



REPUBLIC OF THE PHILIPPINES

**S e n a t e**

**Pasay City**

# **Journal**

**SESSION NO. 79**

Tuesday, May 20, 2008

**FOURTEENTH CONGRESS  
FIRST REGULAR SESSION**

**SESSION NO. 79**  
Tuesday, May 20, 2008

**CALL TO ORDER**

At 3:41 p.m., the Senate President, Hon. Manny Villar, called the session to order.

**PRAYER**

The Body observed a minute of silent prayer.

**ROLL CALL**

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

Aquino III, B. S. C.	Lapid, M. L. M.
Arroyo, J. P.	Legarda, L.
Cayetano, C. P. S.	Pangilinan, F. N.
Defensor Santiago, M.	Pimentel Jr., A. Q.
Ejercito Estrada, J.	Revilla Jr., R. B.
Enrile, J. P.	Villar, M.
Lacson, P. M.	

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

Senators Biazon, Escudero, Madrigal and Zubiri arrived after the roll call.

Senators Angara, Gordon, Honasan and Roxas were on official mission abroad.

Senator Cayetano (A) was on official mission.

Senator Trillanes was unable to attend the session as he is under detention.

**APPROVAL OF THE JOURNAL**

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 78 and considered it approved.

**REFERENCE OF BUSINESS**

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

**MESSAGES FROM THE  
HOUSE OF REPRESENTATIVES**

Letters from the Secretary General of the House of Representatives, informing the Senate that on May 12, 2008, the House of Representatives passed the following House bills in which it requested the concurrence of the Senate:

House Bill No. 223, entitled

AN ACT ESTABLISHING AN ARTS  
AND CULTURE HIGH SCHOOL IN  
THE CAPITAL TOWN OF PILI,  
PROVINCE OF CAMARINES SUR  
TO BE KNOWN AS THE BIKOL  
HIGH SCHOOL FOR THE ARTS AND  
CULTURE AND APPROPRIATING  
FUNDS THEREFOR

To the Committees on Education, Arts and  
Culture; and Finance ~~18~~

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House Bill No. 3037, entitled

AN ACT FIXING THE SPECIFIC LIMITS OF FOREST LANDS IN THE PROVINCE OF AGUSAN DEL NORTE AND BUTUAN CITY

**To the Committee on Environment and Natural Resources**

House Bill No. 3293, entitled

AN ACT STRENGTHENING THE REGULATORY CAPACITY OF THE BUREAU OF FOOD AND DRUGS (BFAD) BY ESTABLISHING ADEQUATE TESTING LABORATORIES AND FIELD OFFICES, UPGRADING ITS EQUIPMENT, AUGMENTING ITS HUMAN RESOURCE COMPLEMENT, GIVING AUTHORITY TO RETAIN ITS INCOME, RENAMING IT AS THE FOOD AND DRUGS ADMINISTRATION (FDA), AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 3720, AS AMENDED, AND APPROPRIATING FUNDS THEREOF

**To the Committees on Health and Demography; and Finance**

House Bill No. 3728, entitled

AN ACT TO REQUIRE ALL LOCAL GOVERNMENT UNITS TO ADOPT A BOY SCOUTING AND GIRL SCOUTING RECOGNITION DAY

**To the Committees on Local Government; and Youth, Women and Family Relations**

House Bill No. 3731, entitled

AN ACT DECLARING CERTAIN PARCELS OF LAND OF THE PUBLIC DOMAIN, LOCATED IN BARANGAYS BUNOG, IRAAN, PUNTA BAJA, CAMPUNG ULAY AND RANSANG OF THE MUNICIPALITY OF JOSE P. RIZAL, PROVINCE OF PALAWAN, AS AGRICULTURAL LAND OPEN TO DISPOSITION FOR AGRICULTURAL,

COMMERCIAL, RESIDENTIAL, INDUSTRIAL AND OTHER PRODUCTIVE PURPOSES

**To the Committee on Environment and Natural Resources**

House Bill No. 3749, entitled

AN ACT DECLARING THE TACDOGAN REEF LOCATED IN THE MIDDLE OF TICAPO PASS, IN THE WATERS BETWEEN THE PROVINCES OF SORSOGON AND MASBATE AS A MARINE RESERVE, TO BE KNOWN AS THE TACDOGAN REEF NATIONAL MARINE PARK

**To the Committee on Environment and Natural Resources**

House Bill No. 3750, entitled

AN ACT DECLARING A PARCEL OF LAND OF THE PUBLIC DOMAIN LOCATED IN BARANGAY STO. NIÑO, MUNICIPALITY OF SABLAYAN, PROVINCE OF OCCIDENTAL MINDORO AN AGRICULTURAL LAND OPEN TO DISPOSITION FOR RESIDENTIAL, COMMERCIAL, INDUSTRIAL OR OTHER PRODUCTIVE PURPOSES

**To the Committee on Environment and Natural Resources**

House Bill No. 3788, entitled

AN ACT GRANTING SOUTHEAST ASIAN AIRLINES (SEAir) INC. A FRANCHISE TO ESTABLISH, OPERATE AND MAINTAIN DOMESTIC AND INTERNATIONAL AIR TRANSPORT SERVICES, WITH CLARKFIELD, PAMPANGA AS ITS BASE

**To the Committee on Public Services**

House Bill No. 3789, entitled

AN ACT GRANTING THE METRO KIDAPAWAN TELEPHONE CORP. <sup>AK</sup>

ORATION (MKTC) A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN LOCAL EXCHANGE NETWORK IN THE PROVINCE OF NORTH COTABATO

**To the Committee on Public Services**

House Bill No. 3792, entitled

AN ACT RENAMING THE OCCIDENTAL MINDORO NATIONAL COLLEGE IN THE MUNICIPALITY OF SAN JOSE, PROVINCE OF OCCIDENTAL MINDORO AS THE OCCIDENTAL MINDORO STATE COLLEGE

**To the Committee on Education, Arts and Culture**

House Bill No. 3825, entitled

AN ACT PROVIDING FOR THE DEVELOPMENT OF ENTREPRENEURSHIP SKILLS AMONG GOVERNMENT EMPLOYEES FOR AN INNOVATION-INSPIRED CORPS OF CIVIL SERVANTS AND A PRODUCTIVE POST-SERVICE CITIZENRY

**To the Committee on Civil Service and Government Reorganization**

House Bill No. 3829, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY NANENG, CITY OF TABUK, PROVINCE OF KALINGA TO BE KNOWN AS NANENG NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3830, entitled

AN ACT ESTABLISHING AN INTEGRATED NATIONAL SCHOOL IN BARANGAY BUHATAN, CITY OF SORSOGON, PROVINCE OF SORSOGON TO BE KNOWN AS BUHATAN INTEGRATED

NATIONAL SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3831, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY SALAPUNGAN, MUNICIPALITY OF SAN RAFAEL, PROVINCE OF BULACAN TO BE KNOWN AS SALAPUNGAN NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3832, entitled

