



HOUSE OF REPRESENTATIVES

H. No. 4667

BY REPRESENTATIVES GOLEZ (R.), TINGA, VILLAFUERTE, ANGARA, TEODORO, CASTELO, EVARDONE, JALOSJOS (C.), ABAYA, ROMULO, PALMONES, SARMIENTO (M.), KHO (D.), TREÑAS, APACIBLE, HERRERA-DY, RODRIGUEZ (R.), RELAMPAGOS, DURANO, GARIN (S.), DEFENSOR, MAGSAYSAY (M.), PADILLA, TINIO, HARESCO, ABAYON, BONOAN-DAVID, LAGDAMEO (M.), SAKALURAN, ANTONIO, YAP (S.), ORTEGA (F.), MAGSAYSAY (E.), SARMIENTO (C.) AND QUIMBO, PER COMMITTEE REPORT NO. 918

AN ACT CREATING THE DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY, DEFINING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

1 SECTION 1. *Short Title.* – This Act shall be known as the
2 “Department of Information and Communications Technology Act of 2011”.

3 SEC. 2. *Creation of the Department.* – There is hereby created the
4 Department of Information and Communications Technology, hereinafter
5 referred to as the Department.

6 SEC. 3. *Declaration of Policy.* – It is the policy of the State to
7 promote the utilization of information and communications technology,
8 hereinafter referred to as ICT, as a vital tool for nation-building and economic
9 growth that is government-enabled, private sector-led, citizen-centric and
10 market-based. Towards this end, the government shall prioritize the effective
11 coordination and implementation of its national and local ICT and

1 ICT-enabled services, programs, projects and other related initiatives, and
2 reorganize and revitalize all relevant governmental institutions in order to
3 achieve a streamlined and efficient structure that is responsive and attuned to
4 national goals and objectives. It shall likewise be the policy of the State to
5 provide an environment that will support investments in cost-efficient ICT
6 infrastructure, systems and resources to ensure universal access and high-speed
7 connectivity at fair and reasonable costs; a level-playing field for strategic
8 alliances with investors in order to have balanced investments between
9 high-growth and economically depressed areas; ensure consumer protection
10 and welfare as well as preserve the rights of individuals and entities to privacy
11 and confidentiality of information; and promote accountability through
12 transparent governance and effective delivery of government frontline services.

13 SEC. 4. *Definition of Terms.* – As used in this Act, the following
14 terms are defined as follows:

15 (a) *Broadcast* refers to the sending of information to two (2) or more
16 receiving devices simultaneously – over a data communications network, voice
17 mail, electronic mail system, local TV/radio station or satellite system.
18 Broadcast involves sending a transmission simultaneously to all members of a
19 group. In the context of an intelligent communications network, such devices
20 could be host computers, routers, workstations, voice mail systems or just
21 about anything else. In the less intelligent world of “broadcast media”, a local
22 TV or radio station might use a terrestrial antenna or a satellite system to
23 transmit information from a single source to any TV set or radio capable of
24 receiving the signal within the area of coverage.

25 (b) *Chief Information Officer (CIO)* refers to a third-ranking career
26 executive in charge of the information and communications
27 technology/information technology/management information systems
28 (ICT/IT/MIS) office in a department, bureau or government-owned or

1 -controlled corporation/government financial institution, including legislative,
2 judicial and constitutional offices.

3 (c) *Cybersecurity* refers to securing the cyberspace from known and
4 unknown attacks from d dos, Malwares and Trojans, among others, through the
5 creation of technical defenses.

6 (d) *E-Governance or Electronic Governance* refers to the application
7 of information communications technology to the processes of government
8 functioning to bring about efficient, ethical, accountable, responsive and
9 transparent governance.

10 (e) *Information and communications technology (ICT)* refers to the
11 totality of electronic means to collect, store, process and present information to
12 end-users in support of their activities and services. It consists of computer
13 systems, office systems and consumer electronics as well as networked
14 information infrastructure, the components of which include the telephone
15 system, the Internet, fax machines and computers.

16 (f) *ICT-enabled service providers* refer to offshoring and outsourcing
17 service providers, including contact centers, medical or legal transcription,
18 animation, engineering or architectural design services, software development,
19 business process outsourcing services and other providers of services that
20 require the intrinsic use of a networked information infrastructure.

