



REPUBLIC OF THE PHILIPPINES  
**Senate**  
Pasay City

# Journal

**SESSION NO. 71**

Tuesday, March 7, 2017

**SEVENTEENTH CONGRESS  
FIRST REGULAR SESSION**

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Tuesday, March 7, 2017

**CALL TO ORDER**

At 3:20 p.m., the Senate President, Hon. Aquilino “Koko” Pimentel III, called the session to order.

**PRAYER**

Sen. Sonny Angara led the prayer, to wit:

Lord, You are worthy of honor and praise.

*Lubos ang aming pagkilala sa Inyong kadakilaan at kabanalan kaya't kami ay nagsusumamo sa Inyo na kami ay inyong tulungan sa aming tungkulin.*

May we toil diligently to bring about solutions to the pressing issues of these times.

Lead us, guide us, that we may fulfill a life based on Your calling.

Strengthen the resolve and compassion of all the Members in this Chamber, that we may serve with renewed clarity of vision to unify and lead his nation to progress.

*Gabayan Ninyo po kami sa aming*

*pagsisilbi sa bayan para sa kapakanan ng aming kapwa.*

May our words be dependable and true.

May our actions be according to Your desire and purpose.

In whatever we do, may we labor in love, in faith, and in hope, for Your people as unto You.

This is our prayer.

Amen.

**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.	Lacson, P. M.
Binay, M. L. N. S.	Pacquiao, E. M. D.
Drilon, F. M.	Pangilinan, F. N.
Ejercito, J. V. G.	Pimentel III, A. K.
Escudero, F. J. G.	Recto, R. G.
Gatchalian, W.	Sotto III, V. C.
Gordon, R. J.	Villanueva, J.
Honasan, G. B.	Zubiri, J. M. F.
Hontiveros, R.	

*ps*

With 17 senators present, the Chair declared the presence of a quorum.

Senators Aquino, Legarda, Poe and Trillanes arrived after the roll call.

Senator Cayetano was on "official business" as indicated in the March 7, 2017 letter of his chief of staff

Senator Villar was on official mission "attending the launching of the National Color Coded Agricultural Guide Map at Malacañang Palace" as indicated in the March 7, 2017 letter of her acting chief of staff.

Senator De Lima was unable to attend the session as she was under detention.

#### **APPROVAL OF THE JOURNAL**

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 70 (March 6, 2017) and considered it approved.

#### **ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS**

Senator Sotto acknowledged the presence in the gallery of the following guests:

- Mr. Ricardo Sanchez Mendez, Deputy Head of Mission of the Embassy of Mexico;
- Faculty members of the San Juan National Junior-Senior High School led by Principal Lucila Artuyo;
- Vice Mayor Linette Posma with Councilors Leo Macaraeg, Ernesto Gustilo, Gerald Paul Cristalino and SB Secretary Jebert Dechavez of Mansalay, Oriental Mindoro;
- Councilors of Bonifacio, Misamis Occidental; and
- Congresswoman Geraldine Roman of Bataan.

Senate President Pimentel welcomed the guests to the Senate.

#### **MANIFESTATION OF SENATOR PANGILINAN**

Referring to the Agenda for the Day, Senator Pangilinan manifested that Senators Recto, Gordon, Escudero and Pacquiao have signified that they would no longer interpellate on Senate Bill No. 1233 (The Coconut Farmers and Industry Development Act).

#### **REFERENCE OF BUSINESS**

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

#### **BILLS ON FIRST READING**

Senate Bill No. 1362, entitled

AN ACT AMENDING SECTION 6 OF REPUBLIC ACT NO. 6958, OTHERWISE KNOWN AS AN ACT CREATING THE MACTAN-CEBU INTERNATIONAL AIRPORT AUTHORITY TRANSFERRING EXISTING ASSETS OF THE MACTAN INTERNATIONAL AIRPORT AND THE LAHUG INTERNATIONAL AIRPORT TO THE AUTHORITY, VESTING THE AUTHORITY WITH POWER TO ADMINISTER AND OPERATE THE MACTAN INTERNATIONAL AIRPORT AND THE LAHUG AIRPORT, AND FOR OTHER PURPOSES

Introduced by Senator Zubiri

**To the Committees on Government Corporations and Public Enterprises; and Public Services**

Senate Bill No. 1364, entitled

AN ACT TO PRESERVE THE EVIDENCE GENERATED FROM SECURITY CAMERAS

Introduced by Senator Leila M. de Lima

**To the Committees on Public Order and Dangerous Drugs; and Finance**

#### **RESOLUTIONS**

Proposed Senate Resolution No. 311, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON NATIONAL DEFENSE AND SECURITY TO INVESTIGATE, IN AID OF LEGISLATION, THE CRIMINAL ACTIVITIES OF THE ABU SAYYAF GROUP

*ps* *app*

(ASG) AND OTHER LAWLESS GROUPS, INCLUDING THE RECENT BEHEADING OF A GERMAN NATIONAL, WITH THE END VIEW OF STRENGTHENING THE CAPACITY OF GOVERNMENT FORCES, PARTICULARLY THE ARMED FORCES, TO COMBAT AND NEUTRALIZE SUCH GROUPS

Introduced by Senator Leila M. de Lima

**To the Committee on National Defense and Security**

Proposed Senate Resolution No. 312, entitled

RESOLUTION CONDEMNING THE DEHUMANIZING AND DEGRADING TREATMENT BY CERTAIN MEMBERS OF THE PHILIPPINE DRUG ENFORCEMENT AGENCY (PDEA), THE PHILIPPINE NATIONAL POLICE (PNP), AND THE ARMED FORCES OF THE PHILIPPINES (AFP) OF CEBU PROVINCIAL DETENTION AND REHABILITATION CENTER (CPDRC) INMATES LAST 28 FEBRUARY 2017, URGING THE COMMISSION ON HUMAN RIGHTS (CHR) TO BRING THE ERRING OFFICERS AND THEIR OFFICIALS BEFORE THE BAR OF JUSTICE, AND DIRECTING THE COMMITTEE ON JUSTICE AND HUMAN RIGHTS TO CONDUCT AN INVESTIGATION THEREON, WITH THE END IN VIEW OF ENACTING REMEDIAL LEGISLATION

Introduced by Senator Leila M. de Lima

**To the Committee on Rules**

Proposed Senate Resolution No. 313, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE NEED TO PROMOTE ZERO TOURISM WASTE POLICY

Introduced by Senator Maria Lourdes Nancy S. Binay

**To the Committees on Environment and Natural Resources; and Tourism**

Proposed Senate Resolution No. 314, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE OCCURRENCE OF ROAD ACCIDENTS EMANATING FROM INEFFICIENT VEHICLE INSPECTION AND REGISTRATION PROCESSES, WITH THE END VIEW OF ESTABLISHING STRICTER INSPECTION PROCEDURES AND ENFORCING PENALTIES TO ERRING LICENSING OFFICIALS OF THE LAND TRANSPORTATION OFFICE (LTO) AND LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD (LTFRB)

Introduced by Senator Leila M. de Lima

**To the Committee on Public Services**

**COMMITTEE REPORTS**

Committee Report No. 44, prepared and submitted by the Committee on Labor, Employment and Human Resources Development, on Senate Bill No. 1363, with Senator Joel Villanueva as author thereof, entitled

AN ACT INSTITUTIONALIZING TELE-COMMUTING IN THE WORKPLACE AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill No. 1033.

Sponsor: Senator Joel Villanueva

**To the Calendar for Ordinary Business**

Committee Report No. 45, prepared and submitted by the Committee on Foreign Relations, on Senate Bill No. 1365, with Senators Richard J. Gordon, Cynthia A. Villar, Recto, Joseph Victor

Ejercito, Legarda, Sonny Angara, Joel Villanueva, Grace Poe and Cayetano as authors thereof, entitled

AN ACT EXTENDING THE VALIDITY OF PHILIPPINE PASSPORTS, AMENDING FOR THE PURPOSE SECTION 10 OF REPUBLIC ACT NO. 8239, OTHERWISE KNOWN AS THE "PHILIPPINE PASSPORT ACT OF 1996," AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 109, 324, 795 and 1179, taking into consideration Senate Bill Nos. 397, 943 and Proposed Senate Resolution No. 142, and House Bill No. 4767.

Sponsor: Senator Cayetano

#### To the Calendar for Ordinary Business

#### MANIFESTATION OF SENATOR GORDON

Senator Gordon manifested that he was informed by his staff that during the hearing of SPO 3 Lascañas before the Committee on Public Order and Illegal Drugs the previous day, a statement was made by Senator Hontiveros that he was guilty of returning a witness that had lied like SPO3 Lascañas. He said that Senator Hontiveros must be referring to Feshan president Julie Gregorio, a witness in the investigation of the P728 million fertilizer scam that was conducted in 2009 by the Blue Ribbon Committee, of which he was the chairman then.

To set the record straight, he pointed out that in the case of Arturo Lascañas, the Committee on Justice had already submitted its committee report and several months later, the witness came back with another testimony after having perjured himself; on the other hand, Julie Gregorio had not been discharged nor dismissed as a witness when she recanted an earlier statement on the cost of fertilizers.

Assuming the statement to be true, he said that a full recitation of facts became necessary, if only to provide a picture of what happened that time.

Senator Gordon recalled that on December 22, 2008, Gregorio testified that the price of the fertilizer was P100 per bottle. He adverted to the records of the hearing of the Committee on Accountability of

Public Officers and Investigations of Monday, December 22, 2008, page 276, to wit:

**"The Chairman.** *Nagsara dahil ang laki ng kita bigla. Magkano ba ang puhunan ninyo doon sa P50 million na iyon?*

**Ms. Gregorio.** P473 per bottle.

**The Chairman.** P463 per bottle *at ipinasa ninyo iyon ng...*

**Ms. Gregorio.** Landed cost *po*, P600.

**The Chairman.** *Ipinasa ninyo ng P600.*

**Ms. Gregorio.** Opo.

**The Chairman.** So almost P140 ang tubo ninyo.

**Ms. Gregorio.** *Opo."*

He said that on January 20, 2009, Gregorio again testified that the real price of the fertilizer was P150 per bottle.

Again adverting to the records of the Committee on Accountability of Public Officers and Investigations of Tuesday, January 20, 2009, Senator Gordon quoted from page 210, to wit:

**"Ms. Gregorio.** FeshanPhils. Inc. sold to Ms. Aytona and Ms. Llanera the fertilizer at P150 per bottle as evidenced by the 22 delivery receipts covering 90,092 bottles on 17 order slips signed by one Cecile A. Clemente, Mallyn Araos and Bing Salvador, whom I know to be employees of Ms. Aytona. I received the total amount of P13,013,800 from Ms. Llanera represented by 11 Landbank checks and cash of P500,000 from Ms. Aytona."