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

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

House Bill No. 3833, entitled

AN ACT ESTABLISHING AN INTEGRATED NATIONAL HIGH SCHOOL IN BARANGAY BINALIAN, MUNICIPALITY OF KAYAPA, PROVINCE OF NUEVA VIZCAYA TO BE KNOWN AS BINALIAN INTEGRATED NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3834, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY PATAAC, MUNICIPALITY OF STO. TOMAS, PROVINCE OF LA UNION

TO BE KNOWN AS STO. TOMAS  
NATIONAL HIGH SCHOOL AND  
APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3887, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN THE MUNICI-  
PALITY OF BAYUGAN, PROVINCE  
OF AGUSAN DEL SUR TO BE  
KNOWN AS MOUNT CARMEL  
NATIONAL HIGH SCHOOL AND  
APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3888, entitled

AN ACT ESTABLISHING A NATIONAL  
SCIENCE HIGH SCHOOL IN THE  
MUNICIPALITY OF PROSPERIDAD,  
PROVINCE OF AGUSAN DEL SUR  
TO BE KNOWN AS AGUSAN DEL  
SUR NATIONAL SCIENCE HIGH  
SCHOOL AND APPROPRIATING  
FUNDS THEREFOR

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

House Bill No. 3889, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
SARAVIA, CITY OF KORONADAL,  
PROVINCE OF SOUTH COTABATO  
TO BE KNOWN AS SARAVIA  
NATIONAL HIGH SCHOOL AND  
APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3890, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
TIMALANG, MUNICIPALITY OF  
IPIL, PROVINCE OF ZAMBOANGA

SIBUGAY TO BE KNOWN AS  
TIMALANG NATIONAL HIGH  
SCHOOL AND APPROPRIATING  
FUNDS THEREFOR

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

House Bill No. 3891, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
GUINHAWA, MUNICIPALITY OF  
TUY, PROVINCE OF BATANGAS  
TO BE KNOWN AS TUY NATIONAL  
HIGH SCHOOL AND APPROPRIAT-  
ING FUNDS THEREFOR

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

House Bill No. 3892, entitled

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

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

House Bill No. 3893, entitled

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

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

House Bill No. 3894, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY DATA,  
MUNICIPALITY OF SABANGAN,  
MOUNTAIN PROVINCE TO BE

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KNOWN AS DATA NATIONAL  
HIGH SCHOOL AND APPRO-  
PRIATING FUNDS THEREFOR

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

House Bill No. 3895, entitled

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

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

House Bill No. 3896, entitled

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

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

House Bill No. 3897, entitled

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

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

House Bill No. 3898, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY VEGA,  
MUNICIPALITY OF BONGABON,  
PROVINCE OF NUEVA ECIJA TO  
BE KNOWN AS VEGA NATIONAL

HIGH SCHOOL AND APPRO-  
PRIATING FUNDS THEREFOR

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

House Bill No. 3899, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
BALETE, MUNICIPALITY OF  
KAYAPA, PROVINCE OF NUEVA  
VIZCAYA TO BE KNOWN AS  
NAPO-TUYAK NATIONAL HIGH  
SCHOOL AND APPROPRIATING  
FUNDS THEREFOR

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

House Bill No. 3900, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
GANAQ, MUNICIPALITY OF  
DUPAX DEL SUR, PROVINCE OF  
NUEVA VIZCAYA TO BE KNOWN  
AS GANAQ NATIONAL HIGH  
SCHOOL AND APPROPRIATING  
FUNDS THEREFOR

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

House Bill No. 3901, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
TALON-TALON, CITY OF  
ZAMBOANGA TO BE KNOWN AS  
TALON-TALON NATIONAL HIGH  
SCHOOL AND APPROPRIATING  
FUNDS THEREFOR

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

House Bill No. 3902, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
BUNGUIAO, CITY OF ZAMBOANGA  
TO BE KNOWN AS BUNGUIAO

NATIONAL HIGH SCHOOL AND  
APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3903, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
TIGBE, MUNICIPALITY OF NORZA-  
GARAY, PROVINCE OF BULACAN  
TO BE KNOWN AS FVR NATIONAL  
HIGH SCHOOL AND APPRO-  
PRIATING FUNDS THEREFOR

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

House Bill No. 3904, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
CAMAMAN-AN, CITY OF CAGAYAN  
DE ORO, PROVINCE OF MISAMIS  
ORIENTAL TO BE KNOWN AS  
CAMAMAN-AN NATIONAL HIGH  
SCHOOL AND APPROPRIATING  
FUNDS THEREFOR

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

House Bill No. 3905, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
DON MARIANO MARCOS, MUNI-  
CIPALITY OF LUPON, PROVINCE OF  
DAVAO ORIENTAL TO BE KNOWN  
AS DON MARIANO MARCOS  
NATIONAL HIGH SCHOOL AND  
APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3906, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
SAGUCAN, MUNICIPALITY OF  
VINCENZO SAGUN, PROVINCE OF

ZAMBOANGA DEL SUR TO BE  
KNOWN AS SAGUCAN NATIONAL  
HIGH SCHOOL AND APPRO-  
PRIATING FUNDS THEREFOR

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

House Bill No. 3907, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY  
SALCEDO, MUNICIPALITY OF  
BANSUD, PROVINCE OF ORIENTAL  
MINDORO TO BE KNOWN AS  
FELIMON M. SALCEDO SR. MEMO-  
RIAL NATIONAL HIGH SCHOOL  
AND APPROPRIATING FUNDS  
THEREFOR

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

House Bill No. 3908, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY SAN  
ROQUE, MUNICIPALITY OF BULA-  
LACAO, PROVINCE OF ORIENTAL  
MINDORO TO BE KNOWN AS SAN  
ROQUE NATIONAL HIGH SCHOOL  
AND APPROPRIATING FUNDS  
THEREFOR

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

House Bill No. 3909, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN THE MUNI-  
CIPALITY OF BARUGO, PROVINCE OF  
LEYTE TO BE KNOWN AS BARUGO  
NATIONAL HIGH SCHOOL AND  
APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3910, entitled

AN ACT ESTABLISHING A NATIONAL  
HIGH SCHOOL IN BARANGAY

DINAPA, MUNICIPALITY OF CASTILLA, PROVINCE OF SORSOGON TO BE KNOWN AS DINAPA NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3911, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY DEL PILAR, MUNICIPALITY OF CAGDIANAO, PROVINCE OF DINAGAT ISLANDS TO BE KNOWN AS DEL PILAR NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3912, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY SAN ANTONIO, CITY OF OZAMIZ, PROVINCE OF MISAMIS OCCIDENTAL TO BE KNOWN AS SAN ANTONIO NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3913, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY SOUTHERN DAVAO, CITY OF PANABO, PROVINCE OF DAVAO DEL NORTE TO BE KNOWN AS SOUTHERN DAVAO NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3914, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY

POBLACION, MUNICIPALITY OF TUBA, PROVINCE OF BENGUET TO BE KNOWN AS TUBA CENTRAL NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

