



**REPUBLIC OF THE PHILIPPINES**

**S e n a t e**

**Pasay City**

# **Journal**

**SESSION NO. 55**

Wednesday, February 13, 2008

**FOURTEENTH CONGRESS  
FIRST REGULAR SESSION**

**SESSION NO. 55**  
Wednesday, February 13, 2008

**CALL TO ORDER**

At 3:36 p.m., the Senate President, Hon. Manny Villar, called the session to order.

**PRAYER**

Sen. Richard J. Gordon led the prayer, to wit:

Lord, in my time in the Senate, I have heard so many prayers in this hall day by day petitioning and requesting for blessings.

We have prayed for salvation, justice, honesty, unity, peace, reconciliation, progress, you name it, we have asked it from You, Lord.

But, Lord, just this one time, *nakiki-usap Po kami*, we ask that You listen and lend an ear to our country. I know that You always do but, sometimes, You might think that we just pray for the sake of praying.

Could You please listen to us?

Please give us, O Lord, a direct line so that we may be heard and our prayers answered more quickly so that all the senators and the staff here, as well as the entire country, would finally live up to Your own image, likeness and will, and in accordance with our better selves.

God bless the Philippines.

Amen.

**ROLL CALL**

Upon direction of the Chair, the Secretary of the Senate, Emma Lirio-Reyes, called the roll, to which the following senators responded:

Angara, E. J.	Gordon, R. J.
Aquino III, B. S. C.	Honasan, G. B.
Arroyo, J. P.	Lapid, M. L. M.
Biazon, R. G.	Pangilinan, F. N.
Cayetano, A. P. C. S.	Revilla Jr., R. B.
Defensor Santiago, M.	Villar, M.
Ejercito Estrada, J.	Zubiri, J. M. F.
Enrile, J. P.	

With 15 senators present, the Chair declared the presence of a quorum.

Senators Escudero and Madrigal arrived after the roll call.

Senators Cayetano (P), Lacson and Roxas were on official mission.

Senator Pimentel was on official mission abroad.

Senator Legarda was absent.

Senator Trillanes was unable to attend the session.

**ACKNOWLEDGMENT  
OF THE PRESENCE OF GUESTS**

Senator Pangilinan acknowledged the presence of B.S. Education students from the Philippine Normal University.

Senate President Villar welcomed the guests to the Senate.

**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. 54 and considered it approved.

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**REFERENCE OF BUSINESS**

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

**BILLS ON FIRST READING**

Senate Bill No. 2067, entitled

AN ACT REQUIRING THE MANUFACTURERS OF COMPUTERS TO PROVIDE RECOVERY AND COLLECTION FACILITIES FOR THEIR PRODUCTS

Introduced by Senator Miriam Defensor Santiago

**To the Committees on Trade and Commerce; Environment and Natural Resources; and Finance**

Senate Bill No. 2068, entitled

AN ACT TO COMBAT FINANCIAL FRAUD PERPETRATED AGAINST THE GOVERNMENT

Introduced by Senator Miriam Defensor Santiago

**To the Committee on Justice and Human Rights**

Senate Bill No. 2069, entitled

AN ACT ESTABLISHING A NATIONAL PROGRAM TO EXPAND OPPORTUNITIES FOR FILIPINO STUDENTS TO SERVE THEIR COMMUNITIES

Introduced by Senator Miriam Defensor Santiago

**To the Committees on Education, Arts and Culture; Youth, Women and Family Relations; and Finance**

Senate Bill No. 2070, entitled

AN ACT TO REDUCE LEAD-BASED PAINT HAZARDS IN RESIDENTIAL ENVIRONMENTS

Introduced by Senator Miriam Defensor Santiago

**To the Committees on Health and Demography; Environment and Natural Resources; and Finance**

Senate Bill No. 2071, entitled

AN ACT GIVING EQUAL ACCESS TO RADIO AND TV ADS FOR CANDIDATES DURING THE ELECTION PERIOD, SIMPLIFYING AND PROFESSIONALIZING POLITICAL ADVERTISEMENTS AND INSTITUTIONALIZING POLITICAL DEBATES TO PROPERLY INFORM THE ELECTORATE DURING THE ELECTION PERIOD

