

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

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HOUSE OF REPRESENTATIVES

House Bill No. 357

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Introduced by Representative Susan A. Yap

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EXPLANATORY NOTE

"SEC. 16 of Article XI of the Constitution provides that government owned and controlled corporations (GOCCs) should be established only by special charters in the interest of the common good and subject to the test of economic viability.

Government owned and controlled corporations (GOCCs) play a primary in undertaking desirable economic activities, especially in the production and distribution of goods and services. While GOCCs have generated income to our cash-strapped government and have provided employment to several of our citizens, most of them have become financial burdens.

The Department of Budget and Management is mandated to release equity, subsidy and net lending to GOCCs and government financial institutions. Accordingly, the departments of budget and finance have been releasing subsidies to GOCCs and GFIs for years despite the fiscal deficit position. These subsidies are released to corporations with depleted capitalization to enable them to continue and sustain their operations.

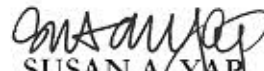
Despite attempts from the Department of Finance to reduce GOCC subsidies as it runs counter to its goal of making these firms self-reliant and less dependent on government financial assistance, it was reported last month that the national government's expenses in subsidizing the operations GOCCs) grew by 302 percent. Data from the Bureau of Treasury showed that the government spent P2.84 billion in subsidies in May (2010), significantly higher compared with only P942 million in the same period last year. The state-owned firms that enjoyed hefty subsidies were the cash-strapped National Food Authority (NFA) with P2.03 billion, and the National Housing Authority (NHA) with P255 million.

In lieu of revenue measures, the incoming administration may adopt an expenditure reform, including the cutting of expenses by not providing subsidies to losing government-owned and -controlled corporations (GOCCs) in order to manage the deficit. Due to its impact on the consolidated public sector financial position, it should closely monitor the National Food Authority, Philippine National Oil Co., Philippine Economic Zone Authority, Philippine Ports Authority, Metropolitan Waterworks and Sewerage System, Local Water Utilities Administration, Home Guaranty Corp., National Housing Authority, National Power Corp., National Electrification Administration, Light Rail Transit Authority, National Irrigation Administration, Philippine National Railways, and National Development Co.

The State should continuously evaluate and review existing GOCCs to determine whether they satisfy the tests as enshrined in our Constitution. There is a need to improve their operations in order to promote economy, efficiency in the delivery of public service. They must answer to the common good of the people, be financially viable, provide social benefits and not unduly compete with private sector.

This bill institutionalizes such mechanism of systematic review and evaluation of GOCCs. It directs all government corporations to prepare their respective assets and liability management guidelines that will define the parameters and/or limits of their financial and operational capabilities for central control and monitoring by the DOF. These guidelines shall serve as tools to anticipate, prevent and/or minimize certain eventualities that may adversely affect the financial condition of the corporation. The financial guidelines seek to limit borrowing, lending and guaranteeing any form of financial transaction while the operational guidelines seek to inhibit the corporation from engaging in activities outside its defined capabilities.

In view of preserving our scarce resources, immediate passage of this bill is requested.

  
SUSAN A. YAP

Representative, 2<sup>nd</sup> District of Tarlac

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13  
14 AN ACT

15 TO ENSURE THE ACCOUNTABILITY OF GOVERNMENT-OWNED OR  
16 CONTROLLED CORPORATIONS, GOVERNMENT FINANCIAL  
17 INSTITUTIONS, STATE-OWNED UNIVERSITIES, AND OTHER SIMILAR  
18 AGENCIES IN THE PUBLIC SECTOR BY REQUIRING THESE ENTITIES  
19 TO BE EVALUATED AND SUBJECTED TO THE TEST OF ECONOMIC  
20 AND FINANCIAL VIABILITY, CREATING A CONGRESSIONAL  
21 OVERSIGHT COMMITTEE, AND FOR OTHER PURPOSES  
22

23 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*  
24

25 **SECTION 1. *Short Title.*** - This Act shall be known as the "Government-Owned or  
26 Controlled Corporations (GOCCs) Accountability Act".  
27

28 **SEC. 2. *Policy.*** - It is the policy of the State to create or establish Government-  
29 Owned or Controlled Corporations only in the interest of the common good and subject to  
30 the test of economic and financial viability.  
31

32 Every GOCC must be free from fraud, abuse and wastage, and must be made  
33 accountable through effective monitoring oversight by Congress for the benefit of the  
34 people.  
35