Senator Gordon explained that when Ms. Gregorio changed some parts of her story, especially on the price of the fertilizer in the sale to Araos trading with which her company entered into a MOA from P100 to P600, she was still on the witness stand and that she had not been dismissed yet by the Committee. He said that she changed her testimony because she got frightened that the Committee would be going after her for perjury because she was lying.

Unlike Mr. Lascañas, he pointed out that Ms. Gregorio's testimony on January 20, 2009, which was supported by affidavits submitted to the Committee, was a continuing testimony and as such, it could not be viewed as separate testimony.

Senator Gordon stressed that he would not tolerate a liar testifying before the Body especially after the committee had submitted its report to plenary, specially when the testimony came from somebody who claimed to have killed 300 people and who had spiritual renewal in July 2016 only to appear before the Committee on September 2016 to lie once more. He pointed out that SPO3 Lascañas has lost his moral compass as a witness, totally different from someone who was still on the witness stand, changing her testimony under pressure from the chairman, and finally telling the truth against interest while still on the stand and before the committee had submitted its report.

In closing, Senator Gordon said that he held no grievance or ill-feelings against Senator Hontiveros but that he just wanted to set the record straight because it came out on TV, radio and social media that people were saying that he was taking a double standard.

#### **MANIFESTATION OF SENATOR HONTIVEROS**

Senator Hontiveros thanked Senator Gordon for confirming that there was a witness in the Blue Ribbon committee who recanted and was accepted.

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

Senator Sotto manifested that upon approval of the Senate President, the Committee on Rules came up with an agenda which prioritized two or three major bills that would hopefully pass on Third Reading in the following week and placed the more debatable or controversial issues towards the end of the agenda.

#### **SPECIAL ORDER**

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 44 on Senate Bill No. 1363 from the Calendar for Ordinary Business to the Calendar for Special Orders.

#### **COMMITTEE REPORT NO. 44 ON SENATE BILL NO. 1363**

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 1363 (Committee Report No. 44), entitled

#### **AN ACT INSTITUTIONALIZING TELE-COMMUTING IN THE WORKPLACE 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 Villanueva for the sponsorship.

#### **SPONSORSHIP SPEECH OF SENATOR VILLANUEVA**

Senator Villanueva presented to the Body for plenary consideration Senate Bill No. 1363 under Committee Report No. 44 or "An Act Institutionalizing Telecommuting in the Workplace and For Other Purposes."

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

#### **WORK-FROM-HOME IS EVERY WORKER'S RIGHT**

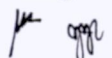
##### *Definition and Importance of Telecommuting*

Telecommuting is a flexible work arrangement. It deviates from the "normal" set-up of work which is usually within the confines of office cubicles or central work stations. It is working from anywhere other than a company's office or workplace or more popularly known as "working remotely" or "working-from-home." Because telecommuting is triggered by Internet-based communication system and mobile-oriented mindset, it makes commuting or travelling to a central place of work irrelevant or unnecessary.

*Nagtanong po ako sa mga college students at fresh grads kung ano ang ideal work schedule sa kanila. Hindi na po ako nasorpresa na karamihan sa kanila ayaw sa 8AM-5PM jobs. Para sa mga kabataan o millennials, ang ideal work schedule ay anytime of the day and at the most convenient time and place. In short, work-from-home at online jobs ang ideal na trabaho ngayon.*

Under Section 3 of the proposed bill, telecommuting is defined as "the partial or total substitution of computers or telecommunication technologies, or both, for the commute to work by employees."

*Ito po ang mga trabahong naka-base sa bahay o mga trabahong ginagawa sa ibang*



lugar maliban sa opisina o karaniwang lugar ng trabaho ng isang manggagawa sa tulong ng Internet o mobile devices.

Your Committee on Labor seeks to institutionalize telecommuting because we believe that working-from-home is every worker's right, it is relevant to the needs of millennials or the new workforce. It is sensitive to the changing needs of employers.

*Tama iyong mga kabataang nakausap ko: Bakit pa kailangang mag-report on duty kung pwede namang mag-log in na lang sa computer? Sa halip na mag-DTR o daily time record o biometrics para sa attendance, pwede namang tingnan na lang kung online o naka-access sa Virtual Private Network ng kumpanya ang empleyado. Ang mahalaga: mai-deliver ang inaasahang output ng trabaho.*

Senate Bill No. 1363 or the Telecommuting Act of 2017 will allow our workers to work-from-home, subject to the approval of their employers, and enhance their ability to get their jobs done.

#### **Case Studies on Telecommuting**

*Gusto kong ipakilala sa inyo ang ilan sa mga telecommuters na nakilala at nakausap natin para lubos nating maintindihan ang telecommuting:*

*Una po ay si LIZA na taga-Baguio. May full-time work pero hindi naman siya umaalis ng bahay nila sa Baguio City. Ang opisina niya ay ang sala ng kanilang bahay. Gamit po ang isang computer at Internet connection na sagot ng kanilang kumpanya, nagagawa niya ang lahat ng kanyang work responsibilities.*

*Dahil ang trabaho niya ay naka-base sa bahay, hands-on si Liza sa kanyang tatlong anak. Sabi niya, literal na stress-free ang kanyang nakuhang trabaho. Para sa kanya, na-achieve niya ang work-life balance dahil sa telecommuting.*

Liza shared that her company is using a computer application and a camera that help her manager monitor her work at home. This is to ensure that she is productive, accountable, and in touch. To be an effective telecommuter, Liza said that expertise on ICT and certain personality traits are required.

*Ikalawa po ay si ARIEL, isang licensed electronics and communications engineer at "Next Generation Delivery Model Center Process Coach" sa isang multinational information technology company sa Taguig. Hindi tulad ni Liza, telecommuter o work-from-home si Ariel isang araw lang kada linggo. May mutual agree-*

*ment sa pagitan niya at ng kanyang company manager para ma-avail ang telecommuting.*

*Sagot ni Ariel ang gastos sa Internet at computer dahil hindi naman siya regular telecommuter. Pero hindi na bale, sabi niya, dahil iyon naman ang pinakamagaang araw niya sa isang buong linggo dahil hindi niya kailangang mag-biyahe ng apat na oras papunta sa kanyang opisina sa Taguig at pabalik sa kanyang apartment sa Muñoz sa Quezon City. Para kay Ariel, iwas sa malubhang traffic at tipid sa pamasahe ang telecommuting lalo na at wala siyang ibang dinadaanang papasok sa trabaho kundi ang EDSA.*

Ariel's job includes training and coaching the new "Availability Assurance Team Members in the Global and Regional Centers" to be able to use the tools and apply different methodologies like Six Sigma and Outage Analysis Methodology, Change Management Techniques, among others.

*Ikatlo po ay si DOREEN na empleyado ng isang multinational manufacturer ng family, personal and household care products. Siya ang humahawak ng payroll ng mga expat sa kanilang kumpanya sa BGC. Dahil regular employee siya ng kanilang kumpanya, entitled po siya sa isa hanggang dalawang araw na telecommuting kada linggo.*

*Tulad ni Ariel, pre-aligned ito sa kanyang manager pero malinaw ang patakaran sa telecommuting dahil may written policy sila. Ang maganda po, basta regular employee, pwedeng mag-avail ng telecommuting. Sabi ni Doreen, nagagawa niya ng magbakasyon at magtrabaho at the same time dahil sa telecommuting. Sabi niya long weekend siya palagi kapag natatapat ng Huwebes at Biyernes ang work-from-home niya. Dahil dito, mas productive at higit sa lahat, sabi niya, mas masaya po siya sa kaniyang trabaho.*

Doreen shared with us that telecommuting entitles her to a monthly work-from-home allowance equivalent to the monthly Internet package that she has at home. More so, she received a one-time working-from-home allowance for home office set-up that includes airconditioning unit, desks, chairs, among others.

*Panghuli at ikaapat ay si DAN, isa po sa mga Human Resource People Advisor ng isang IT company sa Cubao, Quezon City. Sa kumpanya niya, discretion ng employer kung magbibigay ng telecommuting privilege sa mga empleyado. Bagamat walang written policy on telecommuting ang kanilang kumpanya, sabi*

*ppp*

*niya, ang "rule-of-thumb" ay basta't walang face-to-face meetings, pwedeng mag-telecommute. Para kay Dan, pang-millennial ang telecommuting pero madali din daw itong pag-aralan kahit sinong empleyado na marunong gumamit ng VPN o Virtual Private Network. VPN allows telecommuters to connect to the company network from home, or anywhere else.*

As a People Advisor in their company, Dan believes that the more freedom employees has and increased flexibility in the workplace, the longer they stay in the company. On the other hand, telecommuting benefits the company by having to spend less in onsite resources.

Liza, Ariel, Doreen and Dan clearly illustrate how telecommuting addresses family obligations, reduces expenses and commute or travel time, improves productivity and sustains employee motivation.

#### **Current Practices on Telecommuting**

Is telecommuting a new practice in business? Not at all.

In a report of the International Labor Organization, telecommuting started in the 1980s. Now, telecommuting is a global practice which is observed in the Asia Pacific Region, Americas, Europe and parts of the Middle East especially in components of work like communication and architecture.

Unfortunately, very few companies have adopted telecommuting in the Philippines. Liza, Ariel, Doreen and Dan are privileged and blessed for having to telecommute. But with the advancement in technology, I am sure that many employers will follow suit.

In 2014, the US Software company VM Ware Inc. conducted a study involving corporations with more than 500 employees in the Philippines. They found out that 70 percent of their respondents who worked "on the go" claimed that they were more productive and creative. Also, 93% said that they used their Smartphones for work while 73% said that working-from-home is an ideal work.

This maybe the reason why, according to ECOP, there is a growing acceptance of telecommuting in many workplaces such as Meralco, SGS, Metro Pacific Investments Corp and Aboitiz Equity Ventures. In 2016, DOLE also reported that there are 261 companies with employees who are under voluntary flexible arrangements.

#### **Salient Provisions of the Bill**

The Committee looked into the "best practices" in telecommuting to ensure that more

employers will adopt telecommuting in the workplace:

*First, telecommuting is employer's prerogative.* It will be the discretion of the employer to offer telecommuting program to its workers based on a mutual agreement. That is in Section 3 of the bill.

*Second, telecommuting is voluntary.* We considered several factors why companies opt to telecommute but we cannot make this mandatory because enterprises are differently situated. However, the bill guarantees that any telecommuting program should NOT be less than the minimum labor standards set by law as provided in Section 4 of the proposed measure.

