

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2222

Introduced by **HON. GLORIA MACAPAGAL-ARROYO, HON. JUAN MIGUEL M. ARROYO** and **HON. DIOSDADO M. ARROYO**

**AN ACT SETTING THE DIRECTION OF AND PARAMETERS
FOR THE DEVELOPMENT OF AND REGULATION OF THE TRANSPORTATION
SYSTEM IN THE PHILIPPINES AND FOR OTHER PURPOSES**

The transportation industry has always been a major cornerstone in national development. An efficient transport system ensures the efficient movement of goods, promotes economic activity in both urban and rural areas and encourages the flow of investment. An efficient and high quality transport system not only lowers production cost but more importantly promotes the access of rural areas to social and economic services.

The vision for the Philippine transport system was initially drawn from the declaration of policy in Executive Order No. 125, as amended by Executive Order No. 125-A, entitled "Recognizing the Ministry of Transportation and communications, Defining its Powers and Functions and for other Purposes." The policy refers to "viable, efficient, fast, safe and dependable transportation system." This vision embodies the core values of viability, efficiency, safety and reliability. However, important considerations such as safety and security, dependability and environmental sustainability must be incorporated into the policy framework of an efficient and quality transport system. Underlying all these values is a people-oriented transportation system that gives primordial importance to the interest of the public.

There is a need to clearly lay down a comprehensive transportation policy that takes into account the varied and complex areas in the transportation industry. Existing policies affect transportation in different ways. Some policies are inadequate, ineffective or obsolete. On the other hand, there is a policy vacuum in significant areas. A seamless, integrated and efficient transport system largely remains an unfulfilled hope due to lack of enabling or enforced policies.

A sound transportation policy that explicitly sets and direction and parameters for the development and regulation of the transportation system is the foundation of an efficient transportation system. This is the policy gap that this legislative measure seeks to address.


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

**ARTICLE I
GENERAL PROVISIONS**

SECTION 1. *Short Title* – This Act shall be known as the “Transportation Policy Act of the Philippines.”

SEC. 2. *Scope and Application*. This Act shall apply to all elements of the transportation system, and all sub-sectors of transportation, including passengers, shippers, service providers, investors, agencies and instrumentalities of government and those involved in the movement of people and goods in the provision of transportation infrastructure, facilities and services.

SEC. 3. *Definitions* – For Purposes of this Act, the terms hereunder shall mean as follows:

- a. *Act* – refers to this Act, “An Act Setting the Direction of and Parameters for, the Development of the Transportation System in the Philippines.”
- b. *Asset Preservation* - the maintenance of existing transport facilities, or assets and the rehabilitation of damaged transport facilities, or assets in order to lengthen their usable lives in good condition and reduce the transport costs of the users of such facilities.
- c. *CAAP*- shall refer to the Civil Aviation Authority of the Philippines.
- d. *Commercial Risks* - the obligation to operate and maintain the transportation facility in accordance with the agreed standards and conditions, and the losses or damages that may be incurred if the traffic and revenue projections do not materialize, and/or the standards or conditions are not met
- e. *Completion Risks* - the obligation to complete the transportation facility in accordance with the plans, specifications, and schedule and the losses or damages that may be incurred should the transportation facility not be completed in accordance with the plans, specifications and schedule.
- f. *CPA* - the Cebu Port Authority.
- g. *DBCC* - the Development Budget Coordination Committee.
- h. *DBM* - the Department of Budget and Management.
- i. *DOF* - the Department of Finance.
- j. *DOTC* - the Department of Transportation and Communications.
- k. *DPWH* - the Department of Public Works and Highways.
- l. *DTI* - the Department of Trade and Industry.