21 (g) *ICT sector or ICT industry* refers to all telecommunications
22 carriers/operators, ICT equipment and solutions manufacturers and providers,
23 Internet service providers, ICT training institutions, software developers and
24 ICT-enabled service providers.

25 (h) *M-Governance or Mobile Governance* refers to the application of
26 mobile technology to the process of government functioning to bring about
27 efficient, ethical, accountable, responsive and transparent governance.

1 SEC. 5. *Mandate.* – The Department shall be the primary policy,
2 planning, coordinating, implementing, regulating and administrative entity of
3 the executive branch of the government that will plan, promote and help
4 develop the country's ICT sector and ensure reliable and cost-efficient
5 communications facilities, other multimedia infrastructure and services.

6 The Department shall likewise be responsible for overseeing the
7 government's integrated and strategic ICT systems and improving the
8 acquisition, utilization and optimization of government's ICT in order to
9 improve the productivity, efficiency, effectiveness and responsiveness of
10 national and local government programs. The Department shall furthermore be
11 responsible for ensuring the application of ICT to the various processes and
12 functions of the government.

13 In fulfilling its mandate, the Department shall be guided by the
14 following strategic objectives:

15 (a) Ensure the provision of a strategic, reliable, cost-efficient and
16 citizen-centric ICT infrastructure, systems and resources as instruments of
17 nation-building and global competitiveness;

18 (b) Foster a policy environment that will promote a broader market-led
19 ICT and ICT-enabled services sector, a level playing field, partnership between
20 the public and the private sectors, strategic alliance with foreign investors and
21 balanced investments between high-growth and economically-depressed areas;

22 (c) Foster and accelerate the convergence of ICT facilities such as, but
23 not limited to, the development of networks;

24 (d) Ensure universal access and high-speed connectivity at fair and
25 reasonable costs;

26 (e) Ensure the availability and accessibility of ICT services in areas not
27 adequately served by the private sector;

1 (f) Promote and encourage the widespread use, creative development
2 and access to ICT with priority consideration on the requirements for growth
3 of the Philippine ICT industry;

4 (g) Promote and assist the development of local and national content
5 application and services in the area of ICT by sourcing or providing funds and
6 construction assistance for ICT-hubs and/or technical support to local-based
7 providers in these endeavors and in the marketing of the local products to the
8 global community;

9 (h) Establish a strong and effective regulatory and monitoring system
10 that will ensure investor and consumer protection and welfare, and foster a
11 healthy competitive environment;

12 (i) Promote the development of ICT expertise in the country's human
13 capital to enable Filipinos to compete in a fast-evolving information and
14 communication age;

15 (j) Ensure the growth of ICT and ICT-enabled industries, including
16 mobile technologies, application and services;

17 (k) Protect the rights of individuals to privacy and confidentiality of
18 their personal information;

19 (l) Encourage the use of ICT in support of efforts or endeavors for the
20 development and promotion of the country's agriculture, arts and culture,
21 history, education, public health and safety, and other socio-civic purposes;

22 (m) Sustain the development of the nationwide postal system as an
23 integral component of the overall development of ICT in the country;

24 (n) Ensure the security of ICT infrastructure and assets of individuals
25 and businesses; and

26 (o) Empower, through the use of ICT, the disadvantaged segments of
27 the population, including persons with disabilities (PWDs) or who are
28 differently-abled.

1 SEC. 6. *Powers and Functions.* – To carry out its mandate, the
2 Department shall exercise the following powers and functions:

3 (a) Formulate, recommend and/or implement national policies and
4 guidelines in the ICT sector that will promote wider use and development of
5 ICT, and its applications, such as e-commerce, in coordination with the
6 Department of Trade and Industry (DTI), among others;

7 (b) Initiate, harmonize and/or coordinate all ICT plans and initiatives
8 of government agencies to ensure overall consistency and harmony with
9 e-governance objectives, in particular, and national objectives, in general;

10 (c) Represent and negotiate for Philippine interests on matters
11 pertaining to ICT in international bodies;

