



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 38
Monday, December 9, 2019

EIGHTEENTH CONGRESS
FIRST REGULAR SESSION

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CALL TO ORDER

At 3:00 p.m., the Senate President, Hon. Vicente C. Sotto III, called the session to order.

PRAYER

Sen. Francis N. Pangilinan led the prayer taken from the Book of Isaiah 40:29-31:

“He gives strength to the weary and increases the power of the weak.

“Even youths grow tired and weary, and young men stumble and fall; but those who hope in the Lord will renew their strength.

“They will soar on wings like eagles; they will run and not grow weary, they will walk and not be faint.”

Almighty Father, as we near the closing of the Southeast Asian Games, we thank You, O Lord, for our Filipino athletes who have sacrificed time and energy to bring honor to our nation.

We thank You too for our sports officials, those of whom gave their all unselfishly for the cause of Philippine sports.

We thank You for the opportunity to showcase Philippine sports and our talents in this 30th Southeast Asian Games.

As we pray for our athletes, we pray too for our countrymen who have suffered from the onslaught of Typhoon *Tisoy*. We pray that hand in hand, the government and the private sector come together to bring assistance to those in need and that both relief and rehabilitation efforts run smoothly in the typhoon’s aftermath.

Continue to bless, O Lord, our nation and our people. In the Name of Jesus, we pray.

Amen.

NATIONAL ANTHEM

The Senate Choir led the singing of the national anthem.

SUSPENSION OF SESSION

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

It was 3:03 p.m.

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RESUMPTION OF SESSION

At 3:13 p.m., the session was resumed.

ROLL CALL

Upon direction of the Senate President, the Secretary of the Senate, Atty. Myra Marie D. Villarica, called the roll, to which the following senators responded:

Angara, S.	Pangilinan, F. N.
Binay, M. L. N. S.	Pimentel III, A. K.
Cayetano, P. S.	Poe, G.
Dela Rosa, R. B. M.	Recto, R. G.
Drilon, F. M.	Revilla Jr., R. B.
Gatchalian, W.	Sotto III, V. C.
Go, C. L. T.	Tolentino, F. T. N.
Hontiveros, R.	Villanueva, J.
Lacson, P. M.	Villar, C. A.
Lapid, M. L. M.	Zubiri, J. M. F.
Marcos, I. R.	

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

Senator Pacquiao was unable to attend the session “since he is not feeling well” as indicated in the December 9, 2019 letter of the Senator’s chief of staff.

Senator Gordon was on official mission abroad.

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

APPROVAL OF THE JOURNAL

Upon motion of Senator Zubiri, there being no objection, the Body dispensed with the reading of the Journal of Session No. 37 (November 27, 2019) and considered it approved.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

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

- The Philippine Arnis Team headed by Coach Richard Gialogo;
- Senior Citizens Organization of San Luis,

Aurora, headed by Mr. Jose Angara and Mr. Rudy Eutaquio;

- Morgan Novicio, Barangay Chairman of Barangay Nonong Senior, San Luis, Aurora;
- Gov. Eduardo Cadiano of Occidental Mindoro;
- Rep. John Rey Tiangco of Navotas;
- Vice Governor Melvin Vargas of Cagayan; and
- Atty. Galli Angeles and Coun. Mikee Miranda of Lipa City, Batangas.

Senate President Sotto welcomed the guests to the Senate.

MANIFESTATION OF SENATOR ZUBIRI

Acting on Senator Marcos’ request, Senator Zubiri manifested that Senate Bill No. 1111, of which she was the author, was deemed considered part of Committee Report No. 19 on Senate Bill No. 1155 (amending the Comprehensive Firearms and Ammunition Act); hence, she was considered coauthor of the bill.

APPROVAL OF SENATE BILL NO. 1155 ON THIRD READING

Upon motion of Senator Zubiri, there being no objection, the Body considered, on Third Reading, Senate Bill No. 1155, printed copies of which were distributed to the senators on November 28, 2019.

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

AN ACT FIXING THE VALIDITY PERIOD OF THE LICENSE TO OWN AND POSSESS, PERMIT TO CARRY OUTSIDE OF RESIDENCE OR PLACE OF BUSINESS AND REGISTRATION OF FIREARMS, AMENDING FOR THE PURPOSE SECTIONS 7 AND 19 OF REPUBLIC ACT NO. 10591, OTHERWISE KNOWN AS THE “COMPREHENSIVE FIREARMS AND AMMUNITION REGULATION ACT.”

Secretary Villarica called the roll for nominal voting.

yes

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Angara	Marcos
Binay	Pangilinan
Cayetano	Poe
Dela Rosa	Recto
Drilon	Revilla
Gatchalian	Sotto
Go	Tolentino
Hontiveros	Villanueva
Lacson	Villar
Lapid	Zubiri

Against

None

Abstention

None

With 20 senators voting in favor, none against, and no abstention, the Chair declared Senate Bill No. 1155 approved on Third Reading.

EXPLANATION OF VOTE OF SENATOR RECTO

Pursuant to Senator Zubiri’s motion, duly approved, the written explanation of vote of Senator Recto was deemed read and inserted into the record, to wit:

When rules are complicated and the process in securing permits are complex, it leads not to compliance but to evasion. This is true in taxes, in business permits, or in the licenses to own guns.

As to the latter, public interest dictates that every firearm in this land must be accounted for. But when permitting rules have become unreasonably redundant, gun owners are forced to dodge them. When this happens, it leads to the proliferation of loose firearms.

But lest the intent of this bill be misconstrued as the liberalization of gun ownership, let me stress that it is not – and is, in fact, far from it.

The requirements, the hurdles, the tests, the clearances remain. In the checklist of what the applicant must do and what he must submit, not one of the existing ones will be taken out.

What this bill intended to do, however, is to make the birthday of the owner the common

expiry date of his licenses, just like in the case of the driver’s license. Instead of the different expiry dates, this bill seeks to grant the registration and license to own with a uniform validity of five years, while the permit to carry a validity of two years.

These are not permanent privileges, but can be revoked anytime for due cause. The permit to own or carry a gun is not an irrevocable franchise.

The toll of red tape can be gleaned in this number: close to 500,000 registered gun owners who, perhaps out of compliance fatigue, were unable to secure the necessary permits four years ago. The reason often cited is the jumble of rules which makes compliance hard.

I vote “yes” to this measure.

APPROVAL OF SENATE BILL NO. 1077 ON THIRD READING

Upon motion of Senator Zubiri, there being no objection, the Body considered, on Third Reading, Senate Bill No. 1077, printed copies of which were distributed to the senators on November 28, 2019.

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

AN ACT CREATING A NATIONAL TRANSPORTATION SAFETY BOARD, PRESCRIBING ITS POWERS AND FUNCTIONS, AND APPROPRIATING FUNDS THEREOF.

Secretary Villarica called the roll for nominal voting.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Angara	Marcos
Binay	Pangilinan
Cayetano	Poe
Dela Rosa	Recto
Drilon	Revilla
Gatchalian	Sotto
Go	Tolentino
Hontiveros	Villanueva
Lacson	Villar
Lapid	Zubiri

Against

None

Abstention

None

With 20 senators voting in favor, none against, and no abstention, the Chair declared Senate Bill No. 1077 approved on Third Reading.

EXPLANATION OF VOTE OF SENATOR RECTO

Pursuant to Senator Zubiri’s motion, duly approved, the written explanation of vote of Senator Recto was deemed read and inserted into the record, to wit:

This bill, like our traffic-delayed planes and buses, may have been late in coming. But the alternative of it not arriving at all would have been the greatest tragedy.

The time to organize our own National Transportation Safety Board (NTSB) was actually yesterday. The sheer volume alone of people who travel by bus, train, ship, and air augurs for an investigative body that will probe the causes when something tragic happens in their journey.

In this land, such occurrences are not rare. Buses fall off ravines and crash into each other with alarming frequency. Capsized boats are part of the seascape. In this archipelago, ships flounder and sink. We also have our share of plane crashes but, thankfully, the death toll is not high.

But the role of the NTSB is not limited to consummated accidents. Those that nearly happen deserve to be examined because near misses should be plumbed for lessons so these aborted mishaps would not happen again.

If bodies of the dead are autopsied, all the more that the carnage caused by accidents must be dissected for their causes – with one ultimate objective which has been the mantra of accident investigators everywhere: to find out why it happened so it will not happen again.

Our planes, cars, and ships have become safer through the years because lessons of past mishaps were incorporated into their new designs and written into the manuals of their operation and maintenance.

We need a body like the NTSB to show us why accidents happen and how they can be prevented. It will show us a clear picture of

events leading to the accident, a second-by-second countdown of what went wrong.

We need the NTSB to piece together these fragmentary facts into a cautionary tale so that those who perished from these accidents did not fully die in vain.

I vote “yes” to this measure.

APPROVAL OF SENATE BILL NO. 643 ON THIRD READING

Upon motion of Senator Zubiri, there being no objection, the Body considered, on Third Reading, Senate Bill No. 643, printed copies of which were distributed to the senators on November 28, 2019.

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

AN ACT GRANTING NIGHT SHIFT DIFFERENTIAL PAY TO THE GOVERNMENT EMPLOYEES INCLUDING THOSE IN GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS AND APPROPRIATING FUNDS THEREFOR.

Secretary Villarica called the roll for nominal voting.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

- | | |
|------------|------------|
| Angara | Marcos |
| Binay | Pangilinan |
| Cayetano | Poe |
| Dela Rosa | Recto |
| Drilon | Revilla |
| Gatchalian | Sotto |
| Go | Tolentino |
| Hontiveros | Villanueva |
| Lacson | Villar |
| Lapid | Zubiri |

Against

None

Abstention

None

With 20 senators voting in favor, none against, and no abstention, the Chair declared Senate Bill No. 643 approved on Third Reading.

PRIVILEGE SPEECH OF SENATOR GO

Availing himself of the privilege hour, Senator Go delivered the following speech regarding the concession agreements that the government entered into with Maynilad and Manila Water:

I rise today on a matter of personal and collective privilege. After this privilege speech, I respectfully decline to yield the floor for interpellation.

I rise to speak on an issue that affects not just the residents of Metro Manila but all taxpaying Filipinos who deserve every cent of their money's worth and deserve the highest levels of service and ethical behavior from the government and our private partners.

I am talking about the current issue embroiling the Philippine government and the two private concessionaires operating the water utilities in Metro Manila — Maynilad and Manila Water.

To give everyone a bit of a background, just this November, the Permanent Court of Arbitration in Singapore ordered the Philippine government to pay Manila Water the amount of P7.39 billion for refusing to implement the water rate increases that they have demanded in the past. Last year, the government was also ordered to pay Maynilad the amount of P3.4 billion by the same arbitral tribunal for the same reason.

I strongly believe that such a decision is not only disadvantageous to the Filipino people, it is also wrong.

Water is essential to life. As human beings, we are all dependent on water. There is simply no replacement for it in the sustenance of human life. In fact, it is for this very reason that our laws treat water as a public good — a right that must be provided to all members of a society, no matter what the cost will be.

Water is not only an economic resource but also a natural resource for the benefit of all, administered and managed by the State. Water remains at the core of our nation's survival. But these concessionaires act as if they have sovereignty over this resource, that government cannot interfere. *Akala siguro nila na candy lamang ang binebenta nila.* I would like to reiterate that water is a commodity not owned

by anyone and, thus, this should be accessible to all.

The government did not enter into these agreements simply in the exercise of its proprietary function but also in the exercise of its governmental and state function to provide a fundamental public need.

I therefore stand solidly with President Duterte on the water issue. The use of water, as a basic human need, should not be decided by those who make so much money at the expense of the very people who need it. To do so is to lose our being human, our own humanity.

So, if there are those who believe that money and profit are more important than the lives of Filipinos — who we have vowed to serve and whose rights we have pledged to protect — we will be standing on different sides this time. *Dahil masisiknura pa ng Pangulo na hindi tayo magkaintindihan at hindi nila kami kakampihan sa pulitika. Pero ibahin nila kung ang kapakanan na ng bayan ang pinag-uusapan at ang taong bayan na ang kawawa.*

Talagang nakakamangha po ang pananaw ng dalawa nating private water concessionaires dito sa Metro Manila. Wala na po silang ginawa kung hindi abusuhin hindi lamang ang tubig na pagmamay-ari ng mga Pilipino, kundi ang tiwala rin po ng mga consumers ang inaabuso.

Mantakin ninyo, wala na ngang binabayarang corporate income tax ang mga concessionaires na ito dahil pinapasa na sa mga consumers, pagbabayaran pa nila ngayon ang taong bayan at ang gobyerno? Ginigisa nila tayo sa sarili nating mantika. Pati ang mga apo natin na hindi pa ipinapanganak, kasama na po sa magbabayad. Ang mga kababayan natin kung minsan kailangan pang gumising nang napakaaga para lamang mag-igib ng tubig, tapos sila pa ang magbabayad sa buwis ng kumpanya. Tayo ba ay naglolokohan o talagang niloloko lamang po tayo?

Ikalawa, bumaba na nga ang konsumo ng tubig ng publiko, patuloy pa rin ang pagtaas ng presyo. In fact, in the last ten years, Manila Water increased tariffs by 36.4% even if consumption per connection was reduced by 17.4%. *Matagal na ring nagtitiis ang ating mga consumers sa hindi magandang serbisyo sa tubig, tapos ngayon tataasan pa ang presyo?*

Ikatlo, Manila Water, through its "fixers," has continuously opposed several water projects that would improve our water systems. Why? So, they could build their own water provider and raise prices anytime?

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Ika-apat, saan naman kayo nakakita ng kumpanya na hindi pa man naisasagawa ang mismong septic tank desludging nito, nangongolekta na sila agad ng "environmental charge" sa kanilang mga consumers para rito. Ano ito, pay now, service never?

Manila Water has yet to comply with this contractual obligation to provide for sewerage and wastewater treatment facilities in Metro Manila, which clearly constitutes a breach of the concession agreement.

Aside from that, they should also be charged not only for failing to deliver to the terms of their contract, but also for the billions—if not trillions—worth of environmental damage caused by the failure to construct a sewerage and wastewater system. This is aside from almost P1 billion worth of fines that they were told to pay by the Supreme Court last August 2019 because of violations in relation to the Philippine Clean Water Act.

So, I will not be surprised if in the coming weeks citizens will come together and file a Writ of *Kalikasan* class suit against these two water concessionaires.

Tapos tayo pa ngayon ang magbabayad ng bilyun-bilyon mula sa kaban ng bayan dahil pinigilan silang magtaas ng singil sa serbisyong napakababa naman ng kalidad? Ang buong bansa ang magbabayad, hindi lamang ang mga kliyente ng mga concessionaires na ito. The whole constituency, and not just a part of it, will bear the brunt for the greed and selfishness of these big concessionaires.

I am not and will never be against businesses or companies trying to turn a profit. In fact, I strongly believe that promoting a culture of entrepreneurship and fostering a country that is conducive for business and commerce are crucial to creating a better life for us all. *Pero bakit naman pati corporate income tax ninyo ipinapasa ninyo sa tao? Ito ay tunay na kalokohan.*

Let me be clear: business without conscience is just greed. *Inuulit ko po: ang pag-nenegosyo na walang konsensya at puso ay walang pinagkaiba sa kasakiman.*

Alam ko naman na malalaking kumpanya na kayo. Marami na rin kayong naging kontrabusyong sa Pilipinas. Malaki na rin ang kinita ninyo mula sa mga Pilipino. Panahon naman ngayon para ibalik ninyo sa taumbayan ang mga naiambag nila sa inyong negosyo. Palitan naman ninyo ng mas magandang serbisyo. Tulungan naman po ninyo ang naghihirap nating mga kababayan.

The government and the people are now at the mercy of these big private concessionaires. It is apparent that many of the provisions in the concessionaire agreements are unfair and unjust to the Filipino people.

Kaya ang tanong ko ngayon: Sino ba ang mga abogado at opisyal na nakaupo nang pina-bid at ginagawa ang mga kontratang ito? Bakit pinalusot ninyo at hinayaan na magkaganito? Bukod sa hindi makabayan, hindi makatao ang mga kontrata. Wala ba kayong mga puso? These contracts are not pro-people and are clearly meant to bleed money from the Filipino people.

I believe that there is a need to renegotiate and rework these contracts to: (1) eliminate those provisions which are unduly disadvantageous to the government; and (2) align both governmental and private interests to one common goal: public interest.

At the same time, I am also urging the MWSS to explore the possibility of terminating the extension of the concessionaire agreement. The President might also ask that you do this eventually.

With all of these being said, I now urge my fellow officials in government to look into numerous existing contracts and make sure that they are fair to the Filipino people.

