

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

House Bill No. **6609**



Introduced by Representative John Marvin "Yul Servo" Nieto

EXPLANATORY NOTE

As a manifestation of support to this timely piece of legislation, this representation respectfully refiles this bill, which has constantly been receiving support from the past and present (Rep. Villafuerte's HB02882 and Sen. Bam Aquino's SB00175) congress.

The government plays a crucial role in creating a healthy environment for the private sector. Article II, Section 20 of the 1987 Constitution states that:

"The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments."

The advent of the start-up industry has led to a rise in the economic growth of the nation – it has encouraged investments, inspired innovation, created jobs, and introduced a more vibrant and dynamic entrepreneurial ecosystem. Despite the various attempts to create an environment that will provide start-ups with a reasonable chance at success, much more needs to be done.

In order to promote and foster inclusive growth through an innovative economy, this measure aims to further encourage the establishment and operation of innovative new business, and business crucial to their growth and expansion, and to strengthen, promote, and develop an ecosystem of businesses and government and non-government institutions that foster an innovative entrepreneurial culture.

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


John Marvin "Yul Servo" Nieto

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House Bill No. **6609**

Introduced by Representative **John Marvin "Yul Servo" Nieto**

AN ACT PROVIDING BENEFITS AND PROGRAMS TO STRENGTHEN, PROMOTE, AND DEVELOP THE PHILIPPINE STARTUP ECOSYSTEM

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

ARTICLE I
GENERAL PROVISIONS

SECTION 1. Short Title. – This Act shall be known as the "*Innovative Startup Act*."

SECTION 2. Declaration of Policy. – It is hereby declared the policy of the State to foster inclusive growth through an innovative economy by streamlining government and non-government initiatives, in both local and international spheres, to create new jobs and opportunities, improve production, and advance innovation and trade in the country.

To this end, the State shall provide incentives and remove constraints aimed at encouraging the establishment and operation of innovative new businesses, and businesses crucial to their growth and expansion, and to strengthen, promote, and develop an ecosystem of businesses and government and non-government institutions that foster an innovative entrepreneurial culture in the Philippines.

SECTION 3. Definition of Terms. – As used in this Act, the following terms shall mean:

- a) *Business operation* – period that shall commence from the date the Authority to Print Invoices/Receipts from BIR has been claimed by the owners of the enterprise or their representative, and shall terminate upon the closure of the enterprise;
- b) *Core business function* – the primary undertaking of the enterprise as its main source of revenue which in the case of the corporation shall be indicated in its articles of incorporation;
- c) *End user* – the consumer of the product or service offered by the enterprise whether for free or for a fee;
- d) *Host Agency* – the Department of Science and Technology (DOST), Department of Trade and Industry (DTI), Department of Information and Communications Technology (DICT) or other national government agency or public academic institution that provides benefits and incentives to innovative startups as defined in this Act subject to an application or selection process;
- e) *Innovative Startup* – a registered business entity in the Philippines operating for no longer than sixty (60) months from the commencement of their business operation whose core business function involves product, process, or business model innovation; *Provided, That:*
 - i. the innovative product, process, or business model is the primary source of revenue of the business entity;

- ii. the business entity is not a mere end user of the innovative product, process, or business model;
- iii. the cost of the business entity for research and development is at least fifteen percent (15%) of its total operational cost, or is a licensee or owner of a patent or registered software; and
- iv. the gross annual revenue of the business entity has not exceeded fifty million pesos (PHP 50,000,000).

Provided, further. That this definition shall also apply to any person/s developing an innovative product, process, or business model. *Provided, finally,* That the applicable benefits to business entities provided in this Act shall only apply after their successful registration as a business entity and the commencement of their business operation.