Introduced by Senator Miriam Defensor Santiago

**To the Committees on Constitutional Amendments, Revision of Codes and Laws; and Public Information and Mass Media**

Senate Bill No. 2072, entitled

AN ACT PROVIDING FOR A MAGNA CARTA FOR HOMEOWNERS' ASSOCIATIONS

Introduced by Senator Miriam Defensor Santiago

**To the Committee on Urban Planning, Housing and Resettlement**

Senate Bill No. 2073, entitled

AN ACT TO ESTABLISH A COMPREHENSIVE PROGRAM TO ENSURE COMPULSORY LABELLING AND FAIR PACKAGING OF GENETICALLY ENGINEERED FOOD

Introduced by Senator Miriam Defensor Santiago

**To the Committees on Trade and Commerce; and Health and Demography**

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Senate Bill No. 2074, entitled

AN ACT TO ESTABLISH A COMPREHENSIVE PROGRAM TO ENSURE THE SAFETY OF FOOD PRODUCTS INTENDED FOR HUMAN CONSUMPTION

Introduced by Senator Juan Miguel F. Zubiri

**To the Committees on Trade and Commerce; Health and Demography; and Finance**

Senate Bill No. 2075, entitled

AN ACT CONVERTING THE ANTEQUERA-SAN ISIDRO-LIBERTAD (TUBIGON) PROVINCIAL ROAD TRAVERSING THE MUNICIPALITIES OF ANTEQUERA, SAN ISIDRO AND TUBIGON, PROVINCE OF BOHOL INTO A NATIONAL ROAD

Introduced by Senator Juan Miguel F. Zubiri

**To the Committee on Rules**

### RESOLUTIONS

Proposed Senate Resolution No. 304, entitled

RESOLUTION CALLING FOR THE CONDUCT OF A STUDY THAT WILL CREATE A WITNESS PROTECTION PROGRAM IN THE SENATE TO SET IN PLACE SECURITY AND SUPPORT MECHANISM FOR RESOURCE PERSONS PROVIDING VITAL INFORMATION TO ANY COMMITTEE CONDUCTING INQUIRIES OR INVESTIGATION IN AID OF LEGISLATION WHOSE TESTIMONIES CAN PUT INTO RISK THEIR LIVES AND ECONOMIC STATURES

Introduced by Senator Gregorio B. Honasan II

**To the Committee on Justice and Human Rights**

Proposed Senate Resolution No. 305, entitled

RESOLUTION COMMENDING THE OFFICE OF THE OMBUDSMAN ON

THE CREATION OF THE TASK FORCE FOR ENVIRONMENTAL CONCERNS TO STRENGTHEN LOCAL AND NATIONAL GOVERNMENT AGENCIES IN MONITORING COMPLIANCE TO ENVIRONMENTAL LAWS

Introduced by Senator Juan Miguel F. Zubiri

**To the Committee on Rules**

### COAUTHOR

Senator Defensor Santiago manifested that Senate President Villar is coauthor of Senate Bill No. 2046.

### PRIVILEGE SPEECH OF SENATOR ARROYO

Availing himself of the privilege hour, Senator Arroyo stated that he wanted to put on record that the Senate has been doing its job on matters of national concern and, at certain times, has acted on them.

*The full text of his speech follows:*

There is the news report that the Supreme Court, on February 15, 2008, will promulgate its decision on the Chavez petition where he raised the question, among others, that the threat of the National Telecommunications Commission (NTC) to revoke the license of broadcast media if they play the *Garci tapes* is a form of prior restraint.

The Senate, since two years ago, has not been remiss in respect to this subject.

