



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 43
Monday, December 5, 2016

SEVENTEENTH CONGRESS
FIRST REGULAR SESSION

SESSION NO. 43
Monday, December 5, 2016

CALL TO ORDER

At 4:32 p.m., the Senate President, Hon. Aquilino “Koko” Pimentel III, called the session to order.

PRAYER

Sen. Antonio F. Trillanes IV led the prayer, to wit:

Almighty God, source of all goodness and love, we are truly grateful for all the blessings You have bestowed upon us, Your people.

We humbly ask for Your forgiveness for all our shortcomings and we pray that You continue to fill us with Your guiding Spirit, so that we may become a reflection of love, peace and compassion in everything that we do.

In times of trouble, may Your Holy Light continue to surround us and protect us and keep us safe from any harm and danger.

With Your infinite generosity, please continue to bless us today and in the days ahead.

In Jesus’ Name, we pray.
Amen.

NATIONAL ANTHEM

The Lyceum University of the Philippines Harmonic Chorale led the singing of the national anthem and thereafter rendered the song, entitled “*Tayo’y Mga Pinoy.*”

ROLL CALL

Upon direction of the Senate President, the Secretary of the Senate, Atty. Lutgardo B. Barbo, called the roll, to which the following senators responded:

Angara, S.	Legarda, L.
Aquino, P. B. IV. B.	Pacquiao, E. M. D.
Binay, M. L. N. S.	Pangilinan, F. N.
Cayetano, A. P. C. S.	Pimentel III, A. K.
Drilon, F. M.	Recto, R. G.
Escudero, F. J. G.	Sotto III, V. C.
Gatchalian, W.	Trillanes IV, A. F.
Gordon, R. J.	Villanueva, J.
Honasan, G. B.	Villar, C.
Hontiveros, R.	Zubiri, J. M. F.
Lacson, P. M.	

With 21 senators present, the Chair declared the presence of a quorum.

ms *gn*

Senator De Lima arrived after the roll call.

Senator Poe was on official mission abroad.

Senator Ejercito was under preventive suspension.

APPROVAL OF THE JOURNALS OF SESSION NOS. 41 & 42

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journals of Session Nos. 41 and 42 (November 28 and 29, 2016, respectively) and considered them approved.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of the Circle of Public Administration and Governance students from the Polytechnic University of the Philippines, Sta. Mesa, Manila.

Senate President Pimentel welcomed the guests to the Senate.

APPROVAL OF PROPOSED SENATE RESOLUTION NO. 241 ON THIRD READING

Upon motion of Senator Sotto, there being no objection, the Body considered, on Third Reading, Proposed Senate Resolution No. 241, printed copies of which were distributed to the senators on December 1, 2016.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, upon motion of Senator Sotto, there being no objection, Secretary Barbo read only the title of the resolution, to wit:

RESOLUTION CONCURRING IN THE RATIFICATION OF THE ARTICLES OF AGREEMENT OF THE ASIAN INFRASTRUCTURE INVESTMENT BANK.

Secretary Barbo called the roll for nominal voting.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Angara	Legarda
Aquino	Pacquiao
Binay	Pangilinan
Cayetano	Pimentel
Drilon	Recto
Escudero	Sotto
Gatchalian	Trillanes
Gordon	Villanueva
Honasan	Villar
Lacson	Zubiri

Against

Hontiveros

Abstention

None

With 20 senators voting in favor, one against, and no abstention, the Chair declared Proposed Senate Resolution No. 241 approved on Third Reading.

MANIFESTATION OF SENATOR SOTTO

Senator Sotto informed the Body that when a Member does not say anything when his/her name is called during voting, tradition holds that he/she is voting in favor of the measure. He said that anyone who wants to register a negative vote would have to verbalize it.

EXPLANATION OF VOTE BY SENATOR HONTIVEROS

Senator Hontiveros explained her negative vote, to wit:

I have refused to sign the resolution ratifying the Philippines' accession to the Articles of Agreement of the Asian Infrastructure Investment Bank.

This is because, before becoming a member of another international financial institution, we should put our house in order by verifying whether the loan agreements our country has entered into with these institutions are in accordance with the principles on responsible sovereign lending and borrowing published by

the United Nations Conference on Trade and Development.

Among others, these principles make lenders responsible for making realistic assessments of the sovereign borrower's capacity to service a loan based on the best available information and following objective and agreed technical rules on due diligence and national accounts.

Lenders are also made responsible for performing their own *ex ante* investigation into and, when applicable, post-disbursement monitoring of the likely effects of the project, including its financial, operational, civil, social, cultural, and environmental implications.