I heard these big private concessionaires would like to seek an audience with the President. *Bago pa po kayo makipag-usap sa gobyerno, ayusin muna ninyo ang mga obligasyon ninyo sa pamamagitan ng pagtulong sa mga kababayan nating nangangailangan, maaaring gamot sa mga may sakit, assistance sa mga nabiktima ng kalamidad o hindi kaya ay suporta sa mga pulis at sundalo at sa mga naulila nilang pamilya.*

Alam ninyo po, minsan lamang tayo dadaan sa mundong ito, kaya gawin na natin ang tama, unahin na natin ang kapakanan ng mga kababayan nating Pilipino. Magtulungan na po tayo para sa ating bansa.

I urge the Department of Justice, the Department of Finance, and the Office of the Solicitor General to perform your mandate and ensure that the government protects the interest of the Filipino people. *Hindi natin kailangan ng mga kumpanyang pinagkakakitaan lamang ang ating mamamayan. Protektahan natin ang mga karapatan at kapakanan ng ating bayan at ng ating mga kababayan.*

Sa ating mga kababayan, tapos na po ang panahon ng mga nanlulupig. Watawat

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na po ng ating bansa ang namamayagpag. Huwag po kayong papayag na magpalugi at maapi.

Kasama ninyo ako at ang Pangulo. Ang importante sa amin ay ang interes ng bayan. Hindi baleng magkaroon tayo ng deperensiya sa pulitika. Pero kapag bayan na po ang pinag-uusapan, ibang usapan na po ito.

And if the President will go down because of this issue, I will go down with him. Walang problema iyan, uwi na kami ng Davao. Kung sa Bisaya pa, "uli na mi."

And just like what the President said even before he became President, sabi nga niya, "I am here because I love my country and I love the Filipino people."

Tama siya, "Pilipino ako and I love my country more than anything else." Ito po iyon. Hinding-hindi kami magdadalawang-isip na ipaglaban ang karapatan ng mamamayang Pilipino, ng ating bayan.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Zubiri, there being no objection, the Chair referred the privilege speech of Senator Go to the Committee on Public Services.

PRIVILEGE SPEECH OF SENATOR TOLENTINO

At the outset, Senator Tolentino manifested that after his speech, he would decline to be interpellated to save the Chamber valuable time, as well as to enable him to attend to possible awarding ceremonies for four or five potential gold medal winners coming from a kickboxing tournament at 4:00 p.m. that day.

Availing himself of the privilege hour, Senator Tolentino delivered the following speech:

UHAW PA SI JUAN: THE WATER CRISIS AND THE CONCESSION AGREEMENTS

The story of our water is the quintessential modern-day Filipino story of wealth, monopolies, corporations, and privatizations of natural resources running roughshod over our Constitution, statutes, and equality. It is a story largely hidden from public view.

At this juncture, a video was presented before the Body showing the difficult life of the millions

of ordinary people in Metro Manila brought about by the water crisis which, he feared, may persist until the summer of 2020.

Ipinakita po natin sa video, isa lamang marahil sa maraming mga estudyante na hindi nakapasok noong mga nakaraang linggo at buwan dahil sa malawakang water crisis sa Metro Manila nitong taon na ito na nakaapekto sa tinatayang anim na milyong katao na residente ng Metro Manila, at inaasahan pa po ito na aabot ngayong summer of 2020.

Si nanay naman po, marami siyang problema, hindi lamang dahil walang tubig kung hindi dahil sa mataas na presyo ng tubig na nitong Setyembre lamang tumaas ng 0.69 per cubic meter. Ibig sabihin ay magbabayad siya ng dagdag na P0.93 hanggang P2.06 at P4.20 sa kaniyang babayaran depende sa dami ng nakokonsumo nilang tubig kada buwan.

Sino po ba ang dapat sisihin? Uhaw na si Juan at dahil diyan po sa mga korporasyon na narinig ko rin kanina na nasa likod ng kasalukuyang water crisis gamit ang mga kontrata na hanggang ngayon, 22 taon na ay nagpapapilipit pa sa bayang Pilipino at na-extend pa hanggang 2037 sa ilalim ng mga Letters of Undertaking na walang legal basis, na ayon kay J. Adams Snyder, ay "Unchecked corporate power leads to tyranny."

In the Philippines, around one to 10 people do not have access to improved water resources, that is according to a World Bank study. As stated in *World.Org*, out of 105 million Filipinos, nearly seven million rely on unimproved, unsafe, unsustainable water. *Subalit kung titingnan natin ang mission and vision statement ng Manila Water, ang nakalagay po doon sa kanila "To create an exceptional customer experience in the provision of sustainable solutions vital to health and life." Sa Maynilad naman po nakalagay sa kanilang mission, "To provide safe, affordable, sustainable water solutions."*

Ang nangyari po nitong mga nakaraang araw, kagaya po ng narining natin kanina kay Senator Go, nagkaroon po ng desisyon ang Permanent Court of Arbitration sa Singapore para payagan ang Manila Water at ang Maynilad na magtaas ng kanilang rates.

Natatandaan ko pa po noong nakaraang taon, bilang isang mamamayan, ako po ay nag-file ng petition. I filed a petition last year, December 12, 2018, almost a year to be exact; I filed another petition, January 14, 2019; another petition, March 2, 2019. Dumulog po ako sa

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MWSS, *tinatanong ko po at nag-oppose ako, "Bakit tinataas ang presyo ng tubig?" Hindi po ako sinasagot ng MWSS. Wala po akong natanggap na reply kahit po mayroong batas na 15 days dapat po sila na mag-reply. Ngayon ko lamang po nalaman at naintindihan: dahil pala sa concession agreement ay mayroong non-interference clause. Hindi dapat makialam ang regulatory office sa pagtataas ng rates dahil kung sila ay makikialam, sila ay papatawan ng penalty na nakasaad sa kontrata. At ganoon nga ang nangyari.*

Kaya tayo mayroong pinag-uusapan na P3.45 billion para Maynilad at P7.39 billion para sa Manila Water ay dahil sinasabi nila na pinagbawalan silang magtaas. Nakalagay sa Section 4 ng Letter of Undertaking, and I quote: "The Republic shall not interfere with the mechanisms contained in Art. 9 of the Agreement relating to the setting of rates and connection charges for water and sewerage services provided by the Concessionaire within the service area."

Sa palagay ko po mali ito. This has no legal basis. While the Civil Code provides that contracts and statements between parties have the force of law, the concession agreements I mentioned is against public policy, contrary to morals, contrary to good customs, contrary to good order. Jurisprudence also instructs us that onerous or excessively burdensome provisions which are disadvantageous to the government should, therefore, be declared null and void.

Kagaya po ng narinig ko kanina kay Senator Go, sinabi ng ating Pangulo na itong mga kontratang ito ay one-sided. Ginatasan po — hindi po ginatasan — tinubigan ang ating mga kababayan dahil hindi natin alam kung ano ang mga probisyon na nakasaad dito. Kabilang ng mga probisyon sa concessionaire agreement na nakita ko — pinag-aralan ko ito — ina-allow ang concessionaires to recover the corporate income tax. Pag-aaralan na po natin sa isang taon ang pagbabago ng National Internal Revenue Code sa pangunguna ni Sen. Pia Cayetano. Pero hindi ko alam ito dati na iyon palang corporate income tax ay pinapasa sa mga consumers bilang consumption tax.

In effect, exempt po sila sa pagbabayad ng corporate income tax. Nagkaroon po ng ruling ang International Chamber of Commerce dated April 21, 2015, that Manila Water is a public utility and, therefore, cannot pass on its corporate income tax to its consumers.

Sinabi rin ng ating Kataas-taasang Hukom in the case of Republic v. Meralco (G. R.

No. 141314) that public utilities are prohibited to recover corporate income tax as operating expenses. As a result, they cannot pass this off to consumers. *Subalit hindi po ganiyan ang nangyayari.*

This Representation wishes to highlight that, according to the 2018 financial statements of the concessionaires, in addition to the P20 billion (Maynilad: P9.642 billion; and Manila Water: P 10.731 billion) expenditures annually being charged to its consumers, the corporate income tax of Maynilad at around P2.8 billion and the corporate income tax of Manila Water at around P2 billion have been passed on to consumers. In effect, it is as if these concessionaires are charging their consumers consumption tax, which is defined as a tax levied on consumption spending on goods and services, or a percentage tax, which is generally considered regressive and contrary to Section 28(1), Article VI of the 1987 Constitution which provides that the system of taxation shall be progressive.

Kagaya po ng narinig ko kanina, para namang ginisa uli sa sariling mantika si Juan. Wala na ngang tubig, pagbabayarin pa ng buwis. Ang iniisip ko rito, kung ang nagbayad sana ng mga buwis ay ang korporasyon, mayroon pa sanang pera si Juan na panggastos at pambili ngayong pasko.

The P4.8 billion income tax is enough to construct 4,800 classrooms or 12,000 socialized housing units, and it could fund the conditional cash transfers of more than 300,000 families under the 4PS program. *Ang dami na po ng katumbas niyan.*

As a result, these concessionaires have become tax havens. In the normal course of business, the income that is distributed to the stockholders is supposed to be taxed twice before it is distributed: first is the 30% corporate income tax; second is the 10% passive income tax on dividends. With the application of the provisions of the Concession Agreement, Maynilad and Manila Water are not ultimately burdened by the 30% corporate income tax. Even though they are paying for it, the taxes paid are still being shifted to the poor consumers by including it in their bills. It has been estimated that P3.1 billion corporate taxes has been shouldered by consumers.

When we look at this at a different perspective, these concessionaires are actually earning substantially more than the local government units they serve including Navotas, whose congressman is present here. For 2018, Maynilad reported income before tax of P10.3 billion, while

the LGUs they serve, Caloocan and Pasay City, earned only P2.2 billion and P2.1 billion, respectively. Parañaque earned P877 million, Muntinlupa, P1.6 billion, Bacoor, the birthplace of one of our colleagues here, P732 million—all inclusive already of their shares from the Internal Revenue Allotment.

On the other hand, Manila Water reported income before tax of P8.6 billion, while the LGUs they serve, Pasig earned P6.9 billion, Taguig P5.5 billion, and Antipolo, P1.4 billion. While earning so much already, these concessionaires are still allowed to shift the burden of their expenses to their consumers. This is another disturbing truth.

Ang isa pa pong nakakalungkot, kapag nawalan pala ho ng tubig, under Sections 5.1.6 and 5.4 of the Concession Agreement, ay kailangan pa hong maghintay ng mahigit 24 hours bago sila rumisponde. Doon sa isa pong provision sa Section 9.2.3.2 ay mayroon pong nakalagay doon na kung gusto nilang magtaas ng rates within the period of 30 days, kahit hindi po sumagot ang Regulatory Office ay iyon po pala ay deemed approved iyong rates adjustment limit. Talaga po itong nakakasakal.

Doon po sa isang provision nakalagay na kung sila ay malulugi, lahat po ito ay babayaran ng ating pamahalaan. Ang isa pa hong nakakalungkot, lalo pang nahihirapan si Juan dahil wala po talaga tayong kalaban-laban sa kontrata. Section 12.5 on the Waiver of Right to Appeal curtails the right of the government to avail of the proper remedies against an adverse judgment. It is the height of lunacy that a mere contractual stipulation could render the Republic defenseless against unfair and exploitative agreements.

Sang-ayon po sa Section 15.1 ng General Conditions ng Concession Agreement, nakalagay po roon na hindi pupuwedeng mag-imbetiga ang kahit anong ahensiya o komite ang ginagawa nila sa concession agreement. Mali po siguro ito dahil pagbabawalan maging ang Senado na mag-imbetiga. Ang Senado po ay mayroong oversight powers at kasama po rito ay ang kapangyarihan sa ilalim ng ating Saligang Batas ang mag-imbetiga.

I also call attention to the waiver of the Republic of itself and its assets and revenues, as well as any and all immunity from suit, execution or other legal processes in connection with any action or proceeding. *Sa napag-aralan ko po, sa Constitutional Law, pwede lamang po itong waived kung ang ginagamit po ng ating Estado ay ang kaniyang proprietary functions. Subalit*

sa pagpasok po sa concession agreement, ang ginagamit po ng Estado ay ang kaniyang sovereign and governmental functions kung kaya hindi po kailangan at hindi po dapat ma-waive ang karapatang ito.

Finally, *nagkaroon po ng extension ang mga agreement. Ang nakalagay po roon sa Concession Agreement, “The agreement can be extended but the Concession Agreement should have expired first before it was renewed.” Iyon po ay na-renew noong 2009. Mahaba pa po ang panahon at hindi pa nag-i-expire, mag-i-expire po sana ng 2022 and, thereafter, it was renewed to take effect for another period of years, ang total po ay magiging 37 years.*

We hold the water concessioners to their words—that they will, in good faith, work out an agreement with the government wherein the public welfare is upheld and protected. Let the one who has “*palabra de honor*” keep to his promise in view of the expectations such promise has already created.

As I close, what we have here is not even a breach of contract, fraud or even robbery, but what we have here is a modern-day slavery where the Filipino people become like slaves for water similar during the Roman times when salt is as rare as a precious item.

This humble Representation would like to stress that this is not meant to offer the panacea for this tumultuous, long-winded issue on the water crisis and the liabilities of MWSS, Maynilad and Manila Water. *Kailangan pong maayos ito para sa karapatan ng nauuhaw na si Juan.*

This humble Representation reiterates the call for an investigation. The Agreements provided for a waiver of the government from conducting investigations and instituting actions, which runs counter — as I have mentioned a while ago — to the very purpose of legislative inquiry provided for under the 1987 Constitution. As stated in *Government of the Philippines vs. Springer*, a 1927 case, the powers of inquiry of the legislative department of the government, like the boundaries of the ocean, are vast and the Constitution is the shore of legislative authority which the waves of legislative enactment may dash over but they cannot leap.

In closing, our national hero, Gat Jose Rizal, once wrote in *El Filibusterismo* (September 1891):

“Napakatamis ng tubig at naiinom, bagaman lumulunod sa alak at serbesa at

pumapatay sa apoy. Nagiging singaw ito kapag pinainitan; kapag naligalig, nagiging karagatan na minsan nang pumuksa sa sangkatauhan at yumanig sa dibdib ng mundo."

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Zubiri, there being no objection, the Chair referred the privilege speech of Senator Tolentino to the Committee on Public Services.

PRIVILEGE SPEECH OF SENATOR HONTIVEROS

Availing herself of the privilege hour, Senator Hontiveros raised concerns on China's access and control over the Philippines' one-power transmission grid system.

Following is the full text of Senator Hontiveros' privilege speech:

Katatapos pa lamang ng SEA Games. We are flush with victory. Our athletes have proven once more that the Filipino spirit is indomitable. Hinding hindi tayo papasakop. Hinding hindi tayo uurong.

However, beyond the unifying jubilation of our athletic victories, there is another issue on which our country needs to come together — and urgently. *Isang mahalagang aspeto ng nasyonalismo ay ang pagtatanggol ng ating teritoryo kasama ang public utilities, ang pagtitiyak na ang ating mga kontrata ay nasa best interest ng Pinoy, at higit sa lahat, ang pangangalaga ng ating national security anuman ang mangyari.*

Hindi huminto na mapag-usapan ng ating mga kababayan ang usapin sa pag-control ng China sa ating mga transmission lines. Matatandaan noong November 19, 2019, during the budget deliberation of the Department of Energy (DOE), I posed the question: "Is it possible for our power grid to be taken down remotely?" The replies, as well as the exchanges that followed, were interesting, to say the least. Sa isang banda, sabi ng sarili nating mga government agency, ito ay posible. In fact, according to DOE Secretary Alfonso Cusi, China can "potentially shut down the Philippines' power transmission" because of its digital nature. TRANSCO CEO and President Melvin A. Matibag also went on record as saying that our government, through TRANSCO and DOE,

do not have full access and have very limited control of our transmission grid. It is the National Grid Corporation of the Philippines (NGCP), a private corporation with a concessionaire agreement with the government and 40% owned by China via its State Grid Corporation, that controls the grid. It was also during my interpellation that it was confirmed that a certain NARI Group—a Chinese company—provides the installed system software in the system control room.

Expectedly, *ito ay pinabulaanan ng NGCP na nagsabi na, "China is no Wile E. Coyote with a red button" to shut down our power grid. Malacañang has, it appears, decided not to listen to its own government officials, and the President has been quoted as saying, "I trust China."*

That is a threshold question that I would like to ask today. Can we really trust China? I want to further break it down into three questions. Firstly, to what extent does China control our transmission lines? Secondly, is there reason to fear? Thirdly, *ano ang epekto nito sa pang-araw-araw na buhay ng mga Pilipino?*

First question: to what extent does China control our transmission lines?

