



REPUBLIC OF THE PHILIPPINES  
**Senate**  
Pasay City

# Journal

**SESSION NO. 56**  
Monday, January 31, 2011

**FIFTEENTH CONGRESS**  
**FIRST REGULAR SESSION**

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**SESSION NO. 56**  
Monday, January 31, 2011

**CALL TO ORDER**

At 3:26 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

**PRAYER**

The Body observed a minute of silent prayer.

**NATIONAL ANTHEM**

The Senate Choir led the singing of the national anthem.

**SUSPENSION OF SESSION**

With the permission of the Body, the session was suspended.

*It was 3:28 p.m.*

**RESUMPTION OF SESSION**

At 3:29 p.m., the session was resumed.

**SUSPENSION OF SESSION**

Upon motion of Senator Sotto, there being no objection, the session was suspended to allow the senators to greet Senator Legarda on the occasion of her birthday.

*It was 3:30 p.m.*

**RESUMPTION OF SESSION**

At 3:32 p.m., the session was resumed.

**ROLL CALL**

Upon direction of the Chair, the Acting Secretary of the Senate, Atty. Edwin B. Bellen, called the roll, to which the following senators responded:

Arroyo, J. P.	Lapid, M. L. M.
Cayetano, P. S.	Legarda, L.
Defensor Santiago, M.	Osmeña III, S. R.
Drilon, F. M.	Recto, R. G.
Ejercito Estrada, J.	Revilla Jr., R. B.
Enrile, J. P.	Sotto III, V. C.
Escudero, F. J. G.	Zubiri, J. M. F.
Honasan, G. B.	

With 15 senators present, the Chair declared the presence of a quorum.

Senators Angara, Guingona, Marcos, Trillanes and Villar arrived after the roll call.

Senators Cayetano (A) and Pangilinan were on official mission.

Senator Lacson was absent.

**APPROVAL OF THE JOURNAL**

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 55 (January 26, 2011) and considered it approved.

*At this juncture, Senate President Enrile relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.*



**REFERENCE OF BUSINESS**

The Acting Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

**MESSAGE FROM THE  
HOUSE OF REPRESENTATIVES**

Letter from the Secretary General of the House of Representatives, informing the Senate that on 24 January 2011, the House of Representatives passed the following House bills in which it requested the concurrence of the Senate:

House Bill No. 3825, entitled

AN ACT ESTABLISHING A PHILIPPINE HIGH SCHOOL FOR SPORTS AND APPROPRIATING FUNDS THEREFOR

**To the Committees on Education, Arts and Culture; Games, Amusement and Sports; Ways and Means; and Finance**

House Bill No. 3826, entitled

AN ACT INSTITUTIONALIZING THE KINDERGARTEN EDUCATION INTO THE BASIC EDUCATION SYSTEM AND APPROPRIATING FUNDS THEREFOR

**To the Committees on Education, Arts and Culture; and Finance**

and House Bill No. 3849, entitled

AN ACT STRENGTHENING THE PHILIPPINE PUBLIC SAFETY COLLEGE SYSTEM AS THE PREMIER EDUCATIONAL INSTITUTION FOR TRAINING, HUMAN RESOURCE DEVELOPMENT AND CONTINUING EDUCATION OF ALL POLICE, FIRE AND JAIL PERSONNEL, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

**To the Committees on Public Order and Dangerous Drugs; Education, Arts and Culture; Ways and Means; and Finance**

**BILLS ON FIRST READING**

Senate Bill No. 2657, entitled

AN ACT ESTABLISHING THE WIND ENERGY DEVELOPMENT AUTHORITY AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Trillanes IV

**To the Committees on Energy; Public Services; and Finance**

Senate Bill No. 2658, entitled

AN ACT CREATING A CODE COMMISSION TO REVIEW AND RECODIFY THE REVISED PENAL CODE AND OTHER RELATED SPECIAL CRIMINAL LAWS AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Trillanes IV

**To the Committees on Constitutional Amendments, Revision of Codes and Laws; and Finance**

**RESOLUTIONS**

Proposed Senate Resolution No. 352, entitled

RESOLUTION URGING THE COMMITTEES ON PUBLIC WORKS; PUBLIC SERVICES; FINANCE; HEALTH AND DEMOGRAPHY; AND ENVIRONMENT AND NATURAL RESOURCES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE LOOMING GARBAGE CRISIS FACING METRO MANILA

Introduced by Senator Villar

**To the Committees on Environment and Natural Resources; and Local Government**

Proposed Senate Resolution No. 354, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEES ON NATIONAL DEFENSE AND SECURITY; PUBLIC

