



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 66
Wednesday, February 22, 2017

**SEVENTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 66

Wednesday, February 22, 2017

CALL TO ORDER

At 3:43 p.m., the Senate President, Hon. Aquilino "Koko" Pimentel III, called the session to order.

PRAYER

Sen. Vicente C. Sotto III led the prayer, to wit:

"Jabez cried out to the Lord of Israel, 'Oh, that you would bless me and enlarge my territory! Let your hand be with me, and keep me from harm so that I may be free from pain.' And God granted his prayer."

1 Chronicles 4:10

Lord, just like Jabez, we cry out to You to please bless our people. Bless each and every Filipino living here and abroad. Surround us with Your favor. Reveal Yourself to each one of us so that we can draw closer to You. Give each of us the means to earn a living and be prosperous so that we will be self-sufficient and not be in need.

Lord, we pray that You protect our territory and enlarge it. You have given us a country rich in natural resources. We pray

that You safeguard it so that it will not be abused or squandered; that it will remain in the hands of Filipinos for generations to come, to be enjoyed and richly benefit our descendants. Enrich our soil, enliven our seas and purify our air, O Lord. Let our country be distinguished among countries for its richness, beauty and godliness of its people.

Lord, thank You for Your many promises of protection. Keep our country and our people in the shadow of Your wings until all these calamities have passed by.

And lastly, Lord, please keep us free from pain. We understand that in life, there are seasons – some good, some bad. Help us to understand that every season is an opportunity to know You better.

And just like Jabez, we humbly ask that You grant our prayer today.

Thank You, Lord, for Your faithfulness. We look forward to what You have in store for our future.

In Jesus' Name, we pray. Amen.



ROLL CALL

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

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

With 24 senators present, the Chair declared the presence of a quorum.

DEFERMENT OF APPROVAL OF THE JOURNAL

Upon motion of Senator Sotto, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 65 (February 21, 2017) to a later time.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

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

- SEC Chairperson Teresita J. Herbosa and Commissioner Blas James Viterbo;
- Grade 11 students from Novaliches High School;
- Vice Mayor Sulpicio Gallano, Jr., and Councilors Jab Gipulla, Renator Sultan, Jr., and Karl Sylvester Eleazar from the Province of Bukidnon;
- Lagablab Network;
- Association of the Transgender People of the Philippines;
- Metro Manila Price;
- Metropolitan Community Church of Quezon City;

- Psychological Association of the Philippines;
- U.P. One's True Name;
- Beehive;
- National Movement of Young Legislators, Region I Chapter; and
- Barangay officials of Nagcarlan, Laguna, headed by Vice Mayor Amie Hernandez.

Senate President Pimentel welcomed the guests to the Senate.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended to allow the Members to greet Senator Hontiveros on the occasion of her birthday on February 24, 2017.

It was 3:49 p.m.

RESUMPTION OF SESSION

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

PRIVILEGE SPEECH OF SENATOR GORDON

Availing himself of the privilege hour, Senator Gordon stated that he was speaking with a heavy heart not because what was supposed to be part of a previous investigation that he, as chairman of the Committee on Justice and Human Rights, conducted was referred to another committee. He could not care less, he said.

He stated that the Senate is supposed to be a place of dignity, honor and trust, the people's forum where the underprivileged turn to when they cannot go to the courts. In the Senate, he said, the Members spend a lot of time and effort to seek the truth and make laws.

Senator Gordon disclosed that he recently consulted the Senate President and the Majority Leader regarding committee reports that need to be taken up because when he submitted the committee report on the extrajudicial killings a few months ago, he was surprised to find out that Senator Poe's committee report on the Mamasapano incident has remained unacted upon. He expressed concern that if committee reports are not acted upon, time was being wasted, and the hard work put by the



committees was being put to a naught. And he also reminded everyone that the Senate has been accused of investigating without coming out with any output, creating the impression that it has been performing way below the expectation of the people.

On his part, he said that in the investigations that he conducted in the past, he and his staff spent long hours researching before, during and after each investigation, poring over voluminous documents containing statements and affidavits, analyzing everything that may be used for questioning, after which the Committed filed the corresponding bills that it deemed necessary. According to him, some of his staff are young, yet he makes tremendous demand from them because he believes that young people should be shaped early on and encouraged to make a stand when they are called upon to do so, especially during times of challenges. These young people, he said, reminds him of his younger days, when he was a young delegate in the Constitutional Convention, as well as when he was a member of the UP Student Council, recalling Father Ortiz who used to tell them that the country was sitting on a social volcano. Until now that is what is being said of the Philippines, he said.

He said that he had witnessed a lot of significant but disappointing events in the political history of the country – politicians changing parties for convenience and putting personal interests above principles. And he admitted being challenged to give way, stay silent and not take a stand on issues confronting the country, but he did not, he said, as he recalled going to the Supreme Court twice to make sure that the Automated Election Law was properly implemented.

Senator Gordon reminded the Body that the change of committee chairmanship as the Committee was then investigating the EJK was not easy. He recalled that before accepting the committee chairmanship, he had to ask that the previous chair remain as a member of the committee, and that when he took over, he put order and objectivity in the investigation, and imposed time limits which he willingly extended when he deemed it necessary,

He stated that just recently, Mr. Arturo Lascañas came out in the public and retracted his testimonies that he gave before the Committee on Justice and Human Rights four months ago, claiming that he was haunted by his conscience. He reminded everyone that when Mr. Lascañas appeared before the

Committee, he came on his own volition, nobody threatened him to testify nor said that he was a paid witness. He said that the Committee heard the testimony of Mr. Lascañas denying the existence of the Davao Death Squad, saying that it was all media hype, and controverting the testimony of Mr. Edgar Matobato. He pointed out that had Mr. Lascañas told the Committee that the Davao Death Squad really existed, contrary to what he earlier testified, the Committee could have pursued further the investigation. He reminded the Body while the investigation was going on, the people were forming their own conclusions. He said that he cannot be accused of partisanship because all his life he was never accused of being partisan.

Senator Gordon stated that when Mr. Lascañas appeared before the Committee, he took an oath to tell the truth and nothing but the truth. He pointed out that with his retraction, Mr. Lascañas certainly lied to the Senate, that what he did was not a slap on his face but a slap on the Senate as an institution.

He stated that when a person, like Mr. Lascañas, lied before the Senate, he lost that first chance and he does not deserve a second chance, for there are other options available to him – either he goes to the Ombudsman or file an impeachment complaint. Fear has no place in the Senate, he said, and that every Member must decide not for his/her own gratification or convenience. He lamented that life has become cheap in the country.

He then asked his colleagues if they are going to believe a man who already lied before, a man who admitted to being paid to murder, a man who confessed to have killed his own brothers, a man who, after 14 years, confessed that Jun Pala was indeed assassinated.

Senator Gordon stated that it is his duty to protect the integrity of the Senate, to protect the institution from being shamed by a man who now claims to be telling the truth because, according to him, he was being bothered by his conscience. Talk of conscience, he stated that he too was being bothered by the mysterious killings of 7,000 individuals, and he asked the lawyers of the country where were they when these killings were committed. He said that the fact that they did not do anything is a manifestation of apathy, “waiting for the right time”, whose principles are based on time, not on values, not on character.

NP/MG

Lamentably, he said, he was beginning to think that the Senate has become like the Roman Senate composed of patricians. He pointed out that every public official took an oath and he /she is expected to keep that oath seriously.

Senator Gordon stated that in the committee report that he submitted, he said that he found no evidence that there were state-sponsored killings and that the Davao Death Squad never existed. He said that he was not trying to impose on the Members to accept the recommendation, and neither was he trying to convince them not to listen to Mr. Lascañas again. He urged everyone to tarry a little, take time before proceeding whatever action they would like to take. He disclosed that his wife has dissuaded him from speaking on the issue of the Senate reopening the investigation on account of Mr. Lascañas' latest confession, but he has to stand up, he said, follow his conscience and express his disagreement because he wants the Senate to be accorded the respect that this institution deserves.

