

RA 7638

7130

Congress of the Philippines)  
First Regular Session )

THIRD READING COPY  
(Certified by the President  
for its immediate enact-  
ment on October 20, 1992)

S E N A T E

S. No. 695

Introduced by Senators Osmeña, Romulo, Gonzales, Alvarez,  
Biazon, Sotto III, Maceda, Tatad, Angara, Herrera,  
Macapagal-Arroyo, and the Committee on Public Services

AN ACT  
CREATING THE DEPARTMENT OF ENERGY, DEFINING ITS POWERS AND  
FUNCTIONS AND FOR OTHER PURPOSES

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

CHAPTER 1

GENERAL PROVISIONS

SECTION 1. Short Title. - This Act shall be known as  
"The Department of Energy Act of 1992".

SEC. 2. Declaration of Policy. - It is hereby declared  
the policy of the State to achieve self-sufficiency in  
energy, foster sustainable development of energy  
resources, encourage efficient, renewable and indigenous  
energy sources and promote private sector initiative with  
appropriate minimum government regulation.

It is also a policy of the State to ensure the full  
enjoyment of the right of the people to have access to a  
sustained, uninterrupted and continuous supply of electric  
power.

SEC. 3. Definition of Terms.

a) Energy Projects - shall be those activities or  
projects relative to the exploration, extraction,  
production, importation-exportation, processing,  
transportation, marketing, distribution, utilization,  
conservation, stockpiling or storage of all forms of  
energy products and resources;

b) Board - shall mean the Energy Regulatory Board.

1           SEC. 4. *Department of Energy.* - To carry out the  
2 above-declared policy, there is hereby created the  
3 Department of Energy, hereinafter referred to as the  
4 Department, which shall prepare, integrate, coordinate,  
5 supervise and control all plans, programs, projects and  
6 activities of the Government relating to energy exploration,  
7 development, utilization, and conservation.

8           SEC. 5. *Powers and Functions.* - The Department shall  
9 have the following powers and functions:

10           a) formulate policies for the planning and  
11 implementation of a comprehensive program for the efficient  
12 supply and economical use of energy consistent with the  
13 approved national economic plan and provide a  
14 mechanism for the integration, rationalization and  
15 coordination of the various energy programs of the  
16 Government;

17           b) develop and update the existing Philippine Energy  
18 Program which shall provide for an integrated and  
19 comprehensive exploration, development, utilization and  
20 conservation of energy resources, with preferential bias for  
21 environment-friendly, indigenous and low cost sources of  
22 energy. Said program shall be updated within six (6)  
23 months from the effectivity of this Act and submitted to  
24 Congress for its information within ten (10) days from  
25 its completion and not later than the fifteenth day of  
26 August every year thereafter;

27           c) establish and support programs for the  
28 exploration, transportation, marketing, distribution,  
29 utilization, conservation, stockpiling and storage of energy  
30 resources of all forms whether conventional or  
31 nonconventional;

32           d) exercise supervision and control over energy  
33 projects in order to attain the goals embodied in Section 2  
34 of this Article.

1 This includes all regulatory powers allowed by law,  
2 deemed necessary to effectuate said purpose.

3 At the end of four (4) years from the effectivity of  
4 this Act, the Department shall institute, upon approval of  
5 the President, the program and timetable of deregulation of  
6 appropriate energy projects and activities of the energy  
7 industry.

8 e) assess requirements of, determine priorities for,  
9 provide direction to, and disseminate information resulting  
10 from energy research and development programs for the  
11 optimal development of various forms of energy production  
12 and utilization technologies;

13 f) formulate and implement programs, including a  
14 system of providing incentives and penalties, to encourage  
15 more efficient use of energy in all energy-consuming  
16 sectors of the economy;

17 g) formulate and implement a program for the  
18 accelerated development of nonconventional energy systems  
19 and the promotion and commercialization of its applications;

20 h) devise ways and means of giving equitable  
21 preferential benefit to the region that host the energy  
22 generating facility: *Provided, however,* That the other  
23 regions shall not be deprived of their energy requirements;

24 i) encourage private enterprises engaged in energy  
25 projects, including corporations, cooperatives and similar  
26 collective organizations, to broaden the base of their  
27 ownership and thereby encourage the widest public ownership  
28 of any energy oriented corporations;

29 j) formulate such rules and regulations as may be  
30 necessary to implement the objectives of this Act; and

31 k) exercise such other powers as may be necessary or  
32 incidental to attain the objectives of this Act.

