

**EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES**
First Regular Session



Senate
Office of the Secretary

SENATE

'19 JUL 18 P1:44

S. B. NO. 619

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Introduced by **SENATOR JOEL VILLANUEVA**

**AN ACT CREATING THE
NATIONAL INDEPENDENT COMMISSION AGAINST
CORRUPTION (NICAC), APPROPRIATING FUNDS THEREFOR
AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

The Philippines prides itself as the one of the oldest democracies in Asia. Throughout its history, the Philippines has fought for the right to independence and sovereignty. But alongside this is the country's continued fight against systemic and endemic corruption in government.

While the government's effort to address corruption has made some substantial inroads, much is still needed to be done. In the 2018 Transparency International Corruptions Perception Index, the Philippines ranked 99th out of 180 countries, jumping 12 notches from its 111th rank placement in 2017.¹ Despite this improvement, however, it was also noted that the Philippines' cumulative score of 36 is significantly less than the Asia Pacific average of 44.² This means that the Philippines still has to make substantial reforms in eliminating and thwarting corrupt practices in government.

Indeed, the effects of corruption are far-reaching: funds that should have been provided for the needs of the Filipino people end up in the pockets of unscrupulous government officials; businesses are discouraged from

¹ 2019, January 29. Philippines slightly improves in 2018 on global corruption index. Retrieved from: <https://www.rappler.com/nation/222177-philippines-ranking-corruption-perceptions-index-2018> (date last accessed: June 24, 2019).

² Id.

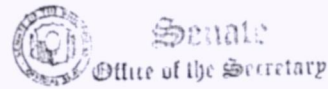
making substantial investments in the Philippines due to additional transaction costs as a result of corruption, among others.

Recognizing the need to strengthen the anti-corruption framework in the Philippines, this bill creates the National Independent Commission Against Corruption (NICAC) as an attached agency of the Office of the Ombudsman. The NICAC is largely patterned after Hong Kong's Independent Commission Against Corruption, which successfully eradicated syndicated corruption in Hong Kong.

The NICAC shall formulate a National Anti-Corruption Plan and provide policy recommendations to the Office of the Ombudsman to effectively combat corruption in government. To ensure coordination between the NICAC and the Office of the Ombudsman, this bill mandates that the NICAC shall be headed by the Ombudsman or any of his/her deputies. The NICAC shall also submit periodic reports to the Ombudsman to ensure that the efforts of both agencies are coordinated and to avoid duplication of work.


The immediate passage of this bill is earnestly sought.


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

- 1 **SECTION 1. Title** – This Act shall be known as the “National Independent
2 Commission Against Corruption Act.”
3
4 **SEC. 2. Declaration of Policy.** – It is the declared policy of the State to
5 maintain honesty and integrity in public service and to take effective and
6 efficient measures in the battle against graft and corruption. Towards this end,
7 the State shall continuously institute reforms to ensure that graft and
8 corruption is eliminated in all levels of the government.
9
10 **SEC. 3. Organization.** – There is hereby created the National Independent
11 Commission Against Corruption, hereinafter referred to as the Commission, to
12 implement and coordinate policy for the prevention, control and ultimately, the
13 elimination of graft and corrupt practices as defined under relevant laws at all
14 levels of the government.
15
16 The Commission shall be attached to the Office of the Ombudsman for policy
17 coordination.
18
19 **SEC. 4. Powers and Functions of the Commission.** – The Commission
20 shall have the following powers and functions:
21
22 a) To formulate and implement a National Anti-Corruption Plan (NACP) and
23 action agenda, and reinforce program strategies in accordance with the
24 NACP;