This responsibility should be proportional to the technical expertise of the lender and the amount of funds to be lent.

It is imperative that we do this, considering that our country has accumulated a substantial external debt burden for which we are compelled to set aside substantial portion of our annual budget pursuant to Section 26(B), Book VI of the Revised Administrative Code.

In the 2016 National Budget alone, P214.5 billion has been allocated for debt servicing.

Of this amount, I have been advised by our partners in civil society that around P3.78 billion will go to interest and principal payments in connection with a number of questionable loan-funded projects, including the Power Sector Development Program, Sixth Road (Tullahan), Pampanga Development Flood Control, Bohol Irrigation II, and Angat Water Supply Optimization.

Thus, before joining another international financial institution, I strongly urge that the Congressional Oversight Committee on Overseas Development Assistance conduct a debt audit to verify whether the loan agreements our country has entered into are legitimate.

Pending the conduct of this audit, the payment of interest on questionable loan-funded projects should be held in abeyance.

In addition, before contracting additional sovereign debt, we should ensure that adequate safeguards are in place to protect the Filipino people from irresponsible sovereign lending and borrowing.

One of the most important ways this can be done is by finally repealing the provisions in our statutes requiring automatic appropriations for debt servicing.

MANIFESTATION OF SENATOR DE LIMA

Senator De Lima stated for the record that had she come on time for the day's session, she would have voted for the concurrence of the agreement.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of the following visitors of Senator Legarda from the Department of Foreign Affairs: Senior Special Asst. Leo Herrera-Lim; Exec. Director Evangeline T. Ong Jimenez-Ducrocq; Division Chief John Narag; Dir. Rommel Herrera; Mr. Vicente Clemente; Ms. Kristine Ann Lurzano; Ms. Sharmaine Ramirez; Mr. Roberto Tan; and Mr. John Kenneth Trinidad.

Senate President Pimentel welcomed the guests to the Senate.

REFERENCE OF BUSINESS

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

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

Letter from the House of Representatives, informing the Senate that on 28 November 2016, the House of Representatives designated Representatives Nograles, Fariñas, Zamora, Sandoval II, Cua, Ermita-Buhain, Bondoc, Umali and Suarez as conferees to the Bicameral Conference Committee on the disagreeing votes of House Bill No. 3408, entitled

AN ACT APPROPRIATING FUNDS FOR
THE OPERATION OF THE GOVERN-
MENT OF THE REPUBLIC OF THE
PHILIPPINES FROM JANUARY ONE
TO DECEMBER THIRTY-ONE, TWO
THOUSAND AND SEVENTEEN,
AND FOR OTHER PURPOSES

To the Committee on Rules

BILLS ON FIRST READING

Senate Bill No. 1257, entitled

AN ACT TO PROTECT FILIPINO

PS

PREGNANT AND LACTATING MOTHERS, INFANTS, AND YOUNG CHILDREN DURING THE FIRST 1000 DAYS OF LIFE AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Legarda

To the Committees on Health and Demography; Women, Children, Family Relations and Gender Equality; and Finance

Senate Bill No. 1258, entitled

AN ACT PROHIBITING THE ESTABLISHMENT OF POLITICAL DYNASTIES

Introduced by Senator Legarda

To the Committee on Electoral Reforms and People's Participation

Senate Bill No. 1259, entitled

AN ACT ESTABLISHING A PHILIPPINE SPACE DEVELOPMENT POLICY AND CREATING THE PHILIPPINE SPACE AGENCY (PhilSA), DEFINING ITS PURPOSE, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Legarda

To the Committees on Science and Technology; and Finance

Senate Bill No. 1260, entitled

AN ACT REMOVING THE RESTRICTIONS IN THE REGISTRATION OF LAND TITLES UNDER SECTIONS 118 AND 119 OF COMMONWEALTH ACT NO. 141 OR THE PUBLIC LAND ACT, AS AMENDED, ON FREE PATENTS ISSUED UNDER SECTION 44 THEREOF

Introduced by Senator Richard J. Gordon

To the Committee on Justice and Human Rights

Senate Bill No. 1261, entitled

AN ACT FURTHER AMENDING COMMONWEALTH ACT NO. 146 OR THE PUBLIC SERVICE ACT, AS AMENDED

Introduced by Senator Richard J. Gordon

To the Committee on Public Services

Senate Bill No. 1262, entitled

AN ACT INCREASING THE MATERNITY LEAVE OF FEMALE EMPLOYEES PERIOD TO ONE HUNDRED (100) DAYS AND GRANTING AN OPTION TO EXTEND FOR AN ADDITIONAL THIRTY (30) DAYS WITHOUT PAY, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1161, AS AMENDED, AND FOR OTHER PURPOSES