CHAPTER II

THE DEPARTMENT PROPER

SEC. 6. *Composition.* - The Department proper shall be composed of the Office of the Secretary and the Offices of the Undersecretaries and Assistant Secretaries, the Energy Resource Development Bureau, the Energy Utilization Management Bureau and the Energy Industry Administration Bureau.

SEC. 7. *Office of the Secretary.* - The Office of the Secretary shall consist of the Secretary and his immediate staff.

No officer, external auditor, accountant or legal counsel of any private company or enterprise primarily engaged in the energy industry shall be eligible for appointment as Secretary within two (2) years from his retirement, resignation or separation therefrom.

SEC. 8. *The Secretary.* - The Secretary shall be appointed by the President, subject to confirmation by the Commission on Appointments. He or she shall have the following functions:

a) establish policies and standards for the effective, efficient and economical operation of the Department in accordance with the programs of the Government;

b) exercise direct supervision and control over all functions, activities, heads of agencies, instrumentalities, officers, managers and personnel of the Department, and instrumentalities that are herein so attached or absorbed or which may thereafter be so provided for by legislative or executive act;

c) devise a program of international information on the geological and contractual conditions obtaining in the Philippines for oil and gas exploration in order to advance the industry;

1 d) create regional or separate grids as may be  
2 necessary or beneficial;

3 e) perform such other functions as may be provided by  
4 law.

5 SEC. 9. *The Undersecretaries.* - The Secretary shall be  
6 assisted by two (2) Undersecretaries who shall be appointed  
7 by the President upon recommendation of the Secretary. They  
8 shall have the powers and functions as provided for in  
9 Section 10, Chapter 2, Book IV of the Administrative Code of  
10 1987.

11 SEC. 10. *Assistant Secretaries.* - The Secretary shall  
12 also be assisted by two (2) Assistant Secretaries, one for  
13 energy policy, planning and monitoring and another for  
14 energy staff support services. Both shall be appointed by  
15 the President upon the recommendation of the Secretary.

16 a) The Assistant Secretary for Energy Policy, Program  
17 Planning and Monitoring - The Assistant Secretary for Energy  
18 Policy, Program Planning and Monitoring shall have the  
19 following duties and responsibilities:

20 1) develop and update an integrated energy plan for  
21 the short, medium, and long term periods to provide a  
22 comprehensive assessment on the supply scenarios and demand  
23 options as well as the impacts of energy policies on the  
24 economy, poverty and environment;

25 2) develop and maintain a centralized, comprehensive,  
26 and unified data and information program to ensure the  
27 efficient collection, evaluation, analysis and dissemination  
28 of data and information on reserves of various energy  
29 resources, production, demand, development technology and  
30 related economic and statistical information which are  
31 required for policy formulation, program planning and  
32 implementation;

1           3) supervise, coordinate and integrate the  
 2 formulation, monitoring and review of programs and plans for  
 3 energy supply development, such as power development, local  
 4 energy resource development and production, and energy  
 5 importation;

6           4) regularly review, and analyze past and current  
 7 patterns of energy consumption *vis-a-vis* growth and  
 8 development performance of the country's various economic  
 9 sectors to evaluate current and foreseeable trends in energy  
 10 demand, and conduct energy supply-demand balancing studies,  
 11 to define energy supply and utilization strategies, estimate  
 12 the resources required, and assess the energy program's  
 13 economic, environmental, social and political impact;

14           5) assure the incorporation of national environmental  
 15 goals in the formulation and implementation of energy  
 16 programs, and advance the goals of restoring, protecting,  
 17 and enhancing environmental quality, and assuring public  
 18 health and safety; and

19           6) conduct studies on international energy issues  
 20 that have a direct impact on supply and utilization of  
 21 energy and provide technical advice on international  
 22 negotiations involving energy resources and technologies.

23           b) The Office of the Assistant Secretary for Energy  
 24 Staff Support Services shall be composed of the Legal  
 25 Counsel and the Financial and Management Services.

26           1) The Office of the Legal Counsel, which shall  
 27 consist of the Litigation and Counseling Division, shall be  
 28 responsible for providing legal advice and services on all  
 29 policies, programs, and operational matters of the  
 30 Department. It shall provide legal counseling services in  
 31 cases where the Department is a party and shall also handle  
 32 administrative cases against any personnel of the Department  
 33 and submit recommendations pertaining to them;

1           2) The Financial and Management Services, which shall  
 2 consist of the Human Resources Management Division, General  
 3 Services Division and the Financial Management Division,  
 4 shall be responsible for providing the Department with  
 5 services relating to personnel information, records,  
 6 supplies, equipment, collection and disbursements, security  
 7 and custodial works. It shall also be responsible for  
 8 providing the Department with staff advice and assistance on  
 9 budgetary, financial, and management improvement matters.

