



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Fifteenth Congress
First Regular Session

HOUSE BILL NO. 3309

Introduced by Honorable Roger Gaviola Mercado

EXPLANATORY NOTE

The proposed "National Bureau Of Investigation Reorganization And Modernization Act Of 2011" aims to strengthen the National Bureau of Investigation (NBI) through the restructuring of its organization and modernizing of its forensic, scientific, investigative and intelligence equipment.

The present organizational structure of the NBI shall be reorganized into the Office of the Director, Office of the Deputy Director, Office of the Assistant Directors for Investigation Service, Intelligence Service, Comptroller Service, Administrative Service, Forensic Service, and Legal Service.

The investigative and non-investigative staff of the NBI shall be increased and their positions upgraded to adequately meet the increasing demands of an expanded investigative and detective work.

The bill likewise proposes the implementation of a modernization program geared towards the acquisition of modern investigative and intelligence equipment and the establishment of forensic and scientific laboratories. The program shall include provisions for the training of its personnel in this regard.

Further, this proposed measure seeks to provide agents and employees of the NBI adequate compensation, benefits and privileges, such as free health care insurance, accident insurance and scholarships. A special trust fund is also established under this bill. This trust fund will be used to provide legal assistance for NBI personnel who are criminally charged with acts in the performance of their official functions. Two percent (2%) of the yearly collection from clearance fees shall be set aside for the implementation and maintenance of this special trust fund.

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

A handwritten signature in dark ink, appearing to read "R. Gaviola Mercado", is written over a horizontal line.

ROGER GAVIOLA MERCADO



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AN ACT
TO STRENGTHEN THE NATIONAL BUREAU OF INVESTIGATION,
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

SECTION 1. Short Title - This Act shall be known as the "*National Bureau of Investigation Reorganization And Modernization Act Of 20 10.*"

SECTION 2. Declaration of Policy - It is the declared policy of the State to promote respect for the rule of law and maintain law and order in the country. Toward this end, the State shall establish a modern, professional, competent and highly-trained investigative body, national in scope, to ensure effective and efficient investigation of crimes, collection of evidence, and arrest of suspects in the aid of prosecution of crimes.

The National Bureau of Investigation (NBI) shall implement a modernization program geared towards the acquisition of state-of-the-art investigative and intelligence equipment and the establishment of forensic and scientific laboratories. The program shall include provisions for the training of its personnel in this regard.

The investigative and non-investigative staff of the NBI shall be increased and their positions upgraded to adequately meet the increasing demands of an expanded investigative and detective work. The present organizational structure of the NBI shall be reorganized into the Office of the Director, Office of the Deputy Director, Office of the Assistant Directors for Investigation Service, Intelligence Service, Comptroller Service, Administrative Service, Forensic Service, and Legal Service. Each of these shall be composed of the necessary divisions and sections. The investigative and non-investigative staff of the NBI occupying the positions affected by the changes embodied in this Act at the time of its approval shall thereafter occupy the positions by this Act, and discharge the duties and functions of their new positions and receive the

corresponding salary and benefits without the necessity of any new appointment.

The NBI shall be under the administrative supervision of the Secretary of the Department of Justice (DOJ).

SECTION 3. *Qualifications of NBI Agents:*

1. Citizen of the Philippines;
2. At least twenty-five (25) years of age;
3. Of good moral character; and
4. A member of the Philippine Bar or a Certified Public Accountant.

SECTION 4. *Jurisdiction* – The NBI shall have primary jurisdiction to undertake investigations in the following cases:

- a) Crimes committed by government employees and officials while in the performance of their official functions
- b) Organized/Syndicated Crimes
- c) Cyber Crimes
- d) Smuggling Cases
- e) Piracy/Intellectual Property Violations
- f) Economic Sabotage
- g) Transnational Crimes
- h) Crimes Involving National Security; and
- i) Terrorism

Provided, however, that the President or the Secretary of Justice, may direct the NBI to undertake the investigation of any crime where public interest so requires.

SECTION 5. *Powers and Functions* - The NBI shall have the following powers and functions:

- (a) Act as national clearing house of criminal records and other related information for the benefit of judicial, quasi-judicial and administrative bodies, all prosecuting and law enforcement entities, as well as the Legislature and Executive branches of the Government.
- (b) Act as repository for all derogatory and criminal records, Dental records pursuant to P.D. 1575, and A national deoxyribonucleic acid (DNA) database.
- (c) Render forensic assistance to judicial, quasi-judicial and administrative bodies', all prosecuting, and law enforcement entities of the Government, as well as, the Legislature and Executive branches of the government, when so requested.
- (d) Establish an NBI Academy which shall be responsible for the recruitment, training and development of all NBI agents and personnel.