House Bill No. 3915, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY BULULAWAN, MUNICIPALITY OF LAKEWOOD, PROVINCE OF ZAMBOANGA DEL SUR TO BE KNOWN AS BULULAWAN NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

and House Bill No. 3916, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY PARADISE EMBAC, CITY OF DAVAO TO BE KNOWN AS PARADISE EMBAC NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

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

**BILLS ON FIRST READING**

Senate Bill No. 2294, entitled

AN ACT MANDATING ATTAINMENT OF GLOBALLY COMPETITIVE EDUCATION OUTCOMES, ADOPTING AN OMNIBUS EDUCATION REFORM PROGRAM, IDENTIFYING FOR THAT PURPOSE THE STRATEGIC COMPONENTS OF SUCH PROGRAM, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator MAR Roxas *MR*

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

Senate Bill No. 2295, entitled

AN ACT TO ESTABLISH THE NATIONAL RESEARCH, DEVELOPMENT AND EXTENSION CENTER FOR PINEAPPLE, AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Antonio "Sonny" F. Trillanes IV

**To the Committees on Agriculture and Food; Trade and Commerce; Ways and Means; and Finance**

Senate Bill No. 2296, entitled

AN ACT CREATING THE PHILIPPINE CENTER FOR DUCK RESEARCH AND DEVELOPMENT TO PROMOTE THE PHILIPPINE DUCK INDUSTRY AND FOR OTHER PURPOSES

Introduced by Senator Antonio "Sonny" F. Trillanes IV

**To the Committees on Agriculture and Food; Trade and Commerce; and Finance**

Senate Bill No. 2297, entitled

AN ACT TO PROTECT CONSUMERS' PHONE RECORDS

Introduced by Senator Antonio "Sonny" F. Trillanes IV

**To the Committees on Public Services; and Justice and Human Rights**

**RESOLUTIONS**

Proposed Senate Resolution No. 403, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED

**TREASURE-HUNTING ACTIVITIES INVOLVING THE MILITARY IN MOUNT BANAHAW**

Introduced by Senator Miriam Defensor Santiago

**To the Committees on Environment and Natural Resources; and National Defense and Security**

Proposed Senate Resolution No. 404, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE EXCESSIVE SCHOOL FEES CHARGED TO STUDENTS OF PUBLIC ELEMENTARY SCHOOLS AND PUBLIC HIGH SCHOOLS

Introduced by Senator Miriam Defensor Santiago

**To the Committee on Education, Arts and Culture**

Proposed Senate Resolution No. 405, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE FLASH FLOOD THAT DISPLACED 1,500 BARANGAY BAGONG SILANGAN RESIDENTS

Introduced by Senator Miriam Defensor Santiago

**To the Committees on Local Government; and Social Justice, Welfare and Rural Development**

Proposed Senate Resolution No. 406, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON FURTHER INCREASING THE COUNTRY'S ABILITY TO CREATE AND MAINTAIN AN ENVIRONMENT THAT SUSTAINS

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THE COMPETITIVENESS OF  
ENTERPRISES

Introduced by Senator Miriam Defensor  
Santiago

**To the Committee on Economic Affairs**

Proposed Senate Resolution No. 407, entitled

RESOLUTION DIRECTING THE SENATE  
COMMITTEE ON ENVIRONMENT  
AND NATURAL RESOURCES AND  
OTHER APPROPRIATE COMMITTEES  
IN THE SENATE TO CONDUCT AN  
INQUIRY, IN AID OF LEGISLATION,  
INTO THE URGENCY AND NEED  
TO INSTITUTIONALIZE A NATIONAL  
DATABASE MONITORING AND  
TRACKING SYSTEM IN ORDER TO  
STUDY, MONITOR AND DOCU-  
MENT THE EFFECTS OF CLIMATE  
CHANGE AND GLOBAL WARMING  
IN THE COUNTRY, WITH THE END  
IN VIEW OF PROVIDING OUR  
POLICYMAKERS AND VARIOUS  
STAKEHOLDERS IN THE COUNTRY  
THE FOUNDATION TO COME UP  
WITH PROACTIVE LONG-TERM  
INTERVENTIONS TO ADDRESS  
AND ABATE THE EFFECTS OF  
CLIMATE CHANGE

Introduced by Senator Manuel "Lito" M.  
Lapid

**To the Committee on Environment and  
Natural Resources**

Proposed Senate Resolution No. 408, entitled

RESOLUTION EXPRESSING THE  
PROFOUND SYMPATHY AND  
SINCERE CONDOLENCES OF  
THE SENATE OF THE PHILIP-  
PINES ON THE DEATH OF DON  
HENRY R. CANOY, ONE OF THE  
PILLARS OF PHILIPPINE RADIO  
INDUSTRY

Introduced by Senator Manny Villar

**To the Committee on Rules**

COMMUNICATIONS

Letter from Assistant Governor and General Counsel  
Juan De Zuñiga Jr. of the *Bangko Sentral ng  
Pilipinas*, dated May 8, 2008, furnishing the  
Senate with a copy of *Bangko Sentral ng  
Pilipinas* Circular No. 607, S-2008, dated April  
30, 2008, in compliance with Section 15(a)  
of Republic Act No. 7653 (The New Central  
Bank Act).

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

Letter from Executive Secretary Eduardo R. Ermita  
of the Office of the President of the Philippines,  
dated May 13, 2008, transmitting to the Senate  
an original copy of the "Memorandum of Agree-  
ment Creating the Judiciary, Executive and  
Legislative Advisory and Consultative Council  
(JELAC)," which was signed by the President  
of the Philippines, the President of the Senate,  
the Speaker of the House of Representatives,  
and the Chief Justice on May 13, 2008.

**To the Committees on Justice and Human  
Rights; and Finance**

ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

Senate Bill No. 2298, entitled

AN ACT PROVIDING INCENTIVES TO  
ALL BARANGAY OFFICIALS,  
INCLUDING BARANGAY TANODS  
AND MEMBERS OF THE LUPONG  
TAGAPAMAYAPA, AND BARANGAY  
EMPLOYEES

Introduced by Senator Miriam Defensor  
Santiago

**To the Committees on Government Corp-  
orations and Public Enterprises; Local Govern-  
ment; and Ways and Means**

Senate Bill No. 2299, entitled

AN ACT ESTABLISHING AND PROVID-  
ING FOR FREE COLLEGE EDUC-  
ATION IN INFORMATION AND  
COMMUNICATIONS TECHNOLOGY

Introduced by Senator Miriam Defensor  
Santiago

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

Senate Bill No. 2300, entitled

AN ACT INCREASING THE SALARY  
GRADE OF PUBLIC SCHOOL  
TEACHERS FROM SALARY GRADE  
10 TO 20 AND PROVIDING FUNDS  
THEREFOR

Introduced by Senator Miriam Defensor  
Santiago

**To the Committees on Education, Arts and  
Culture; Civil Service and Government Reorganiz-  
ation; and Finance**

### RESOLUTION

Proposed Senate Resolution No. 409, entitled

RESOLUTION EXPRESSING THE  
PROFOUND SYMPATHY AND  
SINCERE CONDOLENCE OF THE  
SENATE OF THE PHILIPPINES ON  
THE DEATH OF HONORABLE  
CRISPIN B. BELTRAN

Introduced by Senator Jinggoy Ejercito  
Estrada

**To the Committee on Rules**

### COMMITTEE REPORT

Committee Report No. 54, submitted jointly by the  
Committees on Justice and Human Rights; and  
Local Government, on Senate Bill No. 1160,  
introduced by Senator Pimentel Jr., entitled

AN ACT TO STRENGTHEN PHILIPPINE  
COMMITMENT TO HUMAN RIGHTS  
PROMOTION AND PROTECTION  
BY ESTABLISHING HUMAN RIGHTS  
RESOURCE CENTERS THROUGH-  
OUT THE COUNTRY AND FOR  
OTHER PURPOSES,

recommending its approval without amendment.