- m. *Eligible Subsidy* - a subsidy that covers the externalities of transportation in cases where the provision of transport services generates net benefits to the society that is not recompensed through the prices charged for such services.
- n. *Externalities* - shall refer to situations when the effect of production or consumption of goods and services imposes costs or benefits on others which market forces cannot incorporate in the prices charged for the goods and services being provided.
- o. *Government Financing Support (GFS)* - the contribution of government for capital cost that shall bridge the financial viability gap of a public-private partnership project.
- p. *LGUs* - the Local Government Units.
- q. *Life cycle cost analysis* - shall refer to looking beyond the initial construction and considering operating, maintenance and major rehabilitation needs during the projected life of the facility.
- r. *Market Failure* - a mismatch of supply and demand and/or occurrence of side-effects and extra costs to the society that is not reflected in the price of the service. A market failure may exist when the supply or use of goods and services by the market is not efficient in the sense that the price mechanism fails to match demand and supply, and/or the provision of services generates costs to the society that cannot be internalized in the price.
- s. *PPA* - the Philippine Ports Authority.
- t. *PPP* - public-private partnership whereby a private party enters into a contractual arrangement with the government under Republic Act No. 5967 as amended by Republic Act No. 7718 (BOT Law), or a joint venture with government under the guidelines for joint ventures issued by the National Economic Development Authority (NEDA).
- u. *PSP* - private sector participation which includes PPP and other arrangements whereby private sector resources and/or expertise are availed of by government for purposes of expanding its financial space or taking advantage of private sector efficiencies in the delivery of public services.
- v. *Public Transportation Service* - public service providing transportation services such as common carriers or similar enterprises whether in land, rail, water or air.
- w. *Regulatory Body* - an agency or instrumentality of government exercising quasi-legislative and/or quasi-judicial powers over public transport services as vested thereto by law or necessarily implied from its express powers.
- x. *Right of Way Risk* - the obligation to timely provide the right way and the losses or damages that may be incurred as a consequence of failure to timely provide the right of way.

ARTICLE II

VISION, OBJECTIVES AND PRINCIPLES

SEC. 4. *The Vision for a Transportation System.* The national transportation system in the Philippines shall be safe, efficient, viable, dependable, integrated, environmentally sustainable and people-oriented.

SEC. 5. *Objectives.* This Act aims to lay the foundation for better economic governance in the transport sector. Its specific objectives are to: a) strengthen transport sector planning and plan implementation by adopting transport policies to serve as boundary conditions; and, b) establish the structure and methodology for national transport planning.

SEC. 6. Declaration of Principles. Transportation shall help carry the Philippines on the road to national development, aligned to, paved and bounded by policies founded on the following principles;

- a. *Democracy*: Goods and services shall be made available and accessible to all in such manner and to such extent as would give people genuine alternatives and real choices. In decision-making process, the public shall be heard, consulted and given the opportunity to participate.
- b. *Market Economy*: People and organizations rise to their full potential when free to pursue their needs and wants and to exercise their will. Under such conditions, competing, conflicting and complementary interests are most likely to converge towards meeting the common good. Market forces regulate economic activities best. Only when the market fails should government intervene to protect the public interest.
- c. *Subsidiarity*: The transport sector should be planned, administered and managed by the smallest, lowest or least centralized competent authority. The central authority should perform only those tasks which cannot be performed effectively at a more immediate or local level.
- d. *Competition*: Competition encourages market players to be the best and the most efficient, thereby increasing productivity, lowering costs and improving service levels. Absence of competition breeds inefficiency, poor quality and high prices. When monopoly is unavoidable, government should exercise control over it.
- e. *Public Interest*: Its promotion and protection are the ultimate ends of government. The economic costs of hazards to health, properties and environment are not usually internalized in market prices and therefore, market forces are unable to foster discipline on hazard-causing entities. Government should therefore strictly regulate these matters of public welfare.
- f. *Core Business*: Full attention to core business fosters efficiency, thoroughness, and mastery. Lack of focus on one's mission leads to neglect of what is essential and important.
- g. *Objectivity*: Decisions on and actions for the public good should be based on correct facts, principles and reason and not distorted by conflict of interest or bias.
- h. *Transparency*: The intentions, motivations, decisions, processes and procedures affecting the people and the market should be open and public. If deviation from economically viable solution is made on the made of social or political grounds, the decisions must be specific and transparent, and the opportunity cost carefully estimated and made publicly known.
- i. *Fair compensation*: The delivery by one to another of something of value requires an equivalent benefit from the latter who is obliged to give it. This fair exchange sustains production of goods and services and fosters efficiency. Prices should reflect the true value of the goods or services delivered, and should not be distorted by cross-subsidies.
- j. *Social Equity*: The disadvantaged and marginalized need the assistance and protection of the government to enable them to participate productively in the economy and to alleviate their living conditions.

