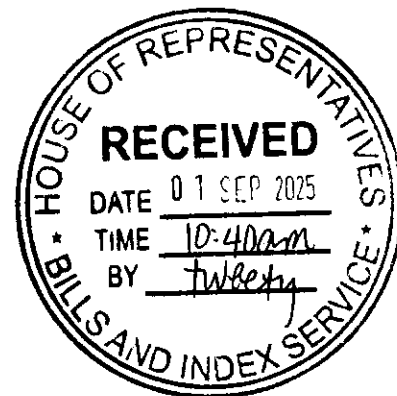


Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

TWENTIETH CONGRESS
First Regular Session



HOUSE BILL NO. 4213

Introduced by **Representatives Oscar "Oca" G. Malapitan, Roman T. Romulo, Ramon Rodrigo L. Gutierrez & Nathaniel M. Oducado, & Johanne Monich G. Bautista**

EXPLANATORY NOTE

This bill proposes to transform the Department of National Defense (DND) Proper to enable it to more effectively carry out its mandate.

The current structure of the DND is based on Executive Order No. 292 or the Administrative Code of 1987. Since then, efforts to reorganize the department to make it attuned to prevailing conditions amounted to mere reconfiguration of its organizational structure.

Those attempts may have been arguably sufficient then. But the stakeholder base and the assets under the DND's management have grown tremendously through the years. Meanwhile, the security challenges the department seeks to address, especially in the international sphere, are continually evolving, becoming ever more complex, volatile, and uncertain, with a number increasingly requiring real-time response.

Faced with those, an essentially stagnant organizational structure, the expertise and dedication of its personnel notwithstanding, simply cannot cope up. With *plantilla* positions generally capped at 347, including only 53 key and 32 technical positions, the DND Proper has one of the lowest in the executive branch.

It thus begs the question: how could the mother agency of the country's defense establishment effectively fulfill its gargantuan tasks?

The passage of this measure is thus prayed for to provide for a more professional organization tasked with nothing short of the survival of the state.


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TRABAHO PARTYLIST

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AN ACT
STRENGTHENING THE DEPARTMENT OF NATIONAL DEFENSE
PROPER AND APPROPRIATING FUNDS THEREFOR

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 "DND Proper Transformation Act".

Section 2. Declaration of Policy. - It is hereby declared the policy of the State to maintain a defense establishment capable of upholding Philippine sovereignty, territorial integrity, and national interests, and thereby foster a safe and stable environment for national development; and the well-being and safety of the Filipino people in a proactive and sustainable manner.

The State recognizes the urgent need to craft a defense architecture that will be adaptable, flexible, and sustainable amid a variety of known and unknown challenges through an operationally secure system. In part, capability and capacity re-building of the Department of National Defense (DND) and the Department Proper must be immediately undertaken to adequately perform its critical mandate in our country's national defense environment while reaffirming the Constitutional principle that civilian authority, is at all times, supreme over the military.

Given these, there is a need to transform the DND into an agile, resilient, modernized, and responsive organization.

Section 3. Definition of Terms. - As used in this Act, the following terms are defined as follows:

- (a) Department of National Defense/Department- refers to the DND Proper and its attached bureaus.

- (b) DND Proper/Department Proper - offices directly under the supervision of the Office of the Secretary of National Defense.
- (c) Defense Infrastructure - a capacitating system composed of tangible (e.g., physical facilities, equipment, human resources) and non-tangible (e.g., policies, processes) components for sustaining and enhancing multi-domain defense capabilities.
- (d) Defense Real Properties- lands, buildings, and constructions of all kinds which are owned, operated, or used by the Armed Forces of the Philippines or other DND Bureaus for defense and security, and other purposes necessary for the accomplishment of the Department's mandate.
- (e) Global Knowledge Networks - a system of interconnected individuals, organizations, and institutions across the world that share, develop, and disseminate knowledge and information.

ARTICLE II. THE DND PROPER: MANDATE, POWERS, AND FUNCTIONS

Section 4. *Mandate of the DND.* - The DND shall maximize its effectiveness for guarding against external threats to national security, provide support, as directed by the President, to conduct operations to address internal threats, foster the conditions conducive to socio-economic development, and promote the welfare of soldiers and veterans.

Section 5. *Relationship of the DND with other Departments and Uniformed Services.* - In times of war, as declared by Congress, or national emergency upon direction of the President, all elements of the Philippine National Police, the Bureau of Fire Protection, the Bureau of Jail Management and Penology, the Bureau of Corrections and the Philippine Coast Guard shall be attached to the DND to assist the Armed Forces of the Philippines (AFP).