Sponsors: Senators Francis "Chiz" Escudero,  
Benigno S. Aquino III and Pimentel Jr.

**To the Calendar for Ordinary Business**

### SPECIAL ORDER

Upon motion of Senator Pangilinan, there being  
no objection, the Body approved the transfer of  
Committee Report No. 53 on Senate Bill No. 2293  
from the Calendar for Ordinary Business to the  
Calendar for Special Orders.

### COMMITTEE REPORT NO. 53 ON SENATE BILL NO. 2293

Upon motion of Senator Pangilinan, there being  
no objection, the Body considered, on Second Reading,  
Senate Bill No. 2293 (Committee Report No. 53),  
entitled

AN ACT AMENDING SECTIONS 22, 24,  
34, 35, 51, AND 79 OF REPUBLIC  
ACT NO. 8424, AS AMENDED,  
OTHERWISE KNOWN AS THE  
NATIONAL INTERNAL REVENUE  
CODE OF 1997.

Pursuant to Section 67, Rule XXIII of the Rules  
of the Senate, with the permission of the Body, upon  
motion of Senator Pangilinan, 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 Escudero for the  
sponsorship.

### SPONSORSHIP SPEECH OF SENATOR ESCUDERO

Senator Escudero presented to the Body  
Senate Bill No. 2293, in substitution of House Bill  
No. 3971 and in consolidation with Senate Bill  
No. 103, authored by Senator Roxas; Senate Bill  
Nos. 125 and 126, authored by Senator Enrile;  
Senate Bill Nos. 302, 419, 448 and 558, authored by  
Senator Ejercito Estrada; Senate Bill No. 1576,  
authored by Senator Villar; Senate Bill Nos. 1615  
and 1616, authored by Senator Gordon; Senate Bill  
No. 2177, authored by Senator Zubiri; and Senate  
Bill No. 2217, authored by Senator Revilla. He  
explained that the proposed measure seeks to exempt  
minimum wage earners from the payment of income

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and/or withholding tax in an attempt to help the people cope with the rising cost of commodities. He noted that the Regional Tripartite and Wages Productivity Board granted an increase of P20 per day to minimum wage earners and, by way of impact, Senate Bill No. 2293 would grant these workers an additional salary of around P34 per day given the exemption that would be granted to them. He said that the Committee on Ways and Means also included, as among those who would enjoy the exemptions, government workers receiving Salary Grade V, Steps 1 to 8.

In contradistinction with House Bill No. 3971, Senator Escudero stated that the House of Representatives adopted the same levels of exemption as Senate Bill No. 2293: a) from an allowable personal exemption of P20,000 for a single individual, P25,000 for a head of family, and P32,000 for a married individual, a higher personal exemption of P50,000 was recommended; and (b) by way of personal additional exemption insofar as dependents are concerned, a higher ceiling of P25,000 for each dependent not exceeding four was recommended, thereby increasing the maximum additional exemptions and personal additional exemptions to as high as P200,000, depending on one's status in life.

To address the revenue loss on the part of the government, Senator Escudero said that both Houses recommended an optional standard deduction (OSD) on gross sales and/or gross receipts insofar as individual taxpayers are concerned. However, he informed the Body that the House recommended a Simplified Net Income Tax Scheme (SNITS) to address the remaining balance of the revenue loss, while the Senate proposed an OSD of 40% for corporations insofar as their gross income is concerned. The reason for the Senate proposal, he explained, is that according to the computations made by the Department of Finance on the total revenue loss as well as the gain brought about by the 40% OSD on individuals on gross sales and receipts, and 40% OSD on gross income insofar as corporations are concerned with conservative availment rate, government would still gain P.78 billion or P780 million but if the availment rate is computed at 15% for individuals and 10% for corporations, the potential high side of a revenue gain would amount to approximately P18.08 billion.

Senator Escudero said that the Committee received several suggestions with respect to increasing

the rate of personal exemptions and personal additional exemptions and expanding the coverage of tax exemptions granted to minimum wage earners to encompass other income brackets. However, he stated that the only proposal taken into consideration was the expansion of the exemption to cover overtime, holiday, nightshift differential and hazard pay, which would entail an additional revenue loss of P1 billion on the part of government but there would still be a revenue gain of P780 million on the conservative side.

He said that both Houses wanted to give the highest tax exemptions to the people in light of the rising cost of living but the corresponding budgetary implication of the exemptions should also be taken into consideration.

In closing, Senator Escudero urged the Body to approve the measure.

#### **INTERPELLATION OF SENATOR ENRILE**

In reply to Senator Enrile's queries, Senator Escudero stated that the proposed measure seeks to increase the current personal exemption for a married individual from P32,000 to P50,000 and the current additional exemption per children from P8,000 to P25,000, so a couple with four children would have a total nontaxable income of P200,000, translating to an additional income of P104,000 for the family. He said that the first P30,000 of the P104,000 would be taxable by P2,500 and the remaining balance would be taxable by 15%.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Escudero, the session was suspended.

*It was 4:12 p.m.*

#### **RESUMPTION OF SESSION**

At 4:13 p.m., the session was resumed.

On whether the additional income to a couple with four children would then be P11,000 to P12,000, Senator Escudero replied in the affirmative. He said that minimum wage earners would have an additional P34 per day. *AK*

*AK*

## SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2293

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

## ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Pangilinan acknowledged the presence in the gallery of teachers from the Marikina Polytechnic College led by Dr. Loreto Santos, and Mayor Joselito Escutin, together with 23 barangay captains and barangay council members, of Dao, Capiz.

Senate President Villar welcomed the guests to the Senate.

## COMMITTEE REPORT NO. 42 ON SENATE BILL NO. 2121

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2121 (Committee Report No. 42), entitled

AN ACT AMENDING SECTION 4, 9, 20, 21, 23, 25, 26, 30, 31, 32, 33, 34, 35, 38, 41, 43, 45, 48, 51 OF REPUBLIC ACT NO. 9136 ENTITLED AN ACT ORDAINING REFORMS IN THE ELECTRIC POWER INDUSTRY AND FOR OTHER PURPOSES.