ARTICLE III ADMINISTRATION

SEC. 7. Responsibilities of the NEDA, DOTC and DPWH. The NEDA, DOTC and DPWH shall take the necessary measures to implement the policies set forth herein. They shall:

- a. Establish, institutionalize, implement and enforce a national transportation planning methodology that shall apply to and be adopted by the DOTC, DPWH and all agencies and instrumentalities exercising transportation development functions;
- b. Establish and institutionalize a mechanism for coordination and integration of agency plans and for ensuring their alignment to, consistency and compliance with, the national transport vision and objectives of, and policies in, the Act for this purpose, all government agencies and instrumentalities exercising transportation functions shall be part of, and be involved and included in the said mechanism;
- c. Institute capability building and institutional reforms measures that may be necessary or desirable effectively implement this Act; and,
- d. Issue and implement rules and regulations to effect and fill out the implementation details of this Act.

SEC. 8. Responsibilities of Departments, Agencies and Instrumentalities Exercising Transportation Development Functions. Departments, agencies and instrumentalities exercising transportation development functions shall prepare their respective plans and submit them for review in accordance with the methodology and procedure approved by the NEDA, DOTC and DPWH and the provisions of this Act. Plans, projects and programs prepared in violation hereof shall be deemed unauthorized and any expenditure therefor shall be disallowed.

ARTICLE IV POLICY AREAS

SEC. 9. Areas of Coverage . Consistent with the principles stated in Section 6 hereof, government presence or intervention in transportation, if any, by virtue of this Act is confined to the following policy areas:

1. Resource Generation and Allocation;
2. Criteria for the Preparation of Agency Plans, Projects and Programs;
3. Cost Recovery and Subsidies;
4. Regulation of Passenger Transport Services;
5. Urban Transport;
6. Transport Logistics; and,
7. Governance.

SEC. 10. Setting Standards for Administrative Action. The Policies hereunder, being boundary conditions, shall guide all agencies involved in transportation in the exercise of their quasi-legislative and/or quasi-judicial functions so that rules and regulations promulgated or decisions and resolutions rendered by them are within the bounds of existing laws and do not encroach upon the powers and prerogatives of other branches of government. Moreover, they shall be the parameters for planning at the agency level whose outputs shall be evaluated and approved on the basis of their compliance and consistency with such policies.

ARTICLE V RESOURCE GENERATION AND ALLOCATION

SEC. 11. Review of Transportation Needs. the NEDA, DBM and DOTC shall, consistent with the Government planning cycle, periodically review the strategic resource needs

of the transport sector for the medium and long term. Specifically, the following shall be undertaken:

- a. Assess and evaluate the strategic function of the transport sector with regard to attaining the national goals of economic growth, poverty reduction, trade competitiveness and social equality, and adjust the fiscal allocation of the transport sector over the medium term on the basis of the results thereof;
- b. Allocate resources to the transport modes in accordance with the comparative advantages, and with due regard to the viability of each mode; and,
- c. Ensure that investment in assets is adequately supported by regular maintenance allocations over the economic life of the asset by taking a holistic view on resource allocations for investments and for maintenance based on life-cycle cost analysis.

SEC. 12. *Resources of National Government for National Facilities Only.* The resources of the national government shall be devoted solely to facilities classified as national. The DOTC and the respective transport agencies shall establish and maintain a functional classification system, which shall define, among others, such national facilities.

SEC. 13. *Responsibility of LGUs.* Consistent with the principle of local autonomy, LGUs shall have full responsibility for the financing, construction and maintenance of Provincial, City, Municipal and Barangay transport facilities, as defined under the functional classification system.

SEC. 14. *Technical and Economic Criteria for Resource Allocation.* For the allocation of resources to transport investment projects, the DOTC, NEDA, DBM and DPWH shall forthwith jointly establish transparent and objective criteria which reflect the most effective and efficient use of the resources to meet transport needs. The aforesaid criteria shall be determined in consultation with stakeholders and shall subsume such economic, social, political and environmental factors as gender responsiveness, climate change adaptation, disaster management and traffic safety.

SEC. 15. *PPP Promotion and Privatization.* Public-private partnerships (PPP) and privatization of public transport operations shall be promoted to augment the government resources, harness private sector expertise, gain technology transfers and operational efficiencies, and transfer risks that are best placed with the private sector.

ARTICLE VI

CRITERIA FOR THE PREPARATION OF AGENCY PLANS, PROGRAMS AND PROJECTS

SEC. 16. *Alignment with National Thrusts and Priorities.* The transport plans, programs and projects of each agency shall show an appropriate fit with the overall national development goals, objectives, thrusts and priorities. The evaluation of the individual modal agency plans, programs and projects shall consider the comparative advantages and interconnectivity of the different transport modes.

