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CALL TO ORDER

At 3:00 p.m., Deputy Speaker Rodante D. Marcoleta called the session to order.

THE DEPUTY SPEAKER (Rep. Marcoleta). The session is called to order.

PRAYER

THE DEPUTY SPEAKER (Rep. Marcoleta). Please rise for a minute of silent prayer and meditation.

Everybody rose for the silent prayer.

NATIONAL ANTHEM

THE DEPUTY SPEAKER (Rep. Marcoleta). Please remain standing for the singing of the National Anthem.

Everybody rose to sing the Philippine National Anthem.

THE DEPUTY SPEAKER (Rep. Marcoleta). The Majority Leader is recognized.

REP. MACAPAGAL ARROYO. Mr. Speaker, I move that we defer the calling of the roll.
I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.
The Majority Leader is recognized.

REP. MACAPAGAL ARROYO. Mr. Speaker, since there is no Journal yet to approve as of now, I move that we proceed to the Reference of Business.
I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) There being none; the motion is approved.

The Secretary General will please read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary General read the following House Bills and Resolutions on First Reading, and the Deputy Speaker made the corresponding references:

BILLS ON FIRST READING

House Bill No. 4710, entitled:

“AN ACT CREATING THE DEPARTMENT OF DISASTER RESILIENCE, DEFINING ITS POWERS AND FUNCTIONS, AND APPROPRIATING FUNDS THEREFOR”

By Representative Dy (Faustino Inno)

TO THE COMMITTEE ON GOVERNMENT REORGANIZATION AND THE COMMITTEE ON DISASTER MANAGEMENT

House Bill No. 4711, entitled:

“AN ACT REGULATING THE DOWNSTREAM PETROLEUM INDUSTRY AND FOR OTHER RELATED PURPOSES”

By Representatives Zarate, Gaite, Cullamat, Castro (France), Brosas and Elago

TO THE COMMITTEE ON ENERGY

House Bill No. 4712, entitled:

“AN ACT INSTITUTING CENTRALIZED PROCUREMENT OF PETROLEUM IN THE COUNTRY”

By Representatives Zarate, Gaite, Cullamat, Castro (France), Brosas and Elago

TO THE COMMITTEE ON ENERGY

House Bill No. 4713, entitled:

“AN ACT MANDATING THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY TO EXERCISE SUPERVISION AND CONTROL OVER PROVINCIAL JAILS AND APPROPRIATING FUNDS THEREFOR”

By Representative Bustos
TO THE COMMITTEE ON JUSTICE

House Bill No. 4714, entitled:

“AN ACT CREATING FOUR (4) ADDITIONAL BRANCHES OF THE REGIONAL TRIAL COURT (RTC) AND TWO (2) ADDITIONAL BRANCHES OF THE MUNICIPAL TRIAL COURT IN CITIES (MTCC), TO BE STATIONED IN THE CITY OF ORMOC, PROVINCE OF LEYTE, IN THE EIGHTH JUDICIAL REGION, AMENDING FOR THE PURPOSE SECTION 14, PARAGRAPH (I) AND SECTION 29 OF BATAS PAMBANSA BLG. 129, OTHERWISE KNOWN AS ‘THE JUDICIARY REORGANIZATION ACT OF 1980’, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR”

By Representative Torres-Gomez
TO THE COMMITTEE ON JUSTICE

House Bill No. 4715, entitled:

“AN ACT FURTHER AMENDING ARTICLES 29, 97, 98 AND 99 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE”

By Representative Torres-Gomez
TO THE COMMITTEE ON JUSTICE

House Bill No. 4716, entitled:

“AN ACT INSTITUTIONALIZING GOOD MANNERS AND RIGHT CONDUCT (GMRC) IN THE K-12 CURRICULUM”

By Representatives Villanueva (Eduardo) and Rivera
TO THE COMMITTEE ON BASIC EDUCATION AND CULTURE

House Bill No. 4717, entitled:

“AN ACT DECLARING THE PROVINCE OF PALAWAN AS PRIORITY CRUISE SHIP DESTINATION IN MIMAROPA REGION”

By Representatives Acosta, Abueg-Zaldivar and Alvarez (Franz)
TO THE COMMITTEE ON TOURISM

House Bill No. 4718, entitled:

“AN ACT ESTABLISHING A FINANCIAL ASSISTANCE PROGRAM FOR POOR LITIGANTS”

By Representatives Nieto, Maceda, Malapitan, Martinez and Valeriano
TO THE COMMITTEE ON POVERTY ALLEVIATION

House Bill No. 4719, entitled:

“AN ACT REQUIRING THE ESTABLISHMENT OF COMPUTER LABORATORY IN ALL PUBLIC ELEMENTARY AND SECONDARY SCHOOLS AND FOR OTHER PURPOSES”

By Representatives Nieto, Maceda, Malapitan, Martinez and Valeriano
TO THE COMMITTEE ON BASIC EDUCATION AND CULTURE

House Bill No. 4720, entitled:

“AN ACT DECLARING JULY 27 OF EVERY YEAR A SPECIAL NATIONAL NONWORKING HOLIDAY, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9645, OTHERWISE KNOWN AS THE ‘COMMEMORATION OF THE FOUNDING ANNIVERSARY OF IGLESIA NI CRISTO’ ”

By Representatives Nieto, Maceda, Malapitan, Martinez and Valeriano
TO THE COMMITTEE ON REVISION OF LAWS

House Bill No. 4721, entitled:

“AN ACT TO ENSURE EQUAL EMPLOYMENT OPPORTUNITIES TO MUSLIMS AND TRIBAL FILIPINOS”

By Representatives Nieto, Maceda, Malapitan, Martinez and Valeriano
TO THE COMMITTEE ON LABOR AND EMPLOYMENT

House Bill No. 4722, entitled:

“AN ACT REQUIRING THE TEACHING OF INTELLECTUAL PROPERTY OWNERSHIP PARTICULARLY COPYRIGHT LAW AS PART OF THE CURRICULUM OF ALL PRIMARY, SECONDARY, AND TERTIARY SCHOOLS IN THE COUNTRY, AND FOR OTHER PURPOSES”

By Representatives Nieto, Maceda, Malapitan, Martinez and Valeriano
TO THE COMMITTEE ON BASIC EDUCATION AND CULTURE AND THE COMMITTEE ON HIGHER AND TECHNICAL EDUCATION

House Bill No. 4723, entitled:

“AN ACT CONVERTING THE CANDIJAY COMMUNITY HOSPITAL IN THE THIRD DISTRICT OF BOHOL INTO A DISTRICT HOSPITAL, INCREASING ITS BED CAPACITY FROM TEN (10) TO FIFTY (50), UPGRADING ITS FACILITIES AND PROFESSIONAL HEALTH CARE, AUTHORIZING THE INCREASE OF

ITS MEDICAL PERSONNEL, AND
APPROPRIATING FUNDS THEREFOR”

By Representative Tutor
TO THE COMMITTEE ON HEALTH

House Bill No. 4724, entitled:

“AN ACT PROHIBITING THE USE AND
BRINGING IN OF SINGLE-USE PLASTICS
BY INDIVIDUALS AND COMMERCIAL
ESTABLISHMENTS INSIDE TOURIST
SITES/DESTINATIONS”

By Representative Tutor
TO THE COMMITTEE ON ECOLOGY

House Bill No. 4725, entitled:

“AN ACT RECOGNIZING TRANSPORTATION
NETWORK COMPANIES, PRESCRIBING
REQUIREMENTS, GUIDELINES AND
STANDARDS FOR THEIR OPERATION,
PROVIDING PENALTIES FOR VIOLATION
THEREOF”

By Representative Castelo
TO THE COMMITTEE ON TRANSPORTATION

House Bill No. 4726, entitled:

“AN ACT STRENGTHENING THE RIGHTS
OF MOBILE TELECOMMUNICATIONS
SERVICE SUBSCRIBERS, ESTABLISHING
THE MINIMUM STANDARDS IN THE
QUALITY OF SUCH SERVICES”

By Representative Castelo
TO THE COMMITTEE ON INFORMATION AND
COMMUNICATIONS TECHNOLOGY

House Bill No. 4727, entitled:

“AN ACT MANDATING EVERY GOVERNMENT
AND PRIVATE ESTABLISHMENT TO
PROVIDE FREE POTABLE WATER IN
ALL THEIR EDIFICES AND OFFICES FOR
THEIR PATRONS”

By Representative Castelo
TO THE COMMITTEE ON HEALTH

House Bill No. 4728, entitled:

“AN ACT MANDATING MORE STRINGENT
POLICY ON GRANTING INDIVIDUALS
PERMIT TO CARRY FIREARMS AND
PRESCRIBING PENALTIES FOR
VIOLATION THEREOF”

By Representative Castelo
TO THE COMMITTEE ON PUBLIC ORDER
AND SAFETY

House Bill No. 4729, entitled:

“AN ACT CREATING THE HEALTH
MANAGEMENT ORGANIZATIONS

REGULATORY COMMISSION AND
APPROPRIATING FUNDS THEREFOR”

By Representative Castelo
TO THE COMMITTEE ON GOVERNMENT
REORGANIZATION AND THE COMMITTEE
ON HEALTH

House Bill No. 4730, entitled:

“AN ACT SUBSTANTIALLY INCENTIVIZING
FILIPINO INVENTORS WITH THE END
IN VIEW OF FULLY DEVELOPING THEIR
INVENTIONS THAT BENEFIT THE
NATION”

By Representative Castelo
TO THE COMMITTEE ON SCIENCE AND
TECHNOLOGY

House Bill No. 4731, entitled:

“AN ACT ESTABLISHING A DISTRICT
HOSPITAL IN QUEZON CITY, METRO
MANILA TO BE KNOWN AS THE
BATASAN DISTRICT HOSPITAL, AND
APPROPRIATING FUNDS THEREFOR”

By Representative Castelo
TO THE COMMITTEE ON HEALTH

House Bill No. 4732, entitled:

“AN ACT UPHOLDING THE ECONOMIC
WELFARE OF AFP AND PNP MEMBERS’
CHILDREN AND/OR DEPENDENTS IN
THE EVENT OF THEIR DEATH IN THE
LINE OF DUTY AND PROVIDING FUNDS
THEREFOR”

By Representative Castelo
TO THE COMMITTEE ON NATIONAL DEFENSE
AND SECURITY AND THE COMMITTEE
ON PUBLIC ORDER AND SAFETY

House Bill No. 4733, entitled:

“AN ACT CLASSIFYING TABLOIDS
CONTAINING SEXUAL STORIES AND
IMAGES AS PORNOGRAPHIC OR
X-RATED, DENOMINATING THEM AS
ONLY FOR ADULTS, REGULATING
THEIR CIRCULATION AND PRESCRIBING
PENALTIES FOR VIOLATION THEREOF”

By Representative Castelo
TO THE COMMITTEE ON PUBLIC
INFORMATION

House Bill No. 4734, entitled:

“AN ACT DISALLOWING HOSPITAL BILLS
COMPUTED BASED ON ROOM RATE FOR
PATIENTS AVAILING OF ASSISTANCE
FROM THE PHILIPPINE CHARITY
SWEEPSTAKES OFFICE THEREBY

PRESCRIBING A UNIFORM BILLING SPECTRUM ON NEEDY PATIENTS”

By Representative Castelo
TO THE COMMITTEE ON HEALTH

House Bill No. 4735, entitled:

“AN ACT TRANSFERRING THE PROVINCIAL AGRARIAN REFORM OFFICE OF LANA DEL NORTE FROM ILIGAN CITY TO THE MUNICIPALITY OF TUBOD, LANA DEL NORTE AND APPROPRIATING FUNDS THEREFOR”

By Representative Dimaporo (Khalid)
TO THE COMMITTEE ON AGRARIAN REFORM

House Bill No. 4736, entitled:

“AN ACT ESTABLISHING THE PHILIPPINE INSTITUTE OF SPORTS, DEFINING ITS POWERS, FUNCTIONS AND RESPONSIBILITIES AND APPROPRIATING FUNDS THEREFOR”

By Representative Dimaporo (Khalid)
TO THE COMMITTEE ON YOUTH AND SPORTS DEVELOPMENT

House Bill No. 4737, entitled:

“AN ACT PROVIDING FOR THE CONSTRUCTION OF A NATIONAL HIGHWAY IN THE MUNICIPALITY OF BALO-I, PROVINCE OF LANA DEL NORTE TO BE KNOWN AS THE BALO-I BYPASS ROAD AND APPROPRIATING FUNDS THEREFOR”

By Representative Dimaporo (Khalid)
TO THE COMMITTEE ON PUBLIC WORKS AND HIGHWAYS

House Bill No. 4738, entitled:

“AN ACT POSTPONING THE MAY 2020 SYNCHRONIZED BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9164, AS AMENDED BY REPUBLIC ACT NO. 9340, REPUBLIC ACT NO. 10632, REPUBLIC ACT NO. 10656, REPUBLIC ACT NO. 10923 AND REPUBLIC ACT NO. 10952”

By Representative Dimaporo (Khalid)
TO THE COMMITTEE ON SUFFRAGE AND ELECTORAL REFORMS

House Bill No. 4739, entitled:

“COLLECTIVE INVESTMENT SCHEMES LAW”

By Representative Dimaporo (Khalid)
TO THE COMMITTEE ON ECONOMIC AFFAIRS

House Bill No. 4740, entitled:

“AN ACT ESTABLISHING A CEBU TECHNOLOGICAL UNIVERSITY SATELLITE CAMPUS IN THE MUNICIPALITY OF LILOAN, PROVINCE OF CEBU, AND APPROPRIATING FUNDS THEREFOR”

By Representative Frasco
TO THE COMMITTEE ON HIGHER AND TECHNICAL EDUCATION

House Bill No. 4741, entitled:

“AN ACT ESTABLISHING A CEBU TECHNOLOGICAL UNIVERSITY SATELLITE CAMPUS IN THE MUNICIPALITY OF BORBON, PROVINCE OF CEBU, AND APPROPRIATING FUNDS THEREFOR”

By Representative Frasco
TO THE COMMITTEE ON HIGHER AND TECHNICAL EDUCATION

House Bill No. 4742, entitled:

“AN ACT AMENDING REPUBLIC ACT 7103, ‘OTHERWISE KNOWN AS THE IRON AND STEEL INDUSTRY ACT’, PROVIDING FOR STIFFER PENALTIES AND SANCTIONS, AND FOR OTHER PURPOSES”

By Representative Romero
TO THE COMMITTEE ON WAYS AND MEANS

House Bill No. 4743, entitled:

“AN ACT IMPOSING THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 9346, ENTITLED ‘AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES’ AND AMENDING ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE ‘REVISED PENAL CODE,’ AND OTHER SPECIAL PENAL LAWS”

By Representatives Yap (Eric), Tulfo and Taturan
TO THE COMMITTEE ON JUSTICE

House Bill No. 4744, entitled:

“AN ACT INCREASING THE BED CAPACITY OF MAYOR HILARION A. RAMIRO SR. MEDICAL CENTER IN THE PROVINCE OF MISAMIS OCCIDENTAL FROM FIVE

HUNDRED (500) TO ONE THOUSAND (1000) BEDS, UPGRADING ITS SERVICES AND FACILITIES AND PROFESSIONAL HEALTH CARE, AUTHORIZING THE INCREASE OF ITS MEDICAL PERSONNEL AND APPROPRIATING FUNDS THEREFOR”

By Representative Oaminal
TO THE COMMITTEE ON HEALTH

House Bill No. 4745, entitled:

“AN ACT STRENGTHENING THE OFFICE OF THE GOVERNMENT CORPORATE COUNSEL AND APPROPRIATING FUNDS THEREFOR”

