of the Ombudsman, fifty percent (50%) of the reward shall be given to the  
 19 qualified whistleblower. The remaining fifty percent (50%) shall be given prior to the  
 20 filing of a case in a proper court.

21       For cases susceptible to pecuniary estimation, such as plunder, forfeiture of ill-  
 22 gotten wealth, bribery, malversation and damage or injury to government, the  
 23 whistleblower shall be entitled to an additional reward of ten percent (10%) of the  
 24 amount recovered by final judgment.

25       During the pendency of the case, however, a whistleblower shall be advanced the  
 26 amount equivalent to not less than twenty five percent (25%) of the additional reward of



1 the total award due consistent with the nature of the case and the amount involved and  
2 deemed recoverable. This shall be given in accordance with the Rules and Regulations  
3 implementing this Act.

4 Section 18. *Abstract.* – All government agencies, offices, bureaus and local  
5 government units, including government-owned or controlled corporations, whether or  
6 not with original charters and the different local government units, shall conspicuously  
7 display an abstract of this Act and the rights and protections of whistleblowers, including  
8 the obligations of employers under this Act. Such abstract shall be provided in the Rules  
9 and Regulations.

10 These entities are likewise required to put in place internal procedures for dealing  
11 with whistleblowers, consistent with the provisions of this Act and the Rules and  
12 Regulations. Said internal procedure shall be widely disseminated to all the employees.

13 Section 19. *Credibility of an Informant.* – In all cases, the fact of the entitlement  
14 of the qualified whistleblower or informant to the protection and benefits provided in this  
15 Act shall not be admissible in evidence to diminish or affect his credibility.

16 Section 20. *Penalty for Retaliatory Acts Against a Whistleblower.* – Any person  
17 who commits any of the retaliatory acts as defined in this Act against a qualified  
18 whistleblower or informant and/or hinders, delays, prevents or dissuades said  
19 whistleblower from:

20 (a) Attending, assisting or testifying before any investigating agency or quasi-  
21 judicial body or judicial;

22 (b) Reporting to a law enforcement officer or judge the commission or possible  
23 commission of an offense, or a violation of conditions of probation, parole, or release  
24 pending judicial proceedings;

25 (c) Seeking the arrest of another person in connection with the offense;

26 (d) Causing a criminal prosecution, or a proceeding for the revocation of a parole



1 or probation;

2 (e) Performing and enjoying the rights and benefits under this Act or attempt to  
3 do so.

4 Shall be fined not more than One Hundred Thousand Pesos (Php 100,000.00) or  
5 suffer imprisonment of not less than six (6) months but not more than six (6) years or  
6 both at the discretion of a court, and shall also suffer the penalty of perpetual  
7 disqualification from holding public office in case of a public officer or employee.

8 Section 21. *Violation of Confidentiality.* – Any person who violates the protection  
9 of confidentiality of a protected disclosure under Sections 10, 11, 12 and 15 of this Act,  
10 shall suffer the penalty of not more than six (6) years but not less than six (6) months  
11 with an accessory penalty of temporary absolute disqualification for public office in case  
12 of a public officer or employee, and shall be civilly liable to indemnify the informant in  
13 such amount of damages as may be awarded and deemed reasonable by a competent  
14 court.

15 Section 22. *Retaliatory Action in the Workplace.* – Any person who shall commit  
16 any retaliatory act in a workplace as defined in this Act, against an employee who is a  
17 whistleblower or an informant or believed or suspected to be one, shall be guilty of an  
18 offense and shall suffer the penalty of not more than six (6) months imprisonment with  
19 the accessory penalty of suspension of the right to hold office in case of a public officer  
20 or employee, and shall be civilly liable to indemnify a whistleblower of damages as may  
21 be awarded by a competent court.

22 Toward this end, the aggrieved whistleblower shall be entitled to the provisional  
23 remedy of injunction against any retaliatory action in the workplace, prejudicial conduct  
24 or discriminatory treatment by reason of the whistleblower's disclosure.

25 The proceedings herein shall be independent of any action that an aggrieved  
26 person may take before the Civil Service Commission or the Department of Labor and



1 Employment for unfair or discriminatory practices, back wages, or other labor disputes,  
2 or before other quasi-judicial agencies that may or may not have arisen from a disclosure  
3 or believed or suspected disclosure.

4       Section 23. *Discriminatory Hiring.* – Any person, firm, corporation, office or  
5 employer who shall deny a qualified applicant for employment, or who shall reject his  
6 application for employment due to knowledge, belief or suspicion that the applicant is a  
7 whistleblower or informant for the State, shall be guilty of an offense and shall suffer the  
8 penalty of not more than six (6) months imprisonment with the accessory penalty of  
9 suspension of the right to hold public office in case of a public officer or employee, and  
10 shall be civilly liable to indemnify the informant of damages as may be awarded by a  
11 competent court.