He stressed that there must be a forum where the aggrieved can go to to express their grievances, the reason why for the last three months, he has been working on how to strengthen the People's Law Enforcement Board (PLEB).

Finally, Senator Gordon called on his colleagues to be noble and try to treat each other with candor and respect so that they can find out the truth.

REMARKS OF SENATOR CAYETANO

Senator Cayetano gave Senator Gordon a hug as he expressed his admiration to the latter for his candor, decency and for being a stickler to Senate tradition and to the Rules of the Senate. Obviously, he observed, there are groups wanting the Senate to be part of the removal of the President, in the same manner that there are also groups wanting to protect the President. On the part of the Senate, he assumed that the Members only care for the truth.

Referring to the Journal of the previous session, he noted that on its face, while it appeared that there was no problem with the referral of Senator Trillanes' speech to the Committee on Public Order and Dangerous Drugs, it was common knowledge that in a press conference, Senator Trillanes wanted to reopen the investigation. But he pointed out that

following Senate tradition and the Rules, it should be the committee that had the original jurisdiction that should reopen the investigation, and that the only way the committee is released from investigating anew is to secure the signature of five committee members supporting the discharge of the committee. This rule was not followed, he noted.

In fact, he pointed out that Senator Sotto was sensitive enough to place a caveat to the motion to refer Senator Trillanes' speech to the Committee on Public Order and Dangerous Drugs that the Committee on Justice and Human Rights should be properly informed of the referral because it has already come out with its report on the EJK which is basically the same as what the motion seeks to achieve.

Senator Cayetano stated that in his years in the Senate, it has never happened that the Senators had to vote to remove from the committee's jurisdiction an issue that it has already been the subject of its previous investigation. He said that personally, he has not made up his mind yet because a part of him wants to hear the testimony of Mr. Lascanas again even if the witness has a credibility problem, while another part of him agrees with Senator Gordon that it would be a waste of time and that Mr. Lascañas should instead bring his case to the Ombudsman.

Senator Cayetano stated that he respects Senator Gordon in his capacity as chair of the Committee on Justice and Human Rights, and that he would leave it up to the Members of the Body if they want to overrule Senator Gordon, but he expressed concern that this might set a precedent, and nothing would then prevent any senator from submitting a motion to refer his/her speech or bill to whatever committee of his/her liking, destroying, in the process, the committee system.

He then urged his colleagues to go back to observing Senate tradition and let the concerned committee chair to decide, and should they lose faith and confidence in the committee chair, they should have the courage to tell it so. For his part, he said that he would support whatever decision that Senator Gordon would take because he has faith in the committee chair. He then asked the Members if they still have faith and confidence in the chair of the Committee on Justice and Human Rights.



MANIFESTATION OF SENATOR GORDON

Senator Gordon clarified that it was Senator Lacson who said that the referral of the speech to another committee was a “slap on his face.” He said that it was not personal to him, but he nevertheless thanked Senator Lacson for seeing it that way. He refused to believe that his colleagues would deliberately slap him on the face, and that he was certain that they are courageous enough to tell him that they do not agree with him considering that many of them already signed the report that he submitted.

To Senator Drilon’s statement that there was a newly discovered evidence, Senator Gordon maintained that this newly discovered evidence must be studied first because if it came from the same source, it has become a polluted source because he already lied.

He stated that he stood up to make a stand regardless of the opprobrium that he might suffer from all the trolls. He said that he does not make decision based on what people say because to him, it is between him and his conscience so that if he failed or made a wrong decision, he would not blame others and would just take it upon himself and accept the fact that he was wrong..

He stated that he was called upon to make a decision and he had decided that if the issue were to be referred to his committee, he would not hear it and he would rather advise the witness to go to the Ombudsman because the Senate no longer believes in him. He said that only when there is new evidence that the Senate, in its rightful duty, can refer it again to the appropriate committee.

Finally, Senator Gordon stated that he just wanted to unburden himself and that he does not want to bear any evil upon his peers. However, he stated that he would always stand up if he felt the need for it.

MOTION OF SENATOR SOTTO

Senator Sotto moved that the speech of Senator Gordon and the interpellation of Senator Cayetano be referred to the Committee on Rules.

MANIFESTATION OF SENATOR CAYETANO

Senator Cayetano opined that the proper procedure would be to refer the issue back to the Committee on Justice and Human Rights because the

topic and substance of the speech referred to is the previous investigation handled by the committee.

Senator Gordon stated the he spoke to unburden himself to be able to attend the session and look everybody in the eyes and say, “You are my friend and I trust you, and that you are for our country.”

But Senator Sotto maintained that the points raised were valid and must be looked into by the Committee on Rules.

MANIFESTATION OF SENATOR TRILLANES

Senator Trillanes refuted the statement of Senator Cayetano, maintaining that the subject matter of the privilege speech which he delivered on Monday, February 20, 2017, and the subject matter that was heard by the Committee on Justice and Human Rights were two separate issues; thus, the referral of his privilege speech to the Committee on Public Order and Dangerous Drugs was justified.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Sotto, there being no objection, the Chair referred the privilege speech of Senator Gordon and the interpellation thereon to the Committee on Rules.

CLARIFICATION OF SENATOR CAYETANO

Senator Cayetano apologized to Senator Trillanes for making it appear that there was a consensus that the two subject matters were the same. He clarified that what he meant was that it seemed obvious to him and to everyone that the two were the same. He suggested deferring the decision and allowing the Body to decide collectively and that the issue be referred to the Committee on Rules.

Senator Cayetano also clarified that when he said “slap on the face of Senator Gordon,” he actually meant “slap on the Senate’s committee system” and not on any senator.

MANIFESTATION OF SENATOR POE

At the outset, Senator Poe thanked Senator Gordon for delivering a meaningful and passionate speech. Commenting on Senator Gordon’s statement that Mr. Lascañas should not be allowed to return



to the Senate and give him the benefit of lying again, Senator Poe opined that allowing Ms. Lascañas return to the Senate is not for his benefit but for the Members who would like to know what made him change his mind and why he was doing it. She said that if the Members were to judge based on the statements of the other resource persons who have testified and they would be rejected for having lied too in the past, there would hardly be any resource persons left to appear in the Senate. She believed that there are certain self-preservations that such individuals might have had when they first came over to speak.

She thanked Senator Gordon for being upfront about the matter and for being truthful in saying that if the matter was referred again to the Committee on Justice and Human Rights, he was not going to hear it because it was a waste of time.

Senator Poe also lauded Senator Lacson for accepting the referral of the issue to his committee even if he was uncomfortable in breaking the collegiality between senators as she believed him to be a very capable chairman who would hear the matter fairly.

At this juncture, she called the attention of the Body to Section 14 of Rule X of the Senate Rules which provides: "Whenever necessary, special committees shall be organized, the membership and jurisdiction of which shall be determined by the Senate President." Relative thereto and considering that the chair of the Committee on Justice and Human Rights had expressed his objection to reopen the hearing on the extrajudicial killings, and the Committee on Public Order and Dangerous Drugs is likewise not inclined to do so, she manifested that there might be a necessity that a special committee be organized for the purpose given the following reasons:

- 1) The allegations of Mr. Lascañas are serious and appear to corroborate the testimonies of Mr. Matobato, and that the Senate must be given the opportunity to test his credibility.
- 2) Mr. Lascañas may have perjured himself by making allegations that are diametrically opposed to what he had previously given under oath before the Committee on Justice and Human Rights but it would give the Senate the opportunity to hear him and scrutinize his allegations before a special committee that may be organized but would not definitely absolve him

of any criminal act that he may have already committed.