Introduced by Senator Legarda

To the Committees on Women, Children, Family Relations and Gender Equality; and Civil Service, Government Reorganization and Professional Regulation

RESOLUTIONS

Proposed Senate Resolution No. 242, entitled

RESOLUTION DIRECTING THE COMMITTEE ON LABOR, EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT AND OTHER APPROPRIATE COMMITTEES OF THE SENATE, TO INQUIRE AND REVIEW, IN AID OF LEGISLATION, THE EFFECT OF THE PROPOSED PYROTECHNICS AND FIRECRACKERS BAN

Introduced by Senator Joel Villanueva

To the Committees on Labor, Employment and Human Resources Development; and Public Order and Dangerous Drugs

Proposed Senate Resolution No. 243, entitled

RESOLUTION DIRECTING THE COM-

MITTEE ON LABOR, EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT AND OTHER APPROPRIATE COMMITTEES OF THE SENATE, TO INQUIRE AND REVIEW, IN AID OF LEGISLATION, THE REPORTED PRESENCE OF ALLEGED ILLEGAL CHINESE WORKERS IN CLARK, PAMPANGA AND OTHER PARTS OF THE COUNTRY

Introduced by Senator Joel Villanueva

To the Committees on Labor, Employment and Human Resources Development; and Justice and Human Rights

Proposed Senate Resolution No. 244, entitled

RESOLUTION HONORING AND COMMENDING THE 2016 SCIENCE AWARDEES OF THE PHILIPPINE ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY (PHILAAST)

Introduced by Senator Legarda

To the Committees on Rules

COMMITTEE REPORT

Committee Report No. 13, prepared and submitted jointly by the Committees on Banks, Financial Institutions and Currencies; and Justice and Human Rights, on Senate Bill No. 1256, with Senators Lacson, Joel Villanueva, Paolo Benigno "Bam" Aquino IV, Escudero and Richard J. Gordon as authors thereof, entitled

AN ACT TO FURTHER AMEND REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE ANTI-MONEY LAUNDERING ACT OF 2001, AS AMENDED, AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill No. 45, taking into consideration Senate Bill No. 1242.

Sponsor: Senator Escudero

To the Calendar for Ordinary Business

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 13 on Senate Bill No. 1256 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO.13 ON SENATE BILL NO. 1256

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 1256 (Committee Report No. 13), entitled

AN ACT TO FURTHER AMEND REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE ANTI-MONEY LAUNDERING ACT OF 2001, AS AMENDED, AND FOR OTHER PURPOSES.

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

The Chair recognized Senator Escudero for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR ESCUDERO

Senator Escudero, chairman of the Committee on Banks, Financial Institutions and Currencies, presented for the Body's consideration and approval Senate Bill No. 1256, entitled "An Act to Further Amend Republic Act No. 9160, otherwise known as the Anti-Money Laundering Act of 2001, As Amended, And for Other Purposes," which was prepared by the Committee on Banks, Financial Institutions and Currencies in substitution of Senate Bill No. 45 authored by Sen. Panfilo Lacson. He said that Senate Bill No. 1256 was the result of public hearings conducted jointly with the Committee on Justice and Human Rights chaired by Senator Richard J. Gordon on September 19, 2016 and November 22, 2016.

Following is the full text of Senator Escudero's sponsorship speech:

In 2012 and 2013, the Anti-Money Laundering Act (AMLA) was further amended by

Republic Act Nos. 10167 and 10365. The amendments to the AMLA under RA Nos. 10167 and 10365 and the remedial measures taken to address the identified strategic deficiencies paved the way to the removal of the Philippines from the FATF's list of vulnerable jurisdictions in June 2013. The removal of the Philippines from the said list, however, was subject to the condition that the Asia/Pacific Group (APG) on Money Laundering shall monitor the compliance of the Philippines with respect to the enactment of a law including casino operators as covered persons under the AMLA, as amended.

As the Philippines failed to enact the casino bill by December 31, 2015, the APG on Money Laundering in its plenary meeting on September 5 to 8, 2016, decided to give the Philippines until June 2017 to pass the required remedial legislation. Failure to enact the required legislation within the said period would compel the APG to refer the Philippines to the International Cooperation Review Group (ICRG) of the FATF for monitoring, which means inclusion in the grey list of the FATF, which could eventually result in the blacklisting of the Philippines.