*Third, telecommuting treats employees fairly.* The Committee would like to emphasize that employers should ensure that its telecommuting employees are given the same treatment as that of comparable employees working at the employer's premises.

*Fourth, telecommuters are not isolated.* Employers must ensure that measures are taken to prevent the telecommuting employee from being isolated from the rest of the working community in the company.

*Fifth and finally, telecommuters are protected.* The employer will be responsible for taking the appropriate measures with regard to software to ensure the protection of data used and processed by the telecommuting employee for professional purposes. The Committee included for this purpose the provisions of the Data Privacy Act of 2013 to have supplementary effect and that is found in Section 6 of the proposed measure.

*Hinihikayat din ng panukalang batas na ito ang DOLE na tuloy-tuloy na pag-aralan kung anong mga trabaho ang angkop sa telecommuting at humanap ng mga pamamaraan upang mapalakas ang telecommuting sa iba't ibang industriya. Sa pag-aaral ng DOLE noong 2014, ang mga trabahong swak na swak sa telecommuting ay encoders at transcriptionists, web developers, programmers at customer service assistants. Ngunit base sa mga kwento na ating narinig nina Liza, Ariel, Doreen at Dan, pasok din maging mga engineers, HR managers, at people advisor.*

We submit Senate Bill No. 1363 under Committee Report No. 44 so that telecommuting employees will not be subject to arbitrary policy changes, which may happen if telecommuting is governed by simply a department order. The Committee subscribes to the belief that a more

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stable and consistent legal framework will provide an enabling environment that will encourage participation and impose compliance among enterprises.

*Marami pong pag-aaral ang nagsasabi kung mas maluwag ang iskedyul o mas maraming panahon para sa kanilang pamilya o sa personal nilang buhay ang mga mang-gagawa, mas magiging produktibo sila. Kung hindi sila susuong sa napakabigat na traffic araw-araw o mabubutas ang bulsa sa pamasaha, mas ngingitian nila ang mga trabaho nila.*

Our workers have the right to a work-life balance. They have the right to a flexible work arrangement. They have the right to be allowed to work-from-home.

*Ipasa po natin ang Senate Bill No. 1363 para sa kapakanan ng mga manggagawang bumubuhay sa ekonomiya ng bansa habang nagtatrabaho sa loob ng kanilang mga tahanan o saan mang lugar malayo sa kumpanyang kanilang pinagtatrabahuhan.*

#### MANIFESTATION OF SENATOR POE

Senator Poe expressed her support to the Telecommuting Act bill of Senator Villanueva which, she said, is what her Committee has been pushing for in the Emergency Powers bill. She disclosed that part of the provisions that the Committee is advocating is the implementation of alternative sources of working. She said, however, that as what she and Senator Lacson had discussed, telecommuting would not be possible if the slow-pace Internet speed is continued, thus, the need to invest in infrastructure and the suspension of the local government discretion on implementing many permits in putting up a cell site as considered in the Emergency Powers bill.

#### MANIFESTATION OF SENATOR HONTIVEROS

Senator Hontiveros expressed her thanks to Senator Villanueva for sponsoring Senate Bill No. 1636 because of the gender aspect in telecommuting in the workplace. She said that many working mothers would benefit from the proposed measure.

#### SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1363

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

#### COMMITTEE REPORT NO. 19 ON SENATE BILL NO. 1277 (Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1277 (Committee Report No. 19), entitled

#### AN ACT ESTABLISHING THE FREE INTERNET ACCESS PROGRAM IN PUBLIC SPACES IN THE COUNTRY AND APPROPRIATING FUNDS THEREFOR.

Senator Sotto stated that the parliamentary status of the measure was still the period of individual amendments.

Thereupon, the Chair recognized Senator Aquino, sponsor of the measure, and Senator Recto for the continuation of his individual amendments.

#### RECTO AMENDMENTS

Preliminarily, Senator Recto thanked and expressed his appreciation to Senator Aquino for his patience in responding to his clarificatory questions. He said that he was also thankful that many of his positions and recommendations elucidated during the interpellations have already been captured in the amendments introduced by Senator Aquino in order to ensure that the free public Internet would be implemented successfully.

For the record, Senator Recto cited the following amendments:

First, in Section 1, on *Public-Private Partnership*, Senator Aquino's amendments adopted a paragraph of Senate Bill No. 816 which he authored, requiring private service providers to exchange data traffic at Domestic Internet Protocol or IP exchanges as may designated by the DICT. This provision is expected to lower cost, increase and improved free Internet access in public spaces covered by the program;

Second, in Section 12, Senator Aquino's amendments has incorporated a section from Senate Bill No. 816 on the transparent usage policy that would ensure equitable access of individuals to free Internet with no other restrictions imposed unless there is a clear and present security or technical risk. The section also

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included a proviso that no fee shall be collected for use of free Internet in public places.

Third, a new Section 15 was added which restores the same provision on the establishment of Free Public Internet Access Fund (FPIAF) under the administration of the DICT. The Spectrum User Fees collection of the NTC shall form part of the fund. As of fiscal year 2015, the total SUC collections amounted to P2.5 billion which is a significant amount that can substantially finance the implementation of the Free Public Internet Program.

Senator Recto then proceeded to introduce his additional individual amendments using the amended copy of the bill as of March 6, 2017.

As proposed by Senator Recto and accepted by the Sponsor, there being no objection, the Body approved the following amendments, one after the other:

**Page 2**

1. On line 6, delete the word "All" and capitalize the first letter "n" of the word "national";
2. On line 21, after the word "Program," insert the sentence to read as follows:

*PROVIDED*, THAT THE FEES TO BE COLLECTED SHOULD BE JUST AND REASONABLY SUFFICIENT TO COVER THE COST OF SUPERVISION AND REGULATION.

3. On the same page, line 26, insert a new paragraph, to read as follows:

FAILURE ON THE PART OF THE ISSUING AGENCY TO RELEASE THE APPLIED LICENSE WITHOUT INFORMING THE APPLICANT/BUSINESS ENTITY OF THE ERRORS, OMISSIONS, OR ADDITIONAL DOCUMENTS REQUIRED SHALL MEAN AUTOMATIC APPROVAL OF THE LICENSE OR PERMIT APPLIED FOR WITHIN SEVEN (7) DAYS AFTER SUBMISSION OF THE APPLICANT/BUSINESS ENTITY OF THE COMPLETE REQUIREMENTS AND PAYMENT OF THE CORRESPONDING FEES: *PROVIDED*, *HOWEVER*, THAT IN CASE THE CAUSE OF DELAY IS DUE TO *FORCE MAJEURE* OR NATURAL OR MANMADE DISASTER WHICH MAY RESULT TO DAMAGE OR DESTRUCTION OF DOCUMENTS, THE PRESCRIBED PROCESSING TIME SHALL BE SUSPENDED AND APPROPRIATE ADJUSTMENT SHALL BE MADE;

**Page 3**

4. On line 11, delete the word "*License-Free*" in the title of Section 9;
5. On line 12, delete the word "license-fee";
6. On line 13, after the word "spectrum," insert the phrase AND SHALL BE EXEMPT FROM PAYMENT OF ALL FEES AND CHARGES;
7. On lines 13 and 14, replace the phrase "free access to internet service, as well as for other public service purposes" with FREE PUBLIC INTERNET ACCESS PROGRAM;
8. On line 16, delete the word "license-free";
9. On line 17, after the word "private," add the word PARTNER;
10. On the same line, replace the word "Department" with the acronym DICT;
11. On line 17c, replace the phrase "private individuals and entities" with THE PRIVATE SECTOR;
12. On lines 17c to 17e, delete the following sentence: "PRIVATE SECTOR PARTICIPANTS, SHOULD THE IMPLEMENTATION OF THE PROGRAM, SHALL NOT BE REQUIRED TO SECURE FRANCHISE FROM THE CONGRESS AND LOCAL GOVERNMENT UNIT";
13. On lines 17f to 17i, reword the paragraph, to read as follows:

THE EXCESS CAPACITY OF PRIVATE SECTOR PARTNERS MAY BE OFFERED TO DELIVER SUPPLEMENTAL INTERNET ACCESS SERVICE FOR A REASONABLE FEE TO THE USERS IN THE AREAS WHERE PROGRAM FACILITIES ARE LOCATED: *PROVIDED*, THAT SAID INDIVIDUALS OR ENTITIES REGISTER TO THE NTC AS VALUE ADDED SERVICE PROVIDERS;

**Page 3A**

14. On page 3A, line 20, after the acronym "DICT," add the phrase AND ITS PRIVATE SECTOR PARTNERS;
15. On line 21, after the word "ON THE," insert the words COST AND;
16. On line 22, delete the phrase "without need of prior approval of request";
17. On lines 28(d) to 28(e), delete NATIONAL TELECOMMUNICATIONS COMMISSION and retain the acronym NTC;

18. On lines 30 and 31, replace the words "Department of Information and Communications Technology" and "National Telecommunications Commission" with the acronyms DICT and NTC, respectively;
19. On the title of the bill, replace the word "THEREOF" with THEREFOR.

Asked by Senate President Pimentel whether the concept or idea has not changed in the amendment of Senator Recto who proposed to delete the phrase "license-free," Senator Aquino replied that it has not.

### PROPOSED AMENDMENT OF SENATOR ZUBIRI

At the outset, Senator Zubiri expressed his full support to the measure that would give free Wi-Fi to people, especially to urban and rural poor who have no access to it. But he placed on record that he was also pushing for the public health and safety of the people in light of the fact that electromagnetic field (EMF) radiation can cause cancer, as reported by the World Health Organization.

Thereupon, Senator Zubiri proposed to add a new section to read as follows:

*SECTION 8. PROTECTION OF PUBLIC HEALTH.* – THE DOH, DICT AND THE TELECOMMUNICATIONS COMPANY SHALL ENSURE THE PROTECTION OF PUBLIC HEALTH FROM HARMFUL OR HAZARDOUS EFFECTS OF ELECTRO-MAGNETIC FIELD (EMF) RADIATION AND OTHER RADIO-ACTIVE MATERIALS OF TELECOMMUNICATION INFRASTRUCTURE AND FACILITIES, SUCH AS, BUT NOT LIMITED TO, RELAY STATIONS, REPEATERS, BOOSTERS AND TELECOMMUNICATION TOWERS. THE CONSTRUCTION OF THE ABOVEMENTIONED TELECOMMUNICATION FACILITIES SHALL BE WITHIN A SAFE DISTANCE OR A PROVISION OF BUFFER ZONES FROM RESIDENTIAL AREAS, PUBLIC BUILDINGS, PUBLIC PARKS AND RECREATIONAL FACILITIES AND DENSELY POPULATED AREAS. SUCH FACILITIES SHALL ALSO BEAR WARNING SIGNAGE THAT CLOSE AND CONTACT WITH SUCH FACILITIES IS HARMFUL OR HAZARDOUS TO HEALTH.

