

**REPUBLIC OF THE PHILIPPINES**

**S e n a t e**

**Pasay City**

# **Journal**

**SESSION NO. 40**

Tuesday, November 30, 2004

**THIRTEENTH CONGRESS  
FIRST REGULAR SESSION**

**SESSION NO. 40**  
Tuesday, November 30, 2004

**CALL TO ORDER**

At 3:29 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

**PRAYER**

Sen. Sergio R. Osmeña III led the prayer, to wit:

**A Prayer of Thanks**

Thank You, Lord, for having chosen us to be Your children;

Thank You, for having given us Mary for our Mother;

Thank You, for those eternal principles You taught us which make our lives meaningful;

Thank You, for the mission we received from You through the grace of the Filipino people;

Thank You, for our many colleagues and associates, staffers and advisers who sustain us;

Thank You, for those who place obstacles in our paths for they help us become stronger; and

Thank You, for eternity that we may praise You forever without end,

Amen.

**ROLL CALL**

Upon direction of the Chair, the Secretary of the Senate, Oscar G. Yabes, called the roll, to which the following senators responded.

Drilon, F. M.	Madrigal, M. A
Ejercito Estrada J.	Magsaysay Jr., R. B.
Ejercito Estrada, L. L. P.	Osmeña III, S. R.
Enrile, J. P.	Pangilinan, F. N.
Flavier, J. M.	Pimentel Jr., A. Q.
Lacson, P. M.	Roxas, M.
Lim, A. S.	

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

Senators Angara, Arroyo, Biazon, Cayetano, Defensor Santiago, Gordon, Lapid, Recto, Revilla and Villar arrived after the roll call.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended to allow the senators to greet Senate President Drilon a belated happy birthday.

*It was 3:32 p.m.*

**RESUMPTION OF SESSION**

At 3:33 p.m., the session was resumed.

**ACKNOWLEDGEMENT OF  
THE PRESENCE OF GUESTS**

Senator Pangilinan acknowledged the presence of Mayor William Lim and the members of the *Sangguniang Bayan* of San Jose Panganiban, Camarines Norte; and representatives of the Muslim Young Professionals from Mindanao.

**APPROVAL OF THE JOURNAL**

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 39 and considered it approved.

**REFERENCE OF BUSINESS**

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

**MESSAGE FROM THE  
HOUSE OF REPRESENTATIVES**

Letter from the Secretary General of the House of Representatives, transmitting to the Senate the attached letter dated 17 November 2004 of the Honorable Speaker Jose De Venecia Jr., addressed to Senate President Franklin M. Drilon, informing the Senate of the designation of the following as members of the House Panel in the Congressional Oversight Committee on the Optical Media Board created pursuant to Section 33 of R.A. No. 9239 (Optical Media Act of 2003):

1. Hon. Gilbert Cesar C. Remulla
2. Hon. Junie E. Cua
3. Hon. Michael John R. Duavit
4. Hon. Benjamin C. Agarao Jr.

**To the Committee on Rules**

**BILL ON FIRST READING**

Senate Bill No. 1867, entitled

AN ACT PROVIDING FOR THE REIMPOSITION OF THE FRANCHISE TAX ON TELEPHONE AND TELEGRAPH COMPANIES, AND RADIO AND TELEVISION BROADCASTING COMPANIES, AMENDING FOR THE PURPOSE SECTIONS 108 AND 119 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

Introduced by Senator Drilon

**To the Committee on Ways and Means**

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 3:35 p.m.*

**RESUMPTION OF SESSION**

At 3:42 p.m., the session was resumed.

**MANIFESTATION OF  
SENATOR PANGILINAN**

At this juncture, Senator Pangilinan manifested that Senators Gordon, Lapid and Angara, who arrived after the roll call, came from the hearing of the Commission on Appointments.

He manifested that Senator Arroyo, who also arrived after the roll call, came from a meeting of the Committee on Rules but was in the Session Hall earlier.

**COMMITTEE REPORT NO. 5  
ON SENATE BILL NO. 1854  
(Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1854 (Committee Report No. 5), entitled

AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON ALCOHOL AND TOBACCO PRODUCTS AMENDING FOR THE PURPOSE SECTIONS 141, 142, 143, 144, 145 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED.

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

The Chair recognized Senator Recto, sponsor of the measure, and Senator Osmeña for his interpellation.

**INTERPELLATION OF  
SENATOR OSMEÑA**

Asked by Senator Osmeña why the government needed to pass a number of tax measures that would put an even bigger burden on the Filipino people, particularly the fixed income groups, Senator Recto replied that as he had articulated in his sponsorship speech, there is a large deficit not only on the part of the national

government but also on the part of the public sector, particularly the government-owned and controlled corporations. He noted that the consolidated public sector deficit is roughly 6.6% of GDP, and that the sum of all the goods produced in a given year is not enough with regard to the debt stock which is roughly P6 trillion. Thus, he said, there is a need for government to raise revenues not only through taxes but also through other initiatives like improving tax collection efficiency and curbing corruption and smuggling.

Senator Osmeña recalled that for the period 1994 to 1996, the fiscal position of government improved from the time of former President Aquino during whose term several coup attempts occurred and the international community put pressure on the administration as regards the Marcos loans that were not properly serviced in the 1980s owing to another fiscal crisis at that time.

Considering that the tax rates had not substantially diminished and the economy had grown, Senator Osmeña asked why the gap became wider. He posited that the deficit as a percentage of GDP should have been maintained, at least.

Senator Recto explained that the tax effort has been going down during the early 1990s when it was roughly 20% of GDP as compared to 14.6% of GDP today. He added that although a comprehensive tax reform program was adopted in 1997, corporate income taxes were reduced from 35% to 32%. He also noted that so much fiscal incentives were given in the 1990s, citing the tax exemptions granted to export enterprises and the agricultural sector, thus, there was not much collection from them. Further, he pointed out, the peso depreciated from P26 to \$1 in 1997 to P40 to \$1 in 1998 and to P56 to \$1 today – more than a hundred percent in the last seven years. He noted that in 1997, the lucrative market cap of companies listed in the stock exchange was roughly P3.5 trillion; today, the index is roughly 1,800 which is half of what it was in 1997, so that, in effect, 75% of the market cap was lost in the last seven to eight years.

However, Senator Osmena pointed out that Senator Recto has glossed over the fact that the national government had granted the tax incentives and tax exemptions

to new corporations that did not exist in 1994 to 1998. He asked why the government did not collect the commensurate E-VAT or corporate income tax on the increase in sales or profits of existing corporations. He believed that the claim that the fiscal incentives were part of the reason why the deficit kept on getting bigger has no significant impact on the deficit.

