REPUBLIC OF THE PHILIPPINES

Senate

Pasay City

Journal

SESSION NO. 91

Wednesday, June 1, 2011

FIFTEENTH CONGRESS

FIRST REGULAR SESSION

SESSION NO. 91
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CALL TO ORDER

At 3:30 p.m., the Senate President Pro Tempore, Hon. Jinggoy Ejercito Estrada, called the session to order.

PRAYER

Senate President Juan Ponce Enrile led the prayer, to wit:

Heavenly Father,

Bless us, who gather here today to do Your work.

Make us eloquent in behalf of those unable to speak on their own because they are weak, marginalized, ignored or have given up hope.

In the Senate session this afternoon, help us distill our intentions, guide our discussions, lead us to reflect the wisdom that You hold.

Reinforce this institution so that we may live in a democracy ruled by reason, tolerance and consensus.

Teach us to live in harmony with one another and with our environment.

Bless our workforce wherever they may be. In offices or in the fields, in our country or abroad, protect them from adversity, from sickness and from war.

Amidst the changing environment and the challenging economic times, energize us with small miracles.

Rejuvenate our capacity to love, to be patient and to hope so that we may heal others, our country and our world.

We pray that You grant these things in Jesus' Name, our Lord,

Amen.

SUSPENSION OF SESSION

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

It was 3:33 p.m.

RESUMPTION OF SESSION

At 3:33 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.	Lapid, M. L. M.
Cayetano, P. S.	Legarda, L.
Drilon, F. M.	Marcos, Jr. F. R.
Ejercito Estrada, J.	Recto, R. G.
Enrile, J. P.	Revilla, Jr., R. B.
Escudero, F. J. G.	Sotto III, V. C.
Guingona III. T. L.	Trillanes IV, A. F.
Honasan, G. B.	Zubiri, J. M. F.

With 16 senators present, the Chair declared the presence of a quorum.

Senators Arroyo, Cayetano (A), Osmeña, Pangilinan and Villar arrived after the roll call.

Senator Lacson was on official mission.

Senator Defensor Santiago was on sick leave.

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. 90 (May 31, 2011) and considered it approved.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of the members of Reform ARMM Now Coalition.

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

PRIVILEGE SPEECH OF SENATOR LOREN LEGARDA

Availing herself of the privilege hour on the occasion of the World Environment Day on June 5, 2011, Senator Legarda urged government to heed the findings in the 2011 UN Global Assessment Report on Disaster Risks Reduction. She also lauded the initiatives of her colleagues, especially Senator Zubiri, in preventing the despoliation of the country's marine wildlife.

Following is the full text of her speech:

> As we observe the World Environment Day this week, I rise to bring to the attention of this august Chamber the main messages of the recently launched 2011 Global Assessment Report on Disaster Risk Reduction of the United Nations, which aims to reveal risks and redefine development.
>
> The world has been seeing the worst, biggest and deadliest disasters over the years – the floods in Pakistan, the earthquakes in Haiti, China and Chile, and the triple tragedy in Japan. In the Philippines, the threat of Typhoon *Chedeng* brought back the fears of another *Ondoy* or *Pepeng*, which killed nearly a thousand people and affected about two million families in 2009.
>
> Two years ago, in this very Chamber, I conveyed to the Senate the message of the previous Report (GAR 2009): Disasters will only be averted if countries successfully address its underlying drivers – (1) poor urban governance; (2) ecosystem decline; and (3) vulnerable rural livelihoods.
>
> Inferring on new and enhanced data, the 2011 Report underscores the political and economic imperative to reduce disaster impacts and offers suggestions to governments and stakeholders on how we can effectively meet this objective.
>
> Allow me to highlight its main findings.
>
> ***Risk trends: economic losses up, mortality down***
>
> The good news is that globally we are protecting more people from disasters. The bad news is that we are losing more of our economic assets due to the same disasters. What does it mean? The risk of being killed by a cyclone or flood is lower today than it was 20 years ago. However, this is not the case for those who live in a country with low GDP and weak governance. The August 2010 flooding in Pakistan, which caused 1,700 fatalities and US$9.7 billion in total damage and losses, is a testament to this.
>
> What is alarming is that across all regions, economic losses due to disasters continue to be in an upward trend – and seriously threatens the economies of low-income countries. In absolute terms, the proportion of the world's GDP exposed to tropical cyclones tripled to more than US$1.9 trillion.
>
> We observe the same trends in the Philippines. According to a UNISDR-World Bank report in 2010, in the last 30 years, even though the number of disaster events has increased three times in the country, the reported number of deaths has decreased slightly, and the number of affected population staying the same, but alarmingly, the economic losses increased drastically by more than 17 times. *Bagama't bumababa nang kaunti ang bilang ng mga namamatay sa mga kalamidad, nakakabahala na ang kawalan sa ekonomiya ay lumaki ng labimpitong beses.*
>
> It may baffle our minds why the trend in disaster mortality is down while economic losses are up. The Report reveals that while governments may have improved its disaster preparedness measures such as pre-emptive evacuation, we still expose our population and assets in hazard-prone areas, a clear manifestation of poorly managed urbanization.

This highlights the need to ensure the integration of disaster risks into our local land use and development plans.

For local governments in the Philippines, the authority and system of comprehensive land use planning provides the opportunity for the integration of disaster risk reduction and climate change adaptation.

With the advent of the Disaster Risk Reduction Management Act of 2010 and the Climate Change Act of 2009, the time and institutions are ripe for this kind of integration.

The latest figures from Housing and Land Use Regulatory Board show that many cities and municipalities prepare their respective Comprehensive Land Use Plans or CLUPs, and most of these have not integrated the tools of DRR and CCA, except for the simple hazard maps, in delineating the use of land resource in their jurisdiction.

At present, there are 340 LGUs, which still need to update their CLUPs. Most of these are 3rd to 6th class municipalities that have low income but high vulnerability to various types of disasters.

In addition, 23 provinces are also in need of developing their Physical Framework Plans.

This is a good opportunity to institutionalize DRR and CCA in the local planning process and practice of LGUs and the time is right to call on the National Economic and Development Authority and the Department of the Interior and Local Government, together with Office of Civil Defense and the Climate Change Commission, to assist LGUs in this process.

Issues of Vulnerability – children, displacement, complex vulnerabilities

The Report also tells us that at least 66 million children are affected by disasters each year. Disasters resulted in increased incidences of diarrhea in children under five years of age in Bolivia, more malnourished children under the age of three in Nepal, and increased infant mortality in Vietnam, emphasizing the need for greater intervention to address children's vulnerability.

I therefore urge the Department of Health and the Climate Change Commission to undertake a similar study as a first step to safeguard the health and welfare of Filipino children from the risks of disasters.

Meanwhile, the fact that disasters lead to large-scale internal displacement is not new to us and must be seriously looked into by our housing agencies. Looking back, two million families or 10 million individuals were affected in the flooding or landslides caused by *Ondoy* and *Pepeng*. Totally or partially damaged homes reached 220,000. Other Asian countries faced this predicament, with Pakistan's 2010 floods and India's 2008 floods leaving an estimated six million people in need of shelter.

In March, we saw new and emerging patterns of vulnerability linked with the growing interdependency of the different technological systems: energy, telecommunications, finance and banking, transport, water, and sanitation. The triple tragedy in Japan – earthquake, tsunami and nuclear disaster – revealed how these new vulnerabilities multiply disaster risks and exponentially magnify impacts.

Drought: the hidden risk

The Report asserts that globally, drought impacts remain inadequately understood and poorly managed. As only a few countries thoroughly document drought losses or have a national policy to address risks, drought has become a "largely invisible risk" despite its significant impacts on agricultural production, rural livelihoods, and urban and rural economies.

Here in the Philippines, the damage to agriculture due to *El Nino*-related drought from 1990 to 2003 was estimated to be more than US$ 370 million. Warmer temperatures also put pressure on our fisheries yield. With coral bleaching, as much as 8,000 to 24,000 metric tons of fish per year is estimated to be lost. Add to this the unabated degradation of our marine resources that ultimately result in the pitiful catch of our fishermen. Considering that the rural poor, highly dependent on farm and fishery sectors, increasingly feel these pressures, we need to ask the Department of Agriculture on their strategies to help this vulnerable population in buffering and absorbing drought impacts.

Reforming risk governance

The success of reducing and managing disaster impacts rests with policy coherence in the national government, competent and accountable local governments, and an openness to work in partnership with civil society.

LGUs have a better understanding of the needs of their communities and the concerns of their citizens, especially during disasters. We need local leaders who possess wholehearted commitment to effectively address these needs.

As lawmakers, we must urge the national government to prioritize and harmonize disaster

risk reduction strategies. We also have the opportunity to lay the foundation for increased investment in risk reduction at all levels. We play a critical role in arresting the chronic cycle of disaster vulnerability and poverty.

Redefining development:
scaling up disaster risk management

The message of the Report is straightforward: Development must be redefined to be sensitive to disaster and climate risks.

The important starting point is political commitment and our measure for success will be financial.

Disaster impacts should be evaluated in public investment planning from national to local levels.

We therefore pose important questions to the NEDA: Will the Philippine development and investment plans, as they currently stand, be able to withstand the projected ill effects of climate change on various sectors? How can we be assured that we will not put to waste the billions of pesos to be invested in our new infrastructure and urban development programs?

The Philippines has begun heeding the social demand for disaster resilience. But the greater challenge remains, and this is what the Global Assessment Report fundamentally urges us to do – to sustain this renewed engagement among us, leaders and stakeholders, in protecting our development gains, and in building a safer tomorrow.