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

## SUSPENSION OF SESSION

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

*It was 4:16 p.m.*

## RESUMPTION OF SESSION

At 4:17 p.m., the session was resumed.

Upon resumption, the Chair recognized Senator Enrile, Sponsor of the measure, and Senator Aquino for the continuation of his interpellation.

## INTERPELLATION OF SENATOR AQUINO (Continuation)

Senator Aquino asked whether or not there was a violation of the principle of what has been delegated cannot be delegated in turn when the Secretary of National Defense during the Marcos regime, who was directed by the Commander-in-Chief, by virtue of Letter of Instruction No. 2, to take over certain corporations, delegated the task to military officials who reported to the Chief of Staff.

Senator Enrile explained that under the martial law regime and as the duly designated representative of the Commander-in-Chief, he had the discretion either to handle or perform the function directly or delegate it to his subalterns. He stated that while he was not actually in the direct line of command from the President down to the Chief of Staff, the Armed Forces of the Philippines was a bureau under him as the Secretary of National Defense who had full control and supervision over the military.

But Senator Aquino believed that in the 1935 Constitution, pursuant to its martial law provisions the then Governor General, as the Commander-in-Chief, was the sole authority to take over those utilities; therefore, the power resides not in the Defense Secretary but in the President who delegated this power to the secretary.

Senator Enrile explained that there was an order to him by the Commander-in-Chief who, by virtue of the Constitution, was vested with the power to declare martial law, to take over and control the operation of said utilities which were essential for the successful prosecution by the government of its effort to contain, solve and end the national emergency. As a cabinet member, he said, he had to obey the order although he doubted whether it was covered by the principle of *delegata potestas non potest delegari*.

Given the fact that a citizen cannot normally sue government, Senator Aquino asked who would be the party to sue if the beneficial owners of those entities felt that their rights were abused. Senator Enrile replied that the one ordering the taking over of these entities must be responsible, unless there has been a fraud or injury committed against the companies taken by those who manage them.

On whether it would have been President Marcos who would be held liable, Senator Enrile said that he

did not know, but he pointed out that it was an act of sovereignty that was exercised by the President by virtue of the power vested in him by the Constitution.

Referring to the amendments accelerating open access by reducing the privatization requirement of NPC from 70% to 50%, Senator Aquino asked whether Napocor would retain all the tax benefits that it continues to enjoy to date.

Senator Enrile replied that he was not current with the franchise of Napocor. However, he opined that if it has tax freedom, then it has to enjoy it unless Congress repeals the applicable provision.

### SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

*It was 4:25 p.m.*

### RESUMPTION OF SESSION

At 4:27 p.m., the session was resumed with President Pro Tempore Ejercito Estrada presiding.

Senator Enrile said that he would ask the Napocor officers to provide a direct answer to the query. Nevertheless, he assumed that Napocor pays a franchise tax which, under normal conditions, is in lieu of all taxes except VAT.

As requested by Senator Enrile, Senator Aquino read Section 13 of R.A. No. 6395, to wit:

Section 13. *Non-Profit Character of the Corporation; Exemption from all Taxes, Duties, Fees, Imposts and Other Charges By Government and Governmental Instrumentalities.* The Corporation shall be non-profit and shall devote all its returns from its capital investment, as well as excess revenues for its operation, for expansion. To enable the Corporation to pay its indebtedness and obligations and in furtherance and effective implementation of the policy enunciated in Section I of this Act, the Corporation is hereby declared exempt:

- (a) From the payment of all taxes, duties, fees, impost, charges, costs and service fees in any court or administrative proceedings in which it may be a party, restrictions and duties to the Republic of the Philippines, its

provinces, cities, municipalities and other government agencies and instrumentalities;

- (b) From all income taxes, franchise taxes and realty taxes to be paid to the National Government, its provinces, cities, municipalities and other government agencies and instrumentalities;
- (c) From all import duties, compensating taxes and advanced sales tax, and wharfage fees on import of foreign goods required for its operations and projects; and
- (d) From all taxes, duties, fees, impost and all other charges imposed by the Republic of the Philippines, its provinces, cities, municipalities and other government agencies and instrumentalities, on all petroleum products used by the Corporation in the generation, transmission, utilization and sale of electric power.

Senator Aquino stated that P.D. No. 938 basically reiterated the same provision of R.A. No. 6395 which was enacted in 1971. He believed that having been tax-free before and during martial law was already an advantage for Napocor in a competitive regime.

Senator Enrile opined that it would be unwise or even fallacious to impose a tax on Napocor which is supposed to be a non-profit organization; otherwise, government would have to impose a tax on all charitable institutions.

Under Commonwealth Act No. 120, Senator Aquino stated that all government agencies, instrumentalities and the like are mandated to get their power from Napocor. He noted that the present EPIRA did not clarify whether the said provision has been repealed. He recalled that Napocor had losses of P100 million each in 2003 and 2004 which were totally absorbed by the national government. He noted that under Section 10 of said Act, "At any time the Board certifies that the Corporation is able to furnish electric power for lighting and other purposes to any office, shop, or establishment operated and/or owned or controlled by the national government or by any city, province, municipality or other political subdivision of the Commonwealth of the Philippines, the national government and the government of said city, province, municipality or other political subdivision shall be compelled to secure from the Corporation as soon as practicable such electric power as it may need for lighting and operation of its offices, shops, <sup>AS</sup>

or establishments or for any work undertaken by it. The provisions of this section shall also apply to firms or businesses owned or controlled by the national government or by the government of any city, province, municipality or other political subdivision." Supposing the said provision has not been repealed, Senator Aquino asked whether it would be another advantage given to Napocor in a competitive regime.

Senator Enrile replied that he could not see the advantage because the rate of the power which Napocor would supply through the system would have to be approved by the Energy Regulatory Commission, whether the user is a private party or a government branch or agency. Senator Aquino pointed out that the competitive advantage he was talking about considers the fact that it was mandated by said provision of the operative law; hence, all the clients enumerated earlier can only secure their power from Napocor.

Senator Enrile recognized the cited provision of the existing law but he pointed out the reality of the times -- that, practically, all government offices are connected with Meralco, and it is difficult to identify which power comes from Napocor, Quezon Power, First Gas, Sta. Rita, San Lorenzo, Duracom or some other supplier of power; there is no earmark to identify the current coming from one supplier or the other. He believed that the law cited is not being applied at present.

Senator Aquino stated that a normal or a private corporation would be capitalized by its owners and, in turn, the owners become stockholders of said firm, and the officers of that firm become liable to its stockholders for the operation of a particular company. Relative thereto, he noted that Napocor has incurred debts totaling P1 trillion but nobody seems to be accountable for it although Napocor is considered a corporation. He lamented that a company that has been continually recapitalized from its inception had caused government to absorb again another P200 million of its losses to the extent that it is already indebted by P1 trillion. He said that it would be competing later on, in an open access regime, with firms that do not have a big brother that would take care of all their problems down the line.

