



Senate of the Philippines

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Senator

Comments and Recommendations on the Fifth (April 27) Report on the Implementation of the Bayanihan Act (RA 11469)

29 April 2020

Here are our comments and recommendations on the current measures being implemented to address the COVID-19 pandemic and mitigate its impact:

- 1. We hope to emphasize that in these challenging times, unlocking COVID-19 data is extremely crucial to help develop policy insights and to build trust among the people.**

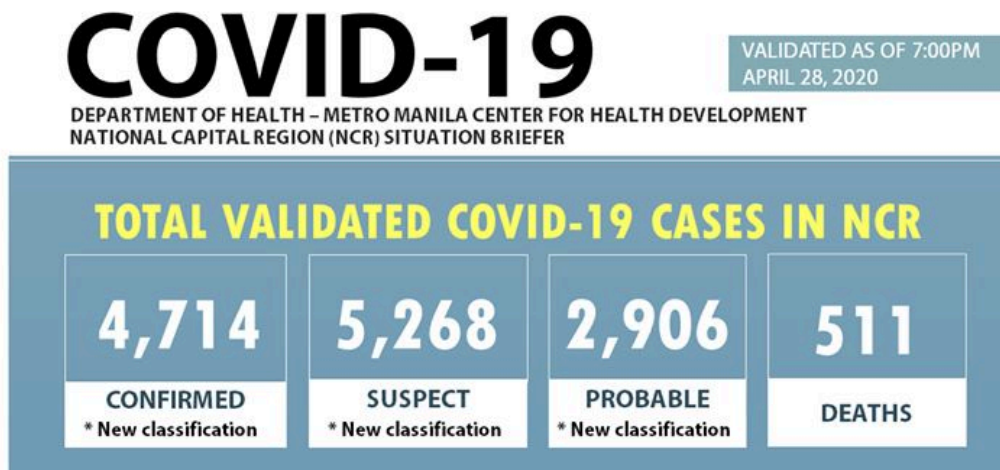
As we previously raised, we hope to get updates on the (i) geographic and socio-demographic profiles of persons tested for COVID-19, (ii) details of contacts traced, (iii) breakdown of probable and suspected cases, (iv) full accounting of Personal Protective Equipment (PPEs) procured, received (both as to PPEs purchased and donated), and dispatched, and (v) status of accreditation of mass testing centers, among others.

- Tests Conducted: As of April 26, 2020 a total of 80,858 unique individuals have been tested for COVID-19. While the distribution of tests conducted by laboratory is released online, more granulated data on mass testing (e.g. tested patients' area of residence, age, gender, pre-existing conditions), which can provide an accurate picture of the spread of COVID-19 and can help strategize on the distribution of test kits, is not disclosed in any of the DOH portals, nor in the past Bayanihan Reports.
- Contacts Traced: The 5th Bayanihan Act report contains no update on the total number of contacts traced, which stood at 7,521 in the last report. We reiterate our request to make contact tracing updates part of the weekly report, hopefully baring material progress in tracing exposed individuals, and not simply changes in the figures due to data cleanup.

In addition, we also hope to see in the next report the number of LGUs that have organized their own contact tracing teams as well as the overall progress of DOH, PNP, and these LGU teams in tracing COVID-19 contacts (e.g. number of contacts traced, action taken, such as sending them to isolation facilities, etc.).

- Suspected and Probable Cases: DOH announced that it would prioritize testing individuals with suspected and probable cases (those that show symptoms).¹ While some regional offices of DOH release their own estimates on suspected and probable cases (see poster from DOH-NCR² below), to this date, the DOH Central has not provided a national total and comprehensive distribution of the same. Such information is also not available in the 5th Bayanihan Act Report.

The latest NDRRMC report³ (April 28, 2020) also shows that the number of PUMs, suspected, and probable cases are still under verification. Note, the NDRRMC report dated April 13, 2020⁴ showed that there are a total of 215,990 PUMs and 14,931 PUIs in the country (excluding NCR). Such figures were supposed to be validated by the DOH Central Office, but no update on this was released since then.



- Status of Approval of Testing Centers: We hope to see in the next report the updated list of accredited mass testing facilities or centers established by the LGUs and other agencies. The most recent report we saw was in the 2nd Bayanihan Report, where 63 proposed testing centers remained to be under assessment or validation.