12 (d) Develop and maintain national ICT development plans and
13 establish and administer comprehensive and integrated programs for ICT with
14 due consideration to advances in convergence and other emerging
15 technologies; and for this purpose, invite any agency, corporation or
16 organization, whether public or private, whose development programs in ICT
17 are integral parts thereof, to participate and assist in the preparation and
18 implementation of various programs among which are an integrated National
19 Government Portal and the National Government Data Center;

20 (e) Leverage resources and activities in the various National
21 Government Agencies (NGAs) for database building activity, information and
22 resource sharing and agency networking linkages;

23 (f) Design, implement and ensure the protection of an integrated
24 government information and communications infrastructure development
25 program that will coordinate all relevant government entities, taking into
26 consideration the inventory of existing and projected manpower, plans,
27 programs, proposals, software and hardware, and the installed systems and
28 programs;

1 (g) Provide an integrated framework in order to optimize all
2 government ICT resources and networks and the identification and
3 prioritization of all e-governance systems and applications as provided for in
4 the Government Information Systems Plan and/or the Medium-Term
5 Development Plan (MTDP);

6 (h) Coordinate and support the generation and/or acquisition of all
7 necessary resources and facilities as may be appropriate in and for the
8 development, marketing, growth and competitiveness of the Philippine ICT
9 and ICT-enabled services sector;

10 (i) Develop, implement and improve, in coordination with concerned
11 government agencies and industry associations, the government's ICT
12 application capabilities and determine the personnel qualification and other
13 standards essential to the integrated and effective development and operation
14 of government information and communications infrastructure;

15 (j) Encourage and establish guidelines for private sector funding of
16 ICT projects for government agencies in order to fast-track said projects which
17 provide reasonable cost-recovery mechanisms for the private sector including,
18 but not limited to, build-operate-transfer (BOT) mechanisms;

19 (k) Assess, review and provide direction to ICT research and
20 development programs of the government in coordination with the Department
21 of Science and Technology (DOST) and other institutions concerned;

22 (l) Establish and prescribe rules and regulations for the establishment,
23 operation and maintenance of ICT facilities in areas not adequately served by
24 the private sector, in consultation with the private business sector, local
25 government units (LGUs) and the academe;

26 (m) Provide policy direction and guidance on ICT-related aspects for
27 the operation and maintenance of a nationwide postal system that shall include
28 mail processing, logistics services, money remittance and payment services and

1 other banking services, in accordance with the rules and regulations of the
2 Bangko Sentral ng Pilipinas;

3 (n) Administer and enforce all laws, standards, rules and regulations
4 governing ICT;

5 (o) Ensure the protection of ICT-related intellectual property rights in
6 coordination with the Intellectual Property Office (IPO), the Optical Media
7 Board (OMB) and other concerned agencies;

8 (p) Protect the rights of consumer and business users to privacy,
9 security and confidentiality in coordination with concerned agencies;

10 (q) Harmonize, synchronize and coordinate with appropriate agencies
11 all ICT and e-commerce policies, plans and programs;

12 (r) Coordinate with the DTI in the promotion of trade and investment
13 opportunities in ICT and ICT-enabled services;

14 (s) Promote strategic partnership and alliances among and between
15 local and international ICT firms and institutions, research and development,
16 educational and training institutions, and technology providers, developers
17 and manufacturers to speed up industry growth and enhance global
18 competitiveness, in coordination with concerned agencies;

19 (t) Plan and/or implement such activities as may be appropriate and/or
20 necessary to enhance the competitiveness of Philippine workers, firms and
21 small-to-medium enterprises in the global ICT market and ICT-enabled
22 services market in coordination with concerned agencies;

23 (u) Undertake initiatives to promote ICT and ICT-enabled services in
24 education and training and the development, promotion and application of ICT
25 in education in a manner that is consistent with national goals and objectives,
26 and responsive to the human resources needs of the ICT and ICT-enabled
27 services sector in particular in coordination with concerned agencies;

1 (v) Maximize the use of existing government assets and infrastructure
2 by encouraging private sector investments and partnerships in its operation to
3 achieve total digital inclusion and access to the global information highway;
4 and

5 (w) Formulate guidelines and policies defining the manner of
6 cooperation among Internet service providers (ISPs), telecommunication
7 companies (TELCOs) and law enforcement agencies during official
8 investigations on violations of existing laws relating to ICT.

