



REPUBLIC OF THE PHILIPPINES  
**Senate**  
Pasay City

# Journal

**SESSION NO. 88**  
Wednesday, May 25, 2011

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

**SESSION NO. 88**  
Wednesday, May 25, 2011

**CALL TO ORDER**

At 3:14 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

**PRAYER**

Sen. Mirriam Defensor Santiago read the prayer by Horatius Bonar, to wit:

**BE MY GUIDE**

*Your way, not mine oh Lord,  
However dark it be;  
Lead me by Your own hand,  
Choose out the path for me.*

*The kingdom that I seek  
Is Yours: so let the way  
That leads to it be Yours,  
Else I must surely stray.*

*Take You my cup, and it  
With joy or sorrow fill,  
As best to You may seem;  
Choose You my good ill.*

*Not mine, not mine the choice  
In things or great or small;  
Be You my guide, my strength,  
My wisdom, and my all.*

**SUSPENSION OF SESSION**

Upon motion of Senator Sotto, the session was suspended.

*It was 3:15 p.m.*

**RESUMPTION OF SESSION**

At 3:16 p.m., the session was resumed.

**ROLL CALL**

Upon direction of the Chair, the Secretary of the Senate, Atty. Emma Lirio-Reyes, called the roll, to which the following senators responded:

Angara, E. J.	Lacson, P. M.
Arroyo, J. P.	Lapid, M. L. M.
Defensor Santiago, M.	Osmeña III, S. R.
Ejercito Estrada, J.	Recto, R. G.
Enrile, J. P.	Sotto III, V. C.
Escudero, F. J. G.	Zubiri, J. M. F.
Honasan, G. B.	

With 13 senators present, the Chair declared the presence of a quorum.

Senators Cayetano (P), Drilon, Guingona, Marcos, Pangilinan and Trillanes arrived after the roll call.

Senators Cayetano (A), Legarda and Villar were on official mission, the latter abroad.

Senator Revilla was absent.

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

**APPROVAL OF THE JOURNAL**

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of

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the Journal of Session No. 87 (May 24, 2011) and considered it approved.

**REFERENCE OF BUSINESS**

The 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 16 May 2011, the House of Representatives passed the following House bills, in which it requested the concurrence of the Senate:

House Bill No. 32, entitled

AN ACT ESTABLISHING A REGULAR DISTRICT OFFICE OF THE LAND TRANSPORTATION OFFICE IN DUMALAG, CAPIZ AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 187, entitled

AN ACT CONVERTING THE BAYAWAN CITY LAND TRANSPORTATION OFFICE (LTO) EXTENSION OFFICE INTO A REGULAR LTO DISTRICT OFFICE

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

House Bill No. 283, entitled

AN ACT CONVERTING THE LAND TRANSPORTATION OFFICE (LTO) EXTENSION OFFICE LOCATED IN PARAÑAQUE CITY INTO A REGULAR LTO DISTRICT OFFICE, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

House Bill No. 287, entitled

AN ACT ESTABLISHING THE LAND TRANSPORTATION OFFICE OF COMPOSTELA VALLEY PROVINCE AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 752, entitled

AN ACT ESTABLISHING A LAND TRANSPORTATION OFFICE IN THE CITY OF SAN JOSE DEL MONTE, BULACAN AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 819, entitled

AN ACT ESTABLISHING A DISTRICT BRANCH OF THE LAND TRANSPORTATION OFFICE IN THE SECOND DISTRICT OF ILOILO, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

House Bill No. 839, entitled

AN ACT ESTABLISHING A REGULAR DISTRICT OFFICE OF THE LAND TRANSPORTATION OFFICE IN THE MUNICIPALITY OF CONCEPCION, PROVINCE OF TARLAC AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 1167, entitled

AN ACT CONVERTING THE LAND TRANSPORTATION OFFICE (LTO) EXTENSION OFFICE LOCATED IN THE MUNICIPALITY OF DAPA, SURIGAO DEL NORTE INTO A

REGULAR LTO DISTRICT OFFICE,  
APPROPRIATING FUNDS THEREFOR  
AND FOR OTHER PURPOSES

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

House Bill No. 1426, entitled

AN ACT CONVERTING THE LAND  
TRANSPORTATION OFFICE (LTO)  
EXTENSION OFFICE LOCATED IN  
THE ISLAND GARDEN CITY OF  
SAMAL, PROVINCE OF DAVAO  
DEL NORTE INTO A REGULAR LTO  
DISTRICT OFFICE, APPROPRIAT-  
ING FUNDS THEREFOR AND FOR  
OTHER PURPOSES

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

House Bill No. 1967, entitled

AN ACT CONVERTING THE LAND  
TRANSPORTATION OFFICE (LTO)  
EXTENSION OFFICE LOCATED IN  
TUBOD, LANA O DEL NORTE INTO  
A REGULAR LTO DISTRICT OFFICE,  
APPROPRIATING FUNDS THEREFOR  
AND FOR OTHER PURPOSES