10           SEC. 11. *The Bureaus under the Department.* - The  
 11 Department shall have the following bureaus:

12           a) Energy Resource Development Bureau - The Energy  
 13 Resource Development Bureau, which shall consist of the Oil  
 14 and Gas Division, Geothermal Division, Coal and Uranium  
 15 Division, Compliance Division and the Cartography Section,  
 16 shall have the following functions:

17           1) formulate and implement policies to develop  
 18 and increase domestic supply of local energy resources  
 19 like fossil fuels, nuclear fuels and geothermal  
 20 resources;

21           2) formulate, implement, monitor and regularly  
 22 review sectoral programs and plans relative to the  
 23 exploration, development and extraction of local energy  
 24 resources;

25           3) conduct energy research and studies in  
 26 support of the aforementioned activities;

27           4) provide consultative training and advisory  
 28 services to practitioners and institutions in the areas  
 29 of regulated activities; and

30           5) formulate, implement and enforce financial  
 31 and fiscal policies, rules, guidelines and requirements  
 32 relative to the operations of the service contractors.

1           b) Energy Utilization Management Bureau - The Energy  
2 Utilization Management Bureau, which shall consist of the  
3 Energy Efficiency Program Division, Conventional Energy  
4 Program Division, Nonconventional Energy Program Division,  
5 Fuel and Appliance Testing Laboratory and the Siting and  
6 Environmental Protection Division, shall have the following  
7 functions:

8           1) formulate and implement policies for the  
9 efficient and economical transformation, conversion,  
10 processing, refining, marketing, distribution,  
11 transportation and storage of petroleum, coal, natural  
12 gas, geothermal and other nonconventional energy  
13 resources and ensure their efficient and judicious  
14 utilization;

15           2) monitor sectoral energy consumption and  
16 conduct energy audits, technical training, energy  
17 management advisory services, and technology  
18 application projects on efficient energy utilization;

19           3) develop and implement a continuing energy  
20 conservation program designed to optimize energy  
21 utilization;

22           4) develop, promote and commercialize  
23 applications of biomass, solar, small hydro, wind,  
24 wood and charcoal and other nonconventional energy  
25 systems including new and more efficient and economical  
26 transformation, conversion, processing, refining,  
27 marketing, distribution, transportation and storage  
28 technologies for conventional energy resources;

29           5) formulate, implement, monitor and regularly  
30 review an integrated rural energy program to  
31 effectively address the needs of rural development  
32 programs;



1           6) provide information on energy technology and  
 2           develop middle and long-term energy technology  
 3           development strategies in cooperation with the  
 4           Department of Science and Technology;

5           7) monitor implementation of energy projects in  
 6           coordination with the Department of Environment and  
 7           Natural Resources to ensure compliance with prescribed  
 8           environmental standards; and

9           8) recommend appropriate courses of action to  
 10          resolve major issues which may impede energy projects  
 11          siting or result in adverse environmental impact.

12          c) Energy Industry Administration Bureau - The  
 13          Energy Industry Administration Bureau, which shall consist  
 14          of the Resource Supply Administration Division and the  
 15          Electricity Supply Administration Division, shall have the  
 16          following functions:

17               1) formulate, recommend and monitor the  
 18               implementation of regulatory policies to encourage and  
 19               guide the operations of both government and private  
 20               entities involved in energy resource supply activities  
 21               such as independent power production, electricity  
 22               distribution, as well as the importation, exportation,  
 23               stockpiling, storage, shipping, transportation,  
 24               refinement, processing, marketing and distribution of  
 25               all forms of energy and energy products such as crude  
 26               oil, petroleum products, natural gas, coal and coal-  
 27               derived fuels, uranium and other nuclear fuels,  
 28               geothermal resources, hydro systems and electricity  
 29               generated from the abovementioned energy resources;

30               2) draw up plans to cope with contingencies of  
 31               energy supply interruptions;

3) formulate, implement and enforce financial and fiscal policies, rules, guidelines and requirements relative to the operations of entities involved in the supply of energy resources such as oil companies, petroleum product dealers, coal importing and distributing companies, natural gas distributing companies, independent power producers and all other entities involved in conventional energy supply activities.

### CHAPTER III

#### ATTACHED AGENCIES AND CORPORATIONS

SEC. 12. *Attached Agencies and Corporations.* - The Philippine National Oil Company (PNOC), the National Power Corporation (NPC) and the National Electrification Administration (NEA) shall be under the supervision and control of the Department. The Department Secretary shall, in a concurrent capacity, be the *ex officio* chairman of the respective boards of the NPC and the NEA unless otherwise directed by the President.