According to NGCP, China's role via the State Grid Corporation is that of "technical adviser." Our information, however, suggests otherwise. First of all, *isa sa diumanong unang mga ginawa pagkatapos ng takeover ng NGCP ay ang pagpasok ng NARI control system. Ang operating manuals ng control system na ito ay nakasulat sa wikang Mandarin, ayon na mismo sa ating local control engineers. Ang control system ay napaka-high tech at kailangan ng information and communication technology (ICT) para sa remote at automatic monitoring ng power facilities. Pag may aberya, mga Chinese na engineers lamang diumano ang maaring mag-trouble shoot. Ang kaalaman ng mga local engineers ay limitado sa pagpapagana ng equipment.*

Sa isang ginawang panayam sa DZMM ay binaggit ng NGCP spokesperson sa katulad din na tanong kung mayroon bang Chinese engineers na nagmamando ay sinabi niyang "Ever since, Pilipino po iyan"—taliwas sa pag-amin noong budget hearing na may Chinese engineers dati at nakasulat sa wikang Mandarin ang mga manual bago ito na-translate. Sa isa na namang panayam ay muling tahasang sinabi ng spokesperson ng NGCP na advisers at board members lamang ang role ng mga Chinese na nagtatrabaho sa NGCP dahil bilang may

40% share, entitled and China sa four seats. *Mawalang galang lamang po ngunit ito ay pinabubulaanan ng mga dokumentong nakarating sa aking tanggapan. Ang mga dokumentong ito ay nagpapatunay na si Mr. Liu Zhaoquiang ay umuupong Assistant Chief Technical Officer for Operations and Maintenance. Correct me if I am wrong, but if your designation is operation and maintenance, you work in the nuts and bolts of the enterprise. This document is supported by a photo of Mr. Liu Zhaoquiang representing the NGCP with the Bureau of Fire Protection. Another document names another Chinese national, one Wen Bo, as the Chief Technical Officer. Ang malala pa, the current chairperson of the NGCP is Zhu Guangchao of the State Grid Corporation of China. According to the *Business Mirror*, on him “rests the corporation’s operation, maintenance and development of our country’s power supply and demand.” With Chinese nationals at the helm, it is of little surprise that Filipino engineers are regularly sent to China to participate in training programs hosted by the State Grid Corporation of China.*

Pero hindi rito nagtatapos. Dahil pangatlo, the NGCP has also awarded various procurement contracts to different Chinese firms. Materials for the infrastructure of the transmission lines have been supplied by Chinese firms using Chinese design technology. I am prepared to show everybody a list of Chinese corporations that have won contracts with the NGCP. Makikita sa listahang ito na 43 contracts have been awarded to Chinese corporations.

Bukod dito, it leads me to believe that there are indeed issues of proprietary access. Ibig sabihin, mula nang pinalitan at inilagay ang software system called NARI, ang mga sumunod na pangyayari ay nagbibigay daan na upang ang halos lahat mula sa mga gamit at mismong mga tao rito ay dapat compatible o akma sa inilagay na buong technology design inside the system control room which operates our nationwide transmission lines.

Ang chairman, Chinese; halos lahat ng contractors, Chinese; ang system software, made in China; at ang trainings sa China. Pero dapat magtiwala at maniwala tayo na ito ay “Filipino-run?” It is my duty as a legislator to sound this alarm. It is our duty as the legislature to ensure that the interests of Filipinos are adequately protected.

Second question: Is there reason to fear?

This is not the first time that the issue of national security has been raised in relation to Chinese involvement in the NGCP. In 2015,

none other than our much beloved and much missed, Sen. Miriam Defensor Santiago, said that a “national security virus” has infected the country’s power sector. Even then National Security Adviser Cesar Garcia expressed concern, saying that the country’s power transmission grid should be kept solely in the hands of the Philippine government. In fact, then Energy Secretary Jericho Petilla revealed that the visas of the 18 Chinese citizens working in the NGCP would no longer be renewed.

Kung dati tayo ay may pangamba sa posibleng implikasyon ng dayuhang puwersa sa ating power sector, bakit ngayon tila hindi na dapat? Dahil ba kaibigan na natin ang China — ang China na naglubog ng barko na tangan ang ating mga mangingisda? Ang China na kailanman ay hindi iginalang ang naging pasya ng isang international tribunal? Ang China na patuloy ang militarization sa mga islang dapat ay sa atin?

Sabi pa ng spokesperson ng NGCP, it is not possible for China to remotely shut down our power supply because to shut down the 200 substations, China would need at least 200 substation managers to shut off several breakers in each of the substations one by one. It would have to be shut down manually. Not only as a TRANSCO president laughingly called the system “Jurassic” and NGCP’s statements an outright lie, but in 2014 the then United States National Security Agency director Michael S. Rogers already conceded that China is capable of mounting cyberattacks that would paralyze power grids in the USA. US intelligence reports confirm the capacity of China to engage in cyber warfare on Critical National Infrastructure (CNI), including power grids. Thus the need for a cybersecurity audit of the NGCP’s operations, including a source code audit of the software and firmware used in the SCADA system installed by the State Grid Corporation of China to determine whether backdoors or other vulnerabilities have been maliciously inserted into the code.

Worryingly, the NGCP spokesperson also did not deny that NGCP sources its technology from Huawei—only that proper bidding processes were followed. I find this worrisome because of a 2012 report by the US Permanent Select Committee on Intelligence that found clear ties between Huawei and the PRC military, and suggests that Huawei carries out research and development for Chinese intelligence.

It should also be known that the issue of national security has been raised in this Chamber

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before, during the Senate deliberations of now Republic Act No. 9511. This was raised by none other than the late and beloved Senate President, then Sen. Nene Pimentel. May I quote from the Records dated September 9, 2008, page 557: "Considering that the State Grid of Hong Kong Ltd. is a wholly owned subsidiary of the National Grid of China, Senator Pimentel asked about its implication to the country's national security. Senator Enrile replied that he does not see any national security problem for the Philippines because the Chinese could not overhear anything and could not even probably even feel or hear the passing of current in the wires." *May mga telecommunication trucks na sa loob ng mga substations, according to the TRANSCO president.*

We are talking about our national security here. We are talking about the critical exposure of our power grid to a foreign power. *Paano tayo hindi kakabahan gayong ayon sa mga opisyal ng DOE at TRANSCO, hinahadlangan ng NGCP ang inspection and audit ng kanilang facilities, partikular ang cyber audit kahit na halos dalawang dosenang beses na ito hiningi.* Adding to our fears, the onerous concession agreement between NGCP and the government allows NGCP blanket control and authority over our power grids. *Sila ang masusunod kung kailan at anong oras natin dapat gamitin ang ating kuryente, anong volume ng kuryente, at saang lugar ito dapat pumunta. Ganito ang gustong mangyari ng NGCP at China — ang sumunod tayo sa kanilang kagustuhan dahil na rin nasa kanilang mga kamay ang pagpapatakbo at pangangasiwa na parang isang remote control sa kanilang mga palad.*

Because at the heart of this matter, *ang puno't dulo ng usaping ito ay ang isang onerous na concession agreement.*

Financial data shows *lugin-lugi ang gobyerno at pambihirang ganansiya naman ang kinikita at napupunta sa China at NGCP.* Government is losing money while the NGCP as a national monopoly, is raking in the profits.

I have a slide here on the revenues and taxes. As of 2018, *nabawi na ng NGCP ang humigit-kumulang na P180 billion na investment nito, just from the profits of the electricity transmission business. May 15 years pa na natitira sa kabuuang 25 years na life span ng concession agreement. Renewable pa ang kontrata ng another 25 years. Aside from this, NGCP enjoys tax exemption privileges granted by its franchise. The government has foregone*

tax revenues of around P7.4 billion annually because of this exemption. *Kung dati ay P20.5 billion ang government revenues from operations, ngayon ay P6.75 billion ang yearly average in revenues for the government ng NGCP. Kung dati ay P9.5 billion ang binabayaran na buwis ng TRANSCO bago napatatay ang transmission business, ngayon ay P2.2 billion na lang ang binabayaran na buwis ng NGCP. Kaya naman hindi pa nila natapos bayaran ang concession fee na ayon sa concession agreement ay installment ang bayaran, nabawi na nila ang puhunan.*

Third question: *Ano ang epekto sa pang-araw-araw na buhay ng mga Pilipino?*

One cannot help but wonder if the high prices of electricity in this country are the result of this unconscionable contract. One cannot help but wonder how much of what the ordinary Juana de la Cruz pays for electricity every month goes to a Chinese corporation in far-off mainland China.

Let me give an example. *Batay sa dokumento na isinumite ng TRANSCO entitled "Regulatory Reset for the Transmission Business" dated April 3, 2019, presented to the Senate Committee on Energy ay pinakikita rito na mayroong delays sa rate setting schedule ng ERC at makikita rin dito na dahil na rin sa pagkaantala ng nabanggit na rate setting ay patuloy na umiiral ang "unusual" na 15 % rate approval ng Energy Regulatory Commission para sa tinatawag na WACC o Weighted Average Cost of Capital ng NGCP. Batay sa isang eksperto na aking nakausap ang global average na umiiral ay 8% lamang. Kailangang maintindihan natin ang puno't dulo nito, para sa ating mga kababayan na buwan buwan ay binubuno ang mataas na presyo ng kuryente.*

At kung sakaling ma-establish nang husto na may kinalaman ang mataas na presyo ng kuryente sa sinisingil sa atin ng NGCP, ay nararapat lamang na managot hindi lang ang NGCP, kundi ang mga ahensya ng pamahalaan na nagbigay-daan sa pang-aabuso ng NGCP, kagaya ng ERC.

Mataas na nga ang presyo natin sa kuryente, exposed pa ang pambansang seguridad. Para naman tayong ginigisa sa sarili nating mantika niyan. At parang nagbigay tayo ng all-access pass sa mga dayuhan.

I look forward to the commitment of Senator Sherwin to conduct a hearing to audit the NGCP and investigate these issues that weigh heavily on us. There are many and multi-pronged issues

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but the primary issue is national security. We need to assert our sovereignty and protect the welfare of our people.

I am asking specifically for three things: *Una*, there should be immediate inspection and cyber-security audit of the NGCP facilities, including a source code audit of the software and firmware running on the SCADA system, by government officials and independent experts, with a view towards looking at national security implications. Second, we should investigate ERC approval for NGCP's transmission charge in relation to unusual Weighted Average Cost of Capital (WACC) of 15.04% instead of the standard global average of 8%. *At kung mapatunayan na labis ang singil ng NGCP, ay simulan ang proseso ng reimbursement sa mga mamamayan.* Third and most importantly, let us review the concession agreement and the legislative franchise of NGCP.

The Senate, in the exercise of its oversight powers, should exact accountability from all those involved in, and continue to profit from, this unconscionable contract.

When a private corporation can stonewall lawful and reasonable requests for inspection and audit by duly-appointed authorities of the Philippine government while raking in billions in profit, one must ask: *saan sila kumukuha ng lakas ng loob?*

In reflecting on these, I think we can find answers to the question: Can we really trust China?

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Zubiri, there being no objection, the Chair referred the privilege speech of Senator Hontiveros to the Committee on Energy as the primary committee and to the Committee on National Defense and Security, Peace, Unification and Reconciliation as the secondary committee.

PRIVILEGE SPEECH OF SENATOR POE

Availing herself of the privilege hour, Senator Poe expressed dismay over the Philippines' dismal showing in the 2018 Program for International Students Assessment (PISA) test, particularly in reading comprehension and science and mathematics.

The following is the full text of Senator Poe's speech to wit:

Last week brought in mixed results for the country. We were the frontrunners in the regional games of 11 nations, thanks in a large part to our arnis team—that is here—and also to our Majority Leader that is very supportive of them. But we were the tailender in the test score results of students from 79 countries. While our athletes were basking at the top of the podium, our students were placed at the bottom of the academic totem pole.

In the 2018 Programme for International Students Assessment (PISA), a test conducted by the Organisation for Economic Co-operation and Development (OECD), on 15-year-old students in 79 countries, the Philippines scored the lowest in reading comprehension. The Philippines also placed the second lowest in its science and mathematics.

This is not an auspicious way to start the first year of the third decade of the century. But if we are still searching for 20/20 vision, the state of our schools has the work cut out for us.

Indeed, there is no national agenda more pressing than preparing our children to win the future. In fact, of all the obligations and burdens of a generation, none is more important than equipping the next one with the skills to survive the challenges that tomorrow will bring. That is what "leaving the world a better place than we found it" means. It means creating a talent pool superior than us. It is only benchmark that matters.

By the end of this decade, almost all of us will have faded away from the scene, our utterances faint echoes of the past. But before we archive ourselves to the filing box of history, let us acquit ourselves from the task that we shall be measured to see to it that our children are capable and confident in making this nation progress and prosper in a complex and competitive world.

The jury is out, so to speak, and let us accept its verdict. There is no need to probe it for its weaknesses. Denial will only be an act of delusion and delay the required reforms. Neither is there a need for finger-pointing or washing hands of guilt. The call of the hour is to roll up our sleeves and as one people, fix what ails our schools.

It is perhaps providential that the report came as we are applying the finishing touches to the year's P4.2 trillion national budget. The P684 billion for education and manpower was equally met by chest-thumping that it is impressive, and whining that it is not enough.



On the surface, the catalogue of projects and programs are impressive.

On manpower alone, an army of a million DepEd employees will teach and supervise the learning of 27.2 million students in 47,025 public schools and about 14,900 private institutions. At least, this is the minimum because the Senate insists that there should be more — P20 billion worth of classrooms will be built; 10.3 million books will be distributed; 10,000 teachers will be hired; P9 billion worth of computer packages will be bought. This is on top of the P111.64 billion for the college studies of 3.21 million diploma-seekers.

If we graph public spending of education, it has rocketed up this decade which is why the reports that our students' test performance has plummeted had been met by disbelief and questions of, "What went wrong?" *Saan tayo nagkamali?*

But if there is one lesson to be gleaned in the numbers of both the GAA and PISA, it is this: There is no equivalence between peso spent and passing scores that is absolute. That investments do not automatically guarantee high returns and that we cannot make a problem go away by simply throwing money at it, which is, by the way, a favored congressional solution to any problem that comes its way. This is why the "checkbook solution" is a knee-jerk reaction that won't work because doing so would be simply funding more of the same failed approaches.

The DepEd leadership recognizes this, and so do all the experts, all the school administrations, and even the school principals on the ground. Thankfully, the Secretary of Education, using the PISA and other assessment results as guide, has put forward an urgent to-do list on how to address the challenge of quality education. I think this should be enriched by inputs from stakeholders because if it takes a village to teach a child, it takes a nation to improve the schools they go to.

The Senate should join the battle for the betterment of our schools. As funders, as policy-makers, as a marketplace for ideas, as recognizers of best practices, we have no option but to help write the National Lesson Plan on how to transform what we have into schools for the future. Through our communities, the Senate can be the venue for problem-solving workshops so that great ideas will be enabled by funding and by legislation when necessary.

Let us open and show it to the public so that what will be said here will be beamed as a

national lecture on the educational system. We can concentrate on five areas, the acronym being TEACH: **T** for teacher empowerment; **E** for equipment, facilities, and materials; **A** for assessment and evaluation; **C** for community engagement; and **H** for health and nutrition.

First, on teacher empowerment. Through the ages, there is one unvarnished truth in education: teachers remain the core of learning. Great schools are not measured by their manicured lawns nor by the size of their playing fields. It is the quality of teaching, the mettle of the faculty, that determines greatness. If so, then reforms should begin with them.

In the Philippine setting, it covers three Cs: competence, compensation, and comprehensive support. They should be subjected to re-skilling and up-skilling. Every teacher welcomes this because he or she knows that the duty to teach carries with it the responsibility to learn. But in these sessions, the teacher is not a mere receiver of knowledge. They can impart too, based on their experiences which are a treasure trove of ideas.

Compensation means the right to fair wages at a level for them to survive and not starve. The SSL V is a step in the right direction, so does the creation of more teaching salary grades. And let us have a mass moving up ceremony for those who have been marooned in Step 1. But remuneration goes beyond what is inside pay envelopes as there is support of the non-cash kind, like a tablet for each, a shoe allowance to be tucked into the clothing allowance, bigger chalk allowance or materials allowance, access to free teaching aids, and many more.

This goes hand in hand with limiting class sizes. Large class sizes for elementary students have been found to be detrimental to student learning. It takes a toll on teachers who focus on crowd management rather than the quality of teaching.

We know that equipment, facilities, and materials are important too. We have to end the scourge of Standing Room Only (SRO) classrooms. We need to make our schools wired. Procurement of computers and broadband service should not have the snail pace of internet in the Philippines. So does the provision of more tech-voc labs. Technical skills are acquired and honed hands-on.

Once and for all, we must reform how books are written, chosen, and procured. *Iyong ibang mga textbook natin ay katawa-tawa. Mali-mali ang grammar at mali-mali pa minsan ang*

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historical facts. The bottom line is we should have schools conducive to learning, nurturing, and teaching.