By Representative Oaminal
TO THE COMMITTEE ON JUSTICE

RESOLUTIONS

House Resolution No. 361, entitled:

“A RESOLUTION DIRECTING THE COMMITTEE ON PUBLIC WORKS AND HIGHWAYS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE POLICIES OF THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH) AND THE LOCAL GOVERNMENT UNITS TO ENSURE THAT THE UTILITY POLES AFFECTED BY ROAD WIDENING PROJECTS ARE RELOCATED TO THEIR APPROPRIATE PLACES”

By Representative Crisologo
TO THE COMMITTEE ON RULES

House Resolution No. 362, entitled:

“A RESOLUTION DIRECTING THE COMMITTEE ON HEALTH TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, INTO THE RE-EMERGENCE OF POLIO IN OUR COUNTRY NINETEEN (19) YEARS AFTER THE WORLD HEALTH ORGANIZATION (WHO) DECLARED THE PHILIPPINES POLIO-FREE”

By Representative Castelo
TO THE COMMITTEE ON RULES

House Resolution No. 363, entitled:

“A RESOLUTION DIRECTING THE APPROPRIATE COMMITTEES TO CONDUCT AN INQUIRY ON THE ALLEGED DOUBLE PAYMENT OF DOLEOUTS TO DSWD'S PANTAWID PAMILYANG PILIPINO PROGRAM (4Ps) BENEFICIARIES AND OTHER ANOMALIES AS CONTAINED IN

THE COMMISSION ON AUDIT'S AUDIT REPORT”

By Representative Dimaporo (Khalid)
TO THE COMMITTEE ON RULES

House Resolution No. 364, entitled:

“RESOLUTION DIRECTING THE DEPARTMENT OF HEALTH TO CONDUCT MASSIVE INFORMATION DISSEMINATION AND CAMPAIGN TO PREVENT THE FURTHER SPREAD OF THE POLIO VIRUS IN THE PHILIPPINES, ESPECIALLY IN LANA DEL SUR, WITH THE PURPOSE OF ERADICATING THE DISEASE”

By Representative Balindong
TO THE COMMITTEE ON HEALTH

House Resolution No. 365, entitled:

“A RESOLUTION URGING SPEAKER ALAN PETER CAYETANO THROUGH THE COMMITTEE ON APPROPRIATIONS TO RESTORE THE FISCAL YEAR 2020 PROPOSED SUBSIDY FROM THE NATIONAL GOVERNMENT OF PHP 6.146 BILLION FOR THE NATIONAL ELECTRIFICATION ADMINISTRATION REDUCED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT TO PHP 1.531 BILLION PESOS”

By Representatives Pineda, Romero, Umali (Ma. Victoria), Paduano, Taturan, Tulfo, Yap (Eric), Castro (France), Ebcas, Delos Santos, Dagooc, Cullamat, Gaite, Zarate, Rivera, Momo, Padiernos, Salo, Cabatbat, Gonzalez (Sandro), Pacquiao (Alberto), Bustos, De Jesus, Singson, Lim, Guya, Teves (Jose), Saulog, Abante, Zubiri, Bascug, Ty, Flores, Sacdalan, Unabia, Tutor, Ecleo, Matugas, Salimbangon and Plaza
TO THE COMMITTEE ON APPROPRIATIONS

House Resolution No. 366, entitled:

“A RESOLUTION DIRECTING THE APPROPRIATE COMMITTEE OF THE HOUSE OF REPRESENTATIVES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION ON THE VERY TRAGIC AND UNTIMELY DEATH OF KAGAY-ANON DARWIN DORMITORIO DUE TO MURDEROUS HAZING BY HIS UPPER CLASSMEN AND THE GROSS NEGLIGENCE, IF NOT COMPLICITY, OF THE OFFICIALS OF THE PHILIPPINE MILITARY ACADEMY”

By Representative Rodriguez
TO THE COMMITTEE ON RULES

House Resolution No. 367, entitled:

“RESOLUTION EXPRESSING THE PROFOUND
CONDOLENCES AND COMMITMENT
OF THE MEMBERS OF THE HOUSE OF
REPRESENTATIVES TO EXACT JUSTICE
AND ACCOUNTABILITY FOR THE
PASSING OF HAZING VICTIM, PHILIPPINE
MILITARY ACADEMY FOURTH CLASS
CADET DARWIN DORMITORIO”

By Representatives Elago and Uy (Rolando)
TO THE COMMITTEE ON NATIONAL DEFENSE
AND SECURITY

THE DEPUTY SPEAKER (Rep. Marcoleta). The
Majority Leader is recognized.

PRIVILEGE HOUR

REP. MACAPAGAL ARROYO. Mr. Speaker, by
leave of the House, I move that we open the Privilege
Hour.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is
there any objection? (*Silence*) There being none; the
motion is approved.

The Chair declares a Privilege Hour.

REP. MACAPAGAL ARROYO. Mr. Speaker, first
to avail of the Privilege Hour will be Hon. Jose Enrique
“Joet” S. Garcia III from Bataan. I move to recognize
Honorable Garcia.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Marcoleta). Hon.
Jose “Joet” Garcia of Bataan is recognized.

PRIVILEGE SPEECH OF REP. GARCIA (J.)

REP. GARCIA (J.). Mr. Speaker, honorable
Members, Ladies and Gentleman, a very pleasant
afternoon.

Last September 12, as widely reported by the
national media, President Rodrigo Roa Duterte led
the inauguration of the Bataan Government Center
and Business Hub known as “The Bunker” in Balanga
City, Bataan. In his speech, the President proposed the
adoption of gross income taxation to take the place of
the current net tax collection system. He was quoted as
saying, “I guarantee you, kapag pumunta tayo ng gross,
wala nang examiner. Wala nang deduction. They do not
haggle for anything. Kapag nandiyan iyong resibo, iyan
na iyon. Wala nang istorya.”

The President's proposal touched a chord
with the people of Bataan because the people of
Bataan vividly remember that it was their very own
Congressman, the late Enrique T. Garcia Jr., fondly
known as Cong. Tet, who advocated the very same
idea in 1988.

Cong. Tet, of course, by way of disclosure, was my
father, and as I have been saying countless times, my
friend, mentor and hero. What made it more memorable
to us was that the President made the proposal in Bataan,
in the home province of Cong. Tet, at a time when we
were to observe his 79th birthday. The following day
was September 13.

Before President Duterte made it public, he had
floated the idea in an earlier interview in Malacañang,
and there he asked the media to urge Congress to pass
the needed legislation. He said, “Kung sinsero talaga
kayo, and you are on my side to stop corruption, if
media would really help the government and the Filipino
people, all you have to do, tayong lahat, we agitate
Congress, gross na tayo.”

Cong. Tet was of the same view. He had vigorously
opposed Executive Order No. 273, issued on July 27,
1987 and was introduced in the Philippines for the
first time, the Value-Added Tax or VAT, a tax deduction
system with its output/input tax credit mechanism to
replace the existing percentage tax on gross sales of
goods and services. Like President Duterte, he had
seen it as unduly promoting the growth of opportunities
for corruption.

In a statement published in the *Philippine Daily
Inquirer* in September 28, 2011, Cong. Tet said that, “The
superiority of the gross tax systems over tax deduction
systems, like VAT, is best illustrated in the case of capital
gains tax on the sale of real property. Before, when the
deduction type tax was used to compute the said tax, the
revenue generated was relatively small because aside
from the selling price, the seller can manipulate the
deductions they can claim under the law. But after the
tax was computed on gross at 6 percent of gross selling
price, collections soared.”

Cong. Tet needed no agitation from the people as
the President is now suggesting. He filed a bill to defer
the implementation of the VAT while another bill was
being finalized to remedy its unfavorable effects. It was
passed by the House but unfortunately, it got stalled in
the Senate.

As chronicled in his biography, *A Man Called
TET*, written by Palanca awardee, Jose Y. Dalisay,
Jr.: “On April 29, 2002, the DOF broached the idea
of repealing VAT and returning to the old sales tax
system. After two days, however, the department
backtracked again, proposing instead a cap on
input tax credits, but retaining VAT. Garcia called
this, plain nonsense. To retain VAT is to retain the
opportunities for corruption.”

On May 12, 2002, in yet another privilege speech on the subject, Cong. Tet spoke once again on the "The Folly of VAT." He said that after "a dismal and dismaying 15 years, at last the government has publicly admitted that VAT has caused staggering revenue losses xxx making it one of the most, actually the most poorly collected taxes in the system."

Truly, the VAT remains one of the most poorly collected taxes in our present tax regime. For fiscal years 2011 to 2018, shortfalls in VAT collections of the Bureau of Internal Revenue amounted to P245.173 billion. This accounted for about 42 percent of the P588.597 total tax collection shortfall recorded for the same years. The shortfall in 2018 alone amounted to P77.61 billion.

The BIR attributes the lackluster VAT collection in 2018 to nonrecurring transaction for settlement of tax credits which did not occur during the year, substantial increase in input tax credit reducing VAT payments, decline in sales/revenue of goods and services, decrease in remittances of withholding on VAT and high inflation which caused a shift of the business to nontax consumption. The impact of these variables however, could not have fully accounted for the huge shortfall given the inherent loophole in the output-input tax credit feature of the VAT.

Interestingly, income tax collections for the 8-year period 2011-2018 also missed their targets by P342.974 billion. This is equivalent to 58 percent of the total tax collection shortfall for the same period. With the minimum shortfall in the collection of percentage of taxes offset by excess collection in excise and other taxes, the total shortfall in tax collection is basically attributable to the missed collection goals in the VAT and income taxes.

This accentuates that the deduction type of regime such as the VAT and net income taxes provides greater opportunities for tax leakage compared to the gross system of taxation exemplified by the percentage tax, excise tax and other taxes.

Like his fight that eventually convinced the Supreme Court to declare that the local government units should have their internal revenue allotment computed based on national taxes instead of the limited national internal revenue taxes, Congressman Tet never gave up the fight to return to the gross system of taxation. He never gave up on any fight for a worthy cause until his untimely demise on June 13, 2016.

It therefore heartened us to hear that no less than the President will be carrying on the fight, and he is asking Congress to do its part. It is now up to us, Members of Congress, to give our full support to the President in his fight against corruption.

Let us give the matters of adopting the gross system of taxation on income and on the sale of goods

and services serious consideration and study. If it would remove 70 percent of corruption as the President believes it would, let us craft the necessary legislative measures. Let us prove to our people that we are one with our President in the fight against corruption.

Mr. Speaker, honorable Members, ladies and Gentlemen, I deeply appreciate your precious time and attention. Maraming salamat po.

THE DEPUTY SPEAKER (Rep. Marcoleta). The Majority Leader is recognized.

REP. CRISOLOGO. Mr. Speaker, I move that we recognize the Gentleman from Buhay Party-List, Hon. Jose L. Atienza Jr. for his interpellation.

THE DEPUTY SPEAKER (Rep. Marcoleta). Hon. Jose Atienza Jr. is recognized.

REP. ATIENZA. Thank you, Mr. Speaker. Thank you, Majority Leader and the distinguished Gentleman for your timely call to action.

You take note with clarity that there is a declining collection of taxes especially the VAT. Did I understand you right?

REP. GARCIA (J.). Mr. Speaker, with the VAT collection, there has been a discrepancy in the goals as regards the actual collection for the past seven or eight years based on the BIR data.

REP. ATIENZA. I agree with you distinguished Gentleman that the VAT collection indeed has not only levelled off, it has been on the decline over time. Like the internal revenue share of LGUs, the tendency is to collect lesser taxes every year.

It is not only corruption. You made a call to end corruption, but this is not only corruption, it is the lack of incentives for the LGUs to perform their task to collect or help collect all kinds of taxes in their communities in the local government. This is happening all over the country. Right here in Metro Manila, it is the situation where LGUs are, to say the least, uninspired to collect all of these national taxes, but concentrating on local taxes instead because all of these collections accrue to the benefit of LGUs and local communities. But as regards national taxes like the VAT, LGUs do not, in any way, benefit from an efficient collection of this tax. Do you see this? Would you accept it as one of the reasons LGUs are not doing enough?

REP. GARCIA (J.). It may be one of the reasons, Mr. Speaker, but I believe, being also a former local chief executive, another reason is that the information gathered by the BIR and the information on businesses

gathered by local government units are not shared seamlessly. I think, the disconnect, Mr. Speaker, is the one that is sort of producing that attitude of being indifferent to the collection of national taxes versus the local taxes.

REP. ATIENZA. Again, allow us to reiterate that we are with you in encouraging everybody to respond to the call of no less than the President. Kailangan magtulungan tayo.

You are also correct when you said that the LGUs should do their part. But on the other hand, we have to point out, now that we are discussing the problem, the possible solution. Why are LGUs not excited about collecting national taxes as much as they are interested in the collection of local taxes? The answer is simple, and it is not just corruption. It is injustice and a violation of the law.

I am sure that in Bataan, the case is just similar to that of Manila, as it is the same in Mindanao. The collected national taxes do not really benefit LGUs as the law mandates. The Constitution is clear. The Local Government Code is even clearer. The Supreme Court made it even clearer when they decided that the share of LGUs should be given automatically and they do not need to beg for this.

The question is: Sa Bataan po ba naibibigay na iyong share ng LGUs, mula sa koleksyon ninyo sa IRA? Are you now benefitting from the Supreme Court's reminder and decision?

REP. GARCIA (J.). Mr. Speaker, as of the moment, hindi pa rin po ibinibigay iyong tamang computation ng share ng national taxes sa local government units. I think, Mr. Speaker, although mayroon ng entry of judgment ang Supreme Court, inaanatay pa rin iyong clarification on when exactly this should be given. Would it be this 2019 or the coming year 2020? Or is it what the DOF wants or what the national government wants, which is to give it in 2022.

REP. ATIENZA. I estimated that that would be the answer from the distinguished Gentleman that Bataan is no exemption. Your LGUs have not been given their share up to this point in time, as do other LGUs in the country which are wanting to get hold of their legitimate share that the Supreme Court has already defined that should have been there in the first place.

Therefore, if we would want to solve this problem we should take note that the Constitution, the Local Government Code and the Supreme Court, no less, have already defined "taxes collected should also be shared to the local government units." Hindi po puwede ipagpatuloy ng national government iyong kanilang pagtingin, na ang kailangan ay mamalimos pa ang mga

gubernur, mayor, upang makuha ang share nila--mga nakokolektang buwis. You talked about VAT, has Bataan gotten a share of the VAT collected ever?

REP. GARCIA (J.). Ang tinatanggap lang po ng lahat ng ating local government units ay iyong galing sa internal revenue allotment, Mr. Speaker.

REP. ATIENZA. Wala pong binibigay galing sa VAT?

I expect that too, because that is the case. Ang VAT, sa totoo lang, ang pinakamalaking buwis ngayon. Ten percent of anything we purchase carries a VAT. The law creating the VAT clearly states, on the first year and the second year the difference in collection--kung noong first year nakakolekta sa Bataan ng P5 million, sa pangalawang taon ay P15 million. Ang sabi ng batas, the difference which is P10 million, hahatiin between the national government and the local government kaya tig-lilima. Legally, following the law, Bataan should have gotten a big VAT share in the first two years of implementation.

Ganoon din po ang Maynila, dapat malaking-malaking bahagi ng buwis na idinedklara ng BIR, ng Department of Finance ay napupunta na po sa lokal. Nangyayari po ba iyan ngayon? Hindi po. Kaya, hindi lamang corruption, it is the attitude of the national government. Nilalahat ko po sila magmula noong kay Presidente Ramos pababa kay Presidente Duterte. Hindi nila binibigay ang share ng local government units na dapat pinakikinabangan ng buong Pilipinas.