On April 4, 2006, the Senate in plenary adopted unanimously Joint Committee Report No. 69 of the Committee on Justice and Human Rights and the Committee on Public Services, both of which I chaired in the Thirteenth Congress, insofar as it relates to broadcast media, in relation to the questioned Proclamation 1017, the salient points of which are:

1. A television or radio station is required to apply for a legislative franchise in order to operate because it must be assigned a frequency which no other station can use. For such use, it has to pay a fee to the State which owns the airwaves.
2. The government agency that implements this is the NTC. Its job is two-fold, namely, assign

the frequency, and collect the fees due the government. This is the extent of its regulatory powers over broadcast media. Beyond that, it has no power because of the constitutional protection that no law shall be passed abridging freedom of the press. To begin with, it is essentially a regulatory body designed for the telecommunications industry, namely, telephones and related businesses, telegraph and cable; and only incidentally for broadcast media.

3. There is no existing law whatsoever that grants to any government agency the power to control or regulate the *contents* of what could be broadcast because such a law would be patently unconstitutional.
4. The attempt of NTC for the broadcast industry to draw up guidelines which, in effect, would be the standards of what could be broadcast amounts to prior censorship, which is anathema to press freedom.
5. A standard provision in television and franchise bills is as follows:

*Sec. 5. Right of Government.* — A special right is hereby reserved to the President of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order, to temporarily take over and operate the stations or facilities of the grantee, to temporarily suspend the operation of any station or facility in the interest of public safety, security, and public welfare, or to authorize the temporary use and operation thereof by any agency of the government, upon due compensation to the grantee, for the use of said stations or facilities during the period when they shall be so operated.

The radio spectrum is a finite resource that is a part of the national patrimony and the use thereof is a privilege conferred upon the grantee by the State and may be withdrawn anytime, after due process.

6. Section 5 is clearly of doubtful constitutional validity and, therefore, unenforceable and void. How it got into TV-radio franchise bills is not clear. It is fair to deduce that in light of the 1986, 1987 and 1989 coup attempts, where among the first targets of the rebels was to gain control of television stations to enable them to have a vehicle for propaganda, Congress incorporated such a provision which, at that time, was apparently acceptable.

Article XII, Section 17 of the Constitution provides —

Sec. 17. In times of national emergency, when the public interest so requires, the State may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operation of any privately owned public utility or business affected with public interest.

7. The Constitution delineates that in national emergency, the State may temporarily take over privately owned public utility or business affected with public interest, not the President. The Congress has yet to enact the appropriate law under what conditions the government may exercise such powers.

That is the respectful submission of what the Senate adopted on April 4, 2006, and it is up to whoever is interested in this Body to introduce the appropriate law, so that we can fill in the gap.

Let it not be said that only the Supreme Court does its job. The Senate does its job too.

## SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

*It was 3:49 p.m.*

## RESUMPTION OF SESSION

At 3:50 p.m., the session was resumed.

## COMMITTEE REPORT NO. 36 ON SENATE BILL NO. 2046 (Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2046 (Committee Report No. 36), entitled

## AN ACT PROMOTING AND ENHANCING THE DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES.

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

*AS*  
*PD*

Thereupon, the Chair recognized Senator Angara, cosponsor of the measure, and Senator Enrile for his interpellation.

### INTERPELLATION OF SENATOR ENRILE

In reply to the query of Senator Enrile, Senator Angara affirmed that the bill seeks to encourage the establishment of generating facilities for electric power using renewable sources of energy. He disclosed that at present, 33% or 5,400 megawatts of the energy used by the country comes from indigenous sources, both renewable and natural, and the remaining 67% is still imported; and that the current demand is 10,000 megawatts which is projected to increase to 14,000 megawatts in ten years, hopefully with a mix of 60% indigenous and 40% imported.

Even as he acknowledged that the matter is both a supply and demand situation, Senator Angara maintained that given the right policy framework, the bill is a step towards realizing the huge potential of the country's renewable energy resources which would certainly transform and improve the economy and living standards of the people. For instance, he stated that aside from being the second major producer of geothermal energy, next only to the United States, the Philippines could also become the central source of solar and wind power as forecast in the mapping of potential renewable energy sources by the U.S. Department of Energy.