INTERPELLATION OF SENATOR ZUBIRI

Preliminarily, Senator Zubiri congratulated Senator Legarda for bringing up the issues of climate change and the Philippines' ability to adapt to the problem.

Asked by Senator Zubiri if she was satisfied with the way government has implemented the Climate Change Act and the Disaster Risk Reduction and Management Act, Senator Legarda lamented that government's action was quite slow and it was unfortunate that people in or outside of government have not prioritized them. She expressed disappointment that people do not actually understand or see that these issues pose a great humanitarian challenge as well as a national security challenge. She said that while the laws have been enacted in 2009 and 2010, and some institutions have been established, the Climate Change Commission has yet to be formally convened and organized, and while the Commission has drawn up its plan, this must still be presented to President Aquino. Further, she also underscored the need to see more interaction among the departments to institutionalize disaster-risk reduction and climate change adaptation in the government budget. She recalled that in the previous administration, the departments of health and agriculture claimed that they had a disaster-resilient and climate-adaptive budget for 2010. However, she noted that the integration of disaster-risk reduction and climate change adaptation in the budgetary process is something that has yet to be seen.

Upon further queries, Senator Legarda stated that the three CCC Commissioners were Mary Ann Lucille Sering, Naderev "Yeb" Saño, and Heherson Alvarez. She confirmed that Commissioner Sering was vice chair, in which capacity she oversees the operation of the agency.

Asked if climate change adaptation and disaster risk reduction have filtered down to the level of the local government units (LGUs), Senator Legarda emphasized that it would help if the Department of the Interior and Local Government (DILG) would push these measures as she expressed the belief that only the DILG and the LGUs can operationalize them on the grass-roots level, and that only the LGUs know how vulnerable their communities are and how disaster risks could be reduced at times of disaster. She pointed out that there are many proactive and dynamic local governments that are even ahead of the law. In this regard, she commended the municipality of San Francisco in Camotes Island, Cebu for winning the 2011 United Nations Sasakawa Award for Disaster Reduction. She disclosed that the municipality competed with other municipalities and localities all over the world and it won because the mayor and his community cooperated in caring for the environment.

Senator Zubiri bared that Cebu province, under the leadership of Governor Gwen Garcia, has been active in putting up marine protected areas in municipalities like Santander and Sambuan and other coastal communities that have also been active in the *Bantay Dagat* program.

With regard to the illegal trade in marine wildlife, Senator Zubiri expressed concern that contraband items were being taken from coastal communities

along the Moro Gulf, Zamboanga Peninsula, and probably the Sulu Sea. In view thereof, he requested the DILG to exert more effort in initiating the *Bantay Dagat* program in the coastal communities in Mindanao and some parts of southern Visayas.

Senator Legarda stated that precisely, Section 14 of RA 9729 provides that, "The LGUs shall be the frontline agencies in the formulation, planning and implementation of climate change action plans in their respective areas, consistent with the provisions of the Local Government Code, the Framework, and the National Climate Change Action Plan"; while Section 15(b) of the same law provides, "The Department of the Interior and Local Government (DILG) and the Local Government Academy shall facilitate the development and provision of a training program for LGUs in climate change." She stressed that government must have the political will to fully implement the law.

Senator Legarda noted that Senate President Enrile's bill on the people's survival fund would be a companion piece to the environmental laws. She expressed hope that the Body could take it up when it convenes in July 2011 as a priority of the Aquino Administration to further assist local governments in the technical and financial aspects.

REFERRAL OF SPEECH TO COMMITTEES

Upon motion of Senator Sotto, there being no objection, the Chair referred the privilege speech of Senator Legarda and the interpellations thereon to the Committees on Climate Change; and Environment and Natural Resources.

REFERENCE OF BUSINESS

The Deputy Secretary for Legislation, Atty. Edwin B. Bellen, 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 23 May 2011, the House of Representatives passed the following House bills in which it requested the concurrence of the Senate:

House Bill No. 201, entitled

AN ACT PROVIDING FOR THE CONSTRUCTION OF A FISH PORT IN BARANGAY SABANG, MUNICIPALITY OF CALABANGA, PROVINCE OF CAMARINES SUR AND APPROPRIATING FUNDS THEREFOR

To the Committees on Public Works; and Finance

House Bill No. 202, entitled

AN ACT TO ESTABLISH AN AQUATIC RESEARCH AND EXPERIMENTAL BREEDING STATION FOR LAKE, RIVER AND OTHER INLAND FISHES IN THE THIRD DISTRICT OF THE PROVINCE OF CAMARINES SUR, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

To the Committees on Agriculture and Food; and Finance

House Bill No. 344, entitled

AN ACT ESTABLISHING A NATIONAL AGRO-INDUSTRIAL HIGH SCHOOL IN BARANGAY BAGUMBAYAN, MUNICIPALITY OF LUPON, PROVINCE OF DAVAO ORIENTAL TO BE KNOWN AS BAGUMBAYAN AGRO-INDUSTRIAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 778, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY BUNGA, MUNICIPALITY OF TADIAN, MOUNTAIN PROVINCE TO BE KNOWN AS BUNGA NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 779, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY BALAOA, MUNICIPALITY OF TADIAN, MOUNTAIN PROVINCE TO BE KNOWN AS BALAOA NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 1259, entitled

AN ACT ESTABLISHING MULTIPURPOSE FISH BREEDING STATIONS AND CRAB, PRAWN AND SHRIMP HATCHERIES IN ALL SUITABLE AREAS IN THE PROVINCE OF TAWI-TAWI AND APPROPRIATING FUNDS THEREFOR

To the Committees on Agriculture and Food; and Finance

House Bill No. 1302, entitled

AN ACT ESTABLISHING A MODIFIED MARICULTURE DEVELOPMENT PARK IN THE MUNICIPALITIES OF PANGLIMA SUGALA, BONGAO AND SIMUNUL, PROVINCE OF TAWI-TAWI, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

To the Committees on Agriculture and Food; and Finance

House Bill No. 1308, entitled

AN ACT PROVIDING FOR THE CONSTRUCTION OF A FISH PORT IN THE MUNICIPALITY OF TURTLE ISLANDS, PROVINCE OF TAWI-TAWI AND APPROPRIATING FUNDS THEREFOR

To the Committees on Public Works; and Finance

House Bill No. 1310, entitled

AN ACT ESTABLISHING A MODIFIED MARICULTURE DEVELOPMENT PARK IN THE MUNICIPALITIES OF SIBUTU AND SITANGKAI, PROVINCE OF TAWI-TAWI, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

To the Committees on Agriculture and Food; and Finance

House Bill No. 1312, entitled

AN ACT PROVIDING FOR THE RENOVATION/RECONSTRUCTION OF THE FISH PORT IN BONGAO, THE CAPITAL TOWN OF TAWI-TAWI AND APPROPRIATING FUNDS THEREFOR

To the Committees on Public Works; and Finance

House Bill No. 1313, entitled

AN ACT PROVIDING FOR THE CONSTRUCTION OF FISH PORTS IN THE MUNICIPALITIES OF SIBUTU AND SITANGKAI, PROVINCE OF TAWI-TAWI AND APPROPRIATING FUNDS THEREFOR

To the Committees on Public Works; and Finance

House Bill No. 1462, entitled

AN ACT ESTABLISHING AN INTEGRATED SCHOOL IN BARANGAY BOGÑA, BACON DISTRICT, CITY OF SORSOGON, PROVINCE OF SORSOGON TO BE KNOWN AS BOGÑA INTEGRATED SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 1463, entitled

AN ACT ESTABLISHING A NATIONAL

HIGH SCHOOL IN BARANGAY BANTAYAN, MUNICIPALITY OF PILAR, PROVINCE OF SORSOGON TO BE KNOWN AS BANTAYAN NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 1570, entitled

AN ACT SEPARATING THE MIDSALIP NATIONAL HIGH SCHOOL – GOLICTOP ANNEX IN BARANGAY GOLICTOP, MUNICIPALITY OF MIDSALIP, PROVINCE OF ZAMBOANGA DEL SUR FROM THE MIDSALIP NATIONAL HIGH SCHOOL, CONVERTING IT INTO AN INDEPENDENT NATIONAL HIGH SCHOOL TO BE KNOWN AS GOLICTOP NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

and House Bill No. 1873, entitled

AN ACT SEPARATING THE CALAPE NATIONAL HIGH SCHOOL – TAPILON ANNEX IN BARANGAY TAPILON, MUNICIPALITY OF DAANBANTAYAN, PROVINCE OF CEBU FROM THE CALAPE NATIONAL HIGH SCHOOL, CONVERTING IT INTO AN INDEPENDENT NATIONAL HIGH SCHOOL TO BE KNOWN AS TAPILON NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

BILLS ON FIRST READING

Senate Bill No. 2850, entitled

AN ACT PROVIDING FOR TAX EXEMPTIONS AND SUBSIDIES FOR THE LOCAL MUSIC INDUSTRY, AMENDING FOR THIS PURPOSE CERTAIN SECTIONS OF THE LOCAL GOVERNMENT CODE OF 1991

Introduced by Senator Revilla Jr

To the Committees on Local Government; and Ways and Means

Senate Bill No. 2851, entitled

AN ACT INCREASING THE BURIAL ASSISTANCE FOR MILITARY 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 STANDARIZING AND UPGRADING THE BENEFITS FOR MILITARY VETERANS AND THEIR DEPENDENTS

Introduced by Senator Revilla Jr.