Iyon ang diperensiya, ang pag-uugali ng national government, and I am not just talking about today, I am talking about the moment all of these taxes were initiated during the time of President Ramos, President Erap, Arroyo and PNoy. Now, ang share natin sa VAT hanggang ngayon hindi ibinibigay. Kolekta ng kolekta, palaki ng palaki ang Budget ng bansa, P4.1 trillion, but the big portion of that trillion of pesos should have granted the local government units.

Kaya iyong panawagan ninyo napapanahon. Gumising tayo. Kung gusto natin ng tunay na kaunlaran, pagalawin natin ang ating local government units ayon sa kanilang kapangyarihan. Local autonomy is the only way to national progress and development, but it will not happen if taxes collected are monopolized by the central government and does not trickle-down to the local government units. Iyon po ang buod ng problema na sinasang-ayunan ko sa panawagan ninyo. Gumising tayo sa katotohanan. Mali ang nangyayari. Kailangang mabago ito.

It is not just corruption. It is selfishness on the part of the national leadership to always hold on to the money, not share it with local government units, and not to share it with the Filipinos. If and when tinupad

nila ang utos ng batas, kakalat ang salapi, kakalat ang kakayahan sa pagbabagong-buhay. Marahil mag-i-improve na lahat ng ating pino-problema dito, at marahil hindi rin tayo makakabuo ng P4.1 trillion, pero iyong mga lokal, gutom at walang pera sa pagpapatupad ng kanilang local development plan. I hope we understood each other. We are on the same side. All of these must be corrected.

Thank you for listening, and let us move forward in forcing this issue through. All taxes collected, sabi ng Konstitusyon, all taxes collected must be shared with the local communities. If we do not follow the law, there is no law at all that we can consider.

Thank you, Mr. Speaker.

REP. GARCIA (J.). Kaisa po ako, Mr. Speaker, sa mungkahi ng ating kasamahan mula sa BUHAY Party-List na talagang kinakailangan maibigay ang tamang porsyento o share in national taxes para sa ating local government units.

THE DEPUTY SPEAKER (Rep. Marcoleta). The Majority Leader is recognized.

REP. CRISOLOGO. Mr. Speaker, I move that we suspend the Privilege Hour.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

ROLL CALL

REP. CRISOLOGO. Mr. Speaker, I now move that we call the roll.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

The Secretary General is directed to call the roll of Members.

*The Secretary General called the roll, and the result is reflected in Journal No. 20, dated September 24, 2019.**

THE SECRETARY GENERAL. Mr. Speaker, the roll call shows that 226 Members responded to the call.

THE DEPUTY SPEAKER (Rep. Marcoleta). With 226 Members responding to the call, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

REP. CASTELO. Mr. Speaker, before we resume with the Privilege Hour, may we acknowledge the presence of the guests of the distinguished gentle Lady from the Lone District of Iloilo City, Hon. Julienne “Jam” Baronda, namely: Dr. Erly Martir, Atty. Rommel John Edang, Dr. Kert Pillora, Dr. Fe Panes, Dr. Evrod Jardeleza and Mrs. Dona Sorongan of the Guimaras State University.

Welcome to the House of Representatives.
(*Applause*)

THE DEPUTY SPEAKER (Rep. Marcoleta). The Majority Leader is recognized.

SUSPENSION OF SESSION

REP. CRISOLOGO. Mr. Speaker, I move that we suspend the session.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

It was 3:46 p.m.

RESUMPTION OF SESSION

At 3:48 p.m., the session was resumed.

THE DEPUTY SPEAKER (Rep. Marcoleta). The session is resumed.

The Majority Leader is recognized.

REP. BAUTISTA. Mr. Speaker, we would like to acknowledge the presence of the guests of Hon. Yedda Marie K. Romualdez from TINGOG SINIRANGAN Party-List and Majority Leader Ferdinand Martin G. Romualdez from the First District of Leyte. They are the LMP officials of Samar, headed by their President, Hon. Joven P. Tiu; Vice President Aran D. Boller; Renato T. Cabaal; Hon. Marilou Latorre; Hon. Luz Ponferrada; Hon. Elena Dieza; Hon. Arnel Tan; Hon. Marinell Apolonio; Hon. Joaquin Elizalde; Hon. Teodorico Mabag; Hon. Percival Ortillo; Hon. Julie Cereno; Hon. Rosabel Costelo; Hon. Leoncio De Guia; Hon. Edgar Tan; Hon. Vicente Limpiado Jr. and Vice Governor Reynolds Michael Tan.

THE DEPUTY SPEAKER (Rep. Marcoleta). The guests of the so-named Members of the House are recognized. Welcome to the House of Representatives.

The Majority Leader is recognized.

* See ANNEX (printed separately)

NOMINAL VOTING ON H.B. NO. 4581
ON THIRD READING

REP. MACAPAGAL ARROYO. Mr. Speaker, I move that we vote on Third Reading on House Bill No. 4581 and direct the Secretary General to read the title of the measure, and call the roll for nominal voting.

I so move.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) The Chair hears none; the motion is approved

Thereupon, the Secretary General read the title of the measure, printed copies of which were distributed to the Members on September 19, 2019, pursuant to Section 58, Rule X of the House Rules.

THE SECRETARY GENERAL. House Bill No. 4581, entitled: AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO GOLDEN BROADCAST PROFESSIONAL, INC. UNDER REPUBLIC ACT NO. 8025, ENTITLED “AN ACT GRANTING THE GOLDEN BROADCAST PROFESSIONAL, INC., A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A STATION FOR FM RADIO AND TELEVISION BROADCASTING IN THE ISLAND OF MINDANAO”, AND EXPANDING ITS COVERAGE TO THE ENTIRE PHILIPPINES.

The Chair directed the Secretary General to call the roll for nominal voting. Thereafter, pursuant to the Rules of the House, a second roll call was made. The result of the voting on Third Reading on the aforesaid measure is reflected in Journal No.20, dated September 24, 2019.*

APPROVAL OF H.B. NO. 4581
ON THIRD READING

THE DEPUTY SPEAKER (Rep. Marcoleta). With 216 affirmative votes, zero negative vote, and one abstention, House Bill No. 4581 is now approved on Third Reading.

REP. ATIENZA. Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Marcoleta). The Majority Leader is recognized.

REP. MACAPAGAL ARROYO. Mr. Speaker.

REP. ATIENZA. May I explain my vote?

REP. MACAPAGAL ARROYO. Before we continue the approval on Third Reading, I would like to recognize Hon. Jose L. Atienza Jr. from Party-List BUHAY.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Marcoleta). Honorable Atienza is recognized.

REP. ATIENZA. I abstained simply because...

THE DEPUTY SPEAKER (Rep. Marcoleta). Hon. Atienza has three minutes please.

REP. ATIENZA EXPLAINS HIS VOTE

REP. ATIENZA. We abstained simply because we do not know what the franchise is all about. Mr. Speaker. We are fast sliding back to the old times of the old Congress. We rush the approval of measures without even the benefit of explaining what it is all about and you rush the vote in a manner faster than the Japanese bullet train. Wala pong pagkakataon para bumoto ang sinuman na alam niya kung ano iyong binoboto niya. I appeal to the leadership, let us be more prudent in following the rules and procedures of the House.

In matters of Third Reading voting, we should be able to grasp what it is all about.

Wala po bang Sponsor iyang measure na iyan? Wala po bang pagpapaliwanag kung ano po iyan? Iyan po ba ay makakabuti o iyan po ba ay anong klaseng negosyo?

I appeal to the leadership and to all those on the floor, let us be more careful in performing our task. Inaprubahan natin iyong budget on Second Reading and Third Reading. Again, I did not vote on that occasion simply because, to me, that was a clear violation of our basic rules and that of our parliamentary House. Kung gagawin natin ang botohan na ganyan ay hindi na lang po ako boboto all the time sapagkat ayaw ko pong tayo ay nalililang ng sino man. We should follow the rules to the letter. On Third Reading, we should be more careful if at all more considerate to our individual principle.

Thank you.

THE DEPUTY SPEAKER (Rep. Marcoleta). The manifestation of Honorable Atienza is noted.

The Majority Leader is recognized.

REP. MACAPAGAL ARROYO. Mr. Speaker, I would like to reiterate that the manifestation of Honorable Atienza is well-taken but I would also like to point out that printed copies were distributed on September 19, 2019 and that is pursuant to our rules.

* See ANNEX (printed separately)

Mr. Speaker, if I may, I would like to continue our approval on Third Reading specifically this time, of House Bill No. 4583. For this purpose, may I request that the Secretary General be directed to read the title of the Bill and, thereafter call the roll for nominal voting.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection?

REP. ATIENZA. Objection.

THE DEPUTY SPEAKER (Rep. Marcoleta). There being none, the motion is approved. The Secretary General is directed ...

REP. ATIENZA. Mr. Speaker, ...

THE DEPUTY SPEAKER (Rep. Marcoleta). ... to read the title of the bill.

REP. ATIENZA. ... there is an objection. You better listen well and good. There is an objection because I would like to clarify. Mr. Majority Leader, I would not debate on it but I would like to put it on record that the budget was approved with a hurried printed form. There was no need to study. There was no time to do so. That is the fact. That is the truth and I am pointing that out for the record. This budget that we passed last week was, to me, not done in accordance with the rules and there was no need for that. The Presidential letter asking that it be given urgency did not point to it. You violate all basic tenets of good governance. Wala po iyon. Printing it and rushing it to each and every Member does not give us the chance to study it. Iyon po ang katotohanan at nais ko lang itala iyon without contradicting the Majority Leader on his position, which I am sure is dictated by his position.

Thank you.

THE DEPUTY SPEAKER (Rep. Marcoleta). The rejoinder is noted.

The Majority Leader is recognized.

NOMINAL VOTING ON H. B. NO. 4583
ON THIRD READING

REP. MACAPAGAL ARROYO. Mr. Speaker, we note the manifestation and the views of Honorable Atienza. As a matter of fact, there are numerous Members of Congress who feel that way. So, we take that into consideration and I note that for the record.

Mr. Speaker, I move that we vote on Third Reading on House Bill No. 4583 and direct the Secretary General

to read the title of the measure, and call the roll for nominal voting.

I so move.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

Thereupon, the Secretary General read the title of the measure, printed copies of which were distributed to the Members on September 19, 2019, pursuant to Section 58, Rule X of the House Rules.

THE SECRETARY GENERAL. House Bill No. 4583, entitled: AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO BROADCAST ENTERPRISES AND AFFILIATED MEDIA, INC. UNDER REPUBLIC ACT NO. 8098 TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, AND MAINTAIN RADIO AND TELEVISION BROADCASTING STATIONS IN THE PHILIPPINES.

The Chair directed the Secretary General to call the roll for nominal voting. Thereafter, pursuant to the Rules of the House, a second roll call was made. The result of the voting on Third Reading on the aforesaid measure is reflected in Journal No. 20, dated September 24, 2019.*

APPROVAL OF H.B. NO. 4583
ON THIRD READING

THE DEPUTY SPEAKER (Rep. Marcoleta). With 220 affirmative votes, no negative vote and one abstention, House Bill No. 4583 is approved on Third Reading. The Majority Leader is recognized.

NOMINAL VOTING ON H.B. NO. 4584
ON THIRD READING

REP. MACAPAGAL ARROYO. Mr. Speaker, I move that we vote on Third Reading on House Bill No. 4584 and direct the Secretary General to read the title of the measure, and call the roll for nominal voting.

I so move.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

Thereupon, the Secretary General read the title of the measure, printed copies of which were distributed to the Members on September 19, 2019, pursuant to Section 58, Rule X of the House Rules.

* See ANNEX (printed separately)

THE SECRETARY GENERAL. House Bill No. 4584, entitled: AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO CRUSADERS BROADCASTING SYSTEM, INC., UNDER REPUBLIC ACT NO. 8091, ENTITLED "AN ACT GRANTING THE CRUSADERS BROADCASTING SYSTEM, INC., A FRANCHISE TO CONSTRUCT, ESTABLISH, OPERATE, AND MAINTAIN COMMERCIAL RADIO AND TELEVISION BROADCASTING STATIONS WITHIN THE PHILIPPINES."

The Chair directed the Secretary General to call the roll for nominal voting. Thereafter, pursuant to the Rules of the House, a second roll call was made. The result of the voting on Third Reading on the aforesaid measure is reflected in Journal No. 20, dated September 24, 2019.*

APPROVAL OF H.B. NO. 4584
ON THIRD READING

THE DEPUTY SPEAKER (Rep. Marcoleta). With 226 affirmative votes, no negative vote and no abstention, House Bill No. 4584 is approved on Third Reading.

The Majority Leader is recognized.

NOMINAL VOTING ON H.B. NO. 4436
ON THIRD READING

REP. MACAPAGAL ARROYO. Mr. Speaker, I move that we vote on Third Reading on House Bill No. 4436 and direct the Secretary General to read the title of the measure, and call the roll for nominal voting.

I so move.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

Thereupon, the Secretary General read the title of the measure, printed copies of which were distributed to the Members on September 19, 2019, pursuant to Section 58, Rule X of the House Rules.

THE SECRETARY GENERAL. House Bill No. 4436, entitled: AN ACT GRANTING THE LANA DEL NORTE ELECTRIC COOPERATIVE A FRANCHISE TO CONSTRUCT, OPERATE, AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END USERS IN ALL THE MUNICIPALITIES OF THE PROVINCE OF LANA DEL NORTE.

The Chair directed the Secretary General to call the roll for nominal voting. Thereafter, pursuant to the Rules of the House, a second roll call was made. The result of the voting on Third Reading on the aforesaid measure is reflected in Journal No. 20, dated September 24, 2019.*

APPROVAL OF H.B. NO. 4436
ON THIRD READING

THE DEPUTY SPEAKER (Rep. Marcoleta). With 226 affirmative votes, no negative vote and no abstention, House Bill No. 4436 is now approved on Third Reading. The Majority Leader is recognized.

NOMINAL VOTING ON H.B. NO. 4437
ON THIRD READING

REP. MACAPAGAL ARROYO. Mr. Speaker, I move that we vote on Third Reading on House Bill No. 4437 and direct the Secretary General to read the title of the measure, and call the roll for nominal voting.

I so move.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

Thereupon, the Secretary General read the title of the measure, printed copies of which were distributed to the Members on September 19, 2019, pursuant to Section 58, Rule X of the House Rules.

THE SECRETARY GENERAL. House Bill No. 4437, entitled: AN ACT GRANTING THE BICOL LIGHT AND POWER CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, OWN, MANAGE, AND MAINTAIN A POWER DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END USERS IN THE TOWNS OF BAAO, BALATAN, BATO, BUHI, BULA, NABUA, AND THE CITY OF IRIGA, PROVINCE OF CAMARINES SUR, AND FOR OTHER PURPOSES.

The Chair directed the Secretary General to call the roll for nominal voting. Thereafter, pursuant to the Rules of the House, a second roll call was made. The result of the voting on Third Reading on the aforesaid measure is reflected in Journal No. 20, dated September 24, 2019.*

REP. DAGOOC. Mr. Speaker, my vote is "No" for House Bill No. 4437. I will try to explain my vote later.

REP. GUYA. Mr. Speaker, my vote for House Bill No. 4437 is "No," and I will explain that later.

APPROVAL OF H.B. NO. 4437
ON THIRD READING

THE DEPUTY SPEAKER (Rep. Marcoleta). With 225 affirmative votes, two negative votes and one abstention, House Bill No. 4437 is now approved on Third Reading.

The Majority Leader is recognized.

