AN ACT CREATING THE NATIONAL INDEPENDENT COMMISSION AGAINST CORRUPTION (NICAC), APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The Philippines is known to be one of the oldest democracies in Asia. Throughout its history, the nation has fought for its independence and sovereignty against all forms of threats both within and without. Yet, despite all efforts, there remains a fight yet to be won: the country’s perennial fight against systemic and endemic corruption in government.

Indeed, the effects of massive corruption in the Philippines can be seen in all corners of the country: buildings, bridges, and other infrastructures built with subpar materials; the poor deprived of much-needed social services and welfare goods; entrepreneurs strained to submit to under the table transactions in order to expedite permits and licenses; corporations discouraged from investing significantly, if any, in the country’s economy because of too much complexities in government processes, both official and unofficial; to name a few—all caused by corrupt officials who bear the mandate of putting the Filipinos first before everybody else.

While the government’s efforts to address corruption has made some substantial inroads, much is still needed to be done. In the 2018 Transparency International Corruptions Perception Index, the Philippines ranked 99th out of 180
countries, jumping 12 notches from its 111th rank placement in 2017.\textsuperscript{1} Despite this improvement, however, it was also noted that the Philippines' cumulative score of 36 is significantly less than the Asia Pacific average of 44.\textsuperscript{2} This means that the Philippines still has to make substantial reforms in eliminating and thwarting corrupt practices in government.

Recognizing the need to strengthen the anti-corruption framework in the Philippines, this bill creates the National Independent Commission Against Corruption (NICAC) as an attached agency of the Office of the Ombudsman. The NICAC is largely patterned after Hong Kong's Independent Commission Against Corruption, which successfully eradicated syndicated corruption in Hong Kong.

The NICAC shall formulate a National Anti-Corruption Plan and provide policy recommendations to the Office of the Ombudsman to effectively combat corruption in government. To ensure coordination between the NICAC and the Office of the Ombudsman, this bill mandates that the NICAC shall be headed by the Ombudsman or any of his/her deputies. The NICAC shall also submit periodic reports to the Ombudsman to ensure that the efforts of both agencies are coordinated and to avoid duplication of work.

Immediate passage of this bill is earnestly sought.

HON. EDUARDO "BRO. EDDIE" C. VILLANUEVA

HON. DOMINGO C. RIVERA

\textsuperscript{2} Id.
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 579

Introduced by CIBAC Party-List Representatives
Eduardo 'Bro. Eddie' C. Villanueva and Domingo C. Rivera

AN ACT CREATING THE NATIONAL INDEPENDENT COMMISSION
AGAINST CORRUPTION (NICAC), APPROPRIATING FUNDS
THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. Title. – This Act shall be known as the “National Independent Commission Against Corruption Act.”

SECTION 2. Declaration of Policy. – It is the declared policy of the State to maintain honesty and integrity in public service and to take effective and efficient measures in the battle against graft and corruption. Towards this end, the State shall continuously institute reforms to ensure that graft and corruption is eliminated in all levels of the government.

SECTION 3. Organization. – There is hereby created the National Independent Commission Against Corruption, hereinafter referred to as the Commission, to implement and coordinate policy for the prevention, control and ultimately, the elimination of graft and corrupt practices as defined under relevant laws at all levels of the government.

The Commission shall be attached to the Office of the Ombudsman for policy coordination.
SECTION 4. Powers and Functions of the Commission. – The Commission shall have the following powers and functions:

a) To formulate and implement a National Anti-Corruption Plan (NACP) and action agenda, and reinforce program strategies in accordance with the NACP;

b) To examine the bidding, negotiation, execution and implementation of public contracts in pursuit of the objectives of the NACP;

c) To verify if the award of public works and supply contracts are conducted properly in accordance with law, pursuant to the goals provided for in the NACP;

d) To undertake a comprehensive audit, which shall include, but not be limited to, lifestyle checks on any public officer/employee;

e) To endorse to the Office of the Ombudsman for appropriate action after a finding of a prima facie case of violation of anti-corruption laws in the exercise of its powers under items (b) to (d) above, upon complaint by any person or motu proprio;

f) To conduct sustained information and education drives aimed at preventing corruption and public misconduct; and

g) To organize specialized training of personnel of the government and representatives from the private sector and civil society in the prevention, investigation and prosecution of graft and corrupt practices.

SECTION 5. National Anti-Corruption Plan. – Within ninety (90) days from the approval of this Act, the Commission shall submit to the Office of the Ombudsman and to Congress a five-year plan and study containing detailed policy proposals for the elimination of graft and corruption in all branches, offices, agencies and instrumentalities of government.

The NACP shall also be disseminated to all government agencies.