The Committee proposes the following amendments with the following salient features:

1. Inclusion of casino operators, junket operators, real estate agents and brokers as covered persons under the AMLA, pursuant to the FATF recommendation;
2. Inclusion of dealers of high-value goods as covered persons under the AMLA, considering that the recent money laundering typologies have shown that high-value items or goods are used to launder proceeds of crimes;
3. "Covered transactions" shall now mean:
 - a. transactions in cash exceeding P500,000; and
 - b. transactions in cash or other equivalent monetary instruments exceeding P500,000 for BSP, SEC and IC-supervised persons, including trust companies, service providers, and casino and junket operators;
4. Clarifying the requirement of what is a "suspicious transaction," that is, one that is based on a reasonable ground to suspect that the proceeds are in any way related to a predicate crime or money laundering offense;
5. Use of the term "predicate offense" to replace the phrase "unlawful activity." Predicate offense is the internationally-used terminology referring to unlawful activities from which the crime of money laundering is derived;
6. Inclusion of the following as new predicate crimes to money laundering:
 - a. Other illegal gambling activities under P.D. No. 1602;
 - b. Violations of Republic Act No. 10591, otherwise known as the Comprehensive Firearms and Ammunition Regulation Act;
 - c. Violations of Republic Act No. 10175, otherwise known as the Cybercrime Prevention Act of 2012;
 - d. Violations of Republic Act No. 10697, otherwise known as the Strategic Trade Management Act;
 - e. Violations of Chapter II, Title X of the National Internal Revenue Code of 1997, as amended;
 - f. Falsification of documents under Articles 171 and 172 of the Revised Penal Code;
 - g. Violations of Republic Act No. 8484, otherwise known as Access Devices Regulation Act of 1998;
 - h. Violations of Republic Act No. 10173, otherwise known as the Data Privacy Act of 2012;
 - i. Fraudulent acts or omissions and other violations of Republic Act No. 8791, otherwise known as the General Banking Law;
 - j. Fraudulent acts or omissions and other violations of Republic Act No. 7653, otherwise known as the New Central Bank Act, as amended; and
 - k. Violations of the Insurance Code of the Philippines, as amended;
7. Granting the AMLC the following powers and duties:
 - a. to file directly before the Court of Appeals a petition for the issuance of a freeze order and application for bank inquiry;
 - b. to issue a subpoena against any person to compel the production of information, documents, data, papers, etc., and to give statements under oath;
 - c. to require the submission of cross-border declaration on the physical transport of currencies and bearer negotiable instruments;
 - d. to freeze the proceeds of select predicate offenses for a period not exceeding thirty (30) days;

- e. to inquire into bank accounts and investments without the need of a court order in relation to select predicate offenses to the Anti-Money Laundering Law; and
 - f. to retain 20% of forfeited assets, but in no case to exceed twice the higher budgetary appropriation for the AMLC in the last two (2) years;
8. Providing covered persons the authority to temporarily suspend transactions up to five (5) working days pending verification thereof;
 9. Clarifying the provisions on the imposition of administrative sanctions by regulatory offices; and
 10. Mandating the cross-border declaration of currencies and bearer negotiable instruments under AMLA, as amended.

I would also like to take note that Sen. Paolo Benigno "Bam" Aquino IV also filed Senate Bill No. 1242 which was taken into consideration in Committee Report No. 13.

I urge our colleagues to go over the proposed measure so that we can have a healthy debate in order to improve the measure proposed by the Committee on Banks, Financial Institutions and Currencies.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1256

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

MANIFESTATION OF SENATOR SOTTO

Senator Sotto manifested the insertion into the record of the explanation of vote of Senator Recto on Senate Resolution No. 241 (concurring in the ratification of the Articles of Agreement of the Asian Infrastructure Investment Bank).

ADOPTION OF THE OPINION OF THE SENATE LEGAL COUNSEL

Senator Sotto stated that as early as last week, the Committee on Rules has scheduled a public hearing to discuss the letter of Assistant Ombudsman Jennifer Jardin-Manalili pertaining to the Office of the Ombudsman's decision in the case OMB-CA-

15-0298, entitled "*Field Investigation Office vs. Emmanuel Joel J. Villanueva, et al.*" which was referred last November 14, 2016, to the committee for appropriate action.

He recalled that during a plenary session, he raised a parliamentary inquiry on how the Body would interpret Section 21 of Republic Act No. 6770, or the Ombudsman Act, in relation to the dismissal order of the Ombudsman, which reads:

"Officials subject to Disciplinary Authority; Exceptions. – The Office of the Ombudsman shall have disciplinary authority over all elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local government, government-owned or controlled corporations and their subsidiaries, except over officials who may be removed only by impeachment or over Members of Congress, and the Judiciary."