REP. DE VENECIA. Mr. Speaker, before we proceed, allow us to greet some guests in the gallery. We have here the guests of Hon. Mikey Arroyo: ABC President, Barangay Captain Jojo Vitug of Gutad, Floridablanca, Pampanga and Barangay Chairman Elisa Delfin of Barangay Benedicto, Floridablanca.

THE DEPUTY SPEAKER (Rep. Marcoleta). The presence of the guests of the so-named Member of the House of Representatives is acknowledged. Welcome to the House of Representatives.

Before we proceed, upon the request of the Secretary General, there is an amendment to the results of the voting on House Bill No. 4584. The amended results are as follows: 225 affirmative votes, no negative vote, and one abstention.

There is also an amendment to the results of the voting on House Bill No. 4436. The amended votes are as follows: 225 affirmative votes, no negative vote, and one abstention.

The Majority Leader is recognized.

There are Members who requested to explain their votes.

EXPLANATION OF VOTES

REP. DAGOOC EXPLAINS HIS VOTE

REP. DAGOOC. Thank you, Mr. Speaker. Good afternoon, everyone.

This Representation, together with the 121-strong electric cooperatives, strongly opposes the passage of House Bill No. 4437 which seeks to grant the Bicol Light and Power Corporation a legislative franchise to operate and maintain electric distribution facilities in the same area served by the Camarines Sur III Electric Cooperative.

This Representation would like to reiterate that granting BLPC a franchise, while CASURECO III still has an existing franchise in the same area, violates the following provisions of our existing laws:

First, Section 4 of RA 9136, Electric Power Industry Reform Act of 2001, states that a distribution utility has an “exclusive franchise to operate” in a franchise area. Chapter 2, Section 27 of the same law, meanwhile, states that existing franchises of distribution utilities are “allowed to their full term.”

Moreover, Mr. Speaker, a portion of the bill is, for

us, unconstitutional. House Bill No. 4437, as provided by the Committee, includes a section that grants a “right to government.” Section 9 reads, to wit:

SEC. 9. Right of the 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 distribution system 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 distribution system during the period when these shall be so operated.

Mr. Speaker, the Supreme Court, in the case of *Demosthenes P. Agan, et al. vs. Philippine International Air Terminals, Co., Inc., et al.*, was able to elucidate that:

The temporary take over by the government extends only to the operation of the business and not to the ownership thereof. As such, the government is not required to compensate the private entity-owner of the said business as there is no transfer of ownership, whether permanent or temporary. The private entity-owner affected by the temporary take over cannot, likewise, claim just compensation for the use of the said business and its properties as the temporary take over by the government is in the exercise of its police power and not of its power of eminent domain.

As such, the legislature cannot, by mere stipulation of law, contravene the constitutional provision on temporary government take over and obligate the government to take over upon due compensation to the grantee, for the use of said station or facilities during the period when these shall be so operated.

The said provision, therefore, is unconstitutional.

Further granting Bicol Light and Power Corporation a franchise will definitely result in an increased electricity rate since it is a private company aimed at earning profit and recovering its costs, as manifested by the representative of the Energy Regulatory Commission during the committee hearing, Mr. Speaker.

With that, we stand with Camarines Sur III Electric Cooperative for them to complete their 50-year franchise, which is still effective for the next 10 years. This Representation strongly supports CASURECO III and the 120-strong electric cooperatives in our advocacy for sustainable rural development through affordable, efficient, and reliable electricity supply.

Thank you, Mr. Speaker.

REP. GUYA EXPLAINS HIS VOTE

REP. GUYA. Thank you, Mr. Speaker.

House Bill No. 4437, An Act Granting a Franchise to Bicol Light and Power Corporation.

Mr. Speaker, my vote is “No.” I oppose the passage of House Bill No. 4437. Allow me to explain why.

This bill, if passed, is contrary to the explicit provisions of EPIRA, which grants an electricity distribution utility the exclusive franchise to operate a common or a distribution system. It is of common knowledge that the area in which the Bicol Light and Power Corporation seeks to service already has an existing distribution utility with a franchise to operate: the Camarines Sur Electric Cooperative III or CASURECO III. In fact, CASURECO III’s franchise is valid and existing until 2029.

Now, assuming that the franchise will be granted, the addition of a new player in the service area would result in an increase in the cost of electricity. This is because the new distributor has to put up its own distribution system and facility, which requires extensive capitalization. The amount will not lower the cost but instead increase the rate of electricity which will be shouldered by all consumers.

There is also the prior-operator rule or protection of investments rule. The law contemplates that “the first licensee will be protected in his investment and will not be subjected to a ruinous competition.” It should not therefore be the policy of the law to issue a franchise to a second operator to cover the same field, and in competition with a first operator who is rendering sufficient, adequate and satisfactory service, and who, in all things and respects, is complying with the rules of the regulators. The old operator must be given the opportunity to improve before another operator is given a franchise.

Lastly, the Bicol Light and Power Corporation does not have the track record, as well as the technical expertise to manage and operate the distribution utilities. CASURECO III, meanwhile, has 40 years of experience under its belt and is continuously improving to provide quality service to its coverage area.

As an advocate of sustainable total electrification which encompasses affordable, sustainable and reliable electricity, I am constrained to oppose the passage of this Bill.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Marcoleta). The Majority Leader is recognized.

SUSPENSION OF SESSION

REP. DE VENECIA. Mr. Speaker, I move to suspend the session.

THE DEPUTY SPEAKER (Rep. Marcoleta). The session is suspended.

It was 4:38 p.m.

RESUMPTION OF SESSION

At 4:40 p.m., the session was resumed.

THE DEPUTY SPEAKER (Rep. Marcoleta). The session is resumed.

The Majority Leader is recognized.

So, before that, the Secretariat is requested to amend the results of the voting in House Bill No. 4437. The final results are as follows: affirmative, 220 votes; negative, 8 votes; and abstention, 1 vote.

The Majority Leader is recognized.

REP. DE VENECIA. Mr. Speaker, allow us to greet some guests in the gallery. These are the guests of Rep. Yedda Marie K. Romualdez of TINGOG SINIRANGAN Party-List, Majority Leader Ferdinand Martin G. Romualdez of the First District of Leyte, Rep. Sharee Ann Tee Tan of the Second District of Samar and Rep. Florencio G. Noel of AN WARAY Party-List. These are LMP officials of Samar, namely: President, Hon. Joven Tiu; Vice President for External Affairs, Hon. Aran Boller; Vice President for Internal Affairs, Hon. Renato Cabael; Secretary, Hon. Marilou Latorre; Treasurer, Hon. Luz Ponferrada; Auditor, Hon. Elena Dieza; P.R.O., Hon. Arnel Tan; Directors, Hon. Marinell Apolonio, Hon. Joaquin Elizalde, Hon. Teodorico Mabag, Hon. Percival Ortillo, Hon. Julie Cereno, Hon. Rosabel Costelo, Hon. Leoncio De Guia, Hon. Edgar Tan and Hon. Vicente Limpiado Jr; provincial government of Samar department heads; Vice Governor Reynolds Michael Tan of the Province of Samar; Mayor Eunice Babalcon of Paranas, Samar; Mayor Mito Nacario of Calbiga, Samar; and former Mayor of Basey, Samar, Mayor Junji Ponferrada.

THE DEPUTY SPEAKER (Rep. Marcoleta). All the guests of so named Members of the House of Representatives are recognized. Welcome to the House of Representatives. *(Applause)*

The Majority Leader is recognized.

NOMINAL VOTING ON H.B. NO. 4582
ON THIRD READING

REP. DE VENECIA. Mr. Speaker, I move that we vote on Third Reading on House Bill No. 4582 and direct that the Secretary General to read the title of the measure, and thereafter, call the roll for nominal voting.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) There being none, the motion is approved. The Secretary General is so directed to read the title of the Bill, and thereafter, to call the roll for nominal voting.

Thereupon, the Secretary General read the title of the measure, printed copies of which were distributed to the Members on September 19, 2019, pursuant to Section 58, Rule X of the House Rules.

THE SECRETARY GENERAL. House Bill No. 4582, entitled: AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO GOLD LABEL BROADCASTING SYSTEM, INC. UNDER REPUBLIC ACT NO. 8087, ENTITLED “AN ACT GRANTING TO THE GOLD LABEL BROADCASTING SYSTEM, INC., A FRANCHISE TO ESTABLISH, MAINTAIN, AND OPERATE RADIO AND TELEVISION BROADCASTING STATIONS IN DUMAGUETE CITY AND OTHER AREAS IN THE VISAYAS AND MINDANAO WHERE FREQUENCIES AND/OR CHANNELS ARE STILL AVAILABLE FOR RADIO AND TELEVISION BROADCASTING.”

The Chair directed the Secretary General to call the roll for nominal voting. Thereafter, pursuant to the Rules of the House, a second roll call was made. The result of the voting on Third Reading on the aforesaid measure is reflected in Journal No. 20, dated September 24, 2019.*

APPROVAL OF H.B. NO. 4582 ON THIRD READING

THE DEPUTY SPEAKER (Rep. Marcoleta). With 233 affirmative votes, no negative vote and one abstention, House Bill No. 4582 is approved on Third Reading.

The Majority Leader is recognized.

REP. BAGATSING. Mr. Speaker, I move that we transmit ...

REP. DE VENECIA. Sorry. Mr. Speaker, I move that the Bills that were approved on Third Reading be transmitted to the Senate for their appropriate action.

I so move.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) There being none; the motion is approved.

The Majority Leader is recognized.

CONSIDERATION OF H.B. NO. 4463 ON SECOND READING

REP. BAGATSING. Mr. Speaker, I move that we consider House Bill No. 4463, contained in Committee Report No. 9, as reported out by the Committee on Legislative Franchises.

May I ask that the Secretary General be directed to read only the title of the measure.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) There being none; the motion is approved.*

The Secretary General is directed to read only the title of the measure.

With the permission of the Body, and since copies of the measure have been previously distributed, the Secretary General read only the title thereof without prejudice to inserting its text in the Congressional Record.

THE SECRETARY GENERAL. House Bill No. 4463, entitled: AN ACT EXTENDING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO FIRST UNITED BROADCASTING CORPORATION (FUBC), PRESENTLY KNOWN AS GLOBAL SATELLITE TECHNOLOGY SERVICES INC., AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 8079, AS AMENDED, ENTITLED “AN ACT GRANTING THE FIRST UNITED BROADCASTING CORPORATION (FUBC) A FRANCHISE TO CONSTRUCT, INSTALL, OPERATE AND MAINTAIN FOR COMMERCIAL PURPOSES RADIO AND TELEVISION BROADCASTING STATIONS ANYWHERE IN THE PHILIPPINES, AND FOR OTHER PURPOSES.”

THE DEPUTY SPEAKER (Rep. Marcoleta). The Majority Leader is recognized.

PERIOD OF SPONSORSHIP AND DEBATE

REP. BAGATSING. Mr. Speaker, I move that we open the period of sponsorship and debate, and recognize Hon. Franz “Chicoy” E. Alvarez to sponsor the said measure.

THE DEPUTY SPEAKER (Rep. Marcoleta). The Honorable Alvarez is recognized to sponsor the Bill.

REP. ALVAREZ (F.). Mr. Speaker, I move that

* See ANNEX (printed separately)

the Explanatory Note of the Bill be considered as the sponsorship speech on the measure.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) There being none; the motion is approved.

The Majority Leader is recognized.

REP. BAGATSING. Mr. Speaker, there being no Member who wishes to interpellate or speak against the measure, I move that we close the period of sponsorship and debate.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) There being none; the motion is approved.

The Majority Leader is recognized.

REP. BAGATSING. Mr. Speaker, I move that we open the period of amendments.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) There being none; the motion is approved.

The Majority Leader is recognized.

REP. BAGATSING. Mr. Speaker, there being no Committee or individual amendments, I move that we close the same.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) There being none; the motion is approved.

The Majority Leader is recognized.

REP. BAGATSING. Mr. Speaker, I move that we approve House Bill No. 4463 on Second Reading.

I so move, Mr. Speaker.

VIVA VOCE VOTING

THE DEPUTY SPEAKER (Rep. Marcoleta). There is a motion for the approval of House Bill No. 4463 on Second Reading.

As many as are in favor, please say *Aye*.

SEVERAL MEMBERS. *Aye*.

THE DEPUTY SPEAKER (Rep. Marcoleta). As many as are against, please say *Nay*.

FEW MEMBERS. *Nay*.

APPROVAL OF H.B. NO.4463 ON SECOND READING

THE DEPUTY SPEAKER (Rep. Marcoleta). The *ayes* have it; House Bill No. 4463 is now approved on Second Reading.

The Majority Leader is recognized.

CONSIDERATION OF H.B. NO. 4664 ON SECOND READING

REP. DE VENECIA. Mr. Speaker, I move that we consider House Bill No. 4664, contained in Committee Report No. 21, as reported out by the Committees on Government Reorganization, Ways and Means and Appropriations.

May I ask that the Secretary General be directed to read only the title of the measure.

THE DEPUTY SPEAKER (Rep. Marcoleta). Is there any objection? (*Silence*) There being none; the motion is approved.*

The Secretary General is directed to read only the title of the measure.

With the permission of the Body, and since copies of the measure have been previously distributed, the Secretary General read only the title thereof without prejudice to inserting its text in the Congressional Record.

THE SECRETARY GENERAL. House Bill No. 4664, entitled: AN ACT INSTITUTING REFORMS IN REAL PROPERTY VALUATION AND ASSESSMENT IN THE PHILIPPINES, REORGANIZING THE BUREAU OF LOCAL GOVERNMENT FINANCE, AND APPROPRIATING FUNDS THEREFOR.

THE DEPUTY SPEAKER (Rep. Marcoleta). The Majority Leader is recognized.

PERIOD OF SPONSORSHIP AND DEBATE

REP. DE VENECIA. Mr. Speaker, I move that we open the period of sponsorship and debate, and thereafter recognize the Honorable Chairman of the Committee on Government Reorganization, Rep. Mario Vittorio "Marvey" A. Mariño to sponsor the said measure.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Marcoleta). The Honorable Mariño is recognized.

At this juncture, Deputy Speaker Marcoleta relinquished the Chair to Deputy Speaker Roberto V. Puno.

SPONSORSHIP SPEECH OF REP. MARIÑO

REP. MARIÑO. Mr. Speaker, may I proceed?

Mr. Speaker, my distinguished colleagues, it is my privilege to sponsor House Bill No. 4664 or The Real Property Valuation and Assessment Reform Act. This legislative initiative to institute reforms in the country's real property valuation and assessment is more than a decade old already. It was filed in the 14th Congress. It was filed in the 15th Congress, 16th Congress and 17th Congress. It was re-filed and the House approved the measure on November 12, 2018. It was transmitted to the Senate the following day, November 13, 2018.

The Valuation Reform Bill at hand seeks to institute the third package of the Comprehensive Tax Reform Program which aims to promote the development of a just, equitable and efficient real property valuation system. The reform will broaden the tax base of local and national property and property-related taxes as well as expedite valuation-based government activities, such as right-of-way acquisition and administration of the land transfer taxes. This will neither impose new taxes nor increase current tax rates since the local government units will continue to set, adjust and regulate tax rates and assessment levels.

The Local Government Code of 1991 grants LGUs the power to create their own sources of revenue and enjoy genuine and meaningful local autonomy. This is to enable LGUs to attain their fullest development as self-reliant communities and make them more effective partners in nation-building. However, the progressive dependence on internal revenue allotment still manifests despite the devolved responsibilities, powers, and functions, provided under the Local Government Code.

