

SEVENTEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
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16 JUL 19 AIO:15

S E N A T E
S.B. No. 421

RECEIVED BY: 

Introduced by SENATOR LOREN LEGARDA

AN ACT REORGANIZING THE NATIONAL FOOD AUTHORITY INTO THE NATIONAL STRATEGIC FOOD RESERVE CORPORATION AND REDEFINING ITS POWERS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Explanatory Note

The National Food Authority (NFA) was created to address goals of ensuring low and stable food grain prices for consumers, pursuant to our national policy of agricultural modernization and sustainable poverty reduction.

Historically, however, it has proven fiscally impossible to address all of these objectives. Support to rice farmers has often been compromised in favor of urban consumers, with the volume of releases in urban areas far outstripping procurement from farmers. A study conducted by the International Rice Research Institute (IRRI) has further revealed that under the NFA monopoly over rice importation, Filipino consumers have ended up paying more for rice than they would have had to under a free trade regime. There is a growing consensus among economists that with the NFA monopoly on rice importation, the costs imposed by NFA operations on the Philippine economy far outweigh the benefits to rice producers and consumers.

Meanwhile, the present rice policy is potentially very lucrative for well-connected rice traders and political insiders, creating opportunities for graft and corruption, hidden in the following¹:

1. Unnecessarily high commissions paid to import-brokers.
2. Bribes paid by rice traders and/or wasteful lobbying/favor-currying to obtain import rights.
3. Government-to-government contracts whereby the Philippine government commits to buy low-quality rice at high market prices, with some parties pocketing the difference.
4. High-profits extracted by importers and wholesalers (above their legal and illicit payments for import rights and lobbying expenses).
5. High-profits extracted by cartelized retailers.
6. Other unnecessary costs due to inefficiencies in marketing and distribution.

¹ James A. Roumasset, "The Microeconomics of Agricultural Development in the Philippines," Working Paper No. 02-10, ADB, April 2002

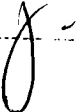
Many of the anomalies associated with the NFA's operations may be traced to its charter which mandates it to exercise both proprietary and regulatory roles. In other words, the NFA participates in a market that it also regulates. This bill addresses the issue of conflict of interest with the reorganization of the NFA into the National Strategic Food Reserve Corporation, which will provide the government with a service arm for the maintenance of strategic reserves in basic food commodities. Regulatory functions of the NFA shall be reverted to the Department of Agriculture, while management of food subsidies for the poor shall be transferred to the Department of Social Welfare and Development, which is better equipped to implement a focused program. These changes shall minimize the redundancies prevalent in the previous NFA administration, heighten the focus of government efforts on essential public services, and reduce opportunities for graft and corruption.

In view of the foregoing, the passage of this bill is earnestly sought.


LOREN LEGARDA
Senator

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

1 **SEC. 1. Title.** - This Act shall be known as the "National Food Authority
2 Reorganization Act."
3

4 **SEC. 2. Declaration of Policy and Objectives.** - It is hereby declared the
5 policy of the State to ensure food security for all Filipinos, attain sustainable
6 development, reduce poverty and promote social justice, empower the rural
7 sector, and improve the productivity and income of agricultural workers and
8 producers.
9

10 Towards this end, the government shall orient its programs for the
11 immediate attainment of the following objectives:
12

- 13 a) To establish linkages among the rice farmers, agricultural producers,
14 agricultural support service providers and the market;
15 b) To rationalize government intervention in the rice sector by focusing its
16 thrust on cost-effective, transparent and predictable programs aimed at
17 improving market efficiency;
18 c) To promote private sector participation in ensuring the country's food
19 security and price stabilization of staple crops especially rice; and
20 d) To focus government price subsidies to the most economically
21 disadvantaged.
22

23 **SEC. 3. Definition of Terms.** - For purposes of this Act:
24

- 25 a) "Calamity" shall refer to a fortuitous event which brings great loss or
26 destruction, including acts of God such as a typhoon, flood, drought,
27 earthquake or volcanic eruption, and acts of man such as political and/or
28 civil disturbances or widespread civil unrest;
29
30 b) "Capitalization" shall refer to resources invested in the different lines of
31 activity in the food grains industry, including the cost of stocks, whether
32 on consignment or cash basis, cost of facilities and equipment, and loans
33 used directly and exclusively for the business;