At this juncture, Senator Recto cautioned that the proposed amendment of Senator Zubiri is a killer amendment to the purpose of the bill because it would appear that Wi-Fi facilities are barred from

being installed or constructed in designated areas. Senator Zubiri explained that there should be designated areas wherein repeater stations, for instance, would be installed and where EMF signals should be limited to a certain radius because strong EMF signals can cause cancer especially on children.

Asked whether Wi-Fi would then be barred in airport facilities and train stations, Senator Zubiri answered in the negative, explaining that his amendment contains a proviso which mandates the provision of signages to be installed in Wi-Fi areas, and for the DOH and the DICT to come up with the particular wordings to indicate that a place is a Wi-Fi area.

Senator Recto opined that the amendment of Senator Zubiri would be an additional red tape because it would require a permit from the Department of Health.

Reacting thereto, Senator Aquino said that no such permit from the DOH would be required, but that during the crafting of the IRR, the DOH can determine safe areas. Senator Recto stated that there is no empirical data yet as regards the danger of transmitters.

For his part, Senator Aquino confirmed that there is still no empirical data yet but he believed that if ever there is empirical data that would show that there is a danger zone, the people are properly warned to keep themselves out of the danger zone.

Senator Zubiri maintained that empirical data as regards the danger of EMF radiation are already available in the Internet. He added that Green Meadows currently does not have a telecommunications company tower because ten years ago, when it had a tower in the area, there were 45 cases of cancer, all developed in the direct line of that EMF tower, 20 of whom already died while the remaining 25 are fighting for their lives.

Senator Zubiri said that he would show in some future hearing on the Consumer Protection Act the number of cases where cancer clusters are seen right below an EMF tower. He said that he only wanted to warn people and that it was not his intention to stop Wi-Fi or the technology.

Asked where the signage should be placed, for instance in the Senate, Senator Zubiri replied that it should be placed where the Wi-Fi routers are, while

the DOH and the DICT would determine its proper distance from people.

Senator Recto explained that the purpose of the bill is to provide Internet access and Wi-Fi connectivity in certain areas, for instance, in schools, public hospitals, plazas and parks, ports and airports. To the claim that radiation is harmful, he said that the Body should find out if it is truly harmful to people. For his part, Senator Zubiri believed that EMF radiation is really harmful. In fact, he pointed out if the people in the area would be asked if they would want a telecommunication tower in their area, they would certainly object for fear that they would be exposed to radiation.

Senator Zubiri pointed out that 30 years ago, people did not think that smoking is bad for pregnant mother, and it was only recently that they realized that smoking causes birth defects in children. He said that he only wanted people, especially children, to have a safe area where they could work and play. He maintained that his proposed amendment would not kill the law but that it only seeks to ask the DICT and the DOH to come up with Wi-Fi zones with proper signage.

At this juncture, Senator Aquino stated that the amendment of Senator Zubiri was acceptable because the bill requires the putting up of signages which is already provided for in another provision, and at the same time, it allows the DOH to designate areas if, in the future, it could be proven that EMF towers would expose people to harmful radiation.

Senate President Pimentel clarified that the proposal of Senator Zubiri was to warn people by putting signages near, like repeater, booster and tower and not because the area is a Wi-Fi area.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Recto, the session was suspended.

*It was 4:19 p.m.*

#### **RESUMPTION OF SESSION**

At 4:25 p.m., the session was resumed.

#### **WITHDRAWAL OF AMENDMENT**

Upon resumption, Senator Zubiri withdrew his proposed amendment.

#### **ZUBIRI AMENDMENT**

As proposed by Senator Zubiri and accepted by the Sponsor, there being no objection, the Body approved, subject to style, the insertion of a new Section 8 to read as follows:

SECTION 8. *PROTECTION OF PUBLIC HEALTH.* – THE DOH, THE DICT AND THE TELECOMMUNICATIONS COMPANY SHALL ENSURE THE PROTECTION OF PUBLIC HEALTH. FACILITIES SUCH AS RELAY STATIONS, REPEATERS, BOOSTERS, AND TELECOMMUNICATIONS TOWERS SHALL BEAR WARNING SIGNAGES THAT “CLOSE AND CONSTANT CONTACT WITH SUCH FACILITIES MAY BE HARMFUL OR HAZARDOUS TO YOUR HEALTH.”

#### **AQUINO AMENDMENT**

On page 3, line 13, as proposed by Senator Aquino and accepted by the Sponsor, there being no objection, the Body approved to replace the word “and” with OR.

#### **OMNIBUS AMENDMENT**

As proposed by Senate President Pimentel and accepted by the Sponsor, there being no objection, the Body approved, subject to style, that subsequent referral of the Department of Information and Communications Technology and the National Telecommunications Commission shall be changed to DICT and NTC, respectively.

#### **TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS**

There being no other individual amendment, upon motion of Senator Sotto, there being no objection, the Body closed the period of individual amendments.

#### **APPROVAL OF SENATE BILL NO. 1277 ON SECOND READING**

Submitted to a vote, there being no objection, Senate Bill No. 1277 was approved on Second Reading.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1277**

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

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**COMMITTEE REPORT NO. 43  
ON HOUSE BILL NO. 4637**

(Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of House Bill No. 4637 (Committee Report No. 43), entitled:

AN ACT EXTENDING FOR TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO SMART COMMUNICATIONS, INC. (FORMERLY SMART INFORMATION TECHNOLOGIES, INC.), AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7294, ENTITLED "AN ACT GRANTING SMART INFORMATION TECHNOLOGIES, INC. (SMART) A FRANCHISE TO ESTABLISH, MAINTAIN, LEASE AND OPERATE INTEGRATED TELECOMMUNICATIONS/COMPUTER/ELECTRONIC SERVICES, AND STATIONS THROUGHOUT THE PHILIPPINES FOR PUBLIC DOMESTIC AND INTERNATIONAL TELECOM-MUNICATIONS, AND FOR OTHER PURPOSES."

Senator Sotto stated that the parliamentary status of the measure was the period of committee amendments.

Thereupon, the Chair recognized Senator Poe, sponsor of the measure.

**SUSPENSION OF SESSION**

Upon motion of Senator Sotto, the session was suspended.

*It was 4:29 p.m.*

**RESUMPTION OF SESSION**

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

**COMMITTEE AMENDMENTS**

As proposed by Senator Poe, there being no objection, the Body approved the following committee amendments, one after the other:

*Page 2*

1. On line 2, delete the word "CO-USE";

2. On line 13, delete the word "CO-USE";

*Page 3*

3. On line 15, insert a new Section to read as follows:

SEC. 2. SECTION 4 OF REPUBLIC ACT NO. 7294 IS HEREBY AMENDED TO READ AS FOLLOWS:

"SEC. 4. *RESPONSIBILITY TO THE PUBLIC.* – THE GRANTEE SHALL CONFORM TO THE ETHICS OF HONEST ENTERPRISE AND SHALL NOT USE ITS STATIONS FOR OBSCENE OR INDECENT TRANSMISSIONS, OR FOR THE DISSEMINATION, OR WILFULL MISREPRESENTATION, OR ASSIST IN SUBVERSIVE OR TREASONABLE ACTS.

THE FRANCHISEE SHALL ALSO IMPROVE AND UPGRADE ITS EQUIPMENT, FACILITIES, AND SERVICES IN ORDER TO ENSURE EFFECTIVE COMPLIANCE WITH THE OBJECTIVES OF REPUBLIC ACT NO. 10639 OR THE FREE MOBILE DISASTER ALERTS ACT;

4. On line 5, replace the word "approval" with EFFECTIVITY;
5. On line 23, delete the phrase "nor merge with any corporation or entity";

*Page 5*

6. Reword Section 5 to read as follows:

SEC. 5. SECTION 11 OF REPUBLIC ACT NO. 7294 IS HEREBY AMENDED TO READ AS FOLLOWS:

SEC. 11. *SALE, LEASE, TRANSFER, USUFRUCT, OR ASSIGNMENT OF FRANCHISE.* – THE GRANTEE SHALL NOT SELL, LEASE, TRANSFER, GRANT THE USUFRUCT OF, NOR ASSIGN THE FRANCHISE HEREIN GRANTED OR THE RIGHTS AND PRIVILEGES ACQUIRED THEREUNDER TO ANY PERSON, FIRM, COMPANY, CORPORATION OR OTHER COMMERCIAL OR LEGAL ENTITY, NOR SHALL TRANSFER THE CONTROLLING INTEREST OF THE GRANTEE, WHETHER AS A WHOLE OR IN PARTS, AND WHETHER SIMULTANEOUSLY OR CONTEMPORANEOUSLY, TO ANY PERSON, FIRM, COMPANY, CORPORATION OR ENTITY WITHOUT THE PRIOR APPROVAL OF THE CONGRESS OF THE PHILIPPINES; *PROVIDED*, THAT THE FOREGOING LIMITATIONS SHALL NOT

APPLY: (A) WHEN TRANSFER IS TO A CORPORATION THAT IS CONTROLLED BY THE SAME STOCKHOLDERS CONTROLLING THE GRANTEE; (B) TO ANY TRANSFER OR SALE OF SHARES TO A FOREIGN INVESTOR OR INVESTORS; (C) TO ANY ISSUANCE OF SHARES TO ANY FOREIGN OR LOCAL INVESTORS, PURSUANT TO OR IN CONNECTION WITH ANY INCREASE IN THE GRANTEE'S AUTHORIZED CAPITAL STOCK; (D) TO ANY TRANSFER TO ANOTHER CORPORATION WHICH IS A GRANTEE OF ANOTHER CONGRESSIONAL FRANCHISE FOR PROVISION OF TELECOMMUNICATIONS SERVICES; AND (E) TO ANY COMBINATION THEREOF WHERE SUCH TRANSFER, SALE OR ISSUANCE IS EFFECTED IN ORDER TO ENABLE THE GRANTEE TO RAISE THE NECESSARY CAPITAL OR FINANCING FOR THE PROVISION OF ANY OF THE SERVICES AUTHORIZED BY THIS ACT AND/OR TO CARRY OUT ANY OF THE PURPOSES FOR WHICH THE GRANTEE HAS BEEN INCORPORATED OR ORGANIZED: *PROVIDED, FURTHER*, THAT ANY TRANSFER, SALE OR ISSUANCE IS IN ACCORDANCE WITH ANY APPLICABLE CONSTITUTIONAL LIMITATION: *PROVIDED, FURTHERMORE*, THAT CONGRESS SHALL BE INFORMED OF ANY SALE, LEASE, TRANSFER, GRANT OF USUFRUCT, OR ASSIGNMENT OF FRANCHISE OR THE RIGHTS AND PRIVILEGES ACQUIRED THEREUNDER, WITHIN SIXTY (60) DAYS AFTER THE COMPLETION OF THE TRANSACTION: *PROVIDED, MOREOVER*, THAT FAILURE TO REPORT TO CONGRESS THE CHANGE OF OWNERSHIP SHALL RENDER THE FRANCHISE *IPSO FACTO* REVOKED: *PROVIDED, FINALLY*, THAT ANY PERSON OR ENTITY TO WHICH THE FRANCHISE HEREIN GRANTED IS VALIDLY SOLD, TRANSFERRED OR ASSIGNED SHALL BE SUBJECT TO THE SAME CONDITIONS, TERMS, RESTRICTIONS, AND LIMITATIONS OF THIS ACT.