While real property is considered the most important natural resource and the biggest financial asset of the country's wealth, LGUs failed to maximize the possible financial contribution that real properties may provide. Real properties remain stagnant and passive due to various factors, contributing only 0.37 percent of the GDP, with 71 percent overall collection efficiency. What used to be a major contributor to LGUs' revenues, real property tax is now contributing only 29 percent on the average. And there are a number of reasons why this is the case. For instance, the requirement of the LGC to regularly conduct the general revision of the schedule of market values and the property assessments every three years has been hardly realized and fully implemented by

LGUs. Only 37 percent of the provinces and cities are using updated revenues, while the rest collect real property tax based on outdated schedules, some spanning a decade or two already. The SMVs does remain generally outdated and undervalued, which lead to huge foregone revenues for the LGUs. This is noted in a survey of all the SMVs of provinces and cities where the valuation used by LGU for taxation purposes are at record low levels.

On the other hand, as regards the Bureau of Internal Revenue, only 60 percent of the Bureau of Internal Revenue-Revenue District Offices have generally updated the schedule of zonal values, which serve as a basis for the national land-related taxes over the last three years.

Now, if we compare the values of LGUs, the BIR, and the market, huge disparities can easily be expected. For example, the SMV in Ayala Avenue is valued at P40,000 pesos per square meter, which has been its value since 1996. On the other hand, Ayala Avenue's zonal value for 2017 was only at P439,000 per square meter. This value was lower compared to Ayala Avenue's market value of at least P700,000 per square meter.

The Bill aims to harmonize the real property valuation for taxation purposes which releases the BIR from promulgating the schedule of zonal values. The national government also stands to save millions by preventing cost overruns due to delayed project completion. To ensure that there is no undue expansion in the bureaucracy, consistent with the government's aim of rightsizing the government, the Real Property Valuation Service within the Bureau of Local Government Finance (BLGF) will be established as proposed in the Bill.

The RPVS will oversee and manage the valuation related concerns of local governments.

Moreover, the Bill aims to develop a comprehensive and up-to-date electronic database of real property transactions that will provide greater transparency in land transactions and will translate to a higher confidence in the real estate market.

The proposed reform will not only address broader concerns of national governance, but will also impact favorably on the strengthening of local governments. Likewise, Package 3 does not diminish or adversely affect LGUs devolved functions. In fact, the reform will help capacitate and empower LGUs to exercise their devolved powers fully and provide the organizational environment and the effective exercise of these powers to attain financial stability, which lies at the heart of local autonomy. We are proud to cite the strong support of local leagues as a testament to this.

Most importantly, the proposal will not only necessarily translate to higher tax payments, as the

power to set tax rates and assessment levels and the political levers of tax policy remain firmly in the hands of LGUs.

With the justification highlighting the importance and necessity of these reforms, we earnestly seek the approval of the Bill.

Mr. Speaker, may I also request one of the Sponsors, Rep. Estrellita B. Suansing to make her sponsorship remarks, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Puno). The Honorable Suansing is recognized.

SPONSORSHIP SPEECH OF REP. SUANSING (E)

REP. SUANSING (E). Mr. Speaker, distinguished colleagues, I rise today to sponsor House Bill No. 4664, contained in Committee Report No. 21, which seeks to institute reforms in real property valuation and assessment in the Philippines, reorganizing the Bureau of Local Government Finance, and appropriating funds therefor.

Real property is the country's most important resource and biggest financial asset. A World Bank study indicated that 50 to 75 percent of the national wealth is contained in land alone. In fact, one of the principal sources of income of local government units is derived from taxes imposed on real properties. However, there are issues in the present valuation system which hinder the potential of real property to contribute to the social and economic development of the country. To mention a few:

1. Lack of valuation standards resulting in multiple valuation systems and methodologies being used by the national government, local government units, private individuals and institutional appraisers, resulting in many conflicting values for the same piece of real property;

2. Multiple impositions of national and local taxes on land and property ownerships and transactions which encourage tax evasion and rampant underreporting of sales prices in official documents;

3. Undervaluation and overvaluation of real properties for tax purposes causing unnecessary delays and huge financial losses in the form of foregone government revenues and cost overruns;

4. Outdated real property values which no longer capture the true economic realities in the community where the property is situated; and

5. Distorted real property transactions database due to cluttered real property sales transactions among various groups.

This Bill seeks to promote the development and maintenance of just, equitable, impartial, and nationally consistent real property valuation by

establishing appraisal standards, methods and procedures of property valuations and assessment. The Bill's enactment will assist the LGUs in maximizing revenue collections, which in turn, will promote genuine local autonomy.

The passage of this Bill will reorganize and strengthen the Bureau of Local Government Finance for it to be able to provide institutional support and accountability to operationalize our government's reform agenda. Ultimately, this proposed law will improve real property valuation for the government by adopting a market-based schedule of market values to be used as a basis of local and national real property taxation.

Mr. Speaker, this Bill is included in the priority legislative agenda of the President, His Excellency Rodrigo Roa Duterte, and has been approved on Third Reading during the previous Congress. Towards this end, may I seek the Bill's immediate approval.

Maraming salamat po.

THE DEPUTY SPEAKER (Rep. Puno). The Majority Leader is recognized.

REP. DE VENECIA. Mr. Speaker, I move that we recognize the Hon. Joey Sarte Salceda to deliver his sponsorship speech on the said measure.

I so move.

THE DEPUTY SPEAKER (Rep. Puno). The Hon. Joey Sarte Salceda is recognized.

SPONSORSHIP SPEECH OF REP. SALCEDA

REP. SALCEDA. Thank you very much, Mr. Speaker.

The Real Property Valuation Reform Act is the Package 3 of the TRAIN—of the five packages of the Tax Reform for Acceleration and Inclusion. And, I am here to essentially talk about the economic impact of the Real Property Valuation Reform Act.

RPVRA is a boon to the economy. The RP, the Real Property Valuation and Assessment will essentially do three things. First, in the short-term, it will boost economic growth immediately. Second, short to medium-term, it will encourage more investments. Third, in the long-term, it will create more fiscal space for long-term investments such as infrastructure and education.

We policymakers will base our policy decisions on what is real and this should especially be true in taxation. Valuation Reform, this Bill, is essentially all about making it real. While tax rates and assessment levels are rightly the powers of local governments, the real property valuation should be faithful to actual

market condition as far as possible, otherwise, the fairness of the tax system will suffer.

Other transactions, dependent on real property valuation, also bear unnecessary transaction cost, time and opportunity cost when values are outdated and unreliable.

This is how it looks like, Mr. Speaker, my colleagues. The red one is what we are all talking about. We are not impinging on the right, the political function of real property taxation which is properly within the domain of the local government units. They can change the assessment level and they can change the tax rate and, more than that, it is up to them how to use it.

Why pursue the RPT? We have heard from the two previous Sponsors, the honorable Chairman of the Committee on Government Reorganization and the Senior Vice Chair of the Committee on Ways and Means. Let me just run them through: multiple, overlapping valuations, conflicting outdated valuation, local government decision-making powers severely limited by outdated schedules of market values; outdated SMVs are unreliable for Filipino families especially the OFWs, who wish to invest in real property; outdated SMVs do not accurately reflect fair prices that landowners should receive for their property; costs to the taxpayer of delayed infrastructure projects due to right-of-way issues tend to overshoot right-of-way acquisition because of the lack or outdated schedule of market values. Outdated values mean a smaller, special education funds.

As a major background, 50 to 75 percent of the national wealth of any country in the world is actually contained in the real properties. In fact, if you study the changes in income in UK or in the US, much of the improvement in the per capita income of these countries actually came from changes in the valuation of the real properties of the households.

The Philippines was rated “B” on property valuation and taxation, which means that the country’s performance in the said thematic area represents the second best set of options that make progress towards good local land governance. Twenty-three NGAs are currently doing and requiring valuation. In around 1,715 local government units, with each agency using its own system and methodology, there are notable disparities noted in 19 sample cities.

So, why do we need the reform? Because low tax income and low tax intake undermine revenue generation. If you compare, for example, Mr. Speaker, Your Honor, the GDP growth in 2016 was 6.1 percent, but real estate was actually 11.4 percent, and the growth in RPT was actually much smaller. If you compare the performances of provinces, municipalities, cities and LGUs, the RPT, on the whole accounts for only 9

percent of the total; but for municipalities, only 4 percent and for cities and for provinces, only 5 percent.

Over the years, Your Honor, from 1972 to 2017, you can look at this chart which shows that RPT as percentage of GDP has actually fallen from 0.5 percent to close to only 0.35 percent. And if you compare with other countries, Japan would have 0.2 percent of the entire GDP under RPT; Korea at 0.7; our neighbor Malaysia at 0.5; the Philippines is only 0.4 percent, clearly showing that we are not doing this well.

More so, if you compare the local governments, business taxes were second only to RPT before, but now business taxes, the red line, is actually much higher than the real property taxes. So how outdated is our government valuation? Only 37 percent of LGUs have updated SMVs. In short, 60 percent—63 percent of LGUs have not actually updated the schedule of market values. Sixty percent of BIR-RDOs have updated zonal values within the last three years. Seventy-two out of 120 revenue district offices have actually updated. And for government purposes, there is no sanction for noncompliance in the regular updating of the LGU SMVs and the BIR zonal values. LGUs fail to update and revise the SMVs as basis for real property taxation despite statutory requirement due to several reasons like political backlash, lack of technical capacity and cost issues.

So, what are the benefits of reform? Single valuation base, uniform standards, comprehensive data base, increased revenues, improved local autonomy, higher investor confidence, guaranteed benefit of education sector, and reduced government cost. So these are the benefits of the reform as I mentioned.

And now, let me go to how much essentially will we gain from this? Actually, based on the estimates—on page 15, based on the summary of revenue estimates based on the summary of Scenario V, the potential incremental revenues in cities is P23 billion and 7.4 billion in provinces and municipalities, for a P30.5 billion incremental revenues to local government units. However, beyond revenues—back to page 11, real property valuation reform will help solve right-of-way acquisition. Actually, there is some theoretical framework which we used and you can see that if you delay our PPP—our Build, Build, Build, which is essentially P992 billion, one year delay actually has a cumulative impact on investments in the Philippines by P3.6 trillion simply because 10 percent of that are P356 billion is because of right-of-way acquisition issues.

Some projects have already been delayed by 17 years simply because of adjudication or because of the judicial process in establishing the correct zonal market values. And if you look at this, basically, much of the impact is reduced, investments of P3.1 trillion, assuming there was only one year delay in

the budget, while P447 billion will be the impact of consumption in terms of the jobs created by the Build, Build, Build budget. This is another way of looking at it using the same model and essentially it simply shows that the bulk of much of them has negative impact.

We are using also another model called the Dynamic stochastic general equilibrium model. If you use this, actually the first year impact is actually the biggest impact. Almost 0.1 percent of the entire GDP growth can come from this measure even if it sounds like it is only small because it is not done by the national government but by the local government.

In simple language, Your Honor, RPVRA or Real Property Valuation Reform Act means more investments, more fiscal space for actual performance, and more funds for education and a long-term investment in the economic growth of our local communities.

So thank you very much and as author of this Bill, I would like to beseech the Members to support the approval by this august Chamber of this Package 3 of the Duterte Tax Reform for Acceleration and Inclusion.

Thank you very much and thank you, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Puno). The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF H.B. NO. 4664

REP. DE VENECIA. Mr. Speaker, I move that we suspend the consideration of House Bill No. 4664 as contained in Committee Report No. 21.

I so move.

At this juncture, Deputy Speaker Puno relinquished the Chair to Deputy Speaker Deogracias Victor "DV" B. Savellano

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

CONSIDERATION OF H.B. NO. 4696 ON SECOND READING

PERIOD OF SPONSORSHIP AND DEBATE

REP. CRISOLOGO. Mr. Speaker, I move that we consider House Bill No. 4696, contained in Committee Report No. 22, as reported out by the Committee on Higher and Technical Education.

May I ask that the Secretary General be directed to read only the title of the measure.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.*

The Secretary General is directed to read only the title of the measure.

With the permission of the Body, and since copies of the measure have been previously distributed, the Secretary General read only the title thereof without prejudice to inserting its text in the Congressional Record.

THE SECRETARY GENERAL. House Bill No. 4696, entitled: AN ACT MANDATING THE INTEGRATION OF THE NATIONAL BUILDING CODE OF THE PHILIPPINES UNDER REPUBLIC ACT NO. 6541 ENTITLED "AN ACT TO ORDAIN AND INSTITUTE A NATIONAL BUILDING CODE OF THE PHILIPPINES" AS A MAJOR SUBJECT IN THE CURRICULUM OF THE BACHELOR OF SCIENCE DEGREE PROGRAMS IN CIVIL ENGINEERING, MECHANICAL ENGINEERING, ELECTRICAL ENGINEERING, SANITARY ENGINEERING, ELECTRONICS ENGINEERING, AND ARCHITECTURE, AND ITS INCLUSION AS A TOPIC IN THE LICENSURE EXAMINATIONS FOR THESE PROFESSIONS.

THE DEPUTY SPEAKER (Rep. Savellano). The Majority Leader is recognized.

REP. CRISOLOGO. Mr. Speaker, I move that we open the period of sponsorship and debate and that we recognize the Chairperson of the Committee on Higher and Technical Education for his sponsorship speech, Rep. Mark O. Go.

THE DEPUTY SPEAKER (Rep. Savellano). Hon. Mark Go from the Lone District of Baguio City is recognized.

REP. GO (M.). Thank you, Mr. Speaker.

Mr. Speaker, I move that the Explanatory Note of House Bill No. 4696, entitled: AN ACT MANDATING THE INTEGRATION OF THE NATIONAL BUILDING CODE OF THE PHILIPPINES UNDER REPUBLIC ACT NO. 6541 ENTITLED "AN ACT TO ORDAIN AND INSTITUTE A NATIONAL BUILDING CODE OF THE PHILIPPINES" AS A MAJOR SUBJECT IN THE CURRICULUM OF THE

* See MEASURES CONSIDERED (printed separately)

BACHELOR OF SCIENCE DEGREE PROGRAMS IN CIVIL ENGINEERING, MECHANICAL ENGINEERING, ELECTRICAL ENGINEERING, SANITARY ENGINEERING, ELECTRONICS ENGINEERING, AND ARCHITECTURE, AND ITS INCLUSION AS A TOPIC IN THE LICENSURE EXAMINATIONS FOR THESE PROFESSIONS, be considered as our sponsorship speech.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

The Majority Leader is recognized.

REP. CRISOLOGO. Mr. Speaker, there being no Member who wishes to interpellate on or speak against the measure, I move that we close the period of sponsorship and debate.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

The Majority Leader is recognized.

REP. CRISOLOGO. Mr. Speaker, I move that we open the period of amendments.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

The Majority Leader is recognized.

REP. CRISOLOGO. Mr. Speaker, there being no Committee or individual amendments, I move that we close the period of amendments.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

The Majority Leader is recognized.

REP. CRISOLOGO. Mr. Speaker, I move that we vote on House Bill No. 4696 on Second Reading.

VIVA VOCE VOTING

THE DEPUTY SPEAKER (Rep. Savellano). As many as are in favor, please say *Aye*.

SEVERAL MEMBERS. *Aye*.

THE DEPUTY SPEAKER (Rep. Savellano). As many as are against, please say *nay*. (*Silence*)

APPROVAL OF H.B. NO. 4696 ON SECOND READING

THE DEPUTY SPEAKER (Rep. Savellano). The *ayes* have it; the motion is approved.

House Bill No. 4696 is approved on Second Reading. The Majority Leader is recognized.