36 It is hereby declared a national policy to require all government corporations to clearly  
37 define the parameters and/or limits of their financial and operational capabilities consistent  
38 with their established mandates and charters.  
39

40 **SEC. 3. *Government-Owned or Controlled Corporation Defined.*** - For purpose  
41 of this Act, "Government-owned or Controlled Corporation" or "GOCC" refers to a stock  
42 or non-stock corporation, performing governmental or proprietary functions directly  
43 chartered by special law or, if otherwise formed, is owned or controlled by the Government  
44 directly or indirectly through a parent or subsidiary corporation. It includes Government  
45 Financial Institutions, State-owned Universities, and other similar agencies in the public  
46 sector.  
47

48 **SEC. 4. *Asset and Liability Management Guidelines.*** - The definition of the limits  
49 of the financial and operational capabilities of each GOCC shall be embodied in their  
50 respective asset and liability management guidelines which are universally accepted  
51 management tools whereby financial and operational activities are automatically confined  
52 within clearly defined limits.  
53

54 Foremost among the financial guidelines are the limits on borrowing, lending and  
55 guaranteeing any form of financial transaction, risk and/or commitment.  
56

57 Foremost among the operational guidelines are the recognition and acceptance of the  
58 limits of in-house talents and capabilities, thereby inhibiting said corporation from engaging

1 in activities outside its defined capabilities or in cases where it is necessary to engage in such  
2 transactions or activities, the mandatory requirement to tap outside talents preferably from  
3 other government agencies or institutions.  
4

5 **SEC. 5. *Use of Asset and Liability Management Guidelines.*** - The Asset and  
6 Liability Management Guidelines shall be used primarily as a tool to anticipate, obviate  
7 prevent and/or minimize certain eventualities that may adversely affect the financial  
8 condition of individual corporations. As a standard requirement, however, it is seen as a vital  
9 instrument to stabilize and solidify the country's overall financial condition.  
10

11 In cases where a GOCC is under the control or supervision of a department of the  
12 National Government, adherence to these asset and liability guidelines shall be the  
13 responsibility of the department under which these corporations belong. The department  
14 covered shall prescribe their respective policies and procedures including penalties for their  
15 violations, in order to ensure that such guidelines are strictly complied with.  
16

17 **SEC. 6. *Central Monitoring and Control by the Department of Finance.*** - The  
18 central monitoring and control of the overall financial condition of GOCCs shall be made by  
19 the Department of Finance (DOF) which shall consolidate all related figures into an annual  
20 report. Within thirty (30) days from the end of each calendar year, the DOF shall submit this  
21 annual report to the Office of the President, copy furnished the Senate and the House of  
22 Representatives.  
23

24 **SEC. 7. *Submission of GOCC Reports.*** - Every GOCC is required to submit  
25 quarterly and consolidated annual reports to Congress.  
26

27 Each quarterly report, to be submitted within thirty (30) days from the end of each  
28 calendar quarter, shall be in the form of an executive summary concerning the finances and  
29 operations of the GOCC and shall indicate any achievement and major projects. It shall  
30 include all financial reports and minutes of directors' and shareholders' meetings for the  
31 subject quarter.  
32

33 Each annual report, to be submitted within sixty (60) days from the end of each  
34 calendar or fiscal year as may be applicable, shall include the following:

- 35 (1) A consolidated executive summary;
- 36 (2) A list of directors and officers;
- 37 (3) A summary of the remuneration paid to directors and officers over the last year;
- 38 (4) The Commission on Audit report for the last year; and
- 39 (5) The audited financial statement for the last year.  
40

41 **SEC 8. *Mandatory Publication.*** - Every GOCC is required to disclose and publish in  
42 at least one (1) newspaper of general circulation within thirty (30) days from the end of each  
43 calendar or fiscal year as may be applicable the following information:

- 44 (1) Travel and hospitality expenses for directors and officers; and
- 45 (2) Contracts for goods and services over one million pesos (PHp 1,000,000)  
46

47 **SEC. 9. *Creation of a Congressional Oversight Committee for GOCCs.*** - There is  
48 hereby created a Congressional Oversight Committee for GOCCs to be composed of six (6)  
49 members, with three (3) Representatives each from the Senate and the House of  
50 Representatives, and co-chaired by the Chairpersons of the Senate Committee on  
51 Government Corporations and Public Enterprises and the House Committee on  
52 Government Enterprises and Privatization.  
53