- f) *Innovative Product* – a good or service that is new or significantly improved, such as improvements in technical specifications, component materials, software in the product, user friendliness or other functional characteristics;
- g) *Innovative Process* – a new or significantly improved production or delivery method through changes in techniques, equipment and/or software;
- h) *Innovative Business Model* – a new organizational method in business practices, workplace organization or external relations;
- i) *Research and Development Cost* – the expenditure of the enterprise as a fraction of its total operational cost that shall include the salary of the employees engaged in research and development, purchase or lease of equipment, software, substances or materials, and such other items and goods and services that may be justified for the purposes of the development of the innovative good, service, process, or business model of the enterprise;
- j) *Support Service Provider* – Any business entity that provides goods or services that are identified to be crucial in supporting the operation and growth of innovative startups, or enterprises whose core business function, which in the case of corporations, are indicated in their articles of incorporation, involves the targeted or exclusive provision of goods and services to innovative startups.

SECTION 4. Innovative Startup Development Program. – There is hereby created an *Innovative Startup Development Program* herein after referred to as the "Program". Under the Program, an Innovative Startup or Support Service Provider as defined under Section 3 of this Act shall be provided with benefits and incentives from the Department of Science and Technology (DOST), Department of Information and Communications Technology (DICT), and/or the Department of Trade and Industry (DTI) through their respective programs.

SECTION 5. Program Objectives. – The Program shall aim to achieve the following:

- a) Support the research and development of Innovative Startups and Support Services in the Philippines;
- b) Support and promote the access of an Innovative Startup to locally and internationally offered programs for Innovative Startups;
- c) Support and promote the participation of Innovative Startups in international competitions;
- d) Support the participation of Innovative Startups in events that aim to link them to potential investors, mentors, and collaborators;
- e) Support the collaboration of an Innovative Startup with a national government agency, public or private academic institution, or industry partner to develop innovative products, processes, or business model which may be integrated in programs, projects, or delivery of public services by the host national agency;
- f) Support the development and growth of enterprises whose products and services are integral to building a competitive innovative startup ecosystem in the Philippines;
- g) Develop and amend policy and regulations to remove undue restrictions in the development, establishment, and growth of Innovative Startups by facilitating consultation with pertinent national government agencies.

ARTICLE II PROGRAM BENEFITS AND INCENTIVES

SECTION 6. General Benefits and Incentives. – Innovative Startups and Support Service Providers selected by DOST, DTI, and DICT under their own respective application or selection processes shall be entitled to the following benefits:

- a) Registration benefits which may be provided through either:
 - i. Waived fees in the application and processing of permits and certificates required for the business registration and operation of the enterprise with the appropriate registering agency; or
 - ii. Refund from the national government agency equivalent to the sum of fees and taxes levied by local government units and national government agencies for the permits and certificates, and their corresponding prerequisite or supporting documents for its registration and operation, *Provided*, That Innovative Startups and Support Service Providers shall only be entitled to this benefit once from any national government agency unless fees and taxes levied applied for refunding has not been refunded by any government agency; and
 - iii. Expedited processing of permits and certificates, and their corresponding requisite documents, required for the registration and operation of the Innovative Startup or Support Service Provider;
- b) Grants-in-Aid for research, development, and expansion projects to be provided and approved by the Secretary of the granting agency. *Provided*, That the host agency may facilitate the application of the Innovative Startup or Support Service Provider to provide initial or supplemental grants-in-aid from another government agency subject to its established guidelines;
- c) Exemption from fees and charges levied by the national government agencies for the use of equipment, facilities, or services availed by the innovative startup such as but not limited to the use of testing and fabrication facilities;
- d) Access to applicable benefits and incentives provided by the Intellectual Property of the Philippines; and
- e) Subsidy for Visa application, renewal, or extension of foreign owners, employees, and/or investors of an innovative startup and support service provider, and exemption from the alien employment permit.