OMNIBUS CONSIDERATION OF HOUSE BILLS ON SECOND READING

REP. CASTELO. Mr. Speaker, pursuant to our Rules, I move for the omnibus consideration of the following local bills contained in the Calendar of Business for Thursday and Friday on Second Reading:

1. House Bill No. 4750, contained in Committee Report No. 23;
2. House Bill No. 4751, contained in Committee Report No. 24;
3. House Bill No. 4752, contained in Committee Report No. 25;
4. House Bill No. 4753, contained in Committee Report No. 26;
5. House Bill No. 4754, contained in Committee Report No. 27;
6. House Bill No. 4774, contained in Committee Report No. 28; and
7. House Bill No. 4775, contained in Committee Report No. 29.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

REP. CASTELO. Mr. Speaker, I move that we consider the respective Explanatory Notes as the sponsorship speech of the said measures.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

The Majority Leader is recognized.

REP. CASTELO. Mr. Speaker, there being no Member who wishes to interpellate on or speak against the measures, I move that we terminate the period of sponsorship and debate.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

REP. CASTELO. Mr. Speaker, I move that we open the period of amendments and approve the Committee amendments, if any, as contained in the respective committee reports of the aforementioned bills.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

REP. CASTELO. Mr. Speaker, there being no individual amendments, I move that we terminate the period of amendments.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

OMNIBUS APPROVAL OF LOCAL BILLS ON SECOND READING

REP. CASTELO. Mr. Speaker, I move that we vote on House Bill No. 4750, House Bill No. 4751, House Bill No. 4752, House Bill No. 4753, House Bill No. 4754, House Bill No. 4774 and House Bill No. 4775 on Second Reading.

VIVA VOCE VOTING

THE DEPUTY SPEAKER (Rep. Savellano). As many as are in favor of the aforementioned local bills, please say *Aye*.

SEVERAL MEMBERS. *Aye*.

THE DEPUTY SPEAKER (Rep. Savellano). As many as are against, please say *Nay*. (*Silence*)

OMNIBUS APPROVAL OF LOCAL BILLS ON SECOND READING

THE DEPUTY SPEAKER (Rep. Savellano). The *ayes* have it; the motion is approved.

The bills enumerated in the omnibus motion are hereby approved on Second Reading.*

The Majority Leader is recognized.

CONSIDERATION OF H.B. NO. 78 *Continuation*

PERIOD OF SPONSORSHIP AND DEBATE

REP. CASTELO. Mr. Speaker, I move that we continue the consideration of House Bill No. 78, contained in Committee Report No. 5, as reported out by the Committee on Economic Affairs.

May I ask that the Secretary General be directed to read only the title of the measure.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

The Secretary General is requested to read only the title of the measure.

THE SECRETARY GENERAL. House Bill No. 78, entitled: AN ACT PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE "PUBLIC SERVICE ACT", AS AMENDED.

THE DEPUTY SPEAKER (Rep. Savellano). The Majority Leader is recognized.

REP. TADURAN. Thank you, Mr. Speaker.

Mr. Speaker, the parliamentary status of the Bill is that we are still in the period of sponsorship and debate. I move that we recognize the Hon. Estrellita B. Suansing from the First District of Nueva Ecija for her sponsorship speech.

THE DEPUTY SPEAKER (Rep. Savellano). The Hon. Estrellita Suansing is recognized.

SPONSORSHIP SPEECH OF REP. SUANSING (E.)

REP. SUANSING (E.). Thank you, Mr. Speaker.

Mr. Speaker, distinguished colleagues, as contained in Committee Report No. 5, I am sponsoring House Bill No. 78, entitled: AN ACT PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE "PUBLIC SERVICE ACT", AS AMENDED.

When enacted into law, this measure will lift equity restrictions particularly on telecommunications and transportation service providers. Under the 1987 Constitution, at least 60 percent of public utilities must be Filipino-owned. Lifting the said restrictions will encourage the entry of foreign direct investments in vital public services, such as telecommunications and transportation, and ultimately, promoting competition that will benefit our consumers due to lower prices.

Mr. Speaker, it is very disheartening to note that the Philippines ranks among the slowest in Internet speed worldwide. In a report of a mobile analytics company, OpenSignal, our mobile Internet speed is apparently lagging behind most countries of the world, placing 11th among the slowest in upload speed and ranking 16th among the slowest in download speed among 87 countries. Moreover, based on studies conducted by the

* See MEASURES CONSIDERED (printed separately)

International Telecommunications Union from 2016-2017, the country ranks first in the ASEAN region with the most expensive cost of text and calls, and the most expensive cost of broadband services.

In the transportation sector, on the other hand, Mr. Speaker, perhaps everyone will agree with me when I say that we all deserve quality public transport. The transport sector is a major component of national growth and development. It would show in a recent study of the Japan International Cooperation Agency or JICA, that the country is losing P3.5 billion a day due to traffic congestion in Metro Manila. According to the JICA, it will further balloon to a staggering P5.4 billion daily by 2035 if effective and reliable interventions are not put in place and realized.

Mr. Speaker, the deterioration of transport infrastructure due to poor maintenance will redound to productivity loss, reduce competitiveness and bring less foreign direct investments, which ultimately will hamper the positive growth that the country is reaping in the recent years.

Mr. Speaker, it is the objective of this proposed measure to promote a just and dynamic social order that will free our people from the chains of poverty and promote an improved quality of life for all. These can be achieved by: (1) ensuring effective regulation of public utilities and services; (2) providing reasonable rate of return to public utilities and services; (3) reducing equity restrictions by clearly defining the term "public utilities"; and (4) instituting processes to protect national security.

Mr. Speaker, as elected Representatives of the people in this august Chamber, we must ensure the passage of laws that will benefit our people and our country. We must guarantee the passage of this proposed law which will enable the government to equally provide access to public services such as telecommunications and transportation to the general public. The essence of government is to serve the people. I stand here today to make sure that it is achieved.

Thank you very much Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Savellano). The Majority Leader is recognized.

REP. TADURAN. Thank you, Mr. Speaker. I move that we open the period of interpellation.

THE DEPUTY SPEAKER (Rep. Savellano). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

The Majority Leader I recognized.

REP. TADURAN. Mr. Speaker, I move that we recognize the Chairperson of the Committee of

Economic Affairs, Hon. Sharon S. Garin, to sponsor and defend the measure.

THE DEPUTY SPEAKER (Rep. Savellano). Hon. Sharon Garin is recognized.

REP. GARIN (S.). Mr. Speaker, I am ready to answer questions.

THE DEPUTY SPEAKER (Rep. Savellano). The Majority Leader is recognized.

REP. TADURAN. Mr. Speaker, I move that we recognize the Gentleman from the Fourth District of Cavite, Hon. Elpidio F. Barzaga Jr., for his interpellation.

THE DEPUTY SPEAKER (Rep. Savellano). The Honorable Elpidio Barzaga from Cavite is recognized.

REP. BARZAGA. Thank you very much, Mr. Speaker.

Is my esteemed colleague willing to answer some questions coming from this Representation?

REP. GARIN (S.). Yes, Mr. Speaker.

REP. BARZAGA. First, I am going after Section 6 of the Bill on "Penalties for Violations." It is expressly provided in Section 6 that the penalty that can be imposed, the maximum is up to P5 million a day. Meaning, that if the violation would cover a period of one month, the total penalty imposable would be P150 million. Would you not consider this penalty shocking to the sense of mankind insofar as the maximum penalty is concerned?

REP. GARIN (S.). Mr. Speaker, the penalty is a maximum of P5 million per day but it can be lower than the said amount. It will depend on the industry and in some industries this is quite low if you speak about electricity. But if you talk about transportation, bus companies for example, P5 million is exorbitant. It will depend on the type of industry, on the type of violation and to the capacity of the franchise holder, Mr. Speaker.

REP. BARZAGA. Speaking from the Bill itself, it would be legal on the part of the administrative agency to impose a daily penalty of P5 million. There will be no prohibition under the law depending on the discretion of the administrative agency.

REP. GARIN (S.). Mr. Speaker, yes. Mr. Speaker, they can impose P5 million should the court so decide,

but it will also depend on the regulations which the franchise holder is under. If the LTFRB imposes P200, then it cannot go lower than that, Mr. Speaker.

REP. BARZAGA. Will you not consider it more appropriate, considering that we have provided a maximum penalty, perhaps prudence dictates, that we also impose a minimum penalty?

REP. GARIN (S.). Yes, Mr. Speaker. I agree and we can be amenable to that, and in fact, we have been considering that. Should the distinguished Gentleman have any amendment to that effect, then we can possibly entertain it, Mr. Speaker.

REP. BARZAGA. I will go now to the main point of my interpellation.

The Bill itself provides for the definition of a “public utility.” Insofar as the Bill itself is concerned, there are only three classes of public utilities, namely: distribution of electricity, transmission of electricity, and water pipeline distribution.

May we know the wisdom, insofar as the Bill is concerned, as to why there are only three fields covered by the term “public utility?” Why limit it to distribution of electricity, its transmission as well as water pipeline?

REP. GARIN (S.). Yes, Mr. Speaker, water and electricity are the basic services that are given to our constituents. It is based on the history of what is the definition of “public utility” and “public services.” But over the years, the definition of “public service” and “public utility” have been interchanged. The authors of the Bill and also the authors from the previous Congress have limited it to what is the common decision among courts, and also opinions of our experts in the ConCom or the Constitutional Commission transcripts, including the opinions of many of our legal resources, limiting it not only to the three which are electricity, its transmission and distribution, as well as water and sewerage. We have limited it also in the next Section of the proposed Bill, that additional public utilities can be added by Congress, through an act of Congress, provided that four criteria are met: 1) the person regularly supplies, directly transmits and distributes to the public through a network, a commodity or service of public consequence; 2) the public service is a natural monopoly that needs to be regulated; 3) the commodity or service is necessary for the maintenance of life and occupation of the public; and 4) the person is obligated to provide adequate service to the public. All these four criteria, water and electricity, qualify as public utilities. These are the only two that we are definite that qualify under public utilities.

Considering that times are changing, there is globalization, there are technological innovations, we

have to consider that what is public utility 20 years ago might not be public utility now, or what is public utility now or what is not public utility now might become public utility in the future. So, we have given some criteria for Congress to determine what is public utility which will fit during that time and in such Congress.

REP. BARZAGA. Insofar as the Bill is concerned, there will be only two public utilities and that would be electricity ...

REP. GARIN (S.). And water.

REP. BARZAGA. ... and water. However, although there is a provision that it might expand the definition of “public utilities,” it is necessary that there must be an enabling legislation.

At this juncture, Deputy Speaker Savellano relinquished the Chair to Deputy Speaker Mujiv S. Hataman.

REP. GARIN (S.). Yes, Mr. Speaker.

REP. BARZAGA. We have been here in Congress for so long and insofar as electricity is concerned, we have been told that there are three phases pertaining to electricity: 1) generation; 2) transmission; and 3) distribution. Insofar as transmission is concerned, basically, we know that the transmission would be the obligation of the National Grid Corporation; and distribution, insofar as Luzon is concerned, that would be Metro Manila. But insofar as generation is concerned, how do we get the sources of electricity? It was excluded from the term “public utility.”

May we know the reason why generation, which is the most important aspect of electricity, considering that it would be the source of electricity, is not included in the term “public utility?”

REP. GARIN (S.). Mr. Speaker, basically, as regards the criteria for an industry to become a public utility, power generation does not qualify because it is not a natural monopoly. Generation can come from different sources. It can actually be supplied by different companies. And second, under the EPIRA, it has also been declared that it is not a public utility. Hence, it is not included in the list of public utility, Mr. Speaker.

REP. BARZAGA. Well, insofar as the Bill is concerned, as stated by our colleague, Congresswoman Suansing, the restriction under Article XII, Section—would be already lifted if this Bill should be enacted into law.

Let me state the provision under the 1987 Constitution, it is expressly provided that:

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 60 per centum of whose capital is owned by such citizens.

This provision of the 1987 Constitution was also part of the 1973 Constitution and was also included in the 1935 Constitution and that the 1935 Constitution was even prior to the Public Service Act.

By limiting the term “public utility”, then, would it be a correct appreciation that insofar as other public utilities are concerned, although considered public utilities or public service, the constitutional prohibition would no longer be applicable as long as it is not electricity and water distribution?

REP. GARIN (S.). Mr. Speaker, the proposed Bill amending the Public Service Act is not in any way changing the Constitution or amending the Constitution or the intent of the Constitution. The Constitution, Section 11, basically states that any public utility will be subject to the 60-40 limitation, and 60 percent has to be Filipino-owned and 40 percent can be foreign-owned. That is the limit.

Now, the subject of this amendment is the definition of “public utility.” Now, how do we define “public utility?” In the Constitution, itself, there is no definition of public utility. In fact, there is no definition of public service. Public service is defined under the Public Service Act. By history of what is the definition—if we go back in jurisprudence and all the Acts enacted over the years on what is public service or public utility, at—from the start, public utility and public service were separate. Then, they amended it and interchanged the terms. Public service was the same as public utility. Then, after that, they amended the PSA again and public service. It was not stated anymore as public utility. Then, it was called public service.

So, up to now, Mr. Speaker, we do not have a definite definition of public service or, specifically, public utility. We have to base it on the interpretation of the courts, of the Supreme Court, and the Supreme Court has not been definite as well. They have different interpretations of what public utility is. What this proposal does is define “public utility” because we have to give our investors as well as the business community some stability so that they would know which of these businesses have the 60-40 limit. If we define what public utility is, then, if you are under the public utility, you are subject to Article XI [Section 11 of Article XII] of the Constitution. We are not changing that Constitution.

REP. BARZAGA. Mr. Speaker, is it the position of the distinguished author that as legislators, we can lawfully enact a law without violating the Constitution by providing for a definition of any term in the Constitution?

REP. GARIN (S.). Mr. Speaker, in fact, when we went back to the transcripts in the ConCom on how they defined public utility when they were crafting the Constitution, in Section 11, the only qualification required was that it should be a natural monopoly under the Constitutional Commission. It has to be a public service. It is a strategic industry and it has national security implications. Those are the different discussions during the Constitutional Commission, during the drafting of the 1987 Constitution.

Hence, this Representation does not see any intent here to divert the intention of the members of the ConCom at that time because we are following what they have discussed. Now, we want it clearer so that the courts have a clear definition and guidance in any case that would involve any interpretation of what public utility is, Mr. Speaker.

REP. BARZAGA. Mr. Speaker, the Supreme Court, in the case of the *National Power Corporation versus the Court of Appeals* had the opportunity to define what a public utility is. The Supreme Court has stated that public utilities, as a business or service engaged in regularly supplying the public with some commodity or service of public consequence such as electricity, gas, water, transportation, telephone or telegraph service. If we approve this Bill, then, practically, we are overriding the definition of “public utility” as defined by the Supreme Court.

Even during the time when I was a Political Science student, I had always been told that the Legislature’s job is to enact laws. The job of the Executive is to enforce the law and the job of the Supreme Court of the Judiciary is to interpret the law. It is not within the domain of Congress to provide a definition of what the Constitution provides. Of course, we know that the Constitution is merely a formulation of the set of rules and principles which a country should adopt, unlike in an ordinary statute which provides for a definition of terms, and that is the main difference between a law and the Constitution.

As a matter of fact, the Supreme Court, in a number of cases, has expressly stated that a statute may be declared unconstitutional because it is not within the Legislative power to enact or it creates or establishes methods or forms that infringe upon constitutional principles or its purpose or effect violates the Constitution or its basic principle.