Alam po natin na libre na ang ating tertiary education pero hindi aabot sa college ang mga estudyante natin kung elementary pa lamang ay bagsak na sila. At marami ang bumabagsak sa elementary dahil nagugutom, kaya maraming salamat sa ating mga kasama na ipinasa na natin, finally, ang libreng pananghalian. Maraming salamat that this is a bipartisan bill—both from the administration and the opposition.

As we look back, teachers must be seen not as mere providers of numerical statistics but of analysis. If we put students to rigorous periodic testing, so must the entire system. On this, teachers must not be exempt. Just like in human beings, the heart of education must be subjected to a battery of tests too.

Ang mga teachers natin nagrereklamo sa dami ng paperworks, pero siguro ang dapat ibigay natin sa kanila ay mas maraming continuing education and, to be fair to the students and to the parents, teachers should also be measured with an aptitude examination.

In any community, there is always an untapped well of mentors who are not part of the DepEd teaching corps but can be mobilized to augment the child's learning experience. *Marami ng corporate social responsibility ng mga nagtatayo ng mga schools that are headed by foundation, and the kids are doing better than most public schools. Siguro dapat pag-aralan ng public sector ang ginagawa ng ibang private foundations sa mga paaralan na iyan.*

Children in the Philippines are an especially vulnerable sector. In the publication of UNICEF, entitled "*Situation Analysis of Children in the Philippines*," it says that in 2015, a staggering 31.4% of children were living below the poverty line. Twenty-seven (27) out of 1,000 Filipino children do not get past their fifth birthday. The report goes on and on. *Ang Pilipinas ngayon is doing a lot better economically than in the past. Maraming challenges, pero ang advantage natin ay ang bata nating population — our young population — the sweet demographic spot of 23 years old. Kaso naman, kung makaka-graduate ang mga batang iyan, kung hindi man lamang sila makaabot sa college, at kung sila naman ay nakapag-college nga pero mababa naman ang kalidad ng edukasyon, anong klaseng populasyon magkakaroon tayo in the generations to come?*

This is alarming. We really need to put pressure on all of us to be able to arrest this dismal showing in our academic capability. *Hindi na po ito lokohan.*

With that, I urge our colleagues to be mindful of this data and hopefully support where we can the Department of Education and all the educational institutions.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Zubiri, there being no objection, the Chair referred the privilege speech of Senator Poe to the Committee on Basic Education, Arts and Culture.

PROPOSED SENATE RESOLUTION NO. 240

Upon motion of Senator Zubiri, there being no objection, the Body considered Proposed Senate Resolution No. 240, entitled

RESOLUTION CONGRATULATING AND COMMENDING THE PHILIPPINE NATIONAL ARNIS TEAM AND THEIR COACHING STAFF FOR GRABBING FOURTEEN GOLD MEDALS, FOUR SILVER MEDALS, AND TWO BRONZE MEDALS AT THE 30TH SOUTHEAST ASIAN GAMES HELD IN ANGELES CITY, PAMPANGA,

taking into consideration Proposed Senate Resolution Nos. 243, 247, 249 and 252.

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

Thereupon, the Chair recognized Senator Villanueva to sponsor the resolution.

SPONSORSHIP SPEECH OF SENATE VILLANUEVA

As sponsor of the measure, Senator Villanueva congratulated the Philippine National Arnis Team and their coaching staff for grabbing a total of 20 medals at the 30th Southeast Asian Games.

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

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It is my honor and privilege to sponsor Proposed Senate Resolution No. 252 congratulating the Philippine National Arnis Team and their coaching staff for grabbing a total of 20 medals at the 30th Southeast Asian Games, and also Proposed Senate Resolution No. 251 commending Sen. Juan Miguel F. Zubiri and the Philippine National Team of Arnis for its resounding victory.

Hawak ko po ngayon ang isang arnis — arnis stick na gawa sa rattan — magaan, simple, pero napakatibay.

Sa atin pong mga lumaki sa “palo” ay talagang medyo nakakatakot po ang bagay na ito kapag nahagupit ka. Talagang mag-iwan po ito ng latay sa iyong katawan.

Alam ko po na bawal magpasok ng pamalo o anumang combative weapon dito sa session hall, pero ngayong hapon, ang mga arnis stick po na ito ay hindi lamang armas pandigma kung hindi simbolo ng katapangan, pagkamalikhain, at tagumpay ng lahing Pilipino.

Hindi po ba at mga arnisador ang sinasabing nagpaatras sa mga sundalo ni Ferdinand Magellan sa Battle of Mactan dahilang ng pagkabigo ng mga unang bugso ng mga kunkistador nang masakop ang Pilipinas noong ikalabing-anim na siglo?

Arnis, kali o eskrima ang nagpakilala sa bangis ng ating mga mandirigma noon. Ito rin ang nagpakilala sa tikas ng ating mga atletang Pilipino na nakakuha ng dalawampung medalya sa SEA Games ngayon.

The Philippine National Arnis Team bagged 14 gold medals, four silver medals, and two bronze medals across the live stick, distaff, padded stick and anyo categories—it is by far the most bemedalled Philippine team in the 30th Southeast Asian Games.

Katulad po ng mga mandirigmang nagtagumpay sa isang digmaan, nais po nating kilalanin ngayon ang ating mga arnisador na nagwagayway ng ating bandila sa nakaraang Southeast Asian Games.

For the Live Stick Events:

1. Dexler Bolambao – Gold; Bantamweight
2. Sgt. Niño Mark Talledo – Gold; Featherweight
3. Technical Sgt. Villardo Cunamay – Gold; Lightweight
4. SSG Mike C. Bañares – Gold; Welterweight
5. Jezebel Morcillo – Gold; Bantamweight
6. Jude Oliver Mae Rodriguez – Silver; Featherweight

7. Eza Rai Yalong – Bronze; Lightweight
8. Erlin Mae Busacay – Bronze; Welterweight

For the Padded Stick Events:

9. Jesfer Huquire – Gold; Bantamweight
10. Elmer Manlapas – Gold; Featherweight
11. Carloyd Tejada – Gold; Welterweight
12. Sheena del Monte- Gold; Bantamweight
13. Jedah Mae Soriano- Gold; Featherweight
14. Ross Ashley Monville – Gold; Lightweight
15. Abegail Abad – Gold; Welterweight
16. Billy Joel Valenzuela – Silver; Lightweight.

For the Anyo Events:

17. Crisamuel Delfin – Gold; Non-Traditional Open Weapon
18. Mary Allin Aldeguer – Gold; Non-Traditional Open

Weapon

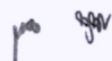
19. Mark David Puzon – Silver; Traditional Open Weapon
20. Ryssa Jezza A. Sanchez – Silver; Traditional Open Weapon

Kinikilala rin po natin ang kanilang mga tagasanay. The complete dedication of our coaches ignited their passion and motivated the team to win as one.

1. Head Coach Richardson C. Gialogo
2. Assistant Coach for Live Sticks Regie Sanchez
3. Assistant Coach for Padded Sticks P/Capt. Reneto Tuñacao
4. Assistant Coach for Anyo Reignerose Esquirra
5. Strength and Conditioning Coach Rodolfo Jay Garcia Jr.
6. Mental and Spiritual Wellness and Discipline Coach Aniano Lota Jr.

As you can see, as government support to athletes increases, so is the level of excellence that Filipino athletes can achieve. *Tunay po na kapag binigyan natin ng sapat na pag-aalaga at suporta ang ating mga atleta, kayang kaya po nilang makipagsabayan sa mga tinitingalang manlalaro mula sa iba't ibang panig ng mundo.*

There is no doubt that the Philippine National Arnis Team will go down in history as the team that brought arnis back to great acclaim on an international stage—fourteen years since the sport was last seen in the Southeast Asian Games.



Subalit hindi po natin mararating ang araw na ito at hindi rin po siguro magniningning ang Pilipinas sa SEA Games kung hindi dahil sa mga taong nagtaguyod at patuloy na nagpapayabong ng arnis bilang isang sports. Ang arnis, kali o eskrima ay sariling atin at tumutukoy sa Filipino native martial arts. Marami pa pong ibang katawagan ang arnis, kali at eskrima alinsunod sa mga umiiral na dayalekto sa ating buong bansa.

Makalipas ang napakahabang panahong kinandili at pinalaganap ang arnis ng ating mga ninuno at pinagpasapahan hanggang makarating sa kasalukuyang panahon, kinikilala na po ngayon ang arnis bilang "National Sport and Martial Arts of the Philippines." And again, this would not have been possible without the passion, consistency, and determination of our colleague, our Majority Leader and accomplished arnisador himself, Sen. Juan Miguel Zubiri.

In 1989, when Senator Migz was only 20 years old, he emerged as gold medalist and champion in the 1989 Manila Arnis Eskrima World Invitational Tournament.

In 2009, he spearheaded the passage of Republic Act No. 9850, or the Act Declaring Arnis as the National Martial Art and Sport of the Philippines to promote this sport among our people.

In 2017, he founded the Philippine Eskrima Kali Arnis Federation (PEKAF) to strengthen the practice of arnis and unify its many practitioners across the nation, during which time he was also installed as president and chairman of the federation.

Early this year 2019, PEKAF was declared the National Sports Association for Arnis by the Philippine Olympic Committee, making it the regulating body for the practice of Arnis across the country.

The Philippine Eskrima Kali Arnis Federation also launched a search for the finest and fittest through regional qualifiers that concluded with the National Battle of the Champions, promoting grassroots development through their participation in the PSC's *Batang Pinoy* and the *Palarong Pambansa*. PEKAF also worked with the standards set by the World Eskrima Kali Arnis Federation, the international governing body for arnis.

Arnis, which was last featured in the South-east Asian Games as a demonstration sport in 2005, has finally been recognized as a regular sport for the 2019 SEA Games, with competitors from the Philippines, Vietnam, Myanmar, and Cambodia.

Sa lahat po ng ito, hindi nawala ang presensiya at suporta ng ating colleague, Senator Migz. At habang unti-unting nakikilala ang arnis bilang isang sports sa Asya at sa buong mundo, nakikilala rin ang katangitanging kultura at pamana ng lahing Pilipino.

Senator Zubiri's steadfast support to the Philippine National Arnis Team throughout their preparation for the 30th SEA Games and during the event itself is remarkable and truly deserving of this recognition. The Bible says, "Give honor to whom honor is due."

Alam po nating lahat na hindi magtatapos dito sa SEA Games ang mga adhikain ng ating colleague na si Senator Migz para sa sports na ito dahil ngayon pa lamang tiyak na ang plano niyang dalhin ang Arnis sa international stage at lalo pang mapalutang ang galing ng ating mga arnisador na Pilipino.

Thank you so much and congratulations to our Majority Leader and to the Philippine National Arnis Team. Truly, you have exceeded the expectations of the entire Filipino nation. *Saludo po ang Sambayanang Pilipino sa inyong husay, katapangan, at pagkamakabayan.*

MANIFESTATION OF SENATOR VILLANUEVA

At this juncture, Senator Villanueva manifested that several authors of the measure wished to insert into the record their cosponsorship speeches.

Senate President Sotto took note of the manifestation.

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 240

Upon motion of Senator Villanueva, there being no objection, the Body adopted Proposed Senate Resolution No. 240, taking into consideration Proposed Senate Resolution Nos. 243, 247, 249 and 252.

PROPOSED SENATE RESOLUTION NO. 236

Upon motion of Senator Villanueva, there being no objection, the Body considered Proposed Senate Resolution No. 236, entitled

RESOLUTION COMMENDING SEN. JUAN MIGUEL F. ZUBIRI FOR LEADING THE PHILIPPINE NATIONAL ARNIS TEAM TO RESOUNDING VICTORY

Handwritten initials or signature.

IN THE 30TH SOUTHEAST ASIAN GAMES WHERE THE TEAM TOOK FOURTEEN (14) GOLD MEDALS, FOUR (4) SILVER MEDALS, AND TWO (2) BRONZE MEDALS, AND THEREBY ENGAGING INTEREST AND APPRECIATION FOR THE SPORT AMONG PHILIPPINE AND INTERNATIONAL AUDIENCES ALIKE,

taking into consideration Proposed Senate Resolution Nos. 239, 241, 244, 248, 250, and 251.

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

SPONSORSHIP SPEECH OF SENATOR GATCHALIAN

Senator Gatchalian congratulated the Philippine organizers of the 30th Southeast Asian Games for a job well done in bringing the games successfully into the country and into the whole ASEAN region, noting that the Philippines was leading the medal tally and was about to be declared as the overall champion.

The full text of Senator Gatchalian's sponsorship speech follows:

The 30th Southeast Asian Games is both memorable and historic for our country because arnis, our very own indigenous national martial art and sport, was featured as a competitive sport in the games. Our arnis players gave us the largest single-sport medal haul in the games with 14 golds, four silver medals, and two bronze medals. They all excelled in life stick, distaff, padded stick, and anyo categories.

With the fervent support of our countrymen, our arnis players did not only win a resounding victory but has also brought great national pride to our country.

The biggest and the most passionate supporter of the sport is our very own member of this august Chamber. He has always been an ardent supporter of arnis for the longest time. He personally oversaw the events and ensured that our arnis players got everything they need for that winning and stellar performance.

Allow me to be the first to officially congratulate our Majority Leader and a good

friend of mine, Sen. Juan Miguel F. Zubiri, for a job well done by consistently and steadfastly promoting and supporting our Philippine team for arnis.

Ten years ago, Senator Zubiri authored and spearheaded the passage of Republic Act No. 9850, otherwise known as the "Act Declaring Arnis as a National Martial Arts and Sports in the Philippines." The act is aimed at promoting and developing the sport especially among our youth.

In order to strengthen the practice of arnis and unify its many practitioners nationwide, he led the establishment of the Philippine Eskima Kali Arnis Federation (PEKAF) in 2017. As president and chairman of PEKAF, he hosted regional competitions and training camps to develop the skills of players to prepare them for international competitions. Early this year, PEKAF was declared as the national sports association for arnis by the Philippine Olympic Committee making it the regulating body for the practice of arnis across the nation.

Arnis was last featured during our hosting of the 2005 SEA Games. This year, it is recognized as a regular sport in the SEA Games with the countries of Vietnam, Cambodia, and Myanmar competing for the sport.

For wholeheartedly providing leadership for the development of arnis and his impassioned support for the players who gave honor to our country, I strongly believe that the Majority Leader deserves commendation from this honorable Body.

Therefore, I urge this august Chamber in officially acknowledging and commending Sen. Juan Miguel Zubiri for his unwavering commitment and leadership in making arnis a proud Filipino sport in our country and overseas.

At this juncture, Senate President Sotto relinquished the Chair to Senate President Pro Tempore Recto.

COSPONSORSHIP SPEECH OF SENATE PRESIDENT SOTTO

Senate President Sotto commended the very diligent, dynamic, and patriotic Sen. Juan Miguel "Migz" F. Zubiri for his steadfast commitment to arnis, and for leading the Philippine national team to a resounding victory in the 30th Southeast Asian Games, bringing in a total of 20 medals: 14 gold medals, four silver medals, and two bronze medals. He said that the win made arnis as the sport which

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gave the Philippines the most number of medals, and sealed the title as the overall champion in the 30th SEA Games once again.

Senate President Sotto said that despite Senator Zubiri's work in the Senate, he was still able to give his full support to the Philippine Arnis Team throughout their preparation for the 30th SEA Games, and that, in fact, he personally oversaw the events and attended to the needs of the team. Thus, he believed that Senator Zubiri's invaluable contribution to the sport and the Philippine team has played a crucial role to the success which arnis gained in the world of sports.

Senator Sotto stated that the performance of the Philippine Arnis Team has been successful not only as regards its bountiful harvest of medals but also in its effectiveness to stir appreciation and interest in arnis for Philippine and international audiences alike. Thus, he believed that it is just warranted that a resolution commending Senator Zubiri be adopted by the august Body.

At this juncture, Senate President Pro Tempore Recto relinquished the Chair to Senate President Sotto.

MANIFESTATION OF SENATOR DRILON

Senator Drilon commended Senator Zubiri for his effort of putting arnis on a national level, as he recalled that when he asked Senator Zubiri about the history of arnis, he learned that the martial art even dates back to the time of Lapu-Lapu.

Saying it was very rare to see a member of the Chamber with so much dedication, enthusiasm, and support for a sport, Senator Drilon said that he never raised a whimper everytime he heard where Senator Zubiri was because equally important as the Senate's effort and ability to set policies for the country is the support which Senator Zubiri has exhibited for sports, for the country, and for the youth.

Thereupon, Senator Drilon asked the Body to include him and all the senators present in the Chamber as sponsors of the measure. He likewise moved for the Body's unanimous adoption of the resolution.