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

House Bill No. 2961, entitled

AN ACT CONVERTING THE LAND  
TRANSPORTATION OFFICE (LTO)  
EXTENSION OFFICE LOCATED IN  
SAN SIMON, PAMPANGA INTO A  
REGULAR LTO DISTRICT OFFICE,  
APPROPRIATING FUNDS THEREFOR  
AND FOR OTHER PURPOSES

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

House Bill No. 3714, entitled

AN ACT DECLARING DECEMBER 2  
OF EVERY YEAR AS A SPECIAL  
NONWORKING HOLIDAY IN

PASAY CITY TO BE KNOWN  
AS THE FOUNDATION DAY OF  
PASAY CITY

**To the Committee on Local Government**

House Bill No. 4094, entitled

AN ACT SEPARATING THE CITY OF  
BATANGAS FROM THE SECOND  
LEGISLATIVE DISTRICT OF THE  
PROVINCE OF BATANGAS TO  
CONSTITUTE THE LONE LEGIS-  
LATIVE DISTRICT OF THE CITY  
OF BATANGAS

**To the Committees on Local Government;  
and Constitutional Amendments, Revision of  
Codes and laws**

House Bill No. 4393, entitled

AN ACT PROVIDING FOR MANDA-  
TORY HEPATITIS-B VACCINATION  
OF ALL INFANTS WITHIN  
A REASONABLE PERIOD OF  
TIME AFTER BIRTH, AND  
OTHER VACCINE-PREVENTABLE  
DISEASES

**To the Committee on Rules**

House Bill No. 4410, entitled

AN ACT PROVIDING FOR THE DIRECT  
REMITTANCE TO THE HOST  
LOCAL GOVERNMENT OF ITS  
FORTY PERCENT (40%) SHARE OF  
THE PROCEEDS DERIVED FROM  
THE UTILIZATION AND DEVELOP-  
MENT OF NATIONAL WEALTH,  
AMENDING FOR THE PURPOSE  
SECTION 293 OF REPUBLIC ACT  
NO. 7160, AS AMENDED, OTHER-  
WISE KNOWN AS THE LOCAL  
GOVERNMENT CODE OF 1991

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

House Bill No. 4413, entitled

AN ACT CONVERTING THE QUIRINO

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STATE COLLEGE (QSC) IN THE MUNICIPALITY OF DIFFUN, PROVINCE OF QUIRINO INTO A STATE UNIVERSITY TO BE KNOWN AS THE QUIRINO STATE UNIVERSITY (QSU), INTEGRATING THEREWITH THE QUIRINO POLYTECHNIC COLLEGE (QPC) IN THE MUNICIPALITY OF CABARROGUIS AND THE MADDELA INSTITUTE OF TECHNOLOGY (MIT) IN THE MUNICIPALITY OF MADDELA, ALL LOCATED IN THE PROVINCE OF QUIRINO AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 4418, entitled

AN ACT DECLARING FEBRUARY 7 OF EVERY YEAR AS A SPECIAL NONWORKING HOLIDAY IN THE MUNICIPALITY OF MANTICAO, PROVINCE OF MISAMIS ORIENTAL IN COMMEMORATION OF ITS FOUNDING ANNIVERSARY TO BE KNOWN AS ARAW NG MANTICAO

**To the Committee on Local Government**

House Bill No. 4419, entitled

AN ACT DECLARING JUNE 15 OF EVERY YEAR AS A SPECIAL NONWORKING HOLIDAY IN THE MUNICIPALITY OF OPOL, PROVINCE OF MISAMIS ORIENTAL IN COMMEMORATION OF ITS FOUNDING ANNIVERSARY TO BE KNOWN AS ARAW NG OPOL

**To the Committee on Local Government**

House Bill No. 4420, entitled

AN ACT DECLARING JUNE 14 OF EVERY YEAR AS A SPECIAL NONWORKING HOLIDAY IN THE MUNICIPALITY OF NAAWAN, PROVINCE OF MISAMIS ORIENTAL IN COMMEMORATION OF ITS

FOUNDING ANNIVERSARY TO BE KNOWN AS ARAW NG NAAWAN

**To the Committee on Local Government**

House Bill No. 4421, entitled

AN ACT DECLARING MARCH 16 OF EVERY YEAR AS A SPECIAL NONWORKING HOLIDAY IN THE MUNICIPALITY OF LUGAIT, PROVINCE OF MISAMIS ORIENTAL IN COMMEMORATION OF ITS FOUNDING ANNIVERSARY TO BE KNOWN AS ARAW NG LUGAIT

**To the Committee on Local Government**

House Bill No. 4422, entitled

AN ACT DECLARING JUNE 8 OF EACH YEAR AS A SPECIAL NONWORKING HOLIDAY IN THE MUNICIPALITY OF GITAGUM, PROVINCE OF MISAMIS ORIENTAL IN COMMEMORATION OF ITS FOUNDING ANNIVERSARY TO BE KNOWN AS ARAW NG GITAGUM

**To the Committee on Local Government**

House Bill No. 4423, entitled

AN ACT DECLARING JANUARY 16 OF EVERY YEAR AS A SPECIAL NONWORKING HOLIDAY IN THE CITY OF NAVOTAS

**To the Committee on Local Government**

House Bill No. 4424, entitled

AN ACT DECLARING MAY 22 OF EVERY YEAR AS A SPECIAL NONWORKING HOLIDAY IN THE PROVINCE OF GUIMARAS TO COMMEMORATE ITS ANNIVERSARY