SECTION 7. Benefits for Participation in Local and International Startup Events. – Innovative startups and Support Service Providers selected by the host agency for reasons that include or are limited to participation in local and international startup events shall be entitled to the following benefits chargeable to the available funds of the host agency:

- a) Agency endorsement and facilitation support in the application of passport and/or visa;
- b) Subsidy or reimbursement of fees and charges incurred in the application of the passport or visa;
- c) Subsidy or reimbursement of excess baggage allowance when the need is justified and subject to the approval of the host government agency;
- d) Fully subsidized round trip airfare/s for the representatives of an Innovative Startup or Support Service Provider participating in local or international program or event; *Provided*, That the host agency may set limitations on the number of representatives that it will subsidize; and
- e) Tax exempt daily allowance for representatives of an Innovative Startup or Support Service Provider participating in a local or international event. *Provided*, That the host agency may set limitations on the number of representatives provided the allowance.

SECTION 8. Tax Exemptions. – Innovative Startups or Support Service Providers shall be entitled to the following tax benefits in the commercialization of the innovative product, process, or business model:

- a) Income tax arising from the operation of the enterprise;
- b) Value added Tax (VAT) for the sale and lease of goods, properties or services arising in the course of trade or business of the enterprise or percentage tax;
- c) Creditable withholding tax on income; and Expanded withholding tax on its income payment.

SECTION 9. Innovative Startup Venture Fund. – There is hereby created an Innovative Startup Venture Fund, henceforth referred to as the "Fund," in the amount of Ten Billion Pesos (PHP

10,000,000,000.00) to cover for initial or supplemental grants-in-aid for Innovative Startups and Support Service Providers selected by host agencies. The Fund shall be administered by DOST.

In the administration of this Fund, the DOST shall:

- a) Determine the technical and prioritization standards, and the procedure for applications to access grants-in-aid from this Fund;
- b) Ensure that mechanisms for the application for grants-in-aid under this Fund allow for the maximum utility of the Fund, such as but not limited to, reopening succeeding rounds of application;
- c) Relax prioritization standards when the Fund is undersubscribed, reconsider approval applications denied solely on the basis of such prioritization standards, and reopen applications with public notice of such changes in standards in the application;
- d) Guide applicant Innovative Startups, Support Service Providers, and/or host agencies in developing and improving prospective or denied applications; and
- e) Promote the availability of the Fund, and the capacity of host agencies to endorse, and apply for grants-in-aid provided under this provision to support Innovative Startups and Support Service Providers.

ARTICLE III STARTUP VISAS

SECTION 10. Innovative Startup Visas. – There is hereby created an Innovative Startup Visa, henceforth referred to as the "Visa." The Visa shall have an initial five (5) year validity and may be renewed or extended with a three (3) year validity.

Bearers of the Visa shall be exempt from securing an Alien Employment Permit (AEP) issued by the Department of Labor and Employment (DOLE). The suspension or revocation of the Visa shall likewise terminate the benefit of the exemption from securing the AEP.

The Bureau of Immigration (BI) shall promulgate the rules and regulations consistent with the provisions of this Act in order to enforce this provision, and shall:

- a) Consult DOLE and host agencies in the promulgation of the rules and regulations for this provision;
- b) Immediately publish and disseminate requirements, rules, and regulations on the application for the Visa;
- c) Coordinate the immediate and periodic training of its personnel, and their counterparts in government agencies and public academic institutions, tasked to process the application for the Visa;
- d) Develop and maintain a database for all the bearers of the Visa, and ensure public access to such information subject to existing rules and regulations on Freedom of Information and Data Privacy; and
- e) Reserve the right to deny and revoke applications subject to the promulgated rules and regulations to implement this provision, and applicable rules and regulations governing immigration.

SECTION 11. Visa Eligibility. – The following shall be eligible to apply for the Visa provided under this Act:

- a) Prospective or current foreign owner of an Innovative Startup or Support Service Provider registered in the Philippines;
- b) Prospective or current foreign employee of an Innovative Startup or Support Service Provider registered in the Philippines; or
- c) Prospective or current foreign investors of an Innovative Startup or Support Service Provider registered in the Philippines.