ORDER AND DANGEROUS DRUGS;  
AND LOCAL GOVERNMENT  
TO CONDUCT AN INQUIRY, IN  
AID OF LEGISLATION, ON THE  
AUGMENTATION OF POLICE  
WITH MILITARY PERSONNEL  
WITH THE END IN VIEW OF  
ESTABLISHING A UNIFIED  
SECURITY APPARATUS

Introduced by Senator Recto

**To the Committees on National Defense and  
Security; and Public Order and Dangerous Drugs**

### COMMUNICATIONS

Letter from the *Bangko Sentral ng Pilipinas*, dated 18 January 2011, furnishing the Senate with certified true copies of BSP Circular Nos. 708 and 709, series of 2011, both dated 10 January 2011, in compliance with Section 15(a) of Republic Act No. 7653 (The New Central Bank Act).

**To the Committee on Banks, Financial  
Institutions and Currencies**

Letter from the Development Bank of the Philippines, dated 25 January 2011, submitting to the Senate the Status of Implementation of the Barangay Micro Business Enterprises (BMBEs) Act of 2002, in compliance with Section 9 of Republic Act No. 9178.

**To the Committee on Trade and Commerce**

### COMMITTEE REPORT NO. 15 ON SENATE BILL NO. 2640

*(Continuation)*

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2640 (Committee Report No. 15), entitled

AN ACT TO PROMOTE FINANCIAL  
VIABILITY AND FISCAL DISCI-  
PLINE IN GOVERNMENT-OWNED  
OR CONTROLLED CORPORATIONS  
AND TO STRENGTHEN THE ROLE  
OF THE STATE IN ITS GOVERN-  
ANCE AND MANAGEMENT TO

MAKE THEM MORE RESPONSIVE  
TO THE NEEDS OF PUBLIC  
INTEREST AND FOR OTHER  
PURPOSES.

Senator Sotto stated that the parliamentary status was the period of interpellations.

The Chair recognized Senator Drilon, Sponsor of the measure, and Senator Defensor Santiago for her interpellation.

### INTERPELLATION OF SENATOR DEFENSOR SANTIAGO

Senator Defensor Santiago expressed her support for the creation of a body that would oversee government corporate reforms, as she suggested that after the exposure by media of the scandals surrounding GOCCs, the bill be dealt with vigorously and with a very great sense of urgency. Thus, instead of having the reform completed by June 30, 2015, as proposed in the bill, she hoped that the Committee would be amenable to her proposal to make the date earlier by two years, i.e., to June 30, 2013, considering that the original proposed date is just a year before the end of President Aquino's term. She believed that June 30, 2013 is a better date because it comes after the midterm elections and would be about the start of the second half of the Aquino presidency.

Senator Drilon expressed openness to consider the amendment, but he also asked to consider the fact that the proposed date, June 30, 2013, comes after an election, and there would still be a ban on appointments by that time. He proposed instead a few months after June 2013.

As regards the composition of the Governance Commission for Government-Owned and -Controlled Corporations (GCG), Senator Defensor Santiago said that she favored the inclusion of the Executive Secretary in the body even though his critics in politics might have misgivings about his performance which, she reminded though, should not be taken personally against whoever occupies the position. She also agreed to retain the DBM and DOF secretaries but she believed that the NEDA director general is not absolutely necessary in the Commission.

Moreover, given the present quality of appointments from the private sector, Senator Defensor

*JS*

Santiago proposed that the two representatives from the private sector be replaced with the executive director of the Secretariat to ensure quick implementation of the GCG's decisions and recommendations to the President. Senator Drilon expressed willingness to consider the proposal, but pointed out that given the multiple functions and workload of the executive secretary particularly in supervising the Office of the President and a number of other agencies, he might just delegate his work in the Commission to a subordinate which might not augur well for a body that would supervise 157 GOCCs. This, he said, is the reason why the DBM secretary was designated as chairman under the bill because the "management" aspect of his position has not been given prominence. He assured, though, that he would consider the proposal of Senator Defensor Santiago as regards the appointment of the executive secretary.

As regards the inclusion of representatives from the private sector, Senator Drilon stated that the idea is for them to put fresh ideas into the GCG. He said that they would not be eligible for reappointment after their three-year term to ensure that the inputs would be novel ideas.

#### **MANIFESTATION OF SENATOR ARROYO**

Senator Arroyo asked to be provided with documents which he believed would be helpful in the discussion on the bill, namely:

- 1) a list of the 157 government-owned and -controlled corporations covered by the bill;
- 2) a list of GOCCs that reportedly have remitted P29 billion to the national government, including their respective remittances; and
- 3) a list of GOCCs that are losing or are receiving government subsidy.