SEC. 17. *Approved Agency Process for Plans and Program Preparation.* Each modal agency shall abide by the approved agency process for preparing strategic analysis, long-range plans, medium term plans and annual programs for transportation.

SEC. 18. *Feasibility Study and Multi Criteria Analysis.* All transport projects proposed for funding by the government shall be supported by adequate studies that meet the standards set by NEDA/DOTC/DPWH and fulfill the following criteria:

- a. *Technical Soundness.* They shall meet approved standards for safety to the users, structural integrity and performance and quality of service. They shall be supported by appropriate detailed designs including value engineering that is to be undertaken as a part of the feasibility and engineering studies for major projects to determine the least-cost or most-effective solutions to deliver intended project outcome.
- b. *Economic Feasibility over the lifecycle.* All projects shall show an economic internal rate return (EIRR) that is at least equal to the discount rate of NEDA, or a positive economic net present value (NPV) or a positive economic net present value over cost (NPV/C), or an economic benefit-cost ratio (BCR) greater than unity, using the NEDA discount rate.
- c. *Operating feasibility.* All projects shall have adequate institutional and management arrangements, including budgets, for effective use, operation and maintenance thereof over their economic life. These arrangements shall be able to sustain the performance and service levels of the projects as designed.
- d. *Environmental Soundness.* This shall be based on the environmental impact assessment (EIA) undertaken in accordance with the guidelines of the Department of Environment, particularly for Environmentally Critical Projects and projects within Environmentally Critical Areas. The Environmental Impact Assessment (EIA) shall include an assessment of the direct and indirect impacts of a project on the biophysical and human environment and ensure that these impacts of a project are addressed by appropriate protection and mitigation/enhancement measures.
- e. *Social Acceptability.* Social acceptance of transport projects must be sought through the involvement of stakeholders, especially women, the elderly, the disabled and displaced persons in the planning, design, implementation, maintenance and monitoring of projects.
- f. *Use of Energy-Efficient Transport Technology.* Where it is clearly shown to be economically and financially feasible over the life cycle of the facility, transport projects shall use energy-efficient transport technology.

ARTICLE VI

COST RECOVERY AND SUBSIDIES

SEC. 19. *Compensation.* Fees in the transport sector shall as far as practicable be determined following the compensation principle expressed in such terms as 'users pay,' 'polluters pay' and 'congestors pay.'

SEC. 20. *Cost Recovery Net of Eligible Subsidies.* Fares and charges for transport services shall be cost-based and shall recover all costs net of eligible subsidies.

SEC. 21. *Grounds to Justify Subsidies.* Subsidies shall not be granted by the Government except when justified on economic, environmental and/or social grounds. Disadvantaged groups may be eligible for targeted and transparent subsidies based on government's social policies. Where the Government requires that public services be provided at fares or charges below cost on social grounds, the Government shall subsidize the public service.

SEC. 22. *Avoidance of Cross-subsidies.* Cross- subsidies among types and areas of operations shall be avoided. Any subsidies, when justified and allowed under Section 23 shall be direct, specific and transparent.

SEC. 23. *Fees for Use on Navigational Aids.* Fees shall be levied against all vessels and aircrafts that call on Philippine maritime ports and airports to allow government to recover the costs for providing, operating and maintaining navigational aids. The fees shall be reviewed and adjusted periodically to generate sufficient revenues to sustain an adequate level of service in terms of efficiency, safety and security in compliance with international standards.

ARTICLE VII REGULATION OF TRANSPORT SERVICES

SEC. 24. *Routes and Areas of Operation.* Routes and areas of operation shall be determined, established and changed by the regulatory bodies concerned based on pre-set technical and economic standards issued by the DOTC, and upon prior consultation and coordination with local government units (LGUs) concerned.

SEC. 25. *Entry to the Transport Industry.* The authority to operate a public land transport service shall be issued by the regulatory body upon proof by the applicant of compliance with citizenship requirements, and financial capacity. Public necessity shall be presumed.