9 *SEC. 7. Composition.* – The Department shall be headed by a
10 Secretary to be appointed by the President, subject to confirmation by the
11 Commission on Appointments. The President shall also appoint not more than
12 four (4) Undersecretaries and four (4) Assistant Secretaries.

13 Any person appointed as Undersecretary or Assistant Secretary of the
14 Department must be a citizen and resident of the Philippines, of good moral
15 character, of proven integrity and with experience or expertise in either of the
16 following: electronic governance, cyber services, information technology
17 infrastructure, e-commerce, cyber security, data privacy or human capital
18 development.

19 At least one (1) of the Undersecretaries and one (1) of the Assistant
20 Secretaries shall be a member of the Philippine Bar. The Assistant Secretaries
21 referred to herein shall be career officers with appropriate eligibilities as
22 prescribed by the Civil Service Commission.

23 *SEC. 8. Secretary of Information and Communications Technology.* –
24 The authority and responsibility for the exercise of the mandate of the
25 Department and for the discharge of its powers and functions shall be vested in
26 the Secretary of ICT, hereinafter referred to as the Secretary, who shall have
27 supervision and control over the Department. For such purposes, the Secretary
28 shall:

1 (a) Provide executive direction and supervision over the entire
2 operations of the Department and its attached agencies;

3 (b) Establish policies and standards for the effective, efficient and
4 economical operation of the Department, in accordance with the programs of
5 the government;

6 (c) Rationalize delivery systems necessary for the effective attainment
7 of the objectives of the Department, including the creation of such offices as
8 may be necessary to ensure the fulfillment of the Department's mandate,
9 subject to the approval of the Department of Budget and Management (DBM);

10 (d) Review and approve requests for financial and manpower resources
11 of all operating offices of the Department;

12 (e) Designate and/or appoint all officers and employees of the
13 Department, except the Undersecretaries, Assistant Secretaries and Regional
14 and Assistant Regional Directors, in accordance with civil service laws, rules
15 and regulations;

16 (f) Establish coordinative mechanisms to ensure the successful
17 implementation of national ICT policies, initiatives and guidelines in
18 coordination with concerned government units, LGUs, public and private
19 interest groups, including nongovernment organizations (NGOs) and people's
20 organizations (POs);

21 (g) Advise the President on the promulgation of executive and
22 administrative orders and regulatory and legislative proposals on matters
23 pertaining to ICT development and promotion;

24 (h) Serve as member of the Government Procurement Policy Board as
25 established by Republic Act No. 9184, otherwise known as the "Government
26 Procurement Reform Act";

1 (i) Serve as the Chairperson of the Board of the Philippine Postal
2 Corporation in accordance with Republic Act No. 7354, otherwise known as
3 the "Postal Service Act of 1992", and the Corporation Law;

4 (j) Formulate such rules and regulations and exercise such other
5 powers as may be necessary to implement the objectives and purposes of this
6 Act; and

7 (k) Perform such other tasks as may be provided by law or assigned by
8 the President from time to time.

9 SEC. 9. *Regional Offices.* – The Department shall be authorized to
10 establish, operate and maintain a regional office in each of the administrative
11 regions of the country as the need arises. The regional office shall be headed
12 by a Regional Director, who may be assisted by one (1) Assistant Regional
13 Director. The regional offices shall have, within their respective administrative
14 regions, the following functions:

15 (a) Implement laws, policies, plans, programs, projects, rules and
16 regulations of the Department;

17 (b) Provide efficient and effective service to the people;

18 (c) Coordinate with regional offices of other departments, offices and
19 agencies;

20 (d) Coordinate with LGUs; and

21 (e) Perform such other functions as may be provided by law or
22 assigned by the Secretary.

23 SEC. 10. *Periodic Performance.* – The Secretary is hereby required to
24 formulate and enforce a system of measuring and evaluating periodically and
25 objectively the performance of the Department and to submit the same
26 annually to the President and to appropriate congressional committees.