Senator Recto reiterated that many of these companies had dollar debts so that the peso depreciation and the 30% increase in interest rates in 1998 affected them seriously. However, Senator Osmena pointed out that the currencies of other Asian countries like Indonesia, Malaysia, and Thailand had also depreciated.

Senator Recto said that when the President stated that the economy grew by 5%, it did in peso terms, but when the peso depreciated by 5%, there was actually no growth compared to the other countries. The country's economic managers, he said, failed to compare the Philippines in global terms. He noted that the Philippines was in the top 20 countries in terms of per capita dollars and in aggregate size in the 1950s but today, it ranks 135<sup>th</sup> out of 208 countries.

Senator Osmena argued that inflation has nothing to do with the deficit because in nominal terms, it means that if the GDP would grow by P100 million or P500 million next year, the government could collect excise tax or E-VAT or income tax. He pointed out that Thailand, Malaysia, and Indonesia did not raise taxes in order to keep their fiscal position stable.

Senator Recto admitted that he was not totally aware of what Thailand or Malaysia had done as far as taxes are concerned but he noted that Thailand has a very low debt-to-GDP ratio. He recalled that when the Thai banking sector encountered problems in 1997, the government, together with the private sector, bailed out the banks from the burden of nonperforming assets and nonperforming loans.

Senator Osmena said that he was not talking about the growth in the GDP although it could be a basis for predicting how much the nominal growth would be in the collection of certain taxes like E-VAT and excise tax.

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Upon query, Senator Recto replied that tax collection has been going down because of tax evasion and smuggling.

Asked if the government would penalize the Filipino people simply because the Bureau of Customs and the BIR are not doing their jobs, Senator Recto replied that the solution to the fiscal problem is not only to raise taxes but also to improve the ability of the BIR to collect taxes and the Bureau of Customs to reduce smuggling and generate revenues.

Recalling that the President announced in July that the government was in a fiscal crisis and that the Committee on Ways and Means conducted in August its first hearing on the issue, Senator Osmeña queried if Senator Recto was convinced that between August and November, the BIR and Bureau of Customs had increased their tax and revenue collection efforts.

Senator Recto replied that without any new taxes, the nominal growth of the tax collection effort of the BIR is roughly 13% this year compared to the 9% last year which means that if the economy grew by 5% and inflation was 6%, the nominal growth of the economy would be 11%. However, he pointed out that such growth depends on which sector is growing; for instance, if the growth in the economy was in the highly taxed sectors, then taxes would be collected; if the growth of the economy was in agriculture or exports which are given incentives and exemptions, then no taxes would be collected. He said since the tobacco industry pays roughly 50% of its gross sales in excise tax and E-VAT, it appears to be proportionately taxed. However, Senator Osmeña maintained that he was not convinced that the BIR is really collecting the right taxes because about P130 billion in E-VAT are uncollected every year.

Senator Recto admitted that the BIR could do much more in improving its tax administration and collection efforts but it would take some time to achieve this. In this regard, he revealed that the biggest tax evasion or leakage is not in the fixed income earnings but in the professional business income where about 60% to 70% is not being collected. Further, he said, 40% of the

corporate income tax is uncollected, and roughly 30% to 40% of value-added tax is uncollected.

Asked if the term "professionals" refers to those who have a tax liability but did not pay their taxes or those who evaded the E-VAT, Senator Recto replied that the term refers to those who did not report their income and pay their corresponding tax liabilities.

On whether it was only in July that the BIR realized that it had about P130 billion collectibles in E-VAT, Senator Recto replied that the improvement in the E-VAT collection happened when Commissioner Parayno was appointed as he adopted a management information system that detected which companies are not paying the appropriate taxes. Based on the Philippine medium-term plan, he predicted that if the BIR would be able to sustain a growth rate of 12.6% for the next six years, the government would have a balanced budget by the year 2010.

Senator Osmeña expressed disappointment that the Senate would consider a 2% increment over the normal growth pattern as an outstanding achievement. Senator Recto contended that a 2% improvement is, in effect, a 20% improvement on base growth.

On the observation that in absolute numbers, if the BIR was only able to collect 2% of the targetted P500 billion, that would only be P10 billion, Senator Recto argued that if the BIR was able to collect P412 billion in 2003 and the targetted P476 billion this year, it would be a 10.2% improvement on its nominal growth year-on-year.

Senator Osmeña posited that year-on-year growth figures do not mean much since agriculture, for instance, is only 18% of the GDP. Asked if the year-on-year 6.5% growth in the GDP is in real numbers or is adjusted for inflation, Senator Recto replied that it is in real numbers.

Senator Osmeña contended that even a 12% real growth in GDP means nothing compared to the base numbers in 1996 and 1997 when, for the first time, the national government achieved a balanced budget. He believed that most of

15

the blame could be attributed to the tax effort rather than to the peso depreciation. In this regard, he adverted to the report of the U.P. economists that the depreciation of the peso was only 18.8% of the total increase in debt from 1997 to 2003 but the assumed liabilities and loans to corporations accounted for the biggest deficit, pegged at 21%.

Senator Recto recalled that from 1980 up to present, the depreciation of the peso was one of the big causes of the huge budget deficit. However, Senator Osmeña pointed out that at that time the country was suffering from the effects of the assassination of former Senator Ninoy Aquino, the default on loans, and the series of coup d'etat attempts.

In reaction, Senator Recto clarified that he was just stating that the biggest contributing factors to the increase in debt during the last two decades were the peso depreciation, the assumed liabilities and losses of GOCCs and deficit of the national government.

Senator Osmeña emphasized that regardless of what happened in the 1980s, the country achieved a balanced budget in 1996. He said that he was just trying to understand what happened thereafter, excluding the Asian financial crisis in 1997 and its spillover effects in 1998, 1999 and 2000. Senator Recto replied that the Committee on Ways and Means gathered the following data on the consolidated deficit:

YEAR	AMOUNT IN PESOS
1998	83.2 Billion
1999	100 Billion
2000	156 Billion
2001	170 Billion
2002	218 Billion
2003	234 Billion
2004	307 Billion

He observed that from 1998 to 2004, the government borrowed more compared to the time of the Aquino and the Ramos administrations combined as he added that the consolidated public sector deficit in 1998 was 3% of GDP and in 2004, it is expected to be about 6.6% of GDP.

Senator Osmeña observed that in the last four years alone, from 2001 to 2004, the Macapagal Arroyo administration borrowed up to P1 trillion. He recalled that during the Estrada administration, the consolidated public sector deficit was only P300 billion.