Considering that Napocor is exempt from taxes and fees to which its competitors are subjected, Senator Aquino believed that it could sell a product at a cheaper or more competitive rate than its

competitors who are saddled with such impositions and who do have responsibility to be good managers to its stockholders.

Senator Enrile observed that like his interpellation the previous day, Senator Aquino was again assuming that the so-called recapitalization of Napocor was due to profligacy of management. He reiterated that in order to come up with such a conclusion, there is a need to analyze the financial performance of Napocor from November 3, 1936, when it was created by virtue of Commonwealth Act No. 120, up to the time when it took over all the generating plants of Meralco.

Senator Enrile surmised that the reason for the provisions in the Act is that at the time it was enacted, Meralco was already generating power and selling it at the same time as distributor, no distinction whatsoever whether it is a generator or distributor of power. He said that all of Meralco's profits at that time, including profits from power generation and electric distribution, were subjected to franchise tax.

To save the people from too much expense because power was being marketed by an entity that is motivated by profit, albeit subjected to a limitation of its profits, Senator Enrile said that the State, through its legislature, mandated that all government offices must acquire their power from the National Power Corporation as a generator of power. While all the power plants of Meralco were petroleum-based power and subject to the price of crude in the world market, he pointed out that Napocor then was producing power from its hydroelectric plants as there were yet no coal-fired or thermal plants, which made cheaper electricity available in the market.

Senator Enrile stated that an analysis of the books of Napocor from 1936 to 1973, when it took over the generation plants of Meralco, would show that indeed Napocor was thinly capitalized because there was no excessive capacity that could be wasted because it could not be used and the losses would be carried by the taxpayers.

Senator Enrile likewise surmised that the periodic increases in the capitalization of Napocor was triggered by the expansion of the generating capacities of government which necessitated capital outlays like the nuclear power plant which came later on.

Senator Aquino requested copies of the financial statements of Napocor covering the period 1936 to

1973. Senator Enrile replied that it would be almost impossible to provide the records because under the law, they are supposed to be kept only for five years. That being the case, Senator Aquino noted that there would then be no way to comply with the request of Senator Enrile to revisit and analyze the records. Senator Enrile stated that he was just indicating that if indeed the thesis being proposed is a correct theory, then it should have been raised a long time ago by the guardians of public money. He said that based on his experience as a member of the Cabinet of the Marcos administration, Napocor did not have to be heavily capitalized except to meet its disbursement for program because it was actually a non-profit entity as stated in the law, and was just an instrument of policy and for development of the government, whether the Commonwealth government or later on the republic, and it was the government that injected money through the budget whenever there was a need for it.

On the claim that the guardians of the State would have raised an uproar if there was something wrong with the operations of Napocor, Senator Aquino pointed out that all of the presidential decrees happened after the imposition of martial law when Congress, which is one of the guardians of the State, was padlocked and was seemingly revived only with the Interim Batasang Pambansa in 1978. Senator Enrile clarified that Congress continued after martial law in the person of then President Marcos when there was a fusion of the executive and legislative powers in the person of the Commander-in-Chief. He said that if anybody would want to question that actuation of the Marcos regime and the disbursement of funds, then they are free to go over it.

Asked who exactly was the guardian then that would have checked on the actuations of the other entities, Senator Enrile replied that it was the Commission on Audit headed by Chairman Mathay and consequently succeeded by others. He said that he has not heard of anything derogatory about Chairman Mathay in the conduct of the Commission on Audit.

Asked if it was true that all justices and judges were required to submit courtesy resignations to President Marcos upon the imposition of martial law, Senator Enrile replied that only the cabinet members were required to do so.

## SUSPENSION OF SESSION

Upon motion of Senator Aquino, the session was suspended.

*It was 4:50 p.m.*

## RESUMPTION OF SESSION

At 4:50 p.m., the session was resumed.

Senator Aquino disclosed that based on its financial records, Napocor registered huge operating losses—P107.704 billion in 2003 and P104.719 billion in 2004, but surprisingly, it posted an operating profit of P85.992 billion in 2005 and P89.998 in 2006. He then asked on the reason for the two very big losses. In reply, Senator Enrile said that according to Napocor, the foreign exchange during said period was high, thus, the peso funds that would discharge the dollar obligation of Napocor were costly, but when the foreign exchange rate went down in 2005, it had to use nominally less pesos to discharge their obligation, thus, *registering a profit*.

Senator Aquino pointed out that the losses in 2002 amounted to P24.657 billion, followed by a five-fold increase in 2003 in the amount of P107 billion which would have necessitated a loss of the peso's value to just 20% in relation to the foreign currency. He doubted whether the peso lost that much value from 2003. Senator Enrile pointed out that the peso appreciated by 24% when the foreign exchange rate used to be P57 to a dollar until the level now at P43, or a difference of P14. Senator Aquino concluded that there should be a 24% appreciation in debt service.

Senator Aquino said that from what he has gathered from Senator Enrile's explanation, the increase from P24 billion to P107 billion in losses was primarily due to foreign currency fluctuation. Senator Enrile said that the peso appreciation was indeed a reason, among other things.

## SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

*It was 4:55 p.m.*

## RESUMPTION OF SESSION

At 4:56 p.m., the session was resumed. *AS*

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Upon resumption, Senator Enrile said that the explanation of Napocor was too technical for him to reflect into the Record. He said he would ask Napocor to make a formal written explanation to the Senate regarding the matter. Nonetheless, he said that in general, the cause of the gain is due to the revaluation of the debt stock because of the appreciation of the peso.

At this point, Senator Aquino said that he was just handed data from the Bangko Sentral of the value of the peso's monthly and yearly averages covering the period 1992 to 2007, the most relevant of which is the period 2001 to 2007. He disclosed that the average value of the peso against the dollar was as follows: P50.9927 in 2001; P51.6036 in 2002; and P54.2033 in 2003. He pointed out that the appreciation of the peso happened only in 2007.

Senator Aquino noted that from 2003 to 2002, there was, at most, a P3 difference on the average price in terms of currency adjustments. He again requested clarity in the response to his answers to avoid misleading answers from Napocor. Senator Enrile said that precisely he was requesting a formal written explanation from Napocor.

At this point, Senator Enrile observed that the questions being propounded were directed at dissecting the financial performance of Napocor. He clarified that the purpose of the bill is not to investigate or exculpate Napocor but to amend the EPIRA.

Senator Enrile said that based on the financial highlights submitted by Napocor, the Transco posted a gain of P7.781 billion in 2003. In the case of Napocor, he stated that in 2003, its total transmission and generation losses due to foreign exchange fluctuation was P78.189 billion but this was reduced to P26.122 billion in 2004; in 2005, it had a total gain of P78.033 billion from the two sectors and in 2006, P68.744 billion. He said that he had asked the Napocor officials to submit a written answer to the queries of Senator Aquino.

Senator Aquino explained that he was concentrating on Napocor because it had burdened the government with over a P1 trillion debt. Senator Enrile pointed out that the burden was created by government officials who made wrong decisions.