If the approval of testing centers remains slow, we hope to know the major cause/s of the delay, as well as specific standards in the construction of the testing facility that most LGUs find to be the most difficult to comply with. We hope that the next Bayanihan Report would also detail the actions undertaken by DOH to expedite this process, specifically in providing technical assistance to LGUs.

¹PhilHealth Circular 2020-0009: A suspect case is a person who is presenting with any of the following conditions (i) all severe acute respiratory infection cases where no other etiology fully explains the clinical presentation, (ii) influenza-like illness cases with certain indications, and (iii) individuals with fever or cough or shortness of breath or other respiratory signs of symptoms fulfilling certain conditions. Meanwhile, a probable case is a suspect case whose COVID-19 is either not possible, inconclusive, or not conducted in an accredited laboratory

² <https://www.facebook.com/dohncro.hpmpu/photos/a.1010846762281708/3242315832468112/?type=3&theater>

³ NDRRMC Situational Report as of April 26, 2020

⁴ NDRRMC Report, April 13, 2020

- Accounting of Personal Protective Equipment (PPEs) and other supplies: We hope that the succeeding Bayanihan Act Reports will include a proper accounting of PPEs that show the inflow and outflow of PPEs. It must detail the beginning number of PPEs (broken down into those that were procured and those that were received as donations), the number of PPEs dispatched to hospitals, and the new PPEs received as donations or procured, at the end of the set period. Such will provide a clearer picture on the availability of PPEs as well as show how slow or fast the delivery of distribution is to health facilities.

We note that in the 5th Report, DOH only stated having received an additional 17,100 PPE sets, from April 20 to 22, without disclosing the total available stock at the beginning period (from the 900,000 PPE sets that DOH initially procured). A proper accounting of PPEs is crucial to assess the needs of our frontliners. We have heard reports of some hospitals recycling PPEs or health workers enduring the use of substandard PPEs.⁵ As of April 28, 2020, a total of 1,245 health workers are infected with COVID-19, according to the DOH.⁶ This accounts for 13% of the total infections compared to the regional average of 2% to 3%,⁷ according to the WHO, which also called attention to the said trend.⁸

On COVID-19 Data Discrepancies

2. **We hope that the DOH can identify and address the usual sources of inconsistencies in COVID-19 data reporting both in the national and local levels. For example, we have noticed a discrepancy of 732 between the total confirmed COVID-19 cases published in the DOH tracker for the region of NCR (5,466) and the figure released by DOH NCR regional office in their own social media platform (4,714) as of April 28, 2020.⁹**

On Hiring of Human Resources for Health (HRH)

3. **We propose to expand the duration of engagement of temporary healthcare frontliners from 3 months to a period between 5 to 10 months.**
 - According to projections made by the Philippine Institute for Development Studies (PIDS), the COVID-19 epidemic may reach its peak anytime from July 2020 to July 2021 depending on the interventions and choices made by the government in the implementation of quarantine.¹⁰ We have to prepare for the worst by hiring more health workers and extending the duration of their contracts from anywhere between five to 10 months. This will allow our government to continue treating infected citizens without worrying about the bureaucratic gridlock on the renewal of the contracts of these health workers.

⁵ We must ensure that the quality of these PPEs conform to international safety standards. In addition, we call on DTI and the BOC to further intensify their efforts to monitor the entry into the country and the sale of these substandard PPEs, and file the appropriate charges against the perpetrators behind these abusive schemes.

⁶ <https://news.abs-cbn.com/news/04/28/20/doh-over-3000-doctors-nurses-directly-affected-by-covid-19>

⁷ news.abs-cbn.com/news/04/21/20/health-workers-in-philippines-catching-covid-19-worrisome-who-official

⁸ <https://www.rappler.com/nation/258270-health-workers-coronavirus-cases-philippines-april-17-2020>

⁹ <https://www.facebook.com/dohncro.hpmru/photos/a.1010846762281708/3242315832468112/?type=3&theater>

¹⁰ <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps2015.pdf>

On the Capacity of Testing Laboratories

4. We are glad to hear from the 5th Report that a new COVID-19 laboratory capable of up to 45,000 tests a day arrived on April 22 and will be set up at Jose B. Lingad Memorial General Hospital, located in Pampanga. We hope to know more details about its upcoming operation, and other plans on increasing the testing laboratories in the country, considering that most testing laboratories have recorded exceeding daily testing capacity in the past week.