- 1 b) To examine the bidding, negotiation, execution and implementation of
2 public contracts in pursuit of the objectives of the NACP;
3
4 c) To verify if the award of public works and supply contracts are conducted
5 properly in accordance with law, pursuant to the goals provided for in the
6 NACP;
7
8 d) To undertake a comprehensive audit, which shall include, but not be
9 limited to, lifestyle checks on any public officer/employee;
10
11 e) To endorse to the Office of the Ombudsman for appropriate action after
12 a finding of a *prima facie* case of violation of anti-corruption laws in the
13 exercise of its powers under items (b) to (d) above, upon complaint by
14 any person or *motu proprio*;
15
16 f) To conduct sustained information and education drives aimed at
17 preventing corruption and public misconduct; and
18
19 g) To organize specialized training of personnel of the government and
20 representatives from the private sector and civil society in the
21 prevention, investigation and prosecution of graft and corrupt practices.
22

23 **SEC. 5. National Anti-Corruption Plan.** – Within ninety (90) days from the
24 approval of this Act, the Commission shall submit to the Office of the
25 Ombudsman and to Congress a five-year plan and study containing detailed
26 policy proposals for the elimination of graft and corruption in all branches,
27 offices, agencies and instrumentalities of government.
28

29 The NACP shall also be disseminated to all government agencies.
30

31 **SEC. 6. Composition of the Commission.** – The Commission shall be
32 headed by the Ombudsman or any of the Deputy Ombudsman as its
33 Chairperson. He/she shall be assisted by two (2) Commissioners, who shall
34 serve on a full-time basis.
35

- 36 a) The Commissioners shall include at least one (1) lawyer, accountant or
37 member of the academe who is in the field of public administration.
38 Each Commissioner shall be selected and appointed by the President,
39 without the requirement of confirmation, from a pool of candidates to be
40 nominated by peak professional organizations of accountants or lawyers
41 or by the University or College Administration if the nominee is a
42 member of the academe. A “peak professional organization” refers to an
43 organization duly recognized by members as representative of, and
44 having the largest active membership in their profession, and is existing
45 for at least ten (10) years. The mechanics of the nomination process
46 shall be provided for in the Implementing Rules and Regulations for this
47 Act.
48
49

- 1 b) The Commissioners must be citizens of the Philippines, at least thirty-
2 five (35) years of age, known and recognized for moral uprightness and
3 patriotism, of unquestionable integrity, and recognized experts in any of
4 the fields of law, accounting or public administration. They must not have
5 been candidates for any elective national or local office in the
6 immediately preceding election, whether regular or special.
7
- 8 c) The Commissioners shall serve for three (3) years, and may be
9 reappointed as such for another term of three (3) years; *provided*, that
10 the reappointment of a Commissioner shall follow the nomination
11 process outlined in this Section.
12
- 13 d) The President of the Philippines may remove any member of the
14 Commission, upon compliance with due process, for any of the following
15 reasons:
16
- 17 i. The member suffers from physical or mental incapacity that
18 renders him or her incapable of properly discharging the duties and
19 responsibilities of the Commission and such incapacity has lasted
20 for more than six (6) months;
21
- 22 ii. The member has committed acts that are shown *prima facie* to be
23 fraudulent or illegal or manifestly opposed to the aims and interests
24 of the Commission and/or the government; or
25
- 26 iii. The member ceases to possess the qualifications required in this
27 Act or its implementing rules and regulations.
28
- 29 e) The Commissioners shall not hold any public office or employment
30 during their tenure. Except as otherwise provided by law, in no case
31 shall any member of the Commission appoint representatives to act on
32 his/her behalf.
33
- 34 f) The Commissioners shall have the same rank and emoluments as that
35 of a Deputy Ombudsman.
36

37 **SEC. 7. The Secretariat.** – The Commission shall be assisted by a
38 Secretariat to be headed by an Executive Director.
39

40 The Secretariat shall be composed of individuals of known moral probity and
41 dedication to public service.
42

- 43 a) The Executive Director. The Executive Director shall be appointed by the
44 Chairperson with the concurrence of the Commissioners. The Executive
45 Director shall attend the Commission's deliberations, monitor the
46 implementation of the programs of the Commission, and manage its day-
47 to-day operations.
48