To the observation that the EPIRA precisely mandated the reduction of Napocor's participation

in the power industry, Senator Enrile stated that under the law, all Napocor assets are supposed to be transferred to the PSALM and its debts and stranded cost to be retired over a period of time.

Senator Aquino asserted that the issue is that under the proposed amendment to the EPIRA, 50% of Napocor would be privatized so that various private entities engaged in power generation and distribution would be able to compete.

## SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

*It was 5:05 p.m.*

## RESUMPTION OF SESSION

At 5:06 p.m., the session was resumed.

Upon resumption, Senator Enrile stated that the proposed amendment to Section 31 of EPIRA provides that, "The ERC may declare open access prior to the fulfillment of the conditions under subsections (d) and (e) above, on the condition that generation participants in the open access electricity market shall be limited to those generation companies that comply with the limits set forth in Section 45, paragraph (a) of this Act. For purposes hereof, all government entities such as the NPC, PSALM, or any other government agency and government-owned or controlled corporations shall be deemed as one related group." He further quoted Section 45, to wit: "No company or related group shall be allowed to own, operate or control more than 30% of the installed generating capacity of a grid and/or 25% of the installed national generating capacity." He explained that the provision is intended to ensure that only people who complied with the 30% capacity requirement on the grid could participate in an open access regime.

But Senator Aquino argued that under Section 45(c) of the EPIRA, 90% of the supply requirement of distribution companies can be sourced from bilateral agreements, while the 10% can be secured from Wholesale Electricity Spot Market (WESM). He reasoned that under such a structure, most of the entities in the electric power industry would opt to utilize up to 90% of their maximum requirements by entering into bilateral contracts which would negate the competitive atmosphere that would have resulted

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in better rates for consumers. He argued that one of the salient features of the EPIRA is that in an open access environment and with certain qualifications, distribution companies would be able to choose which entities to supply or which generating company to contract to supply their needs. Senator Enrile commented that in an open-access environment, there is a huge captive market or a big number of small households that must be protected.

But Senator Aquino countered that the small households could, in turn, bond together and reach the criteria that would enable them to source their needs from the open access market. Senator Enrile believed that by the time open access market shall have been put in place, all users of one megawatt or above could choose their supplier, contract the price to their satisfaction and pay wheeling charges for the delivery of the power to their establishments. He stressed that those below the threshold of one megawatt would be the captive market.

Senator Aquino expressed the view that for the open access market to work, there must be a lot of generating companies from which the distribution entities could source their needs. Senator Enrile expressed hope that with open access, the big players would come in and provide cheaper electricity to consumers.

On the concern that potential suppliers would not be enticed to invest in power generation and distribution, Senator Enrile said that he would welcome any proposal to make the industry more attractive to investors.

With regard to accelerating open access, Senator Aquino stated that no one is sure that reducing the privatization requirement from 70% to 50% would foster a competitive regime given the fact that Napocor would still have 50% of the market, it would have all the advantages of selling its product at a much lesser cost compared to its new competitors, and no potential investor would want to compete on uneven terms. However, Senator Enrile contended that the same could be said about the generating companies of the Lopez group who control 50% of the Luzon grid with 450 megawatts from the Quezon Power, 1,000 megawatts from Sta Rita, 500 megawatts from San Lorenzo as well as those being sourced from the Pantabangan, Masiway, EDC and PNOC.

## SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

*It was 5:17 p.m.*

## RESUMPTION OF SESSION

At 5:19 p.m., the session was resumed.

Senator Enrile stated that the privatization of the generating powers of Napocor will not stop at 50% but will be pursued until the additional 30% threshold is reached. He explained that he pegged the privatization at 50% to ensure that the Lopez Group of Companies would not be able use their large capacities to control the market and there would be a counterbalancing capacity in the market, in case the Lopez group abuses its market power.

## SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

*It was 5:23 p.m.*

## RESUMPTION OF SESSION

At 5:25 p.m., the session was resumed.

Senator Enrile stated that the installed capacity of Napocor plants, excluding the IPPs, is 3,894 megawatts in Luzon, 572 megawatts in Visayas, and 1,121 megawatts in Mindanao or a total of 5,586 megawatts. He pointed out that 50% of Napocor's national capacity is almost the same as the capacity of Meralco, that is why the EPIRA requires 70% privatization and the sale of 50% of the IPPs before open access is allowed. In the case of Luzon, he pointed out that 50% of 3,894 megawatts is 1,945 megawatts, which is less than that of the capacity of the Lopez group but if the IPPs are included, 50% is 2,830 megawatts, so the total megawatts of Napocor is 4,775 megawatts (1,945 + 2,830) which is bigger than the Lopez group's 2,065 megawatts. He stressed that under the bill, no party who has more than 30% of the grid could participate in the WESM. He affirmed that to sell its product, the supplier must enter into bilateral contracts. He admitted that Meralco would be benefited because the demand for the Luzon grid is more than 5,000 megawatts and Meralco

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can supply only half of it so it could eventually buy from Napocor to fill in the gap.

On whether there is a provision in the bill that ensures an adequate power supply in the coming years in light of studies showing that there will be a deficit in the generating capacity as against anticipated demand, Senator Enrile underscored that there must be a reliable, adequate available capacity at least cost.

Senator Aquino suggested that there must be some way of inducing the participation of new players that would provide the capacity needed and increase competition to give the public the best possible rates. Senator Enrile said that he would welcome suggestions to further improve the bill.

Noting that the market place determines or rewards the entity that is most efficient in producing a product that can compete with similar products, Senator Aquino asked how a competitive market could be fostered between two entities, with one being subjected to produce its own product at cost and the other one being free from the same. Senator Enrile replied that necessary steps are being taken to attain this goal but it could not be rushed.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Enrile, the session was suspended.

*It was 5:35 p.m.*

#### **RESUMPTION OF SESSION**

At 5:41 p.m., the session was resumed.

Adverting to Section 43 on lines 16 to 25 of page 37, Senator Aquino asked whether each of the 18 distribution utilities and 130 electric cooperatives has to apply for a rate increase which shall be the subject of a public hearing. Senator Enrile replied in the affirmative, noting that it is the current practice.

However, Senator Aquino pointed out that the practice is that a provisional authority is granted to the petitioner and the subsequent public hearing determines whether the rate increase shall stand or be rolled back. In response, Senator Enrile stated that precisely, the provisional authority is sought to be removed because the ERC might hear the application

two years after the filing of the application, at which point, the consumers would have already paid the new rate that was never exposed to a public hearing.

Given the frequent increases in the prices of inputs of these companies, most notably oil, Senator Aquino predicted that there would be numerous petitions for rate increases on a weekly or monthly basis. Senator Enrile stated that adjustments for fluctuations in foreign exchange and fuel prices are handled by the GRAM, ICERA and AGRA mechanisms. He believed that the public hearing on a petition for rate increase would not unduly prejudice the companies.