Senator Drilon gave assurance that the documents would be provided. He explained that of the 157 GOCCs, 57 are exempted from the Salary Standardization Law, and that the bill does not cover the 120 plus water districts, as well as state universities and colleges, that are technically considered GOCCs.

As regards dividends, he stated that of the P29 billion remitted to the national government on January 28, 2011, P14 billion came from the *Bangko Sentral ng Pilipinas (BSP)*, P9.3 billion of which

represented dividends from 2003 to 2006 and the rest or P5 billion represented dividends for the subsequent years. He added that the other dividends came basically and principally from government financial institutions (GFIs) like the DBP which remitted P2.8 billion although it has retained earnings of about P18 billion.

Insofar as profits are concerned, Senator Drilon stated that there is a law which requires GOCCs to remit 50% of their net earnings but it has been ignored by the governing boards of GOCCs precisely because no government agency has monitored their activities. An example, he noted, is the DBP which has retained earnings of P18 billion. It is for this reason, he said, that one of the amendments that the Committee would introduce is to strengthen the law on remittance of dividends and to make the board of directors responsible in remitting dividends.

With regard to the assets of the GOCCs, Senator Drilon disclosed that according to the 2009 report of the Commission on Audit, these amounted to P5.557 trillion. He pointed out that a 1% return on that base alone would earn the government a P55 billion in dividends, but with GOCC remittances amounting to only P14 billion to P15 billion annually, the government receives not even one-half of 1% in terms of return.

Senator Drilon underscored that one of the roles that would be assigned to the Governance Commission for GOCCs (GCG) shall be to closely supervise certain aspects of the operations of GOCCs. He explained that under the bill, a lot of rules geared towards good corporate governance are purposely imposed on the GOCCs to push the principle of corporate opportunity and such other principles which apply ordinarily to private corporations but which are ignored by GOCCs.

Senator Arroyo recalled that in 1995, the BSP was given P40 billion in capital and its liabilities turned over to the Central Bank Board of Liquidators. The BSP, he pointed out, was supposed to pay back the capital invested in it by the government. He asked how much the BSP has paid back. In reply, Senator Drilon promised to provide Senator Arroyo with the data.

#### **INTERPELLATION OF SENATE PRESIDENT ENRILE**

Asked by Senate President Enrile whether the Commission would be the supervising or the oversight

body, Senator Drilon answered in the affirmative, saying that it is Governance Commission for Government-Owned and -Controlled Corporations (GCG).

As to whether the Commission would be a permanent part of the bureaucracy, Senator Drilon pointed out that at present, there is no agency that supervises the 157 GOCCs. The Commission, he explained, will be composed basically of the following *ex-officio* members: the secretaries of the DBM, DOF and the NEDA; two private sector representatives with a term of three years each and not subject to any reappointment; and a managing director. He stated that the rest of the Commission's bureaucracy will come from the DBM and the DOF which are presently handling the various aspects of governance of GOCCs. As an example, he noted that there are bureaucrats in the DBM who review the budget of the GOCCs, while there is a section in the DOF which monitors 14 GOCCs. He stated that the bill intends to group these into one headed by one secretary called an executive director who will be tasked primarily to monitor the operations of the GOCC.

Senator Enrile pointed out that GOCCs have their own board of directors and officers who enter into transactions and make multifarious decisions in connection therewith. Asked on the nature of the oversight powers of the Commission over the GOCCs, specifically whether it can reverse any decision of the GOCC board, Senator Drilon clarified that under Section 5 of the bill, the GCG shall primarily serve as an advisory, monitoring, recommendatory and a policy-making body, hence, it has no power to reverse the decision of the GOCC board. However, he stated that if the board's action appears inconsistent with national development policies, the members may be changed after one year.

Senate President Enrile suggested that the Commission be given the power of control and supervision so that there would be some semblance of power that can be utilized as a deterrent against lackadaisical performance on the part of the board members. Senator Drilon explained that the Commission will effectively perform the function of an owner, which is the State, in this particular case. He further stated that like any ordinary corporation whose board of directors is not acting in accordance with the best interest of the owners, the Commission can recommend to the President the appropriate remedial action which may include changing the structure of the

board of directors and calling a special stockholders' meeting.

Senate President Enrile argued that without the power of control and supervision, there will be no pressure on the board members to be more prudent, careful and cautious in making decisions for the corporation. In response, Senator Drilon emphasized that based on some research materials that he has read, the council is referred to as an ownership entity in international parlance, hence, he said, it shall be making recommendations to the President who shall, in turn, act accordingly.

Senate President Enrile proposed that the Commission be given the additional power to review the assets of the GOCCs and to determine whether these assets are still needed for their operation and if found otherwise, these resources should be considered for other purposes. Senator Drilon stated that such power is already included in the bill.