Adverting to page 3, line 1 of the bill, Senator Enrile asked whether the incentives would be limited only to small units generating not more than 100 kilowatt hours. Senator Angara clarified that the provision seeks to support inventive households that might want to generate their own power through solar panels or wind turbines. He explained that one scheme for supporting distributed generation for units *not exceeding 100 kilowatt-hour capacity is the net-metering system through which the surplus energy generated could be sold to the grid.* For instance, he said that the owner of a household that produces 1,000 kilowatt hours per month but consumes only 300 kilowatt hours in the same period could sell the 700 kilowatt hour energy surplus to an electric cooperative such as the Nasugbu Electric Cooperative. This way, he said, the owner would have the double benefit of not being billed for his monthly consumption as well as allowing him to claim energy credits which could either be applied against his future electricity consumption or converted to cash at the end of the

year. However, he said that the mechanics for the payment scheme would be determined by the Energy Regulatory Commission.

To the suggestion that the limits of the Energy Regulatory Commission's power be clearly delineated lest there be an abuse of the same, Senator Angara clarified that the proposal is only for the Commission to impose the details of the payment scheme on the electric cooperative.

Senator Enrile wondered whether government has sufficient experience in the field of solar energy and whether it is aware of the cost of producing such a resource, as he cautioned that Congress could not simply pass the bill without being aware of the economics involved. Senator Angara replied that the Philippines, as a fabricator and manufacturer of solar panels, has become the hub of solar power in South East Asia. He stated that although the \$2,000 installation cost for a solar panel producing one kilowatt of electricity would initially be more expensive when compared to a \$1,000 estimate for using conventional means, this investment would be recovered over time as solar energy is not only free but almost inexhaustible. He stressed that solar energy would be more beneficial to the user because it is a more predictable and stable source of electricity than what is available at present.

Upon further queries, Senator Angara clarified that the \$2,000 estimate covers only the stand-alone cost for the material and installation of the household's solar power system; it does not include ancilliary facilities for its connection to the power grid. He explained that barangays in areas too far from the main grid are not expected to produce surplus electricity and, as such, they would only have to build a stand-alone system for their own consumption.

For his part, Senator Enrile stressed that rather than making it appear as if the bill is a panacea for the country's energy requirements, what is important is ensuring whether it is actually feasible.

On whether solar energy could be utilized on both the sunny and rainy seasons, Senator Angara replied in the affirmative, as he explained that solar energy could be stored in photovoltaic cells or batteries which are no longer as expensive to purchase as before. He gave assurance of supplying Senator Enrile with all the empirical data on the matter. *He*

As to the number of households, industrial and commercial establishments using solar panels in the country, as well as the location and extent of coverage of these solar power systems, Senator Angara informed the Body that there is a five-megawatt equivalent of solar electricity in 600 barangays, including 28 barangays in Aurora, that are powered by solar energy. He assured Senator Enrile that he would provide him with the entire list.

*At this juncture, Senate President Villar relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.*

Asked on the highest and lowest capacity of solar power system in the country, Senator Angara cited the Cagayan Electric Power and Light Company Inc. (CEPALCO) in Cagayan de Oro which has a one-megawatt solar generator that sells electricity for P4.50/kwh to the grid. He said that even if it has become profitable for CEPALCO to sell solar electricity, it has not increased electricity production since the solar power system is a recent installation and, as such, it is still trying to determine whether it could hike production to supply an entire town.

Senator Enrile clarified that he made the inquiry only because he noted that the Biofuels Act which had initially been supported by many people is now under criticism.

Upon further query, Senator Angara said that he would provide Senator Enrile with exact data on the number of sunny months in the year and the length of sunshine for each day as well.

Asked to identify the areas in the country where there is excellent wind velocity for a wind farm as well as the minimum wind velocity required for such an undertaking, Senator Angara replied that based on the wind map of the DOE and the U.S. Department of Energy, the strongest potential wind harvest would be in Northern Luzon. He added that a wind farm would need a wind velocity of at least five meters per second or 18 kilometers per hour.

Asked on the constant average wind velocity of the Burgos wind farm, Senator Angara said that he would supply the complete set of data at the soonest possible time.