Senator Osmeña averred that it would be unfair to let the people carry the burden of taxation just because the government was short of money. He said that he wanted the people to understand why the problem was being resolved through another tax measure. Senator Recto replied that as Chairman of the Committee on Ways and Means, it is his job to temper the desire to pass so many tax measures as he reported that in his last meeting with the President, the proposed revenue measures have been scaled down from P80 billion to P30 billion. He noted that in his sponsorship speech, he said that it was unfair to put the burden of paying the fiscal crisis of the country on the consuming public.

Replying to other queries, Senator Recto said that the tariff increase of 2% would raise P5 billion and the P2 across-the-board increase per liter of fuel would raise P30 billion. He stressed that the tariff increase is being requested from Congress because the President does not have the authority to do it.

Asked about the proposal to increase the tariffs on all imports by 3% to come up with P45 billion, Senator Recto replied that the President was not considering the 3% tariff increase at the moment.

On the matter of energy rates, Senator Osmeña asked if increasing tariffs, with the approval of the Energy Regulatory Commission, would help reduce the consolidated public sector deficit this year and the coming years, Senator Recto replied in the affirmative as he informed the Body that the bigger problem lies in the power sector from which significant amounts of revenue could be raised, if the ERC were to adjust its charges.

Senator Osmeña remarked that the power sector is a problem because the President is intervening in the rate-setting powers of the

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ERC. The President, he said, caused the Napocor to withdraw an P0.85 power rate increase in the year 2002 that had cost the country P74 billion, if the depreciation of the peso from year 2002 to 2004 were factored in. He posited that smuggling, from which a chosen few benefit, is the country's biggest problem and not the power sector. He recalled that Senator Lim had already requested a list of suspected smugglers as he likewise asked to be provided with the list. Senator Recto replied that the list was not submitted to the committee.

Senator Osmeña stressed that while the Senate is trying to analyze how to fix the fiscal problem of the country, customs officials are hiding important information from the Members, saying that he would find it hard to cooperate with the Majority in passing the new tax measure unless he could be given assurance that tax leakages and smuggling would be stopped. Senator Recto shared the same sentiment as he noted that the country is losing a tremendous amount of money in smuggling alone and its curtailment, at the very least, should enable the BOC to double the revenue collections.

Senator Recto pointed out that the country's borrowing cost is so high and the inability to finance the requirements in the future may be hampered if new tax measures are not passed and the President cannot improve the ability of the BIR to collect taxes and reduce smuggling activities.

Senator Osmeña observed that customs officials are hiding the identities of the smugglers that they have known for a long time. He noted that smuggling is not a problem that came up just recently. He warned that if the list of alleged smugglers is not submitted the next day, he would do everything to block the passage of the measure. He stressed that the Filipino people have the right to see the list and Congress should not consider increasing taxes if the country is losing P100 billion a year to smuggling.

At this point, Senator Roxas said that the Committee on Trade and Commerce, in one of its hearings, requested the list as part of its work to look into smuggling. He said that the first

document submitted by the BOC was simply a list of individuals against whom the Bureau had filed cases and not the "order of battle list" that the Senate is after. The BOC, he said, is now in receipt of a subpoena *duces tecum* from the Senate to provide information on the entry and exit of products in Subic, Clark and other ports and other information that other committee members had requested. He informed the Body that the committee's information is almost complete and a special task force on smuggling has been reorganized. He took cognizance of Senator Osmeña's right to demand the list.

Asked by Senator Osmeña when the Members could expect the list, Senator Recto replied that a representative from the Department of Finance has communicated with the Commissioner of Customs to find out when the list could be submitted to the Senate.

Senator Osmeña observed that Senator Recto's power point presentation contained no data on which the excise taxes on imported cigarettes, distilled spirits and fermented liquors were based. Senator Recto revealed that he did not have any difficulty working with the Department of Finance as well as the BIR, but found it very difficult to get information from the Bureau of Customs. He said that in every budget and committee deliberations since year 2001, he always questioned the low targets of the BOC that are easily achievable. He observed that there is tremendous smuggling of cigarettes, alcohol, distilled spirits as well as vehicles and oil products throughout the country. He revealed that last week, his office came out with press release, based on a study of the excise taxes, that from the smuggling of oil products alone, the BOC loses P20 billion to P30 billion in revenues.

Senator Osmeña stated that it is hard to detect the smuggling of jewelries which are small items but smugglers and the ones protecting them have become too brazen to smuggle oil and automobiles which are very large items.

Senator Osmeña asked what the Senate, particularly the ways and means committee, is going to do about the rampant smuggling and under which committee the matter falls. Senator Recto replied that it falls under the jurisdiction

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of the Committees on Ways and Means and Trade and Commerce which explains why Senator Roxas has filed a resolution. He gave assurance that he was willing to work closely with Senators Roxas and Osmeña to solve the smuggling problem.

Considering that smuggling is one of the reasons behind the fiscal crisis, Senator Osmeña opined that the Bureau of Customs' refusal to give information vital to the solution of this criminal activity is indeed the height of arrogance, which the Body should not ignore. Excepting the proposed sin tax which imbibers of alcohol and smokers are willing to pay, he believed that the Members would find it hard to explain to their constituents the proposed additional taxes when the government should first address the smuggling problem and the tax leakages. Additionally, he pointed out that the power point presentation of Senator Recto did not have any data on the gross receipts of imported spirits even though it listed the taxes collected from these products at P200 million.

Asked how these taxes were paid without a base figure, Senator Recto explained that the committee received conflicting data as regards sales receipts on imported spirits but the data he presented was the one agreed on between government and the industry players. He believed that the gross sales on these goods are much higher and consequently, the tax burden on this sector would be much lower. Similarly, he said, the data on premium cigarettes showed only a 0.4% consumption of these imported items but he believed that the actual consumption of such products is much higher. He conceded that he did not have data on the amount of excise taxes collected from premium cigarettes or cigars. However, he stressed that the tax for cigars is very low at P1.12 when a cigar could cost anywhere from P500 to P2,500.

Upon further queries, Senator Recto said he was not aware whether other Asian countries have increased their taxes in the same substantive percentages as that being proposed by the government but he admitted that next to Japan, the Philippines is the second biggest borrower in the region which is the reason behind the need for additional taxes.

Senator Osmeña, however, opined that this would not be possible unless loopholes in the tax system are plugged. He believed that it would not be possible to raise new taxes and plug loopholes at the same time unless, for instance, he was given the list of smugglers in the Bureau of Customs' "order of battle."

Asked about the breakdown of taxes and rates per type, Senator Recto informed the Body that about 52% come from indirect taxes collected by both the BIR and the BOC which meant that the lower income earners are carrying a bigger brunt of the tax burden.

Asked about the eight proposed tax measures, Senator Recto replied that most of the proposals such as the two-step increase in the VAT rate, indexation of sin taxes, and the excise tax on petroleum products would be indirect taxes. He suggested that the tax on telecom franchises should be an income tax that could be based on gross income while the gross income taxation should be a direct tax.