As to difference between the GCG and the Department of General Services, Senator Drilon explained that at present, the 157 GOCCs are spread all over the bureaucracy without any agency coordinating them. Further, he clarified that there is nothing in the bill that seeks to remove the GOCCs from the departments to which they are attached, but the GCG shall be the arm of the President that will oversee these 157 GOCCs.

Senate President Enrile suggested that the relationship of the Commission with the Office of the Government Corporate Counsel (OGCC) be clearly defined since the latter renders decisions for the GOCCs and, more or less, sets the legal norm under which they operate. He cautioned that there could be a clash of jurisdiction in case the OGCC issues a legal opinion that is contrary to the position of the Commission.

On the suggestion that the Office of the Government Corporate Counsel be brought under the umbrella of the Commission, Senator Drilon said that Committee would review the situation and the Commission's structure insofar as the GOCC is concerned.

#### **INTERPELLATION OF SENATOR OSMEÑA**

Asked by Senator Osmeña if the P29 billion remitted to the government is nonrecurring,

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Senator Drilon replied in the affirmative, saying that per the Budget of Expenditure and Sources of Funds (BESF), the recurring dividends are estimated at P1 billion to P2 billion annually. However, he stated that based on experience, it could be as high as P10 billion a year. He noted that the amount of dividends has been very inconsistent since there were years when these were high, and there were years when the GOCCs just kept their income to themselves.

Senator Osmeña pointed out that many of these corporations were not organized to make money but to perform regulatory or policy-making functions, and it is only incidental when they make money in the course of performing their functions. He cited the case of BSP which can intervene, for instance, in pegging the peso to the dollar at P51 or P52 to keep it from collapsing but it could lose its entire profit for a year.

Senator Osmeña also cited many of the 120 public local water districts which were really money-losing propositions because they were simply established to deliver potable water to communities. Senator Drilon clarified that the bill does not cover the BSP which is not considered an ordinary government corporation or the water districts that are supervised by the Local Water Utilities Administration (LWUA). He said that it is LWUA that is covered by the bill.

Senator Osmeña pointed out that LWUA does not earn money because it is supposed to regulate and promote the development of potable water deliveries to the homes and be a conduit of funds to local water districts. On the other hand, he noted that Napocor was supposed to earn money but it somehow lost about P800 million a year. He agreed that GOCCs that lost money should be made to answer for their actuations.

On another matter, Senator Osmeña questioned the law requiring GOCCs to remit 50% of their net earnings as he pointed out that many of them are not money-makers. He asked what would be left to banking or financial institutions if, for instance, DBP remitted 50% of its net earning which, in fact, it might need as capital to expand and lend to bankers. Senator Drilon agreed. However, he stressed that financial institutions should also not hide under the cover that they wanted funds as reserve as he revealed that DBP has P18 billion in undistributed earnings over the past several years.

Asked on DBP's total paid-up capital and total assets, Senator Drilon promised to produce the data in the next session day.

Senator Osmeña explained that DBP's P18 billion earnings mean nothing unless these can be related to total paid-up capital and total assets as well as compared with the other universal banks. Senator Drilon revealed that DBP only declared P2.8 billion in dividends when he started inquiring into its P18 billion earnings, an indication of the leeway it enjoys.

Senator Osmeña maintained that it is understandable for DBP to retain as much earnings as possible to allow it to increase its loan portfolio.

As regards the monitoring of the different GOCCs, Senator Osmeña averred that a five-man committee would be ineffective as he proposed creating subcommittees for each industry cluster, given the fact that corporations have different classifications: energy, transport, finance, agriculture and communications. Also, he suggested that a permanent staff be created and the Development Academy of the Philippines be tapped to study and monitor the different industries so that their best practices can be kept. Senator Drilon welcomed the proposal, as he stated that a full-time executive director of the Secretariat would be appointed. He agreed that the formation of industry group supervisors would be useful to strengthen the supervision of the GOCCs.

As to the suggestion that bullet amendments be made in the special charters of the 57 GOCCs exempted from the Salary Standardization Law, Senator Drilon replied that he was not comfortable with the proposal. He nevertheless clarified that the bill authorizes the creation of a Compensation and Position Classification (CPC) for GOCCs.

On the drafting of a general law to amend a special charter, Senator Drilon replied that the effect of the law would depend on what is going to be amended as he stated that the measure delegated limited powers of Congress to the Commission.

Asked whether a law that says there shall be a Special Compensation Commission to look into the salary levels of the SSL-exempt SSS and GSIS has the power to overrule their respective charters, Senator Drilon answered in the affirmative.

Asked which corporations are not covered by the GCG, Senator Drilon replied that water districts are not covered but LWUA, MECO, SBMA and other free ports are covered.