Asked where in Northern Luzon is the best place to put up a wind farm, Senator Angara replied that

the coastal areas of Ilocos Norte, Ilocos Sur and Cagayan Valley are ideal sites. Senator Enrile pointed out that the best identified place to put up a wind farm is Palau Island, being closest to Luzon, with 7,000 hectares of government land, and although Batanes could be an ideal site, it is just too far away. Senator Angara stated that based on his readings, as discovered by Denmark and Spain, the best location for a wind farm is offshore where there is no turbulence.

On the concern that the offshore wind farms would have to contend with typhoons and thus would require strong structures because the equipment could be blown away, Senator Angara said that the energy could be transmitted through submarine cables and besides, he pointed out that there have been rapid breakthroughs in engineering structures.

Asked why government should put up wind farms if these are not economically viable, Senator Angara clarified that while the Burgos wind farm experience might have incurred losses, as shown in Denmark, wind power can be combined with other renewable energy sources like solar in order to supplement the low wind at certain times of the year. He underscored the need to balance the country's sources of renewable energy and the adoption of an energy mix. However, he gave assurance that he would get data on the Burgos wind farm operation.

Asked if there is a country that has utilized ocean current to turn turbines to generate electricity, Senator Angara disclosed that testing is being done in Portugal, Ireland, Holland and the United States. He said that it is still in the birthing stage but ultimately, he believed that ocean currents would generate a tremendous source of energy for the Philippines. He stated that the experimentation that has been done in the last three to four years shows that it is technically feasible to generate electricity from ocean current, but he acknowledged that its economic viability has yet to be determined.

Noting the numerous river systems in the U.S., Senator Enrile asked where similar experimentation can be done in the Philippines. Senator Angara cited the Magat River, Pulangi River and Angat River. He said that the country has mighty rivers except that the watersheds are not well kept.

As to the constant current velocity of a river or an ocean that can generate electricity, Senator Angara

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said that there is no standard data available yet since ocean power is still in its testing stage. He noted that solar energy was tested for the first time only in 1954 in the Bell Laboratories but since then, the speed and scale of technological breakthrough has been tremendous.

Asked where in the Philippines could be found ocean or tidal current capable of generating electricity, Senator Angara cited the Tablas Channel between Samar and Bicol, San Bernardino Strait and the tip of the Surigao Strait.

Senator Enrile said that the channel between Palau and mainland Luzon, where the current is irreversible and which is almost the size of Hong Kong and Kowloon, can ideally be used.

Asked whether the incentives provided for in the bill are not only for small production or co-production but also for huge power companies, Senator Angara replied that the bill would, in effect, benefit big and small generators, small farm households, and vendors and suppliers of equipment. Even in light of the high-risk and technology-intensive venture, he believed that this incentive scheme and a clear-cut government policy would support the development of renewable energy sources in the country.

On whether there is any difference between the incentives for a big power generator using renewable energy and for a micro-scale project, Senator Angara replied that there shall be no discrimination in terms of incentives. He noted that micro-scale projects would get tremendous reduction in electric consumption cost.

Asked on the minimum economically viable unit that would be considered a good venture for whoever may wish to engage in a micro-scale project, Senator Angara said that it is 200 watts.

On whether a micro-scale project could sell surplus energy to the grid, Senator Angara replied in the affirmative. However, he explained that selling to the grid is only a bonus because the main intent of the bill is to encourage people to generate electricity from their own resources.

Asked what incentives would be given to one who shall put up a 100-kilowatt solar power plant, Senator Angara said that he would get all the incentives – free importation of raw materials, free

electricity bill, income tax holiday, tax credit on domestically produced or manufactured equipment and services, and exemption from value-added tax (VAT). He clarified that the bill has not increased the level of incentives that the BOI and the PEZA already grant but it would, in effect, create new jobs and more stable sources of light.

On the concern that the bill would benefit only people who have the financial capacity to set up a solar power or a mini-hydro plant, Senator Angara said that the cost of renewable energy would eventually go down as demands go higher. He added that the Committee can make representations with the *Bangko Sentral ng Pilipinas* to allow banking and other financial systems to extend more loans to the less affluent or the ordinary people.