COSPONSORS

Upon Senator Drilon's request, there being no objection, all the senators were made cosponsors of Proposed Senate Resolution No. 236.

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 236

Upon motion of Senator Villanueva, there being no objection, the Body adopted Proposed Senate Resolution No. 236, taking into consideration Proposed Senate Resolution Nos. 239, 241, 244, 248, 250, and 251.

EXPLANATION OF VOTE BY SENATOR RECTO

Senator Recto explained his affirmative vote, to wit:

There is one canon in politics that was preached by Teddy Roosevelt: "Speak softly but carry a big stick."

In the case of Migz, he wields two sticks. And this is what has probably made him hard to defeat in the ring, political or not.

But his proficiency in arnis does not make him an idealist. He is well-prepared, and has an arsenal of weapons at his command. A pragmatist, he will not bring a pair of arnis poles to a gun duel. An arnis disciple or a sensei, like Migz, comes to combat prepared.

In the case of the Southeast Asian Games, he has scouted the moves of the other teams, and studied their strengths and weaknesses in advance. Arnis, first and foremost, is a mind sport, which means one must read the opponent long before he steps into the arena. On this, Migz has done his part.

So it comes as no surprise that the Philippine Arnis Team, chaired by the eskrima master from Bukidnon, lorded over their competitors in the current regional games held in our country. The secret of their success is no magic potion concocted, nor an ancient prayer that gives them supernatural strength. Rather, it is hard work, training, and ample logistical support that Migz wholeheartedly and selflessly provided them. He is not a detached patron, but a practitioner of the sport—in fact, a former world champion. He is one of their own. So when he gives his pep talk to his troops, it comes out sincerely from one who has been there and done that.

Let me close by reiterating my congratulations to our Majority Leader, and extending the same to all the athletes who participated in the successful staging of the games, whether they mounted the podium or not—but in the case of arnis, I think all of them mounted the podium—congratulations to all of you.

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I think we should do a follow up resolution which exhorts the Executive agency concerned, if not the Office of the President, to make sure that cash and other incentives due our medalists and their coaches be received not later than Christmas Day. It will indeed make their Christmas merry. It is still a reward smaller than the joy they have immensely given all of us.

I vote "yes" to this resolution commending the Majority Leader, who, despite his fast and furious skill with arnis, has never bamboozled us into passing a measure.

MANIFESTATION OF SENATOR LAPID

Senator Lapid recalled that on December 11, 2009, then Congressman Zubiri and himself sponsored the measure on arnis in the House of Representatives and in the Senate, respectively; thus, the recognition of arnis as a sport would be celebrated on its tenth year that day.

Senator Lapid mentioned that someone has been asking if he would make a part two of his movie "Kamagong" where he exhibited three forms of arnis — *solo baston* (single stick), *doble baston* (double stick), and *espada y daga* (sword and knife set). As he congratulated the arnis winners, he promised to produce "Kamagong Part II" whose main characters would be played by the arnis champions in the recent SEA Games.

MANIFESTATION OF SENATOR ZUBIRI

Senator Zubiri stated that Senator Lito Lapid was the first author of arnis law that was passed in the Fourteenth Congress. He said that Senator Lapid and himself when he was then congressman succeeded in passing the arnis law as its principal authors. He added that aside from Senator Lapid who is a good "arnisador," another legislator, Senator Orly Mercado, likewise plays arnis-kali-eskrima and, in fact, part of the arnis movement.

Senator Zubiri thanked his colleagues, especially Senate President Sotto, Senate President Pro Tempore Recto, and Senate Minority Leader Drilon for their accolades and for honoring him and the Philippine Arnis Team, saying that their recognition meant a lot to him.

Still, he believed that what he has done was nothing compared to what the players had done, saying that the arnis winners were double champions

and the cream of the crop in the arnis community who went through a rigorous selection process in Luzon, Visayas, Mindanao, and NCR that culminated in the "Battle of the Champions." He revealed that many of them came from grassroots level and qualified through the Palarong Pambansa, Batang Pinoy, and the Philippine National Games.

Senator Zubiri said that he was very proud of each member and that the honor of winning medals for the country in the yet-to-be-concluded Southeast Asian Games was not his alone as he merely paved the way for them.

Senator Zubiri said that each one of the arnis athletes were primarily survivors of their respective circumstances who mostly grew up in poverty and were tasting a bit of comfort from their SEA Games win. He said the first Arnis gold medalist, Dexler Bolambao, is a fighter from Leyte and a victim of Typhoon *Yolanda* who lost his family's house and had to start from scratch and was using his earnings from the win to help finance his mother's weekly dialysis treatment.

Senator Zubiri said that there are 112 gold medalists or unsung heroes from the Philippine team who delivered for the country to help bag the overall championship, but that the Philippine Arnis Team was the most bemedalled, having hauled 14 out of the 20 gold medals at stake in arnis. He added that the team would be competing in the World Championships in July 2020 in Cebu and the Vietnam Sea Games in 2021. He said that such feat landed the team a spot in Philippine sports history.

Asked by Senate President Sotto if Vietnam has won a gold in arnis in the 2019 SEA Games, Senator Zubiri replied that Vietnam has four golds. Senate President Sotto said it was a good sign for the Philippine team and would mean that the next host would include it in the SEA Games in two years. Senator Zubiri said that Vietnam was actually quite happy with their own performance and would push for the inclusion of arnis in the 2021 SEA Games which might eventually become a regular sport in the SEA Games thereafter.

Senator Zubiri then thanked the Filipinos who showed and gave support through food, water, clothing and other necessary provisions to the Philippine team. He said the *bayanihan* spirit was very evident especially at times when organizers fell short of their commitment just to help the games push through.

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PROPOSED SENATE RESOLUTION NO. 229

With the permission of the Body, upon motion of Senator Zubiri, the Body considered Proposed Senate Resolution No. 229, entitled

RESOLUTION COMMENDING AND EXALTING THE EXEMPLARY SERVICE AND EXTRAORDINARY HEROIC OF THE LATE POLICE SENIOR MASTER SERGEANT JASON JANOG MAGNO WHOSE SELFLESS ACT OF SACRIFICING HIS OWN LIFE BY SHIELDING WITH HIS OWN BODY A LOBBED GRENADE SAVED THE LIVES OF INNOCENT CIVILIANS IN IDITAO COLLEGE, MISAMIS ORIENTAL,

taking into consideration Proposed Senate Resolution Nos. 231, 237, and 253.

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

SPONSORSHIP SPEECH OF SENATOR ANGARA

Upon motion of Senator Zubiri, there being no objection, the Body approved the insertion into the record of the sponsorship speech of Senator Angara on Proposed Senate Resolution No. 253 honoring Police Senior Master Sergeant Jason Magno.

Following is the sponsorship speech of Senator Angara:

Ako po ay tumatayo ngayon upang isulong ang pagkilala at pagpaparangal sa isang bayani – isang alagad ng batas na piniling ibuwis ang sariling buha, masiguro lamang ang kaligtasan ng mas nakararami sa panahon ng panganib.

Nitong Nobyembre 28, binalot ng takot ang mga mag-aaral, mga guro at iba pa nating mga kababayan nang pasukin ng isang lalaking armado ng granada ang Initao College sa Misamis Oriental.

Bagaman agad na pinigil ng ating magiging na pulis na kinabilangan nina Police Senior Master Sergeants Jason Magno at Alice Balido ang suspect na si Ebrahim Ampaso

Basher, hindi na naagapan ang inihagis nitong granada.

Dahil tiyak na marami ang masasaktan at mapapahamak, hindi po nagdalawang-isip si PSMS Magno na dapaan ang granada na sumabog sa kanyang katawan.

Hindi na po niya inisip ang sariling kapakanan dahil sa kagustuhang mailigtas ang mas nakararami. Hindi lahat sa atin ay taglay ang ganitong uri ng katapangan. Hindi lahat sa atin ay kayang isakripisyo ang sariling buhay para sa kapwa.

Dahil sa maagap ding pagtulong ng isa pa nating bayani na si Police Senior Master Sergeant Alice Balido, nagapi ang suspect at napaslang.

Hindi rin inalintana ni M/Sgt. Balido ang tiyak na kapahamakan, matupad lamang ang sinumpaang tungkulin bilang isang alagad ng batas.

Sabi nga po sa ating pambansang awit, ang ating Lupang Hinirang ay duyan ng magiting. Isa sa patotoo ang hindi matatawarang lakas ng loob nina Master Sergeant Magno at M/Sgt. Balido.

Ang sakripisyo pong ito ng ating dalawang bayani ay nangangailangan ng wagas ng pagkilala, parangal at respeto kaya't marapat lamang na igawad ang mga ito sa kanila.

Sa pagpanaw po ni M/Sgt. Magno, naiwan ang isang pamilyang ngayon ay punung-puno ng pagdadalamhati – isang naghihinagpis na maybahay at ang limang supling, kung saan isa sa kanila ay may taglay na kapansanan. Ang kanyang bunso naman ay kasalukuyan pang nasa elementarya.

Hindi po biro ang sakripisyo nina M/Sgts. Magno at Balido. Hindi po maipapatas sa anumang parangal ang kanilang nagawa, subalit sa ganitong pagkakataon, karapat-dapat po ang paggawad sa kanila ng pagkilala dahil sa kanilang natatanging kabayanihan.

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 229

Upon motion of Senator Zubiri, there being no objection, the Body adopted Proposed Senate Resolution No. 229, taking into consideration Proposed Senate Resolution Nos. 231, 237, and 253 with Senators Lacson, Go, and Angara as principal authors and all other members of the Chamber as coauthors.

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SUSPENSION OF SESSION

Upon motion of Senator Zubiri, the session was suspended.

It was 5:06 p.m.

RESUMPTION OF SESSION

At 5:15 p.m., the session was resumed with Senator Villanueva presiding.

COMMITTEE REPORT NO. 6 ON SENATE BILL NO. 1074

(Continuation)

Upon motion of Senator Zubiri, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1074 (Committee Report No. 6), entitled

AN ACT INCREASING THE EXCISE TAX ON ALCOHOL PRODUCTS, HEATED TOBACCO PRODUCTS AND VAPOR PRODUCTS, AMENDING FOR THIS PURPOSE SECTIONS 141, 142, 143, 144, 147, 150, AND 288, OF REPUBLIC ACT NO. 8424, AS AMENDED, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

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

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

INTERPELLATION OF SENATOR RECTO

Preliminarily, Senator Recto stated that the objectives of his interpellation were to find ways on how to achieve the following:

1. to increase revenues to finance the Universal Health Care Law, particularly primary health care requirements, in a responsible and reasonable manner, taking into consideration the absorptive capacity of the DOH-PhilHealth;

2. to adopt taxation principles based on the health objectives of the bill;
3. to address inequities in the current tax structure by adopting fairness in taxation;
4. to adopt simplicity in taxation as simpler tax structure is always easier to implement;
5. to adopt an equitable burden sharing among all products and companies; and,
6. to discuss a few issues on regulation, specifically increasing penalties for those selling to minors.

Senator Recto flashed a presentation showing that based on a 2016 report, the Philippines is the second highest insofar as other countries in the region are concerned with regard to tax effort to Gross Domestic Product (GDP). He posited that after passing the New Salary Standardization Law (SSL), the Universal Health Care (UHC) Law, and the Tax Reform for Acceleration and Inclusion (TRAIN) Package I, the Philippines would probably be one of the highest in tax effort as compared to GDP within the region in 2020. He said the presentation was a reminder that the country is already at such level with roughly about 17% to 18% of GDP.

Asked by Senator Recto on the purpose of Senate Bill No. 1074, Senator Cayetano said that first, to raise taxes primarily for Universal Health Care, and second, to use taxation as a deterrent to the consumption of sin products.

Asked if the proposal is not only a tax measure but, to a certain degree, also an appropriations measure because there is an earmarking for health care, Senator Cayetano replied in the affirmative.

Senator Recto showed the 10-year financial requirements of the Universal Health Care Law presented by the DOH and PhilHealth. In the tabular data, he pointed out the two totals—one computed without direct contributions and another with direct contributions. He noted that when Congress passed the UHC law, the premium contributions of all PhilHealth members were increased. For instance, he said that the estimated P80.7 billion collection for 2019 would become P117 billion by 2020 following the increase on premium contributions; by year 10, it will become P308 billion. He explained that when the amount from the direct contributions is added to the figures, the total health spending, with the exception of local government

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units, would increase. To illustrate, he said that for 2020, the figure would be P375 billion, not P257 billion. Senator Cayetano agreed, noting that it is the figure that would come from both the subsidized or indigent members and those who pay privately.

Senator Recto further described the data and explained that the financing side pertains to PhilHealth, which includes the direct contributions, premium and capitation, which improves the demand side for health care. He explained that the supply side includes the CapEx and HRH under Service Delivery, and PS and MOOE. He pointed out that capitation, which was newly introduced, should address primary health-care through staffing, which amounts to P49 billion; while CapEx, which would have a total of P234 billion in a 10-year period, or P23.49 per year, is part of the Health Facilities Enhancement Program (HFEP). But he pointed out that based on records, there is no way to implement capitation in the following year because there are no adequate barangay health stations and rural health units throughout the country.

Senator Cayetano, however, pointed out that there are already existing facilities that require human resource, laboratory equipment, and others.

Asked on the number of existing barangay health stations that can service 45,000 barangays around the country, Senator Cayetano replied that there are around 22,000 functional barangay health centers or stations which have a midwife and a nurse, but without doctors as they are in the RHU. She explained that the personnel mostly come from the local government because of devolution but that the national government intends to have a bigger role in this area.

At this juncture, Senator Lacson pointed out that during his interpellation on the budget of DOH, he had learned from Secretary Duque that the DOH had abandoned the BHS program. Senator Cayetano agreed that the project had been stopped, but the DOH was continuing to build BHCs excluding those that were questioned under the previous administration and are the subject of litigation.

Senator Recto stated that the P23 billion allocation was not included in the 2020 budget to begin with because the DBM and/or the DOF observed that there was an absorptive capacity problem with the DOH. He added that the DOH was unable to spend its annual budgets especially in previous years as far as Health Facilities Enhancement Program was

concerned. Senator Cayetano said that the DOH had asked the DOF and the DBM for that funding precisely because it needed to roll out the BHS program. Senator Recto agreed. However, he pointed out that it was not found in the 2020 budget, in the NEP, GAB, the Senate committee report, and the Third Reading of the Senate version. In fact, he said that the Senate only added P5 billion for the HFEP which was short of the requirement of P23 billion.

Senator Recto believed that there was a mistake in planning somewhere. He posited that the government should first build the BHS and RHU, then ensure that there are people on the ground. He noted that those are like clinics that provide primary health care so that the people would be able to avail of it in the barangay level. He explained that capitation should come after the BHS and RHU have been built. He also surmised that one of the reasons why DBM and/or the DOF have not provided all the resources needed by the Health Department based on existing laws is the absorptive capacity problem of DOH. Senator Cayetano shared the concerns raised by Senator Recto, but she assured the Body that funding requirements remain because there are existing facilities that need to be manned and upgraded. She maintained that the human resource need for the following year would be for centers that were built or made available next year. Senator Recto pointed out that labor is funded by the local government, not by the national government, especially for barangay health stations. Senator Cayetano agreed, but she mentioned that according to assessments made over the years, the national government has to take an active role in doing so as mandated in the UHC law, hence the need to augment the programs and infrastructure that are being carried out in the local government level.

Senator Recto reiterated that the 2020 budget has no allocation for that purpose. In fact, he noted that without his and Senator Lacson's intervention, thousands of nurses would have lost their jobs because that appropriation was removed in the NEP.

Regarding the total health spending, Senator Recto said that for 2019, it amounts to P256 billion, including the P80 billion premium contributions of PhilHealth; for 2020, the rate increase from premium contributions would mean a collection of P117 billion, hence the total health spending for next year would be P375 billion, or about 50% increase compared to 2019. Senator Cayetano explained that the P117 billion to be collected from private patients would cover their needs, and the P257 billion requested by the DOH

and DOF would cover the public sector including the infrastructure. Thus, she agreed that the total amount would be P375 billion. However, she clarified that P117 billion that would come from the private sector would not contribute to the public facilities and operations needed, and only P257 billion would be accessible to fund the infrastructure, MOOE and others.

On the 50 percent increase in the total amount from 2019 to 2020, Senator Cayetano stated that the objective of the UHC is to cover every single Filipino. But Senator Recto noted that the biggest amount was on capitation, then the investments and supply side. He reiterated that there was a timing issue. Senator Cayetano mentioned the major change introduced, aside from covering all Filipinos, which is the availability of outpatient services. Senator Recto emphasized that the problem is that the BHSs and RHUs are not in place. Senator Cayetano clarified that there are 22,000 existing BHSs that are able to deliver services and in need of capitation. She admitted that she could not vouch for all the BHSs to have complete equipment, but at least, she pointed out, the budget could be used to purchase them since there would be stations to receive it. Senator Recto emphasized that many BHSs do not have equipment, doctor or health personnel.