*Page 7*

7. On lines 18 and 19, retain the phrase "OF THE SHARES REPRESENTING AT LEAST THIRTY PER CENTUM (30%) OF ITS AUTHORIZED CAPITAL STOCK";
8. On lines 21 and 22, delete the phrase "UNLESS THE GRANTEE IS WHOLLY OWNED BY A PUBLICLY LISTED COMPANY";

9. Rephrase Section 7, to read as follows:

SEC. 7. A NEW SECTION IS HEREBY INSERTED AFTER SECTION 15 OF REPUBLIC ACT NO. 7294, TO READ AS FOLLOWS:

SEC. 16. *EQUALITY CLAUSE*. – ANY ADVANTAGE, FAVOR, PRIVILEGE, EXEMPTION, OR IMMUNITY GRANTED UNDER EXISTING FRANCHISES, OR WHICH MAY HEREAFTER BE GRANTED UPON PRIOR REVIEW AND APPROVAL OF CONGRESS, SHALL BECOME PART OF THIS FRANCHISE AND SHALL BE ACCORDED IMMEDIATELY AND UNCONDITIONALLY TO THE HEREIN GRANTEE: *PROVIDED*, THAT THE FOREGOING SHALL NEITHER APPLY TO NOR AFFECT PROVISIONS OF TELECOMMUNICATIONS FRANCHISES CONCERNING TERRITORY COVERED BY THE FRANCHISE, THE LIFE SPAN OF THE FRANCHISE OR THE TYPE OF SERVICE AUTHORIZED BY THE FRANCHISE; and

10. Renumber the sections accordingly.

**TERMINATION OF THE PERIOD OF COMMITTEE AMENDMENTS**

There being no further committee amendment, upon motion of Senator Sotto, there being no objection, the Body closed the period of committee amendments and proceeded to the period of individual amendments.

**GATCHALIAN AMENDMENT**

On page 7, as proposed by Senator Gatchalian and accepted by the Sponsor, there being no objection, the Body approved the insertion of a new Section 6 to read as follows:

SEC. 6. *MOBILE NUMBER PORTABILITY*. – THE GRANTEE SHALL PROVIDE MOBILE NUMBER PORTABILITY (MNP) TO ALL ITS SUBSCRIBERS. IT SHALL SET UP A MECHANISM FOR THE PURPOSE OF IMPLEMENTING MNP. IT SHALL INTERCONNECT DIRECTLY OR INDIRECTLY WITH INFRASTRUCTURE FACILITY SYSTEMS OR EQUIPMENT OF OTHER TELECOMMUNICATIONS FRANCHISE GRANTEES. IT SHALL NOT INSTALL NETWORK FEATURES, FUNCTIONS OR CAPABILITIES THAT WILL IMPEDE THE IMPLEMENTATION OF A NATIONWIDE MNP SYSTEM. THE NATIONAL TELECOMMUNICATIONS COMMISSION SHALL ISSUE RULES

AND REGULATIONS FOR THIS PURPOSE, THE EFFECTIVITY OF WHICH SHALL COMMENCE UPON APPLICABILITY WITH OTHER TELECOMMUNICATION FRANCHISE GRANTEEES.

## RECTO AMENDMENTS

As proposed by Senator Recto and accepted by the Sponsor, there being no objection, the Body approved the following amendments, one after the other:

1. On Section 2, which seeks to amend Section 4 of Republic Act No. 7294, second paragraph thereof, replace the phrase "give priority to improving and extending" with IMPROVE AND EXTEND; and
2. On page 7, line 7, after the word "OF," insert the word CONTROLLING.

## PROPOSED AMENDMENT OF SENATOR HONTIVEROS

On page 7, line 21, after the word "Act," Senator Hontiveros proposed to add the phrase and proviso SHOULD THE GRANTEE FAIL TO DO SO WITHIN THE PERIOD: *PROVIDED*, THIS SHALL RENDER THE FRANCHISE *IPSO FACTO* REVOKED.

At this juncture, Senator Zubiri stated that the proposed amendment of Senator Hontiveros would run counter to his proposal to restore the phrase "unless the grantee is wholly owned by a publicly listed company, at least 30% of whose authorized capital is publicly owned." He explained that as chairman of the Committee on Legislative Franchises in the House of Representatives for six years, he introduced in the NGCP franchise an equality clause which provided that when a franchise is given additional advantage, the succeeding franchise shall also be granted the same advantage. He also recalled that the NGCP was also granted a telecommunication franchise, to wit:

SECTION 8. *Dispersal of Ownership*. — The Grantee shall list, subject to the requirements of the Securities and Exchange Commission (SEC) and the PSE, and make a public offering of the shares representing at least twenty *per centum* (20%) of its outstanding capital stock or a higher percentage that may hereafter be provided by law within ten (10) years from the commencement of its operations: *Provided*, That

the listing in the PSE of any company which directly or indirectly owns or controls at least thirty *per centum* (30%) of the outstanding shares of stock of the Grantee shall be considered full compliance of this listing requirement. In case compliance with this requirement is not reached, the ERC may, upon application of the Grantee, and after notice and hearing, allow such reasonable extension of the period within which the Grantee should list its shares of stock, if the market condition is not suitable for such listing.

Senator Zubiri emphasized the proviso "That the listing in the PSE of any company which directly or indirectly owns or controls at least thirty *per centum* (30%) of the outstanding shares of stock of the Grantee shall be considered full compliance of this listing requirement." He pointed out that if the franchise is owned by a listed company, then it would be exempted from the requirement. He noted that since the mother corporation of Smart is PLDT which is 50% owned by the public, Smart, therefore, is deemed to have already complied with the provision.

Senator Sotto recalled that the previous manner of proposing amendments was by going page by page so that amendments would not clash and no amendment would be left out. He therefore asked the Sponsor to either accept or decline the amendment and then hear the arguments of the members regarding the matter.

Senator Poe said that she was not inclined to accept the amendment of Senator Hontiveros for the reason that the precedent franchise agreement did not have such a clause.

Senator Recto stated that Senator Hontiveros' proposed amendment would, in effect, mean that if Smart would not publicly list within two years, the franchise would be automatically revoked *ipso facto*. He then asked what would happen to the 60 million subscribers in the event of a revocation. He pointed out that the reason Smart has not listed was that its mother company, PLDT, is one of the most widely listed companies in the country, 50% of the outstanding capital of which is listed in the stocks exchange. He cautioned that the stock prices of PLDT would possibly go down if Smart would be required to list, and if it contributes a huge amount of its revenues to PLDT. He noted that the market cap of Smart is about P300 billion, and 50% is owned by the general public. If the revenues of PLDT come from Smart, he said that the value of PLDT would decrease.

Senator Recto recalled that when Ayala bought Globe, the latter was already publicly listed. He said that Globe provides both landline and wireless services, while Smart is purely wireless. He said that the other income stream of PLDT is from its landline subscribers, but the bigger revenue comes from Smart.

Senator Recto explained that Smart never publicly listed in the last 25 years because their position has always been that their mother company has already listed 50%, more than the 30% requirement, and that the SEC has not done anything to force them to list, an indication that SEC has accepted the position of Smart.

Senator Poe agreed with the points raised by Senator Recto, particularly on the 50% listing of PLDT and the position of SEC. She believed that the concern would be on transparency and compliance with reporting. She pointed out that Smart, being owned by a publicly-listed company, has an independent auditor, shareholders could request for their records without any impingement, and their records are available and transparent even if it is just a subsidiary of PLDT.

Regarding Senator Zubiri's position, Senator Poe said that NGCP has a similar situation as it is not publicly listed but it is owned by a 30% publicly-listed company; thus, comparatively, Smart is exceeding the requirement.

Regarding the fate of Smart subscribers if it is not publicly-listed, Senator Hontiveros hoped that Smart would publicly list in two years to preempt any possible inconvenience to the subscribers. She also noted that if the franchise would not be approved on time, as discussed in the committee hearings, Smart would still have Digitel to fall back on, even as it would require additional efforts during the interim. On the 50% public listing of PLDT, she said that it should be a good example for Smart to comply with the requirement. With regard to the decrease of the value of stocks as explained by Senator Recto, she believed that the experts within both Smart and PLDT would not allow such a thing to happen as they are among the best-run companies in the country.

#### **WITHDRAWAL OF THE PROPOSED AMENDMENT**

Senator Hontiveros withdrew her proposed amendment on Section 6.

#### **MANIFESTATION OF SENATOR VILLANUEVA**

Senator Villanueva associated himself with the points raised by Senator Hontiveros because he also raised the same concerns during the committee hearings.

#### **MANIFESTATION OF SENATOR POE**

Senator Poe stated that the original wording of Section 13 was retained, so that it would be up to the SEC to impose the requirement. Asked by the Chair if the phrase "unless the grantee is wholly owned by a publicly-listed company" was deleted, Senator Poe answered in the affirmative.

#### **PROPOSED AMENDMENTS OF SENATOR HONTIVEROS**

Senator Hontiveros proposed to insert a new section that would amend Section 16 of Republic Act No. 7294, as follows:

*SEC. 16. REPORTORIAL REQUIREMENT. – THE GRANTEE SHALL SUBMIT AN ANNUAL REPORT TO THE CONGRESS OF THE PHILIPPINES ON ITS COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE FRANCHISE AND ON ITS OPERATIONS AS WELL AS AN INFRASTRUCTURE EXPANSION AND DEVELOPMENT PLAN FOR THE NEXT TWELVE (12) MONTHS WITHIN SIXTY (60) DAYS FROM THE END OF EVERY YEAR.*

Senator Poe stated that she would not accept the amendment because, first, the other franchises do not have such provision; and second, although it falls under the oversight function of the Congress, it is more of a concern of the NTC because with the additional bandwidth it acquired through a new deal, Smart must submit a report of its development plan to the NTC.