27 SEC. 11. *Council of Chief Information Officers.* – Every department
28 and agency of the national government or its equivalent office in any

1 constitutional body, state college or university and government-owned and
2 -controlled corporation is hereby directed to appoint or designate at least a
3 third (3rd) ranking official as a Chief Information Officer.

4 The Council of Chief Information Officers shall be composed of eleven
5 (11) members with fixed terms of office, to be appointed by the Secretary from
6 sectoral representatives of government departments, constitutional bodies, the
7 academe, LGUs and private sector ICT-oriented NGOs. The Secretary shall be
8 the Chairperson of the Council.

9 The Council shall serve as a coordinating body to assist the Secretary in
10 the establishment of policies, standards, rules and guidelines for the provision
11 and other ICT e-governance initiatives. It shall also assist the Secretary in the
12 monitoring and evaluation of the Government Information System Plan.

13 The Secretary shall convene the Council *en banc* or by sector at least
14 once every semester within a calendar year.

15 SEC. 12. *E-Government Fund.* – There shall be an e-government
16 fund to be appropriated annually under the General Appropriations Act (GAA)
17 to be administered by the Department, specifically to fund cross-agency
18 government ICT projects which shall be used to support and co-finance
19 projects that enable the government to expand its ability to conduct activities
20 electronically and provide frontline services through the development and
21 implementation of innovative uses of the internet or other emerging
22 technologies: *Provided*, That the fund shall not be used to cover personal
23 services expenditures: *Provided, further*, That the rules and regulations on the
24 utilization of the fund shall be jointly formulated by the Department and the
25 DBM.

26 The Department may accept donations, contributions and grants from
27 various sources, domestic or foreign: *Provided*, That in case of donations from
28 foreign governments, acceptance thereof shall be subject to the prior clearance

1 or approval of the President of the Philippines upon recommendation of the
2 Secretary of Foreign Affairs. Receipts from donations shall be accounted for in
3 the books of the Department in accordance with pertinent accounting and
4 auditing rules and regulations.

5 In order to ensure full transparency, accountability and integrity on the
6 use of e-government funds, a set of guidelines for the disbursement and
7 management of the fund, including the monitoring and evaluation system of
8 projects funded under the e-government fund, shall be formulated, developed
9 and published by the Department, in coordination with the DBM. In the
10 preparation of said guidelines, consultations shall also be made with the
11 respective umbrella organizations of the ICT sector.

12 The implementing agencies which were granted funding under the
13 e-government fund shall maintain primary responsibility over the use and
14 management of the allocated funds. The agencies concerned shall regularly
15 submit performance and monitoring reports on the use of said funds to the
16 Department.

17 In connection with the implementation of the e-government fund, the
18 Department shall provide or arrange the appropriate or relevant ICT education
19 or training program in order to enable the trainees to comprehend the ICT
20 development cycle appropriate to a given project, as well as to ensure that
21 government project managers shall acquire expertise for the timely delivery of
22 systems according to a prescribed content and budget.

23 However, internal IT systems meant to support the agencies' IT
24 operations shall be charged against the agencies' own budgetary allocation. -

25 SEC. 13. *Transfer of Agencies and Personnel.* - (a) The following
26 agencies are hereby abolished, and their powers and functions, applicable
27 funds and appropriations, records, equipment, property and personnel
28 transferred to the Department:

1 (1) All operating units currently existing in the Commission on
2 Information and Communications Technology (CICT);

3 (2) National Computer Center (NCC); and

4 (3) Telecommunications Office (TELOF).

5 All offices, services, divisions, units and personnel not otherwise
6 covered by this Act for transfer or absorption into the new Department shall
7 continue to perform their transportation-related functions and, therefore, shall
8 be retained under the Department of Transportation and Communications
9 (DOTC), which is hereby renamed as the Department of Transportation.

10 (b) The following agencies are hereby attached to the Department for
11 policy and program coordination, and shall continue to operate and function in
12 accordance with the charters, laws or orders creating them, insofar as they are
13 not inconsistent with this Act:

14 (1) National Telecommunications Commission (NTC); and

15 (2) Philippine Postal Corporation.

16 The Department shall not exercise any power which will have the effect
17 of modifying the exercise by the NTC of its quasi-judicial function.