Asked why the Body should pass a bill even as it has no clear answers on the matter of economic advantages, Senator Angara said that the undertaking has possible cost-benefits.

Asked whether one who plants fast-growing trees in a 10-hectare land and uses them as fuels to generate steam, run a turbine and produce electricity would enjoy the benefits of the bill, Senator Angara replied in the affirmative, adding that rice hulls and coconut husks can also be converted into cash and utilized as energy sources.

At this point, Senator Enrile said that he would continue his interpellation at some other time.


#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2046**

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

#### **GREETINGS**

At this juncture, on behalf of the Senate, Senator Pangilinan greeted Senators Enrile and Ejercito Estrada on the occasion of their birthday.

#### **ADDITIONAL REFERENCE OF BUSINESS**

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





**BILL ON FIRST READING**

Senate Bill No. 2076, entitled

AN ACT ESTABLISHING MOTORCYCLE LANES ALONG NATIONAL, PROVINCIAL, CITY AND MUNICIPAL ROADS AND PROVIDING FUNDS THEREFOR

Introduced by Senator Jinggoy Ejercito Estrada

**To the Committees on Public Works; and Finance**

**RESOLUTION**

Proposed Senate Resolution No. 306, entitled

RESOLUTION CONGRATULATING ANNE RICHIE GARCIA FOR WINNING THE 3<sup>RD</sup> ANNUAL MARTIN LUTHER KING CONTEST AT THE NEW YORK UNIVERSITY IN THE UNITED STATES OF AMERICA

Introduced by Senator Jinggoy Ejercito Estrada

**To the Committee on Rules**

**COMMITTEE REPORT**

Committee Report No. 39, prepared and submitted jointly by the Committees on Banks, Financial Institutions and Currencies; and Trade and Commerce, on Senate Bill No. 2077, with Senators Angara, MAR Roxas, Loren Legarda and the Members of the Committees as authors thereof, entitled

AN ACT ESTABLISHING THE PRE-NEED CODE OF 2008,

recommending its approval in substitution of Senate Bill Nos. 64, 105 and 1094.

Sponsor: Senator Angara

**To the Calendar for Ordinary Business**

**SPECIAL ORDER**

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 39 on Senate Bill No. 2077 from the Calendar for Ordinary Business to the Calendar for Special Orders.

**COMMITTEE REPORT NO. 39 ON SENATE BILL NO. 2077**

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2077 (Committee Report No. 39), entitled

AN ACT ESTABLISHING THE PRE-NEED CODE OF 2008.

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

The Chair recognized Senator Angara for the sponsorship.

**ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS**

Before delivering his sponsorship speech, Senator Angara acknowledged the presence of the officers and leaders of the pre-need industry headed by Atty. Miguel Vasquez, Mr. Jack Howell, Mr. Cesar Michelena, Mr. Jose Alberto Alba, Mrs. Carmen Gabriel, Mrs. Virginia Ong, Mr. Elmer Lorica and Mr. Dario Martinez.

Senate President Pro Tempore Ejercito Estrada welcomed the guests to the Senate.

**SPONSORSHIP SPEECH OF SENATOR ANGARA**

Thereupon, Senator Angara delivered his sponsorship speech on Senate Bill No. 2077, as follows:

The pre-need plan is a unique savings mechanism designed to realize a Filipino parent's deepest aspirations – education for their children, health care in times of illness, pension

upon retirement, memorial service upon one's demise.

Pre-need plans have become a family's popular option for ensuring the education of their children, especially after the enactment of the Education Act in 1982 which pried the doors open for sharp tuition increases.

Today, pre-need has become a multi-billion peso industry, posting P157 billion in total assets. Over the last 25 years, the industry has had over 92 firms actively engaged in the sale of pre-need plan securities.