**To the Committee on Local Government**

House Bill No. 4425, entitled

AN ACT DECLARING MARCH 24 OF

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EVERY YEAR AS A SPECIAL NONWORKING HOLIDAY IN THE CITY OF LIGAO, PROVINCE OF ALBAY TO COMMEMORATE ITS FOUNDATION ANNIVERSARY

**To the Committee on Local Government**

House Bill No. 4426, entitled

AN ACT DECLARING THE THIRD (3<sup>RD</sup>) FRIDAY OF AUGUST OF EVERY YEAR AS "INDIGENOUS PEOPLE'S DAY" AND A SPECIAL NONWORKING PUBLIC HOLIDAY FOR THE CITY OF DAVAO, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 8969

**To the Committee on Local Government**

House Bill No. 4427, entitled

AN ACT DECLARING JUNE 22 OF EVERY YEAR AS A SPECIAL NONWORKING PUBLIC HOLIDAY IN THE MUNICIPALITY OF SUGBONGCOGON, PROVINCE OF MISAMIS ORIENTAL IN COMMEMORATION OF ITS CHARTER DAY TO BE KNOWN AS THE SUGBONGCOGON CHARTER DAY

**To the Committee on Local Government**

House Bill No. 4431, entitled

AN ACT CONVERTING THE ILOILO STATE COLLEGE OF FISHERIES IN THE MUNICIPALITY OF BAROTAC NUEVO, PROVINCE OF ILOILO INTO A STATE UNIVERSITY TO BE KNOWN AS THE ILOILO STATE UNIVERSITY OF FISHERIES SCIENCE AND TECHNOLOGY, WITH CAMPUSES IN THE MUNICIPALITIES OF SAN ENRIQUE, DINGLE AND DUMANGAS, AND INTEGRATING THEREWITH THE BAROTAC NUEVO POLYTECHNIC INSTITUTE IN THE MUNICIPALITY OF BAROTAC NUEVO, ALL LOCATED IN THE PROVINCE OF ILOILO AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 4432, entitled

AN ACT CONVERTING THE WESTERN VISAYAS COLLEGE OF SCIENCE AND TECHNOLOGY (WVCST) IN THE CITY OF ILOILO INTO A STATE UNIVERSITY TO BE KNOWN AS THE ILOILO STATE UNIVERSITY, WITH CAMPUSES IN THE MUNICIPALITIES OF BAROTAC NUEVO, DUMANGAS, LEON AND MIAG-AO, ALL LOCATED IN THE PROVINCE OF ILOILO, AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 4434, entitled

AN ACT DECLARING NOVEMBER 25 OF EVERY YEAR AS NATIONAL CONSCIOUSNESS DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN

**To the Committee on Youth, Women and Family Relations**

House Bill No. 4448, entitled

AN ACT CONVERTING THE MINDORO STATE COLLEGE OF AGRICULTURE AND TECHNOLOGY IN THE MUNICIPALITY OF VICTORIA, PROVINCE OF ORIENTAL MINDORO INTO A STATE UNIVERSITY TO BE KNOWN AS THE ORIENTAL MINDORO STATE UNIVERSITY AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 4449, entitled

AN ACT CONVERTING THE MOUNTAIN PROVINCE STATE POLYTECHNIC COLLEGE IN THE

MUNICIPALITY OF BONTOC, MOUNTAIN PROVINCE INTO A STATE UNIVERSITY TO BE KNOWN AS THE MOUNTAIN PROVINCE STATE UNIVERSITY, WITH CAMPUSES IN THE MUNICIPALITIES OF TADIAN, BAUKO, PARACELIS AND BARLIG, ALL LOCATED IN MOUNTAIN PROVINCE AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 4450, entitled

AN ACT CONVERTING THE PAMPANGA AGRICULTURAL COLLEGE (PAC) IN THE MUNICIPALITY OF MAGALANG, PROVINCE OF PAMPANGA INTO A STATE UNIVERSITY TO BE KNOWN AS THE DIOSDADO MACAPAGAL AGRICULTURE AND SCIENCE STATE UNIVERSITY (DMASSU) AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 4451, entitled

AN ACT CREATING THE PROVINCE OF DAVAO OCCIDENTAL

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

and House Bill No. 4453, entitled

AN ACT ESTABLISHING THE NORTHERN ILOILO STATE UNIVERSITY IN THE PROVINCE OF ILOILO BY INTEGRATING THE NORTHERN ILOILO POLYTECHNIC STATE COLLEGE (NIPSC) IN THE MUNICIPALITY OF ESTANCIA, THE NIPSC-BAROTAC VIEJO CAMPUS IN THE MUNICIPALITY OF BAROTAC VIEJO, THE AJUY