Asked by Senator Recto on the amount of revenues to date, Senator Cayetano said it is roughly at P212 billion without the direct contributors, and P230 billion with the direct contributors. On the other hand, she said that the total budget of the DOH for 2016 is P122,630,153,000.

Senator Recto said that adding the premium payments of P160 billion would make it roughly P183 billion, which would be P202 billion in 2017 and P238 billion in 2018. Referring to the slides, he explained that he was showing the progress in the increases in the budget, knowing that the absorptive capacity of the DOH is weak. He said that the problem with throwing too much money at them is that they have inefficiencies and corruption, if not well-planned activities. He said that the increases should have a timing, as he surmised that it might be one of the reasons why the DBM and DOF do not always totally release what is due to DOH under existing laws. He said that earlier, he presented a slide showing that the revenues were roughly at P330 billion. Senator Cayetano said that according to the DOF, the premium for indigents is part of the GAA, so apparently there was double counting on

the slide. Senator Recto explained that the GAA column shows P103 billion because he added the P88 billion from the subsidy to PhilHealth. He said that the PCSO would contribute P3 billion in the following year, and PAGCOR would contribute roughly P17.5 billion. He affirmed that the value under the column of DOH-GAA was just for the Office of the Secretary.

On another matter, Senator Recto recalled reading in the committee report that in the past, roughly 50% of all tobacco and alcohol taxes go to universal health care; 50% of the sin tax law, as previously amended to include sweetened beverages, also goes to UHC. He asked whether the committee report intended that 100% of alcohol taxes go to Universal Health Care.

Senator Cayetano said that the objective of the bill is to have 80% to go to Universal Health Care, while the 20% would be allocated for the Sustainable Development Goals (SDGs). Senator Recto cautioned that the DOH could choke, and that there could be more inefficiencies and corruption, as was the experience of other agencies.

She agreed with Senator Recto's observations and concerns, saying that she would welcome recommendations. She said that her primary concern would be regarding coverage for outpatient treatment. She said that the other challenge would be the absorptive capacity and how efficiently the health services would be delivered considering that the UHC was structured in such a way that it could only be availed of by patients who are confined.

Senator Recto said that since the bill proposes to amend the Tax Code, at the appropriate time he would be proposing an amendment to remove the VAT on prescription medicine. Senator Cayetano replied that she was unsure whether it was the right bill to pursue the matter.

Senator Recto recalled that during the debates on TRAIN 1, he introduced amendments which were successfully adopted by the Senate, one of which was the exemption from the VAT of three essential drugs for hypertension, cholesterol and diabetes. Senator Cayetano said that the DOF prefers to work on the maximum drug retail pricing. Besides, she said that Senator Recto's proposal was not part of the bill and that perhaps it could be discussed in another bill. Senator Recto clarified

that the bill was essentially a health measure and the increase or decrease of taxes was merely incidental because the bill's objective is financing health care.

On the issue of medicines, Senator Recto said that a lot of people think that medicines in the country are more expensive than in any other country in Asia that it was even proposed that a price control would be put in place. Senator Cayetano said that she has very strong feelings about the prices of drugs. She requested that the matter be set aside for the meantime in order to focus on the matter at hand. Senator Recto argued that a part of the revenues would be used to buy drugs and medicines which was why he believed that it does not make sense for government to pay 12% to itself. Agreeing with the observation, Senator Cayetano said that the government would obviously be its biggest buyer. She said that just because it has not been able to fund outpatient services does not mean that there was a big demand to fund it.

Senator Recto asked on the average number of people who would avail of such services as he suggested that the program as envisioned seemed very aggressive that it assumed that one of the 70 million Filipinos would be outpatient with a budget of P1,000. He believed that the capitation should be pilot-tested first.

Senator Cayetano said that the figures were actuarially determined such as there would be people who avail of no more than P1,000.

Senator Recto expressed doubt that it could be done on the first year as the COA report stated that it was having a problem.

Senator Cayetano stated that there are existing centers — some manned, some with complete equipment, and without anything.

Senator Recto clarified that he only wanted the Body to look at the figures conservatively because government would be using taxpayers' money.

Senator Recto noted Senator Cayetano's proposal that 20% of the total alcohol taxes would be for purposes of the Sustainable Development Goals. He stated that just like the Millennium Development Goals in the past, he was in favor of supporting the SDGs. However, he expressed concern about the

SDGs as being a whole-of-government approach that would require the entire P4.3 trillion budget, not just 20% as earlier stated.

Senator Cayetano explained that 20% was specifically earmarked because there is tendency to lose sight of the specific goals due to day-to-day issues, government more inclined to focus on the urgent and immediate matters that it sacrifices the long-term goals. She said that the objective of highlighting the SDGs is to ensure that government mindfully addresses the different sustainability issues like water, education, industry, and so on.

Senator Recto agreed that the government should allot the 20% on specific targets so that it would not lose sight of it. He stated that while he is in favor of supporting the Philippine Development Plan's targets, the bill should be concentrating on health care because the 17 SDGs are too broad.

Senator Cayetano stated that she would be very happy if the revenue measure would focus purely on health. However, she said that the intake of sin products affects many of the SDG goals. She pointed out that as alcohol abuse is a gender-based violence, SDG No. 5 could be a target of the revenue. She said that productivity is also affected when people do not make it to work because he/she was dead drunk.

At this juncture, Senator Recto enumerated the 17 broad SDG goals, to wit: poverty; zero hunger; good health and well-being; quality education; gender equality; clean water and sanitation; affordable and clean energy; decent work and economic work; industry innovation and infrastructure; reduced inequalities; sustainable citizen communities; responsible consumption and production; climate action; life below water; life on land; peace, justice and strong institutions; and partnership for the goals. He believed that 20% of the alcohol taxes would not even make a dent on the goals, but the entire budget would.

Senator Cayetano recalled that during the SDG hearings, the baseline figures have not attained the targets. She stated that the funding from the revenue could get many of the baseline studies going which is required in determining the plan of action. She underscored that if not for the Programme for International Student Assessment (PISA), so much of the details lacking in the quality of education

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would not have been pointed out. She stressed that the funding could go a long way.

Senator Recto expressed his willingness to work with the Committee on the issue. Senator Cayetano agreed that Senator Recto could assist the Committee in crafting the proper language to ensure that the funding is well spent.

To Senator Recto's observation that NEDA, being a planning and not a frontline agency, should not be the lead agency, Senator Cayetano asserted that everything starts with a plan without which, programs would not move forward. She explained that the committee report was broad in order to entice inputs from the Body on how to utilize the funding. She said that at that time, the Committee thought that the NEDA was in the best position to determine the use of the limited funds.

As regards revenues, Senator Recto referred to several slides shown to the Body. He cited the baseline revenues on the assumption that government has not done anything. He informed the Body that in 2018, the government collected almost P67 billion from fermented liquor, distilled spirit, alcopops, and sparkling wines and other wines.

Senator Cayetano confirmed that the figures mentioned by Senator Recto were the same as those of the Committee.

Senator Recto supposed that based on existing law, government would collect P88.4 billion by 2020 and P102.1 billion by 2021. He noted that the incremental revenue proposed by the DOF and DOH starting from 2018 would be on top of the baseline revenues. He said that if P50 billion was collected from fermented drinks in 2018, the expected collection would be P65.5 billion by 2020, on top of which P25 billion would be collected, or a total collection of P90 billion by 2020 which is P40 billion more than the 2018 collection.

Senator Cayetano clarified that there would be a baseline collection of P88 billion for alcohol in 2020 and an increment of P47 billion under the proposed measure – P45 billion from alcohol and P2.1 billion from e-cigarettes, or a total revenue of P136 billion.

Asked if the collection was doubled in 2018, Senator Cayetano replied in the negative, but she clarified that it was a sizeable collection.

Senator Recto posited that in 2020, the collection would be P88.4 billion plus the increment of P47 billion, or a total of P136.2 billion; while the 2018 collection had P67 billion, or a 100% increase in 2020.

Senator Cayetano averred that it would not be doubled since it is just the intended amount to be collected to improve health care. Senator Recto stressed the need for the collection to be met.

On another matter, Senator Recto noted that the Senate, DOF, and House of Representatives had different versions which indicated two different elasticity rates. Senator Cayetano stated that she had no idea about the rate of the House version, and could only refer to the elasticity rate in the Senate version. She informed the Body that the Committee used the 0.5 elasticity rate as she explained that before finalizing the rate, the Committee had to run numbers on different elasticity rates which led them to that conservative 0.5 which showed no curve on the demand since alcohol is essentially inelastic.

Agreeing with Senator Cayetano on the 0.5 rate, Senator Recto expressed concern on the DOF, DOH, and House versions of 0.23 elasticity rate. He said that it would be hard to compare numbers when different assumptions are used.

Senator Cayetano stated that the DOF went with 0.23 because the House version was quite low and that the Senate decided to use a more conservative elasticity rate which the DOF confirmed.

Senator Recto stated that he would have done the same. However, he said that when comparing numbers under different assumptions, it would be difficult to determine the right elasticity rate.

Senator Cayetano supposed that the numbers could be run using the House version at 0.5 to simplify. Senator Recto agreed, adding that the DOF could submit the computations using both rates of 0.5 and 0.23 under the assumptions of both the DOF and House versions.

Citing the DOH-DOF proposal, Senator Recto stated that using the 0.23 elasticity rate, the revenue to be collected would be P249 billion from alcohol in the next five years and P19.5 billion from e-cigarettes, or a total of P268.5 billion. He said that the burden sharing of fermented liquor and distilled spirits would

be 76% and 24%. He noticed that the fermented liquor would be three times than the distilled spirits in the first year.

As regards the House proposal, Senator Recto stated that the revenue to be collected would be P115 billion and the burden sharing would be 61% and 34%, with distilled spirits paying more than fermented liquor. He noted that the House version was more conservative with the taxing and that it used the baseline plus incremental formula.

Senator Cayetano clarified that the Senate version is an offshoot of the DOF version, the reason why it was the Senate version that the President certified.

Senator Recto conceded that when referring to the DOF version, the term to be used would be "old DOF version."

Senator Recto said that the House of Representatives' version was a little more conservative at 66:34 burden sharing, while the Senate version is 66:33 which translates to P344 billion.

Asked how much the total collection would be under the baseline version for 2020 until 2024 given that the total collection for alcohol in the DOF-DOH old version amounted to P249 billion, Senator Cayetano replied that it would be P582.9 billion.

On whether adding the DOF-DOH total collection of P249 billion to the baseline version would total to P542 billion, Senator Cayetano clarified that on top of the baseline version, the incremental income from sin products amounting to P88.4 billion and another P102.1 billion as presented in the slide earlier were added for a total of P582.9 billion. She said that adding the total collection of P582.9 billion to the projected incremental revenues per year for five years in the amount of P356.9 billion would total P937.7 billion.

Asked how much the total collection would be if the baseline figures would be added to the House version, Senator Cayetano explained that under the House version, if the incremental income is added to alcohol alone, from the first to fifth year it would be P14.7 billion, P17.4 billion, P19.8 billion, P22.3 billion, and P24.8 billion, respectively, or a total of P98.9; and if P582.9 is added to P98.9 billion, it would translate to P681.8 billion. She clarified that under the Senate version, the total incremental revenues for alcohol alone is P344 billion in five years, so that

adding the P582.9 baseline figures to it would result in a total of P927.1 billion.

Senator Cayetano further explained that for the next five years, the revenue collection under the old DOF version would be P582.9 billion plus P229 billion, or P802 billion; under the House version it would be P691 billion; and under the Senate version, it would be P939 billion. She said that the amounts are much bigger than the projected figures because of the inclusion of the baseline collection.

Senator Recto noted that under the DOF/DOH proposal, the net profit of the fermented liquor industry on its first year was P24.3 billion exclusive of the baseline. He said that based on the incremental revenues of the DOF, they would want to increase taxes and collect P24.7 billion from the industry which is more than its actual net profit on the first year. Senator Cayetano said that sellers of sin products are the collecting agents of the government, so that whatever taxes are collected from them, assuming all the principles of taxation in place are fair and equitable, they should comply with it. She said that by practice, it is a pass-on tax since the amount collected from them are not eating into their profit.

Senator Recto noted that in 2018, the fermented liquor industry paid P50 billion in excise tax and made a profit of P24 billion. However, he said that the government would like to collect P24 billion more from the industry for the following year so that they would be paying P74 billion, which they could pass on to the consumers. Given that excise tax is an advance payment of taxes, he said that the industry would be paying their tax before selling out their products, which means that the industry would have to borrow from the market P25 billion more as an additional working capital. Senator Cayetano agreed, saying that the industry would have to pay before they sell out their products. However, she clarified that since their production is staggered, it would mean that if they have a five-day production schedule, they would have to pay in advance taxes on the fifth day.

Senator Recto reiterated that the fermented liquor industry had a net profit of P24 billion in 2018 and under the DOF/DOH old version, they want to collect P24 billion more the following year, which the industry could pass on the consumers. Senator Cayetano clarified that the DOH/DOF version would not wipe out the profit because it is essentially

a pass-on tax and fermented liquors are considered inelastic. She said that studies have shown that the country has the cheapest beer in the region with the highest number of beer drinkers in the world, factors that would address the statement that it would wipe out the profit. Senator Recto, however, said that the Philippines has the cheapest beer because it is the poorest in the region with low per capita income, although number three in terms of size.

But Senator Cayetano maintained that the prices of beer in the country are still the third lowest in the region based on the purchasing power of the consumer, even despite the higher rates that the Senate version has.

Senator Recto noted that under the DOF/DOH version, with the fermented liquor industry having a net profit for 2018 amounting to P24 billion, the proposal would be to collect from them P24 billion on the following year, P31 billion more on the second year, excluding the baseline; and P37.8 billion more on the third year.

As regards the distilled spirits industry, Senator Recto said that its net profit is roughly P8.7 billion, with three or four market players in the country. He noted that under the House version, the proposal is P10 billion on beer on the first year while P5.2 billion on distilled spirits, under the DOF/DOH version, it is P8.2 billion on the first year. He said that incidentally, the DOF is collecting at present P17 billion from distilled spirits and it would be collecting P25 billion the following year, excluding the baseline. He said that their profitability is only P8 billion; on the following year, it would want P8.9 billion, then P11.4 billion more on the second year, and then P12.9 billion on the third year.

Senator Cayetano said that the objective of the DOF/DOH was to increase the tax collection in order to cover the Universal Health Care Act, particularly the outpatient services which the government has been unable to fund. Senator Recto noted that it was based on the assumption that all the taxes imposed could be collected. Senator Cayetano said that she stood by the figures that she had presented, saying that Senator Recto had even agreed with the elasticity rate that she used which is conservative, therefore, subject to less errors.

Asked if the burden-sharing ratio was more or less 70:35, 25:75 or 72:28, Senator Cayetano said that it is not a Senate version, which has a higher burden-

sharing ratio on the part of the distilled spirits because distilled spirits are harder liquor and have a stronger health hazards. Senator Recto said that he was talking about burden-sharing because the higher alcohol content the liquor has, the higher its tax should be. Agreeing with Senator Recto, Senator Cayetano said the Senate version was structured precisely to create a higher tax rate on higher alcohol content.

On whether increasing excise taxes would also automatically increase VAT collection, Senator Cayetano replied in the affirmative, saying that fermented and distilled liquors are imposed with VAT on top of the excise tax. She said that tax rates and its effect on local and imported products are always recorded under the old proposal of DOF/DOH.

Asked by Senator Recto how much additional revenues from VAT the proposed measure would generate in the next five years, Senator Cayetano replied that the DOH-DOF gave an estimate of P24 billion using the -0.5 elasticity as the standard.

Senator Recto stated that a calculation using -0.23 elasticity for consistency would mean an estimated revenue of P32.2 billion without the baseline, while the House version is expected to earn P14.8 billion without the baseline while the Senate proposal would be about P42.8 billion.

Asked whether distilled spirits should be taxed higher because they have more alcohol content at 40% and are more hazardous and unhealthier compared to beer which has only 4.5%, Senator Cayetano replied that it is the belief of health economists that there is no safe amount of alcohol, thus they would both be taxed. She said that each serving consumption of hard drinks and distilled product can make a person more intoxicated because it has higher alcohol content than drinking fermented products like beer.

However, Senator Recto opined that the reason the Senate bill further raised the taxes on distilled spirits as compared to fermented drinks is that it is most unhealthy compared to drinks with lower alcohol. He said that the DOF-DOH version would yield P24.7 billion for beer or other fermented products while distilled spirits would yield P8.2 billion; thus the total within a five-year period would P188 billion for beer and P57 billion for distilled spirits. In the Senate version, he said that tax revenue for beer would be P26 billion and would be doubled for distilled spirits which are more harmful than beer.