- 1 b) Functions of the Secretariat. The Secretariat shall provide technical and
2 administrative support to the Commission and shall oversee all its
3 operational activities.
4

5 **SEC. 8. Organizational Structure.** – The Commission shall be composed of
6 three departments:
7

- 8 a) The Operations Department, which shall carry out the investigation and
9 endorsement to the proper agency of cases investigated for the
10 prosecution of offenses;
11
12 b) The Corruption Prevention Department, which shall carry out
13 assessment of areas in government offices where corruption would be
14 most likely, and make recommendations on how opportunities for
15 corruption can be eliminated or reduced; and
16
17 c) The Community Relations Department, which shall gather support and
18 information from the public and work towards changing the public
19 attitude regarding corruption.
20

21 **SEC. 9. Transparency and Availability of Records.** – The Commission
22 shall maintain and preserve its records, documents and papers, and shall
23 make the same available to the public, except when disclosure will pose
24 serious damage to the Commission's case or when a party would be deprived
25 of his/her right to a fair and impartial trial.
26

27 **SEC. 10. Implementing Rules and Regulations and Standard Forms.** –
28 Within ninety (90) days from the effectivity of this Act, the Commission, in
29 consultation with the head of the Development Academy of the Philippines,
30 the chair of the Civil Service Commission, the Chair of the Commission on
31 Audit, the Ombudsman, a representative from the Sandiganbayan and other
32 relevant stakeholders, shall promulgate the implementing rules and
33 regulations for the proper implementation of this Act.
34

35 **SEC. 11. Restrictions.** – No writ of injunction shall be issued by any court to
36 delay an investigation being conducted by the Commission.
37

38 **SEC. 12. Total Support of Other Government Units.** – The Commission
39 may require any government agency to make available their personnel and
40 facilities to attain the objectives of this Act.
41

42 **SEC. 13. Malicious Prosecution.** – Any compliant found to have been
43 initiated with malice shall be dealt with in accordance with law.
44

45 **SEC. 14. Franking Privilege.** – All official mail letters and telegrams of the
46 Commission addressed for delivery within the Philippines shall be received,
47 transmitted, and delivered free of charge: *provided*, that such mail matters
48 when addressed to private persons or non-government offices shall not
49 exceed one hundred twenty (120) grams. All mail matters and telegrams sent
50 through government telegraph facilities containing complaints to the

1 Commission shall be transmitted free of charge, provided that the telegram
2 shall contain not more than one hundred fifty (150) words.
3
4 **SEC. 15. Annual Report.** – The Commission shall, on or before June 30 of
5 each year, or by such later date as the President may allow, submit to the
6 President and to Congress, a report on the performance of the Commission in
7 combatting graft and corruption. The Commission shall furnish a copy of such
8 report to the Office of the Ombudsman, and shall also make available a copy
9 of the report to the general public.
10
11 **SEC. 16. Appropriations.** – For the first year of the implementation of this
12 Act, an initial amount of Fifty Million Pesos (Php50,000,000.00) is hereby
13 appropriated. Thereafter, the amount necessary to carry out the provisions of
14 this Act shall be included in the General Appropriations Act.
15
16 **SEC. 17. Repealing Clause.** – All provisions of laws, presidential decrees,
17 letters of instruction and other presidential issuances which are incompatible
18 or inconsistent with the provisions of this Act are hereby amended or repealed
19 accordingly.
20
21 **SEC. 18. Separability Clause.** – If any provision of this Act is declared
22 unconstitutional, the other provisions not affected thereby shall continue to be
23 in full force and effect.
24
25 **SEC. 19. Effectivity Clause.** – This Act shall take effect fifteen (15) days
26 following its publication in the Official Gazette or two (2) newspapers of
27 general circulation.
28 **Approved,**
29