Senator Poe recalled that it was Senator Gordon who was with her during the 2004 elections when no one would hear them about the fraud allegations at that time as well as when the Blue Ribbon Committee refused to hear the fertilizer fund scam, the reason why the Committee on Agriculture had to assume the responsibility. She believed that even if there are other venues like the Ombudsman and the courts, it is always the Senate that is the last bastion for the public to be able to hear all the testimonies without limit.

She appealed to the Members of the Body, regardless of their inclinations and political affiliations, to pursue the issue not for anyone's sake but to preserve what the Senate has done in the past, that is, to be a forum for the public to hear issues at hand.

As regards the Mamasapano case which was mentioned as not even having a committee report, she clarified that there was a committee report which has not been voted on, but that the Committee's suggestions and recommendations to file cases like usurpation of power, among others, against certain individuals were carried out by the Ombudsman.

CLARIFICATION OF SENATOR GORDON

Senator Gordon clarified that the issue was not just lying but according dignity and respect to the Senate as the last bastion that people can go to. He stressed that no one should be allowed to trifle with the Senate insofar as the truth is concerned and no one must take an oath before it and then later on retract and say he would like to make another revelation.

He said that the reason he was giving Mr. Lascañas the option to go to the Ombudsman or anywhere else is for all the others who are conducting investigations to not have such kind of witnesses who can easily trifle with the committee, like what he did when he himself reprimanded some former police officers who were witnesses and who tried to trifle with his committee. He also cited the case of two lawyers and other officer whose testimonies he turned down.

As regards Mr. Lascañas, Senator Gordon pointed out that the witness came on his own volition



upon the invitation of Senator De Lima, and he lied not only to Senator De Lima but to the Committee as well. He said that Mr. Lascañas was asking for a second chance but that he would not allow it because he already stained the dignity of the Senate.

He said that the Senate is a forum but not where people can perorate and create publicity at the expense of others after having lied in the past; it is a forum where people can complain and senators act on such complaints with dispatch. He said that he was even surprised that Mr. Lascañas got a forum the other day which is reserved for senators. He said that if the hearings are held only for publicity, then it would just be a waste of time because the Senate is not a forum for grandstanding but a place where things get done.

Senator Gordon stated that he respects the idea of Senator Poe, with whom he shared the stage during the campaign and never abandoned her. He said that he has been upfront and had to stand up to his principles. He asserted that the Senate is not the proper forum for a man who killed or murdered his own brothers as Cain did to Abel. He said that while he would always give people second chances, giving Mr. Lascañas a second chance would be stretching it.

MANIFESTATION OF SENATOR PACQUIAO

Senator Pacquiao stated that the dignity of the Senate is very important. He feared that allowing the reopening of the hearing on the extrajudicial killings in order to allow Mr. Lascañas' to retract his statement, would become a precedent in future investigations that witnesses who lied would be allowed to change their testimony.

MANIFESTATION OF SENATOR LACSON

At the outset, Senator Lacson thanked Senator Poe for her manifestation. Lest he would be misunderstood that he was shirking from the responsibility of hearing the issue at hand, he said that since the speech was referred to the Committee on Public Order and Dangerous Drugs, he feels that it was his obligation to perform his mandate as committee chair.

That he wanted to be courteous and respectful to Senator Gordon, chairperson of the Committee on Justice and Human Rights, which originally heard the issue and that he agreed with Senator Cayetano that

it was the same issues, he said that he would yield to the wisdom of the Body and would not object to the manifestation of Senator Poe that a special committee be created for the purpose.

MANIFESTATION OF SENATOR PANGILINAN

At this juncture, Senator Pangilinan manifested that whenever faced with lying witnesses, the Senate is not powerless as he recalled instances where it punished witnesses who lied or who had shown contemptible behavior.

He recalled that when he was chairperson of the Committee on Agriculture and Food in 2012, a witness refused to answer the simple question on who his financier was in rice smuggling. He said that because the witness refused to answer, he was held in contempt and detained in the Senate for almost two months.

Senator Pangilinan stated that if it is the pleasure of the Body that Mr. Lascañas be punished, then it can do so to send a strong signal that the Senate would not allow itself to be lied to.

REMARKS OF SENATOR PACQUIAO

Responding thereto, Senator Pacquiao stated that while the Senate has the power to cite a witness in contempt for telling a lie, it is still the dignity of the Senate that is at stake. He reiterated that the situation could be used as a precedent in future hearings and a witness could lie and later on retract his or her statements. He said that the Body, especially the designated committees, should show dignity and that everyone should respect the report of the committee.

REMARKS OF SENATOR GORDON

Senator Gordon believed that, on the matter of punishment and sanction, Senator Pacquiao was correct. He stated that the Body should not allow the Senate to be a cockpit of lies and barefaced disrespect. He recalled that he too had people arrested for lying during committee hearings or for refusing to be subpoenaed. He asserted that it is not just a question of punishment, but rather sending a clear message that no one should lie anywhere, especially in the Senate of the Republic of the Philippines. He underscored that the Senate should be given due respect.



Senator Pangilinan agreed that people should not lie, but with more reason the Body should pursue the truth because it is its role to exercise check and balance for other branches of government.

RULING OF SENATE PRESIDENT PIMENTEL

Senate President Pimentel stated that with the manifestation of Senator Lacson, it would not be necessary to invoke Section 14 of Rule X, hence, there was no need to create a special committee.

MANIFESTATION OF SENATOR SOTTO

Senator Sotto thanked Senator Poe for giving the Committee on Rules a preview of what it would be taking up in the meeting.

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. 1339, entitled

AN ACT RIGHTSIZING THE NATIONAL GOVERNMENT TO IMPROVE PUBLIC SERVICE DELIVERY

Introduced by Senator Honasan II

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

Senate Bill No. 1340, entitled

AN ACT PROHIBITING THE IMPOSITION OF EXPIRY DATES ON GIFT CHECKS BY ISSUERS AND FOR OTHER PURPOSES

Introduced by Senator Zubiri

To the Committee on Trade, Commerce and Entrepreneurship

Senate Bill No. 1341, entitled

AN ACT CREATING THE COOPERA-

TIVE DEVELOPMENT COMMISSION, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 6939, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Paolo Benigno "Bam" Aquino IV

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

Senate Bill No. 1342, entitled

AN ACT AMENDING REPUBLIC ACT NO. 7743, OTHERWISE KNOWN AS "AN ACT PROVIDING FOR THE ESTABLISHMENT OF CONGRESSIONAL, CITY, AND MUNICIPAL LIBRARIES AND BARANGAY READING CENTER THROUGHOUT THE PHILIPPINES," AND FOR OTHER PURPOSES

Introduced by Senator Sonny Angara

To the Committees on Education, Arts and Culture; Local Government; and Finance

Senate Bill No. 1343, entitled

AN ACT CREATING AN ADVANCED STUDIES DEVELOPMENT PROGRAM FOR EXCEPTIONAL EMPLOYEES FROM THE GOVERNMENT AND THE PRIVATE SECTOR AND FOR OTHER PURPOSES

Introduced by Senator Sonny Angara

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

Senate Bill No. 1344, entitled

AN ACT PROMOTING THE SCIENTIFIC PROPAGATION, PROCESSING, UTILIZATION AND DEVELOPMENT OF PHILIPPINE NATIVE ANIMALS, HEREBY CREATING THE

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PHILIPPINE NATIVE ANIMAL DEVELOPMENT CENTER

Introduced by Senator Sonny Angara

To the Committees on Agriculture and Food; and Finance

Senate Bill No. 1345, entitled

AN ACT REDEFINING THE MANDATE OF THE PUBLIC ATTORNEY'S OFFICE (PAO), AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9046 AND PERTINENT PROVISIONS OF EXECUTIVE ORDER NO. 292, OTHERWISE KNOWN AS THE "ADMINISTRATIVE CODE OF 1987," AS AMENDED, AND FOR OTHER PURPOSES