SEC. 26. *Regulatory Measures to Address Market Failure and Externalities.* Should the conditions in a route or area of operation in public transport be such that passengers and/or shippers, by reason of the number of vehicles or operators, are deprived of choices, or the route or area is evidently congested or can accommodate only few vehicles/craft and operators, or congestion, traffic disorder or similar externalities therein, persist despite compliance with entry requirements and enforcement, the regulatory body, to promote or protect the public interest, may on its own account adopt such measures or arrangements as would give passengers/shippers choices or effectively address congestion, traffic disorder or externalities, including subjecting the grant of the privilege to operate in a route or area to public bidding, merger or consolidation of operators in a route or area or other schemes. All franchises and authorities to operate a public transport service shall be subject to this policy and may be amended or terminated as a consequence of the exercise by the regulatory body of the power herein granted, with due regard to the interests of affected operators.

SEC. 27. *Fare/Rate Setting for Land Public Transport Services.* Fares for the lowest class of land public transport services shall, subject to notice and hearing, be determined and set or adjusted by the regulatory body taking into account capital, operating and maintenance costs as well as a reasonable return to the operator. Operators are hereby authorized to set their fares and rates for higher classes of land public transport services. Should there be externalities that adversely affect the public interest, the regulatory body may, upon due notice to, and hearing of, the parties-in-interest, intervene and set a range within which fare/rate adjustments by the operators may be made subject to guidelines set by the regulatory body, or implement such measures as may be required by the circumstances with due regard to the interests of the passengers shippers, and the operators. The regulatory body shall require operators to set up a uniform system of accounts, which shall be one of the bases on establishing fares, rates and charges.

SEC. 28. *Fare/Rate Liberalization and Monitoring of Airline and Shipping Operations.* In order to encourage investments in domestic airline and shipping industry by existing operators and attract investment from new operators and investors, domestic operators are hereby authorized to establish their own fares and rates: provided that effective competition is fostered and public interest is served. The regulatory body shall monitor all domestic airline and shipping operations and exercise regulatory intervention where it is established after due process that public interest to be protected and safeguarded. Should there be market failure or externalities that adversely affect the public interest, the regulatory body may, upon due notice to and hearing of the parties-in-interest, intervene and set the fare or a fare range within which adjustments may be made subject to pertinent guidelines, or implement such measures as may be required by the circumstances with due regard to the interests of the passengers/shippers and the operators.

SEC. 29. *Safety, Service and Environmental Standards.* The DOTC, its concerned sectoral offices and attached agencies shall regularly upgrade and update their standards on safety, level of service, and environmental sustainability in keeping with international standards and practice, and shall strictly implement and enforce the same.

SEC. 30. *Prohibition against Foreign Aircraft and Vessels.* No foreign vessels and aircraft shall be allowed to transport passengers and/or cargo between ports or places within the Philippine territorial jurisdiction, except when a Special Permit is granted by the regulatory body because it is warranted by public interest and there are no domestic aircrafts or vessels available or suitable to provide the needed shipping service.

ARTICLE VIII URBAN TRANSPORT

SEC. 31. *Defining a Hierarchy of Public Transport in Urban Areas.* Public transportation in urban areas provided by the government and/or under PSP arrangements shall be given priority over priority transportation to ensure accessibility, comfort, convenience, reliability, safety security and affordability to the majority of urban travelers. The DOTC shall define a hierarchy of urban public transport services in assigning appropriate modes to various routes or arrears of operation.

SEC. 32. *High capacity high public transport Preferred in urban Areas.* Taking into consideration the criteria for evaluating and selecting transport projects, high capacity public transport system shall be the preferred mode in high passenger density corridors in order to maximize the use of travel space by servicing the most number of passengers with the least delay possible.

SEC. 33. *Interconnectivity among Public Transport Modes* – Interconnectivity among public modes shall be primarily considered in the development of the urban public transport system. This may be achieved through the provision of modal interchanged areas where transfer of passengers from one mode to another will be safe and convenient and vehicle movements will not disrupt traffic flow on the surrounding roads.

SEC. 34. *Low Cost Traffic Engineering and Management Measures Preferred over High Cost Infrastructure-* In addressing problems of traffic congestion in urban roads, priority shall be given to low cost traffic engineering and management measures over high-cost infrastructure facilities. However, road infrastructure projects shall be considered where there is a clear need for an additional infrastructure facility to establish a road hierarchical system and/or to address road network deficiencies such as major traffic bottleneck and missing links. Traffic education and enforcement activities shall support traffic engineering and management measures.