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Senator Cayetano pointed out that the bill sought to correct a historical wrong which is the low taxing of distilled products. She explained that if she was not thinking of the viability of the companies and of the DOF's ability to collect as projected, she would propose that both products be taxed higher because the tax rates of the country are low compared to its neighbors.

Asked for the breakdown in proof per liter volume of consumption between fermented liquor and distilled spirits, Senator Cayetano replied that fermented liquors sell much more than distilled spirits.

To Senator Recto's contention that the proof per liter alcohol content of distilled spirits is 55%, Senator Cayetano clarified that the proper way to compare alcohol content is per serving consumption because drinking one 320 ml. or 350 ml. bottle or can of beer has 4% alcohol than a gin called "gin bilog" of the same quantity at 320 ml. but has 40% alcohol.

Senator Recto stated that the alcohol content per the volume or 68,809,000 millilitres for gin is 64% while beer has 36%.

Senator Cayetano argued that the numbers could not be compared because fermented liquor is measured in liters while distilled spirits are measured in proof liter.

On the other hand, Senator Recto explained that, if a higher alcohol content translates to a higher tax and vice versa, and distilled spirits have an alcohol content of 64% compared to 36% for fermented liquor, only 5% of the alcohol in fermented liquor is actually being taxed because 95% of the product is water.

But Senator Cayetano argued that a bottle of gin is not consumed by one person alone compared to a bottle of beer. Thus, she believed that the consumption pattern of alcohol should be used as comparison.

At this juncture, Senator Villanueva relinquished the Chair to Senator Zubiri.

Senator Recto stated that 58% of the cost of a bottle of gin goes to taxes like excise tax, VAT and income tax when it has an alcohol content is 4.5% which also represents the volume in proof liter or 709 million proof liters. Applying the same rule to beer, he said that 64% of the consumption is distilled and 36% is beer; and using bottle as base, around 58%

goes to excise, VAT, and income tax, while only 29% of the cost of each bottle of distilled spirit goes to tax; that was why a liter of Red Horse and a 750 ml. bottle of Emperador are selling at the same price and yet a distilled alcohol like Emperador has a lower tax. He said that a system which is simple to administer could be designed by applying one rate by proof liter for all the categories like beer, distilled, wine, and Alcopops.

However, Senator Cayetano clarified that she was not trying to change the current tax system, pointing out that fermented products or beers have had specific tax while distilled spirits have had an *ad valorem* and specific tax. She surmised that the proposals raised by Senator Recto which can be introduced during the period of amendments, was leading towards a single tax system which, she said, was not used by the country because the consumption patterns were very different. She said that the Philippines is a beer drinking country and that she would not favor the lowering of taxes on beer or on any product for that matter.

Senator Recto clarified that it was not his intent to lower the taxes of products with alcohol content.

Senator Cayetano said that she was only concerned about the numbers because she does not know how a single tax would apply based on the presentation of Senator Recto. She surmised that beer, having a very small percentage of alcohol, would become very cheap. However, she pointed out that health experts do not distinguish in terms of the kind of alcoholic beverage because they are only concerned with the harmful effects of such products.

Senator Recto stated that he only wanted to stress that beverages with a higher alcohol content are more harmful. In fact, he noted that even Senator Cayetano proposed to increase the tax of distilled spirits in the committee report for that same reason.

Senator Cayetano reiterated that alcohol consumption depends on the drinking culture and consumer habits. For instance, she noted that Filipinos love to drink beer in a celebratory manner or even on a daily basis. She added that there was even a study that showed that drinking was aspirational and Filipinos are a native of gin drinkers.

Senator Cayetano said that it was shameful the Philippines had gained notoriety in beer and gin drinking and there was nothing to be proud about it.

However, she stressed that she was not backtracking on her statements that Filipinos drink a lot of gin and beer.

Asked whether volume and population were the measurements used in the survey on beer and gin drinking considering the big population in the Philippines, Senator Cayetano replied that the measurement used did not matter considering that there are other countries that have a bigger population than the Philippines.

Senator Recto said that he would introduce his amendments such as the single tax rate for specific beverages at the proper time. He also asked for comments and suggestions from the Committee as well as from the DOF since several options had been discussed during the period of interpellations.

Asked whether tax for beer is specific while both *ad valorem* and specific by proof liter are used for distilled spirits, Senator Cayetano answered in the affirmative.

On whether the tax system took into consideration the alcohol content plus the *ad valorem* of 20% to come up with two rates, Senator Cayetano answered in the affirmative, saying that it is, in fact, the existing tax system followed for distilled spirits.

Asked how many tax rates would be used for wines, Senator Cayetano replied that there was a rate for sparkling wine and another for still and carbonated products.

Asked if there is a difference between carbonated and sparkling wine and whether one rate could be used in the system, Senator Cayetano replied that sparkling wines are more expensive than other wines.

Senator Recto pointed out that there are inexpensive sparkling wines in the market because they are used for simplicity purposes. He noted that all the proposals about the measure were trying to simplify the tax system.

Senator Cayetano agreed that her proposal was also aimed at trying to simplify the tax system, to which Senator Recto posited the idea of having one rate for wines, whether it is specific or *ad valorem* rate.

Senator Cayetano stated that it would be little bit difficult because there are different price points.

Asked whether the data on the revenues for wine came from BIR, Senator Cayetano replied in the affirmative

Asked how small the wine industry is, Senator Cayetano replied that the wine industry is only 1% or P800 million in terms of total value.

Senator Recto noted that there were several rates for such a small industry which the House and the Senate tried to reform, and that, in fact, the Senate version was proposing one rate for both still and carbonated wines. He suggested that the rate for sparkling, still and carbonated wines be combined because the industry is too small.

Asked whether the specific rate in the Senate version on the distilled spirits could be increased without touching the *ad valorem* rate, Senator Cayetano answered in the affirmative.

Senator Recto feared that touching the specific rate would consequently increase taxes on the local manufacturers than those on the imported ones.

Senator Cayetano clarified that the objective for the specific tax is primarily to address the alcohol content, and that the reason for the *ad valorem* tax is its effect given the price points presented.

Senator Recto recalled that he earlier mentioned that in the domestic market, more or less 29% of a bottle of distilled spirit goes to tax. He then asked whether the tax incidence as a percentage of the price of the bottle of the imported ones would be lower. Senator Cayetano replied that the *ad valorem* tax and the VAT would be higher for the imported ones because they are more expensive.

Senator Recto surmised that if adopting a purely *ad valorem* rate for distilled spirits at 100% of the net retail price (NRP), the effect would roughly be 50% tax on the bottle, for instance, of a Johnny Walker, while more or less 50% tax on the bottle of a gin *bulag*. Senator Cayetano agreed, explaining that the percentage does not change because it is a percentage of the price.

Senator Recto also presumed that adopting a specific tax rate for distilled spirits would hit the local manufacturer whose products are cheaper than the imported ones. Senator Cayetano agreed, but she maintained that the purpose of the specific

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tax rate for all within the same category is to hit the alcohol content because the consumption pattern is the same.

Senator Recto noted that the consumption pattern was 65% for distilled spirit and 35% for beer, but beer, which has lower alcohol content, is taxed more than the distilled spirit. He maintained that since it is also a health reform measure, taxing based on alcohol content would allow local manufacturers to introduce into the market new alcoholic products with lower alcohol content instead of paying such a high tax that would be passed on to the consumers. For instance, he cited alcopops which have lower alcohol content compared with 40% distilled spirits.

Senator Cayetano contended that products with lower alcohol contents such as beer and alcopops are also entry level for young people to start drinking; hence, she wanted to ensure the adoption of a tax measure that addresses not just the prices and the alcohol content but also the consumer and consumption patterns.

Asked what she meant saying that drinking products with lower alcohol content are an "entry point," Senator Cayetano replied that she did not only mean that it is an entry point to drinking harder drinks but also an entry point to drinking in general since it is difficult to tell people's preferences in terms of alcoholic products and that the DOH also has no data yet on it.

Revealing that he is both a smoker and a drinker who started with beer and eventually distilled spirits when he got older, Senator Recto stated that he would rather have all of them drink beer which is safer than hard drinks. Senator Cayetano disagreed, saying that she has seen a lot of alcoholics who binge on beer that not only has health effects but also social effects in terms of wife beating and other forms of domestic violence.

Senator Recto maintained that he would rather that they binge on beer than on distilled spirits, pointing out that based on volume consumption of alcohol, 65% is distilled and 35% is beer which essentially has more water. He suggested that aside from having one tax rate, there could be one *ad valorem* rate which is also fairer for everyone because 50% of a bottle goes to taxes; on the other hand, the rich would consume more of imported products like Johnny Walker since the ability to pay is present. He

said that this proposal is something the Body could pursue at the appropriate time as well.

Senator Cayetano believed that the bases of assumptions of Senator Recto in the previous slide that was shown were wrong. She averred that fermented liquor and distilled spirits could not be compared based on proof liter because they are two different things. Moreover, she asserted that there was something wrong in the figures shown in the said slide because it does not say "volume of consumption in proof liter."

Senator Recto assured that the figures were correct and that the slide that Senator Cayetano was referring to showed the actual volumes. Senator Cayetano stated that she would do the computation herself and make a comment on it. Relative thereto, Senator Recto also asked the DOF to get back to him on the numbers presented.

Adverting to the slide, Senator Recto explained that there would be no downtrading and everyone would pay their corresponding tax given a single rate in the first year. For instance, he said that applying it to fermented beer at P60 would lower the tax rate but a consumer still has to pay a higher tax because he would have to pay the current price plus the 4% increase at P60 per proof liter. Moreover, he said that at P60 in the first year, the projected increment in 2019 compared to 2018 would be higher, which would be about P11.9 billion for a single rate for distilled, fermented, and wine. Furthermore, he said that roughly P124 billion a year at P60, P80, P100, P120 and P140 would be collected. He added that applying it would lower the burden contribution from 75% and 25% to 53% and 47% and that the volume of distilled spirits would go down from 422% to 342%. He asked the DOF to take a look at his proposal including other details such as on the projected cost of a bottle of beer and other alcoholic products as he reiterated that no one would be allowed to pay a lower tax as a colatilla for it. However, he admitted that while the consumption of distilled products would drop, the consumption of beer is projected to slightly increase because the higher the alcohol content would mean a higher tax. Nevertheless, he assured that the total proof per liter in the country would go down.

Senator Cayetano clarified that she did not address the fundamental concern that both products are accessible to the youth and are cheap. She

asserted that what must be addressed is the fact that the number of beer drinkers in the country far outnumbered the hard liquor drinkers based on consumption practices.

Senator Recto averred that alcoholic products with higher alcohol content should be taxed more consistent with the health objectives of the measure. He added that he was proposing a simple rate for all as a solution.

Senator Cayetano assured that she would look at any proposal from the members of the Chamber although the DOF is currently content with the system in place. She likewise thanked Senator Recto for agreeing that their committee report goes in the direction of taxing products that have higher contents which is aligned with his objective. She averred that their committee report took into consideration the actual and final SRPs such as a P6-increase on a 300 ml bottle of beer.

Senator Recto presumed that the P6 may not be totally accurate. He suggested that they look at the House, the Senate and the DOF versions for the accurate figure. Senator Cayetano clarified that she was referring to the first year which is around P6. Senator Recto averred it is P20 if it were a liter. Senator Cayetano insisted that she was talking about per bottle.

Senator Recto noted that the tax is P25 under the Senate proposal, and that in five years' time or by 2024, the tax would be P75 which is a 300% increase. Relative thereto, Senator Cayetano reiterated that the objective is to bring up the tax rate so that the products are not cheap as they currently are. However, she feared that it would still be so much cheaper than in other countries with similar purchasing power despite the 300% increase.

Pointing out that the current price per bottle of beer is P90 while the price per bottle of a local distilled spirit like Emperador is P94, Senator Recto stated that under the proposal, the projected P154 price per bottle of beer by 2024 would just leave a P14 spread. Senator Cayetano maintained that it should not be on a per bottle basis because one liter is about a third of the price. Senator Recto clarified that he was comparing both in terms of liter as there is a liter bottle. Senator Cayetano argued that a liter of beer is not common.

As regards a 750ml bottle of Emperador Brandy which is cheaper than a liter of beer, Senator Cayetano asserted that a 750ml bottle of brandy contains 75 servings of alcohol (one shot each) while a bottle of beer at similar size is three servings only. She maintained that distilled spirits should not be compared to fermented liquor as they have different alcohol contents and that the choice on what alcoholic beverage to buy depends on the consumer's preference.

Noting the 300% increase of excise tax on beer, Senator Recto agreed with the committee report's suggestion to put higher excise rates on distilled spirits.

As regards the suggested retail price (SRP) of Johnnie Walker Black under the proposal which would be increased from P999 to P1,072, Senator Recto noticed that the slight increase in the structure seems fairer if it is added as *ad valorem* tax over a five-year period since rich people drink it. With Johnnie Walker Blue priced from P6,999 to P7,072, he believed that the increase would not be felt by the consumers in the next five years.

Senator Cayetano explained that from a health perspective, the amounts were covered to keep the rates simple rather than taxing cheaper brands because they are mostly consumed by the bigger population; nonetheless, she noted that there would still be VAT and customs duties.

Senator Recto said that every year, companies are being taxed from profit with the assumption that they would pass it on to their consumers. To the suggestion of creating a space so that the company could recover first, that is, imposing taxes on higher distilled spirits for the first year then increasing tax on fermented liquor and so on, Senator Cayetano stated that she would ask the DOF to submit a simulation based on elasticity of revenue gain.

With respect to distilled spirits which are imposed specific and *ad valorem* taxes, Senator Recto asked if Senator Cayetano could submit specific rates instead of combined rates for fermented liquor and the distilled spirits only. She said that due to time constraints she would not be able to submit the request on the next session day.

On equal burden sharing, Senator Recto stated that if the government needs P120 billion, P60 billion would be extracted from taxes on distilled spirits and

P60 billion from beer. Senator Cayetano said that on the contrary, what the Committee on Ways and Means tried to do was to temper the increase in both distilled spirits and fermented liquor; thus, doing a 50-50 sharing might bring a price shoot up.

To the remark that distilled spirit companies have not been paying their fair share for a long time, Senator Cayetano said that while she agrees with Senator Recto, she does not think it could happen anytime soon but that she is willing to work on the numbers through Senator Recto's help. Senator Recto said that for fermented liquor, the computation of rates would be easy; for distilled spirits, there would be two categories — imposing a specific rate and the *ad valorem* rate. He said that the truth of the matter was that the DOF does not want any reform except to increase revenue.

SUSPENSION OF SESSION

Upon motion of Senator Recto, the session was suspended.

It was 7:24 p.m.

RESUMPTION OF SESSION

At 7:34 p.m., the session was resumed.

Asked if the Senate has passed a tax measure on e-cigarettes, Senator Cayetano replied in the affirmative, saying that it was passed in June 2019. Senator Recto noted that in the past, there were no e-cigarettes in the Tax Code but that during the tobacco deliberations last May, he introduced an amendment to impose tax on e-cigarettes — both heated tobacco and vape, by January 1, 2020.

Asked if there are studies which show that a heated tobacco product (HTP) is worse than conventional cigarette, Senator Cayetano replied in the negative, saying that the medical industry has no conclusive studies regarding its impact although there were tobacco industry-sponsored studies which have conclusions to that effect.

Asked if there are studies, whether conclusive or inconclusive, which reveal that heated tobacco is less harmful than conventional cigarette because it is heated and is not combustible, Senator Cayetano averred that some doctors in the past claimed that some cigarette products, particularly green cigarettes,

were safer than other cigarette products but in reality, they were not, the reason why the health community became very careful before coming out with a pronouncement that heated tobacco products are actually safer.

To Senator Recto's assertion that heating is much less harmful than combustion, Senator Cayetano stated that even if the process is different, it is still not safe, the reason why there are countries all over the world which banned HTPs.

Senator Recto noted that Japan, the country which consumes the most heated tobacco products, would, in fact, encourage people to shift from regular cigarettes to heated tobacco.

At this point, Senator Cayetano showed an advertising slide saying "More Doctors Smoke CAMELS than any other cigarette!" But Senator Recto pointed out that she was referring to a marketing ad. Senator Cayetano explained that it is how the tobacco industry had positioned itself all along. She said that there were studies which were believed to be funded by tobacco companies that insist on their product as being a safer alternative. She added that the vast majority of medical experts could not conclusively say that such products are indeed safer.

Senator Recto surmised that the Body could decide on the issue at the appropriate time. He noted that under the existing law, there is a distinction between taxes of conventional tobacco and e-cigarettes, the latter having a lower rate due to its being less harmful than regular tobacco. He said that he started the discussion with the issue on heated tobacco because he thought that there would be no debate on it as it is non-controversial, and there had been no reports on illness due to heated tobacco consumption, unlike vape products.