Senator Hontiveros withdrew her proposed amendment.

Senator Hontiveros proposed to delete the equality clause found on lines 23 to 27 of page 7 and on lines 1 to 8 of page 8 of the bill for being redundant and because the same provision is already found in Section 23 of RA 7925.

*Handwritten initials and marks at the bottom right of the page.*



## SUSPENSION OF SESSION

Upon motion of Senator Poe, the session was suspended.

*It was 5:21 p.m.*

## RESUMPTION OF SESSION

At 5:22 p.m., the session was resumed.

Upon resumption, Senator Poe said that she does not mean to be difficult but she could not accept the proposed amendment because the provision is already in the law and in other telecommunications franchises. Besides, she believed that it would not do any harm to keep it in the law as it is not in conflict with the other provisions.

Senator Hontiveros withdrew her proposed amendment.

## REQUEST OF SENATOR HONTIVEROS

At this point, Senator Hontiveros requested that Smart forward to the Senate a report on the ultimate beneficial ownership of the following foreign companies: Larouge BV, a Dutch company; Intalink BV, another Dutch company; Metro Pacific Investments Limited, a company registered in the Cayman Islands; First Pacific International Limited, a Hong Kong company; and First Pacific Enterprises Holdings BV, another Hong Kong company.

Senator Poe suggested that Senator Hontiveros file a resolution to be referred to the Committee on Public Services as regard the matter of foreign ownership of Smart.

The Chair asked whether Smart could just furnished the Body with the data needed.

Senator Poe said that her committee will formally write Smart regarding Senator Hontiveros request.

## VILLANUEVA AMENDMENTS

As proposed by Senator Villanueva and accepted by the Sponsor, there being no objection, the Body approved the following amendments, one after the other:

1. On page 8, line 21, after the word "effect," insert a colon ( : ) and add the following proviso: PROVIDED, THAT ALL PENDING SUITS OF WHATEVER KIND OR NATURE, WHETHER CIVIL, CRIMINAL OR

ADMINISTRATIVE FILED BY OR AGAINST THE GRANTEE IN CONNECTION WITH THE PROVISIONS OF REPUBLIC ACT NO. 7294 SHALL CONTINUE TO BE PROSECUTED UNDER THE SAID LAW. PROVIDED, FURTHER, THAT ALL LIABILITIES, FINES, PENALTIES, SURCHARGES AND/OR UNPAID TAX ASSESSMENTS OF THE GRANTEE FROM MARCH 27, 1992 UNTIL THE EFFECTIVITY OF THIS NEW LAW SHALL REMAIN VALID AND ENFORCEABLE UNDER REPUBLIC ACT NO. 7294.

Senator Villanueva said that his amendment is with reference to the unpaid local taxes of Smart Communications Inc. amounting to P243.4 million as reported during the last hearing by the Union of Local Authorities of the Philippines (ULAP).

At this point, Senate President asked about the significance of the date in the amendment of Senator Villanueva. Senator Villanueva said that it was the date of Republic Act No. 7294.

2. On page 7, after line 22, insert a new Sec. 14 to read as follows:

SEC. 14. COMPLIANCE WITH LABOR STANDARDS. – THE GRANTEE, ITS SUCCESSORS OR ASSIGNEES SHALL COMPLY WITH THE APPLICABLE LABOR STANDARDS UNDER EXISTING LABOR LAWS, RULES AND REGULATIONS AND SUCH OTHER ISSUANCES AS MAY BE PROMULGATED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT TAKING INTO CONSIDERATION THE NATURE AND PECULIARITIES OF THE TELECOMMUNICATIONS INDUSTRY.

## ZUBIRI AMENDMENT

As proposed by Senator Zubiri and accepted by the Sponsor, there being no objection, the Body approved the reinstatement of the phrase UNLESS THE GRANTEE IS WHOLLY OWNED BY A PUBLICLY LISTED COMPANY, WITH AT LEAST 30% OF WHOSE AUTHORIZED CAPITAL STOCK IS PUBLICLY OWNED after the word "Act" on line 21 of page 7.

## MANIFESTATION OF SENATOR ZUBIRI

Senator Zubiri informed the Body that Senator Cayetano wanted to find out the local taxes paid by Smart Communications, Inc.

*ps gfr*

Senator Poe said that Smart paid the following local government taxes to local governments: Mayor's permit, business permit, real property taxes, not including the housing of equipment, and franchise taxes. She reported that in 2016, its real property taxes amounted to P225,319,008.09; Mayor's permit, P66,295,390.27; and franchise tax, P26,495,664.00. She said that these taxes were on top of the other corporate income tax, documentary stamps tax and value-added tax. She said that the committee has submitted the information to the Office of Senator Cayetano.

Senator Villanueva clarified that Smart was exempted from paying only the local franchise tax.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 4637**

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

#### **COMMITTEE REPORT NO. 28 ON SENATE BILL NO. 1304**

*(Continuation)*

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1304 (Committee Report No. 28), entitled

AN ACT PROVIDING FOR A FULL  
TUITION SUBSIDY FOR STUDENTS  
ENROLLED IN STATE UNIVER-  
SITIES AND COLLEGES (SUCS),  
AND APPROPRIATING FUNDS  
THEREOF.

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

Thereupon, the Chair recognized Senator Aquino, sponsor of the measure, and Senator Recto for his interpellation.

#### **MANIFESTATION OF SENATOR RECTO**

Senator Recto manifested that as per his agreement with Senator Aquino, he would no longer interpellate on the bill but would be proposing individual amendments instead.

#### **TERMINATION OF THE PERIOD OF INTERPELLATIONS**

There being no further interpellation, upon motion of Senator Sotto, there being no objection, the Body closed the period of interpellations and opened the period of committee amendments.

#### **TERMINATION OF THE PERIOD OF COMMITTEE AMENDMENTS**

There being no committee amendment, upon motion of Senator Sotto, there being no objection, the Body closed the period of committee amendments and proceeded to the period of individual amendments.

#### **RECTO AMENDMENTS**

As proposed by Senator Recto, and accepted by the Sponsor, there being no objection, the Body approved the following amendments, one after the other:

##### *Page 1*

1. On line 3, after the word "that," replace the words "accessible and" with the phrase UNIVERSAL ACCESS TO;
2. On line 5, after the words "accessible to," add the word ALL, followed by a comma ( , ) and the words ESPECIALY TO THE;
3. On line 6, after the word "students," add the phrase BY RECOGNIZING THE COMPLIMENTARY ROLES OF PUBLIC AND PRIVATE HIGHER EDUCATION INSTITUTIONS (HEIs) AND TECHNICAL VOCATIONAL INSTITUTIONS (TVIs) IN DELIVERING QUALITY EDUCATION;
4. On line 7, after the word "providing," replace the phrase "free higher education for" with TUITION SUBSIDY AND FINANCIAL ASSISTANCE TO;
5. On line 8, after the acronym "SUCs," add a comma ( , ) and followed by the words PRIVATE HEIs AND TVIs.

##### *Page 2*

6. On line 33, delete the words "his/hers";
7. On line 45, delete the word "and";

##### *Page 3*

8. On line 1, reletter sub-item ( b ) as sub-item ( c ) and add a new sub-item ( b ) to read as follows:

(b) STUDENTS WHO FAILED TO COMPLETE THEIR DEGREE AND/OR NON-DEGREE PROGRAMS WITHIN A YEAR AFTER THE PERIOD PRESCRIBED IN THEIR PROGRAMS; AND

*Page 4*

9. On line 4, replace the phrase "oversight committees in both Houses of Congress" with TO THE COMMITTEE ON EDUCATION OF THE SENATE AND THE COMMITTEE ON HIGHER AND TECHNICAL EDUCATION OF THE HOUSE OF REPRESENTATIVES;
10. On line 25, after the word "students," delete the preposition "in";
11. On the same line, after the acronym "SUCs," add the phrase PRIVATE HEIs AND TVIs;
12. On line 26, replace the phrase "Moreover, StuFAP programs," with STUFAPS;
13. Between lines 28 and 29, insert a new Section 12 to read as follows:

SEC. 12. *TUITION SUBSIDY AND FINANCIAL ASSISTANCE FOR STUDENTS IN PRIVATE HEIs AND TVIs.*— STUDENTS WHO WISH TO ENROLL IN PRIVATE HEIs AND TVIs SHALL BE COVERED BY THE APPROPRIATE STUFAPs IN SUCH MODALITIES WHERE THEY QUALIFY AS MAY BE DETERMINED BY THE UNIFAST BOARD. THE SUBSIDY UP TO THE AMOUNT APPROVED BY THE UNIFAST BOARD SHALL COVER TUITION FEES AND/OR ADDITIONAL STUDENT FINANCIAL ASSISTANCE TO COVER FOR THE OTHER COSTS OF EDUCATION IN THE PRIVATE HEI AND TVI OF CHOICE SUBJECT TO ITS ADMISSION POLICIES; *PROVIDED*, THAT THE AMOUNT OF TUITION SUBSIDY AND/OR STUDENT FINANCIAL ASSISTANCE SHALL BE BASED ON THE GUIDELINES SET FORTH BY THE UNIFAST BOARD AND ON THE ANNUAL BUDGETARY APPROPRIATION FOR THIS PURPOSE; *PROVIDED FURTHER*, THAT THE CONDITIONS STIPULATED UNDER SECTION 5 OF THIS ACT SHALL ALSO APPLY TO STUDENTS QUALIFIED UNDER THIS SECTION.

14. On lines 29 to 32, delete the phrase "of Fifteen Billion Pesos (P15,000,000,000.00) is hereby initially appropriated from the Presidential Social Fund for the SUC Tuition Subsidy Fund and to implement the provision of this Act. Thereafter, such amount

necessary to effectively carry out the provisions of this Act" and lieu thereof insert the phrase NECESSARY TO EFFECTIVELY CARRY OUT THE PROVISIONS OF THIS ACT.

15. On page 1, line 1, *Short Title*, replace the word "Free" with AFFORDABLE; and
16. Finally, reword the title of the bill, to read as follows:

AN ACT ACCELERATING UNIVERSAL ACCESS TO TERTIARY EDUCATION BY PROVIDING FOR TUITION SUBSIDY AND FINANCIAL ASSISTANCE TO STUDENTS ENROLLED IN STATE UNIVERSITIES AND COLLEGES, PRIVATE HIGHER EDUCATION INSTITUTIONS AND TECHNICAL VOCATIONAL INSTITUTIONS, AND APPROPRIATING FUNDS THEREFOR.