Introduced by Senator Leila M. de Lima

To the Committees on Justice and Human Rights; and Civil Service, Government Reorganization and Professional Regulation

Senate Bill No. 1346, entitled

AN ACT TO PROTECT THE INDEPENDENCE OF OUR JUDICIAL SYSTEM

Introduced by Senator Leila M. de Lima

To the Committees on Justice and Human Rights; Ways and Means; and Finance

Senate Bill No. 1347, entitled

AN ACT GRANTING HAZARD PAY TO JUSTICE SECTOR OFFICIALS AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Leila M. de Lima

To the Committees on Justice and Human Rights; Ways and Means; and Finance

Senate Bill No. 1348, entitled

AN ACT TO PROMOTE POSITIVE, NON-VIOLENT DISCIPLINE OF CHILDREN, PROHIBITING ALL

FORMS OF CORPORAL PUNISHMENT, HUMILIATING AND DEGRADING TREATMENT, PROVIDING PENALTY THEREFOR, APPROPRIATING FUNDS AND FOR OTHER PURPOSES

Introduced by Senator Leila M. de Lima

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

RESOLUTIONS

Proposed Senate Resolution No. 297, entitled

A RESOLUTION DIRECTING THE SENATE COMMITTEE ON EDUCATION, ARTS AND CULTURE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE SAFETY GUIDELINES AND POLICIES ON EDUCATIONAL TOURS AND FIELD TRIPS OF COLLEGES AND HIGHER EDUCATION INSTITUTIONS

Introduced by Senator Paolo Benigno "Bam" Aquino IV

To the Committee on Education, Arts and Culture

Proposed Senate Resolution No. No. 298, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO INQUIRE AND REVIEW, IN AID OF LEGISLATION, THE 4-Ps CASH FOR RICE SUBSIDY PROGRAM OF DSWD

Introduced by Senator Cynthia A. Villar

To the Committee on Social Justice, Welfare and Rural Development

Proposed Senate Resolution No. 299, entitled

RESOLUTION DIRECTING THE COMMITTEE ON LABOR, EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT TO INQUIRE AND

REVIEW, IN AID OF LEGISLATION, THE IMPLEMENTATION OF THE SCHOLARSHIP PROGRAMS IN AGRICULTURE OF THE TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY (TESDA)

Introduced by Senator Cynthia A. Villar

To the Committees on Labor, Employment and Human Resources Development; and Education, Arts and Culture

Proposed Senate Resolution No. 300, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE RECENT KILLINGS OF LAWYERS, WITH THE END VIEW OF ENACTING MEASURES TO SECURE THE SAFETY AND WELFARE OF THE MEMBERS OF THE PHILIPPINE BAR

Introduced by Senator Leila M. de Lima

To the Committees on Public Order and Dangerous Drugs; and Justice and Human Rights

COMMUNICATIONS

Letter from Secretary Salvador C. Medialdea, dated 22 December 2016, transmitting to Congress, through the Senate, Republic Act No. 10924 or the Fiscal Year 2017 General Appropriations Act and the President's Budget Action Message.

To the Archives

Letter from the Office of the President of the Philippines, transmitting to the Senate the Revised Armed Forces of the Philippines Modernization Program (RAFPMP) First Quarter Report, and the approved First and Second Lists of Projects for Phase 1 of the RAFPMP, pursuant to Section 3 of Republic Act (RA) No. 7898, as amended by RA No. 10349.

To the Committee on National Defense and Security

Letter from the Public-Private Partnership Center, submitting to the Senate a copy of the signed concession agreement for the NLEX-SLEX Connector Road Project ("Connector Road Project"), including all its Annexes, executed by the Department of Public Works and Highways, as the Grantor, and the Manila North Tollways Corporation, as the Concessionaire, on November 23, 2016, in compliance with the Revised Implementing Rules and Regulations of RA No. 6957, as amended by RA No. 7718, otherwise known as the Amended Build-Operate-and-Transfer Law.

To the Committee on Public Works

CHANGE OF REFERRAL

Upon motion of Senator Sotto, there being no objection, the Body approved the change of referral of the following:

1. Senate Bill No. 1336 from the Committee on Public Services to the Committee on Trade, Commerce and Entrepreneurship as the primary committee, and to the Committee on Public Services as the secondary committee; and
2. Senate Bill No. 1123 from the Committee on Public Order and Dangerous Drugs to the Committee on Civil Service, Government Reorganization and Professional Regulation.

**APPROVAL OF THE JOURNAL
OF SESSION NO. 65**

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 65 (February 21, 2017) and considered it approved.

**COMMITTEE REPORT NO. 22
ON SENATE BILL NO. 1280
(Continuation)**

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1280 (Committee Report No. 22), entitled

AN ACT AMENDING BATAS PAMBANSA BLG. 68 OR THE CORPORATION CODE OF THE PHILIPPINES.

[Signature]

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

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

INTERPELLATION OF SENATOR RECTO

Initially, Senator Recto commended Senator Drilon for sponsoring a very important piece of legislation, Senate Bill No. 1280, and he expressed his support to most of the provisions, especially the creation of one-person corporation, among others.

He stated that the main purpose of his interpellation was to ensure that the constitutional provision on Filipino equity is faithfully implemented through the proposed measure, especially that Congress is given the opportunity to define the term "capital," which determines the ownership of a corporation, as referred to but is still undefined in the Constitution. Cognizant of the constitutional recognition of the role of the private sector, he stated that Congress must encourage, through the measure, private sector participation in the development of the national economy by enhancing the ease of doing business and minimizing government intervention, SEC discretion and regulation in business affairs.

Senator Recto pointed out that it is the State's policy, as enshrined in the 1987 Constitution, specifically in its *Declaration of Principles and State Policies*, to develop a self-reliant and independent national economy, effectively controlled by Filipinos (Section 19, Article II); however, the State also recognizes the important role of the private sector in the development of the economy (Section 19, Article II).

Proceeding from these two constitutional provisions, Senator Recto asked on the definition of the term "capital" for the purpose of determining the controlling interest in a corporation.

Senator Drilon replied that the definition of the term "capital" was interpreted in two cases decided by the Supreme Court, particularly on the nationality requirement in corporations engaged in public service. In the *Gamboa* decision, he said that the Supreme Court ruled that the full beneficial ownership of 60% of the outstanding capital stock and 60% of the voting rights are required for purposes of complying

with the constitutional mandate that the corporation should have at least 60% equity held by Filipinos; on the other hand, in the *Roy vs. Herbosa* decision, the doctrine reiterated the rule that for purposes of control, the total number of outstanding shares of stocks entitled to vote in the election of the directors and the total number of outstanding shares of stocks, whether or not entitled to vote in the election, must be taken into account in determining capital.

Senator Drilon stated that Senate Bill No. 1280, as reported out in Committee Report No. 22, seeks to amend Section 140 of the Corporation Code by providing under Section 65 that the Commission shall determine the nationality of a corporation based on the outstanding capital stock entitled to vote in accordance with the Constitution, jurisprudence and applicable law. He added that Senate Bill No. 1280 aims to codify the majority decision in the *Roy vs. Herbosa* case. However, he said that at the proper time, he would amend Section 140 to avoid codifying both the *Gamboa* and *Roy* decisions and leave to the Supreme Court the task of interpreting the term "capital" as found in the Constitution. He believed that the better track to follow is to delete any reference to the decisions and leave the matter to jurisprudence because the interpretation of the Supreme Court could change.

Senator Recto agreed, saying that he was familiar with Supreme Court rulings as well as the dissenting opinions in both cases. He believed that the measure does not offer a definition of the term "capital" as he agreed with Senator Drilon's assertion that it, in effect, institutionalized the majority decision of the Supreme Court. He opined that Congress should define the term to prevent the Supreme Court from keeping on changing the definition of the term "capital."