Upon further queries, Senator Recto replied that increasing only the income taxes of only the telecom companies would not necessarily be considered class legislation. He explained that the telecom companies would be taxed based on their gross income but the regulatory agencies would ensure that such tax would not be passed on to the consumers. Since industry members have agreed to the terms of the sin taxes proposal, he opined that it would be easier for Congress to pass the telecom tax measure. Moreover, he said that even though excise taxes are passed on to consumers, these taxes are based on volume and are advanced by the manufacturers. For instance, he said that big players such as San Miguel Corporation, Fortune Tobacco Corporation, and Philip Morris have agreed to advance the excise tax payments for future sales. He believed that the telecom firms and the government could agree on taxing the income of the former without passing this burden on to consumers. He noted that the grant of tax amnesty is another direct tax. Senator Osmeña disagreed to Senator Recto's statement that it is possible to have a corporation not pass on its tax or other expenses to

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consumers. He said that a businessman has a hurdle rate of between 18% to 25% return and would not absorb any taxes which are expenses and are always passed on to others unless the business is making a tremendous profit. For instance, he explained that of the telecom firms only three—Globe, PLDT and Smart -- could be considered profit earners, but in actuality only two firms are making money since PLDT and Smart are affiliated. He said that any tax imposed on these firms be it gross or franchise tax, would be passed on to their customers and the government could not do anything about it as this is the way business is conducted in a democracy. However, he expressed concern that imposing a gross taxation on companies that are losing a lot of money would be unfair. He stressed that such a proposal should not be passed by the Chamber.

Asked whether GOCCs have contributed about P6 trillion or 40% of the country's CPSD, Senator Recto replied in the affirmative. He noted that the estimate might even be higher than 45% since the government has been shifting the debts of the GOCCs to the national government since the mid-'70s, starting with the debt incurred from the Bataan Nuclear Power Plant project through the Central Bank Board of Liquidators (CB-BOL), and then the debts of the GFIs and the National Power Corporation. He pointed out that the government borrows funds precisely to service such debts. Looking at the cumulative debt and taking into account the depreciation of the peso, he agreed that the GOCCs are the bigger problem up to the present.

Senator Osmeña asked whether a debt audit has been made even as he noted that Senator Biazon has a pending resolution creating a joint congressional commission to audit the national debt. He expressed concern that he has not received the list of the emoluments of all the top officers of the biggest GOCCs in the country which he had requested from the Department of Finance three months earlier. He stressed that this was inexcusable since DOF could furnish the Office of the President with the same information should the President direct it. He said that he was suspending his interpellation until such time that he would be furnished with the information he had requested. However, Senator Osmeña informed the Body that by being a

member of the board of directors in one of the top corporations in the country, one already has an emolument of between P2.5 million to P3 million in the form of per diems, travel allowances, representation allowances and profit sharing. For instance, he said that the head of the GSIS who sits in the board of San Miguel Corporation, PLDT, and MERALCO would be getting about P2.5 million to P3 million from each corporation per year. He opined that these officials do not want the legislators to know about these perks which they receive on top of the money they plunder from the corporations they head. He expressed doubt whether the other members of the Opposition would be receptive to the passage of a tax measure which would seek to collect more monies from the poor when the Senate has not done its job. He emphasized that he was merely trying to plug all the leakages that have been going on in the government for so many years.

#### INTERPELLATION OF SENATOR ENRILE

At the outset, Senator Enrile informed the Body that he has 220 questions and expressed hope that the Sponsor's answers would be as brief and as direct as his queries. He asked whether he was correct in his assumption that Congress was urgently called upon by the Executive Department to enact certain tax measures because of the national government's fiscal problem. Senator Recto replied in the affirmative.

Replying to further queries, Senator Recto affirmed that the national government's fiscal problems have reached a critical level, thus, the urgent call for Congress to pass new tax measures including the "sin" taxes, otherwise, the international credit rating organizations would downgrade the credit standing of the Philippines which would worsen the country's fiscal condition. He affirmed that Senate Bill No. 1854 is an administration bill certified by the President for immediate enactment.

Asked on the causes of the fiscal problem of the government, Senator Recto replied that the tax collection effort has gone down roughly from 20% to 14% while the government continues to borrow. He said that added to Napocor's tremendous

losses, the total debt stock of the country at present is roughly P6 trillion, which is more than the GDP.

Upon inquiry, Senator Recto informed the Body that there are many wastefulness and inefficiencies in running the government such as the leakages in the BIR and BOC as well as corruption in general.

Asked how much is being spent on travels locally and abroad, Senator Recto replied that such information can be found in the General Appropriations Act and which the Committee on Finance can answer when it sponsors the budget.

Asked how much was lost due to corruption in government transactions like procurement of goods and services and contracting infrastructure projects, Senator Recto estimated that if the capital outlay portion of the budget was roughly P80 billion, at least 20% or P16 billion would be lost; as regards the MOOE of roughly P80 billion, losses would be at least 10% or P8 billion such that the total losses on the expenditure side of government was between P26 billion to P40 billion, and P200 billion to P250 billion for the revenue side. He disclosed that the total inefficiency as far as corruption is concerned was much greater on the revenue side than on the expenditure side; in sum, P290 billion was lost, excluding the losses incurred by the GOCCs. He stated that a one percent improvement in tax collection over GDP would translate to P50 billion which could easily wipe out the entire losses due to inefficiency on the expenditure side of the government.

Asked how much forgone tax revenue is attributable to tax avoidance in the country, Senator Recto gave the following estimates: VAT - roughly 40%; fixed income - 4%; and professional business income - 40%. In general terms, he said, the government should be collecting roughly 20% of the GDP or roughly P1 trillion if the GDP was P5 trillion. He agreed with Senator Enrile that there would have been no need for this measure had the government managed its affairs properly.

Replying to further queries, Senator Recto revealed that roughly 30% to 40% was lost due to outright tax evasion. He said that precisely, the Lateral Attrition bill, which Senator Enrile

sponsored in the previous Congress, intended to reduce inefficient personnel in the government's collecting bureaus. Adding up the wastefulness, corruption, tax avoidance and tax evasion, he said that the government was losing P300 billion to P400 billion.

Asked how much tax revenue has been given away by the government through improvident and indiscriminate grant of tax privileges, Senator Recto estimated that it would be P170 billion to P220 billion which was included in the P1 trillion tax revenue losses of the government. As regards the losses due to technical and outright smuggling, he said that the BOC, which collects about P115 billion, should be collecting at least double that amount, even assuming a 50% exemption. With respect to tax revenue lost due to imprudent conduct and decisions of government functionaries, he said that it was included in the estimate of leakage and revenue expenditures of P300 billion to P400 billion. He surmised that a significant amount was lost due to ineptness in tax administration. He conceded that, so far, he has not seen any study on the subject.