To the Committees on National Defense and Security; and Finance

Senate Bill No. 2852, entitled

AN ACT PENALIZING EDUCATIONAL INSTITUTION WHICH COMPELS, FORCES OR OBLIGES THEIR GRADUATING STUDENTS WHO ARE ENROLLED IN COURSES REQUIRING LICENSURE BOARD EXAMINATIONS TO ENROLL FOR A FORMAL REVIEW COURSE IN A REVIEW CENTER OWNED OR MANAGED BY SAID SCHOOL OR OF THE LATTER'S PREFERENCE

Introduced by Senator Revilla Jr.

To the Committees on Education, Arts and Culture

Senate Bill No. 2853, entitled

AN ACT INCREASING THE BED CAPACITY OF JOSE B. LINGAD MEMORIAL GENERAL HOSPITAL IN

SAN FERNANDO CITY, PAMPANGA FROM TWO HUNDRED FIFTY (250) TO FIVE HUNDRED (500), UPGRADING ITS SERVICES AND FACILITIES AND PROFESSIONAL HEALTH CARE, AUTHORIZING THE INCREASE OF ITS MEDICAL PERSONNEL AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Revilla Jr.

To the Committees on Health and Demography; and Finance

RESOLUTION

Proposed Senate Resolution No. 499, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON EDUCATION AND OTHER PERTINENT COMMITTEES OF THE SENATE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE FEASIBILITY, VIABILITY, PRACTICALITY AND THE ACCEPTABILITY OF JUSTIFICATIONS ADVANCED BY THE DEPARTMENT OF EDUCATION IN IMPLEMENTING THE K TO 12 EDUCATION PROGRAM, AS WELL AS TO REVIEW THE SOCIO-ECONOMIC IMPACT AND OTHER IMPLICATIONS OF THE PROPOSED IMPLEMENTATION OF THE K TO 12 CURRICULUM WITH THE END IN VIEW OF ENACTING REMEDIAL LEGISLATION TO ADDRESS THE INADEQUACIES IN THE COUNTRY'S PUBLIC EDUCATION SYSTEM

Introduced by Senator Trillanes IV

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

COMMUNICATION

Letter from the Department of Finance, dated 23 May 2011, presenting to the Senate the Aquino Administration's Fiscal Performance from January to April of this year.

To the Committee on Finance

COMMITTEE REPORTS

Committee Report No. 43, prepared and submitted by the Committee on Ways and Means, on Senate Bill No. 2855, with Senators Trillanes IV, Recto and Villar as authors thereof, entitled

AN ACT PROVIDING ADDITIONAL RELIEF TO FAMILIES WITH DEPENDENTS, SUPPORTING AGING PARENTS AND DISABLED PERSONS,

recommending its approval in substitution of Senate Bill Nos. 388, 2139 and 2624.

Sponsor: Senator Recto

To the Calendar for Ordinary Business

Committee Report No. 44, prepared and submitted jointly by the Committees on Ways and Means; Trade and Commerce; and Climate Change, on Senate Bill No. 2586, with Senators Zubiri, Defensor Santiago, Trillanes IV and Recto as authors thereof, entitled

AN ACT PROVIDING INCENTIVES FOR THE MANUFACTURE, ASSEMBLY, CONVERSION AND IMPORTATION OF ELECTRIC, HYBRID AND OTHER ALTERNATIVE FUEL VEHICLES, AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 1445, 2460, 2598 and 2798.

Sponsor: Senator Recto

To the Calendar for Ordinary Business

Committee Report No. 45, submitted by the Committees on Energy; and Public Services, on Senate Bill No. 2846, introduced by Senator Osmeña III, entitled

AN ACT EXTENDING THE IMPLEMENTATION OF THE LIFELINE RATE, AMENDING FOR THE PURPOSE SECTION 73 OF THE REPUBLIC ACT NUMBERED NINETY ONE THIRTY SIX, OTHERWISE KNOWN

AS THE ELECTRIC POWER INDUSTRY REFORM ACT OF 2001,

recommending its approval without amendment.

Sponsors: Senators Osmeña III and Guingona III

To the Calendar for Ordinary Business

Committee Report No. 46, prepared and submitted jointly by the Committees on Finance; and Constitutional Amendments, Revision of Codes and Laws, on Senate Bill No. 2857, with Senators Guingona III and Drilon as authors thereof, entitled

AN ACT INSTITUTIONALIZING THE PARTICIPATION OF CIVIL SOCIETY ORGANIZATIONS (CSOs) IN THE PREPARATION AND AUTHORIZATION PROCESS OF THE ANNUAL NATIONAL BUDGET, PROVIDING EFFECTIVE MECHANISMS THEREFOR, AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 2186.

Sponsor: Senator Drilon

To the Calendar for Ordinary Business

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of the following guests:

- Gov. Almarim Centi Tillah, President of the Islamic Society of the Philippines and former Governor of Tawi-tawi;
- Gov. Esmael "Toto" Mangudadatu of Maguindanao, Gov. Sakur Tan of Sulu, and Gov. Jum Akbar of Basilan; and
- Sec. Leila de Lima of the Department of Justice, and Sec. Teresita Deles, Presidential Adviser on the Peace Process.

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

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 40 on Senate Bill No. 2849 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 40 ON SENATE BILL NO. 2849

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2849 (Committee Report No. 40), entitled

AN ACT AMENDING REPUBLIC ACT NO. 7875, OTHERWISE KNOWN AS THE NATIONAL HEALTH INSURANCE ACT OF 1995, AS AMENDED, AND FOR OTHER PURPOSES

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Sotto, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

Thereupon, the Chair recognized Senator Cayetano (P) for the sponsorship.

SUSPENSION OF SESSION

Upon motion of Senator Cayetano (P), the session was suspended.

It was 4:05 p.m.

RESUMPTION OF SESSION

At 4:06 p.m., the session was resumed.

SPONSORSHIP SPEECH OF SENATOR CAYETANO (P)

Senator Cayetano (P) stated that Senate Bill No. 2849 is part of a whole package of health care reforms from the Committee on Health and Demography.

As a background, Senator Cayetano (P) recalled that in the 14th Congress, the Committee on Health

and Demography that she chaired, together with the Committee on Trade and Commerce, presented on the floor the Universally Accessible Quality Medicines Act of 2008 which was approved by Congress in 2008, and known as Republic Act No. 9502, the "Cheaper Medicine Law," the objective of which was to bring down medicine prices.

In that same Congress, Senator Cayetano (P) stated that the Committee on Health and Demography also presented the counterpart measure, the Food and Drug Administration Act, which Congress approved in 2009. Known as Republic Act No. 9711, she said, it sought to ensure the quality, safety and efficacy not only of drugs and medicine but also of food, cosmetics and devices.

The rest of her speech follows:

It is again my privilege to stand before the Body today to sponsor Senate Bill No. 2849 under Committee Report No. 40, entitled "An Act Amending Republic Act No. 7875, Otherwise Known As The National Health Insurance Act Of 1995, As Amended, And For Other Purposes."

This bill will amend the existing PhilHealth Law.

Problems

What has PhilHealth failed to achieve in the last 16 years of its existence?

1. It has not achieved universal coverage;
2. Enrolled members are burdened by high out-of-pocket expenses; and
3. PhilHealth benefits are not focused on preventive or primary health care.

In summary, PhilHealth has not been accountable and responsive to the health care needs of the Filipino people, especially the under privilege.

Solutions

We seek to address these concerns by introducing the following amendments:

1. *Universal coverage*

A number of bills regarding universal coverage had been filed by my colleagues and are now incorporated in this Committee Report.

Section 17 of this bill provides for a better mechanism to ensure coverage of all Filipinos.

All Filipino citizens will have to be properly categorized as:

i. indigent – as may be identified by a means test to be conducted by the national government;
ii. members of the informal sector;
iii. practicing professionals and self-earning individuals; and
iv. the formal sector or those whose PhilHealth premiums are automatically deducted from their salary.

More importantly, the bill further identifies who will pay for the premiums of the different categories—the national government, if one is an indigent; the local government, legislative sponsor or other sponsors, if one belongs to the lowest income level of the informal sector; or oneself, if one is able and capable of doing so. Through tiered premium collection, there is better solidarity and equity towards health funding for those in need.

But to ensure that primary health care is available to all regardless of enrollment, Section 6 of the bill which is on benefits, mandates that no Filipino shall be denied access to basic health care services, which are identified in the bill. This mandate does not distinguish whether one has paid the premiums or not. This benefit is given to all Filipinos.

The same section likewise provides that no woman who is about to give birth shall be denied maternal and newborn care. Again, we do not distinguish. Giving birth is a primary health concern. Mothers die every day during childbirth. It is our commitment as legislators looking out for the welfare of our people not to allow an event that should bring life to end life. It is a sad irony. That is a glaring truth.

To be able to achieve our end goal of universal coverage, PhilHealth is further mandated to develop a mechanism whereby those who are not enrolled, but have been given the basic health care services at the point of care, are immediately enrolled and their premiums paid in accordance to which category they belong.

2. *Lower out-of-pocket expenses*

One of the biggest failures of PhilHealth is its high out-of-pocket expenses which makes it very difficult for the poor to access health care services.

The poorest of the poor are not able to avail of health care services because they need

to shoulder more than half of the total expense which is considered out-of-pocket expenses. When the middle class gets sick, a bigger chunk of their income has to be spent on expensive cost of treatment until many can no longer afford treatment. Thus, only those in the higher income brackets are able to avail of quality health care in our country.

One solution is the shift to case-based payment from the current fee-for-service arrangement. Currently, PhilHealth uses the fee-for-service payment which is defined in Section 2 as a fee pre-determined by PhilHealth for every single test conducted, every drug or medicine given and, in addition, for the professional fee and hospital bill. This scheme is considered cost-inefficient because the treatment of a patient in a health facility is left to the wide discretion of the doctor and the hospital and PhilHealth is merely left with the role of reimbursing them.