Asked whether the Commission could recommend the abolition of a GOCC, Senator Drilon answered in the affirmative, as he adverted to subsection (d) of Section 5 (*Creation of the Governance for Government-Owned or -Controlled Corporation*) which states: "(d) Evaluate the performance and determine the relevance of the GOCCs and recommend to the President the reorganization, merging, streamlining, abolition or privatization of a GOCC." He stated that subsection (d) provides for the standards under which the GCG could make its recommendations.

Senator Osmeña stated that abolishing GOCCs was not his only concern but also certain practices of GOCCs like buying banks, as in the case of LWUA, to further expand their reach when such has little to do with their primary and secondary duties. In answer, Senator Drilon adverted to Section 28 which provides that no new GOCC or no new corporation shall be created under the Corporation Code without the clearance of the President.

As regards the purchase of existing corporations, Senator Drilon agreed to expand the prohibitions in Section 28 to include acquisition of corporations.

*At this juncture, Senate President Pro Tempore Ejercito Estrada relinquished the Chair to Senator Zubiri.*

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2640**

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

#### **ACKNOWLEDGMENT OF THE PRESENCE OF GUEST**

At this juncture, Senator Sotto acknowledged the presence in the gallery of Mayor Leandro Panganiban of Pola, Oriental Mindoro.

The Chair welcomed the Mayor to the Senate.

#### **COMMITTEE REPORT NO. 1 ON SENATE BILL NO. 2486 (Continuation)**

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2486 (Committee Report No. 1), entitled

#### **AN ACT TO STRENGTHEN AND PROPAGATE FOSTER CARE FOR ABUSED, ABANDONED, NEGLECTED AND OTHER CHILDREN WITH SPECIAL NEEDS, PROVIDING APPROPRIATIONS THEREFOR AND FOR OTHER PURPOSES.**

Senator Sotto stated that the parliamentary status was the period of interpellations.

Thereupon, the Chair recognized Senator Cayetano (P), Sponsor of the measure, and Senator Defensor Santiago for her interpellation.

#### **INTERPELLATION OF SENATOR DEFENSOR SANTIAGO**

Initially, Senator Defensor Santiago adverted to the definition of the word "family" in Section 3 (*Definition of Terms*) of the bill, to wit: "Family" refers to the Parents and relatives of the Child within the fourth (4th) degree of consanguinity or affinity, including, but not limited to, the Child's ascendants, uncles, aunts, brothers and sisters." She noted that the definition throws a wider net over individuals not considered family members under Article 150 of the Family Code of the Philippines which provides that "Family relations include those between husband and wife, among parents and childrens, among other ascendants and descendants, and among brothers and sisters, whether of the full or half blood." She explained that if a child's biological mother marries a man who was financially incapacitated and later both parents die, the parents of the husband who are not at all related to the child under the Family Code will be considered members of the family, thus, the child would not be eligible for foster care. Adverting to Section 4 (*Who May Be Placed in Foster Care*), she stated that the expanded definition of "family" under the measure would consider the parents of a child's stepfather a family member even when the relationship is too attenuated. Also, she said that the law does not require such family members to get a



license to foster the child since foster care will be pursued as an alternative arrangement only in the absence of family members who are unable to give adequate care to the child. She suggested that the Foster Care Act should require family members to secure a foster care license or get appointed as guardian so that they will have a legal basis upon which to exercise parental authority over the child and conversely, the child is given adequate protection from any abuse or negligence. Further, she said that the definition of "family" should be restricted to individuals enumerated in the Family Code, which states that: "Any person not falling within that classification should get a license to foster."

Senator Cayetano (P) welcomed the suggestions which she believed would strengthen the bill. She opined that the definition of the word "family" in the bill should be consistent with the Family Code as she proposed putting in the bill a definition for "extended family members" or "other relatives" to cover relatives who are not immediate family members by blood nor affinity but have personal relations with the child such as uncles, aunts or cousins. She believed that uncles, aunts or cousins who are close to or live with the child could be considered better foster parents rather than complete strangers. She agreed that extended family members should likewise secure a foster license or undergo a screening process just like the foster parent-applicants who are not family members as defined by the Family Code.

As regards Section 4 (G) of the bill, Senator Defensor Santiago stated that the provision is too broad. She proposed that it enumerate the grounds for which "the child cannot be placed for adoption" such as special needs that require costly medical attention. Senator Cayetano (P) explained that the technical group that includes the DSWD and agencies that have the experience with foster children, used the term for children who have extreme difficulty of being adopted: children with severe disabilities, children who are no longer young, especially those 14 years old and above; or children who cannot be placed for adoption due to particular circumstances, such as when the parents are unable to readily care for them. By way of example, she cited a scenario where the child's mother died and the father is an addict waiting to be rehabilitated or an OFW who cannot immediately come home to care for the child. She said that in this situation, the child cannot be put up for adoption but nonetheless needed temporary foster care.