Senator Drilon explained that if Congress codifies an interpretation of the Supreme Court as regards the meaning of 60% control in terms of the capital, taking into consideration the decision of the Supreme Court in the *Roy vs. Herbosa* case, and the Supreme Court later changes its interpretation, then there will be problems with the codified term. Senator Recto suggested that Congress offer a definition of the term "capital" in the Corporation Code so that it would be easier to determine the ownership of corporations. In reply, Senator Drilon stressed that the definition should be left with the Supreme Court because it is an interpretation of the Constitution.

Asked for any law in the statute book which offer a definition of the term “capital,” Senator Drilon answered in the negative, reiterating that the decision of the Supreme Court was its interpretation of how the 60% of equity should be determined. Senator Recto opined that since Congress failed to define the term “capital,” the Supreme Court defined it based on its interpretation of the Constitution and since the decision partakes of a law of the land, there is nothing that would prevent Congress, being a coequal branch, to craft a law that would define the term “capital” that is consistent with its understanding and reading of Constitution.

Senator Drilon agreed that, indeed, Congress failed to define the term but in the measure, the Supreme Court’s interpretation of the term is superior to any legislation interpreting the Constitution, because under the Constitution, it is the Supreme Court which interprets.

But, Senator Recto pointed out the earlier argument of Senator Drilon that the Supreme Court can change its mind later on. Therefore, he said that nothing can prevent Congress from trying to define the term “capital” through legislation, and Senate Bill No. 1260 presents an opportunity to define the term “capital” based on the mandate of the Constitution that says certain industries should be left to Filipinos.

At this juncture, Senator Recto cited Sections 2, 10 and 11 of Article XII of the Constitution, to wit:

SECTION 2. All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty *per centum* of whose capital is owned by such citizens.

SECTION 10. The Congress shall, upon recommendation of the economic and planning agency, when the national interest dictates, reserve to citizens of the Philippines or to corporations or associations at least sixty *per*

centum of whose capital is owned by such citizens, or such higher percentage as Congress may prescribe, certain areas of investments. The Congress shall enact measures that will encourage the formation and operation of enterprises whose capital is wholly owned by Filipinos.

In the grant of rights, privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified Filipinos.

The State shall regulate and exercise authority over foreign investments within its national jurisdiction and in accordance with its national goals and priorities.

SECTION 11. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty *per centum* of whose capital is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years.... The State shall encourage equity participation in public utilities by the general public. The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines.

He also cited Section 4 (*Educational Institutions*) and Section 11 (*Ownership and Management of Mass Media*) of Article XIV. He said that he cited these constitutional provisions to underscore the need to define the term “capital.”

Senator Recto stated that he was not against the decision of the Supreme Court just because Congress failed to legislate a law, but he maintained that nothing prevents Congress from weighing in on the issue because that decision would stand. He presumed that by amending the Corporation Code, the decision would not be reversed.

Senator Drilon pointed out that the moment Congress defines the term “capital” and redefined the voting requirement, questions would arise because the Supreme Court has superior authority under the Constitution to interpret and has already interpreted the provision of the Constitution. He said that he personally does not believe that Congress can provide a definition of the term “capital” which the Supreme

Court may not agree with because the definition may not be consistent with the Constitution.

Asked if there was anything in the bill or any other law which defined the 60-40 Filipino ownership requirement, Senator Drilon pointed out that pursuant to SEC Memorandum Circular No. 8, “the required percentage of Filipino ownership shall be applied to BOTH (a) the total number of outstanding shares of stock entitled to vote in the election of directors; AND (b) the total number of outstanding shares of stock, whether or not entitled to vote in the election of directors,” which interpretation was adopted by the Supreme Court.

Senator Recto asked how a public utility corporation, for instance, XYZ Corporation which issued a hundred common shares, a hundred voting preferred shares, and a hundred non-voting preferred shares would comply with the 60-40 requirement. Senator Drilon stated that in the case of *Gamboa vs. Teves, et al.* (G.R. No. 176579; October 9, 2012), the Supreme Court ruled that the “full beneficial ownership of 60% of the outstanding capital stock, coupled with 60% of the voting rights, is required” to determine whether a corporation was compliant with the constitutional requirement of 60% Filipino ownership control.

Following SEC’s regulation, Senator Recto noted that the final position was that only the common shares with voting rights are the determinants to a corporation’s compliance with the 60-40 requirement.

On the distinction between capital and equity, Senator Drilon said that capital is the same as equity and similarly, common shares, preferred voting shares and preferred non-voting shares are also considered as capital.

To the proposal of considering the preferred non-voting shares in the definition of “capital,” Senator Drilon stated that SEC’s interpretation in the memorandum circular was that the outstanding shares of stock entitled to vote as well as the total number of outstanding shares of stock, whether or not entitled to vote, should also be considered in determining the 60-40 ownership requirement.

Relative to the *Gamboa* ruling, Senator Recto illustrated the following: Class A voting shares with a par value of P1 and Class B non-voting preferred shares with a par value of P100. If 100% of all

standing Class A shares are all owned by Filipino citizens and 80% outstanding Class B shares are owned by foreigners and 20% Class B shares are owned by Filipino citizens, the 60-40 Filipino ownership requirement in the voting shares as well as the total voting and non-voting shares will be complied with; however, if the dividends would be declared equivalent to the par value per share for all classes of shares, only 20.8% will be owned by Filipino citizens while 79.2% will be owned by foreigners.

Noting the problem when par values are different because the beneficial ownership could escalate in accordance with the “grandfather rule” especially in cases when there is a subsidiary company, Senator Recto opined that it is better to determine the 60-40 ownership in all classes of shares regardless of par value in each class, whether voting or not.

Notwithstanding the divergence of opinions regarding the bill, Senator Drilon stated that at the appropriate time, he would look into Senator Recto’s proposed amendments to see if they can be accommodated by coming up with a compromise provision to put legal issues to rest.

Stating that he does not intend to change the decision of the Supreme Court in the *Gamboa vs. Teves* case, Senator Recto asked if the amendment of the term “capital” in the Corporation Code may be applied retroactively. Senator Drilon replied that a retroactive application of the law is possible in line with the interpretation of the constitutional provision based on the control test. He clarified that he was simply expressing a personal opinion.

On Section 14 which provides that companies covered by Section 17.2 of the Securities Regulation Code such as those whose securities are registered with the SEC or listed with an exchange shall have at least one-third (1/3) of the entire membership of the board as independent directors or trustees, Senator Recto proposed to reduce the required number of independent directors to two or 20% thereof and require only that independent directors be elected as such by the majority of shareholders present or entitled to a vote *in absentia* during the stockholders’ meeting regardless of whether they are part of the majority or the minority bloc. Senator Drilon said that he has no problem with the proposal as he can review and consider it favorably.

On Section 17, granting SEC the power to summarily order the holding of an election for directors

or trustees of a corporation, Senator Recto proposed to maintain at least a majority of the outstanding capital stock or such other percentage prescribed in the by-laws of the corporation which should be represented in the said meeting in order for the elections to be valid. He said that as much as there is a quorum, it would be unfair for the majority of stockholders to bear the brunt of any financial impact made by decisions of the minority-elected board and who may eventually decide to simply divest themselves of the stake of the said corporation, leaving it without sufficient capital. Likewise, Senator Drilon assured that he will review the amendment.

On Section 28, which requires the approval of the board of directors for any sale or disposition of assets of the corporation, Senator Recto lamented that the new requirement may unduly hamper corporate operations inasmuch as contracts involving properties or assets of a small value would have to be elevated to the board of directors when such may be delegated to the management. He suggested leaving the matter to the decision of stockholders who may consider any parameters for the delegation of authority in the corporation's by-laws. Senator Drilon assured that he would look at the amendment at the appropriate time.