- 1 c) "Diversion" shall mean any of the following circumstances:
2 i) Unreasonable depletion of stocks;
3 ii) Selling or lending of government stocks to another grains
4 businessmen;
5 iii) Selling or offering to sell government stocks beyond the maximum
6 quantity or price allowed by law, rules and regulations; or
7 iv) Storing or selling government stocks in places other than those
8 duly authorized by law;
9
- 10 d) "Farmgate Price" shall refer to the prevailing buying price of a certain
11 commodity at the farm level in a certain locality at a given time;
12
- 13 e) "Farmers" shall refer to agricultural producers of food grains, whether
14 tillers or administrators of land;
15
- 16 f) "Food grains" shall refer to palay, rice, white corn or corn grits;
17
- 18 g) "Food Security" shall refer to the policy objective of substantially meeting
19 the food requirements of present and future generations of Filipinos,
20 ensuring that food is affordable and available to all, through a
21 combination of domestic production and importation, and consistent
22 with the overall national development objectives;
23
- 24 h) "Hoarding" shall mean the undue accumulation by any person or group
25 of persons of food grains beyond normal inventory levels, or the
26 unreasonable limitation or refusal to dispose of, sell or distribute stocks
27 of any prime commodity to the general public or the unjustified taking
28 out of any prime commodity from the channels of production, trade
29 commerce and industry;
30
- 31 i) "Licensing" shall refer to the act of granting an authority or privilege to a
32 qualified applicant to engage in a particular line of activity in the food
33 grains industry;
34
- 35 j) "Price Manipulation" shall refer to the act of causing prices of essential
36 commodities to fall or rise for one's own profit by falsifying figures,
37 accounts and other related information thereon;
38
- 39 k) "Price Stabilization" shall refer to measures which ensure that realized
40 fluctuations of the price of food grains conform to people's expectations;
41
- 42 l) "Government Rice Buffer Stock" shall refer to the inventory of rice
43 equivalent to at least thirty (30) days national rice consumption by July
44 1 of every year, for stabilization purposes particularly in deficit areas
45 and during lean production periods. This shall be inclusive of the 15-
46 day Strategic Rice Reserve;
47
- 48 m) "Service Corporation" shall refer to the concept of a government-owned
49 corporation performing the food security function of the State with
50 minimum government subsidy; and
51
- 52 n) "Strategic Rice Reserve" shall refer to the minimum inventory of rice
53 equivalent to at least fifteen (15) days national rice consumption, to be
54 maintained year-round under government control to ensure food security
55 during times of calamities.
56

1 **SEC. 4. Reorganization of the National Food Authority.** - To execute the
2 foregoing policy, goals and objectives, there is hereby created a body
3 corporate known as the National Strategic Food Reserve Corporation
4 (NSFRC) which shall be attached to the Department of Agriculture (DA).
5

6 **SEC. 5. Board of Directors.** - The powers and functions of the NSFRC shall
7 be vested in a Board of Directors which shall have the responsibility of
8 formulating a comprehensive program for the development of the food grains
9 industry. The Board shall be composed of a Chairman, President, and three
10 (3) Members who shall be Filipino citizens, at least thirty-five (35) years of
11 age, with sufficient experience in agri-business and management, and of
12 proven honesty, integrity and competence. Both the Chairman and the
13 President shall be appointed by the President of the Philippines from
14 nominees to be recommended by the Secretary of the DA within thirty (30)
15 days from the creation of the NSFRC.
16

17 Within the same period, the Secretaries of the DA, Department of Social
18 Welfare and Development (DSWD), and Department of Trade and Industry
19 (DTI) shall recommend fifteen (15) nominees from which the President of the
20 Philippines shall choose the remaining three (3) members of the Board. The
21 first member shall serve for a term of three (3) years, the second member for
22 two (2) years, and the third member for one (1) year. Subsequent vacancies
23 in the Board shall be filled up from a list to be submitted by the Secretaries
24 consisting of three (3) nominees for each vacancy, from which the President
25 of the Philippines shall choose a replacement to serve for a term of three (3)
26 years.
27