Of the total tax revenue collection of the BIR for 2003, Senator Recto informed the Body that 98.5% was from voluntary compliance and 1.5% from direct tax audit but he agreed that voluntary compliance could be as high as 99.6%. He expressed the view that BIR could improve its performance through an automatic audit system which is among the suggestions contained in a bill he intends to file. He assumed that the collection performance of the BOC as far as voluntary compliance and direct audit were concerned would be almost the same as that of BIR.

Asked if there has been any comparative analysis of the respective incremental revenue yields for 2005 of House Bill No. 3174, Senate Bill No. 1815 and Senate Bill No. 1854 from the products treated under Sections 144 (tobacco products) and 145 (hand-packed and machine-packed cigarettes) of the National Internal Revenue Code, Senator Recto replied that for the cigarettes industry, the incremental revenues for the first year would be P4.949 billion from the House version, and P571 million, and P5.4 billion,

respectively, from the two Senate bills. On the impression that the rates suggested by Senate Bill No. 1815 were too high compared to House Bill No. 3174 and Senate Bill No. 1854, Senator Recto explained that Senate Bill No. 1815 would impose the heaviest burden on the low-class category which has the biggest volume in the industry but has the smallest value of 13% only. He affirmed that the tax under Senate Bill No. 1815 was a specific tax based on volume.

On the comment that the committee has been misled, Senator Recto asserted that the committee, the Department of Finance and the NTRC labored to look at all the numbers.

At this juncture, Senator Enrile requested that the figures be recomputed as he believed them to be not quite true. Senator Recto stated that 48% of the P4.3 billion produced in 2003 belonged to the low-end tier. He explained that if the two billion packs of cigarettes were taxed at 1.12%, then two billion multiplied by 1.12% is the revenue of the government. He said that what Senator Enrile suggested is that a P6 tax multiplied by the same two billion packs, would generate P12 billion. This, he asserted, would not be true.

Asked if he has empirical data to support the computations, Senator Recto replied in the affirmative as he added that he would give Senator Enrile a copy thereof.

Senator Recto stated that since the BIR reclassified La Suerte's *Astro* and *Memphis* cigarettes in 2003, without taking into consideration the consumers' ability to pay, they were imposed a 400% rate increase, as a result of which, their volume of production dropped by 80%. He added that 50% of the P4.5 billion comes from the low-end tier, and 20%, from the medium tier.

Senator Enrile reiterated his request to be given a computation so he could check the correctness of the figures.

Senator Recto stated that the tax collection under *ad valorem* was higher by 18% per annum compared to the specific tax which averaged 5% for the last seven years, 1997 to 2004. He observed that of the three tiers of locally

manufactured cigarettes, the low tier grew at an average of 7% per annum; the medium tier at -0.2%; and the high tier, at 2%. In view of the fact that prices are going up while per capita income is going down, he explained that the consumption pattern of Juan dela Cruz reveals that he prefers the lower-end tier cigarettes which explains its bigger growth rate. Furthermore, he said, owing to the disparity between the rich and the poor, the two tiers grew – the high tier has 30% of the volume with 60% of the value, as compared to the low tier that has 50% of the volume but only 13% of the value.

Senator Recto pointed out that 50% of the industry employees are in the manufacture of the low-tier cigarettes, and tobacco farmers raise tobacco for low-tier cigarettes. He added that when the BIR reclassified La Suerte cigarettes and correspondingly increased the tax rates from P1.12 to P5.60, the volume of production dropped by 80%; the work week of La Suerte employees was reduced to three days; and many of them were out of work. He stated that the Enrile bill proposes to increase the P1.12 by 435% to P6.

Asked how much revenues would be generated through Senate Bill No. 1815, Senator Recto stated that Senate Bill No. 1854 would generate P5,040,000,000 in 2005 while Senate Bill No. 1815 would yield P575 million for the same period. He stated that Senate Bill No. 1815 has an incremental revenue of P19,695,000.

On the observation that House Bill No. 3174 and Senate Bill No. 1815 were discarded and replaced with Senate Bill No. 1854, Senator Recto explained that during his sponsorship speech, he mentioned that the committee had to follow certain guideposts: revenues to be generated; the interest of the consuming public and local manufacturers vis-a-vis the importers; and whether it is market-share neutral and tax-burden neutral.

Senate Bill No. 1854 being an administrative measure, asked who selected the rates, Senator Recto said that it was easy for him to work with the President because they shared a common view because the President was already familiar with the issues of market share, neutrality, equity, just issues, and importers versus local

manufacturers which she, then senator, discussed with Senator Enrile who was the Chair of the Committee on Ways and Means at that time.

Asked if all the figures in Senate Bill No. 1854 had been discussed and approved by President Macapagal Arroyo, Senator Recto replied that they discussed the conceptual framework of the bill.

Asked who decided the figures in Senate Bill No. 1854, Senator Recto replied that it was a consensus between the Executive, the committee and the industry players.

Asked whether Senate Bill No. 1854 would generate the most revenue at P5.040 billion, Senator Recto stated that the bill is not only meant to raise revenue for taxes on cigarettes alone but also on alcoholic beverages. He said that the P5.040 billion was only for cigarettes; however, another P10.1 billion would be raised if alcoholic beverages, distilled spirits, wines, and fermented liquor are included.

Asked for other reasons why Senate Bill No. 1854 was favored over Senate Bill No. 1815 and House Bill No. 3174, Senator Recto replied that one of the reasons considered was the interest of the industry stakeholders, like the local manufacturers.

Asked whether the interests of the tobacco farmers in Cagayan Valley were protected and what kind of tobacco was being produced there, Senator Recto replied that the records of the committee show that cooperatives and farmers who were invited to the hearings were against Senate Bill No. 1815.

On whether the bill would protect all tobacco farmers in the country, Senator Recto replied that while it imposes higher taxes, it is definitely tempered. He explained that in the low tier, Senate Bill No. 1854 has a 48% increase in tax rates; on the other hand, Senate Bill No. 1815 has a 435% increase. He opined that more tobacco farmers would be protected under Senate Bill No. 1854.

As to the kind of tobacco being grown in the Ilocos Region, Senator Recto offered to

call in the National Tobacco Administrator to provide the Body some information regarding the matter.