- The DOH targets having a capacity of 30,000 daily tests by the end of May.¹¹ In the past week, the country has recorded a daily average of 3,552 tests.¹² From the data, it seems that the number of test kits has become less of the problem—a total 184,254 test kits remain available for use of testing laboratories.¹³ However, we note that in the past week, 11 out of the 18 testing laboratories have recorded at least a day of exceeding maximum daily testing capacity.¹⁴

These 18 testing laboratories—located in NCR, Baguio, Albay, Cebu City, Iloilo City, and Davao City—are the only ones accredited to process samples, when 55 out of 81 provinces have recorded cases of COVID-19.¹⁵

- Highlighted are those facilities that have recorded exceeding its daily testing capacity in the past seven days:

Facility	Location
Chinese General Hospital and Medical Center	Manila
Detoxicare Molecular Diagnostics Laboratory	Mandaluyong
Lung Center of the Philippines	Quezon City
Makati Medical Center	Makati
Philippine Genome Center	Quezon City
Philippine Red Cross	Mandaluyong
Research Institute for Tropical Medicine	Muntinlupa
San Lazaro Hospital	Manila
St. Luke's Medical Center – Global City	Taguig
St. Luke's Medical Center – Quezon City	Quezon City
The Medical City	Pasig
UP Manila National Institutes of Health	Manila
V. Luna General Hospital	Quezon City
Baguio General Hospital and Medical Center	Baguio
Bicol Regional Diagnostic and Reference Laboratory	Legazpi
Vicente Sotto Memorial Medical Center	Cebu City
Western Visayas Medical Center	Iloilo City
Southern Philippines Medical Center	Davao City

¹¹ <https://www.doh.gov.ph/doh-press-release/government-launches-public-private-task-force-T3>

¹² <https://covid19stats.ph/stats/testing>

¹³ <https://ncovtracker.doh.gov.ph/>; Accessed April 28,2020

¹⁴ Ibid

¹⁵ <https://www.gmanetwork.com/news/news/nation/735012/covid-19-free-provinces-in-the-philippines/story/>

On the Release of PhilHealth Funds

5. **We welcome the news that PhilHealth has already downloaded Php10.075 Billion to 317 hospitals and other medical institutions. In the next Reports, we also hope to see a breakdown on the amount of funds downloaded to each hospital, the date disbursed, and other relevant information. We also reiterate our request that PhilHealth should give a target date for the full release of the Php30 Billion COVID-19 funds to various hospitals.**

On DOLE Programs for Affected Workers

6. **We hope that DSWD and DOLE can harmonize assistance to tricycle and pedicab drivers (and the reporting thereof), who are affected by the ban on mass transportation but are not part of DSWD's SAP for Drivers.**
 - Based on the 5th Bayanihan Report, a total of 40,418 PUVs and TNVS beneficiaries have received assistance from DSWD.
 - This only includes the families of drivers of Public Utility Jeepneys (PUJs), UV Express, Public Utility Buses (PUBs), Point-to-Point Buses (P2P), Taxis, Transport Network Vehicle Services (TNVS), School Transport, and Motorcycle (MC) Taxis.¹⁶
 - We note, however, that although tricycle and pedicab drivers are under the jurisdiction of their local governments, Section VI of the JMC No. 1 Series of 2020 lists them as among the target 18 million beneficiaries of Social Amelioration Programs.
 - While pedicab and tricycle drivers are eligible to apply for DOLE's TUPAD for informal workers and may also receive cash from their own LGUs (whose amount is usually lower than the Php5,000 to Php8,000 assistance given by the DSWD to other drivers), there is no clear guarantee that none of them would not fall through the cracks. Hence, we would like to know what portion of the 220,320 current TUPAD beneficiaries they constitute, and the efforts done to extend help to the rest of our pedicab and tricycle drivers at present.

¹⁶ <http://tfrb.gov.ph/index.php/2020/04/06/initial-list-of-beneficiaries-of-the-social-amelioration-program-for-drivers/>

7. **We hope that the Philippine Overseas Labor Offices (POLOs) are prioritizing the provision of assistance to OFWs affected by the pandemic, rather than performing extraordinary surveillance on the personal views of the OFWs. In addition, we hope to see a report containing the summary profile of AKAP beneficiaries, as well as the efforts undertaken to improve the program’s performance.**

- We hope to see a report on the number of beneficiaries of AKAP, the country where they are working, the nature of their jobs, when assistance was disbursed, and the total number of OFWs in that country. As reports of massive job displacement of OFWs abroad continue, this information will guide policymakers on the proper intervention programs necessary to help the affected OFWs.
- Based on the 5th Bayanihan Report, DOLE’s AKAP has served only 15.1% of target beneficiaries. Hence, we also hope to see updates on the efforts DOLE to reach the 135,720 target OFWs.