28 Within thirty (30) days from the submission of the list of nominees, the
29 President of the Philippines shall constitute the Board.
30

31 The Board shall meet at least once a month on any date to be determined by
32 the Chairman; Provided, that the Chairman may convene special meetings
33 to discuss any matter needing immediate resolution. The Board shall be
34 entitled to a per diem for each meeting actually attended by them and other
35 remuneration as may be determined by the Board in accordance with
36 existing policies of the government.
37

38 **SEC. 6. Organization.** - Within ninety (90) days from the constitution of the
39 Board, it shall approve the NSFRC's organizational structure, and salary
40 and staffing pattern. For this purpose, the salary standardization law shall
41 be applicable, except with respect to the authority of the Board to give
42 performance incentives to employees of the NSFRC; Provided, that
43 performance incentives may only be allowed if the NSFRC registers a profit
44 and their yearly cost does not exceed the equivalent of 10% of the NSFRC's
45 net income before taxes nor 100% of the gross pay of its employees.
46

47 The President shall have the authority to appoint, promote, transfer, assign,
48 reassign, remove, suspend or otherwise discipline officers and employees of
49 the NSFRC as may be delegated to him by the Board.
50

51 **SEC. 7. Management.** - The President shall direct and manage the affairs of
52 the NSFRC subject to the policy formulations of the Board. The President
53 shall receive the same salary and emoluments of a Department Secretary.
54

55 There shall be two (2) Executive Vice Presidents appointed by the Board for
56 a term of three (3) years who shall assist the President in the performance of

1 his functions. Either of the Executive Vice Presidents shall exercise the
2 powers and functions of the President in his absence. The Executive Vice
3 Presidents shall receive the same salary and emoluments of a Department
4 Undersecretary.

5
6 The Executive Vice Presidents and Vice President shall be citizens of the
7 Philippines, at least thirty-five (35) years of age, of proven honesty and
8 integrity and of recognized managerial competence.

9
10 **SEC. 8. Powers and Functions.** - The NSFRC shall exercise the following
11 powers and functions:

- 12
13 a) To undertake the duty and tariff-free importation of rice for the
14 government in order to maintain the appropriate volume of the Strategic
15 Rice Reserve and Government Rice Buffer Stock by July 1 of each year;
16 b) To own, lease, acquire by purchase or otherwise, hold, sell or dispose of
17 stocks or bonds or any interest in either or any obligation or evidence of
18 indebtedness of any person, partnership, firm or corporation;
19 c) To issue debt instruments that are *agri-agra* eligible and guaranteed by
20 the national government up to a maximum amount of Five Billion Pesos
21 (P5,000,000,000), beyond which the approval of the President of the
22 Philippines shall be required;
23 d) To own, lease, operate or otherwise hold land, buildings, equipment,
24 facilities and such other properties as may be necessary to carry out its
25 functions;
26 e) To establish its internal organization and fix the remuneration,
27 emoluments, allowances and other benefits of its officers and employees;
28 f) To exercise the rights and powers of a domestic corporation; and
29 g) Subject to the guidelines to be formulated by the Board, to negotiate
30 with private or government entities in the business of trading,
31 marketing, importing and exporting of commodities.

32
33 **SEC. 9. Capitalization.** - The NSFRC shall have a total authorized
34 capitalization of Fifteen Billion Pesos (P15,000,000,000) consisting of One
35 Hundred Fifty Million (P150,000,000) shares with par value of One Hundred
36 Pesos (P100) per share. From this amount Twelve Billion Pesos
37 (P12,000,000,000) shall be in the form of assets from the NFA and Three
38 Billion Pesos (P3,000,000,000) shall be in the form of cash to be
39 appropriated by the national government over a period not exceeding ten
40 (10) years. The Department of Budget and Management (DBM) shall include
41 annually during the three (3) year transition period the amount of Five
42 Hundred Million (P500,000,000) in the President's Budget submitted to
43 Congress.