Senator Enrile remarked that the committee was taxing a product without knowing the source of its raw material. Thereafter, he stated that he would suspend his interpellation until such time that the following information are provided: 1) computation of the tax incidence of Senate Bill No. 1815 as well as House Bill No. 3174; 2) whether Senate Bill No. 1854 would help all tobacco farmers in the country; and 3) the kind of tobacco being grown in Pangasinan, La Union, Ilocos Sur, Ilocos Norte, Abra and the whole Cagayan Valley.

Senator Recto assured Senator Enrile that the requested information would be provided as he reiterated that he is no expert on tobacco farming.

Asked if the committee formally referred House Bill No. 3174 and Senate Bill No. 1815 to the Department of Finance for study and comments, Senator Recto replied in the affirmative. He stated that comments were made during the committee deliberations and that the DOF made a comparative study on the three bills. Senator Enrile then requested a copy thereof.

#### SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

*It was 5:30 p.m.*

#### RESUMPTION OF SESSION

At 5:35 p.m., the session was resumed.

Senator Enrile said that he was asking for a written analysis of the three measures but was handed instead a paper. Nevertheless, he said that he would not belabor the issue but would continue with his interpellation so that the Opposition would not be accused of derailing the measure.

Asked if the Administration was fully satisfied with the expected maximum revenue yield

especially on products under Sections 144 and 145 of the National Internal Revenue Code before the consumption would start to diminish, Senator Recto said that the measure has the support of the President and there is a consensus among the industry players that it would optimize revenues.

On the observation that he was anchoring his argument on the basis of the law of supply and demand, Senator Recto believed that while there are many factors to be considered other than revenues, the proposed rates are the fairest and the most equitable way of allowing the industry to continue to grow and at the same time generate optimized revenues.

Asked if it would then be correct to assume that generating revenues is not the primordial consideration of the Administration in adopting the rates, Senator Recto clarified that raising incremental revenues was the primary objective of government but it was cautious not to displace workers and farmers, not to favor one player over the other, and not to favor importers over local manufacturers; hence, rates were calculated in such a way as to optimize revenues and to be fair, equitable and just to everyone in the industry.

Senator Enrile pointed out that the tax policy on sin products should be discussed regardless of the players and the Body would have to decide whether or not to adopt a policy to address the health problem of the country. Senator Recto replied that this was precisely why he made a disclaimer in his sponsorship speech that the measure was not a nicotine patch for the masses and that the primordial intention was to raise revenues that would satisfy the needs of the government.

Stressing the importance of market sharing, neutrality and consideration of the interest of local manufacturers and importers, Senator Recto said that doing otherwise might lead to the importation of sin products. He said that President Macapagal Arroyo, during her term in the Senate, articulated a similar stance in 1997.

Relative thereto, Senator Recto disclosed that at the moment, Fortune Tobacco has 55% of

market share but was paying 58% of the taxes, while Philip Morris has 35% of market share but was paying 38% of taxes. Despite the government's desire for incremental taxes, he said that it would not be fair to ask either Fortune Tobacco or Philip Morris to pay 90% of incremental revenues. In the interest of neutrality, he said that Fortune Tobacco which has 55% of market share and Philip Morris which has 35%, should pay 55% and 35% of incremental taxes, respectively. He said that the committee was working within this conceptual framework.

Senator Enrile asked whether in sponsoring the bill, it is within the frame of mind of Senator Recto to consider the interest of Fortune Tobacco, Philip Morris, La Suerte Cigar, Anglo-American Tobacco, Alhambra Tabacalera and all the other tobacco producers in the country rather than considering a tax policy based on the nature of the product taxed because of its impact on society. Senator Recto replied that the order of priority in considering the interest of everyone concerned is as follows: first, the government and its desire to raise revenues; second, the local manufacturers involved; third, the consuming public; fourth, the tobacco farmers; fifth, the importers; sixth, the factory workers; and seventh, the LGUs, to a certain degree. He added that as elected representatives of the people, it is the responsibility of lawmakers to consider and try to balance the interests of all the stakeholders in a particular industry.

Asked whether the measure is fair to the health of the nation and the consumers of low-priced cigarettes, Senator Recto replied in the affirmative, stating that it adopted the provision in the Enrile bill earmarking certain revenues for health care, taking into consideration also the inputs of Senator Flavio and other senators, particularly the proposal during the workshop that incremental revenues from the measure be given to the PhilHealth for its universal coverage. Likewise, he said that the committee also has earmarked 2½% for a public information program on the ill effects of smoking. While he expressed willingness to accept amendments to the health provision of the measure, he admitted that indeed health was a secondary consideration.

Queried why raising revenues is more important since government would have to spend money if the country is unhealthy, Senator Recto said that the committee should consider also the fiscal health of the nation. While tobacco smoking is a vice, he said that it is a virtue in terms of government revenue.

On the opinion that addressing both the health problem of the nation and increasing government revenues was the most ideal situation, Senator Recto said that the Tobacco Regulation Act authored by Senator Flavio Quinsion would ban cigarette advertising by 2007. He said that excellent as it is, the bill could still be amended. For instance, he said that it would make a big difference if cigarette advertising would be banned in *telenovelas* that are watched by millions of Filipinos.

Asked why the proposal has to wait until 2007 when it could be done in the present bill, Senator Recto said that he was open to any proposal.

At this point, Senator Enrile reiterated his query if the committee, the Department of Finance, or the Executive Department had done any study to determine the level of tax rate that could be imposed on low-grade cigarettes without affecting proposed revenues and at the same time addressing health concerns. Senator Recto said that the House version proposed a 20% across-the-board tax while the Senate version proposed 48% for low-grade, 19% for medium-grade, and 17% for high-grade. He also noted that Senator Enrile proposed 435% for low-grade, 7% for medium-grade, and 6% for high-grade.

Replying to another query, Senator Recto said that based on the demographic profiles, classes D and E comprise 91% of the population, and classes A, B and C comprise 9%. He said that the same statistics apply to the 23.8 million smokers in the country, except that there are more male smokers than female smokers.

Asked if Senate Bill No. 1854 was crafted to raise revenue and encourage the sale of low-priced cigarettes but the government does not know it would affect the health of consumers in the "D" and "E" classes, Senator Recto replied

that such would be the situation if the demographic profile is followed. The government, he said, is imposing a 48% tax rate increase on the lowest tier.

The Chair commented that it would not discourage smoking.

Senator Enrile asserted that the reason for imposing heavier tax on low class cigarettes is to discourage smoking among the "D" and "E" classes so that they will be spared from the diseases caused by smoking as they are the ones who can ill afford the cost of health care.

Senator Recto replied that in this country, one smokes at his own risk, adding that there is no health care to speak of. He reasoned that imposing high taxes would not stop people from smoking; they would just shift to counterfeit or smuggled cigarettes. He mentioned that there are similar cases in countries like the United Kingdom and Canada.