Moving on to lines 1 to 10 of page 35, Senator Aquino asked whether PEZA, within its economic zone, would be granted the same authority as ERC's.

#### **SUSPENSION OF SESSION**

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

*It was 5:46 p.m.*

#### **RESUMPTION OF SESSION**

At 5:46 p.m., the session was resumed.

In answer, Senator Enrile clarified that the provision seeks to implement a provision in the PEZA Law that grants the PEZA the authority to regulate power rates within its own economic zone and thereby make the entities located therein to be competitive.

As to whether regulating the power rates is within the core competency of the PEZA, Senator Enrile stated that he does not know the exact mechanism that will be put in place but he supposed it has to do with the open access regime because PEZA, in effect, will be the power supplier.

Asked about his statement last week that then President Aquino engineered a sweetheart deal with regard to the return of Meralco to the Lopezes, Senator Enrile stated that there was no malice in his statement, believing as he did that the former president had no financial interest in the matter. He reiterated that the people who handled the negotiations were Claudio Teehankee, Sedfrey Ordoñez, Abraham Sarmiento and the bankers, Bank of Philippine

Islands (BPI) and JP Morgan, and the Asset Privatization Trust, and a compromise agreement was reached between the parties.

Asked whether the government and the nation were disadvantaged by the return of Meralco to the Lopezes, Senator Enrile believed that no sufficient study was made because everything President Marcos did was hated, everything Cocoy Romualdez did was demonized, and everything he did as Defense Secretary was hardly given credence. However, he stressed that he was not privy to the compromise agreement so he would not know if the following issues were taken into account: 1) the payments made by the Meralco Foundation for the shares of stock acquired from BENPRES, the Lopezes, and the other stockholders; and 2) the expansion of the franchise area of Meralco which made it much more valuable. He recalled that Meralco Foundation acquired many franchises that were later on consolidated with the original franchise of Meralco and increased its customers, enhanced its value and turned it into a mega franchise. He disclosed that Meralco Foundation is owned by the consumers within the Meralco franchise.

Adverting to the Supreme Court decision in *First Philippine Holdings Corporation vs. Sandiganbayan*, Senator Aquino asked whether BENPRES and Meralco Securities Corp. own about 47% of Meralco. Senator Enrile traced the ownership of Meralco, to wit: Manila Electric Railroad & Light Company (Meralco) was originally owned by an American company, General Public Utilities; with the advent of the *Filipino First* policy, a group of Filipino companies that included BENPRES, organized Meralco Securities Corp., forerunner of First Philippine Holdings Corp., that brought 100% of Meralco. He noted that of the 12,000 stockholders of Meralco Securities, 100 controlled almost 70% of the shares and got 70% of the Meralco income. He averred that the people who purchased Meralco had a very nice deal because of the US\$54 million selling price, the stockholders had to pay 10% immediately and the 90% was supposed to be retired over a period of nine years at nine equal installments at 3% interest with a grace period of one year to enable the buyers to get money from the dividends of Meralco. In effect, he said, the buyers of Meralco had no cash out.

Asked whether Mr. Efren L. Danao, senior reporter of the *Manila Times*, was correct when he wrote in his byline that "Enrile said former President

Aquino gave Meralco to the Lopezes for free," Senator Enrile countered that the Lopezes never made any payment.

Senator Aquino pointed out that in its ruling, the Supreme Court reduced the shares of First Holding from 22 million to just about 34,410 which is just .08% of the total; and the profit from the sale of shares turned over to the Syndicate (BPI/JP Morgan) shall be shared as follows: 30% to the APT, 35% to the Syndicate; and 35% to First Holding/Meralco Foundation for the furtherance of the objectives of the Comprehensive Agrarian Reform Program. He wondered how it was possible for former President Aquino to be involved in returning Meralco to the Lopezes considering that the Supreme Court rendered its decision in 1991. He also pointed out that while a "sweetheart deal" unduly benefits a particular party, the fact that First Philippine Holdings' ownership of Meralco shares had been reduced from 47% to less than one percent indicated that the court decision was not beneficial to anyone.

For his part, Senator Enrile clarified that the one that handled the disposition of government-owned and -controlled properties was the APT which was under a revolutionary government. He recalled that he was taken by surprise upon learning that a compromise agreement had been reached which is a function of executive and it included the dissolution of the Meralco Foundation without its owners being given the benefit of a hearing.

Asked whether the Philippines was operating under a revolutionary government at the time the Supreme Court handed down its decision in 1991, Senator Enrile, in turn, requested a timeline of the case covering the initial offer of the compromise agreement up to the time that the Supreme Court ruled on the matter. Senator Aquino expressed willingness to provide Senator Enrile with materials related to the case.

To the contention that the "sweetheart deal" did not benefit the party involved, Senator Enrile pointed out that the Lopezes currently own 34% of Meralco shares. He recalled that although BENPRES owned a little over 27% of Meralco through Meralco Securities, the entire Lopez family owned about 33% of Meralco shares from January 1962 up to the time that these were transferred to the Meralco Foundation. *EF*

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 6:06 p.m.*

**RESUMPTION OF SESSION**

At 6:06 p.m., the session was resumed.

**SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2121**

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

**PROPOSED SENATE RESOLUTION NO. 408**

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 408, entitled

RESOLUTION EXPRESSING THE PROFOUND SYMPATHY AND SINCERE CONDOLENCES OF THE SENATE OF THE PHILIPPINES ON THE DEATH OF DON HENRY R. CANOY, ONE OF THE PILLARS OF THE PHILIPPINE RADIO INDUSTRY.

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

**ADOPTION OF PROPOSED SENATE RESOLUTION NO. 408**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 408 was adopted by the Body.

**PROPOSED SENATE RESOLUTION NO. 409**

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 409, entitled

RESOLUTION EXPRESSING THE PROFOUND SYMPATHY AND SINCERE CONDOLENCE OF THE SENATE OF THE PHILIPPINES ON THE DEATH OF HONORABLE CRISPIN B. BELTRAN.

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

**ADOPTION OF PROPOSED SENATE RESOLUTION NO. 409**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 409 was adopted by the Body.

**COAUTHORS**

Senator Pangilinan manifested that he and Senators Aquino, Cayetano (P), Enrile, Legarda, Madrigal, Pangilinan, Pimentel, and Zubiri are coauthors of Proposed Senate Resolution No. 409.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 6:08 p.m.*

**RESUMPTION OF SESSION**

At 6:09 p.m., the session was resumed.

**MANIFESTATION OF SENATOR PANGILINAN**


Senator Pangilinan informed the Body that some of the bills scheduled for deliberation such as Senate Bill No. 2264 (An Act Amending the Cooperative Code) would be called the following day.

**ADJOURNMENT OF SESSION**

Upon motion of Senator Pangilinan, there being no objection, the President Pro Tempore declared the session adjourned until three o' clock in the afternoon of the following day.

*It was 6:10 p.m.*

I hereby certify to the correctness of the foregoing.

  
EMMA LIRIO-REYES  
Secretary of the Senate *AL*

Approved on May 21, 2008