Compare this to the case-based payment scheme where the treatment of a certain disease, from diagnosis to cure, is charged a one-time fixed package cost. Because doctors will likewise have to adhere to standardized management protocols, there will be less variance in the disease management of patients by doctors. This, then, will result in the containment of the cost.

I would like to point out the chart that we have on the slide.

On the second column is the "fee-for-service" and at the very bottom of that column shows an out-of-pocket expense of P45,000.

On the right side column, the case-based payment scheme, the out-of-pocket expense is zero. This is an example of pneumonia. As we will see on the second column for fee-for-service, there are charges for all the medicines, including laboratory tests, given to the patient. In the current practice, this differs from doctor to doctor, from every health care provider to the other. But if we will be able to adopt the case-payment scheme, then the out-of-pocket expense of the patient is totally reduced to zero because there is a fixed budget that is allocated for the health care provider to deal with this particular ailment, in this case pneumonia. Thus, this bill mandates PhilHealth to study and switch to a case-payment scheme within a certain period of time.

We have also provided in Section 6 that PhilHealth and DOH shall annually study the services being offered to determine its financial sustainability and relevance to health innovations with the end in view of reduced out-of-pocket expenditure, among others. Section 15 further directs that the excess reserve funds will be used to meet the principles of the bill, one of which is to reduce out-of-pocket expenses.

3. *More efficient allocation of funds*

Currently, PhilHealth spending is skewed in favor of unregulated ever-growing in-patient clinical care costs and not on spending on public health, preventive and primary health care.

I have long advocated for a shift from curative to preventive and primary health care. It is high time that we implemented this, and what better way than through our social insurance system.

To reinforce the focus on preventive and primary health care, the bill provides for community-based services in the form of Essential Health Care Packages and per-capita payment-based services.

Essential Health Packages, as defined in Section 2 of the bill, refers to a variety of health care packages consisting of promotive, preventive, diagnostic, curative and rehabilitative services that respond to the needs of the community.

Per capita payment, as defined in Section 2, refers to a pre-determined fixed rate paid to a health care provider to provide a defined set of services in the community for a fixed period of time for each enrolled individual. This primarily involves preventive health care services which either Philhealth or the LGU can provide to a defined number of enrollees in a community to ensure the good health of each targeted enrollee.

Other features of the bill

Senate Bill No. 2849 is, at its core, pro-poor. It seeks to provide solutions and set in place systems to achieve the objectives of the framers of RA 7875.

In addition to the proposed amendments just discussed, these are the other features of the bill:

a. *Capitation*

There is money in investing in PhilHealth for local government units. At present, PhilHealth pays an LGU a certain amount — P300 — for every indigent that such LGU enrolls. This is what is known as the *capitation fund.*

There are success stories all over our country of LGUs that have properly utilized this

fund and have succeeded in making universal quality and affordable health care a reality in their localities. In these areas, basic health care services, including drugs and medicines, are given totally free of charge. Their constituents can likewise avail of certain procedures such as dialysis, CT Scan and other frequent laboratory services without having to shell out their own money. Capitation funds from PhilHealth are likewise used to invest in the improvement of health care infrastructure and the upgrading of equipment. In Bukidnon, tertiary health care is provided totally for free by trained and specialized health care providers. The province is able to pay their doctors much more than the salaries of public doctors with the money coming from the capitation fund. Our colleague, Senator Zubiri, will be delivering his cosponsorship speech on this measure and will elaborate on the experience in Bukidnon.

These are just a few of the LGUs which exemplify what can be achieved with proper management and prioritization of the capitation fund. I am sure there are still many others out there.

Unfortunately, there are also many LGUs who do not pour the capitation fund back into health care. There is nothing in the existing law that provides for guidelines on how LGUs should treat the capitation fund. Thus, the bill, in Section 22, directs the LGUs to invest the capitation fund solely on health infrastructure or equipment, professional fees, drugs and supplies or information technology and database.

b. *Reserves*

One of the most contentious issues involving the PhilHealth system is the current level of reserves. This is likewise addressed in the bill. Under the present law, PhilHealth is allowed to retain a reserve fund "equivalent to the amount actuarially estimated for two years' projected program expenditures."

This has been widely criticized as PhilHealth's mandate is to spend its fund on health care programs and not to save the funds as if it were a bank. From a two-year allowable reserve fund, this bill will allow reserve fund projected for only one year. Any excess in the actual reserves will be used to meet the principles stated in the bill. Investment options to grow funds as well as investments in health care infrastructure in populated areas and areas without sufficient health care are provided, too.

c. *Information technology*

In this time and age of technology, management and sharing of data should not be a problem, but it still remains to be a problem for our health care system. As such, the bill mandates that PhilHealth should invest in the acceleration of its information technology systems. It should maintain and secure a database of all its enrollees to ensure universal coverage.

To address the lack of information on the benefits under PhilHealth, the bill obligates PhilHealth to diligently educate its users of health benefits, and of their rights and privileges under the law.

Conclusion

It has been 16years since Republic Act No. 7875, otherwise known as "An Act Instituting a National Health Insurance Program for All Filipinos and Establishing The Philippine Health Insurance Corporation For The Purpose," was enacted. This was amended later by Republic Act No. 9241.

All these further amendments shall ensure that Filipinos who deserve quality, accessible and affordable Universal Health Care, finally are able to reap the benefits of this law.

PhilHealth's vision is to have "Adequate and Affordable Social Health Insurance Coverage for all Filipinos." As the elected legislators and as our social, humane and constitutional obligation to our Filipino people, I seek the support of this august Chamber for Senate Bill No. 2849 under Committee Report No. 40, in order to realize the very vision of PhilHealth and ensure that quality and essential health care services are made affordable and accessible especially to our underprivileged Filipinos.

Health is wealth. A healthy nation results to a wealthy nation. It is thus our primary obligation to ensure that all Filipinos are healthy and stay healthy to create a wealthy Philippines.

COSPONSORSHIP SPEECH OF SENATOR LEGARDA

Senator Sotto conveyed the request of Senator Legarda to have her cosponsorship speech inserted into the record.

The full text of her speech follows:

I am pleased to state my support for this measure that seeks to ensure that all indigent Filipinos are granted with basic healthcare services.

As we race to reach the Millennium Development Goals by 2015, the health of the public deserves to be on top in the scheme of the priorities of the government. Although the share of health expenditure to GDP rose from 3.7 percent in 2007 to 3.8 percent in 2009, it is still below the five percent standard set by the World Health Organization for developing countries like the Philippines.

The out-of-pocket payments by Filipino patients have escalated to 49%, while that of social insurance payments is a low 11%.

The *"National Health Insurance Act of 1995"* mandates that an affordable and accessible health care coverage should be made available to all citizens, however, access to healthcare continues to be a problem, if not completely missing, for indigent Filipinos all over the country. Senate Bill 2849 No. seeks to address this by mandating the national government to entirely subsidize the contributions for indigent enrollees.

There are about 4.7 million indigent families or 23.5 million poor beneficiaries that have yet to be covered under the National Health Insurance Program or PhilHealth. I am glad to note that the government allocated P3.5 billion to cover the health insurance premiums of indigent families this year.

Through this proposed measure, we can continue to extend basic and affordable healthcare protection to families in need.

It is in this light that I urge the swift passage of this bill.

MANIFESTATION OF SENATOR SOTTO

Senator Sotto manifested that Senator Zubiri would deliver his cosponsorship speech on Monday, June 6, 2011.

REQUEST OF SENATOR OSMEÑA

Senator Osmeña requested that Senate Bill No. 2849 be secondarily referred to Committee on Banks, Financial Institutions and Currencies.

He noted that the insurance industry has become so complex with resources being wasted and scams happening in the Philippines and in western countries. He said that the Committee would like to plug some of the loopholes in the system by asking health care and insurance professionals for advice on how to further refine the bill.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 4:24 p.m.

RESUMPTION OF SESSION

At 4:26 p.m., the session was resumed.

Acknowledging the valid request of Senator Osmeña, Senator Sotto believed, however, that it would be best for the Committee on Banks, Financial Institutions and Currencies to call for a review of certain aspects of Senate Bill No. 2849 without necessarily recommitting it to the Committee on Health and Demography.

COSPONSOR

Upon his request, Senator Cayetano (A) was made coauthor of Senate Bill No. 2849.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2849

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

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

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 resolution, and Senator Angara for the continuation of his interpellation.

INTERPELLATION OF SENATOR ANGARA
(Continuation)

Senator Angara stated that during the earlier deliberation on the measure, he recalled the assertion of Sen. John Osmeña during the bicameral conference committee meeting on the EPIRA that the PowerCom was an unlawful body but he was prevailed upon by some of his colleagues.

Upon query, Senator Osmeña confirmed that he was a member of the bicameral conference committee that started its work in late 2000 and finished it in June 2001.

Asked whether he made a comment on Sen. John Osmeña's reservation about the legality of the PowerCom, Senator Osmeña stated that he did, However, he clarified that he expressed support for the PowerCom.

Senator Angara commented that the scope of the PowerCom is exceptional because some of its powers are clearly executive in nature rather than just legislative oversight. He explained that oversight committees are generally doing an "oversight" function and as defined in ordinary and legal dictionaries, "oversight" means that the legislature retains the right to follow up the implementation of the law and to demand questions and reports from the administrative or executive body. He noted that this is the very essence of a congressional oversight committee established in the country's tradition and jurisprudence. If at all, he said, it does not mean a legislative veto in the sense that an oversight committee must approve any action of the executive agency that it oversees, clear any action of its executive body, and hold the hand of the executive body from the commencement up to the conclusion of an executive act.