Supposing a child has not been given sufficient attention by an overworked social worker to facilitate his/her declaration as an abandoned child, asked whether this is a case of a child not qualified for adoption, Senator Cayetano (P) stated that this situation is not contemplated in the section.

Senator Defensor Santiago asserted that when there is inability to match the child for adoption due to a temporary setback, the solution is for the social worker to exert efforts to speed up the documentation necessary to clear the child as legally available for adoption. She cautioned that frequently moving a three- or four-year old child between foster homes could traumatize him/her. She emphasized that the Declaration of Policy recognizes the temporary nature of fostering when it says, "foster care is an important step toward the child's return and reintegration to his biological parents or placement with an adoptive family." Further, she stressed that "foster care" as defined in the bill refers to "the provision of planned temporary substitute parental care for a child by a foster parent." She said that Section 4(G) sounds like a terminal point where the child who cannot be adopted is placed in foster care as a permanent placement. She stressed that the view on fostering must be consistent, whether it is a temporary or permanent placement, and said section must be clarified during the period of amendments. Senator Cayetano (P) clarified that the intent of the bill is consistent, meaning that foster care is temporary. She agreed that the wording of Section 4(G) needs to be improved to clarify that the child who may be placed in foster care is a child who is not meant for adoption because the family can care for the child at a later time.

Still on Section 4(G), Senator Defensor Santiago cautioned that confusion might arise when it is juxtaposed with RA 8552 (*Domestic Adoption Act of 1998*), Section 2 (*Declaration of Policy*) of which provides: "It is hereby declared the policy of the State to ensure that every child remains under the care and custody of his/her parents and be provided with love, care, understanding and security towards the full and harmonious development of his/her personality. Only when such efforts prove insufficient and no appropriate placement or adoption within the child's extended family is available shall adoption by an unrelated person be considered."

Relative thereto, Senator Defensor Santiago cited the Supreme Court rule on adoption as contained in

a circular, to wit: "(A) Domestic Adoption – (b) the State shall provide alternative protection and assistance to foster care or adoption for every child who is a foundling, neglected, orphaned or abandoned. To this end, the State shall: (i) ensure that every child remains under the care and custody of his parents and is provided with love, care, understanding and security for the full and harmonious development of his personality. Only when such efforts prove insufficient and no appropriate placement or adoption within the child's extended family is available shall adoption by an unrelated person be considered."

Senator Defensor Santiago stated that in the bill, the child shall be placed in foster care if he/she cannot be adopted, hence, the clear preference for adoption. However, she underscored that in both the Domestic Adoption Act and Supreme Court rule on adoption, efforts should be made by the State to find appropriate placement for the child before adoption by unrelated persons. She emphasized that the word "placement" includes foster placement, wherein the State shall exhaust all means to find a home for the child with his or her family members, whether the home is a permanent one for adoption or a temporary one through foster care. She added that if placement within the extended family is not possible, only then should the child be placed for adoption or foster care by non-relatives. In response, Senator Cayetano (P) stated that there is no argument that the priority is to reunite the child with her family and that foster care is temporary. She reiterated that what needs to be done is to improve the wording of certain provisions to clarify their intent.

On the matter of inter-country adoption, Senator Defensor Santiago quoted Section 7 of RA 8043 (*Inter-Country Adoption Act of 1995*) to wit: "*Inter-Country Adoption as the Last Resort* — The Board shall ensure that all possibilities for adoption of the child under the Family Code have been exhausted and that inter-country adoption is in the best interest of the child. Towards this end, the Board shall set up the guidelines to ensure that steps will be taken to place the child in the Philippines before the child is placed for inter-country adoption: *Provided, however,* That the maximum number that may be allowed for foreign adoption shall not exceed six hundred (600) a year for the first five (5) years." In relation thereto, she quoted the Supreme Court rule on adoption:

"Sec. 27. *Objectives.* – The State shall:

- a) consider inter-country adoption as an alternative means of child care, if the child cannot be placed in a foster or an adoptive family or cannot, in any suitable manner, be cared for in the Philippines;
- b) ensure that the child subject of inter-country adoption enjoys the same protection accorded to children in domestic adoption; and
- c) take all measures to ensure that the placement arising therefrom does not result in improper financial gain for those involved."