I totally agree that the Public Service Act is an obsolete law, I also fully agree that this constitutional restriction which was adopted as early as 1935, does

not encourage foreign investments in the Philippines. Because of these circumstances, I have categorically stated and they are based on the records of the House, that I have always supported the change in so far as the economic provisions of the Constitution are concerned. But the change should be in the form of a constitutional amendment but not through a form of law which would indirectly violate an express constitutional prohibition.

Thank you very much, Mme. Author, and thank you very much, Mr. Speaker.

REP. GARIN (S.). Thank you, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Thank you.

The Majority Leader is recognized.

REP. TADURAN. Mr. Speaker, may we acknowledge the presence of our dear guests in the gallery. Sila po ay mula sa Young Peace Hub of Isabela City, Basilan. Nandito sila para sa kanilang educational tour.

THE DEPUTY SPEAKER (Rep. Hataman). Please rise. Welcome to the House of Representatives. *(Applause)*

REP. TADURAN. Sila po ang bisita ng ating Deputy Speaker, Hon. Mujiv S. Hataman. *(Applause)*

THE DEPUTY SPEAKER (Rep. Hataman). Welcome to the House of Representatives.

The Majority Leader is recognized.

REP. TADURAN. Mr. Speaker, the next Member who wishes to interpellate the Sponsor is the Gentleman from BAYAN MUNA Party-List, Hon. Carlos Isagani T. Zarate. I move that we recognize him for his interpellation.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Honorable Zarate is recognized.

REP. ZARATE. Thank you, Mr. Speaker.

Magandang gabi po sa ating lahat at sa ating kagalang-galang na Sponsor.

Mamarapatin po ba ng ating kagalang-galang na Sponsor na maglinaw sa ilang mga punto rito sa ating tinatalakay na panukalang batas?

REP. GARIN (S.). Yes, Mr. Speaker.

REP. ZARATE. Maraming salamat, kagalang-galang na Sponsor.

Mr. Speaker, Mme. Sponsor, sa objective po ng panukalang batas na ito, ang sinasabi rito, isa sa objective kaya kailangan nating limitahan ang pakahulugan ng public utility, is to open up certain industries to more competition. Is this correct, Mme. Sponsor, Mr. Speaker?

REP. GARIN (S.). Yes, Mr. Speaker.

REP. ZARATE. Kaya nga sinasabi na kailangang pumasok ang mas marami pang foreign investment sa sektor ng public utilities kaya kailangang baguhin natin ang termino o bigyan natin ng pakahulugan ang termino ng public utilities.

REP. GARIN (S.). Mr. Speaker, just to correct. We do not want foreign investments on public utilities. Kasi sa PSA po, sa Public Service Act, ang definition ng “public service”, in fact, includes cold storage, warehouses. Marami pong mga businesses that are included there. In fact, not only are they not public utilities but, public services, Mr. Speaker.

REP. ZARATE. Thank you, Mme. Sponsor, Mr. Speaker. Pero inamin ninyo rin kanina na ang objective talaga ng panukalang batas na ito ay para hikayatin ang more investment in certain industries especially for competition.

REP. GARIN (S.). Yes, Mr. Speaker.

REP. ZARATE. Iyon ‘yung sinasabi ninyo? Well, this is explicit, kaya nga kayo na rin ang naglinaw, ‘no, na kapag sinasabi kasi nating public utility, there is a recognition in our Constitution that we have to put a cap on the investment by foreign investment when it comes to public utility and, in fact, a limit to competition. Is that a correct statement, Mme. Sponsor?

REP. GARIN (S.). Yes, I totally agree, Mr. Speaker. In public utility, the equity limitations should still apply, the 60-40 limitation.

REP. ZARATE. Yes, because that is the very principle na-enshrine sa ating Constitution, ‘no, when we approved and ratified the 1987 Constitution. This is the policy that the Filipino people want, that public utilities should be under the ownership and control of Filipinos. Ito iyong tinatawag nating filipinization of the economy. Malinaw po iyan na kailangang panghawakan natin ang importanteng mga industriya. Kaya nakalagay iyan sa ating Konstitusyon, mga industriya na magpo-provide sa ating mga mamamayan, sa ating pangangailangan sa araw-araw para pakilusin ang mga industriyang ito.

In fact, this is aptly articulated in Article XII, National Economy and Patrimony, Section 1, when we say, the Filipino people say:

The goals of the national economy are a more equitable distribution of opportunities, income and wealth, a sustained increase in the amount of goods and services produced by the nation for the benefit of the people and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets. However, the State shall protect Filipino enterprises against unfair foreign competition and trade practices.

In the pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum opportunity to develop. Private enterprises, including corporations, cooperatives and similar collective organizations, shall be encouraged to broaden the base of their ownership.

So, iyon po iyong malinaw na nakalagay sa ating Saligang Batas. Iyong ating pagkiling talaga sa ownership and control ng Filipino, lalong-lalo na doon sa batayang industriya ng ating ekonomiya. In fact, Mr. Speaker, Mme. Sponsor, if you will indulge me, even the debate of the Constitutional Commission before they drafted our 1987 Constitution, malinaw po ang pagkahulugan nila doon.

Halimbawa, sinabi ni Commissioner Villegas, "Section 1 opens with the statement that the State shall develop a self-reliant and independent national economy." So, ang key words ho dito:

Economic self-reliance, is a primary objective of any developing economy or developing country that is keenly aware of overdependence on external assistance for even small basic needs. It does not mean economic seclusion; rather, it means avoiding mendicancy in the international economic community. Independence refers to the freedom from undue foreign control of the national economy, especially in such strategic industries as in the development of natural resources and public utilities.

So, iyon po iyong isa sa nabanggit doon sa debate ng ating Constitutional Commission.

So, malinaw, Mr. Speaker, Mme. Sponsor, and you will agree with me, Mr. Speaker, that Filipino ownership

as aimed by our Constitution simply means greater and more effective regulation over these agencies or over these industries considered public utilities.

Now, redefining or as proposed in this Bill, defining, redefining public utilities to attract competition, to attract foreign investments and to increase the role of the market rather than State regulation to the mind of this Representation already violates that constitutional objective or principle or policy na kailangan ng ating mga industriya, ng ating mga public utilities ay nasa effective control or ownership of the Filipinos.

Kaya nga, Mr. Speaker, Mme. Sponsor, binabalangkas ng ating Saligang Batas na dapat bitbitin natin sa kasalukuyang depinisyong ng public utilities if you want to define public utilities. Ano ba talaga ang ating pakahulugan ng public utilities, 'no?

Sa debate ng Constitutional Commission, bago ang aking mga katanungan, gusto ko lang maghalaw, Mme. Sponsor, Mr. Speaker, ng ilang statements ng ating mga Constitutional Commissioner noon. Kapag tinutukoy daw ang public utilities, una, may reference ito sa definition which is now contained in our Public Service Act. Secondly, it has reference to the industries then and now, in our evolving economy that are considered public utilities. And finally, that statement also reflects the aim of preventing foreign or alien control in our economy.

So, sa debate noon, sinasabi ni Commissioner Padilla and I quote:

Private industry that is engaged in some sort of public service like public utilities, including the very vital function of transportation.

Iyon ang sinabi ni Commissioner Padilla. Second, Commissioner Davide, who also became our Chief Justice said, "Corporations exercising quasi-public functions like public utilities." Third, Commissioner Foz said, "Public utilities, we understand that a telecommunication company or firm is covered by this provision because it is considered a public utility." Commissioner Quesada also said, "I feel that I need to talk as a consumer this time. Would this government-owned or-controlled corporation include utilities like water, electricity and telephone?"

So, again, there is the reference of what public utilities are—water, electricity, telephone. And Commissioner Braid, in international conferences, said that the Philippines is more often than not represented by foreign executives of these foreign-managed carriers. Furthermore, this situation opens the possibility that PLDT, PAL, Meralco, PNR, LRT, shipping lines, even the post office and other vital public utilities will eventually fall into the hands of foreigners or foreign multinational companies. This is particularly true when some of these public utilities are privatized, and so on, and so forth.

So, malinaw, Mme. Sponsor, Mr. Speaker, even sa debate at diskusyon noon ng ating mga miyembro ng Constitutional Commission, malinaw sa kanila kung ano iyong pakahulugan kapag sinabi nating public utilities. Kaya iyong ating layunin dito sa ating panukalang batas, ay bigyan ng pakahulugan ang public utilities.

Ang akin pong unang katanungan dito sa Section 1, Public Utility Definition, bakit po, Mme. Sponsor, Mr. Speaker, why is it that the definition of “public utility” as contained in Section 1, is an enumeration of what public utilities are and not a statement of a description of what a public utility is?

REP. GARIN (S.). Mr. Speaker, the list of public utilities which are distribution of electricity and water—the current services that we reconsider public utilities based on the criteria that we have given on how to qualify a certain business or service to be a public utility which is—if you allow me to read again—that it “regularly supplies and directly transmits and distributes to the public through a network, a commodity or service of public consequence.” A public service is a “natural monopoly that needs to be regulated when the common good so requires.” The commodity or service is necessary for the maintenance of life and occupation of the public and the person is obligated to provide adequate service to the public on demand. Going back to...

REP. ZARATE. But, Mr. Speaker,...

REP. GARIN (S). Yes, Mr. Speaker.

REP. ZARATE. ... we are already jumping to the amendment. My question refers to Section 1, Definition of Public Utility, and that is why I am asking why are we defining “public utility” by enumerating what public utilities are, instead of a statement of what a public utility is, because if you jump to Section 2, certainly I agree na dapat ang definition ng public utility ay itong nilagay natin sa Section 2 dahil this—you mentioned these are the criteria but actually these are the statements—definition, then and now. Even in this discussion by the Constitutional Commission, ito iyong nilalaman niya kung gusto nating bigyan ng kahulugan kung ano ang public utility. And you are correct. First, a public utility regularly supplies and directly transmits and distributes to the public through a network a commodity or service of public consequence. Second, the commodity or service is necessary to the public and a natural monopoly that needs to be regulated when the common good so requires. Third, the commodity or service is necessary for the maintenance of life and occupation of residents. And finally, the commodity or service is obligated to provide adequate service to the public on demand. Certainly, these qualify as definition of what a public utility is, and examples of

those public utilities that qualify under this definitions ay iyong nasa enumeration sa Section 1. Kaya ako ay nagtataka, sa halip na ang depinisyon ay nauuna gaya ng nakalagay dito sa Section 2, sa Section 1 nilagay na natin, “public utility” refers to a person that operates, manages, and controls for public use any of the following—you enumerated three. And iyon na. But, in the subsequent section, nakalagay dito sa Section 2—ano pa iyong puwedeng mag-qualify as public utility. So, may we hear a reaction from the good Sponsor, Mr. Speaker.

REP. GARIN (S). Mr. Speaker, electricity and water are what we see as basic public utility services or commodities, and in any community in the Philippines or at any time, they will always be public utilities. Hence, we made it clear by putting the list first to make sure that the transmission and distribution of electricity will always be public utility as well as water pipeline distribution and sewerage pipeline. This is the purpose of why we listed it but we also came up with the list considering the description of “public utility.”

REP. ZARATE. Yes, you want to restrict the meaning of “public utility” and in Section 1 you only enumerated three. By the way, why is it, again, I have to go back to...

REP. GARIN (S). Yes.

REP. ZARATE. ... the policy, the principle as to why there is a clear distinction between public utility public service.

REP. GARIN (S). A public service is more general than a public utility. A public utility will always be a public service but a public service is not necessary a public utility. Under the Public Service Act, it actually enumerates many businesses as public service. It includes ice plant, canal, irrigation system, gas, electricity, light, and so many more. The significance of differentiating public utility from public service is the constitutional requirement as well on the 60-40 limitation.

REP. ZARATE. Yes, that is correct. There is a citizenship requirement when it comes to public utility. There is a constitutional edict that this should be under the control and ownership of Filipinos. Kaya iyon po ang aking nakikita dito sa ating panukalang batas. Gusto nating ikutan ang ating Konstitusyon. Tradisyunal na pakahulugan natin, kapag sinabi nating public utilities, and even doon sa diskusyon ng mga Constitutional Commissioners, telecommunication is considered a public utility, transportation is considered a public utility, shipping lines and many more,

exploration of gas. So, ang ginagawa ho natin dito, gusto nating baguhin ang ating Konstitusyon indirectly—a legislative amendment of our Constitution, if I may say that, dahil ni-limit na natin na ang public utility, tatlo na lang. Itong distribusyon ng elektrisidad, transmisyon ng elektrisidad at water pipeline distribution system or sewerage pipeline system. Bakit po tinanggal natin ang telecommunication? Bakit po tinanggal natin ang transportation, ang gas exploration at iba pa, Mme. Sponsor, Mr. Speaker?

REP. GARIN (S.). Mr. Speaker, there is no universal definition or category of what public utility. If you base it on jurisprudence, it has evolved over the years. Iba-iba po ang desisyon. In fact, categorization of a public utility, of a certain service or commodity, as a public utility is on a case to case basis. Hindi po defined clearly kung ano kasi, depende po. Dati po ini-include natin iyong cold storage under the—I think there was a case on JG Summit ...

REP. ZARATE. JG, yes.

REP. GARIN (S.). ... that excluded their business as public utility because it was not any more a public utility. It does not fall under the criteria that they have mentioned during that time. Therefore, in order to clear the ambiguity arising from the lack of definition of public utility, there must be a law that clearly defines it. What we have now is the definition of a public service. Wala po tayong definition of public utility. In fact, in case of public utility, it depends on what year or what decade. There are some decisions, whether here domestically or abroad, —umiiba-iba iyong decision nila. Like for example, in Pennsylvania in the US, wireless communication is not any more a public utility. Now, LPG was also ruled not a public utility. Here, ice plants, stevedoring, petroleum, shipyard, cold storage, it was ruled that they are not any more public utilities but they are still under the definition of public service.

We are not trying to change the meaning of the Constitution. We are just trying to define it so there is no ambiguity in the interpretation. And, we can also give our investors, as well as our public, kung ano ba talaga, where they can demand more—public utility and public service. It is still regulated but it is not any more public utility.

I just wanted to make it clear, Mr. Speaker, the intention of this Bill is not to change the meaning or the intention of the Constitution. We just want it clear because the responsibility of Congress or the House of Representatives is to have a clear law so that we will not be subjected to judicial jurisprudence na hindi gagawa iyong korte kung ano ba talaga. What the court can only

say is what is the spirit of the law in terms of how we formulated the law. But, for us to be clear and to avoid any more confusion, we are just defining “public utility.” We are not redefining or changing the intention of the Constitution, Mr. Speaker.

REP. ZARATE. Thank you, Mme. Sponsor, Mr. Speaker.

But then again, hindi pa rin sinasagot iyong aking tanong. Bakit ba sa Section 1, if we are not trying to skirt the provision of the Constitution, why is it that in Section 1, we limited the number of what public utilities are. And, in fact, in Section 2, mas matindi ang nakalagay dito, sinarhan na ninyo iyong definition. Kasi sa Section 1, tatlo iyong definitions ng public utility. Pagkatapos, sinabi ninyo sa Section 2, “no other person shall be deemed a public utility under Section 13 (D) (1) unless otherwise subsequently provided by law. Then it follows ano iyong criteria. At ito na iyong criteria na sinasabi ko nga, tama naman itong definition ng public utility, at swak ang depinisyon na ito, tama ang depinisyon na ito doon sa tatlong na-enumerate natin sa Section 1.

May I inquire from the good Sponsor, Mr. Speaker. The telecommunication company, do they not supply commodity or service of public consequence? Are they not necessary to the public as we speak now? Do they not need to be regulated? Are they not necessary for the maintenance of the life and occupation of Filipinos? Are they not obligated to provide adequate service on demand to the public? Nandito sa criteria. So, if the answer is they are, dapat hindi natin sila isinara doon sa Section 1, Mme. Sponsor, Mr. Speaker.