Senator Osmeña agreed to Senator Angara's observation, pointing out that Section 62 of the EPIRA that reads: "Endorse the initial privatization plan within one month from the submission of such plan to the Power Commission by PSALM for approval by the President of the Philippines," was indeed controversial but that the reglementary period provided therein has long lapsed. As a matter of fact, he said, the privatization plan was never approved because Napocor and PSALM kept on changing it. He recalled that the plan from the beginning was to bundle all the generating plants of Napocor by classification like coal with coal, gas with gas, and hydro with hydro, but it was not welcomed by prospective foreign bidders, and so the plan was reformatted in a way that the power plants were supposed to be bundled by regions like Region I to Region II, Region III and IV to NCR, and so on, but it was not welcomed either. However, he acknowledged that the zoning plan worked. He recalled that Congress was hanged up on how to structure the sale of Napocor assets and upon advice, allowed Napocor and PSALM to begin their work and let the PowerCom sign off on it which it never did so that in the end, the plants were sold one after the other.

Senator Osmeña noted that at that time, Sen. John Osmeña chaired the Energy Committee, sponsored the bill and later on chaired the Oversight Committee. He stated that Sen. John Osmeña may have been quoted out of context because what the article said was:

> Former Senator John Osmeña, who principally authored the Electric Power and Industry Reform Act, still maintains that the Power Commission jointly chaired by Sen. Miriam Defensor Santiago and Pampanga Rep. Mikey Arroyo is an unlawful body since it intrudes in the function of the executive branch to implement laws.
>
> Osmeña ... already had "reservations" about an oversight committee to monitor the implementation of the law.
>
> Osmeña said he based his arguments on a U.S. Supreme Court decision where the Tribunal ruled as illegal the legislative-created commission during the American occupation which sought to exercise oversight function.
>
> x x x
>
> He argued that the implementation of the EPIRA law should be left to the executive branch and that the legislative should no longer meddle after it had crafted the law. But other lawmakers prevailed on him.
>
> x x x
>
> Osmeña says he proved his point in last Monday's hearing when Santiago ordered the Energy Regulatory Commission to junk a petition filed by Meralco and the National Power Corporation to pass on to consumers their unpaid "mutual" debts. Senator Santiago gave her orders to ERC Commissioner Alejandro Barin. "I may not be a lawyer but that order was unconstitutional," Osmeña said.

Senator Osmeña averred that his cousin was correct in asserting the unconstitutionality of the said order. He said that what was improper in that instance was the exercise of power by a member or chair of the commission. He stressed that the oversight commission does not give orders and he knew, having been a member for several years, that the commission had never issued any direct orders to anybody to do something.

Senator Osmeña further read portions of the article, to wit:

> As co-chair of the power commission, Osmeña said he was conscious about the intended limitations of the power commission. "But it can be abused in the wrong hands," he stressed.
>
> In the case of the power struggle between Meralco and the state workers pension fund Government Service Insurance System, Osmeña said the power commission has no business meddling.
>
> "That is entirely an intra-corporate matter between the Lopezes and (GSIS chair Winston) Garcia. What happened is that issues are being mingled to an internal corporate concern." Garcia has accused the Lopez-controlled Meralco of lack of transparency in running the country's larges electric distributor and practicing questionable business operations that distribution to high power rates.
>
> Osmeña said Garcia should know that such concerns should be addressed to the ERC and not to the power commission, adding that Garcia's family used to operate the Visayas Electric Co. Inc., NPC's biggest distribution utility customer in the Visayas region.
>
> He said the power commission's inquiry is really meant to silence the Lopezes who are perceived to be critical of the Arroyo administration. "This is an attempt to terrorize the Lopezes."

Senator Osmeña emphasized that there was a political side show then. He said that exercising powers beyond that vested by legislation in the commission is up to its members. He believed that anybody in the same position should exercise caution in issuing orders, particularly when an order is illegal.

Senator Angara countered that his own reading of Sen. John Osmeña's statements is that he seemed to believe that the PowerCom is an illegal entity and that it has powers that are susceptible to abuse if given in the hands of a wrong person.

Senator Osmeña inquired as to the specific power referred to since Section 62 has subsections from "a" to "h" and subsection "b" no longer exists because the plants had already been sold and the endorsement of the privatization plan was no longer required.

Senator Angara said that the EPIRA was avowedly passed by Congress for two noble reasons: first, to prevent the domination of the electricity market by any single player; and second, to ensure the performance of the industry players. In the process, however, he averred that the authors of the law and the Arroyo Administration repeatedly articulated that it would bring down the cost of electricity at the retail level, a promise that became the ultimate aim but it was never achieved and from 2001 up to the present, in fact, the Philippines still has the highest electricity rates in the region because under the EPIRA, specifically through the purchase power agreements (PPAs), one-half of the monthly bill consists of electricity which was never used and delivered to the end-user. Instead of reducing electricity rates at the retail level, he rued, the EPIRA maintained them, and worst, they only benefited electricity generators and distributors, the most prominent of which are Meralco, Visayas Electric Co. Inc. in Cebu and the Aboitiz-run electric company in Davao. He said that everybody profited handsomely from the passage of the EPIRA except the end-users.

Senator Osmeña emphasized that the EPIRA was passed not because of the reasons cited by Senator Angara, but to relieve the government of the burden of financing all the power needs of the country since it could not come up in a timely way with funds to deal with the power shortages that the country was suffering at that time, from 1990 to 1993. Prior to the enactment of the EPIRA, he said that Congress passed the Emergency Electric Power Crisis Act of 1992 that gave the President the power to enter into power supply contracts on a "take or pay" basis without public bidding. He said that it was in the exercise of this power that problems arose because the contracts were signed at great cost and involved an amount of power that exceeded actual need. Further, he observed that the EPIRA was enacted to foster competition among the industry players who financed the construction of power

plants and not one conglomerate, supposedly, would be allowed to own more than 30% of the installed capacity in a grid or 25% of the installed capacity in a big grid. Another reason, he said, was to make the billing system transparent which means unbundling the electric bills by itemizing what went to generation cost, transmission cost, distribution fees, foreign exchange fluctuation (Incremental Currency Exchange Rate Adjustment or ICERA), Generation Rate Adjustment Mechanism (GRAM), and universal charge for missionary electrification. He underscored that the EPIRA did not promise to lower the price of electricity because it is absolutely impossible to predict oil price hikes. He pointed out that most of the power plants are using fuel, oil-based or bunker which are tied to the fluctuating prices of oil, coal or natural gas. Moreover, he noted that the 1996 Oil Deregulation Act removed the oil subsidy then called the Oil Price Stabilization Fund (OPSF) and, at the same time, widened the market to allow new players to come in to compete with the big-three, namely, Petron, Shell and Caltex. All things being equal, he said that no one can promise that oil prices will go down because even if supply goes up and demand drops, the price will still be higher than what it was before and there is nothing that can be done about it.

However, Senator Angara argued that the Oil Deregulation Law of 1996 and the EPIRA of 2001 are two entirely different laws in that the former took away the government's monopoly on oil importation and lifted price restrictions to reflect the market price of oil; on the other hand, the EPIRA was supposed to open and strengthen market competition in the power industry through the open access regime whereby the end-users can make a choice where to buy power. He lamented that the open access regime was not achieved after 10 years of existence of the PowerCom because the authors of the EPIRA tied open access to the privatization of 50% of Napocor's assets, noting that it was only this year that Napocor was able to sell 70% of its assets.

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

The other unhealthy provision of the EPIRA, Senator Angara contended, allowed a distributor of electricity like Meralco to own a generating company which gave rise to the accusation that a sweetheart deal took place and for end-users, it resulted in the pricing of electricity well above the market price.

Senator Osmeña expressed the view that the similarity between the Oil Deregulation Law and the EPIRA is that it enabled the government to get out of subsidizing the price of oil through the Oil Price Stabilization Fund (OPSF), and the price of electricity that it could no longer afford. He pointed out that the price of oil rose from US$2.79 per barrel in 1973 to US$ 110 per barrel at present, thus, it would have been unthinkable to continue the subsidy. He disagreed that the government had a monopoly on the oil market, saying that Shell and Caltex have always operated in the country even if Petron has about 40% of the market.

Further, Senator Osmeña recalled that when the government monopolized all generating plants at the start of martial law in 1972, it became responsible for power generation and in determining when to build new plants to cover any future power shortfalls that were even then being predicted. But later on, he said that the new regime realized that the government did not have enough money to fund the construction of new power plants and allowed the private sector to invest in it.

On the open-access provision of the EPIRA, Senator Osmeña asserted that it was a simple response to the law of supply and demand, on the assumption that there will be competition in the power sector as long as there is no dominant player. He pointed out that given that Napocor had 92% of the generating capacity in the country, the EPIRA mandated that it sell up to 30% or less of its assets as an assurance to the private investors and to realize the open access regime. Despite this mandate, he stated that Napocor was allowed to keep the Agus-Polangui generating plant in Mindanao which has 75% of the installed capacity of the region. He said that the EPIRA exempted the power plant from privatization for 10 years upon the behest of the Mindanao legislators who were members of the Bicameral Conference Committee. He stated that although the legislators were warned that the region would run out of power in 10 years and it would take three to four years to build a new power plant, they insisted on placing the provision in the law and true enough, Mindanao experienced a huge power shortage of four to six hours last year. He disclosed that the legislators were asking for another 10-year extension but this time, he said no because doing so would be a bigger mistake. He underscored that no private investor would be willing to build enough plants that provide a 20% to 30% margin and without

such reserve capacity, Mindanao would have rolling brownouts every summer, and the business community and industries would be forced to shut down their operation. Had Congress not enacted the EPIRA, he said that Luzon and Visayas, like Mindanao, would be suffering power shortages today.