He noted that the provision was actually consistent with Article VI, Section 16 of the Constitution which empowers the respective Chambers of Congress to discipline their own members. In addition, he adverted to Senator Drilon's opinion that there were already a number of jurisprudence which recognize the lack of authority of the Ombudsman over Members of Congress.

With these preliminary questions in mind, Senator Sotto said that the Committee on Rules decided to refer the matter to the Senate Legal Counsel which, upon the instructions of the Senate Secretary, came out with an opinion and recommendation on the case in its memorandum dated November 21, 2016, a copy of which was furnished to all offices of the senators.

He said that after a careful and meticulous study of the arguments and accompanying recommendations rendered by the Senate Legal Counsel, he would move to adopt the opinion and recommendations made by the Senate Legal Office in its entirety, the more significant highlights of which he quoted, as follows:

- The penalty of dismissal cannot and should not be implemented on both procedural and substantive grounds.

Since Senator Villanueva's filing of Motion for Reconsideration is within the prescribed ten-day period, on procedural grounds the said

MS

decision has not yet become executory and cannot be implemented.

- Section 21 of Republic Act No. 6770 and Section 2, Rule III of the Rules of Procedure of the Office of the Ombudsman are very clear and there is no room for interpretation but only application: "The Office of the Ombudsman has no disciplinary authority over Members of Congress."
- The penalties imposed against Senator Villanueva by the Office of the Ombudsman cannot and should not be implemented by the Senate because the conditions or requirements for the penalty of expulsion of a Member of the Senate as required under Article VI, Section 16(3) of the Constitution and the Rules of the Senate are not present.

Sec. 97, Rule XXXIV of the Rules of the Senate provides:

"Upon the recommendation of the Committee on Ethics and Privileges, the Senate may punish any Member for disorderly behavior and, with the concurrence of two-thirds (2/3) of the entire membership, suspend or expel a member. A penalty of suspension shall not exceed sixty (60) calendar days."

- The Office of the Ombudsman cannot compel the Senate and/or the Senate President to implement the penalties imposed upon Senator Villanueva. The authority of the Senate to discipline and punish its members is an inherent power. It may not be interfered with provided the procedure established in the Constitution and the Rules of the Senate are complied with.

Upon motion of Senator Sotto, there being no objection, the Body adopted the opinion and recommendation rendered by the Senate Legal Counsel in its entirety.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 5:09 p.m.

RESUMPTION OF SESSION

At 5:13 p.m., the session was resumed.

ADDITIONAL REFERENCE OF BUSINESS

The Secretary of the Senate read the following bills with the Chair referred to the committees hereunder indicated:

BILLS ON FIRST READING

Senate Bill No. 1263, entitled

AN ACT MANDATING THE AUTOMATIC RELEASE OF INMATES, PRISONERS AND OR DETAINEES AS A CONSEQUENCE OF PERIOD IN CUSTODY OR TIME SERVED THAT IS EQUAL TO OR MORE THAN THE POSSIBLE MAXIMUM IMPRISONMENT PRESCRIBE FOR THE OFFENSE CHARGED, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES

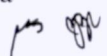
Introduced by Senator Maria Lourdes Nancy S. Binay

To the Committee on Justice and Human Rights

Senate Bill No. 1264, entitled

AN ACT EXPANDING SPECIAL FINANCIAL ASSISTANCE AND BENEFITS GRANTED TO BENEFICIARIES OF UNIFORMED PERSONNEL OF THE PHILIPPINE NATIONAL POLICE (PNP), ARMED FORCES OF THE PHILIPPINES (AFP), BUREAU OF FIRE PROTECTION (BFP), BUREAU OF JAIL MANAGEMENT AND PENOLOGY (BJMP), PHILIPPINE COAST GUARD (PCG), NATIONAL BUREAU OF INVESTIGATION (NBI), AND PHILIPPINE DRUG ENFORCEMENT AGENCY (PDEA) KILLED OR PERMANENTLY INCAPACITATED WHILE IN THE PERFORMANCE OF HIS DUTY OR BY REASON OF HIS OFFICE OR POSITION, APPROPRIATING FUNDS THEREFOR, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 6963, AND FOR OTHER PURPOSES

Introduced by Senator Sonny Angara




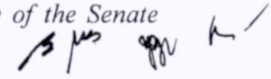
To the Committees on Civil Service, Government Reorganization and Professional Regulation; and Finance

ADJOURNMENT OF SESSION

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

It was 5:15 p.m.

I hereby certify to the correctness of the foregoing.


ATTY. LUTGARDO B. BARBO
Secretary of the Senate
12/6 

Approved on December 6, 2016