- (e) Establish and maintain modern forensic and scientific Laboratories and to conduct research in furtherance of scientific knowledge in criminal investigation, detection and evidence gathering.
- (f) Establish and maintain an integrated, comprehensive and state-of-the-art network, equipment and facilities to be used by the NBI in its criminal investigation, detection and evidence gathering, and to provide the corresponding training.
- (g) Enlist the assistance of the Philippine National Police, Armed Forces of the Philippines, Philippine Drug Enforcement Agency or any other agency of the Government, including government-owned-and/or controlled corporations, in the performance of its functions. Such assistance may include the use of the enlisted agency's personnel and facilities, upon the prior approval of the head of the agency concerned.
- (h) Conduct intelligence operations in furtherance of the foregoing powers and functions.
- (i) Enter into any contracts of loan or any other transaction for the acquisition, administration, lease, disposition or acceptance of real or personal property in its name.
- (j) Perform such other functions as the President of the Philippines and/ or the Secretary of Justice may assign from time to time.

SECTION 6. *The NBI Director and Other Officials* -The NBI shall be headed by a Director and assisted by a Deputy Director and an Assistant Director for each of the following eight services: Investigation Service, Intelligence Service, Comptroller Service, Administrative Service, Forensic Service, and Legal Service. The NBI shall and maintain Field Offices to be determined by the Director with the concurrence of the Department of Justice.

SECTION 7. *Powers and Functions of the Director* - The Director shall have the following powers and functions:

- 1) Establish policies and standards for the efficient and effective operation of the NBI in accordance with the programs of the Government;
- 2) Exercise direct supervision and control over all NBI employees, their functions, responsibilities and activities;
- 3) Promulgate rules and regulations necessary to carry out the NBI's objectives, policies, plans and programs;
- 4) Establish as many field offices and divisions as the exigencies of the service may require;
- 5) Deploy any of its officials or personnel for out-of-the-country missions;
- 6) Hire consultants for such length of time as may be deemed required by the exigencies of the service;
- 7) Issue firearms licenses, permits to carry firearms outside residences;

- 8) Designate NBI informants;
- 9) Subject to Civil Service laws, rules and regulations, order the dismissal of any NBI employee (non-presidential appointee), in any of the following circumstances;
 - a. When the charge is serious and the evidence of guilt is strong,
 - or;**
 - b. When the respondent is notoriously undesirable.
- 10) Exercise other related functions as may be provided by law or as authorized by the President and/ or the Secretary of Justice.

SECTION 8. *Qualifications and Appointment of the Director* –

The Director shall be appointed by the President and shall hold office for a term of three (3) years. He shall have the same rank, salary and privileges of a secretary of a department. No person shall be appointed Director, unless he is a citizen of the Philippines, a member of the Philippine Bar and with at least fifteen years experience in investigative work, prosecutorial or judicial arm of the Government.

SECTION 9. *Qualifications and Appointment of Deputy Director and Assistant Directors* - The Deputy Director shall be appointed by the President. He shall have the same rank, salary and privileges of an undersecretary of a department. No person shall be appointed Deputy Director unless he is a citizen of the Philippines, must have been an NBI agent and must have served as an NBI Assistant Director. The Assistant Directors shall be appointed by the President. They shall have the same rank, salary and privileges equivalent to an assistant secretary of a department. They must have been an NBI agent for at least 10 years and must have served as NBI Regional Director.

SECTION 10. *Qualifications and Appointments of Regional Directors* - The Regional Director shall be appointed by the NBI Director upon recommendation of the NBI's Promotion and Selection Board. Must have rendered at least ten years of continuous service in the NBI as an NBI agent, and must have served as Assistant Regional Director.

SECTION 11. *Qualifications and Appointments of Assistant Regional Directors* -The Assistant Regional Director, in every NBI Regional Office, shall be appointed by Director upon the recommendation of NBI's Promotion and Selection Board. No person shall be appointed Assistant Regional Director unless he is a citizen of the Philippines, and must have rendered at least ten years of continuous service in the NBI as an NBI agent, three years of which have been as Head Agent.

SECTION 12. *Promotions of NBI Agents* -Agents shall be promoted by the Director upon recommendation of NBI's Promotion Board.

SECTION 13. Powers and Functions of the Investigative Staff—

The investigative staff of the NBI shall have the following powers and functions:

1. Conduct searches, arrests and seizures in accordance with the existing laws, rules and regulations;
2. Issue subpoena or subpoena *duces tecum* for the appearance at Government expense of any person for investigation. Deliberate And unjustified failure to obey the subpoena herein mentioned Shall render the person concerned liable for obstruction of justice Under P.D. 1829; unjustified non-compliance of said Subpoena shall be a ground for Contempt of Court upon proper petition with the Regional Trial Court. .
3. Take sworn statements of any person under investigation;
4. Administer oaths in cases under investigation;
5. Own, possess and carry, outside their office and residence, Suitable and adequate firearms for their personal protection in connection with their duties and for the proper protection of witnesses and persons in custody; and
6. Have access, examine, secure, take custody of and photocopy Public records: Provided, That as regards public and/ or bank records, such access need not be upon prior approval with the court in cases involving a verified complaint for malversation penalized under the Revised Penal Code, violation of the Anti-Graft and Corrupt Practices Law (RA 3019), the Anti-Money Laundering Law of 2001 (RA 9160), Code of Conduct and Ethical Standards of Public Officials (RA 6713), Comprehensive Dangerous Drugs Law of 2002 (RA 9165), Plunder Law (RA 7080) or the Human Security Act of 2007 (RA 9372). The refusal to allow NBI any access to, examination and/ or handling of records mentioned in this paragraph shall render the person concerned liable for obstruction of justice under PD 1829.