On a related matter, Senator Osmeña bared that according to PSALM officials, the previous administration ordered Napocor to sell its existing plants at lower than cost which meant an additional US$8 billion or P320 billion debt for the national government. Apparently, he said, the past administration sold electricity at a cost lower that the production cost as it was the popular thing to do. He believed that EPIRA was working as shown by a review of the power situation of various Asian countries, adding that it praised the Philippines for reflecting the true cost of power.

Senator Angara agreed that the EPIRA took away Napocor's monopoly on power generation and transmission and allowed the private sector to come in as independent power producers (IPPs). He stated that because of the power shortage, government agreed to buy electricity from IPPs, some at reasonable rates, some at overpriced rates and some under corrupt circumstances. He pointed out that within a two-year period, government bought 4,000 megawatts that was not needed and later on purchased at capacity and not at delivered volume from the distributor and end-users were required under the law to pay for the same. He asserted that while transmission has been privatized, it remains a monopoly since the national grid was sold to a consortium of Filipino and Chinese entrepreneurs.

But the main point, Senator Angara underscored, is that the EPIRA intended to introduce retail competition to bring down the cost of electricity and make the Philippines a competitive market rather than second to Singapore or Japan which are both advance countries. He lamented that what the law did was to ensure that certain business interests became immensely richer while the end-users became impoverished, and the high cost of electricity discouraged investments and job creation.

Asked by Senator Osmeña if he would rather that the government continued subsidizing Napocor, Senator Angara replied that he was talking about inefficiency and corruption in government being passed on to end-users through the PPAs.

Senator Osmeña agreed that the PPAs resulted in inefficiencies and corruption, and he recalled that from 1995 to 1997, he exposed scams that arose from the power plant contracts involving the Caliraya-Botocan-Kalayaan project that was awarded to IMPSA, the Casecnan hydro-electric project, the Tiwi-Makban geothermal project. He recalled that in the case of the IMPSA contract, Pres. Joseph Estrada came to the Senate in 2001 to testify on the bribery case of Justice Secretary Nani Perez.

For his part, Senator Angara recalled that as Executive Secretary, he pulled out the IMPSA contract as he did not want President Estrada to sign it but when the Arroyo Administration came into power, the contract was immediately signed. In response, Senator Osmena acknowledged the action of Senator Angara on the IMPSA deal which, he said, was the reason why he supported the EPIRA.

But Senator Angara pointed out that after his reelection to the Senate, the first speech he delivered was critical of the EPIRA.

Senator Osmeña pointed out that it took Congress three to four years to enact the EPIRA and then Budget Secretary Benjamin Diokno attended many Senate hearings to push for it. He acknowledged that he and Senator Angara tried to block the approval of the IMPSA contract and other questionable agreements that were signed prior to the EPIRA's passage in 2001.

To the claim that the EPIRA legitimized the additional expenses that resulted from the IPP contracts, Senator Osmeña disagreed. He explained that the government had to recognize the validity of the contracts and that, in fact, under the EPIRA, the Department of Energy and the Department of Finance were supposed to review them but never did. Had the EPIRA been place at the time the contract were entered into, he believed that they would have been declared illegal. He pointed out that Section 68 (Review of IPP Contracts) of the EPIRA directs an inter-agency committee to "immediately undertake a thorough review of all IPP deals xxx in cases where such contracts are found to be grossly disadvantageous, or onerous to the government xxx to file an action under the arbitration clauses in said contracts or initiate any appropriate action under Philippine laws." He clarified that the PowerCom only had oversight authority but not the power to rescind the agreements.

To the observation that the EPIRA was a failure, Senator Osmeña stated that that this was only because the Executive branch did not follow the law since it neither investigated the contracts nor questioned those that were supposedly overpriced.

SUSPENSION OF SESSION

Upon motion of Senator Angara, the session was suspended.

It was 5:13 p.m.

RESUMPTION OF SESSION

At 5:14 p.m., the session was resumed.

REQUEST OF SENATOR ANGARA

Senator Angara asked that he be allowed to suspend his interpellation for the meantime as it was the 40th anniversary of the convening of the Constitutional Convention of 1971, of which he was a member. He said that he intended to continue his interpellation but he was also willing to help the Committee rewrite the resolution so that it would comply with the Constitution and other laws.

However, Senator Osmeña objected to the suspension of the interpellation as he underscored the urgency of approving the resolution on Second Reading to meet the three-day rule for Third Reading which is on Monday, June 6, 2011. He called for a vote on the matter.

MOTION TO ADJOURN

Thereupon, Senator Angara moved to adjourn for lack of quorum.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 5:16 p.m.

RESUMPTION OF SESSION

At 6:33 p.m., the session was resumed with Senate President Enrile presiding.

Thereupon, Senator Sotto asked that a roll call be conducted.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate called the roll, to which the following senators responded:

Arroyo, J. P.	Osmeña III, S. R.
Drilon, F. M.	Pangilinan, F. N.
Ejercito Estrada, J.	Revilla Jr., R. B.
Enrile, J. P.	Sotto III, V. C.
Guingona III, T. L.	Trillanes IV, A. F.
Honasan, G. B.	Zubiri, J. M. F.
Marcos Jr., F. R.	

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

MANIFESTATION OF SENATOR OSMEÑA

Senator Osmeña stated that he would no longer yield to further questions from Senator Angara or, for that matter, any senator. He pointed out that he has defended the resolution for so many days and for quite a length of time. He reminded the Body that PowerCom would cease to exist on July 11, 2011 so the Resolution extending it has to be passed on Second Reading that day.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

Upon motion of Senator Osmeña, there being no objection, the Body closed the period of interpellations and proceeded to the period of committee amendments.

TERMINATION OF THE PERIOD OF AMENDMENTS

There being no committee or individual amendment, upon motion of Senator Osmeña, there being no objection, the Body closed the period of amendments.

APPROVAL OF SENATE JOINT RESOLUTION NO. 9 ON SECOND READING

Submitted to a vote and with the majority of the senators voting in favor, Senator Zubiri voting against, and no abstention, Senate Joint Resolution No. 9 was approved on Second Reading.

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.

CONSIDERATION OF HOUSE BILL NO. 4146
(*Continuation*)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of House Bill No. 4146, entitled

AN ACT PROVIDING FOR THE SYNCHRONIZATION OF THE ELECTIONS AND THE TERM OF OFFICE OF THE ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO (ARMM) WITH THOSE OF THE NATIONAL AND OTHER LOCAL OFFICIALS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9333, ENTITLED "AN ACT FIXING THE DATE FOR REGULAR ELECTIONS FOR ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO", AND FOR OTHER PURPOSES.

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

Thereupon, the Chair recognized Senator Drilon, Sponsor of the measure, and Senator Marcos, for his interpellation.

MANIFESTATION OF SENATOR SOTTO

Senator Sotto informed the Body that Senator Marcos would interpellate on the bill first, followed by Senators Osmeña, Zubiri, Angara, Legarda, Ejercito Estrada and Cayetano (A), in that order.

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

INTERPELLATION OF SENATOR MARCOS

At the outset, Senator Marcos stated that the salient points in his contrary position on House Bill No. 4146, taking into consideration Senate Bill No. 2756, as contained in Committee Report No. 42, were already part of the record. He said that through all the committee hearings, the answer to the very simple question of whether reforms could be achieved by canceling the elections in ARMM, appointing officers-in-charge to elective positions, and synchronizing the elections – the very purposes of House Bill No. 4146 and Senate Bill No. 2756 – has remained unclear. He expressed the belief that the reforms listed in said bills could be achieved even without enacting House Bill No. 4146 into law.

In response, Senator Drilon agreed that indeed the issue of whether the postponement of elections would bring reforms to the ARMM is debatable, noting that all the elections in ARMM under various laws have not improved the people's lives nor the economy of ARMM, meaning, that the intended reforms when the Organic Act was enacted were never realized. He maintained that the critical issue is that elections cannot be held in ARMM on August 8, 2011, under Republic Act No. 9333 because it would violate the Constitution and the Supreme Court ruling in *Osmeña vs. Comelec,* both of which mandated synchronized elections. Prescinding from the debate, he said, is the constitutional question of whether it is valid to hold elections in ARMM on August 8, 2011, in light of the Supreme Court decision in *Osmeña vs. Comelec*, which puts in doubt the expenditure of public funds for that purpose.

Senator Marcos stated that many legal questions had been raised as regards the proposal to cancel the elections and appoint OICS, but he believed that the ruling in *Osmeña vs. Comelec* was intended only to synchronize the 1992 elections and does not apply to the August 8, 2011 polls. Should House Bill No. 4146 be passed by Congress, he said that these legal questions would be decided by the court and not by the Senate or the House of Representatives. Since it is unclear how the reforms would be undertaken, he asserted that government was taking a big step to achieve something whose results are also uncertain, a very risky move because that it would be a fundamental change in the way the ARMM autonomy is being dealt with. He maintained that congressional interference in the electoral process of ARMM requires a very good reason – in this case, that reforms necessitate the cancelation of the elections, the appointment of OICs to elective positions and the synchronization of elections. However, he noted that the necessity therefor has not been shown.

In this regard, he asked how the system is supposed to work so that the discussion could focus on practical matters, for instance, the timetable and schedule for reforms.

Senator Drilon disagreed to the assertion that the ruling in *Osmeña vs. Comelec* referred only to the 1992 elections. He pointed out that in said case, the Supreme Court mandated synchronized national and local elections prior and subsequent to May 1992, thus, to hold desynchronized elections after 1992 was absurd.