CAMP AKAP for displaced OFWs	Target	Actual	% of Targets Served
	135,720 ¹⁷	20,500	15.1%

8. **We request DOF to continue fixing accessibility issues surrounding the Small Business Wage Subsidy (SBWS) Program. Based on the 5th Bayanihan Report, only 6,403 employers out of the notified 199,377 pre-qualified businesses have completed the application.**

- The 6,403 employers that have completed their application cover a total of 130,188 employees. This constitutes only 3.8% of the target 3.4 Million workers under the SBWS Program.

9. **We believe that no one should be left behind during this time. In order to provide assistance to a broader set of workers (both in the formal and informal sectors), we support continuing the implementation of the DOLE programs, alongside the recently launched SBWS Program.**

- **First, we must continue financing TUPAD-BKBK, which covers affected informal workers. In fact, the implementation of this Program was recognized by the UN Food and Agriculture Organization, who noted that the Philippines is among the only 11 countries that have adopted a program targeting the most vulnerable workers displaced by COVID-19.¹⁸ Thus, we believe that discontinuing funding for this Program would be premature, if not entirely misplaced.**

¹⁷ According to the 4th Report, it consists of 85,720 On-site OFWs and 50,000 Repatriated/ Balik Manggagawa.

¹⁸ <https://www.gmanetwork.com/news/money/economy/735585/fao-cites-dole-program-for-informal-workers-displaced-by-covid-19/story/>

- Informal sector workers mostly include subsistence workers. The Social Reform and Poverty Alleviation Act (RA 8425) defines workers in the informal sector as “poor individuals who operate businesses that are very small in scale and are not registered with any national government agency, and to the workers in such enterprises who sell their services in exchange for subsistence-level wages or other forms of compensation.”¹⁹
- TUPAD-BKBK is near reaching its full capacity. As of April 23, a total of 220,320 workers have availed of the TUPAD BKBK, representing already 93.4% of the target beneficiaries. Given the size of the informal sector (estimated by the 2018 Informal Sector Survey to be at 15.68 million,²⁰ bigger than the MSME Sector) and the extension of the lockdown to May 15, 2020 in certain areas, we can expect that more Filipinos are seeking to apply for TUPAD BKBK. This makes increasing the available funds for the said program imperative. We note that the amount disbursed for this program was only Php966.5 Million.
- **Second, the CAMP should continue to provide assistance to the remaining 2.3 Million workers not covered under SBWS.**
 - The SBWS Program covers only the small businesses under (i) non-essential and (ii) quasi-essential sectors (see list that follows), effectively excluding small businesses from the essential sector (e.g. agriculture, and food manufacturing).

Although allowed to operate during the quarantine, MSMEs in the essential sector are also still grappling with the impact of COVID-19 on their operations. The imposition of ECQ has caused not only lack of workforce but also loss of buyers and suppliers, and higher costs of logistics and materials.

Non-Essential Industries	Quasi-Essential Industries
a. Non-food raw materials/ non essential manufacturing	a. Textiles, wearables, and leather for export
b. Tobacco	b. Electronics manufacturing
c. Construction	c. Retail trade
d. Airlines	d. Public transportation/ trucking and cargo handling (food and non-food)
e. Non-essential services	e. Business process outsourcing
f. Hotels and restaurants	f. Banks
g. Rental and leasing of personal goods	g. Personal service and domestic activities (salons, laundry, funeral, domestic help, others)
h. Entertainment	

¹⁹ <https://www.pcw.gov.ph/wpla/-magna-carta-workers-informal-economy>

²⁰ Ibid

- **Third, we also hope to see assurance that the budget for DOLE-AKAP is adequate to support OFWs needing assistance.**
 - A few days ago, DOLE released (and also retracted) an advisory announcing that some Philippine Overseas Labor Offices (POLO) had suspended the acceptance of applications for AKAP cash aid to OFWs as they have already “exceeded their respective allocations.”²¹
- **With all the reasons previously stated, we hope that DBM can augment the funds available for the implementation of crucial DOLE Programs (i.e. CAMP, TUPAD, and AKAP²²), as doing so is mandated in Section 4(v)(4) of the Bayanihan to Heal as One Act.**
 - Section 4 (v) of the Bayanihan to Heal as One Act provides: *The following items in the budget shall be prioritized for augmentation: (4) Programs of the Department of Labor and Employment, such as but not limited to Tulong Panghanapbuhay sa Ating Disadvantaged/Displaced Workers and COVID-19 Adjustment Measures Program (CAMP)*²³
 - We understand that DOLE requested a total of Php7.8 billion budget for the implementation of CAMP, TUPAD, and AKAP. To date, DOLE has been given only Php4 Billion out of this total.