Senator Enrile countered that the cigarettes smuggled into the countries mentioned are high-priced cigarettes. It is silly to think that people would smuggle low-class cigarettes, he said. The cigarettes with the lowest price come from China, and its price is equivalent to P9.60 minus tax, he added.

Senator Recto stated that the reason for the low price of Chinese cigarettes is that it is an industry controlled by the State and as a consequence the production cost is low. He reasoned that if taxes on tobacco were raised, it would be very easy for China to smuggle cigarettes into the Philippines. He related that the UK government is losing £7 billion a year from smuggling and cross-border shopping of cigarettes and in Canada, 60% of the cigarettes in the market were smuggled, thus, the tax rates were reduced. He cited an article that shows down trading is evident in the Philippines where higher quality priced brands are graded as cheaper brands.

Asked if increasing the tax on low-class cigarettes from P1.12 to P6.00 would encourage smuggling, Senator Recto replied that it is possible.

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As regards the probability of smuggling, Senator Recto stated that the higher the price, all the more it is probable. He added that it would be hard to determine at which point the probability comes in.

On the assumption that the higher the tax, the higher the revenue, Senator Recto clarified that it does not necessarily follow.

Senator Enrile said that he was surprised that the administration in need of money is hesitant to get the highest level of possible revenue. Senator Recto explained that considering the interest of all the other stakeholders, the calculation of the administration is already the optimum revenue.

On how much aggregate recurrent incremental revenue the government needed to effectively overcome its fiscal problems, Senator Recto explained that according to calculations in the fiscal plans, if revenues grow by 13% and the expenditures by only 6.3% annually in the next six years, then there would be a balanced budget by 2010. He added that the consolidated public sector debt as a percentage of the GDP would be reduced from 130% to 90%.

Adverting to the conversations he had with some credit rating agencies and underwriters, Senator Recto stated that if P40 billion revenues could be generated, and another P40 billion could be collected from old taxes, that would already amount to P80 billion. He added that if the ERC grants two rate increases in 2005 and another one in 2006, there could actually be an upgrade. He noted that the critical periods are December of this year and the first quarter of next year.

Senator Recto also mentioned that according to NEDA, the economy grew by 6.5%-7%. In the Majority caucus, he said, everyone knew that there is a tremendous opportunity because the economy is performing well. He pointed out that if the government can show how serious it is in resolving the fiscal problems by raising P20 billion to P30 billion, then there could be a dramatic turn in the economy. He added that if this can be done in the next two months, then by June of next

year, there could be an upgrade of the country's credit standing.

On the question of how much the government really needed in order to overcome its fiscal problems, Senator Recto replied that the amount is P30 billion, as far as Congress is concerned.

Asked how much revenue the proposed six tax bills can raise, Senator Recto replied that the amount would be P10 billion for the first year.

As regards the tax packages, Senator Recto clarified that as far the telecommunications industry is concerned, gross sales could be around P162 billion-P200 billion.

On how much aggregate recurrent incremental revenue would be raised from distilled spirits for the year 2005, Senator Recto replied that the amount is P2.139 billion.

Asked if such is the maximum amount that can be raised from the products under Section 141, Senator Recto explained that while tobacco and fermented liquor are taxed 49% and 39% of the gross sales including VAT respectively, the tax on distilled spirits is 23%. The committee, he said, would welcome Senator Enrile's proposal for higher rates.

Senator Enrile clarified that he was not proposing any tax policy, he was merely asking questions. Senator Recto said that he is conservative when it comes to taxes as he does not believe that everyone should be taxed to death, hence, he proposed a little higher than the House version which is 30%. He surmised that the government might fail already with a 40% increase.

To Senator Enrile's observation that Senate Bill No. 1854 has not maximized the taxes that ought to be raised from products under Section 141 of the Code, Senator Recto replied that at the appropriate time, he would be willing to accept an amendment that would increase it, although offhand, the committee had this policy consideration in mind when it was drafting the committee report. He said that the committee intends to generate P5 billion from tobacco or cigarettes and P5 billion from alcohol. *W*

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On whether the products under Section 141 of the Code are as hazardous to health as machine-packed cigarettes, Senator Recto replied that the matter may be subjective. He said that no pedestrian is hit by excessive smoking but he is hit by excessive drinking. He believed that alcohol diminishes one's brains more than tobacco. He said that he was surprised that tobacco is taxed 49%; fermented liquor like beer, 39%; and distilled spirits, 23%, when all of them should be taxed at least 50%. Considering that the alcohol industry is much bigger than the tobacco industry, he said the government can raise much more from alcohol. He said that he did not include it in the committee report as he believed that majority of the public might not pay for all the sins of the past in this fiscal crisis.

On whether such aspect in crafting a tax policy on sin taxes was ever discussed in the Committee on Ways and Means, Senator Recto replied in the negative. He apologized to Senator Enrile for coming out with the committee report. Nevertheless, he assured Senator Enrile that he would closely coordinate with him in the future on similar matters.

Asked if Senator Flavier was consulted on the deleterious effects of the products taxed under Sections 141 and 145, Senator Recto replied that he discussed the issue with Senator Flavier and the DOH. He placed it on record that the President is selling the tax measure to please the creditors but it really is a revenue measure of the Committee on Ways and Means.

On whether the measure is meant to please the creditors and not to craft a sane and sound policy, Senator Recto admitted that it is meant to please the creditors and raise revenues and, at the same time, it must be a sound policy.

Asked if the products to be taxed under Section 141 are domestic or imported products, Senator Recto replied that Section 141(A) covers domestic products and Section 141(B) covers imported products as he admitted that in the future, it would be possible that other items under paragraph (B) would be included because of the difficulty in distinguishing an imported from a domestic product. He said that the distinguishing marks would be the raw materials that would

be used. He explained that the original position of the Department of Finance was to scrap the entire paragraph (A) and just retain paragraph (B) but it would impose a higher tax burden on the local manufacturers and benefit more importers. He further explained that after the discussion, the DOF, the DBM and the President agreed to retain paragraph (A) to protect local manufacturers.

#### SUSPENSION OF SESSION

Upon motion of Senator Recto, the session was suspended.

*It was 6:14 p.m.*

#### RESUMPTION OF SESSION

At 6:16 p.m., the session was resumed.

Asked how much of the P2.1 billion would come from locally produced and imported products, Senator Recto replied that roughly 60% of that amount comes from local products and 40% from imported products; however, he admitted that the committee had difficulty in getting information on imported products because the Bureau of Customs had no complete data.

Asked if the rates under Senate Bill No. 1854 for distilled spirits are the same as the rates for domestic distilled spirits, Senator Recto replied that the rates for imported distilled spirits was increased by 50% and for domestic distilled spirits, 30%.