#### LACSON AMENDMENTS

As proposed by Senator Lacson and accepted by the Sponsor, there being no objection, the Body approved the following amendments, one after the other, subject to style:

1. On page 2, lines 34 to 41, reword Section 4, to read as follows:

SEC. 4. *ELIGIBILITY TO THE FULL TUITION SUBSIDY.* — ALL FILIPINO CITIZENS WHO ARE EITHER CURRENTLY ENROLLED AT THE TIME OF EFFECTIVITY OF THIS ACT, OR SHALL ENROLL AT ANY TIME THEREAFTER, IN COURSES IN PURSUANCE OF A BACHELOR'S DEGREE OR CERTIFICATE DEGREE, IN ANY SUC SHALL QUALIFY FOR A FULL TUITION SUBSIDY: *PROVIDED*, THAT THEY PASS A QUALIFYING EXAMINATION TO BE PRESCRIBED BY CHED AND MEET THE ADMISSION AND RETENTION STANDARDS OF THE SUC: *PROVIDED, FURTHER*, THAT THE SUCS SHALL PRIORITIZE THE ADMISSION OF UNDERPRIVILEGED BUT DESERVING STUDENTS: *PROVIDED, FINALLY*, THAT ALL SUCS SHALL CREATE A MECHANISM TO ENABLE STUDENTS WITH THE FINANCIAL CAPACITY TO PAY FOR THEIR EDUCATION IN THE SUC TO OPT OUT OF THE TUITION SUBSIDY OR TO MAKE A DONATION TO THE SCHOOL; and

2. On page 4, lines 29 to 33, rephrase Section 12, to read as follows:

SEC. 12. APPROPRIATIONS. – THE INITIAL APPROPRIATIONS NECESSARY FOR THIS ACT SHALL BE CHARGED TO THE APPROPRIATION OF THE COMMISSION ON HIGHER EDUCATION. THEREAFTER, THE AMOUNT NECESSARY FOR THE FUNDING OF THE PROGRAM SHALL BE INCLUDED IN THE ANNUAL GENERAL APPROPRIATIONS ACT.

4. On page 3, line 5, after the word “established” and the period (.), insert the sentence THE CHED SHALL ALSO ALLOCATE PORTION OF THE FUND TO SUBSIDIZE TUITION OF STUDENTS IN LOCAL UNIVERSITIES AND COLLEGES (LUCs) AND PUBLIC TECHNICAL-VOCATIONAL INSTITUTES (TVIs).

**SUSPENSION OF SESSION**

Upon motion of Senator Aquino, the session was suspended.

*It was 5:43 p.m.*

**SUSPENSION OF SESSION**

Upon motion of Senator Sotto, the session was suspended.

*It was 5:53 p.m.*

**RESUMPTION OF SESSION**

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

**RESUMPTION OF SESSION**

At 5:55 p.m., the session was resumed.

**MANIFESTATION OF SENATOR LACSON**

Senator Lacson manifested that his amendment on Section 4 was a joint amendment with Senator Gordon.

**SUGGESTION OF SENATOR SOTTO**

On page 3, line 8, Senator Sotto called the attention of the Secretariat to the repetitive use of the word “fund.” He then suggested replacing the words “this Fund” with THE SAME at the proper time.

**GORDON AMENDMENTS**

As proposed by Senator Gordon and accepted by the Sponsor, there being no objection, the Body approved the following amendments, one after the other, subject to style:

**SUSPENSION OF SESSION**

Upon motion of Senator Sotto, the session was suspended.

*It was 5:56 p.m.*

1. On page 3, line 28, replace the words “financially disadvantaged” with the phrase “UNDERPRIVILEGED BUT DESERVING”;
2. On page 4, line 8, insert a new paragraph, to read as follows:

**RESUMPTION OF SESSION**

At 5:57 p.m., the session was resumed.

FOR THIS PURPOSE, THE TERM “UNDERPRIVILEGED STUDENTS” SHALL REFER TO INDIVIDUALS WHOSE COMBINED HOUSEHOLD INCOME SHALL FALL WITHIN A THRESHOLD AMOUNT TO BE DETERMINED BY NEDA WITH CHED;

**HONTIVEROS AMENDMENTS**

As proposed by Senator Hontiveros and accepted by the Sponsor, there being no objection, the Body approved the following amendments, one after the other:

3. On the same page, lines 4 to 7, replace paragraph d) with a new provision, to read as follows:
  - D) DETERMINE A GRADE REQUIREMENT AND ESTABLISH A MONITORING MECHANISM IN MAINTAINING THE TUITION SUBSIDY SO THAT STUDENTS WILL REMAIN COMPETITIVE; and

1. On page 3, line 26, after the word “mechanism,” insert the words FOR ADMISSION;
2. On the same page, line 28, after the word “students” and a semicolon (;) insert a new provision, to read as follows: *PROVIDED*, THAT THE QUALIFYING EXAMINATION AND ALL OTHER REQUIREMENTS TO BE FULFILLED TO QUALIFY FOR ADMISSION UNDER SAID QUALIFYING MECHANISM SHALL BE FREE OF CHARGE TO PERSONS ELIGIBLE FOR THE TUITION SUBSIDY

UNDER THE PROVISIONS OF THIS ACT AND THE PAYMENT OF THE COST THEREOF SHALL BE SOURCED FROM THE FUND.

### AQUINO AMENDMENTS

As proposed by Senator Aquino, there being no objection, the Body approved the following amendments, one after the other:

#### Page 1

1. On line 20, insert a new subparagraph (E) to read as follows:
  - E) *LOCAL UNIVERSITIES AND COLLEGES (LUCS) REFER TO A PUBLIC HIGHER EDUCATION INSTITUTION ESTABLISHED BY A LOCAL GOVERNMENT UNIT THROUGH AN ENABLING ORDINANCE AND FINANCIALLY SUPPORTED BY THE CONCERNED LOCAL GOVERNMENT UNIT;*
2. Reletter the succeeding subparagraphs accordingly;
3. On line 20, before the word "Other," insert the words MISCELLANEOUS AND;

#### Page 2

4. On lines 1 to 6, delete subparagraph g);
5. On line 29, after the word "works" and the semicolon (;), insert AND;
6. On line 33, replace the semicolon (;) with a period (.);
7. Renumber the succeeding subparagraphs accordingly;
8. On line 41, insert a new paragraph, to read as follows:

SUCS SHALL BE PROHIBITED FROM CHARGING ANY FEES TO STUDENTS OTHER THAN MISCELLANEOUS AND OTHER SCHOOL FEES;

#### Page 3

9. On line 4, on the title of the section delete the acronym "SUC";
10. Still on line 4, after the article "The," delete the acronym "SUC";
11. On line 13, insert a new subparagraph (B), to read as follows:
  - B) REGULATE AND APPROVE MISCELLANEOUS AND OTHER FEES BEING CHARGED BY THE SUCS;

12. Reletter the succeeding subparagraph accordingly;
13. On line 26, replace the phrase "a qualifying mechanism" with AN ADMISSIONS AND RETENTION STANDARD;
14. On line 29, replace subparagraph (B) with the following:
  - B) IN ORDER TO FACILITATE THE TRACKING OF STUDENTS AND THEIR PERFORMANCE, ADOPT THE LEARNER INFORMATION SYSTEM ESTABLISHED BY THE DEPARTMENT OF EDUCATION IN ACCORDANCE WITH THE GUIDELINES TO DEVELOPED BY CHED; AND
15. On line 36, replace subparagraph (C) with the following:
  - C) SUBMIT RELEVANT INFORMATION AS DETERMINED BY CHED ON SCHOOL QUALITY AND PERFORMANCE TO ASSIST THE COMMISSION IN IMPLEMENTING THIS ACT;

On page 4, line 11, after the last sentence, Senator Aquino proposed to add a new sentence, to read:

*PROVIDED, FINALLY THAT SUBMISSIONS FROM SUCS SHALL BE VERIFIED BY A THIRD PARTY AUDITOR ACCREDITED BY THE CHED.*

Asked by Senator Recto who the third party could be, Senator Aquino assumed that the CHED could decide to accredit any type of auditors to acquire verifiable data. Senator Recto suggested that the CHED does its work as it would be difficult to get a third party auditor like the BIR or COA.

As a consequence, Senator Aquino withdrew his amendment.

#### Page 4

16. On line 12, insert a new Section 9, to read as follows:

SEC 9. *MAXIMUM NUMBER OF STUDENTS.* – FOR THE INITIAL IMPLEMENTATION OF THIS ACT, THE MAXIMUM NUMBER OF STUDENTS THAT SUCS MAY ACCEPT SHALL BE EQUIVALENT TO THE TOTAL NUMBER OF STUDENTS THAT WERE ENROLLED IN THE SCHOOL YEAR PRIOR TO THE EFFECTIVITY OF THIS ACT. FOR

SUBSEQUENT YEARS, SUCS MAY SEEK APPROVAL FROM CHED TO INCREASE THE NUMBER OF STUDENTS THAT THEY MAY ACCEPT, SUBJECT TO CONDITIONS AND REQUIREMENTS TO BE SET BY THE COMMISSION; and

17. Reletter the succeeding subsections accordingly.

### **SUSPENSION OF SESSION**

Upon motion of Senator Aquino, the session was suspended.

*It was 6:04 p.m.*

### **RESUMPTION OF SESSION**

At 6:05 p.m., the session was resumed.

### **TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS**

There being no other individual amendment, upon motion of Senator Sotto, there being no objection, the Body closed the period of individual amendments.

### **APPROVAL OF SENATE BILL NO. 1304 ON SECOND READING**

Submitted to a vote, there being no objection, Senate Bill No. 1304 was approved on Second Reading.

### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1304**

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

### **COMMITTEE REPORT NO. 33 ON SENATE BILL NO. 1311**

*(Continuation)*

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1311 (Committee Report No. 33), entitled

AN ACT ESTABLISHING A NATIONAL POLICY OF EASE OF DOING BUSINESS, CREATING FOR THE PURPOSE THE EASE OF DOING BUSINESS COMMISSION, AND FOR OTHER PURPOSES.

### **SUSPENSION OF SESSION**

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

*It was 6:06 p.m.*

### **RESUMPTION OF SESSION**

At 6:07 p.m., the session was resumed with Senate President Pro Tempore Recto presiding.

Upon resumption, Senator Sotto stated that the status was the period of interpellations.

Thereupon, the Chair recognized Senator Zubiri, sponsor of the measure, and Senator Villanueva for his interpellations.

### **INTERPELLATION OF SENATOR VILLANUEVA**

At the outset, Senator Villanueva commended and thanked Senator Zubiri for his efforts in keeping in the public consciousness the persistent problem of bureaucratic and regulatory inefficiencies and how it stems into a poor business environment. He said that the issue has been a serious problem for several decades despite several policies and administrative attempts to address the matter.