As regards reforms, Senator Drilon stated that it was debatable whether holding the elections in ARMM is the solution to all the problems in the region because the same problems keep propping up even after elections. He stated, however, that no amount of debate can change the fact that the mandate of the Constitution and the ruling of the Supreme Court pertains to synchronized elections.

Senator Marcos recalled that since the ARMM was established in 1989, it has been the legislative policy not to hold the ARMM polls simultaneously with the national elections, noting that all laws on ARMM elections provided for special election dates. Thus, he believed that the policy must be followed and there has to be a very good reason to bring it back to the very strict interpretation of the schedules of elections.

Senator Drilon maintained that a good reason is that the Constitution provides for synchronized elections. He acknowledged that Congress adopted a policy in the seven previous laws. However, he believed that the seven laws cannot be considered as amending the Constitution as interpreted by the Supreme Court which ruled in *Osmeña vs. Comelec* that Republic Act No. 7056, which set the election for the national officials on May 1992 and the local officials on November 1992, violated the Constitution because it provided for the holding of desynchronized elections. The ruling, he asserted, is applicable to today's situation as Republic Act No. 9333 provides for elections in the ARMM on August 8, 2011, when the national elections are scheduled on the second Monday of May 2013. For him, he said, there is no choice left but to correct the existing law and strictly adhere to the Constitution.

Moving on to another point, Senator Marcos noted that Senator Drilon mentioned in his speech that Senate Bill No. 2756 does not seek to amend Republic Act No. 9054. He assumed that Republic Act No. 9333 and all related amendatory laws were an integral part of Republic Act No. 9054 because amendment means change, modification, addition, deletion or alteration of a statute. He argued that the original statute and the amendments thereto should be read together, as if the amendments have been always a part thereof. Therefore, he said, to view House Bill No. 4146 and Senate Bill No. 2756 as only seeking the postponement of the elections in ARMM is myopic because, in fact, they seek to change the system by which the leaders of the ARMM is chosen as well as the schedule of elections.

Further, Senator Marcos argued that said bills may be viewed as amending the Organic Act because they seek to change the term of ARMM elective officials as well. He said that in enacting House Bill No. 4146 into law, the question whether it is an amendment to the Organic Act will come up but as provided for in the Organic Act itself, an amendment thereto requires two-thirds of each House voting separately and it must be submitted to a plebiscite.

Senator Drilon disagreed that Republic Act No. 9333 has become an integral part of the Organic Act, and that the amendment to RA 9333 is also an amendment to the Organic Act. Even assuming for the sake of argument that RA 9333 has become an integral part of the Organic Act, he pointed out that all six laws prior to RA 9333 that set and reset the elections in ARMM were passed without meeting the requirements in the Organic Act pertaining to the two-thirds vote and the plebiscite. Consequently, he said that since Congress amended the laws in the past without a plebiscite, the same rules should apply today.

Senator Marcos argued that the fact RA 9333 was never questioned is not a valid precedent. He reiterated that the issues pertinent to the enactment of House Bill No. 4146 into law would be decided by the court, and not by Congress.

Senator Marcos observed that the two measures seek to achieve synchronization for various reasons, one being the requisite of time for the COMELEC to clean the voters' list and for COMELEC and other government agencies/entities to impose the rule of law in a much more efficient way. But he maintained that desynchronization has already clearly addressed this matter because of the singular nature of the

ARMM elections that is marked by violence, cheating and abuses. He said that precisely, desynchronization was the chosen tool to enable government to pay particular attention and focus on the election requirements in the ARMM: larger security force, more watchers, more Comelec personnel, more PPCRV personnel, that have to be in place to prevent violence, cheating and abuses. He pointed out that synchronizing the ARMM elections with the national and local elections, in fact, would spread out the PNP, AFP, Comelec, PPCRV personnel too thinly.

Senator Drilon underscored that the principal purpose of synchronization is to comply with the Constitution, and the rest – deploying the police force or cleansing cleanse the voters list — becomes obligatory on the part of the State, whether or not it has the necessary manpower or whether or not it can cleanse the voters' list.

But Senator Marcos noted that on the part of the Comelec, it has already been undertaking the necessary activities, for instance, the cleansing of the voters' list, and that, in fact, it is well on its way of making sure that the ARMM electoral process is better off now than it has ever been. He said that compared to the rest of the country, government has done more in ARMM to improve the electoral process.

Senator Drilon pointed out that during his confirmation hearing, Comelec Chair Sixto Brillantes informed the Commission on Appointments that the agency has achieved 60% of its target to cleanse the voters' list. However, he insisted that even if 100% of the voters list had been cleansed, the elections in ARMM cannot be held because it would desynchronize elections which is unconstitutional, as ruled by the Supreme Court in *Osmeña vs. Comelec*.

Senator Marcos noted that in his speech, Senator Drilon adverted to the ruling in *Menzon vs. Petilla* in which the Supreme Court recognized the residual powers of the President to appoint in case of vacancy. However, he contended that the ruling does not apply to the present case because House Bill No. 4146 and Senate Bill No. 2756 give the President the power to appoint OICs but at the same time also create the vacancies that he is supposed to fill up with his appointees. He argued that even if the President is given the power of general supervision over the LGUs, which has apparently been used as basis to claim that he has the power to appoint OICs, this does not extend to amending ARMM's electoral system. He emphasized that the President's residual power to appoint is simply to fill up vacancies caused by the death, illness, retirement, or other valid reasons, of incumbent officials; it is not intended to fill up vacancies that would be created by the proposed Act. Moreover, he argued that the President's power of general supervision is not to appoint and control, but only to supervise the officials in government to ensure they strictly follow laws, rules and regulations.

In reaction, Senator Drilon clarified that the vacancies would not be created by the enactment of House Bill No. 4146 into law but because the elections in ARMM cannot be held on August 8, 2011. He said that to proceed with the elections and spend public funds for it would be unconstitutional and illegal. Imagine, he said, a situation where the Supreme Court would rule that RA 9333 is unconstitutional and on September 30, 2011, the term of the incumbent officials would expire. He stated that since their term cannot be extended and the law does not provide the manner of filling up the vacancies, the President has to exercise his residual power to appoint to address this vacuum.

Senator Marcos proposed an alternative scenario – Congress does not pass House Bill No. 4146 so there will be elections in ARMM on August 2011, hence, there will be no vacancies. He stressed that the vacancies would occur only by the operation of the law canceling the elections in ARMM. He stated that to deliberately cause vacancies and then invoke the President's residual powers to fill them up with appointees seems to be a circular argument which might not pass muster in terms of logic.

Senator Drilon reiterated that the vacancies would occur not because of the enactment of House Bill No. 4146 into law but because of the unconstitutionality of RA 9333, by virtue of which, elections in ARMM cannot be held on August 8, 2011, and no public funds can be expended for that purpose. He surmise that regardless of whether or not Congress passed the bill, somebody would go to the Supreme Court. In that case, he said, if the Supreme Court ruled that RA 9333 is valid, the elections can proceed; if the Supreme Court ruled otherwise, there would be vacancies that have to be filled up and to avoid a vacuum in ARMM, the President could invoke his residual powers to appoint.

Until that happens, Senator Marcos underscored that RA 9333 enjoys the presumption of constitutionality and Congress must act and assume that it is in effect.

Senator Drilon stated that the Senate can have its own legal opinion as to the validity of any law and in this case, it is up to the Body to accept or reject the proposition that RA 9333 is unconstitutional.

Senator Marcos observed that in the history of the peace process, the central tenet has been the recognition of the autonomy of ARMM. Therefore, he said, canceling the ARMM elections and appointing people to fill up the vacant elective posts would weaken its autonomy. He believed that for proper governance and administration, the leaders of ARMM must be familiar with the conditions of the Muslim communities. But the lack of mandate from the people, he said, would severely threaten the autonomy of ARMM.

Senator Drilon believed otherwise, saying that the elections in the ARMM were reset six times but it did not affect the autonomy of the region. He stated that by operation of the Constitution, the appointment by the President of OICs is a necessary consequence of a vacuum because the ARMM elections cannot be held on August 8, 2011.

Senator Marcos argued that by analogy, removing from the senators the right to choose their leaders would be a big blow against the institution's autonomy that requires that leaders be chosen from within, a principle that has been practiced for centuries. Senator Drilon countered that between a situation where there is a perceived violation of autonomy because of the appointment of OICs and a situation where ARMM has no leaders, Congress cannot afford to have a leaderless ARMM just because the President did not invoke his residual powers to appoint and thereby prevent a vacuum.

Senator Marcos maintained that the right to choose leaders is not separate from the principle of autonomy. Further, he noted that the title of the bills was not reflective of their contents and that, in fact, it focused on the "synchronization of elections and term of office of the elective officials of the ARMM with those of the national and other local officials," whereas, a thorough reading of the text of the bills would reveal that they were actually proposing the cancellation or postponement of the ARMM elections scheduled on the second Monday of August 2011. In this regard, he cited Section 26, Article VI of the Constitution, to wit: "Every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof." He stated that the bills do not clearly express the general subjects of cancellation of the elections on August 8, 2011 and synchronization of the ARMM election with the national and local elections in May 2011. Senator Drilon concurred, saying that at the proper time, the title would be corrected in order to comply with the constitutional requirement.

On another matter, Senator Marcos noted that under House Bill No. 4146 and Senate Bill No. 2756, the terms of office of the ARMM elective officials were not synchronized with the terms of national and local elective officials as Sections 1 and 2 thereof provide:

> Section 1. *Regular Elections.* For purposes of synchronization of elections, which is envisioned by the 1987 Constitution, the regular elections of the Regional Governor, Regional Vice Governor and Members of the Regional Legislative Assembly of the Autonomous Region in Muslim Mindanao (ARMM) shall be held on the second (2nd) Monday of May 2013. Succeeding regular elections shall be held on the same date every three (3) years thereafter.
>
> Section 2. *Terms of Office of Elective Regional Officials.* – The term of office of the Regional Governor, Regional Vice Governor, and Members of the Regional Legislative Assembly of the ARMM shall be for a period of three (3) years, which shall begin at noon on the thirtieth (30th) day of September next following the day of the elections and shall end at noon of the same date three (3) years thereafter.