12       Section 24. *Failure of an Employer to Post Abstract.* – The failure to post an  
13 *Abstract* required under Section 17 of this Act shall constitute an offense and shall be  
14 penalized with a fine in the amount of One Hundred Thousand Pesos (P100,000.00) for  
15 the first offense. The amount shall be doubled for every succeeding offense, and shall  
16 suffer an imprisonment of not more than six (6) months at the discretion of the court with  
17 the accessory penalty of suspension of the right to hold public office in case of a public  
18 officer or employee. For this purpose, the president, manager, or head of office, bureau  
19 or agency shall be held responsible.

20       Section 25. *Failure to Act or Report to the Office of the Ombudsman.* – Any  
21 person under obligation to report a disclosure under this Act to the Office of the  
22 Ombudsman, who fails to do so within the period of two (2) months, or who fails to act  
23 thereon or cause an investigation thereof, shall be guilty of an offense and shall suffer the  
24 penalty of not more than one (1) month imprisonment, and/or a fine amounting to not  
25 more than Fifty Thousand Pesos (Php 50,000.00).

26       Section 26. *False and Misleading Disclosures.* – Any person who deliberately and



1 voluntarily gives false or misleading information in connection with conduct constituting  
2 graft and corruption under this Act shall, in addition to penalties under other laws, be  
3 guilty of an offense and shall suffer the penalty of imprisonment of not more than twelve  
4 (12) years and shall also suffer the penalty of perpetual absolute disqualification from  
5 holding public office in case of public officer or employee, in addition to other criminal  
6 and civil liability he may incur under existing laws.

7       Section 27. *Powers and Functions of the Ombudsman.* – In addition to its powers  
8 and functions under existing laws, the Office of the Ombudsman shall have the following  
9 powers and functions:

10       (a) Supervise, monitor and coordinate all efforts relative to the implementation  
11 and enforcement of the provisions of this Act;

12       (b) Investigate all disclosures made under this Act and prosecute the same when  
13 warranted;

14       (c) Evaluate the qualification of whistleblowers or informants for coverage  
15 within this Act, and make the appropriate decision on their entitlement to the benefits  
16 extended herein;

17       (d) Undertake, in coordination and cooperation with the private and public  
18 sectors, an information campaign to educate the public on the provisions and benefits of  
19 this Act;

20       (e) Develop plans and implement programs to further encourage whistleblowers  
21 or informants on graft and corrupt activities with a view to effective deterrence and/or  
22 prosecution;

23       (f) Control and administer, consistent with the provisions and purpose of this  
24 Act, the protection and benefits of whistleblowers in connection with the cases within the  
25 coverage of Section 4 of this Act;

26       (g) Call upon, or deputize any department, bureau, office or any other



1 government agency or public official to assist in the effective implementation and  
2 enforcement of this Act;

3 (h) Grant immunity in accordance with the provisions of this Act and its  
4 implementing rules and regulation.

5 Section 28. *Legislative Whistleblower Program* – In order to encourage witnesses  
6 of acts constituting graft and corruption to testify before any legislative investigations in  
7 aid of legislation, the Senate and/or the House of Representatives may establish a joint or  
8 separate program for the benefit and protection of a whistleblower. Consistent with the  
9 provisions of this Act, the Senate and the House of Representatives shall promulgate the  
10 necessary rules and regulations for the proper implementation of the program; *Provided,*  
11 *That,* the whistleblower or informant may only be admitted to the program upon the  
12 recommendation of the Committee where his/her testimony is needed and upon approval  
13 of the Senate President or the Speaker of the House of Representatives, as the case may  
14 be; *Provided, Further, That,* the admission in the legislative whistleblower program shall  
15 not be a bar for admission to the program for whistleblowers of the Office of the  
16 Ombudsman with the same rights and privileges including the right to the monetary  
17 reward provided for therein; *Provided, Finally, That,* the grant of monetary reward by  
18 either the Congress or the Ombudsman will prevent the whistleblower from recovering  
19 the said monetary reward twice.

20 Section 29. *Implementing Rules and Regulations.* – The Office of the  
21 Ombudsman shall promulgate such Rules and Regulations as maybe necessary to  
22 implement the intent and purposes of this Act. Said Rules and Regulations shall be  
23 published in two (2) newspapers of general circulation.

24 Section 30. *Funding.* – The amount of One Hundred Million Pesos  
25 (Php100,000,000.00) is hereby authorized to be appropriated out of any funds in the  
26 National Treasury not otherwise appropriated to carry into effect the purpose of this



1           Other funding schemes or sources, subject to the limitation, shall be allowed in  
2 furtherance hereof.

3           Section 31. *Repealing Clause.* – All laws, decrees, executive issuances, rules and  
4 regulations inconsistent with this Act are hereby repealed or modified accordingly.

5           Section 32. *Separability Clause.* – The declaration of unconstitutionality or  
6 invalidity of any provision of this Act shall not affect the other provision hereof.

7           Section 33. *Effectivity Date.* – This Act shall take effect after fifteen (15) days  
8 following its publication in two (2) newspapers of general circulation.

9           *Approved,*