However, Senator Villanueva noticed the similarities of the proposed measure to the Anti-Red Tape Act of 2007 which he sponsored when he was still a member of the House of Representatives and the counterpart bill of which was sponsored by Senator Lacson in the Senate. He said that both Republic Act 9485 and Senate Bill No. 1311 intend to improve the efficiency of service delivery by government officials. He recalled that when the Anti-Red Tape Act was passed in Congress, it sought a comprehensive reform on the systems and procedures for delivery of all front-line services in the government offices and agencies, including national agencies and local governments, GOCCs and even SUCs, local schools and hospitals.

Senator Villanueva noted that one laudable feature of the measure is to streamline the procedures of business applications towards a unified structure, a feature that was supposed to be incorporated in the Anti-Red Tape Act. However, he noted that the wide-range of services covered by the Anti-Red Tape Act and the unified structure of procedure for all frontline services in the bureaucracy are thought to be conceptually and administratively undesirable and unsound.

*AS*

Asked whether the aim of the Anti-Red Tape Act was achieved, and what intentions were not addressed and needed to be improved in order to promote good business atmosphere and at the same time create jobs, Senator Zubiri replied that businessmen, during hearings and consultations, would complain that the Anti-Red Tape Act has not been fully implemented. He said that among their major complaints was the delay in the requirements, licensing and permits. He said that the Anti-Red Tape Act was passed in 2007 to urgently establish an effective system that would eliminate bureaucratic red tape, but it failed to accomplish its objective because of its wide coverage and because there was no distinction between business-related or personal transactions. On the other hand, he explained that the proposed measure focuses on business transactions, like business permits, mayor's permits and construction permits.

Senator Villanueva asked on the lessons learned by the Civil Service Commission as regards the implementation of the Anti-Red Tape Act because it was supposed to monitor the citizen's charter which covers a step-by-step procedure to obtain services from public offices. He then asked on the number of government offices and agencies that do not have published citizen's charters. Senator Zubiri said that according to the DTI, some of the agencies were compliant but some others have failed as can be gleaned from a report by the National Competitiveness Council. He said that the proposed measure mandates that the agency make a checklist of all the requirements needed for securing the pertinent licenses it offers which must be published in its Internet or website. He said that the checklist should not be revised just to add more documents.

Senator Villanueva stated that a citizen's charter requires each office to post relevant information regarding frontline services, among others, including step-by-step procedures, personnel responsible for each step, maximum time needed to conclude the process, documents to be presented by the client, amount of fees to be paid, if necessary, and the procedure for filing of complaints. He asked whether the clients of the frontline services noticed the mandatory postings. He suggested that the measure require the implementing agencies to ensure that the clients can see the notices posted. He said that one of the key features of the Anti-Red Tape Act was that it requires the use of a report card survey to serve as a systematic and quantitative public feedback mechanism to gauge the quality of frontline services

in the government offices. He added that it was also a way for Congress to monitor if the officers are complying with specific provisions of the Anti-Red Tape Act, like posting of citizen's charter, prohibition of hidden costs or no lunch break.

Senator Zubiri explained that under the Anti-Red Tape Act, the Civil Service Commission, in coordination with the Development Academy of the Philippines, would conduct an annual report card survey. Unfortunately, he said that only a few agencies were surveyed in 2015, like BIR, GSIS, Pag-IBIG, LRA, LTO, PhilHealth, PRC, PSA, Land Bank of the Philippines and SSS. He acknowledged that CSC was not able to cover the entire government bureaucracy because it is admittedly very huge.

Senator Zubiri expressed confidence that with the creation of the Ease of Doing Business Commission, business transactions and registration will be handled properly. He said that at the proper time, the Committee on Trade, Commerce and Entrepreneurship would introduce an amendment to the bill that would place the commission under the DTI, as suggested by Senator Recto.

Asked what services are included in the proposed comprehensive checklist which are not currently covered by the Citizen's Charter under the Anti-Red Tape Act, Senator Zubiri stated that the bill is pushing for transparency procedures similar to the Citizen's Charter, such as requiring the posting of client information. He explained that the Ease of Doing Business Act aims to complement and fortify the Anti-Red Tape Act by providing a uniform and comprehensive checklist of requirements—for instance, LGUs shall have uniform checklist for business permits; the BOC and its agencies which issue import-export clearances shall have the same set of requirements across regions. Furthermore, he said that there would be an online posting of such checklist and requirements in the official website of national government agencies and LGUs for easy reference.

Senator Villanueva, however, pointed out the need to ensure that the functions of the said office would not overlap with the purpose of the Anti-Red Tape Act considering that both measures provide for a prescribed processing time for offices and/or agencies to act upon a certain request.

As regards the difference in the prescriptive period, Senator Villanueva noticed that the prescribed

period in the Anti-Red Tape Act requires that the application request be acted upon no longer than five days for simple transactions and 10 days for complex transactions; the Ease of Doing Business Act, on the other hand, requires agencies to process the application and communicated decision within the following prescribed time—for example, three days for simple transactions and 10 days for complex transactions; for special type of businesses, the processing period is no longer than 30 days or as determined by concerned agencies.

Asked how the differences in period would be reconciled, Senator Zubiri stated that the phrase “deemed approved” was not in the provision of the Anti-Red Tape Act compared to the time adjustment under Section 7 of the Ease of Doing Business Act. He noted that in the bill, the prescribed processing time for simple business applications was shortened so that the business permits for *sari-sari* stores and other MSMEs would be approved in three to 10 days; on the other hand, a 30-day prescribed processing time would be required for businesses which need technical evaluation, like a petrochemical plant whose design, planning and technical specifications must be checked.

On the matter of complex transactions which require inter-agency collaboration in relation to the Anti-Red Tape Act, Senator Zubiri said that when he opened his ice plant business, he had to submit Environmental Compliance Certificates (ECCs), FDA approval certification as well as engineering designs to the city/municipality where his ice plants would be located. He added that a more complex business entails a more complex set of requirements. Even worse, he said, was when he put up a solar power plant in Bukidnon, the lot plan of which took the DENR six months to approve. He said that under the bill, investors would have a more favorable and friendly business environment.

To the adoption of the definition of “complex transactions,” Senator Villanueva inquired if there would be a prescribed time for business applications parallel to other frontline services or remaining services covered by the Anti-Red Tape Act.

Replying in the affirmative, Senator Zubiri disclosed that the proposal for a 10-day prescribed period seemed impracticable as there was not one government agency that could actually comply within such period especially when the nature of business is complex or large scale, so that the prescribed period was adjusted to 30 days, as agreed upon by all agencies. He

concurred with the statement of Senator Villanueva that frontline services fall under the Anti-Red Tape Act, while business permits, licenses, and other requirements fall under the Ease of Doing Business Act.

On Section 19, which enumerates the powers and functions of the Ease of Doing Business Commission, Senator Villanueva asked how the commission could assist in the filing of complaints inasmuch as the Anti-Red Tape Act already has a feedback mechanism through a report card survey administered by the CSC.

Senator Zubiri said that while the Anti-Red Tape Act is laudable, its actual implementation is remiss in terms of filing cases. He disclosed that since businessmen feared seeking relief from the CSC, complaints were filed with DTI. He said that through the Ease of Doing Business Commission, businessmen would be assisted in filing complaints with the CSC as the lead agency for administrative cases, and the Office of the Ombudsman as regards criminal cases. He said that the measure would provide a recourse in filing complaints as well as in protecting the rights of the businessmen. He said that with the help of Senator Recto, the provision to establish the Ease of Doing Business Commission would be amended, by coming up instead with an agency or office under the DTI since some senators are averse in putting up new commissions.

Relative thereto, Senator Villanueva admitted that he also has strong reservations in the establishment of commissions.

Inasmuch as the Philippine Competition Commission has done its job very well to upkeep the fair market competition of businesses in the country, Senator Zubiri said that the Ease of Doing Business Commission would ensure that there are no antitrust or monopolies by a particular business.

To the remark that the Philippine Competition Commission is facing a lot of cases to date, Senator Zubiri said that it is a good sign that the commission was ruffling a lot of feathers. He said that if the same undertaking would likewise be done by the Ease of Doing Business Commission yet no one would complain, it means that the office is not effective.

At this point, Senator Villanueva clarified that his questions seek to aid the Sponsor in shaping the bill in such a way that it would strengthen existing laws.



Asked how the proposed national policy would ensure that it would be coherent with the business policy thrust of LGUs, and how the commission would account for the differences in the technical and resource capacities in various LGUs, Senator Zubiri said that the main purpose of establishing the Ease of Doing Business Commission was to articulate and discuss with LGUs the requirements for business permits, clearances and/or permit applications. He noted that the National Competitiveness Council has spearheaded the same by asking LGUs to come up with a common checklist, further recalling that there was a different requirement when he put up his ice plant business in Cagayan de Oro compared to his ice plant in Iloilo and in Cabancalan, Negros Occidental which, to him, seems like a practice of red tape.

He said that the commission would harmonize all the requirements for business permits and clearances so that there is no diversified set of requirements in every region.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1311**

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

#### **MANIFESTATION OF SENATOR DRILON**

Preliminarily, Senator Drilon stated that he, along with Senators Gordon, Lacson and Recto followed the parliamentary tradition of facing and addressing the presiding officer rather than the other member who has the floor. To follow tradition as well as avoid heated personal discussions, he requested that the senators reinstate the practice of addressing the presiding officer and referring to the other member in the third person.

For his part, Senator Zubiri suggested that the non-swiveling podiums be installed in the session hall when the Senate relocates to the Fort Bonifacio area. Senator Sotto believed that the proposal could

be carried out immediately by using podiums which are positioned adjacent to each other.

#### **CHANGE OF REFERRALS**

Upon motion of Senator Sotto, there being no objection, the Body approved the change of referral of Proposed Senate Resolution No. 312 from the Committee on Rules to the Committee on Justice and Human Rights.

In the same way that the referrals of certain bills had earlier been transferred to the Committee on Rules to rectify the bills that were reported out by the Committee on Justice and Human Rights under Committee Report No. 18, Senator Sotto informed the Body that the referrals of two resolutions and three other bills would also need to be transferred to the Committee on Justice and Human Rights.

Upon motion of Senator Sotto, there being no objection, the Body approved the change of referral of Proposed Senate Resolution Nos. 70 and 126, as well as Senate Bill Nos. 868, 1285 and 1310 from the Committee on Public Order and Dangerous Drugs to the Committee on Rules.

#### **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 6:44 p.m.*

I hereby certify to the correctness of the foregoing.

  
**ATTY. LUTGARDO B. BARBO**

*Secretary of the Senate*

Approved on March 8, 2017