The Secretary may reorganize the Boards of Directors of the PNOC, NPC and NEA, and may recommend to the President the replacement of the members thereof when deemed necessary.

#### REGULATORY BOARDS, COMMISSIONS AND COUNCILS

SEC. 13. *Energy Regulatory Board.* - The quasi-judicial powers and regulatory functions with respect to energy pricing and regulations, shall be exercised through the Energy Regulatory Board. The Board shall continue to perform its functions, as expressed in its respective charter and other laws, insofar as they are not inconsistent with the provisions of this Act. The power of the NPC under Section 4 of Republic Act No. 6395 as amended, to determine, fix and prescribe the rates being charged to its customers, as well as the power of electric cooperatives under Chapter II Section 16 (o) of Presidential Decree No. 269, as amended, to fix rates, are hereby transferred to the Energy Regulatory Board.

1           The staff of the Board which shall include an Executive  
 2 Director as provided for under Section 2 of Executive Order  
 3 No. 172 shall be composed of the Office of the Deputy  
 4 Executive Director, Office of Legal Affairs, Office of  
 5 Electric Power Rate-Fixing Cooperatives, Office of Electric  
 6 Power Rate-Fixing NPC Private Utilities, Office of Petroleum  
 7 Financial and Management Services, and the Office of Audit  
 8 which shall be directly under the Chairman and the Board  
 9 Members.

10           The Chairman and Members of the Board shall be  
 11 appointed by the President upon the recommendation of the  
 12 Secretary: *Provided, however,* That one (1) member of the  
 13 Board shall be recommended by labor groups and another  
 14 member shall be recommended by consumer associations.

15           The Secretary shall exercise administrative supervision  
 16 over the Board. The decisions of the Board shall however, be  
 17 appealable to the Supreme Court: *Provided, however,* That any  
 18 decision to reduce prices or rates shall be immediately  
 19 executory pending appeal.

20           SEC. 14. *Council of Advisers on Energy Affairs.*  
 21 A Council of Advisers on Energy Affairs, consisting of five  
 22 (5) members, and appointed from the industry, labor and  
 23 consumer sectors, shall advise the President on the over-all  
 24 energy program, especially on private sector initiatives  
 25 and proposals. The Council shall study and  
 26 propose recommendations to the President on the  
 27 deregulation of appropriate activities of the energy  
 28 industry.

29           The President shall convene the Council within thirty  
 30 (30) days upon approval of this Act.

31           SEC. 15. *Membership in the National Economic and*  
 32 *Development Authority (NEDA) Board.* - The Secretary shall  
 33 be a member of the NEDA Board. He shall also be an ex

1 *officio* member of the Committee on Infrastructure  
2 (INFRACOM).

3 SEC. 16. The Secretary shall also be a member of the  
4 body authorized to formulate and prescribe the necessary  
5 guidelines for the financing, construction, operation and  
6 maintenance of infrastructure projects by the private  
7 sector, under Republic Act No. 6957, otherwise known as the  
8 Build-Operate-Transfer Law.

9 CHAPTER IV

10 TRANSITORY PROVISIONS

11 SEC. 17. *Abolition of Agencies.* - The Office of  
12 Energy Affairs and the Energy Coordinating Council are  
13 hereby abolished subject to Section 19 hereof.

14 SEC. 18. *Transfer of Powers and Functions.* - The  
15 powers and functions of the Energy Coordinating Council and  
16 the Office of Energy Affairs are hereby transferred to  
17 the Department.

18 The foregoing transfer of powers and functions shall  
19 include all applicable funds and appropriations, records,  
20 equipment, property and personnel as may be necessary.

21 SEC. 19. *Transfer of Rights, Assets and Liabilities.*

22 - The Department shall, by virtue of this Act, succeed to  
23 all rights and assume all the liabilities of the Office of  
24 Energy Affairs, the Energy Coordinating Council and all  
25 other agencies, or government units whose functions and  
26 powers have been transferred to the Department, and all  
27 their funds, records, property, assets, equipment, and such  
28 personnel as necessary, including unexpended appropriations  
29 and/or allocations. All contracts and liabilities of said  
30 offices, agencies and government units are hereby  
31 transferred to and assumed by the Department and shall be  
32 acted upon in accordance with the Auditing Code and other  
33 pertinent laws, rules and regulations: *Provided*, That the

1 officers and employees of the said offices, agencies and  
2 government units shall continue in a holdover capacity until  
3 such time as the new officers and employees of the  
4 Department shall have been duly appointed pursuant to the  
5 provisions of this Act.