To many, however, the unexpected collapse of the first pre-need firm in the country – Pacific Plans Incorporated (PPI) – following the same fate of industry leader College Assurance Plan (CAP), had shaken the industry and caused serious grief and loss to countless parents. Numerous protests were launched due to unpaid claims of thousands of planholders. In 2005, as a result of the industry shakedown, the number of pre-need companies licensed to operate went down to 32.

The main reason cited for the business failure is the so-called traditional educational plans. Under a traditional educational plan, the pre-need company agrees to pay the tuition charged by the school at the time the claim is made. It amounted to an open commitment, so when the deregulation of tuition fees occurred in 1992, there was a tremendous increase in the tuition obligations of pre-need companies because tuitions shot up quite unexpectedly beyond the actuarial calculations of some of these firms.

Poor management and unsound investment decisions made by some pre-need companies exacerbated the problem. In the absence of a clear regulatory framework, these mismanagement acts escaped monitoring and prevention.

With the vital role the pre-need industry plays – and the imperative to protect the investing public – it has become necessary to enact this law that would govern the operation of pre-need companies, regulate their activities, and assure their liquidity and solvency for the protection of their planholders.

The aims the bill seeks to achieve are two-fold: protect the planholders and at the same time keep the pre-need industry viable. The protection of planholders is basic within a regulatory regime that does not stifle the growth of the pre-need industry which serves a very useful social and economic purpose. What we

provide is an institutional solution to the problem of the pre-need industry.

The proposed measure seeks to establish that regulatory framework – which we started in the 13<sup>th</sup> Congress, during which we held public hearings and technical working group meetings where all the stakeholders were invited and represented – to protect the interests of the planholders and promote a healthy industry.

The bill requires pre-need companies to have a minimum paid-up capital of P100 million to provide a solid capital base and lessen the risk of instability in the future.

A Fit and Proper rule shall be imposed on elected or appointed directors and officers of pre-need companies, where they must meet qualifications based on integrity, experience, education, training and competence. Sales counselors shall not be allowed to solicit or sell pre-need plans without a license.

For planholders who become hard up to pay their installments, a pre-need company shall provide a grace period of at least 60 days to pay unpaid dues. If he/she is still unable to pay within this period, and the plan is rendered ineffectual, the planholder is given two years to reinstate the plan.

Pre-need companies are prohibited from refusing to pay or settle claims and benefits to their planholders without just cause. The proceeds of the plan shall be paid immediately upon maturity of the contract, except in the case of installments or annuity, in which case they will be paid when they become due. Failure to pay the claim within 15 days from maturity will entitle the beneficiary to collect interest on the proceeds at twice the going interest rate.

The bill adopts the Trust Fund Model currently employed by the SEC. It is, we believe, the strongest safeguard against insolvency. Under this model, a portion of the installment payment collected shall be deposited by the pre-need company in an appropriate trust fund. This would help guarantee the delivery of benefits to the planholder in the future, and minimize the risk of insolvency as the trust fund will remain untouched until the plan matures.

The minimum contribution of a pre-need company to the trust fund is 45% of the amount collected for life plans, and 51% for all other types. The trust fund may be invested in (1) fixed income instruments such as government securities, savings or time deposits, commercial papers or direct loans; (2) mutual funds; (3) equity investments in stocks; and (4) real estate.

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For transparency, the bill requires that the contributions to the trust fund be properly disclosed to the planholders. Under the Pre-need Code, companies are required to make their financial condition regularly examined, and an annual statement published.

The best protection we can extend to planholders is by creating a solid framework which places the operation of pre-need companies on sound, stable and sustainable ground. What we are trying to change is the unregulated anything-goes regime that has created the problems in the first place.

The pre-need industry contributes around P1.5 billion in value-added tax, in addition to the P1.3 billion in withholding taxes contributed to the government out of its trust funds.

More importantly, pre-need companies exist to provide insurance for the education, health and other vital needs of its 3.8 million planholders, and thus fills the void that government cannot fill. Hence, there is great economic value in fostering the pre-need industry and ensuring that they flourish for years to come.