SECTION 14. Benefits and Privileges -The NBI shall provide its employees with the following benefits:

- 1) Health care services through a health maintenance organization (HMO), Expenses for the mandatory annual executive check-up of all employees with the salary grade of twenty five (25) and upwards shall be for the account of the office;
- 2) Accident insurance policies for all employees procured by the office at its own expense during travels while in the performance of their official duties and functions; and
- 3) Without prejudice to efficiency in the service, grant scholarships to deserving employees on official time and at the expense of the Office to upgrade their knowledge and skills; Provided, that scholars under this provisions shall be selected on the basis of merit as determined by competitive examination.

SECTION 15. Legal Assistance - A special trust fund shall be established to assist NBI personnel who are criminally charged with acts in the performance of their official functions. Two percent (2%) of NBI's

yearly collection from clearance fees and any interest accruing thereto shall be appropriated for the implementation and maintenance of said special trust fund.

SECTION 16. *Seminar and Other Professional Fees* - Subject to the availability of funds, fees for relevant seminars, as well as professional membership fees for lawyers, registration fees, and related miscellaneous expenses incurred in completing the Mandatory Continuing Legal Education (MCLE) course shall be borne by the office. Moreover, professional membership, registration fees, including the Mandatory Continuing Professional Education (MCPE), and related miscellaneous expenses of other employees.

SECTION 17. *Transportation Benefits* - Subject to availability of funds, employees shall be provided with contracted transportation services until such time that the office can procure additional motor vehicles for this purpose.

SECTION 18. *Franking Privilege* All official mail matters and telegrams of the NBI addressed for delivery within the Philippines shall be received, transmitted and delivered free of charge of the government postal service: *Provided*, that such mail matters when addressed to private persons or non-government offices shall not exceed one hundred and twenty (120) grams;

Provided, finally, that use of this privilege for non-official purposes shall be a ground for dismissal from the service.

SECTION 19. *Grant of Special Allowances* - The investigative staff of the NBI occupying positions with Salary Grade 24 and above shall be granted special allowances in amounts to be determined by the NBI Director and the Department of Budget and Management (DBM). The grant of special allowances shall be implemented uniformly in such sums and amounts and to the extent that can be supported by the funding source as specified in Section 22 hereof: *Provided*, That said special allowance shall not exceed One Hundred percent (100%) but lower that fifty percent (50%) of the basic salary of NBI personnel concerned as provided in Republic Act No. 6758, otherwise known as the Salary Standardization Law.

SECTION 20. *Retention of 25% of NBI Clearance fees* - The NBI shall be authorized to retain at twenty-five percent (25%) of its collection from clearance fees to augment its operational expenses including capital outlay.

SECTION 21. *Funding Source* - The funds required for the implementation of this Act including employee benefits shall be taken from:

- 1) Collections from NBI Clearance and certification fees;
- 2) Service incomes from trainings, DNA, Drug Tests, Confirmatory and Neuro tests and the like;

- 3) Seizures; and
- 4) Other miscellaneous incomes.

SECTION 22. *Effect of Subsequent Salary Increases-* Upon implementation of any subsequent increases in the salary rates provided under Republic Act No. 6758, as mentioned, all special allowances granted under Section 21 hereof shall be considered as an implementation of said salary increases as provided by law. The special allowances equivalent to the increase in the basic salary as may be provided by law shall be converted as part of the basic salary; provided, that the amounts converted as basic salary shall be funded from the regular appropriations of the NBI. Any excess in the allowances granted under this Act not converted to basic salary continues to be granted as such and shall continue to be funded under the immediately preceding Section.

SECTION 23. *Implementing Rules and Regulations* - Within sixty (60) days from the approval of this Act, the NBI Director, in coordination with the Secretary of Budget and Management (DBM), shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

SECTION 24. *Repealing Clause* - Pertinent provisions of Executive Order 292, the Revised Administrative Code of 1987, as amended, Republic Act No. 460 dated December 3, 1997, Republic Act No. 157 dated June 19, 1947, Executive order No. 482 dated May 7, 1998, Administrative Order No. 117 dated February 17, 1994, and all laws, decrees, orders, rules and regulations or parts thereof which are contrary to or inconsistent with the provisions of this Act, are hereby repealed or amended accordingly.

SECTION 25. *Separability Clause* - If any provision of this Act is declared invalid or unconstitutional, the provisions not affected thereby shall continue to be in full force and effect.

SECTION 26. *Effectivity* - This Act shall take effect after fifteen (15) days its publication in two (2) national newspapers of general circulation.

Approved,