Asked to explain the difference in tax treatment of 30-50 under the Senate bill and the 20-20 in the House version, Senator Recto replied that the imported brands are being consumed by the more affluent people.

#### SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

*It was 6:19 p.m.*

#### RESUMPTION OF SESSION

At 6:20 p.m., the session was resumed.

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Senator Enrile noted that there are three classifications of distilled spirits under Section 141. He asked how wide the gap is between the rates for those under paragraph (A) and those under paragraph (B). Senator Recto replied that the gaps under the existing law are wide and under the proposed measure they are even wider. He said that the technical staff are computing the gaps.

On the average growth of the distilled spirit industry from 1997 to the present, Senator Recto replied that it was 5.36% from 1997 to 2003.

As to the average growth rate of the industry in terms of volume over the past seven years, Senator Recto replied that it is 248 million liters per year for local distilled spirits.

Asked why the burden on local products was shifted and not the burden on imported products, Senator Recto replied that precisely, the burden was shifted on imported products and not on local products. However, Senator Enrile argued that the proposal in Senate Bill No. 1854 did not.

Asked if there is data on the volume of imported distilled spirits, Senator Recto reiterated that 248 million liters is 60% of the total volume so the remaining 40% is imported distilled spirits.

Senator Enrile noted that imported distilled spirits have a foreign exchange cost but they would be taxed with the same rate. Senator Recto explained that under the House version, the local and imported distilled spirits are given the same rate but the committee recommended a 30% rate for local and 50% for imported distilled products.

On the amount of foreign exchange that the country spends yearly on the importation of distilled spirits, Senator Recto admitted that the Bureau of Customs has no data but based on the meetings of the committee with the industry players, 40% of the total volume is imported distilled spirits.

Asked if the matter was discussed by the committee before the bill was crafted, Senator Recto replied in the negative.

On whether this issue is not considered as an important item in designing a tax policy, Senator Recto replied that it is important as he pointed out that the committee had done a good job as far as the tax rates were concerned unless Senator Enrile was suggesting that the local distilled spirits should be slapped with a 50% tax.

Asked by Senator Enrile how much of the domestic distilled spirits come from the juice, or syrup of camote, cassava, coconut, nipa and buri palm, Senator Recto replied that the committee does not have any data thereon. He explained that the 251 million proof liters include distilled spirits from nipa, coconut, cassava, camote, buri palm and sugar of the cane. What the committee has on hand, he said, is the total of all said products because no government entity has a breakdown. Precisely, he said that under the provision, all distilled products from the raw materials will be taxed accordingly.

Senator Enrile observed that Section 141 provides two rates — P8.00 which shall be increased by 46%; and P4.00 which shall be increased by 191%.

Senator Recto disagreed as he informed the Body that in paragraph (A), there is another proviso increasing the rate in 2000 by 12% so, in effect, the increase was 42%. He noted that there are two types of taxes — an P8 tax and a P4 tax for the same materials used. He explained that the Department of Finance suggested that entire paragraph (A) be deleted and to subject all local producers to the same tax rates being imposed on the imported materials but he disagreed. He said that the second proviso, which has a P4 tax, pertains to the native *lambanog* and other similar products.

Senator Enrile queried why higher taxes would be imposed on local products when the government adopted a policy of encouraging the locals to use native materials to distill spirits. He asked why the policy is going to be changed now. Senator Recto explained that the existing law already provides for a P4 tax which he proposes to be deleted because the BIR was not able to collect a single centavo from it. The BIR,

46

he said, cannot determine whether or not the producers meet the required 100 liters a day or if the distilled spirits contain not more than 150% of alcohol by volume per proof liter. Further, he said that if in the future, a corporation comes up with a *lambanog* product, only then should it be taxed accordingly because it is producing commercial quantity. He said that he was open to the committee amendments to improve the language of the provision.

Considering that it is the policy of the Administration to foster and encourage small- and medium-scale industries, Senator Enrile suggested that the proviso be retained lest they put out of business people who are producing 100 proof liters a day by using crude distilling apparatus.

Senator Recto reiterated that these small-time producers should not be taxed. Senator Enrile countered that the bill, by changing the tax treatment, increased the P4.00 tax by more than 100%.

Senator Enrile agreed that the BIR must have a record on the volume of production for each class. However, Senator Recto clarified that the tax treatment is the same whether the distilled spirits come from sugar, nipa, coconut, cassava, camote, buri, palm

#### SUSPENSION OF SESSION

Upon motion of senator Pangilinan, the session was suspended.

*It was 6:47 p.m.*

#### RESUMPTION OF SESSION

At 6:48 p.m., the session was resumed.

At this point, the Chair stated that Senators Enrile and Recto have agreed that the second proviso of Section 141(A) on lines 8 to 11 of page 1 of the bill would be deleted to reflect in the law the intention not to tax those producing not more than 100 liters a day and containing not more than 50% alcohol by volume per proof liter. It added that the first proviso would be retained but with a higher tax rate.

Senator Recto suggested putting an amendment in the bill that would ensure these people are not taxed as he pointed out that the present law imposes a P4.00 tax.

Asked by the Chair if the P11.65 tax would apply in the future when the manufacturer produces this kind of distilled spirits, Senator Recto clarified that it was not the intention of the committee to continue with the tax on the native *lambanog* as provided for in the second proviso of paragraph (A). He said that the committee would propose an amendment to delete the same. He reiterated that even the BIR today does not collect any of the P4.00 tax on native *lambanog*.

Asked by Senator Enrile if he would be amenable to an amendment restating the provision and changing the figure, Senator Recto replied in the affirmative, as long as the native distilled spirits like *lambanog* are not taxed.

Senator Enrile stated that he would forgo the P4.00 to give the jobless people in the province a chance to earn a living from distilling spirits from native crops.

The Chair suggested that the principle that had been agreed upon not to tax be written in the law at the proper time.

Upon query of Senator Enrile, Senator Recto stated that there is no available data from the BIR on how much of the distilled spirits domestically produced come from sugar cane. He added that the BIR has zero tax collected therefrom.

The Chair informed the Body that Senator Enrile's interpellation would be continued the next day.

#### SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1854

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

16

**REMINDER OF THE CHAIR**


In view of the privilege speech to be delivered by Senator Pimentel the next day, the Chair reminded the Members that the session would be called at two thirty in the afternoon as it requested everyone to be present at that time.

**ADJOURNMENT OF SESSION**

Upon motion of Senator Pangilinan, there being no objection, the Chair declared the session adjourned until two thirty in the afternoon the next day.

*It was 6:51 p.m.*

I hereby certify to the correctness of the foregoing.

  
OSCAR G. YABES  
Secretary of the Senate

Approved on December 1, 2004