On Section 33, which requires the board of directors to endeavor to present at the regular stockholder's meeting the compensation benefits of employees who are immediate family members of a director, trustee or officer of the corporation, or whose employment was made with their endorsement, Senator Recto said that if the corporation was not publicly-listed and it was just a family corporation that has no public interest, it should no longer be meddled with. Senator Drilon said that he would consider favorably an amendment to the provision at the appropriate time.

On Section 40, which requires a corporation to give stockholders the right to inspect a host of information pertaining to the corporation, Senator Recto proposed to exempt information classified as confidential from the blanket inspection rights of stockholders as it can be utilized for insider trading. Senator Drilon said that he has no objection to the amendment, and that he would accept it when presented.

On Section 55, which forfeits in favor of the national government the assets of a corporation

which was dissolved by the SEC pursuant to the grounds set forth in the section, Senator Recto sought to either strike out the concept of forfeiture or allow the stockholders who had no participation in the illegal or prohibited acts to recover their investments.

Furthermore, on Section 68 regarding the issuance of a restraining order, preliminary injunction or preliminary mandatory injunction in any case, dispute or controversy that directly or indirectly interferes with the duties and responsibilities of the SEC, Senator Recto asserted that it is better to leave the jurisdiction with the RTC.

Senator Drilon stated that in the hierarchy of adjudicatory agencies, SEC could not be equated with RTC and that currently, the Court of Appeals has the jurisdiction to issue restraining order, preliminary injunction or preliminary mandatory injunction. Senator Recto averred that such requirement may deprive corporations of their right to obtain legal and legitimate relief from RTC when its main action is pending.

To illustrate, Senator Recto pointed out that the Petition for Declaratory Relief under Rule 63 of the Rules of Court may only be brought before the RTC as the Court of Appeals and the Supreme Court do not have any original jurisdiction over such petitions.

SUSPENSION OF SESSION

Upon motion of Senator Drilon, the session was suspended.

It was 5:45 p.m.

RESUMPTION OF SESSION

At 5:49 p.m., the session was resumed.

Adverting to lines 14 to 18 of Section 180 (*Powers, Functions and Jurisdiction of the Commission*), Senator Drilon explained that the bill seeks to correct the present situation wherein the RTC appears to have the authority to issue injunctions against the SEC because the RTC and the SEC should not be on the same level of authority. This, he said, is why the measure proposes that the SEC's orders could be restrained only by the Court of Appeals and not the RTC. However, Senator Recto maintained that the RTC should be able to issue a TRO against the SEC as it is under its jurisdiction.



For his part, Senator Drilon said that continuing to allow the RTC to issue TROs against the SEC would lower the SEC to a level equal to that of a municipal trial court (MTC) since the RTC could issue a restraining order on a MTC. He also noted that under Rule 43 of the Rules of Court, appeals from judgments of the SEC should be brought to the Court of Appeals, which is, in effect, a recognition that the Commission is coequal to the RTC.

Citing Section 7 (*Founder's shares*) as an example, Senator Recto noted that the bill contained many provisions that provide the SEC with too much discretion and possible undue delegation of authority. As such, he proposed that some phrases be deleted or certain standards be specified to ensure that these do not remain too open-ended. Senator Drilon agreed.

Adverting to Section 65 (*Nationality and Stock Ownership in Corporations*), Senator Recto pointed out that the provision proposes to include an additional standard dealing with the economic provisions of the Constitution which does not even talk about the recommendations of the SEC. He expressed concern that the provision seeks to delete the mandate of the Corporation Code to follow Article XIV of the Constitution. Senator Drilon expressed willingness to review the proposed expanded powers of the SEC and to receive the amendments of Senator Recto.

MANIFESTATION OF SENATOR DRILON

Senator Drilon informed the Body that Senator Villar would no longer interpellate but would submit her proposed amendments on the bill. Based on their preliminary discussion, he said that he would review her proposal, as he believed that it would not be difficult to act favorably on them.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

There being no further interpellation, upon motion of Senator Aquino, there being no objection, the Body closed the period of interpellations.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1280

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

PROPOSED SENATE RESOLUTION NO. 289 (Continuation)

Upon motion of Senator Aquino, there being no objection, the Body resumed consideration of Proposed Senate Resolution No. 289, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT TERMINATION OF, OR WITHDRAWAL FROM, TREATIES AND INTERNATIONAL AGREEMENTS CONCURRED IN BY THE SENATE SHALL BE VALID AND EFFECTIVE ONLY UPON CONCURRENCE BY THE SENATE.

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

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

MANIFESTATION OF SENATOR DRILON

Senator Drilon requested that further debates on Proposed Resolution No. 289 be deferred so that the Senate could work on Senate Bill No. 1280 (Corporation Code) which is a more urgent and difficult measure.

SUSPENSION OF SESSION

Upon motion of Senator Aquino, the session was suspended.

It was 5:59 p.m.

RESUMPTION OF SESSION

At 6:00 p.m., the session was resumed.

SUSPENSION OF CONSIDERATION OF PROPOSED SENATE RESOLUTION NO. 289

Upon motion of Senator Aquino, there being no objection, the Body suspended consideration of the resolution.

COMMITTEE REPORT NO. 29 ON SENATE BILL NO. 1305

(Continuation)

Upon motion of Senator Aquino, there being no

objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1305 (Committee Report No. 29), entitled

AN ACT INCREASING THE MATERNITY LEAVE PERIOD TO ONE HUNDRED TWENTY (120) DAYS FOR FEMALE WORKERS IN THE GOVERNMENT SERVICE AND THE PRIVATE SECTOR WITH AN OPTION TO EXTEND FOR AN ADDITIONAL THIRTY (30) DAYS WITHOUT PAY, PROVIDING A PARENTAL LEAVE PERIOD FOR ADOPTIVE PARENTS, AND GRANTING AN ADDITIONAL THIRTY (30) DAYS FOR SOLO MOTHERS, AND FOR OTHER PURPOSES.

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

Thereupon, the Chair recognized Senator Hontiveros, sponsor of the measure, and Senator de Lima for her interpellation.

INTERPELLATION OF SENATOR DE LIMA

At the outset, Senator De Lima stated that she was fully supportive of the bill because she believed that only someone who has become a parent could truly understand the challenges and hardships of parenting. Senator Hontiveros agreed, adding that a pregnant woman always has one foot in the grave.

Aside from the Constitution that provides protection for mothers, Senator De Lima said that certain international human rights treaties such as the Convention of the Elimination of all Forms of Discrimination Against Women, the Covenant on Civil and Political Rights, the Child Rights Convention and the Covenant on Economic, Social and Cultural Rights also have these obligations. Despite such human rights instruments and the passage of the Reproductive Health Law, however, she lamented that according to the UNICEF, 160 maternal deaths per 100,000 live births or roughly 11 women dying every day. This, she stressed, is why it is important to address the need for pregnant women to have sufficient maternity leave.

Senator De Lima noted that Section 4 (*Maternity Leave for Female Workers in the Public Sector*) and Section 5 (*Maternity Leave for Female Workers*

in the Private Sector) stipulate that women employed in public and private sectors respectively may avail of an additional 30 days leave on condition that the employee communicates such intention at least 45 days before the end of the maternity leave.

Senator De Lima expressed her concern regarding pregnancy-borne diseases that are not perceived and take place on emergency situations, like postpartum preeclampsia which, in some cases, according to a study, develop within 48 hours of child birth. Certainly, in such situations, she said that the 45-day notice would not be feasible. She pointed out the cases decided by the Supreme Court relating to illnesses that may fall out of the regular maternity leave, particularly *Del Monte Philippines Inc. vs. Lolita Velasco* (G.R. No. 153477, March 6, 2007) and *Lakpue Drug, Inc. vs. Ma. Lourdes Belga* (G.R. No. 166379, October 20, 2005) where the Supreme Court took note of certain situations where, indeed, there would be prolonged leave of absence because of pregnancy-borne diseases that afflict the mother.