In view of the benefits of this proposed legislation to the pre-need industry and the millions of planholders, I urge our colleagues to immediately pass this bill, for the sake of the country and the industry, and for the buildup of the capital market.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2077**

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

#### **SPECIAL ORDER**

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 38 on Senate Bill No. 2066 from the Calendar for Ordinary Business to the Calendar for Special Orders.

#### **COMMITTEE REPORT NO. 38 ON SENATE BILL NO. 2066**

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2066 (Committee Report No. 38), entitled

#### **AN ACT AMENDING ARTICLE 341 OF REPUBLIC ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE.**

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

The Chair recognized Senator Escudero for the sponsorship.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 4:55 p.m.*

#### **RESUMPTION OF SESSION**

At 5:03 p.m., the session was resumed.

#### **SPONSORSHIP REMARKS OF SENATOR ESCUDERO**

At the instance of Senator Escudero, the explanatory notes as contained in Senate Bill Nos. 497 and 694 filed by Senator Ejercito Estrada, Senate Bill No. 937 filed by Senator Legarda, Senate Bill No. 1836 filed by Senator Defensor Santiago, and Senate Bill No. 1886 filed by Senate President Villar, were adopted as the sponsorship speeches for Senate Bill No. 2066.

He manifested that the amendments as proposed in the Committee Report are in line with the international standards and definition that are gaining prevalence in other countries.

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

Senator Pangilinan manifested that some senators have made reservations to interpellate on the bill at a later date.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2066**

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

*MS*

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 5:05 p.m.*

**RESUMPTION OF SESSION**

At 5:05 p.m., the session was resumed.

**PROPOSED SENATE RESOLUTION NO. 301**

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 301, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE TO HONOR THE LIFE OF FR. REY RODA, OMI, AND HIS CONTRIBUTIONS TO BETTER THE LIVES OF HIS PARISHIONERS IN TABAWAN, TAWI-TAWI, AND TO CONDEMN HIS SENSELESS KILLING.

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.

**ADOPTION OF PROPOSED SENATE RESOLUTION NO. 301**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 301 was adopted by the Body.

**PROPOSED SENATE RESOLUTION NO. 306**

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 306, entitled

RESOLUTION CONGRATULATING ANNE RICHIE GARCIA FOR WINNING THE 3<sup>RD</sup> ANNUAL MARTIN LUTHER KING CONTEST AT THE NEW YORK UNIVERSITY IN THE UNITED STATES OF AMERICA.

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.

**ADOPTION OF PROPOSED SENATE RESOLUTION NO. 306**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 306 was adopted by the Body.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 5:07 p.m.*

**RESUMPTION OF SESSION**

At 5:07 p.m., the session was resumed.

**SECOND ADDITIONAL REFERENCE OF BUSINESS**

The Deputy Secretary for Legislation, Edwin B. Bellen, read the following matters and the Chair made the corresponding referrals:

**BILL ON FIRST READING**

Senate Bill No. 2078, entitled

AN ACT DEFINING THE LIABILITY OF SHIP AGENTS IN THE TRAMP SERVICE AND FOR OTHER PURPOSES

Introduced by Senator Enrile

To the Committee on Public Services

**RESOLUTION**

Proposed Senate Resolution No. 307, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON URBAN PLANNING, HOUSING AND RESETTLEMENT AND OTHER APPROPRIATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE DEMOLITION OF HOUSES AT SITIO MASAGANA, EAST SERVICE ROAD, WESTERN BICUTAN, TAGUIG, METRO MANILA

*ps*

Introduced by Senator Biazon

**To the Committees on Urban Planning,  
Housing and Resettlement; and National  
Defense and Security**

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 5:08 p.m.*

**RESUMPTION OF SESSION**


At 5:10 p.m., the session was resumed.

**ADJOURNMENT OF SESSION**

Upon motion of Senator Pangilinan, there being no objection, the Senate President Pro Tempore declared the session adjourned until three o'clock in the afternoon of Monday, February 18, 2008.

*It was 5:11 p.m.*

I hereby certify to the correctness of the foregoing.

  
EMMA LIRIO-REYES  
Secretary of the Senate  
*18/2/08*

Approved on February 18, 2008