Senator Defensor Santiago believed that the bill should draw a distinction between placement with extended family members and with stranger or non-relatives. She proposed that placement be made in the following manner in case the parents are unable to take care of their children:

1. Members of the family (as defined in the Family Code);
2. Foster placement with extended family (as defined under the Foster Parent Act);
3. Domestic adoption;
4. Foster placement in the Philippines with unrelated persons; and
5. Inter-Country Adoption (being the last resort).

Senator Cayetano (P) agreed to the first two items in the order of priority. With respect to domestic adoption and foster placement with unrelated persons, she pointed out that there are cases where the child is just waiting to be reunified with his or her biological family and therefore should not be offered for either.

Senator Defensor Santiago added that both the Domestic Adoption Act and the Inter-Country Adoption Act require a minimum age difference between the adopter and the child to be adopted, to wit"

1. R.A. No. 8043, Section 9. *Who may adopt.* – An alien or a Filipino citizen permanently residing abroad may file an application for inter-country adoption of a Filipino child if he/she:

- a) is at least twenty-seven (27) years of age and at least sixteen (16) years older than the child to be adopted, at the time of application unless the adopter is the parent by nature of the child to be adopted or the spouse of such parent;

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2. R.A. No. 8552, Section 7. *Who may adopt.* –  
The following may adopt:

a) Any Filipino citizen of legal age, in possession of full civil capacity and legal rights, of good moral character, has not been convicted of any crime involving moral turpitude, emotionally and psychologically capable of caring for children, at least sixteen (16) years older than the adoptee, and who is in a position to support and care for his/her children in keeping with the means of the family. The requirement of sixteen (16) year difference between the age of the adopter and adoptee may be waived when the adopter is the biological parent of the adoptee, or is the spouse of the adoptee's parent;

Senator Defensor Santiago believed that the requirement of a minimum age gap should be retained in foster care to ensure that the foster parent is more mature than the child and can credibly carry out the responsibilities of a parent and demand obedience on the child.

Senator Cayetano (P) welcomed the suggestion even as she noted that as a qualification for foster parents, the DSWD follows the minimum age of 25 which, she believed, is a reasonable age since it would be difficult for teenage foster parents to handle the responsibilities involved in caring for a one-year old child. She added that setting minimum age requirement would also prevent situations wherein the adoptee could be abused by his/her foster parents.

On another matter, Senator Defensor Santiago adverted to Section 5 which reads: "*Provided, further,* that an alien possessing the above qualifications and has resided in the Philippines for at least six (6) months may qualify as a foster parent."

She pointed out that the Domestic Adoption Act of 1998 states that an alien is qualified to adopt if it is shown "that he has been living in the Philippines for at least three (3) continuous years prior to the filing of the petition and maintains residence until the adoption decree is entered." She suggested that the bill require that the alien's visa status allows him to stay legally in the Philippines for the entire time that the child is being fostered in order to avoid any misunderstanding that the alien foster parent could take the child out of the Philippines during the period of fostering.

For her part, Senator Cayetano (P) believed that an alien should not be prevented from being a parent merely due to a technicality such as his visa status nor should there be a situation where he resorts to adoption as a means to bring the child out of the country.

Senator Defensor Santiago proposed that at the proper time, the provision should read as follows:

*"Provided further,* that an alien possessing the above qualifications and who has resided in the Philippines for at least six (6) months AND MAINTAINS SUCH RESIDENCE UNTIL THE TERMINATION OF PLACEMENT BY THE DSWD OR EXPIRATION OF THE LICENSE TO FOSTER, may qualify as a foster parent.

Senator Cayetano (P) expressed willingness to accept the proposed amendment at the proper time.

Senator Defensor Santiago stated that the bill should have a provision on the rights and duties of foster parents which would include custody, care, support and tort liability, which should be no different from the rights of those who exercise substitute parental authority. However, she believed that the right to discipline and the extent that it can be carried out should be limited to those entrusted with special parental authority. She said that foster parents cannot use corporal punishment to discipline their children.

Adverting to Section 17 (*Assistance to a Foster Child*) which discusses assistance for the child in terms of the monthly subsidy given to the foster parent to cover the foster child's basic needs, Senator Defensor Santiago suggested that the bill set a limit on the number of children that could be put under the care of a foster parent to ensure that the principal motivation for an individual to become a foster parent is not to earn a living but to give a temporary home to a child. Moreover, she said that foster parents should not to be too distracted by many other obligations since they shoulder a myriad of responsibilities.

Senator Cayetano (P) explained that while the DSWD allows foster parents to adopt a maximum of three (3) children, the number may increase if the potential adoptees happen to be siblings. She said that the Committee could provide for other circumstances that would dictate the need to foreign exception.