SEC. 35. *Transport Demand Management in Urban Areas.* In large urban areas where the transport capacity expansion strategy is no longer sufficient to address widening supply and demand gap, the DOTC, the regulatory body, or the LGU concerned, as may be appropriate under existing laws, shall have the authority to apply transport demand management measures, such as traffic restrictions.

SEC. 36. *Truck Ban.* Carriage of goods is the life-blood of urban economy. Therefore, any proposal to restrict the movements of truck in urban arrears to ease traffic and reduce traffic accidents should also take in account its economic impacts. In any case, truck bans shall preferably not be imposed in national roads and highways. The DOTC and DILG, in consultation with the stakeholders, are hereby directed to formulate guidelines in the planning and design of truck bans.

SEC. 37. *Promotion of Non-motorized Transport-* The provision of non-motorized transport, such as pedestrian facilities and bicycle ways, where justified and physically/operationally viable, shall be promoted and such pedestrian facilities, bicycle ways and non-motorized transport shall be considered integral parts of the transport system.

SEC. 38. *Traffic Impact Assessment-* All LGUs adopt an integrated approach to land use and urban transport planning in order to have more effective management growth in urban areas and to ensure that the capacity of transport facilities and services can accommodate the demand. Accordingly, LGUs shall require traffic impact assessment for new and significant land use developments in urban areas.

ARTICLE IX TRANSPORT LOGISTICS

SEC. 39. *Establishment of Seamless Intermodal Logistics Network.* The DOTC shall lead and coordinate with the appropriate agencies of government and the private sector in the establishment of seamless intermodal transport logistics network to ensure efficient logistics chains and an unimpeded flow of relief goods, disaster response equipment and basic commodities during times of emergencies resulting from natural calamities and other disasters.

SEC. 40. *Establishment of Single Transport Document and Single Access Point and One-stop Shop.* The DOTC shall and coordinate with the DTI, DOE, Bureau of Customs and other appropriate government agencies in the establishment of the following:

- a) a single transport document for customs, immigrations, quarantine and security purposes that can be used in all transport modes, thereby facilitating multimodal freight transport and enhancing the framework offered by multimodal waybills or manifest; and
- b) a single access point and one stop-shop for administrative processes and procedures in all modes to simplify and decentralize exchanges of freight-related information and substantially reduce the cost of regulatory requirements, especially when using Information and Communication Technologies.

SEC. 41. *Standardizing Handling Characteristics of Intermodal Loading Units.* In order to facilitate transshipment between modes and reflect technological developments, national standards for intermodal loading units shall be introduced, which aim at decreasing transaction costs in handling operations between modes by standardizing certain handling characteristics of intermodal loading units.

SEC. 42. *Developing Interfaces between Long Distance Deliveries and Short Distance Distribution.* As transport logistics involve distribution in urban areas, efficient interfaces between truck deliveries over longer distances and distribution to the final destination over short distances shall be developed with full consideration of aspects of land use planning, environmental considerations and traffic management. Where warranted by the logistics chain characteristics, consolidation/distribution centers such as truck terminal and rail-served inland container depot (ICD) shall be established outside of metropolitan areas.

ARTICLE X GOVERNANCE

SEC. 43. *Direction-Setting and Technical Regulation by Government.* The government shall provide scope for PSP where such potential exists and shall withdraw from transport activities and areas where the private sector is strong and competition exists or can likely emerge. The government shall concentrate on direction-setting, technical regulation and economic regulation.

SEC. 44. *Prohibition against Unsolicited PSO/PPP.* Private sector participation (PSP) in the provision of transport infrastructure shall be pursued as a matter of policy, not only to enlarge the budget envelope but also to drive sector efficiencies. However, in the selection of private providers, no unsolicited proposal shall be entertained, except when the project can pay for itself entirely from user revenues such as in BOO, BOT and similar schemes. Accordingly, any development based on appropriate feasibility study shall be offered for PSP or PPP through public bidding. The feasibility study shall be made available to any interested private party. The planning and implementation of PSP and PPP projects shall adhere to the following guidelines:

- a. The plans, programs and projects of each modal agency shall include those proposed for PSP or PPP implementation.
- b. Projects which are necessary for public service, are economically feasible and show potentials for direct cost recovery and revenue generation, but may not attract private financing because the private investment cannot be fully recovered from revenues at rates will be able or willing to pay, shall be given priority in allocation of Government Financing Support (GFS) through PPP schemes. The GFS shall not be recovered from the revenues, but shall be included in the government budget.
- c. Where a transport project requires a government contribution to bridge the financial viability gap, the contribution shall be in form of a justifiable share in the project cost. An existing right of way owned by the government, when provided by it, shall not form part of its contribution to the project cost.
- d. In the allocation of risks between the parties in a PPP contract, competition and commercial risks shall reside with the private proponent. The rights-of-way risks shall be assumed by the government.