6 SEC. 20. *Structure and Staffing Pattern.* - The  
7 organizational framework and staffing pattern of the  
8 Department shall be prescribed and approved by the Secretary  
9 within sixty (60) days after the approval of this Act and  
10 the authorized positions created therein shall be filled by  
11 regular appointments by the President or the Secretary as  
12 the case may be: *Provided*, That in the filling of positions  
13 created, preference shall be given to the personnel of the  
14 Office of Energy Affairs and the Energy Coordinating  
15 Council: *Provided, however*, That such individuals comply  
16 with the qualification standards set by the Civil Service  
17 Commission for the positions that they shall be appointed  
18 to: and *Provided, finally*, That if such individuals possess  
19 the same qualifications, seniority shall be given priority.

20 SEC. 21. *Separation from Service.* - Employees separated  
21 from the service as a result of this reorganization shall,  
22 within six (6) months from their separation from the  
23 service, receive the retirement benefits to which they are  
24 entitled under existing laws, rules and regulations.

25 CHAPTER V

26 APPROPRIATIONS

27 SEC. 22. *Appropriations.* - The amount of Two hundred  
28 million pesos (P200,000,000.00) is hereby authorized from  
29 the balance of the Office of Energy Affairs funds and from  
30 the funds of the National Treasury not otherwise  
31 appropriated for the operating and capital expenditures of

1 the Department for the Fiscal Year 1992. Thereafter, such  
2 sums as may be needed for the operation and maintenance of  
3 the Department shall be included in the annual General  
4 Appropriations Act.

## CHAPTER VI

## MISCELLANEOUS PROVISIONS

7 SEC. 23. *Disclosure and Divestment of Financial*  
8 *Interest.* - Before assumption of office, the Secretary of  
9 the Department, the Undersecretaries, and the Assistant  
10 Secretaries shall submit to the Civil Service Commission a  
11 list of all companies, partnerships or business enterprises,  
12 including non-profit organizations, in which they or any  
13 immediate member of their families within the second degree  
14 of consanguinity or affinity, have any form of financial  
15 interest or employment relationship, including consultancy:  
16 *Provided, however,* That all other forms of employment  
17 relationship held by the heads of the offices of the  
18 Department shall be immediately terminated upon assumption  
19 of office.

20 Within thirty (30) days thereafter, complete divestment  
21 of financial interests in any institution, firm or company  
22 which fall under the supervisory or regulatory jurisdiction  
23 of the Department shall be made: *Provided, however,* That in  
24 cases where confirmation of appointments by the Commission  
25 on Appointments is required, the divestment mandated herein  
26 shall be complied within thirty (30) days after such  
27 confirmation.

28 The divestment, provided in the preceding paragraph  
29 shall likewise apply to the members of the immediate family  
30 within the second degree of consanguinity having interest in  
31 any institution or activity which falls under the regulatory  
32 jurisdiction or supervision of the Department and the  
33 agencies attached.

1           The Secretary of the Department or his representative  
2 shall have visitorial and examining authority over  
3 nongovernment entities with contracts for the exploration,  
4 development or utilization of the natural resources for energy  
5 purposes in order to determine the share of the Government in  
6 the revenue or product thereof, and to ascertain all funds  
7 collectible and products due the Government, and that all  
8 funds collectible and produce due the Government have actually  
9 been collected or delivered.

10           During such examination the nongovernment entity  
11 concerned shall produce all the reports, records, books of  
12 accounts and other papers that may be required.

13           The refusal by any such nongovernment entity to allow  
14 an examination of its books of accounts and pertinent  
15 records or its concealment of any material information  
16 concerning its financial status shall be breach of its  
17 contract with the Government and shall constitute a legal  
18 ground for the cancellation thereof.

19           SEC. 24. *Repealing Clause.* - All laws, presidential  
20 decrees, executive orders, rules and regulations or parts  
21 thereof, inconsistent with the provisions of this Act, are  
22 hereby repealed or modified accordingly. However, in no case  
23 are the provisions of Republic Act No. 6969 repealed,  
24 amended or modified by the provisions of this Act.

25           SEC. 25. *Separability Clause.* - If for any reason, any  
26 section or provision of this Act is held unconstitutional or  
27 invalid, the other sections or provisions of this Act shall  
28 not be affected thereby.

29           SEC. 26. *Effectivity.* - This Act shall take effect  
30 after its complete publication in at least two (2)  
31 newspapers of general circulation.

Approved,