Section 6. *The DND Proper.* - There is in the DND a DND Proper hereinafter referred to as the "Department Proper" whose function is to assist the Secretary of National Defense in carrying out the Secretary's duties and responsibilities and other duties as may be prescribed by law.

Section 7. *Mandate of the DND Proper.* - The Department Proper is mandated to provide strategic policy advice and direction; and develop the capability of its attached bureaus. Specifically, the DND Proper shall:

- (a) Assess the security environment and capability gaps;
- (b) Identify enabling solutions and craft defense strategies, plans, and policies;
- (c) Develop and maintain an adaptive defense infrastructure that capacitates the defense establishment to understand and leverage the complexities of the security environment in enhancing its capabilities;

- (d) Manage and provide defense resources and services;
- (e) Strengthen stakeholder relations for defense priorities; and
- (f) Conduct monitoring of and evaluation on the efficiency, effectiveness, and integrity of the programs and operations of the Department.

Section 8. Powers and Functions of the DND Proper. - In the fulfillment of its mandate, the Department Proper shall:

- (a) Formulate national defense strategies, plans, policies, and programs, including a rational, functional, and sustainable mobilization plan for the deployment of the country's citizens and resources for national defense;
- (b) Continue to institutionalize and develop a system that shall integrate and formulate, among others, security environment assessment, planning, resource management, research and development (R&D) and innovation, acquisition, control, support, administration, and decision-making responsibilities of the Secretary of National Defense and the senior leaders of the Department Proper;
- (c) Formulate, establish, implement, and supervise a sustainable and resilient management system suitable to the requirements of the defense establishment and its stakeholders;
- (d) Enter into and execute contracts of every class, kind, and description which are necessary or incidental to the performance of its mandate as provided herein, with any person, firm or corporation, public or private, and with foreign government entities, subject to the requirements of national security;
- (e) Develop, enhance, and sustain multidimensional defense cooperation and engagements with the defense establishments and armed forces of other countries, and other regional and international organizations, as well as with global knowledge networks and defense industries in accordance with sustainable development and national security goals;
- (f) Develop a self-reliant and agile defense force, including entering into partnerships with foreign entities, that is capable of identifying strategic vulnerabilities, addressing current and potential threats, and mitigating risks across the domains of war through developing adaptive and sustainable defense infrastructure;
- (g) Oversee effective disaster resilience initiatives in collaboration with national government agencies, LGUs, foreign defense establishments and armed forces, as well as intergovernmental and international humanitarian organizations;

- (h) Exercise supervision over the AFP and control over attached bureaus through the formulation, implementation, and monitoring and evaluation of national defense, and corporate, service, or manufacturing strategies, policies, plans, and programs;
- (i) Develop the capacities and capabilities of the AFP and attached bureaus to effectively and efficiently address mission requirements; and
- (j) Perform such other defense-related functions as may be provided by law or directed by the President of the Philippines.

ARTICLE III. ORGANIZATION AND MANAGEMENT OF THE DND PROPER

Section 9. *Composition of the DND Proper.* - The Department Proper shall be headed by the Secretary of National Defense, hereinafter referred to as "the Secretary", and shall be composed of the Office of the Secretary, the Offices of the Undersecretaries and Assistant Secretaries, and the delivery units and offices.

Section 10. *The Secretary of National Defense.* - The Secretary shall be appointed by the President, subject to the confirmation by the Commission on Appointments.

Section 11. *Powers and Functions of the Secretary of National Defense.* - The authority and responsibility for the exercise of the mandate, powers, and functions of the Department shall be vested in the Secretary, who shall exercise supervision and control over the Department. For such purposes, the Secretary shall have the following powers and functions:

- (a) Advise the President on all matters of national defense policy, including the promulgation of executive and administrative orders, and on the formulation of necessary regulatory and legislative proposals on matters pertaining to national defense and security;
- (b) In times of war, the Secretary shall act as alter ego to the Commander-In-Chief, manage and control all information across all types of media, and administer mobilization of appropriate personnel and resources;
- (c) In times of national emergency, natural hazards or other related disasters, the Secretary shall have the authority to mobilize and/or call reservists to active duty;
- (d) Provide executive direction and exercise supervision over the Department and its attached bureaus for program and policy coordination;
- (e) Establish policies and standards for the efficient and effective operation of the Department, consistent with the programs of the government;

- (f) Evaluate policies, plans, programs, projects, performance, and accomplishments of the Department, which shall be made available to the public through its website or any other means that will ensure broad dissemination of its contents, subject to operational security requirements;
- (g) Appoint all officers and employees of the Department and its attached bureaus, except those whose appointments are vested in the President or other appointing authority;
- (h) Grant appropriate allowances and incentives to officials and employees to guarantee a competitive salary structure in accordance with existing laws, rules, and regulations;
- (i) Exercise disciplinary powers over officers and employees of the Department Proper, including their investigation and the designation of committee or officer to conduct such investigation, and establish security criteria for the same;
- (j) Issue orders, directives, rules, regulations, and other issuances to carry out plans, policies, programs, or projects pursuant to the provisions of this Act, and exercise such other powers as may be required to implement and realize the objectives of this Act; and
- (k) Perform such other functions as may be provided by law or assigned by the President.