POLYTECHNIC COLLEGE IN THE MUNICIPALITY OF AJUY, THE BATAD POLYTECHNIC COLLEGE IN THE MUNICIPALITY OF BATAD, THE CONCEPCION POLYTECHNIC COLLEGE IN THE MUNICIPALITY OF CONCEPCION, THE LEMERY POLYTECHNIC COLLEGE IN THE MUNICIPALITY OF LEMERY AND THE VICTORINO SALCEDO POLYTECHNIC COLLEGE IN THE MUNICIPALITY OF SARA, ALL LOCATED IN THE PROVINCE OF ILOILO AND APPROPRIATING FUNDS THEREFOR

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

**BILLS ON FIRST READING**

Senate Bill No. 2840, entitled

AN ACT PROVIDING FOR THE SPECIAL PROTECTION OF CHILDREN IN SITUATIONS OF ARMED CONFLICT AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

Introduced by Senator Ejercito Estrada

**To the Committees on Youth, Women and Family Relations; National Defense and Security; and Finance**

Senate Bill No. 2841, entitled

AN ACT INCREASING THE BURIAL ASSISTANCE FOR VETERANS FROM TEN THOUSAND PESOS (P10,000.00) TO TWENTY THOUSAND PESOS (P20,000.00), AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 6948, AS AMENDED, OTHERWISE KNOWN AS AN ACT STANDARDIZING AND UPGRADING THE BENEFITS FOR MILITARY VETERANS AND THEIR DEPENDENTS

Introduced by Senator Lacson

**To the Committees on National Defense and Security; and Finance**

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## COMMITTEE REPORT

Committee Report No. 38, prepared and submitted jointly by the Committees on Trade and Commerce; Constitutional Amendments, Revision of Codes and Laws; Justice and Human Rights; Finance; and Science and Technology, on Senate Bill No. 2842, with Senators Trillanes IV, Ejercito Estrada, Lapid, Defensor Santiago, Angara, Villar and Legarda as authors thereof, entitled

AN ACT AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8293, OTHERWISE KNOWN AS "THE INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES," AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 301, 707, 962, 1818, 2431, 2487, 2553, and 2628, taking into consideration Proposed Senate Resolution Nos. 244 and 365.

Sponsor: Senator Villar

**To the Calendar for Ordinary Business**

### ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of councilors and barangay officials of Sasmuan, Pampanga, as well as officials of the Department of Foreign Affairs.

Senate President Pro Tempore Ejercito Estrada welcomed the guests to the Senate.

### COMMITTEE REPORT NO. 29 ON SENATE JOINT RESOLUTION NO. 9 (Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Joint Resolution No. 9 (Committee Report No. 29), entitled

JOINT RESOLUTION EXTENDING THE PERIOD OF EXISTENCE OF THE JOINT CONGRESSIONAL POWER COMMISSION.

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

Thereupon, the Chair recognized Senator Osmeña, Sponsor of the measure, and Senator Angara for the continuation of his interpellation.

### INTERPELLATION OF SENATOR ANGARA (Continuation)

Preliminarily, Senator Angara asked whether the information on the total collection and distribution of the universal charge including the allocation to the environmental fund which he earlier requested were already available. In reply, Senator Osmeña said that the actual remittance on the universal charge for missionary electrification, the NPC-SPUG UCME, as approved by the ERC, was as follows:

2003	---	P1.343 billion
2004	---	P1.343 billion
2005	---	P1.340 billion
2006	---	P1.340 billion
2007	---	P1.340 billion
2008	---	P1.340 billion
2009	---	P5.693 billion
2010	---	P2.763 billion

He explained that out of the more than P16.5 billion collection, only P14.297 billion was actually remitted. At this point, Senator Angara asked for a copy of the report read by Senator Osmeña.

### SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

*It was 3:33 p.m.*

### RESUMPTION OF SESSION

At 3:14 p.m., the session was resumed.

### INTERPELLATION OF SENATOR ANGARA (Continuation)

Senator Osmeña stated that the universal charge was being collected not by the Napocor but by the distribution utilities (DUs), but that he was not aware if the DUs only remitted P14.3 billion to the Napocor. In this regard, he explained that the collection shortfall of about P2.2 billion was due to the fact that the Small Power Utilities Group (SPUG) like the electric cooperatives only remitted about 65% of what they owed Napocor but, he stressed,

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the electric cooperatives in the off-grid areas should not be blamed because all the DUs including Meralco, Cebu Electric, Davao Light and Power and Angeles Light and Power collect the universal charge in their franchise areas. For this reason, he added, he would be asking Napocor for a breakdown of the collection shortfall.

Senator Angara noted that from 2003 to 2010, there was an annual collection of P1.8 billion, and that at present, the SPUG areas that are being supplied with electricity by Napocor are composed of 92 land-based diesel power plants, one hydro-electric plant, one hybrid wind turbine farm, and 11 barge-mounted mobile power plants which serve 78 island grids and eight isolated grids covering about 3,330 barangays and 198 municipalities.

Senator Osmeña admitted that he did not have the data. He pointed out, however, that the PowerCom has been conducting hearings on the problems of Napocor and the electric cooperatives and would be conducting more hearings until the end of 2011 precisely to address the problems.