Provided, That the BI, upon the endorsement of a host agency, may extend the provision of the Visa to foreign nationals whose presence in the country contributes in the implementation of the Program, and such other government or government-supported programs that aim to support the development of Innovative Startups in the Philippines as justified in the endorsement.

SECTION 12. Visa Application. – In addition to standard visa requirements, the following shall be required in the application of the Visa:

- a) Endorsement of a host agency;
- b) Copy of the terms and conditions on the endorsement for the Visa application as may be required or agreed with the endorsing host agency; and
- c) Proof of eligibility.

Provided, That in the case of prospective or current foreign investors of an Innovative Startup or Support Service Provider registered in the Philippines, the following shall be required:

- a) Certification under oath of duly-authorized officers of any accredited depository bank in the Philippines as to the amount of foreign exchange inwardly remitted by the alien applicant, and its conversion to pesos through the said bank. *Provided*, That for inward remittances sent through non-accredited correspondent banks, the total amount of remitted money be immediately transferred to an accredited bank;
- b) Certified true copy of peso time deposit with a maturity period of at least thirty (30) days, amounting to at least Two Million Pesos (PHP 2,000,000.00); and
- c) Compliance agreement to invest at least Two Million Pesos (PHP 2,000,000.00) in Innovative Startups or Support Service Providers registered in the Philippines.

Provided, further, That the Board of Investments (BOI), in coordination with the BI, shall reserve the right to create rules and regulations on the investment requirement for the maintenance of the Visa. The BOI shall also require the periodic reporting of the investments to be determined in the implementing rules and regulations of this Act.

Provided, finally, That the BI shall:

- a) In case spouse and dependent children are included in the application, require a marriage contract duly authenticated by the Philippine Consulate or Embassy in the applicant's country, or the embassy of the country of the applicant in the Philippines;
- b) Levy reasonable fees and charges for the processing of the Visa application to implement this provision;
- c) When warranted, provide access to existing visas or approve a Visa with limited validity of less than five (5) years, upon the request and justification of the endorsing host agency for applicants engaged in short-term programs for the development of Innovative Startups in the Philippines;
- d) Automatically waive fees and charges for the first cumulative five (5) years of endorsed Visa application/s of an applicant; and
- e) In no case disapprove, suspend, revoke, or delay the release and approval of any Visa application or renewal on the basis of delayed claim of payment from, or delayed remittance of payment by, any host agency.

SECTION 13. Roles and Responsibilities of Endorsing Host Agencies. – An endorsing host agency shall have the following roles and responsibilities:

- a) Facilitate the Visa application in close coordination with the BI, and the endorsed applicant;
- b) Disseminate its standards, qualifications, terms, and conditions for its endorsement of Visa applications;
- c) Ensure that such standards, qualifications, requirements, and procedures employed to implement this provision are efficient, up to date, and subjected to periodic consultation with its prospective, current, and former recipients;
- d) Justify in its endorsement the nature of the participation and contribution of the applicant in the Program, or in other government or government-supported programs for the development of innovative startups in the Philippines;
- e) Maintain an internal mechanism that shall allow applicants to appeal or contest the disapproval of requests for endorsement, the revocation of the endorsements, based on the standards and requirements that it may impose on applicants;
- f) In no case deprive endorsement to an applicant on the basis of unavailability of funds to partially or fully subsidize the application or renewal of a Visa, and allow the applicant to receive endorsement and shoulder Visa fees and charges;

- g) When warranted, facilitate the appeal of Visa applications denied, or Visas revoked, by the BI, or facilitate the reapplication reflecting necessary corrections or improvements in endorsed applications and Visa bearers;
- h) Ensure the availability of funds, and its immediate remittance to the BI, to cover the fees and charges that may be required to process the Visa application or renewal;
- i) Track and update the eligibility and status of endorsed bearers of the Visa, and immediately report to the BI, such grounds for the denial of Visa application or Visa revocation of applicants it has endorsed; and
- j) Update the database of endorsed bearers of the Visa along with other endorsing government agency and public academic institutions.