He adverted to the definition of the word "synchronize" in *Osmeña vs. Comelec*, to wit: "to happen or take place at the same time; to represent or arrange event so as to indicate coincidence or co-existence; to cause to agree in time." He pointed out that said bills, therefore, cannot attain one of their main purposes because the term of office of the ARMM elective officials "shall begin at noon on the 30th day of September next the following day of the election" while under the Constitution, the term of office of national and local elective officials shall begin at noon on the 30th day of June. In response, Senator Drilon explained that the purpose of the bills is to synchronize elections given the fact that in

Osmeña vs. Comelec, the High Tribunal said, "within the clear mandate of the Constitution, to hold synchronized national and local elections on the second Monday of May 1991." He maintained that under the Organic Act, as far as the term of office of ARMM officials is concerned, there is no synchronization with the term of office of national and local elective officials. Though it is an imperfect situation, he said, Congress has no choice but to let it stay in the Organic Act until it is amended.

Again on the title of the bills, Senator Marcos stated that it needs some improvement because it speaks not only of the synchronization of elections but also of the term of office. He said that Congress might find itself in the same situation in 2010 with regard to the barangay elections that were held in October 2010 with the next elections scheduled in May 2013, although the term of barangay officials is until October 2013. Responding thereto, Senator Drilon pointed out that the barangay elections do not fall within the ambit of local elections and the Constitution speaks only of the provincial, city, and municipal elections.

Senator Marcos observed that the situation under which Congress operated in 2010 is the same as in the present case, hence, the same methodology should apply.

As regards Sections 4, 5, 6 and 7 of House Bill No. 4146 and Senate Bill No. 2756, Senator Marcos noted that they are amendments to RA 9054. He read Section 4, Article VII and Section 2, Article VI, to wit:

> SEC. 4. *Election of Regional Governor and Regional Vice Governor.* – The Regional Governor and the Regional Vice Governor shall be elected as a team by the qualified voters of the autonomous region.
>
> SEC. 2. *Election of Regional Assembly* – The Regional Assembly shall be composed of Members elected by popular vote with three (3) members elected from each of the legislative districts.

Senator Marcos asserted that there is no mode of selecting the officials of ARMM other than the democratic exercise of the right to suffrage. He cautioned that if the ARMM officials were chosen by the President, it would run counter to the very core principles of RA 9054.

Senator Drilon stressed that the power of the President to appoint OICs is not anchored on Section 4 of the bill but on the proposition that the law does not allow a vacuum that would be created since the August 8, 2011 ARMM elections cannot be held. This situation, he stressed, necessitates the exercise by the President of his residual powers to appoint. He reiterated that it is the unconstitutionality of RA No. 9333 that would cause the vacancies and absent any provision in the law on the process of appointment, the President can invoke his residual powers under the Constitution because there cannot be a vacuum in the leadership of the ARMM.

Senator Marcos noted that Section 6 of the bill declares the appointed OICs, referred to in Section 5 (*Qualifications*), ineligible to run as candidates in the next regular elections in the ARMM, to be held on the second Monday of May 2013 but the qualifications of the Regional Governor, Regional Vice Governor, and member of the Regional Legislative Assembly are set forth in Section 6, Article VI of RA 9054, to wit: natural-born citizen of the Philippines, 21 years old, can read and write, registered voter in the district, a registered thereof for a period of not less than five years. Nowhere in that enumeration, he said, is the prohibition on any person previously appointed in public office in the ARMM from running as candidates for elective positions in the succeeding elections in the region. He opined that such a provision partakes of a substantial amendment to RA 9054. Senator Drilon said that at the proper time, amendments to the provision would be introduced.

MANIFESTATION OF SENATOR SOTTO

Senator Sotto stated that Senators Zubiri, Angara, Legarda, Ejercito Estrada, Cayetano (A) and Osmeña, in that order, would interpellate on the measure on Monday, June 6, 2011.

APPEAL OF SENATOR DRILON

Senator Drilon appealed to the senators, given the urgency of the matter at hand, asking if the Body could vote on the bill on Third Reading on Monday, June 6, 2011, to avoid the necessity of the President calling for a special session for the same purpose. He stated that there are differences between House Bill No. 4146 and Senate Bill No. 2756 so a bicameral conference would probably be constituted to thresh them out. He pointed out that the

President has certified the bill as urgent, hence, the Body could dispense with the three-day rule on Third Reading.

REQUEST OF SENATOR SOTTO

Senator Sotto directed the Senate Secretariat and the Committee on Rules to advise the senators, who have reservation to interpellate on Monday, June 6, 2011, to be ready to take the floor.

SUSPENSION OF CONSIDERATION OF HOUSE BILL NO. 4146

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

RECONSIDERATION OF THE APPROVAL OF THE JOURNAL OF SESSION NO. 90

Upon motion of Senator Sotto, there being no objection, the Body reconsidered the approval of the Journal of the Session No. 90.

APPROVAL OF THE JOURNAL OF SESSION NO. 90, AS CORRECTED

Upon motion of Senator Sotto, there being no objection, the Body approved the Journal of Session No. 90 (May 31, 2011), subject to the correction made by Senator Drilon on page 1437, third paragraph to delete the phrase "As Senator Ferdinand Marcos Jr. so clearly said, we agree that," so that it would simply read: THE ELECTION MUST BE CANCELLED BECAUSE TO HOLD IT IS UNCONSTITUTIONAL

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 45 on Senate Bill No. 2846 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 45 ON SENATE BILL NO. 2846

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2846 (Committee Report No. 45), entitled

AN ACT EXTENDING THE IMPLEMENTATION OF THE LIFELINE RATE, AMENDING FOR THE PURPOSE SECTION 73 OF THE REPUBLIC ACT NUMBERED NINETY ONE THIRTY SIX, OTHERWISE KNOWN AS THE "ELECTRIC POWER INDUSTRY REFORM ACT OF 2001."

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Sotto, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Guingona for the sponsorship.

SPONSORSHIP REMARKS OF SENATOR GUINGONA

Senator Guingona stated that Senate Bill No. 2846 seeks to extend the implementation of the lifeline rate, as provided for under Section 73 of Republic Act No. 9136 otherwise known as EPIRA. He said that Section 73 of EPIRA provides for a lifeline rate which is defined as the subsidized rate to low-income captive market end-users who cannot afford to pay at full cost.

Senator Guingona stated that the lifeline rate will end on June 26, 2011, unless Congress enacted the proposed Act extending the period of implementation by another 10 years. He underscored the need to pass the proposed Act to reduce the impact of high electricity rates on the poorest of the poor brought about by spiraling prices of oil and other inputs to production.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2846

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

MANIFESTATION OF SENATOR SOTTO

Senator Sotto recalled that on May 31, 2011, Senator Cayetano (P) raised a point of order regarding the referral to the Committee on Rules of a Citizens' Petition requesting a Senate inquiry

on family planning methods, the use of contraceptives and its serious side effects, and that the Rules Committee has studied the referral and found it in order. He noted that Senate President Enrile referred the petition to the Rules Committee pursuant to Section 6 of the Rules of Procedure Governing Inquiries in Aid of Legislation, which states:

> Sec. 6. *Petition by Non-Members.* – A Petition filed or information given by any person not a Member of the Senate shall be under oath, stating the facts upon which it is based, and shall be accompanied by supporting affidavits.
>
> If the President finds the petition or information to be in accordance with the requirements of this Section, he shall refer the same to the appropriate Committee.

Senator Sotto disclosed that while the Rules Committee intended to call a hearing on the petition, it found the petition to be insufficient in form and substance because it lacked supporting affidavits required by the Rules. He said that at the proper time, Senate President Enrile could refer the petition to another committee after the Rules Committee shall have received the required affidavits and decided that the petition was sufficient in form and substance.

SUGGESTION OF SENATOR DRILON

Senator Drilon stated that for the first time, the Chamber was confronted by a situation where a group of citizens filed a petition requesting a Senate inquiry. He agreed that there was basis in the statement of Senator Sotto that it is the prerogative of the Senate President to assign the petition to the appropriate committee.

However, he suggested that as a rule, such matters be discussed in caucus first, saying that any petition should, at least, have the endorsement of a senator. He said while this was not so provided in the Rules at the moment, there are serious ramifications to Rule 6 that allows even a non-member to, in effect, put in motion committee work on a matter that has not even been endorsed by a Member. He cautioned that it might result in a situation beyond the control of the Body where so many petitions could tie up the committees. He advised that the Body ought to reexamine the matter so that it would know how to handle similar situations in the future.

MANIFESTATION OF SENATOR GUINGONA

For his part, Senator Guingona supported the suggestion of Senator Drilon, considering the novelty of the situation and considering the seriousness with which Senator Cayetano (P) had requested that the petition be referred to the Committee on Health and Demography.

COAUTHOR

Senator Sotto manifested that Senator Escudero is a coauthor of Senate Bill No. 2846 and Proposed Senate Resolution No. 493.

ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, the Senate President Pro Tempore declared the session adjourned until three o'clock in the afternoon of Monday, June 6, 2011.

It was 7:55 p.m.

I hereby certify to the correctness of the foregoing.

EMMA LIRIO REYES
Secretary of the Senate

Approved on June 6, 2011