Section 12. National Defense Executives. - The Secretary shall be assisted by at least six (6) Undersecretaries, at least eight (8) Assistant Secretaries, and at least sixteen (16) Directors and Assistant Directors of an equivalent number of delivery units and/or offices. They shall be appointed by the President upon the recommendation of the Secretary.

Section 13. Qualifications. - No person shall be appointed as Undersecretary, Assistant Secretary, Director, Assistant Director, or any other third level position in the DND unless he or she is a citizen and resident of the Philippines, of good moral character, of proven integrity, and highly qualified for the position by reason of background and relevant experience.

Section 14. Sub-National Offices. - The Department may establish, operate, and maintain sub-national offices throughout the country, as management necessities require, based on the determination of the Secretary of National Defense. Each sub-national office shall be headed by a Director, who shall be assisted by an Assistant Director.

Section 15. Structure of the DND Proper. - The Department Proper shall determine its organizational structure and propose the creation of new divisions or units as it may deem necessary, and shall appoint qualified officers, specialists, and employees.

Members of the armed forces in the active service may be assigned or detailed for duty in the Department Proper, provided that they shall not be appointed or designated in any capacity to a civilian position. The service of those assigned or detailed for duty in the Department Proper shall be given appropriate weight and/or credit for their career development.

Section 16. Corps of National Defense Specialists. - The Department Proper shall likewise establish, institutionalize, and nurture a Corps of National Defense Specialists that constitute the supervising specialists to senior officials of the Department Proper, occupying positions from Salary Grade (SG) 18 to 30.

The Department shall provide the appropriate learning and development (L&D) interventions to mold them into well-rounded defense professionals and ensure their responsiveness to current, emerging, and future requirements of the defense establishment, foreign and domestic.

The L&D interventions shall include an immersion program aimed at strengthening their conceptual and practical understanding of defense management and innovation. The Corps is to be familiarized with the various aspects of the Department's operations through functional rotation among the Department Proper's offices and attached bureaus; and relevant government agencies, with the goal of imbibing best management practices.

Section 17. Continuing Education of the DND and Its Attached Bureaus. - All officials and employees of the Department and its attached bureaus may avail of opportunities for local or foreign scholarships and other training and research grants, including participation in seminars, conventions, and conferences, to enhance and upgrade their professional and technical knowledge, skills, and competencies.

The Department may enter into arrangements with leading learning institutions for the conduct of such education, training, and research programs, as may be deemed necessary, to keep it abreast with current and emerging trends on defense and security. This shall also include the sending or exchange of subject matter experts (SMEs) to other government agencies, foreign governments and/or institutions to further enhance the learning of the Department personnel through a more practical, real-world approach.

The Department shall likewise be empowered to enter into research and development initiatives in collaboration with appropriate government agencies, non-government organizations, and the academe, which shall have the highest national security classification, provided that the intellectual property rights of such shall redound to the Republic of the Philippines.

Personnel of the Department and its attached bureaus participating in education, training, and research programs shall be entitled to emoluments and allowances, subject to existing laws, rules, and regulations.

Section 18. Magna Carta. - Employees and officials of the Department Proper and DND attached agencies shall be covered by appropriate laws, which provide magna carta for qualified personnel in the government.

Section 19. Hazard Pay. - All employees and officials of the Department Proper and DND attached agencies who are exposed to high risks or perils to life in the performance of their duties and responsibilities, shall be compensated with hazard pay based on conditions set by the Secretary of National Defense or other relevant agencies.

ARTICLE IV. RESOURCE MANAGEMENT

Section 20. Defense Budget. - Within a period of five (5) years, the total annual budget of the Department shall be progressively increased to at least two percent (2%) of the Gross Domestic Product (GDP) in real terms using the year preceding the implementation of this Act as the base year, and adjusted every ten (10) years thereafter.

Section 21. Acquisition, Service Infrastructure, and Maintenance Contracts. - Considering the unique requirements of national defense, the Department shall be authorized to forge defense partnerships with strategically aligned countries and ensure the continuity of the defense supply chain, including entering into long-term, multi-year contracts outside the ambit of Republic Act No. 9184, otherwise known as the "Government Procurement Reform Act." These shall enable the Department to acquire supply chains, co-develop secure technologies, and support the acquisition, development, maintenance, and disposal of all defense assets, provided that the entities to which it shall contract with have been duly vetted as technically and financially capable to provide the Department's needs without compromising national security.