Senator Angara asserted that the universal charge was intended to finance the electrification of the SPUG areas and yet from 2001 to 2010, the data showed that while 20 of the island grids got 24-hour electricity, about 52 or 72% got an uncertain power supply, in some instances, six to eight hours a day.

Senator Osmeña agreed as he pointed out that the SPUGs, most of which have diesel-powered generating machines, did run out of fuel and Napocor did not have the money to pay suppliers like Petron so the SPUGs were forced to temporarily shut down their generators.

Assuming the Napocor receives about P1.8 billion a year from the universal charge collection, Senator Angara asked how the amount was distributed among the SPUG areas. In reply, Senator Osmeña explained that Napocor/SPUG has two sources of collection: 1) what it charges the local customers; and 2) the subsidy that comes from the universal charge for missionary electrification (UCME). However, he pointed out that there was a big gap in collection at present because most of the proceeds come from the UCMEs while the collection from the customers has fallen by 35% for various reasons. He said that precisely, the PowerCom was trying to come up with a business model which the Napocor/

SPUG could adopt to make sure that it will continue to service areas which are really in need of electricity and to discourage it from borrowing to fund its shortfall, like what the National Food Authority (NFA) has been doing year-in and year-out.

Asked anew how the universal charge collection was allocated by the Napocor to the 78 island grids power plants and eight isolated grids, Senator Osmeña believed that it would be unwieldy for Napocor to apportion specific amounts from the universal charge collection to each and every power grid.

Senator Angara stated that whatever accounting method was used in allocating the funds, he wanted to find out how the P1.8 billion annual universal charge collection was disbursed and spent by the Napocor from 2003 to 2010 since only 20 of the 92 power plants were supplying 24-hour electricity. In response, Senator Osmeña said that he would ask the Napocor to provide the information although he expressed doubt if it has data going back to 2003. However, he gave assurance that the PowerCom would be able to get the figures from 2008 to 2010.

Noting that the universal charge has a component for the environmental fund supposedly for the restoration, maintenance and protection of the watersheds of sites like Pantabangan, Magat, Casecnan, and Marawi that house hydro-electric plants, Senator Angara asked how much the allocation was for that purpose. Senator Osmeña stated that the PowerCom did not have the breakdown but he would ask Napocor to provide the information.

Senator Angara observed that the universal charge is a device meant not only to support the electrification of missionary areas but also, in part, the stranded debt of Napocor and the stranded cost of distribution utilities. However, he noted that this kind of information was not reflected in the accounts or if it was, the amounts due the missionary electrification and environmental purpose, debt-service and cost service are hard to disaggregate.

Senator Osmeña stated that since 2001, the Napocor has not collected the universal charge from the distribution utilities because at that time, it owned 92% of the generating plants. But at present, he said, with the approval of the ERC, the distribution utilities are being allowed to put in the monthly electric bill the charge for the excess power the customers never used. He admitted that the allocations for

missionary electrification and environment purpose, debt and cost service were not reflected unless the Napocor or the IPPs were specifically asked by the PowerCom to do so.

As to the stranded debts and stranded contract costs of Napocor, Senator Osmeña explained that stranded debts are the financial obligations of Napocor as a corporation that are supposed to be added on to the universal charge but never was. He said that according to the estimate of PSALM, this would be about 15 centavos per Kwh, much less than the 30 centavos per Kwh computed in 2001. On the other hand, he explained that the standard contract costs were incurred when Napocor signed the power purchase agreements (PPAs) with the independent power producers (IPPs) but could not sell the electricity at the contracted price. He said that had Napocor signed the contract at P3.00 per kwh, it could only be sold at P2.50 because the ERC did not authorize Napocor to collect P3.00 that could have been included in the universal charge. He said that for political reasons at that time, the universal charge was not implemented but it has to be implemented now but at a much less amount because the demand for electricity grew from 2001 to 2010 and the country is now facing a power shortage. He stated that there would be no overhang on the universal charge for stranded contract cost because it would be taken care of by the market.

On whether the stranded debt, as well as the standard contract costs, was being amortized out of collections of the PPAs, Senator Osmeña replied that they are not. He explained that a PPA is basically a project financing agreement and it has a strike price that is supposed to pay for the cost of the proponent of the generating plant. The banks, he said, lent the proponent money on the assumption that it would be able to collect enough to pay back the loan and make a profit.

But Senator Angara pointed out that the cost of undelivered electricity had been collected even before the passage of the EPIRA, and that the EPIRA, in fact, institutionalized it. He asserted that the stranded debt is the debt incurred by Napocor when it invested in generating plants over the years but when Congress authorized its privatization, the debt still had to be paid. The stranded contract cost, he clarified, is what the distribution companies as well as the IPPs contracted with Napocor were supposed to be paid after the government decided to buy and pay for

capacity rather than delivery of electricity. That, he said, meant that when a consumer pays his electric bill monthly, half of it is for electricity that he never consumed.

However, Senator Osmeña clarified that Napocor as a corporation incurred more liabilities than could be covered by the sale of its assets, thus, the difference between the total liabilities and total assets was the stranded costs or financial obligations that amounted to about P400 billion to P600 billion. Under the EPIRA, he said, the national government was supposed to take care of the P200 billion and the balance would be the official stranded debt of Napocor which changes every year as interests are added. That amount remained as loans, he said, even though PSALM absorbed the obligations which consequently meant an additional 15 centavos per Kwh in the electric bill in the next 20 years to pay off the debt.