10. We also hope to see in the coming week the launch of DOLE’s online monitoring system, which provides real-time updates on the distribution of financial assistance to formal and informal workers and OFWs.

- Such portal shall include, among others, with respect to CAMP, the number of establishments that applied for CAMP (divided per province), the number of approved, denied or pending applications, the number of employees granted assistance, and the actual date of remittance of the financial assistance to the bank account of the worker or to designated money remittance centers; with respect to TUPAD-BKKB, the number of workers who applied for assistance, the number of approved applications, profile of the applicant or nature of work, their location, and the date of remittance of assistance; and with respect to DOLE AKAP for OFWs, the number of OFWs who applied for assistance, the number of approved applications, profile of applicants, country where OFW used to work, etc.
- We hope that DOLE will be able to launch this online monitoring system as soon as possible, as we have raised this for several weeks now. This will also promote transparency and accountability and ensure that proper assistance is given to those who are in need the most.

²¹ <https://globalnation.inquirer.net/187056/dole-retracts-advisory-on-ofw-cash-aid-admits-it-was-wrong-announcement>

²² (i) COVID-19 Adjustment Measures Program (CAMP) is for workers in the formal sector (regardless of status of employment) affected by Flexible Work Arrangements or temporary closure; (ii) *Tulong Panghanapbuhay sa Ating Disadvantaged/ Disadvantaged Workers Program (TUPAD) Barangay Ko, Bahay Ko (BKKB)* is for workers in the informal sector who are affected by the Enhanced Community Quarantine, (iii) *Abot Kama yang Pagtulong (AKAP)* is for on-site and returning OFWs

²³ <https://www.senate.gov.ph/Bayanihan-to-Heal-as-One-Act-RA-11469.pdf>

On Emergency Assistance to All Affected Sectors

11. We hope to be apprised of the reasons why the portion of 4Ps beneficiaries and TNVS/PUV drivers who have received assistance froze at 84.6% and 44.9%, respectively, which is the same as last week.

- Considering that profiling these beneficiaries is not supposed to be less of an issue compared to that of the non-4Ps, we hope to know the factors responsible for the delay in delivering assistance.

Components of DSWD AICS	Number of Beneficiaries as of 4 th (April 20) Bayanihan Report	Number of Beneficiaries as of 5 th (April 27) Bayanihan Report
4Ps Beneficiaries	3,721,833 as of April 18	3,721,883 as of April 24
TNVS/PUV drivers	40,418, as of April 18	40,418 as of April 24

12. Similarly, we would like to seek assurance that the DSWD and the DILG are working on identifying and addressing the factors for the delay in the distribution of the assistance under the Emergency Subsidy Program (ESP). Although around 97% of the allocated fund has already been downloaded to the LGUs, only 18.47% of the target beneficiaries have received aid, with a few days remaining before the April 30 deadline.²⁴

- Considering that distributing the subsidy seems to be a problem common to all regions (except CARAGA, which has reached 63% of the target beneficiaries), it is worth looking into the factors that make it hard for LGUs to implement the said program, and perhaps identify potential amendments to the MOA signed with them (please check the table that follows).

Accomplishments on Emergency Subsidy Program (ESP) (Based on 5th Bayanihan Act Report)

Region	Target Non-4Ps	No. of Beneficiaries Paid	% of Beneficiaries Served
I	798,206	161,141	20.19%
II	593,973	177,283	29.85%
CAR	255,676	96,227	37.64%
III	1,515,847	351,643	23.20%
NCR	1,558,615	67,109	4.31%
IVA	1,929,422	304,981	15.81%
IVB	416,246	183,593	44.11%
V	772,287	258,776	33.51%
VI	1,153,784	220,738	19.13%
VII	1,058,075	171,506	16.21%
VIII	591,612	14,410	2.44%
IX	403,185	21,207	5.26%
X	623,590	28,519	4.57%
XI	690,083	107,109	15.52%
XII	709,417	144,584	20.38%
CARAGA	305,096	194,523	63.76%
BARMM	180,979	872	0.48%
TOTAL	13,556,093	2,504,221	18.47%

²⁴ <https://pia.gov.ph/news/articles/1040214>

On Charges and Penalties Related to “Unauthorized” Relief Missions

13. We agree that regulations on solicitations and relief missions must be in place to prevent abuses. However, the DSWD and other agencies must also reduce red tape in acquiring permit from the agencies, and provide special allowances during this time, especially considering that there are a lot good Samaritans out there who are ready and willing to provide immediate aid to those in need.