On another matter, Senator Defensor Santiago noted that since Section 5 (*Who May Be A Foster*

MS

*Parent*), considers the “relatives” of the child as including those who are beyond the 4<sup>th</sup> civil degree of consanguinity or affinity, even virtual strangers could be given priority over non-relatives. As such, she suggested that the bill define the terms “relatives” or “extended family.” Senator Cayetano (P) expressed willingness to accept the proposal at the proper time.

In closing, Senator Defensor Santiago commended Senator Cayetano (P) for her service in the cause of children, family and country.

*In the course of Senator Defensor Santiago’s interpellation, Senator Zubiri relinquished the Chair to Senator Honasan.*

#### **ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS**

In commending the people who have been instrumental in crafting the Committee Report, Senator Cayetano acknowledged the presence of the following in the gallery:

- Former DSWD Secretary Ms. Cora de Leon;
- Ms. Paz de Guzman of the Parenting Foundation of the Philippines;
- Ms. Theresa Nuque of NorFil Philippines;
- Ms. Elena Caraballo, Executive Director of the Council for the Welfare of Children;
- Foster families; and
- Director Gemma Gaboya from the Social Technology Bureau of the DSWD.

Senator Cayetano (P) also lauded Atty. Gwen Pimentel who has been very active in the preparation of the measure.

#### **TERMINATION OF THE PERIOD OF INTERPELLATIONS**

There being no further interpellation, upon motion of Senator Sotto, there being no objection, the Body closed the period of interpellations.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2486**

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

#### **ADDITIONAL REFERENCE OF BUSINESS**

The Acting Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

#### **BILLS ON FIRST READING**

Senate Bill No. 2659, entitled

**AN ACT SETTING A CEILING TO THE INDEBTEDNESS OF THE REPUBLIC OF THE PHILIPPINES TO ENSURE MACRO-ECONOMIC STABILITY AND SUSTAINABLE GROWTH AND FOR OTHER PURPOSES**

Introduced by Senator Recto

**To the Committees on Finance; and  
Economic Affairs**

Senate Bill No. 2660, entitled

**AN ACT ESTABLISHING THE DIOSDADO P. MACAPAGAL MEMORIAL LIBRARY AND MUSEUM**

Introduced by Senator Angara

**To the Committee on Rules**

Senate Bill No. 2661, entitled

**AN ACT MANDATING THE SECRETARY OF THE DEPARTMENT OF FINANCE AND THE GOVERNOR OF THE BANGKO SENTRAL NG PILIPINAS TO APPEAR BEFORE CONGRESS SEMI-ANNUALLY TO REPORT ON THE STATUS AND DIRECTIONS OF THE FISCAL AND MONETARY POLICIES OF THE STATE**

Introduced by Senator Recto

**To the Committees on Finance; and  
Economic Affairs**

Senate Bill No. 2662, entitled

**AN ACT ESTABLISHING THE TRICYCLE DRIVER TRAINING AND MOTOR-IST AWARENESS PROGRAMS**

Introduced by Senator Defensor Santiago

**To the Committees on Public Services;  
Local Government; and Finance**

Senate Bill No. 2663, entitled

AN ACT AUTHORIZING THE  
SECRETARY OF LABOR AND  
EMPLOYMENT TO MAKE GRANTS  
TO LOCAL GOVERNMENT UNITS  
TO CARRY OUT EMPLOYMENT  
TRAINING PROGRAMS

Introduced by Senator Defensor Santiago

**To the Committees on Labor, Employment  
and Human Resources Development; Local  
Government; and Finance**

Senate Bill No. 2664, entitled

AN ACT TO PROVIDE FOR A  
COMPETENCE ACCREDITATION  
PROGRAM FOR US DRIVERS AND  
TO REQUIRE THAT THEY BE PAID  
THE MINIMUM WAGE

Introduced by Senator Defensor Santiago

**To the Committees on Labor, Employment  
and Human Resources Development; and  
Public Services**

Senate Bill No. 2665, entitled

AN ACT PROVIDING INCENTIVES TO  
PUBLIC SCHOOL TEACHERS WHO

ARE ASSIGNED OUTSIDE OF THEIR  
CITIES, MUNICIPALITIES, AND  
PROVINCES, APPROPRIATING  
FUNDS THEREFOR, AND FOR  
OTHER PURPOSES

Introduced by Senator Defensor Santiago


**To the Committees on Education, Arts and  
Culture; Ways and Means; and Finance**

**ADJOURNMENT OF SESSION**

Upon motion of Senator Sotto, there being no  
objection, the Chair declared the session adjourned  
until three o'clock in the afternoon of the following  
day.

*It was 4.59 p.m.*

I hereby certify to the correctness of the  
foregoing.

  
EDWIN B. BELLEN  
Acting Secretary of the Senate  
*EB Belen*

Approved on February 1, 2011