18 (c) The laws and rules on government reorganization as provided for in
19 Republic Act No. 6656, otherwise known as the Reorganization Law, shall
20 govern the reorganization process of the Department.

21 SEC. 14. *Postal Regulatory Authority.* – The exclusive power and
22 authority to regulate the postal delivery services industry, as provided for
23 under Presidential Decree No. 240 and Republic Act No. 7354, is hereby
24 transferred to the Department.

25 SEC. 15. *Sectoral and Industry Task Forces.* – The Department may
26 create sectoral and industry task forces, technical working groups, advisory
27 bodies or committees for the furtherance of its objectives. Additional private
28 sector representatives, such as from the academe and the federation of private

1 industries directly involved in ICT, as well as other NGAs, LGUs and
2 government-owned and -controlled corporations (GOCCs), may be appointed
3 to these working groups. Government IT professionals may also be tapped to
4 partake in the work of the Department through these working groups.

5 SEC. 16. *Structure and Staffing Pattern.* – The Department shall
6 determine its organizational structure and create new divisions or units as it
7 may deem necessary, subject to the approval of the DBM, and shall appoint
8 officers and employees of the Department in accordance with the Civil Service
9 Law, rules and regulations.

10 SEC. 17. *Magna Carta.* – Employees of the Department shall be
11 covered by Republic Act No. 8439, which provides a magna carta for
12 scientists, engineers, researchers and other science and technology personnel in
13 the government.

14 SEC. 18. *Separation from Service.* – Employees separated from the
15 service as a result of the reorganization shall, within ninety (90) days
16 therefrom, receive the retirement benefits to which they may be entitled under
17 existing laws, rules and regulations.

18 Incumbents whose positions are not included in the new position
19 structure and staffing pattern of the Department or who are not reappointed
20 shall be deemed separated from the service, whether permanent, temporary,
21 contractual or casual employees, and shall, within ninety (90) days therefrom,
22 receive the retirement benefits to which they may be entitled to under existing
23 laws, rules and regulations.

24 SEC. 19. *Appropriations.* – The amount needed for the initial
25 implementation of this Act shall be taken from the current year's
26 appropriations of the CICT and all government agencies herein absorbed or
27 attached to the Department. Thereafter, the amount needed for the operation
28 and maintenance of the Department and its line agencies shall be included in

1 the annual General Appropriations Act: *Provided*, That the amount to be
2 appropriated for the new Department shall be based on the organizational
3 structure and staffing pattern approved by the DBM.

4 The budget of the Philippine Postal Corporation shall be charged from
5 its internally generated funds.

6 SEC. 20. *Transitory Provisions*. – Within sixty (60) to ninety (90)
7 days after the approval of this Act, the organizational structure, including the
8 creation of new offices, divisions or units as may be deemed necessary for the
9 Department to carry out its powers and functions under this Act, shall be
10 determined by the Secretary through a committee that shall be established for
11 the purpose.

12 The new organizational structure and staffing pattern of the Department
13 shall be evaluated and approved by the DBM.

14 The authorized positions created under the organizational or
15 reorganization plan shall be filled with regular appointments, as the exigencies
16 of the service will require and depending upon the position involved, by the
17 President or the Secretary of the Department, as the case may be, in
18 accordance with the civil service rules and regulations.

19 SEC. 21. *Implementing Rules and Regulations*. – The Department
20 shall promulgate and issue such rules and regulations and other issuances as
21 may be necessary to ensure the effective implementation of this Act within one
22 hundred twenty (120) days from the approval thereof.

23 SEC. 22. *Repealing Clause*. – All laws, decrees, executive orders,
24 rules and regulations and other issuances or parts thereof which are
25 inconsistent with this Act are hereby repealed, amended or modified
26 accordingly.

1 SEC. 23. *Separability Clause.* – If any provision of this Act shall be
2 declared unconstitutional or invalid, the other provisions not otherwise affected
3 shall remain in full force and effect.

4 SEC. 24. *Effectivity Clause.* – This Act shall take effect after fifteen
5 (15) days from its publication in at least two (2) newspapers of general
6 circulation.

Approved,

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