- In an April 15 statement, the DSWD also required donation drives to receive prior authorization from the department before carrying out relief operations. Meanwhile, the DILG and the PNP stressed that penalties could be imposed on relief volunteers found without the necessary certification from the local government units they intend to help.²⁵

On Observing Maximum Tolerance, Following Legal Procedures in Arrests and Respect for Human Rights

14. We urge law enforcement agencies and other government agencies to exercise the highest degree of restraint and to follow valid legal procedural requirements in the conduct of arrests and detentions while implementing the lockdown. We also urge all government agencies to observe and protect the human rights of all.

At the same time, we also urge the government to ensure that all our frontline workers are also amply protected from unreasonable aggression, aside from the health risks posed by COVID-19.

- Following the shooting of military personnel Winston Ragos²⁶ and the recent mauling of a fish vendor by local government,²⁷ we hope to remind law enforcement agencies to observe the highest form of restraint and tolerance in implementing the lockdown. Erring citizens should also not be subjected to cruel or unusual punishments for violations of the law, unlike what happened to some curfew violators who were made to perform lewd acts at the hands of barangay officials on April 5, 2020.²⁸
- We also seek assurance from the government that the human rights and civil and political rights, including the freedom of speech, of all our citizens are respected.

²⁵ <https://www.philstar.com/headlines/2020/04/26/2009941/authorized-relief-volunteers-face-fines-arrest>

²⁶ We note the case of *People of the Philippines v. PFC Enrique Reyes* (G.R. 224498, January 11, 2018) is instructive on what constitutes unlawful aggression as an element of valid self-defense: “It is axiomatic that the mere thrusting of one’s hand into his pocket as if for the purpose of drawing a weapon is not unlawful aggression. Even the cocking of a rifle without aiming the firearm at any particular target is not sufficient to conclude that one’s life was in imminent danger. Hence, a threat, even if made with a weapon, or the belief that a person was about to be attacked, is not sufficient.”

²⁷ <https://www.rappler.com/nation/259289-quezon-city-officials-maul-drag-fish-vendor-not-wearing-face-mask>

²⁸ <https://www.hrw.org/news/2020/04/08/philippines-uses-humiliation-covid-curfew-punishment>

On the Prioritization of Early Release of Prisoners and Procedural Gridlocks in the Pardon of Prisoners and other PDLs

15. While we thank the Department of Justice (DOJ) and Bureau of Jail Management and Penology (BJMP) for giving an update on the proposed release of persons deprived of liberty (PDLs), we hope to have an assurance that bureaucratic processes would not hamper their release.

On the Crafting of a Stimulus Plan to Reboot the Economy

16. We would like to follow up on any plan to develop a stimulus plan to resurrect the economy.
 - NEDA estimates that the pandemic will affect 1.8 million workers, and will result in the increase in budget deficit to 4.4% to 5.4% of GDP. ADB also estimates that our economic growth will only be at 2% (compared to 2019's 5.9% growth).

On the Operations and Academic Policies of Educational Institutions

17. Considering the very small chance that actual physical classes will resume right away after the lockdown, we hope that CHED can step in to give guidance to all private and public higher education institutions to end the current semester or equivalent academic period by April 2020 and to adopt a "pass" or "drop" grading system.

As for the basic education sector, we filed a bill authorizing the Secretary of Education to open the school year at a later date in case of a declaration of a state of emergency, state of calamity, or similar occurrence.

18. We also hope to know about the status of preparedness of HEIs, students and faculty to shift to online modes of learning in light of the continuing threat of COVID-19. Likewise, the quality of the internet connectivity in the country must also be studied to determine the feasibility and reliability of such resorting to such mode of learning. In this regard, we are glad that the CHED and DICT are already talking about this, but we still hope to get a clearer picture on the arrangements that they have agreed upon in the coming days.