He explained that the stranded contract cost would only occur if the market is unable to sustain the strike price for the power purchased by the government. However, he pointed out that the numerous PPAs had given the Ramos Administration excess power such that the end-user ended up paying the full cost of, for instance, 1,000 megawatts even if he had only utilized 700 megawatts. However, he noted that having a stranded contract cost ceased to be a problem as consumers today only pay for the electricity they use. He noted that when the legality of the contracts was challenged, the Supreme Court upheld the sanctity of the contracts because they had been honored by the government.

On whether the EPIRA had, in effect, passed on to the consumer the burden of paying the stranded contract cost, Senator Osmeña replied in the negative. He pointed out that the EPIRA merely respected the sanctity of the contracts amid calls for their cancellation, even from legislators.

Senator Angara believed that without the EPIRA, those who challenged the validity of the contracts would have had a very strong legal basis for doing so. He noted that the Emergency Power Crisis Act gave President Ramos the authority to sign contracts without the benefit of a public bidding. He said that while Pres. Corazon Aquino exercised good judgment in scrapping the Bataan Nuclear Power Plant, she did not offer an alternative source to provide the 600 megawatts that would have been generated by the

BNPP, thus, there were huge power shortages that were managed through rotating brownouts. Additionally, he said that the Aquino Administration could not forecast and plan for the energy requirements of the country because it abolished the Ministry of Energy and placed it under the Office of the President.

Further, Senator Angara recalled that by 1994, President Ramos had entered into negotiated contracts with 29 IPPs that resulted in an oversupply of 3,000 megawatts that were overpriced. It was, he noted, a runaway exercise of power that was intended to solve a critical problem.

Citing a similar situation, Senator Osmeña noted that the National Food Authority (NFA) overstocked rice in preparation for a shortage that was projected to be greater than what the country actually experienced. He stated that while the anticipation of a 9% GDP growth motivated the Ramos Administration into signing numerous power contracts, no sufficient oversight mechanism was put in place to prevent the administration from entering into more PPAs.

For his part, Senator Angara believed that President Ramos did not heed warnings from the World Bank (WB) and the Asian Development Bank (ADB) about the oversupply of energy because he signed three more contracts in addition to the 29. As a consequence, he said that the end-users ultimately ended up paying electricity rates that were the highest in the region. Similarly, he said that the NFA continued to borrow and import rice despite the recommendations of the WB and ADB for it to disengage itself from trading activities and focus on the regulatory aspect of administering the price subsidy. In the power sector, he said that the EPIRA legitimized all the inefficiency, corruption and overbuying of the administration as it even legitimized the collection of unused and undelivered electricity which weakened any legal challenge to the validity of the IPP contracts.

Senator Osmeña said that in 1994, he began his Senate exposés on the IPP-government deals by questioning the IMPSA agreement as well as those for the Casecnan and Tiwi-Mactan plants. He said that the WB report underscored the fact that the government passed on to the consumers the payment for the excess supply they had not utilized. He recalled that the EPIRA had been debated by the

Senate from 1997 to 2001, starting from the time that Senator Magsaysay chaired the Committee on Energy until Sen. John Osmeña took over. Unable to find a way to abrogate the power contracts, he stated that the legislators formulated a method for an orderly segregation and unbundling of all power bills to allow for transparency as end-users could identify the different components of the bill such as generation, transmission and distribution charges, ancillary fees, universal charge for missionary electrification, the ECIRA or foreign exchange charge, the GRAM (generation rate adjustment mechanism) and the stranded contract cost.

Upon further queries, Senator Osmeña replied that he was a member of the Bicameral Conference Committee on the EPIRA. He underscored that the measure was not hastily approved as it was ratified sometime between June and August amid delays caused by issues pertinent to the bill, the impeachment trial and the campaign season for the national elections.

Senator Angara recalled that there was an interregnum beginning October 2000 until January 20, 2001, when President Estrada left office but after the national elections in May, Pres. Gloria Macapagal-Arroyo pushed for the passage of the EPIRA. Senator Osmeña bared that Sen. John Osmeña really pushed the EPIRA because the ADB promised to grant the Philippines a US\$1 billion programmed loan.

Senator Angara surmised that multilateral agencies like the ADB and WB were willing to lend the Philippines US\$1 billion to rehabilitate the energy sector since the Aquino Administration had scrapped the 600-megawatt BNPP and abolished the Ministry of Energy, the planning agency, thus, no one was taking care of energy. He believed that from there, things went haywire because the emergency law was passed resulting in an oversupply of energy that overburdened the people.

At this point, Senator Angara adverted to a comment made by Sen. John Osmeña in an interview that was published on May 16, 2008, to wit: "The PowerCom is an unlawful intrusion into the executive function of the government because it is doing essentially executive function, like having to approve privatization contract." He stated that in the same interview, Sen. John Osmeña stated that he had reservations about the passage of EPIRA but these were muted by several of his colleagues.