44
45 **SEC. 10. Assets and Liabilities.** - All assets and liabilities of the NFA not
46 transferred to the NSFRC shall be retained and administered, disposed of
47 and liquidated by the NFA itself, which shall continue to exist as the NFA
48 Board of Liquidators (BOL). The NFA-BOL shall receive budgetary support
49 from the national government and be manned by personnel detailed from
50 the NFSRC. It shall be deemed abolished upon full disposition of assets and
51 liquidation of liabilities of the NFA within a period not to exceed ten (10)
52 years, after which all remaining assets and liabilities shall be deemed
53 transferred to the national government.

54
55 Assets pertaining to the regulatory, developmental and research functions of
56 the NFA shall be transferred to the DA.

1
2 **SEC. 11. Penal Provisions.** - The following acts or omissions shall be
3 punishable as follows:

4 a) Serious Offenses:

5 i) Cornering or hoarding of food grains resulting in an artificial shortage
6 or scarcity of supply and increase of prices thereof in any part of the
7 country;

8 ii) Unreasonable depletion of stocks; selling or lending of government
9 stocks to another food grains seller; selling or offering to sell government
10 stocks beyond the maximum quantity or price allowed by the DA; or
11 storing or selling government stocks in other places other than those
12 duly authorized by law;

13 iii) Causing prices of essential commodities to fall or rise for one's own
14 profit by changing or falsifying figures, accounts and other related
15 information pertaining thereto;

16 v) Printing, issuing, or knowingly using, processing or negotiating, a
17 cancelled, unauthorized, illegal, counterfeit or falsified warehouse
18 receipt;

19 vi) Failure or unlawful refusal of an accountable official to turn over or
20 remit collection within a reasonable period of time; or

21 vii) Failure or unlawful refusal of a food grains warehouseman to deliver
22 food grains deposited with him; Provided, that the warehouseman shall
23 be entitled to the allowance authorized for depreciation of the food grains
24 deposited.

25
26 The offender shall, upon conviction, be punished by imprisonment of not
27 less than six (6) years and one (1) day to not more that twelve (12) years, or
28 a fine of not less than Two Hundred Thousand Pesos (P200,000) to not more
29 than Two Million Pesos (P2,000,000), or both, at the discretion of the court.

30
31 b) Less Serious Offenses:

32
33 i) Conniving in the concealment of stock shortage in a food grains
34 warehouse;

35 ii) Knowingly submitting any report containing false information or data;
36 or

37 iii) Failure or refusal of a warehouseman to allow the inspection of his
38 food grain stocks to misrepresent their quantity or quality or to conceal
39 a shortage, including the impeding of such inspection and examination
40 by abandonment, absence or other similar means.

41
42 The offender shall, upon conviction, be punished by imprisonment of not
43 less than four (4) years and one (1) day to not more than eight (8) years, or
44 by a fine of not less than One Hundred Thousand Pesos (P100,000) to not
45 more than One Million Pesos (P1,000,000), or both, at the discretion of the
46 court.

47
48 c) Light Offenses:

49 i) Willful non-compliance with any official order, circular or directive
50 lawfully issued by the DA, unless such constitutes a higher offense
51 under this Act, in which case the offender shall be penalized under
52 the latter offense;

53 ii) Selling or offering to sell to the NSFRC food grains other than those
54 directly produced by them as farmer or shared by them as tenant or
55 landlord, or knowingly buying such food grains ostensibly for the
56 NSFRC or conspiring in such fraud; or

1 iii) Committing any other violation of a provision of this Act for which
2 no specific penalty is prescribed and which is not punished under
3 any other existing law.
4

5 The offender shall, upon conviction, be punished by imprisonment of not
6 less than two (2) years to not more than four (4) months, or a fine of not less
7 than Fifty Thousand Pesos (P50,000) to not more than Five Hundred
8 Thousand Pesos (P500,000), or both, at the discretion of the court.
9