Section 22. Management and Control of Defense Real Properties. - The Department Proper shall administer, operate, manage, control, maintain, and develop defense real properties for strategic basing and shall use, hold, acquire, or lease any private real property, right of way, or easement, which may be proper or necessary for the accomplishment of its mandate as provided in this Act. The power to manage and control defense real properties includes, but is not limited to, the following:

- (a) Prohibit the sale and/or exchange of strategic defense real properties unless otherwise recommended by the Secretary and approved by the President of the Philippines;
- (b) Authorize the lease and/or development of defense real properties, by joint venture or otherwise, through the recommendation of the Secretary and approval of the President of the Philippines; and
- (c) Transfer of non-strategic defense real properties, as determined by the Secretary, under the management of the Armed Forces of the Philippines Pension Trust Fund.

Any and all income derived from the lease or disposition of such defense real properties shall be remitted only to the AFP Pension Trust Fund or special purpose trust funds to be determined by the Secretary. Said trust funds shall be used strictly for the intended purposes and shall not be co-mingled with other funds, and disbursed in accordance with existing laws, rules, and regulations.

Section 23. *Grants and Donations.* - The Department Proper may accept donations, contributions, and grants from various local or foreign sources, for purposes relevant to its mandate and functions or intended for its bureaus and agencies, provided that acceptance thereof shall be subject to compliance with existing laws, rules, and regulations.

ARTICLE V. SERVICE CONTINUITY

Section 24. *Responsive Service Delivery and Resiliency.* - The Department Proper shall ensure the provision of resources necessary for organizational productivity, responsive service delivery, and service continuity to include, among others:

- (a) Modern and responsive work productivity tools and platforms;
- (b) Automation, integration, and digitalization toward streamlined systems and processes;
- (c) Secure, smart, sustainable, and resilient infrastructure;
- (d) Presence in strategic locations to facilitate joint efforts among the Department Proper and its Bureaus and ensure service continuity; and
- (e) Progressive human resource guidelines designed to enhance the adaptability, competitiveness, and well-being of the Department's human resources.

The Department Proper shall develop an organizational service continuity plan to ensure uninterrupted service delivery, subject to periodic review and updating as frequently as necessary or at least every three (3) years.

The Department Proper shall likewise craft an infrastructure master plan and design considering timeline and appropriate features to ensure a conducive work environment in collaboration with the Department of Budget and Management and other Departments.

ARTICLE VI. FINAL PROVISIONS

Section 25. *Security Consciousness and Protection of Sensitive Information.* - To protect national interests and security, the Department shall strictly observe the highest standards of personnel, document, and information security at all times through the implementation of stringent measures such as, but not limited to:

- (a) Review and updating of existing protocols, manuals, and guidelines on handling physical and digital documents and sensitive information and strict implementation thereof;
- (b) Assignment of the appropriate security clearance to every personnel upon entry into the Department and its regular review thereafter; and

- (c) Utilization of state-of-the-art security systems and/or technologies in all defense establishments and Infrastructure.

The schedule of penalty for other violations shall be stipulated in the Implementing Rules and Regulations.

Section 26. Appropriations. - The amount necessary to implement the provisions of this Act shall be included in the General Appropriations Act under the DND.

Section 27. Transitory Provisions. - The Department Proper shall undertake a comprehensive review of its Organizational Structure and Staffing Pattern (OSSP) with the end view of professionalizing, providing career pathing and upward mobility, and implementing a competency-based system of human resource development.

Within six (6) months from the effectivity of this Act, the Department shall submit to the Department of Budget and Management its proposal and such other requirements for the strengthening and modernization of the Department Proper.

Likewise, within one hundred and twenty (120) days from the approval of this Act, the Secretaries of National Defense, Finance, Budget and Management, Trade and Industry, and the Director-General of the National Economic and Development Authority shall jointly promulgate rules and regulations to facilitate the importation and exportation of defense articles compliant with international conventions on the sale, transfer, trade of such articles, and applicability of tax laws, if necessary.

Section 28. Implementing Rules and Regulations. - Within one-hundred and twenty days (120) days from the effectivity of this Act, the DND shall formulate the rules and regulations necessary for its effective implementation.

Section 29. Repealing Clause. - All laws, decrees, executive orders, proclamations, rules and regulations, and other issuances, or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 30. Separability Clause. - If, for any reason, any provision of this Act is declared invalid or unconstitutional, the remaining parts or provisions not otherwise affected shall remain in force and effect.

Section 31. Effectivity. - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,