SECTION 6. Composition of the Commission. – The Commission shall be headed by the Ombudsman or any of the Deputy Ombudsman as its Chairperson. He/she shall be assisted by two (2) Commissioners, who shall serve on a full-time basis.

a) The Commissioners shall include at least one (1) lawyer, accountant or member of the academe who is in the field of public administration. Each Commissioner shall be selected and appointed by the President, without the requirement of confirmation, from a pool of candidates to be nominated by peak professional organizations of accountants or lawyers or by the University or College Administration if the nominee is a member of the academe. A “peak professional organization” refers to an organization duly recognized by members as representative of, and having the largest active membership in their profession, and is existing for at least ten (10) years. The mechanics of the nomination process shall be provided for in the Implementing Rules and Regulations for this Act.
b) The Commissioners must be citizens of the Philippines, at least thirty-five (35) years of age, known and recognized for moral uprightness and patriotism, of unquestionable integrity, and recognized experts in any of the fields of law, accounting or public administration. They must not have been candidates for any elective national or local office in the immediately preceding election, whether regular or special.

c) The Commissioners shall serve for three (3) years, and may be reappointed as such for another term of three (3) years; provided, that the reappointment of a Commissioner shall follow the nomination process outlined in this Section.

d) The President of the Philippines may remove any member of the Commission, upon compliance with due process, for any of the following reasons:

i. The member suffers from physical or mental incapacity that renders him or her incapable of properly discharging the duties and responsibilities of the Commission and such incapacity has lasted for more than six (6) months;

ii. The member has committed acts that are shown prima facie to be fraudulent or illegal or manifestly opposed to the aims and interests of the Commission and/or the government; or

iii. The member ceases to possess the qualifications required in this Act or its implementing rules and regulations.

e) The Commissioners shall not hold any public office or employment during their tenure. Except as otherwise provided by law, in no case shall any member of the Commission appoint representatives to act on his/her behalf.

f) The Commissioners shall have the same rank and emoluments as that of a Deputy Ombudsman.

SECTION 7. The Secretariat. – The Commission shall be assisted by a Secretariat to be headed by an Executive Director.

The Secretariat shall be composed of individuals of known moral probity and dedication to public service.

a) The Executive Director. The Executive Director shall be appointed by the Chairperson with the concurrence of the Commissioners. The Executive Director shall attend the Commission’s deliberations, monitor the implementation of the programs of the Commission, and manage its day-to-day operations.

b) Functions of the Secretariat. The Secretariat shall provide technical and administrative support to the Commission and shall oversee all its operational activities.
SECTION 8. Organizational Structure. – The Commission shall be composed of three departments:

a) The Operations Department, which shall carry out the investigation and endorsement to the proper agency of cases investigated for the prosecution of offenses;

b) The Corruption Prevention Department, which shall carry out assessment of areas in government offices where corruption would be most likely, and make recommendations on how opportunities for corruption can be eliminated or reduced; and

c) The Community Relations Department, which shall gather support and information from the public and work towards changing the public attitude regarding corruption.

SECTION 9. Transparency and Availability of Records. – The Commission shall maintain and preserve its records, documents and papers, and shall make the same available to the public, except when disclosure will pose serious damage to the Commission’s case or when a party would be deprived of his/her right to a fair and impartial trial.

SECTION 10. Implementing Rules and Regulations and Standard Forms. – Within ninety (90) days from the effectivity of this Act, the Commission, in consultation with the head of the Development Academy of the Philippines, the chair of the Civil Service Commission, the Chair of the Commission on Audit, the Ombudsman, a representative from the Sandiganbayan and other relevant stakeholders, shall promulgate the implementing rules and regulations for the proper implementation of this Act.

SECTION 11. Restrictions. – No writ of injunction shall be issued by any court to delay an investigation being conducted by the Commission.

SECTION 12. Total Support of Other Government Units. – The Commission may require any government agency to make available their personnel and facilities to attain the objectives of this Act.

SECTION 13. Malicious Prosecution. – Any complaint found to have been initiated with malice shall be dealt with in accordance with law.

SECTION 14. Franking Privilege. – All official mail letters and telegrams of the Commission addressed for delivery within the Philippines shall be received, transmitted, and delivered free of charge: provided, that such mail matters when addressed to private persons or non-government offices shall not exceed one hundred twenty (120) grams. All mail matters and telegrams sent through government telegraph facilities containing complaints to the Commission shall be transmitted free of charge, provided that the telegram shall contain not more than one hundred fifty (150) words.
SECTION 15. Annual Report. – The Commission shall, on or before June 30 of each year, or by such later date as the President may allow, submit to the President and to Congress, a report on the performance of the Commission in combatting graft and corruption. The Commission shall furnish a copy of such report to the Office of the Ombudsman, and shall also make available a copy of the report to the general public.

SECTION 16. Appropriations. – For the first year of the implementation of this Act, an initial amount of Fifty Million Pesos (Php50,000,000.00) is hereby appropriated. Thereafter, the amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act.

SECTION 17. Repealing Clause. – All provisions of laws, presidential decrees, letters of instruction and other presidential issuances which are incompatible or inconsistent with the provisions of this Act are hereby amended or repealed accordingly.

SECTION 18. Separability Clause. – If any provision of this Act is declared unconstitutional, the other provisions not affected thereby shall continue to be in full force and effect.

SECTION 19. Effectivity Clause. – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or two (2) newspapers of general circulation.

Approved,