10 **SEC. 12. Appropriation and Transfer of Mandates.** - The following powers
11 and functions of the NFA shall be transferred to the following agencies:
12

- 13 a) Programs directly relating to food subsidies for the poor, particularly the
14 Targeted Rice Distribution Program (TRDP) and Coconut Farmers Food
15 Access Program (CFFAP), shall be transferred to the DSWD;
16 b) Programs for the stabilization of prices and food grains supply at the
17 farm gate shall be transferred to the DA;
18 c) Programs for the stabilization of rice supply and prices at the consumer
19 level shall be transferred to the DA;
20 d) Regulation of food grains trading and marketing, including the
21 registration and licensing of warehouses, determination of quality
22 standards, and determination of the requirements of a national strategic
23 rice reserve shall be transferred to the DA.
24

25 These government agencies shall be responsible for sourcing funds for these
26 programs, for which they shall exclusively commission the NSFRC as a
27 Service Corporation. To allow for the continued implementation of the
28 above mandate, the DBM shall during the transition period include in the
29 President's budget proposal, the minimum amounts of One Billion Pesos
30 (P1,000,000,000) for use by the DA in farmgate price and supply
31 stabilization, Two Hundred Fifty Million Pesos (P250,000,000) for use by the
32 DA in consumer price and supply stabilization, and Five Hundred Million
33 Pesos (P500,000,000) for the DSWD.
34

35 **SEC. 13. Service Incentive Package.** - Permanent officials and employees
36 of the NFA who choose to leave government service, or who shall choose to
37 retire if eligible, shall be given a Separation Incentive Package (SIP) in
38 addition to other retirement benefits to which they may be entitled under
39 existing laws and regulations, based on the following scale:
40

- 41 a) 1.5 x gross monthly pay for every year of service up to 20 years; and
42 b) 2.0 x gross monthly pay for every year of service in excess of 20 years.
43

44 Employees who opt to retire under the provisions of Republic Act No. 1616
45 shall receive the equivalent of 1.5 gross monthly pay for every year of
46 service. Employees not retiring who are not absorbed in the NSFRC shall be
47 placed in the DA, without loss of seniority and benefits. The existing
48 number of NFA personnel shall not be increased and no new hiring shall be
49 allowed until all NFA employees shall have been placed.
50

51 For the purpose of implementing this provision, there is hereby appropriated
52 the necessary amount out of any funds or resources of the NFA. Any
53 deficiency shall be automatically appropriated in the General Appropriations
54 Act of the succeeding year.
55

1 To provide continuity in operations, all incumbent personnel of the NFA
2 shall continue to exercise their respective duties and functions and receive
3 the corresponding salaries and benefits until the organizational structures
4 and staffing patterns of the NSFRC shall have been approved.

5
6 **SEC. 14. Transitory Provisions.** - Officials and employees of NFA may be
7 directed to remain in the service for a period not exceeding three (3) years,
8 without losing their right to avail of the SIP within this period. The Board
9 shall each appoint three (3) representatives to constitute a mediation group
10 that shall settle issues on the distribution of assets and personnel, to be
11 headed by a Chairman appointed by the President of the Philippines.

12
13 **SEC. 15. Suppletory Application of the Corporation Code.** - In the
14 absence of any applicable provision under this Act, the pertinent provisions
15 of Batas Pambansa Blg. 68, otherwise known as the Corporation Code of the
16 Philippines, may be applied suppletorily.

17
18 **SEC. 16. Repealing Clause.** - All laws, decrees, executive orders, rules and
19 regulations, issuances or parts thereof inconsistent with the provisions of
20 this Act are hereby repealed or modified accordingly.

21
22 **SEC. 17. Separability Clause.** - The provisions of this Act are hereby
23 declared to be separable, and in the event one or more such provisions are
24 held unconstitutional, the validity of the other provisions shall not be
25 affected thereby.

26
27 **SEC. 18. Effectivity.** - This Act shall take effect fifteen (15) days after its
28 publication in English or Filipino in the official gazette or in at least two (2)
29 newspapers of general circulation, whichever comes first.

30
31 Approved,