Senator De Lima asked if the Sponsor would consider an amendment which would, in effect, dispense with the 45-day advance notice in cases of emergency that would require additional leave. Senator Hontiveros answered in the affirmative, and agreed that there are emergency cases among pregnant, delivering or postpartum women that cannot be anticipated. She expressed willingness to accept an amendment at the proper time to waive the 45-day notice in cases of medical emergencies.

Senator De Lima cited Section 12 of the bill on *Security of Tenure*, to wit: "Those who avail of the benefits of this Act, whether in the government service or private sector, shall be assured of security of tenure. As such, the exercise of this option by them shall not be used as basis for demotion in employment or termination. The transfer to a parallel position or reassignment from one organizational unit to another in the same agency shall be allowed: *Provided*, That, it shall not involve a reduction in rank, status or salary." Although the provision on transfer seems to be a standard, she asked if the exemption would be tantamount to an act of discrimination in another context. She feared that it would open the possibility of enabling the transfer or reassignment that would not be in the best interest of the returning employee entitled to maternity leave. She asked if they could stipulate to prohibit the transfer or reassignment.

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Senator Hontiveros replied that she would seriously consider to accept the amendment on the particular section. Committed to the principles of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), she said that the fight still continues for the passage of the Security of Tenure bill under the committee of Senator Villanueva which also part of a package of laws upholding the rights of working women. She reiterated that she would certainly consider accepting such an amendment at the proper time.

Regarding Section 13 on periodic review by certain government agencies like CSC, DOLE and SSS, Senator De Lima asked if the CHR, in its capacity as Gender Ombud as mandated by RA 9710 or Magna Carta of Women, could also jointly undertake the periodic review and reportorial work contemplated in the provision. Senator Hontiveros agreed to accept the amendment at the proper time.

Asked on the possibility of providing sanctions or penalties for those who do not allow female employees the extended maternity leave, and to assign the CHR as Gender Ombud to investigate such complaints, Senator Hontiveros answered in the affirmative.

Regarding the allocation of leave benefits to the father of the child, Senator De Lima mentioned situations of domestic violence taking place in intimate relationships, and she asked if the bill could guarantee that only those who are not guilty of violence against women could avail of such privilege. Senator Hontiveros said that there is a built-in guarantee in Section 6 as leave sharing would only be upon the initiative and consent of the mother. However, she said that she would be willing to consider a possible amendment at the proper time.

With regard to VAW cases, Senator Hontiveros pointed out that there would be a protection order issued by the barangay or court, hence, the father could not even approach the mother and child, much more be entitled to avail of such shared leave to care for the child. Senator De Lima pointed out that those would only cover victims who have resorted to file for appropriate remedy and not the unreported cases of VAW.

As a final manifestation, Senator De Lima stated that the benefits under the bill, particularly the additional 45-day leave, would be aligned with the

International Labor Organization Convention No. 183, or the Maternity Protection Convention. Although the Philippines has not ratified the same, she said that the measure would pave the way for its ratification and at the same time help preserve the health of women and their newborn.

INQUIRY OF THE CHAIR

Senate President Pimentel asked on the reaction of the employers' associations during the committee hearings. Senator Hontiveros replied that the Employers' Confederation of the Philippines (ECOP) is supportive of the expanded maternity leave benefits in the private sector up from the existing 60 days to 90 days and that it was, in fact, an active participant in the hearing and was part of the technical working group that prepared the committee report.

SUSPENSION OF SESSION

Upon motion of Senator Aquino, the session was suspended.

It was 6:16 p.m.

RESUMPTION OF SESSION

At 6:17 p.m., the session was resumed.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

There being no further interpellation, upon motion of Senator Aquino, there being no objection, the Body closed the period of interpellations.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1305

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

CHANGE OF REFERRAL

Upon motion of Senator Aquino, there being no objection, the Body approved the change of the primary referral of Senate Bill No. 1254 (Expanded Anti-Sexual Harassment Act of 2016) from the Committee on Labor, Employment and Human Resources Development to the Committee on Women, Children, Family Relations and Gender Equality.

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**SENATE BILL NO. 1279
ON COMMITTEE REPORT NO. 21**

(Continuation)

Upon motion of Senator Aquino, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1279 (Committee Report No. 21), entitled

AN ACT CREATING A NATIONAL SCHOOL FEEDING PROGRAM TO COMBAT HUNGER AND UNDER-NUTRITION FOR ALL PUBLIC BASIC EDUCATION STUDENTS, AND FOR OTHER PURPOSES.

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

Therefore, the Chair recognized Senator Aquino, sponsor of the measure.

MANIFESTATION OF SENATOR AQUINO

Senator Aquino stated that the Committee would like to propose amendments in response to the questions raised during the period of interpellations. He said that the Committee has also consulted with concerned government agencies and other sectors as regards the proposed amendments.

SUSPENSION OF SESSION

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

It was 6:19 p.m.

RESUMPTION OF SESSION

At 6:24 p.m., the session was resumed.

MANIFESTATION OF SENATOR AQUINO

Senator Aquino withdrew his motion, saying that the amendments would not be considered as committee amendments since the measure is a substitute bill. He said that his office and the office of Senator Poe have worked on the proposed individual amendments.

PERIOD OF INDIVIDUAL AMENDMENTS

Upon motion of Senator Aquino, there being no objection, the Body proceeded to the period of individual amendments.

AQUINO AMENDMENTS

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

Page 2

1. On line 1, insert a new Section 4:

SEC. 4. *COVERAGE – THE NATIONAL SCHOOL FEEDING PROGRAM IS A FREE AND NUTRITION-DRIVEN PROGRAM FOR ALL STUDENTS FROM KINDER TO SENIOR HIGH SCHOOL. THE FOOD SHALL BE SERVED IN SCHOOL FOR FIVE (5) DAYS A WEEK AND SHALL COMPLETE THE DURATION OF TWO HUNDRED (200) FEEDING DAYS IN A SCHOOL YEAR; PROVIDED, THAT IN THE FIRST FIVE (5) YEARS OF THE IMPLEMENTATION OF THE PROGRAM, THE DEPARTMENT OF EDUCATION (DEPED) SHALL BE ALLOWED TO CREATE VARIATIONS IN THE COVERAGE OF THE PROGRAM THROUGH ITS IMPLEMENTING RULES AND REGULATIONS.*

2. Rerumber the subsequent sections accordingly;
3. On line 1, on the title of the Section, replace the word “targeting” with the phrase AND POVERTY INFORMATION;
4. On line 2, after the word “nationwide,” insert the words AND LOCAL;
5. On line 4, after the word “poverty,” add a new sentence: THIS SYSTEM SHALL BE UTILIZED IN MONITORING THE HEALTH AND NUTRITION OF CHILDREN BEING SUBJECT TO THE PROGRAM;
6. On line 5, delete “The Department of Education (Deped)”;
7. On line 6, replace “a menu” with SEVERAL STANDARDIZED MENUS;
8. On line 7, delete the word “all” before the word “public”;
9. On the same line, replace “menu needs to be” with MENUS SHALL BE CONTEXTUALIZED AND;
10. On line 11 on the title of the Section, delete the word “and” before the word “assistance” and insert the phrase AND PERIODIC QUALITY ASSURANCE;
11. On line 16, after the words “food safety,” insert the words AND CLEANLINESS;

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12. On line 17, after the word “and,” insert the words WASTE MANAGEMENT;
13. On the same line, after the word “management,” add a new sentence: THE MUNICIPAL/CITY HEALTH OFFICE, IN COORDINATION WITH DEPED, SHALL CONDUCT PERIODIC QUALITY ASSURANCE TO THE KITCHENS TO ENSURE THAT THE STANDARDS OF THE PROGRAM ARE UPHELD AND MET;
14. On line 29, add a new Section C to read as follows:

C) KITCHEN RUN BY A COMMUNITY BASED-SERVICE PROVIDER.— PUBLIC BASIC EDUCATION INSTITUTIONS MAY ACQUIRE THE MEALS FROM A KITCHEN OPERATED BY A COMMUNITY-BASED SERVICE PROVIDER;
15. Renumber the subsequent subsection accordingly.
16. Delete lines 32 to 37 and replace it with a new Section 8, to read as follows

SEC. 8. GULAYAN SA PAARALAN. — THE SCHOOLS SHALL DEVOTE A PORTION OF LAND OR SPACE FOR THE CULTIVATION OF VEGETABLES AND OTHER NUTRIENT-RICH PLANTS AS IDENTIFIED BY THE MEMBERS OF THE NNC. SCHOOLS LACKING IN LAND SHALL ADOPT MODERN GARDENING TECHNOLOGIES WITH THE ASSISTANCE OF THE DEPARTMENT OF SCIENCE AND TECHNOLOGY (DOST) AND THE CITY OR MUNICIPAL AGRICULTURAL OFFICERS. PARENTS SHALL ALSO BE ENCOURAGED TO MAINTAIN A SIMILAR PROGRAM IN THEIR OWN HOUSEHOLDS.

THE PRODUCE FROM THE *GULAYAN SA PAARALAN* SHALL BE THE PRINCIPAL SOURCE OF BASIC INGREDIENTS IN THE SCHOOL’S FEEDING PROGRAM.

Page 3

17. Delete lines 12 to 16 and replace it with a new Section, to read as follows:

SEC. ____. *NATIONAL NUTRITION DISTRIBUTION SYSTEM.* — THE DEPED SHALL CREATE A FIVE (5)-YEAR PLAN TO FULLY IMPLEMENT THE PROGRAM. THIS ACT SHALL AUTHORIZE DEPED TO PRIORITIZE THE IMPLEMENTATION OF THIS PROGRAM BASED ON THE FOLLOWING STANDARDS.

- A. EXISTENCE OF WORKING MODELS

OF CENTRAL KITCHENS RUN BY BASIC EDUCATION INSTITUTIONS, LOCAL GOVERNMENT UNITS, NON-GOVERNMENT ORGANIZATIONS, OR COMMUNITY-BASED SERVICE PROVIDERS;

- B. EXISTENCE OF EXEMPLARY MODELS OF SCHOOL-BASED HOUSE KITCHENS;
- C. SCHOOLS WITH THE HIGHEST POPULATION OF UNDERNOURISHED PUPILS;
- D. SCHOOLS IN CONFLICT AREAS OR DISASTER-STRICKEN AREAS.

THE DEPED SHALL BUILD ITS CAPACITY TO FULLY IMPLEMENT THIS PROGRAM ON THE FIFTH (5TH) YEAR OF ITS IMPLEMENTATION.

18. Renumber the subsequent sections accordingly;
19. On line 18, replace the word “Preparation” with MOBILIZATION;
20. On line 26, after the word “Program,” add a new sentence: THE DEPED SHALL MOBILIZE COMMUNITY ORGANIZATIONS TO CONTINUE NUTRITION EDUCATION OUTSIDE OF THE SCHOOL. DEPED SHALL ALSO ASSESS AND REVIEW THE PROGRAM THROUGH REGULAR CONSULTATIONS WITH THE DEPED PERSONNEL AT THE REGIONAL AND DIVISION LEVELS, CONCERNED LOCAL GOVERNMENT REPRESENTATIVES, PARENT VOLUNTEERS, THE PARENT-TEACHER ASSOCIATIONS (PTAs), AND OTHER STAKEHOLDERS;
21. On line 27, replace the word “Produce” with the phrase GOODS AND SERVICES;
22. On line 28, replace the phrase “ensure that preference for procurement of produce is given to producers and/or suppliers within the locality,” with PROMOTE THE PARTICIPATION OF PRODUCERS, SUPPLIERS AND/OR SERVICE CONTRACTORS WITHIN THE LOCALITY IN THE PROCUREMENT PROCESS FOR THE PROGRAM.;
23. After line 29, add the following paragraphs:

PROGRAM SHALL PRIORITIZE THE PARTICIPATION OF LOCAL AND COMMUNITY-BASED PRODUCERS, SUPPLIERS AND OR/SERVICE CONTRACTORS IN THE PUBLIC PROCUREMENT PROCESS.

THE PROCURING ENTITIES MAY ADOPT “NEGOTIATED PROCUREMENT



COMMUNITY PARTICIPATION" AS AN ALTERNATIVE METHOD OF PUBLIC PROCUREMENT IN ACCORDANCE WITH THE IMPLEMENTING RULES AND REGULATIONS FOR REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE "GOVERNMENT PROCUREMENT REFORM ACT," AND SPECIFIC GUIDELINES TO BE ISSUED BY THE GOVERNMENT PROCUREMENT POLICY BOARD (GPPB) FOR THE PROGRAM. THE GPPB IS MANDATED TO COORDINATE WITH DEPED AND CONSULT WITH REPRESENTATIVES OF CONCERNED GOVERNMENT AGENCIES, LOCAL GOVERNMENT UNITS, NON-GOVERNMENT ORGANIZATIONS, AND OTHER COMMUNITY STAKEHOLDER GROUPS IN THE PREPARATION OF THE GUIDELINES.

IN PROCUREMENT MODALITIES WHICH REQUIRE THE PURCHASE OF INDIVIDUAL INGREDIENTS, THE PROCURING ENTITY SHALL GROUP AND BID OUT THE VARIOUS INGREDIENTS/ SUPPLIES OF THE PROGRAM ON A PER CATEGORY/LOT BASIS, SUCH AS, BUT NOT LIMITED TO, GROCERY ITEMS, VEGETABLES, PORK MEAT, CHICKEN MEAT, RICE, WATER, AND KITCHEN UTENSILS OR SUPPLIES, TO MAXIMIZE PARTICIPATION OF COMMUNITY-BASED PRODUCERS AND/OR SUPPLIERS WITHIN THE LOCALITY.

At this juncture, the session was suspended and was resumed shortly thereafter.

24. On page 4, delete lines 1 to 23;

Page 5

25. On line 2, after the word "assistance," add a comma (,) and the phrase SUCH AS, BUT NOT LIMITED TO, THE ESTABLISHMENT OF CENTRAL KITCHENS, TRAINING OF KITCHEN PERSONNEL AND MANAGERS, TRANSPORTATION OF MEALS;
26. On the same page and line, before the phrase "the local government, replace the word "of" with FROM; and

27. Delete lines 14 to 18 and replace it with the paragraph: THE AMOUNT NECESSARY TO CARRY OUT THE INITIAL IMPLEMENTATION OF THIS ACT SHALL BE SOURCED FROM THE CURRENT BUDGET OF THE DEPARTMENT OF EDUCATION.

SUSPENSION OF SESSION

Upon motion of Senator Aquino, the session was suspended.

It was 6:39 p.m.

RESUMPTION OF SESSION

At 6:40 p.m., the session was resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1279

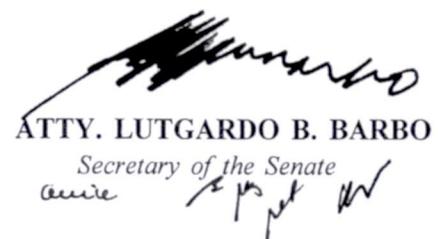
Upon motion of Senator Aquino, there being no objection, the Body suspended consideration of the bill.

ADJOURNMENT OF SESSION

Upon motion of Senator Aquino, there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of Monday, February 27, 2017.

It was 6:41 p.m.

I hereby certify to the correctness of the foregoing.



ATTY. LUTGARDO B. BARBO
Secretary of the Senate
anire *ppm* *W*

Approved on February 27, 2017