Senator Cayetano maintained that until there is conclusive evidence that a product is indeed safer, they should veer on the side of safety. She said that the WHO recommended that the tax be the same for said products.

But similarly, Senator Recto pointed out that there is also no study saying that heated tobacco is worse or equal to conventional tobacco. He cautioned that the proposal would make it difficult for those who want to quit smoking regular cigarettes by

shifting to heated tobacco. Hence, he suggested that they tax heated tobacco products at a lower rate to incentivize them to make the shift to a less harmful product. He emphasized that he is not claiming that it is safe, but that it is less harmful than regular, conventional cigarettes.

Senator Cayetano recalled that before cigarettes were commercialized, people smoked tobacco cigars. However, she said that since cigarettes were being advertised as cleaner and safer, the health sector prefers that lawmakers approach the issue of regular cigarettes versus heated tobacco products with caution; until it is shown that HTPs are safer, they should protect the people and not push them to shift to a product that has not been declared safer.

Senator Cayetano pointed out that the tobacco companies are also selling HTPs which, along with vapes, are considered the cigarette of the future, so they would promote it the best way they can which is by marketing it as a healthier product. She reiterated that until it is declared by health experts as a safer product, she cannot endorse it as such nor recommend a lower tax rate for it.

Senator Recto read into the record some studies that support his claim, to wit:

- 2015 Public Health England and 2016 Royal College of Physicians stated that there has been an overall shift towards the inaccurate perception of e-cigarette being as harmful as cigarettes over the last year in contrast to the current expert estimate that using e-cigarette are 95% safer than smoking;
- Professor Michael Russell in the *British Medical Journal* stated that people smoke for the nicotine but die from the tar;
- US FDA, Commissioner, Dr. Scott Gottlieb said that nicotine in itself is not responsible for the cancer, the lung and heart disease. It is the chemical compounds in tobacco and the smoke created by the combustion that directly cause illness and death;
- American Association for Cancer Research and the American Society of Clinical Oncology posited that tobacco products should be taxed proportionate to their harm. Therefore, electronic

cigarettes should not be taxed at equal or higher rates than combustible cigarettes;

- Japan National Institute of Public Health noted that the concentration level of hazardous components in the mainstream smoke of heated tobacco products are much lower than those in conventional combustion cigarettes;
- German Federal Institute for Risk Assessment stated that, “Our study confirms that levels of major carcinogens are remarkably reduced in the emission of the analysed HnB product in relation to the conventional tobacco cigarettes, and that monitoring these emissions using standardized machines smoking procedure generates reliable and reproducible data which provide a useful basis to assess exposure and human health risk.”;
- China National Tobacco Quality Supervision and Test Center explained that THS 2.2, tobacco heating system, delivered fewer harmful constituents than the conventional cigarettes 3R4F. Simulated pyrolysis results showed that the lower temperature instead of specially designed ingredients contributed to the distinct shift; and
- Demand for e-cigarettes from smokers is highly responsive to price increases. Studies have found that own price elasticity for e-cigarettes is significantly higher than that of combustible cigarettes. It is estimated that every 10% increase in e-cigarette prices is associated with drop in e-cigarette sales because demand for nicotine products responds to change in price. Tax policy should be crafted to encourage switching for adult smokers.

Senator Recto disclosed that he stopped smoking conventional cigarettes and shifted to heated tobacco and vape and he felt much better compared to when he was smoking tobacco. Thus, he said that he was also basing his recommendation on his experience. He surmised that those who consume heated tobacco and vape have the intention to quit smoking, so the law should not make it difficult for them to do so.

Senator Cayetano said that she was familiar with the Public Health England statement that e-cigarettes are up to 95% less harmful than conventional cigarettes. However, she pointed out that the medical research and public health community worldwide have scrutinized this study for being misleading. She

said that the report was a conclusion made by a panel of 12 people for which no formal selection criteria of expertise was established, and that each had admitted that their understanding of the potential hazards associated with using electronic nicotine delivery system was at a very early stage, and that a limitation of the study is the lack of hard evidence for the harm caused by most products on most of the criteria. She emphasized that the study itself recognized that it was still at an early stage. She stated that there is a disconnect between helping smokers shift and stop the habit and that the data showed that a lot of smokers end up consuming both. Moreover, she mentioned a behavioral scientist from the University College London who informed her that the drop in the number of smokers in England was because e-cigarettes were allowed or tolerated to be used as a switching device, although it was not registered as a health reduction product. However, she clarified that the drop in the number of smokers cannot necessarily be attributed to the vapers or HTP users but to other reasons as well, including self-abstinence and other harm reduction products.

She also pointed out that England has very strong regulatory measures for cigarettes, including plain packaging, no point-of-sale display for many years, and very strong health advocacy work which are the reason for the successful decline in the youth uptake of cigarettes. She surmised that England allowed the introduction of vapes and HTPs because the government did not see it as a threat since the interest of the youth in smoking had been effectively reduced or practically obliterated. She lamented that the country is far from that situation. She said that there are similar measures in the Philippines which have not yet been passed. She expressed her concern that if taxation is not used as a tool to prevent the uptake of those alternative products, it would be very much available to the youth. She believed that if Congress could craft legislation that regulates cigarettes including mandating plain paper packaging, and no point-of-sale display, as well as penalizing the unscrupulous marketing techniques, then alternative products could be explored. If not, she said that legislators would just open a Pandora's box in ushering a generation of addicts to new products.

Senator Recto stood by his belief and their research which states that HTPs are less harmful. He emphasized that no one is saying those products are safe, but they are clearly less harmful products;

hence, his proposal that the rate should be different from that of a conventional cigarette.

Senator Cayetano pointed out that 30 countries already banned those products and she surmised that they would not have considered banning the products if there was no strong evidence to support their policy.

On the other hand, Senator Recto stated that there is no strong evidence of harm, and the reason for the ban is because it is disruptive to the industry, similar to countries that banned Uber. He said that it is an innovation, and people do not like change.

Regarding the news in the United States that people have been killed by consuming vape products, Senator Recto asked how they have been harmed or possibly died of vaping.

Senator Cayetano said that it was called EVALI, or E-cigarette and Vape Associated Lung Injury and the general conclusion was that the chemicals found in the e-cigarettes were Vitamin E and PHC.

At this point, Senator Recto said that he would be proposing amendments to the bill on the following day. However, for the meantime, he would like to show on screen two short videos.

SUSPENSION OF SESSION

Upon motion of Senator Recto, the session was suspended.

It was 8:02 p.m.

RESUMPTION OF SESSION

At 8:03 p.m., the session was resumed.

Senator Recto said that he filed Senate Bill No. 1208 increasing penalties for those found selling cigarettes or alcohol to minors, noting that under the current law, "the sale of and offer to sell to minors of liquor or beverage containing an alcohol content of 30% or about 60% and above is prohibited and shall be punishable by imprisonment ranging from six months and one day to four years and a fine. For tobacco, on the first offense, any person or business entity or establishment selling to, distributing or purchasing a cigarette, or any other tobacco products to minors shall be fined the amount of not less than Five Thousand Pesos (P5,000.00) or an imprisonment of not more than 30 days."

On the other hand, Senator Recto said that his bill proposed to increase the penalties under the present law. He said that his bill provides, among others, that: the following act which shall be considered unlawful: "facilitate the use, possession or access by a minor of any alcohol or tobacco products and selling or distributing any alcohol or tobacco products to a minor. Any person or establishment who commits any of the acts in the immediate preceding section shall, upon conviction thereof, be punished by a fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more than P500,000.00 and suffer imprisonment of not less than six years but not more than 12 years."

He said that what prompted him to file the bill was that during the debates, he realized that a lot of minors are smoking or drinking because the penalties under the present law are too low. With regard to e-cigarettes, he said that the intention was not to provide it to minors, but for those who want to stop smoking.

Senator Cayetano said that she was happy to hear about his efforts. However, she lamented that cigarettes and alcohol continue to be accessible to the youth because of visibility and point-of-sale. She recalled that she once tried to purchase alcohol in a convenient store in England but she kept forgetting that it was out of sight. She asked Senator Recto to consider other measures like plain packaging and no point of sales because that would correspond with the proposal to make e-cigarettes accessible.

At this juncture, Senator Recto showed two videos on screen, showing the differences between smoking and vaping.

In reaction, Senator Cayetano said that there are videos that demonstrate the difference between smoking and vaping. She opined that just because something could not be seen does not mean that there are no harmful ingredients or chemicals in it: among these are, nicotine, ethylbenzene, benzene, xylene, toluene, acetaldehyde, formaldehyde, napheline, stearin, benzo, florantin and others.

She said the video showed a picture of the vessel used for vaping that was cleaned and it appeared that there was nothing. She said that it has to be tested scientifically and it was not enough to make a conclusion that something was clean because you see nothing. She recalled that during the early tobacco

advertisement days, the shift from cigar to cigarette was also used to show something brown and dirty and the other was white. She said that the demos must be taken with caution.

Relative thereto, she read into the record the statement of the FDA dated September 9, 2019, to wit:

"Regardless of where products like e-cigarettes fall on the continue of tobacco product risk, the law is clear that before marketing tobacco products for reduced risk, companies must demonstrate with scientific evidence that their specific product does, in fact pose less risk or less harmful."

She said that it was a requirement by the FDA that a company could make a claim about something that has not been scientifically proven.

MANIFESTATION OF SENATOR CAYETANO

In reply to Senator Zubiri's query whether she would still allow a few questions from Senator Gatchalian, Senator Cayetano said that it was previously announced that the last day for interpellations on the bill would be on December 9, 2019. She explained that she just would not want someone to come up to her saying that she accommodated one but not the others. She said that she would accommodate the questions but requested Senators Gatchalian and Zubiri to be the ones to explain to the other senators who might feel bad that they were not given the chance to interpellate.

Senator Zubiri said that only Senators Pimentel and Drilon have reserved to interpellate her on the bill. However, he said that he was informed by Senator Drilon that he would no longer be interpellating.

Senator Cayetano said that she was informed that as of the previous week, Senators Hontiveros and Angara have withdrawn their reservations to interpellate and the last interpellation would be Senator Recto. She agreed to accommodate the interpellation of Senator Gatchalian.

INTERPELLATION OF SENATOR GATCHALIAN

Senator Gatchalian recalled that on August 20, 2019, he attended the committee hearing and requested

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from Philhealth some of the planned reforms that it intended to undertake in order to curb corruption. Showing a slide on screen, he said that during that hearing initiated by Senator Lacson, it was stated that P153 billion was broken down between overpayment for case rates and probable fraud.

As regards the reforms that PhilHealth intends to undertake to curb corruption, Senator Cayetano said that PhilHealth has a new president and he was specifically put there by President Duterte to address the issues of fraud and corruption.

Senator Gatchalian echoed Senator Recto's sentiments, saying that there are two main issues in PhilHealth: first, the absorption capacity, and second, the corruption issue. At this point, he reiterated his request from the PhilHealth some of its plans and programs that it would be undertaking in order to curb corruption and inefficiencies, especially in the light of the appointment of its new president.

On another matter, Senator Gatchalian recalled that during the hearing on August 29, 2019, he asked for estimates from DOF and DOLE on potential job losses. He pointed out that Valenzuela is home to San Miguel's 129-year old brewery employing about 900 regular employees and 800 indirect employees. He said that the brewery and employees pay approximately P20 million in taxes to the LGU. He then inquired if there would be potential job losses with the increase in taxes in alcohol.

Senator Cayetano said that a position paper of the DOLE dated October 24, 2019, provided that from 2016 to 2019, 196 workers from the manufacturing companies directly related to the production of alcohol products were displaced due to reorganization, lack of market and financial losses. She underscored that such terminations were not directly related to the implementation of sin tax. She stressed that no less than the DOLE was saying that it was not directly related to the implementation of sin tax. She cited another report that there was no significant decline of employment during the periods of 2010, 2013 and 2014; in fact, there was an increase in 2015. She reiterated that there was no decrease since the enactment of sin tax in 2012.

Citing a PSA study, Senator Gatchalian noted that there was a 7% decline in employment within the whole alcohol industry when the increase of sin tax took effect in 2013. He expressed concern that

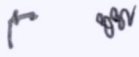
the City of Valenzuela would be directly affected by the increase as evidenced by the 7% decline in 2013.

Senator Cayetano stated that according to the DOLE paper, the number of employees in the fermented industry was as follows: 3,888 in 2013; 3,888 in 2014; and 4,087 in 2015. She supposed that the PSA and the DOLE used the same source and that unless the PSA's report comes with explanations, the DOLE position paper stated that there was a displacement of 196 workers in a span of three years and that their terminations were not directly related to the implementation of sin tax. She asserted that the displacements were due to numerous reasons and that it would be unfair to point to sin tax when a report has revealed that there has been no decline and the DOLE says that there is no direct relation to sin tax.

At this juncture, Senator Gachalian requested for a copy of the DOLE position paper. He then reiterated that based on their own study, there was, indeed, a decline of 7% in employment.

Senator Cayetano stressed that she would give a copy of the DOLE's position paper to Senator Gatchalian. She noted that PSA's report did not have any explanations on its findings; while the DOLE's paper had more specific insights and explanations since it is the specific agency that oversees employment.

As regards the tax burden per product based on alcohol content, Senator Gatchalian pointed out that San Mig Light, which has a 5% alcohol, including excise tax, VAT and others, has a burden of 48%; while Emperador Brandy, a popular brand, has 40% alcohol but its tax burden is 51%. He stated that based on Senate Bill No. 1074, a simple ratio between alcohol content and tax burden of the fermented group would be 1% of alcohol is equivalent to 9.6% tax; while in brandy, 1% of alcohol is 1.3% tax. He recalled Senators Recto and Villanueva pointing out that there was a big inequity within the products in which products with less alcohol – fermented – carry a bigger tax as opposed to distilled products which has bigger alcohol but less in tax. He said that at the proper time, he would propose amendments to address the inequity among products. He said that he merely wanted to share his own studies and to put on record the inequity among products. He believed that if the intention is to reduce alcohol consumption, then the tax burden on the products containing more alcohol should be of greater weight.



Senator Cayetano informed the Body that the Committee had shifted 5% of the tax burden to distilled products. She then urged the Body to look into the current prices of distilled products as it is already high. She stated that if Senator Gatchalian wanted to propose an increase, the Committee would be happy to provide any data that would help him come up with a proposal. She stressed that the Committee had studied the matter carefully, hoping not to overburden any particular industry. She said that if there was a move to further tax the distilled products, the industry would suffer as its computation had already included the 5% shift. She reiterated that the Committee would be happy to submit any data needed to help the proponents of the proposal see the different prices already computed based on the formula used.

Senator Gatchalian acknowledged that the increase in prices for distilled alcohol would be quite substantial. However, he stated that based on his computation, there would still be room on the elasticity of the products to make it equitable, especially between fermented and distilled products. He said that at the proper time, he would present to the Body his proposed amendments.

As regards e-cigarettes, Senator Gatchalian stated that one of the motivations for moving from cigarettes to e-cigarettes or heated tobacco products (HTP) is the savings that one would gain from the transition. He said that the most controversial technology being used at the moment is the open system or the free-based system. He believed that the current sin tax has substantially increased the prices of e-cigarettes in the open system already. However, he noted that the savings that the user would enjoy from the transition would amount to P20,000 if he/she moves to e-cigarettes free-based system and P23,000 to e-cigarette open system, nicotine salt.

Senator Gatchalian pointed out that the open system is very controversial because it is linked to many respiratory problems and other illnesses since it is unregulated and can be mixed with anything, yet it could generate the most savings even after transition. He then inquired if there is still room to increase the free-based system and e-cigarettes category so that it could be discouraging to its consumers.

Senator Cayetano stated that at the proper time, the Committee would be open to any proposal to increase the tax of free-based system and e-cigarettes and it would gladly provide any data to Senator Gatchalian.

Senator Gatchalian stated that at the appropriate time, he would submit his amendments for the Body's consideration.

SUSPENSION OF SESSION

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

It was 8:34 p.m.

RESUMPTION OF SESSION

At 8:40 p.m., the session was resumed with Senate President Pro Tempore Recto presiding.

MANIFESTATION OF SENATOR ZUBIRI

Senator Zubiri said that as scheduled, that day was the last day for interpellation on Senate Bill No. 1704 and the following day would be for its period of amendments.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

Upon motion of Senator Zubiri, there being no objection, the Body closed the period of interpellations without prejudice to Senator Hontiveros giving her manifestation during the period of amendments.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1074

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

ADJOURNMENT OF SESSION

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

It was 8:43 p.m.

I hereby certify to the correctness of the foregoing.



ATTY. MYRA MARIE D. VILLARICA
Secretary of the Senate

Approved on December 12, 2019