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In reaction, Senator Osmeña stressed that an oversight committee is not supposed to exercise executive functions, but he assumed that at various stages, it depends on the chairman or the members of the PowerCom. He stated that the PowerCom has two functions: 1) to help with the drafting of the IRRs to make sure that they were in consonance with the law; and 2) to approve the privatization plan because there were several issues left hanging, for instance, whether to group together power plants by regions for bidding and selling. But he lamented that no consultations were made because the sale of the assets took so long. He stressed that there are two important things to follow — lawmakers should not intervene and lawmakers should not dictate to the ERB what rates should be or to determine if they are in consonance with the law. He admitted that the energy industry is one of the most complex industries he ever got involved with and the EPIRA is one of the most difficult reform acts.

Senator Angara explained that a cardinal principle in administrative law is that the more complex the subject matter is, the more technical it is, thus, it is better for the legislature not to intrude and intervene and just leave the technical issues to the Executive who, after all, had command of all the facts and can engage or hire experts. Senator Osmeña agreed.

Senator Angara asserted that the PowerCom has interfered in the implementation and review of the IRRs; slowed down privatization; and, to the extent, dictated on the Energy Regulatory Board (ERB), an independent body. He noted that in the 2008 interview, Sen. John Osmeña claimed that his fears and reservations had been justified and proven right by the PowerCom's display of authority.

Senator Osmeña insisted that it all depends on who sits as chair of the PowerCom. He proposed that the one giving orders to the ERB be identified as he pointed out that if the past chairs overstepped their authority, the institution should not be blamed, instead, the chairman should be changed.

However, Senator Angara argued that the point raised by Sen. John Osmeña was that the structure and the grant of certain powers to the PowerCom contributed to the abuse, and it did not depend on who sat as chair since the structure is such that one can overreach.

At this juncture, Senator Osmeña read Section 62 of the EPIRA, to wit:

“Section 62. *Joint Congressional Power Commission.* – Upon the effectivity of this Act, a congressional commission, hereinafter referred to as the Power Commission, is hereby constituted. The Power Commission shall be composed of fourteen (14) members with the chairmen of the Committee on Energy of the Senate and the House of Representatives and six (6) additional members from each House, to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The minority shall be entitled to *pro-rata* representation but shall have at least one (1) representative in the Power Commission.

The Commission shall, in aid of legislation, perform the following functions, among others:

- (a) Set the guidelines and overall framework to monitor and ensure the proper implementation of this Act;
- (b) Approve genco groupings, IPP groupings, and sequencing of sale of gencos;
- (c) Endorse the privatization plan prepared by PSALM for approval of the President of the Philippines;
- (d) To ensure transparency, require the submission of reports from government agencies concerned on the conduct of public bidding procedures regarding privatization of NPC generating and transmission assets before any final award is made;
- (e) Review and evaluate the performance of the industry participants in relation to the objectives and timelines set forth in this Act;
- (f) Approve the budget for the programs of the Power Commission and all disbursements therefrom, including compensation of all personnel;
- (g) Submit periodic reports to the President of the Philippines and Congress;
- (h) Determine inherent weaknesses in the law and recommend necessary remedial legislation or executive measures; and
- (i) Perform such other duties and functions as may be necessary to attain its objectives.

Asked which part of Section 62 (*Joint Congressional Power Commission*) gave the PowerCom the power to intervene, Senator Angara observed that the aforementioned functions are intrusive. Senator Osmeña disagreed.

Senator Angara pointed out that in *Abakada vs Purisima* (2008), the Supreme Court struck down as unconstitutional an oversight committee authorized to approve the IRRs because it is not legislative in nature, and held that reviewing the IRRs amounts to the equivalent power to review or approve the IRRs. He underscored the varying degrees of oversight as described in the case and noted that according to the Supreme Court, oversight is not just one straight concept. He proceeded to enumerate the three degrees of congressional oversight, namely:

- a) *Scrutiny* – Congress can scrutinize the action of administrative bodies of the Executive institutions;
- b) *Congressional investigation* – investigation is part and parcel of lawmaking so that Congress can gather facts and figures and information that will help in drafting wise laws; and,
- c) *Legislative supervision* – this allows Congress to examine, not prior to the action, the exercise of administrative or executive power delegated to them.

Senator Angara asserted that it is no longer oversight when Congress is required to look into an action still to be done by the Executive or the administrative bodies. He believed that the landmark case is a good guide to the PowerCom and the other congressional oversight committees, something the legal counsel ought to abstract so that Congress would not be accused of being too intrusive into matters that are not primarily legislative.

Senator Osmeña stressed that he has no quarrel with the definition of the oversight functions of committees as cited by Senator Angara and the Supreme Court ruling. In fact, he stated that he had studiously avoided being elected to any committee or board because he believed that they exercise not just an oversight function but also an executive function.