ARTICLE IV PROGRAM ADMINISTRATION

SECTION 14. General Roles and Responsibilities of the Host Agencies. – DOST, DTI, DICT and other host agencies shall have the following roles and responsibilities in the implementation of this Act:

- a) Develop the necessary department policies and guidelines for the implementation of the Program, and coordinate with the relevant government agencies for the provision of benefits and incentives for Innovative Startups and Support Service Providers under this Act;
- b) Reassess and adjust their respective current programs based on its applicability to the needs of prospective Innovative Startups and Support Service Providers that may apply for the benefits and incentives under this Act;
- c) Coordinate their respective programs with other host agencies to avoid unnecessary overlaps in coverage, and to promote seamless implementation of complimentary initiatives;
- d) Promote itself as a prospective host agency to interested enterprises who may qualify as an Innovative Startup or Support Service Provider;
- e) Develop and promulgate the efficient rules for its selection and application process for Innovative Startups and Support Service Providers it wishes to host;
- f) Ensure the immediate and efficient provision of the benefits provided under this Act, and such additional benefits and incentives that may be provided as a host agency; and
- g) Actively participate in startup events and programs by government or private institutions.

Host agencies shall be prohibited from disqualifying Innovative Startups or Support Service Providers access to general and additional benefits and incentives under this Act on the basis of nationality.

SECTION 15. Role and Responsibilities of Innovative Startups and Support Service Providers. – Innovative startups and Support Service Providers shall have the following roles and responsibilities upon its application for the benefits and incentives provided in this Act, and for additional benefits and incentives that may be provided by the host agency:

- a) Truthfully disclose information requested by the host agency and/or other national government agencies starting from the application for collaboration or the provision of benefits and incentives under this Act;
- b) Ensure compliance with the agreed terms for the provision of the benefits provided under this Act, and such other additional benefits that may be provided by the host agency and/or other national government agencies; and
- c) Prepare and update the necessary documentary requirements to ascertain the eligibility of the enterprise as an Innovative Startup or Support Service Provider.

SECTION 16. Startup PH Website. – The DICT, in consultation with DTI and DOST, shall develop and maintain a website that shall serve as the primary source of information on statistics, events, programs, and benefits for startups and related enterprises in the Philippines, not limited to those defined under this Act.

This website shall at least have the following features:

- a) Online database of Innovative Startups and Support Service Providers, indicating basic information such as business address, founders, contact information, and funding received; *Provided, That* this database may also be expanded to include businesses and project groups assessed by either DICT, DTI, or DOST to be a startup;

- b) Online inquiry, registration, application, and release of results for endorsements, and applications for benefits and incentives provided under this Act; *Provided*, That this feature may also be extended to facilitate application for funding, or participation in programs or events for startups, whether organized or supported by the government or the private sector;
- c) Statistical information and annual reports pertinent to the implementation of this measure, and such other information content beneficial to, and in line with, the goals and objectives of this Act; *Provided*, That information featured here shall also include studies and reports pertinent to the startups in the Philippines;

SECTION 17. Implementing Rules and Regulations. – DOST, DICT, and DTI in coordination with the pertinent government agencies shall promulgate the necessary rules and regulations within sixty (60) days from the effectivity of this Act.

SECTION 18. Separability Clause. – If any section or part of this Act is held unconstitutional, no other section or provision shall be affected.

SECTION 19. Repealing Clause. – All provisions of existing laws, presidential decrees or issuances, executive orders, letters of instruction, administrative orders, rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SECTION 20. Effectivity. – This Act shall take effect fifteen (60) days after its complete publication in the Official Gazette and in at least two (2) newspapers of general circulation.

Approved,