SEC. 45. *Transparency and Accountability Initiatives.* The DOTC, DPWH and other transport agencies of government shall encourage and support transparency and accountability initiatives of the private sector and civil society in connection with the planning and implementation of government transport projects.

SEC. 46. *Devolution of Low-occupancy Public Transport Services to Cities/Municipalities.* Not later than two (2) years from the effectivity of the Act subject to the guidelines prescribed by the DOTC, the regulation of the operation and franchising of the following public transport conveyances shall be devolved to cities/municipalities.

- a) Intra-city/municipality routes of public utility vehicles with seating capacity of not more than 15 persons, except when the same merely natural extensions of lines granted by the LTFRB.
- b) Intra-city/municipality routes of vessels, with a seating capacity of not more than 25 persons, except when the same are merely natural extensions of routes granted by the MARINA.

SEC. 47. *Transport Planning and Traffic Management Structure in Cities.* There shall be established in each city a transport planning and traffic management unit with the following functions:

1. Provide the transportation sector inputs in the preparation of the city's comprehensive development plan;
2. Coordinate with the LTFRB/MARINA and the public transport operators in the development of public transport networks;
3. Regulate the operation of tricycles for hire and other public utilities and vessels under the city's jurisdiction; and,
4. Discharge functions mandated by the Local Government Code in the area of traffic engineering and management.

SEC. 48. *Grouping of and Coordination among Metropolitan Area LGU.* LGUs in metropolitan areas with no formal organization similar to Metro Manila, may through agreements authorized under appropriate ordinances, group themselves and consolidate or coordinate their efforts, services, and resources for urban transportation concerns or requirements that transcend individual administrative boundaries.

SEC. 49. *DOTC/DPWH Technical Assistance to LGUs.* The DOTC and DPWH shall extend technical assistance to city administrations to enhance their capacities and capabilities in the areas of transport planning and traffic management.

SEC. 50. *Jurisdiction of LTFRB over Rail Transport.* Except when granted by the law, the authority to build and/or operate a rail transport system shall be granted by the LTFRB upon proof of compliance with citizenship requirements, and technical and financial capability. The LTFRB shall regulate the construction, operation, and maintenance of all rail transport systems and shall set and enforce compliance with standards of safety levels of service, comfort and convenience of the public and environment sustainability pursuant to international norms. The LTFRB shall approve fares/rates and their adjustments pursuant to the policies on cost recovery and subsidies set hereunder.

SEC. 51. *DOTC Initiatives to Separate Regulatory and Operation Functions and to Eliminate Conflicting Functions.* The DOTC shall forthwith initiate action to reorganize transport bureaucracy or agencies under it or attached thereto separate regulatory and operating functions, and eliminate overlapping and conflicting functions. In pursuance thereof, appropriate restructuring and re-alignment or re-assignment of functions that may be administratively affected, shall be undertaken. Otherwise, it shall immediately propose appropriate measures for legislative action to achieve the said purposes.

SEC. 52. *Decentralization of Decision-making.* In carrying out their national mandates, transport agencies shall decentralize making to the extent feasible in order to become more responsive to transport users and to achieve better coordination at the sub-national levels of governance.

SEC. 53. *Air, Rail, and Maritime Transport Accident Investigation.* Until such time that an independent air, rail and maritime accident investigation body is created by law, the DOTC shall investigate accidents in the respective transport areas to determine compliance with safety standards and regulations, enforce accountability and cause the execution of sanctions under the law and rules against those culpable or responsible.

ARTICLE X FINAL PROVISIONS

SEC. 54. *Separability Clause* – Any portion or provisions of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying other portions or provisions hereof as long as such remaining portions or provisions can still subsist and be given effect in their entirety.

SEC. 55. *Repealing Clause.*– All laws, ordinances, rules, regulations and other issuances or parts thereof, which are inconsistent with this Act are hereby repealed or modified accordingly.

Sec.56. *Effectivity Clause.*– This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation.

Approved