Referring to the last line of Section 77 (*Implementing Rules and Regulations*) of the EPIRA, which states that “xxx shall promulgate the Implementing Rules and Regulations (IRR) of this Act within six (6) months from the effectivity of this Act, subject to the approval by the Power Commission,” Senator Osmeña believed that the implementation of the IRRs is an extension of the lawmaking

powers of Congress. He narrated that when he studied how work was done in the U.S. Congress during his college days, he was surprised about the amount of work that went into a law that consisted of 1,000 or 2,000 pages and did not need IRRs. Here in the Philippines, he observed, lawmakers pass laws that are considerably lacking in many areas and the concerned agencies are asked to fill in the gaps. He opined that in a sense, the concerned agencies were fulfilling a legislative function and the lawmakers were abdicating legislative powers to them. He assumed that the IRRs are subject to influence because lawmakers are the ones consulted in case there is confusion about the IRRs but lawmakers do not bother to reformulate the IRRs. He believed that it is a dead issue.

Senator Angara countered that it is a live issue as he gave notice that his next question would be on a provision of the Resolution with regard to renewable energy which PowerCom has nothing to do with.

*In the course of the interpellation, Senator Honasan relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.*

#### **SUSPENSION OF SESSION**

Upon motion of Senator Osmeña, the session was suspended.

*It was 4:33 p.m.*

#### **RESUMPTION OF SESSION**

At 4:34 p.m., the session was resumed.

Upon resumption, Senator Osmeña cited Section 34 of the Renewable Energy Act, which states that: “Upon the effectivity of this Act, the Joint Congressional Power Commission created under Section 62 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001, shall exercise oversight power over the implementation of this Act.”

Senator Angara stated that the provision partakes of traditional oversight; it does not provide for the pre-approval of any contract because there is a built-in oversight body, the National Renewable Energy Board, embedded in the law.

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Thereafter, Senator Angara asked that the interpellations be suspended until Monday, May 30, 2011, as he had to rush to the Spanish Embassy to attend the graduation of 200 public school teachers who enrolled in the Spanish Language class.

But Senator Osmeña emphasized that the resolution has been on the floor for a long time and there was a timeline to be met. He gave notice that on Monday, he would no longer entertain questions and would ask the Body to vote on the resolution.

In reaction, Senator Angara stated that there is no gag ruling in the Chamber as long as there are questions to be asked. He said that there is no urgency since there were still six working days left before adjournment.

Senator Osmeña pointed out that there is a three-day requirement before Third Reading, thus, the resolution has to be approved by Wednesday, June 1, 2011. He said that he would, however, entertain proposed amendments and reiterated that a deadline be set on Monday for the approval of the resolution. He stated that he and Senator Angara had been reminded by the Majority Leader that the resolution would be put to a vote today.

Senator Angara said that while he would be willing to debate on the resolution further, he did not wish to be told of a deadline for asking questions.

Senator Osmeña reminded his colleagues that there was an agreement to finish the interpellation on the resolution that day but that it was not being kept. He disclosed that members of the House of Representatives have been calling him every day to ask when the resolution would be passed because the ten-year statutory period of the PowerCom was about to expire. He expressed hope that his colleagues would be amenable to extend its life.

For his part, Senator Angara said that he also wanted to finish the interpellations on the EDCOM, saying that members of the House were also asking why its approval was being delayed in spite of the deadline. He stressed that there would be a big educators' conference on major educational issues, one being the K-12, and the EDCOM would bring public attention to them and encourage discussion.

Senator Osmeña emphasized that he has been ready for the past three days to interpellate on the EDCOM and has gone through the 14-volume EDCOM report.

At this point, Senator Angara suggested that Senator Osmeña interpellate on EDCOM on Monday and thereafter, he would interpellate on the PowerCom.

#### **MANIFESTATION OF SENATOR SOTTO**

Senator Sotto confirmed that there was indeed an agreement with Senators Angara and Osmeña to take up the PowerCom and EDCOM resolutions on Monday.

#### **INQUIRIES OF THE CHAIR**

Asked by the Chair if Senators Angara and Osmeña had agreed to finish the interpellations on the two resolutions on Monday, Senator Sotto answered that hopefully, said resolutions could be submitted for voting by then.

The Chair suggested that Senators Angara and Osmeña be asked if they would be willing to finish their interpellations – Senator Angara on the PowerCom and Senator Osmeña on EDCOM – on Monday.

Senator Osmeña clarified that he had already indicated his opposition to the EDCOM due to certain principles which he would be willing to reiterate on Monday.

#### **COAUTHOR**

Upon her request, Senator Defensor Santiago was made coauthor of Senate Bill No. 2701.

#### **SUBCOMMITTEE CHAIRMANSHIP**

Senator Sotto manifested that Senator Revilla has designated Senator Angara as chair of the Subcommittee on Waters.

#### **SUSPENSION OF CONSIDERATION OF SENATE JOINT RESOLUTION NO. 9**

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


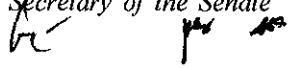
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**ADJOURNMENT OF SESSION**

Upon motion of Senator Sotto, there being no objection, the President Pro Tempore declared the session adjourned until three o'clock in the afternoon of Monday, May 30, 2011.

*It was 4:47 p.m.*

I hereby certify to the correctness of the foregoing.

  
EMMA LIRIO REYES  
Secretary of the Senate  


Approved on May 30, 2011