54 The Congressional Oversight Committee for GOCCs shall receive and evaluate the  
55 reports submitted by the GOCCs to Congress. It shall be the principal legislative monitoring  
56 arm and policy recommending body for all GOCCs.  
57

58 **SEC. 10. *Powers and Functions of the Congressional Oversight Committee for***

1 **GOCCs.** - The Congressional Oversight Committee for GOCCs shall have the following  
2 powers and functions:

- 3
- 4 (1) Prescribe and adopt guidelines that will govern its work;
- 5
- 6 (2) Hold hearings, receive testimonies and reports pertinent to its specified concerns;
- 7
- 8 (3) Secure from any department, bureau, office, agency or instrumentality of the  
9 Government such assistance as may be needed, including technical information  
10 preparation and production of reports and submission of recommendations or plans  
11 as it may require;
- 12
- 13 (4) Summon by subpoena *ad testificandum* any public or private citizen to testify before  
14 it, or require by *subpoena duces tecum* to produce before it such records, reports or other  
15 documents as may be necessary in the performance of its functions;
- 16
- 17 (5) Use resource persons from the public and private sectors as may be needed;
- 18
- 19 (6) Approve the budget for the Congressional Oversight Committee for GOCCs and  
20 all disbursements therefrom, including compensation of all personnel;
- 21
- 22 (7) Organize its staff and hire and appoint employees and personnel, whether  
23 temporary or contractual, subject to applicable laws; and
- 24
- 25 (8) Exercise all other powers necessary to attain its purposes.
- 26

27 **SEC. 11. Conduct of Review.** - The Congressional Oversight Committee for GOCCs  
28 shall review the quarterly and annual reports submitted by the GOCCs to Congress.

29  
30 The Congressional Oversight Committee for GOCCs may require the submission of  
31 additional pertinent corporate and commercial documents and/or the revelation of all  
32 relevant data as may be deemed necessary for the conduct of such review. Failure to submit  
33 any of the required documents or to reveal any required data shall subject the directors and  
34 officers of the concerned GOCC to appropriate administrative, civil, and criminal liability.

35  
36 The Congressional Oversight Committee for GOCCs shall review the reports,  
37 documents, and data submitted by each GOCC and shall be authorized to conduct  
38 investigations in furtherance of such review. The scope of review shall include the following:

- 39
- 40 (1) Accomplishment of the set goals as may be set forth in their respective  
41 charters or otherwise;
- 42
- 43 (2) Allocation of resources of each GOCC;
- 44
- 45 3) Instances of duplication of functions;
- 46
- 47 (4) Financial and social investment rate of returns and productivity; and
- 48
- 49 (5) Interest of the common good.
- 50

51 **SEC. 12. Submission of Recommendations** - The Congressional Oversight  
52 Committee on GOCCs shall submit its recommendations to the Senate and the House of  
53 Representatives, copy furnished to the Office of the President, for appropriate action. The  
54 recommendations may include the following:

- 55
- 56 (1) Continued existence of and corresponding budgetary allocation for each GOCC;
- 57
- 58 (2) Termination of the existence of or budget allocation for the GOCC by either

1 privatization or dissolution;

2  
3 (3) Merger or consolidation of GOCCs performing similar or overlapping functions;

4  
5 (4) Restructure of the GOCCs in the Executive branch;

6  
7 (5) Adjustment of compensation packages for directors, officers, and employees;

8  
9 (6) Filing of appropriate civil, criminal, or administrative charges;

10  
11 (7) Contract review or renegotiation as may be appropriate; and

12  
13 (8) Other recommendations as may be deemed appropriate

14  
15 **SEC. 13. *Repealing Clause.*** - All laws, decrees, orders, rules and regulations or other  
16 issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or  
17 modified accordingly.

18  
19 **SEC. 14. *Separability Clause.*** - If any portion or provision of this Act is declared  
20 unconstitutional, the remainder of this Act or any provisions not affected thereby shall  
21 remain in force and effect.

22  
23 **SECTION 15. *Effectivity Clause.*** - This Act shall take effect after fifteen (15) days  
24 following the completion of its publication either in the Official Gazette or in a newspaper  
25 of general circulation in the Philippines.

26  
27 Approved,