REP. GARIN (S.). Yes, Mr. Speaker. We did not close the list to any other industry. But I would agree with the distinguished interpellator that telecommunications meet the criteria on the person who regularly supplies. It also has a commodity which is necessary for the maintenance of life and occupation. These companies are obligated to provide adequate service to the public. But I beg to disagree that it is a natural monopoly. When you speak about telecommunications, for example, you can use your landline, you can use your mobile phone. If you use your mobile phone you have an option using Globe, Smart, Sun, or any other company. There is no monopoly there. It is not a natural monopoly. A natural monopoly is if there is an inelastic demand and it can only be supplied by only one. In this case, telecommunications do not fall under this, Mr. Speaker.

REP. ZARATE. Thank you, Mme. Sponsor, Mr. Speaker.

So, you are saying now, Mme. Sponsor, Mr. Speaker, although I did not find it in any section of this proposed Bill, that being a natural monopoly is one of

the features to be considered a public utility. Is that what the good Sponsor is saying, Mr. Speaker?

REP. GARIN (S.). Mr. Speaker, yes. This is based on many opinions as well as the discussions in the Constitutional Commission during the 1987 Constitution.

REP. ZARATE. Okay. Distribution will take one example of a public utility. You said in Section 1, distribution of electricity. Is distribution of electricity a natural monopoly?

REP. GARIN (S.). Yes, Mr. Speaker.

REP. ZARATE. For example, in the franchise area of Meralco, under EPIRA, ang Meralco lang ba ang puwedeng mag-distribute ng kuryente sa franchised area ng Meralco ngayon, Mme. Sponsor, Mr. Speaker?

REP. GARIN (S.). Yes, Mr. Speaker.

REP. ZARATE. Of course not.

REP. GARIN (S.). As regards the distribution and the transmission, yes, Mr. Speaker.

REP. ZARATE. Are you sure of that, Mme. Sponsor, Mr. Speaker?

REP. GARIN (S.). According to my sources, yes, Mr. Speaker.

REP. ZARATE. Because under the RCOA—in fact, other generation companies can directly contract ...

REP. GARIN (S.). We are only ...

REP. ZARATE. ... supply of electricity ...

REP. GARIN (S.). ... referring to distribution, Mr. Speaker.—Distribution and transmission.

REP. ZARATE. Now, just a while ago, we approved on Second Reading, although we objected to it, the franchise of one public utility distribution company which also will penetrate the market of an already existing electric cooperative. So, will that be considered still a natural monopoly by one distribution company, Madam Sponsor, Mr. Speaker?

REP. GARIN (S.). Well if that is the case, Mr. Speaker, then they have to take it up to the courts.

REP. ZARATE. Well, because in this particular Bill, there is nothing here that says that being a natural

monopoly is a criterion for one to be considered a public utility. That is why even in the discussion before in the Constitutional Commission and even up to now, we still consider telecommunication companies—in fact, even the generation of electricity, if you are engaged in the generation of electricity, you are a public utility.

Kaya po ako talaga ay talagang nagtataka na ang inyong definition sa Section 1, nilimitahan ninyo lang. Kaya ko po nasabi iyon, iniikutan—and to me this is unconstitutional, as already aptly discussed earlier by our respective colleague, Senior Member from Cavite, Honorable Barzaga—ng panukalang batas na ito ang clear mandate, policy, enunciated in our Constitution, na gusto ng ating mga mamamayan when they ratified it.

By limiting the number of utilities to three—alam ninyo po, token lang itong ginawa ninyo sa Section 2, na naglagay kayo ng criteria. This is an act of tokenism para sabihin na puwede pa namang mag-qualify na public utility as may be subsequently provided by law. Alam naman po natin ang pagpapasa ng batas, napakahirap. Kapag ang telecommunication company—Smart, PLDT—pinakawalan mo na iyan ngayon because they will no longer be considered as public utility, itaga ninyo sa bato, ang hirap na ibalik sila sa kategoriyang public utility. Kapag nagkataon na naipasa ang batas na ito, ang importanteng mga public utility na iyan ay puwede nang pag-arian ng 100 percent ng mga dayuhan dahil inalis na natin ang citizenship requirement, which is at least 60 percent.

So, iyon po ang malinaw, na ini-impart ng batas na ito. Anupaman po ang paikot-ikot na gawin natin dito, ang tingin po ng Kinatawang ito, ito ay binalangkas para mas itulak pa natin na iratsada itong talagang nananalasa na rehimen ng pribatisasyon, rehimen ng deregulasyon, rehimen ng neo-liberalismo sa ating ekonomiya na binubukas, binubuyangyang natin sa kontrol ng mga dayuhan ang ating pambansang patrimonya at pambansang ekonomiya. So, iyon po ang isang malinaw na nakikita natin dito sa panukalang batas na ito.

Now, my next question, Madam Sponsor, Mr. Speaker, kapag na-exclude na halimbawa itong si telecommunication company, itong si power generation, what forms of regime of regulation would cover the excluded businesses?

REP. GARIN (S.). Mr. Speaker, in the proposed Bill, any regulatory agency or any regulations, any requirement of franchise authority or certificate will stay, whether you are a public utility or a public service. In fact, talking about telecommunications, all the requirements that are required by the NTC or any other agency will still stay. It is just the definition that has been changed but regulations that apply to transportation, electricity, water or telecommunications will stay and apply. So, that will not change that, Mr. Speaker.

REP. ZARATE. Thank you, Madam Sponsor, Mr. Speaker.

In Section 3, Proceedings, it was provided in letter (c), and if I may quote, ...

REP. GARIN (S.). Section 3 in the Bill, Mr. Speaker?

REP. ZARATE. Yes, Section 3(c), it was provided, "To fix and determine," and in all caps, "MAXIMUM individual or joint rates," et cetera, et cetera, "by any public service WHEN THE PUBLIC INTEREST SO REQUIRES."

May I seek clarification, Madam Sponsor, Mr. Speaker, as to the correct interpretation of this provision. Why is there a need to insert, "WHEN THE PUBLIC INTEREST SO REQUIRES"? Who determines what the public interest requirement is?

REP. GARIN (S.). Mr. Speaker, it is to apply some international standards on the rate-setting methodology but that same provision, Mr. Speaker, ...

REP. ZARATE. So, ...

REP. GARIN (S.). My apologies, Mr. Speaker.

That same provision actually also says that this provision shall not be interpreted as mandating rate regulation and amending repealing laws, providing deregulation policies. It will not mandate the administrative agencies, increase the rates or any rate of return. It will just harmonize our rates and make them reasonable, in both sense, both for the investor or the provider, as well as to the consuming public, Mr. Speaker.

REP. ZARATE. Thank you, Madam Sponsor, Mr. Speaker.

So, again, who will now determine what public interest is?

REP. GARIN (S.). I am sorry, Mr. Speaker?

REP. ZARATE. It is stated in that provision, "WHEN PUBLIC INTEREST SO REQUIRES." Is it the regulator or is there already a standard that must be observed when we say "public interest"? Or is it now the discretion of the regulator to say whether there is a public interest requirement that is at stake, Madam Sponsor, Mr. Speaker?

REP. GARIN (S.). Mr. Speaker, public interest will be determined by the administrative agency. It can determine whether the rates are too high or too low, then it can, on its own, based on public interest, then set the rates.

REP. ZARATE. Thank you, Madam Sponsor, Mr. Speaker.

So, kapag may nagpetisyon na magtaas ng rate, at magsabi ang isang public utility, "Tataasan ko ang rate ng aking serbisyo ngayon ng tubig or ng kuryente,"—sinabi ninyo rito, "when public interest so requires," kailangan, pero kapag sinabi ng regulator, "There is no public interest involved here, kaya tama ang pagtaas ng kuryente," so, puwedeng gawin ng regulator iyon, Madam Sponsor, Mr. Speaker.

REP. GARIN (S.). Mr. Speaker, this just sets the standards on how to regulate the rates. It will only apply, the public interest paragraph, when the administrative agency may establish and enforce a methodology for rate-setting, when there is public interest.

In any case, the provider or the public utility can ask for rate-setting anytime, whenever they make a request. The second paragraph is, "IN THE PUBLIC INTEREST, THE ADMINISTRATIVE AGENCY MAY ESTABLISH AND ENFORCE A METHODOLOGY FOR SETTING RATES."

And the third paragraph, in fact, says that this provision shall not be interpreted as mandating rate regulation and amending or repealing laws providing a deregulation policy.

REP. ZARATE. Thank you, Madam Sponsor, ...

REP. GARIN (S.). We have to take this in the context of the whole section, Mr. Speaker.

REP. ZARATE. Yes, but the good Sponsor will agree that the so-called public interest requirement is entirely or solely lodged on the part of the regulator. Is that correct?

REP. GARIN (S.). Yes, Mr. Speaker. In fact, public interest has already been upheld by the courts as an appropriate standard for such cases, Mr. Speaker.

REP. ZARATE. Yes, and under this proposed law, in fact, there is no definition here of public interest?

REP. GARIN (S.). In the proposed law, no, Mr. Speaker.

REP. ZARATE. There is no standard set of what public interest means?

REP. GARIN (S.). The standards will depend on the administrative agency, Mr. Speaker, so if there is any provision in the charter or the laws or in the franchise of the public utility or public service, then, that will be upheld.

REP. ZARATE. Thank you.

REP. GARIN (S.). Public interest means that the rates would not be so low as to be confiscatory, but at the same time, should be enough, so that the public utility can earn enough to meet its reasonable rate of return.

REP. ZARATE. Thank you, Madam Sponsor.

So, final question on this issue, if in the judgment of the regulator, there is no public interest requirement in the setting of the rates, what happens next?

REP. GARIN (S.). Mr. Speaker, it is quite rare that there is no public interest in rate-setting. In fact, if there is a demand or a request from the public service company, then—there will always be public interest, Mr. Speaker. That is how we see all the administrative agencies, especially for ERC, for example, Mr. Speaker.

REP. ZARATE. Thank you, Madam Sponsor. That is siguro in the ideal situation because in the real world, we know that the reality is mayroon tayong mga regulatory capture na tinatawag, kaya kapag naibigay mo talaga iyong discretion of what public interest is sa regulator at kapag sinabi ng regulator, “There is no public interest requirement present here,” the regulator can just approve and approve to the maximum level ang rate na gusto ng public service company.

Now, moving on to my next remaining questions, Madam Sponsor, Mr. Speaker. Also in Section 3, you mentioned reasonable cost.

REP. GARIN (S.). Section 3, Mr. Speaker.

REP. ZARATE. Still in Section 3, that the rates setting na ...

REP. GARIN (S.). Letter C, Mr. Speaker?

REP. ZARATE. Yes, it says: “The rates must be such as to allow the recovery of just and reasonable costs and a reasonable rate of return to enable the public service to operate viably.” Part ito ng amendatory provision na gusto ninyong ipasok.

My question now is what is the standard or what are the standards to be followed, or who determines the standards to be followed in determining “reasonable costs and a reasonable rate of return,” Madam Sponsor, Mr. Speaker?

REP. GARIN (S.). Mr. Speaker, the administrative agency will determine that because it will depend on the industry, but as regards the rate-setting policy—on the Meralco case, the Supreme Court decision states, and I quote:

The return allowed to a public utility in accordance with the prescribed rate must be sufficient to provide for the payment of such reasonable operating expenses incurred by the public utility in the provision of its services to the public. Thus, the public utility is allowed a return on capital over and above operating expenses. However, only such expenses and in such amount as are reasonable for the efficient operation of the utilities should be allowed for the determination of the rates to be charged by a public utility.

I think that explains that it will depend on the administrative agency, as well as on the industry, Mr. Speaker, but there are safeguards. In fact, I believe that in every administrative agency there should be safeguards that are there for the rate-setting methodology, Mr. Speaker.

REP. ZARATE. Thank you, Mme. Sponsor, Mr. Speaker. Safeguards, but those safeguards are not stated in this proposed law. Is that correct, Madam Sponsor?

REP. GARIN (S.). No, no, Mr. Speaker. There are guidelines on how to do the rate-setting, but we leave it to the administrative agency, each agency, because you cannot compare the rate-setting of an airline company to a bus company or to an electric company.

It will depend on what the standards of the industry are. Mr. Speaker, the administrative agencies are supposed to formulate their respective IRRs once this Bill is passed and we also believe that these are responsibilities of the administrative agencies.

We have set the limitations and it is their mandate not only to regulate the industry but also to protect the interests of the consumers of such industries.

So, we do believe that this is the proper venue. The administrative agencies should determine such, Mr. Speaker.

REP. ZARATE. Thank you, Madam Sponsor, Mr. Speaker. Certainly, of course, different agencies can have their own set of rules but of course, there are also general standards that can be applied to all public utilities or public services.

Now, just a quick question on this reasonable cost and reasonable rate of return issue. Sa tingin po ba ng kagalang-galang na Sponsor, puwedeng isama as part of the reasonable cost ang pagbabayad ng income tax ng isang kumpanya, Madam Sponsor, Mr. Speaker?

REP. GARIN (S.). In some industries, Mr. Speaker, I think it is included in the rate-setting, but in the current proposal, considering the interpellation of the good interpellator during the previous Congress, such phrase has not been included in the current Bill, Mr. Speaker.

REP. ZARATE. Yes.

REP. GARIN (S.). Hence, the direction is not to include it, Mr. Speaker.

REP. ZARATE. Yes, it is no longer specifically mentioned here, but considering that there is no explicit prohibition and, in fact, the substitute phrase “reasonable cost” makes it even more vague. An administrative agency may later on interpret this to mean that, just like what is happening now in some public utilities, even income tax paid by a corporation can be considered as a reasonable cost that might be included in their rate-setting, Madam Sponsor, Mr. Speaker.

REP. GARIN (S.). Yes, Mr. Speaker. I am glad that it was mentioned by the good interpellator and that we are having this discussion in the plenary, so that when the time comes and they check the intention of, or the spirit of the law, the intention is to exclude income tax, Mr. Speaker.

REP. ZARATE. Thank you, Madam Sponsor, Mr. Speaker finally, on Section 6, Penalties for Violations,...

REP. GARIN (S.). Yes.

REP. ZARATE. ...I will just seek the clarification of the good Sponsor. Do we confirm that this provision on penalties for violation would only cover the enumerated public utilities under Section 1, the three so-called public utilities?

REP. GARIN (S.). Mr. Speaker, the penalties will apply to any public service, not just to public utilities. It will not only apply to electricity and water but it will also apply to sea, air, land transport, and telecommunications; it will also depend on the provisions of their franchise or the Charter of the administrative agency, Mr. Speaker.

REP. ZARATE. Including the penalty for disgorgement of profits?

REP. GARIN (S.). It will apply to all, Mr. Speaker, not just to public utility.

REP. ZARATE. Thank you, Mme. Sponsor, just last question.

Is this disgorgement of profit a penalty or is this a remedy provided in this Bill?

REP. GARIN (S.). It is basically a remedy, Mr. Speaker.

REP. ZARATE. Not a penalty.

REP. GARIN (S.). No, Sir.

REP. ZARATE. Thank you, Mme. Sponsor, Mr. Speaker, for allowing this Representation to clarify some matters in interpellation.

Maraming salamat po at magandang gabi sa ating lahat.

REP. GARIN (S.). Thank you, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF H.B. NO. 78

REP. DE VENECIA. Mr. Speaker, I move that we suspend the consideration of House Bill No. 78, as contained in Committee Report No. 5.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

CHANGE OF REFERRAL OF CERTAIN MEASURES

REP. DE VENECIA. Mr. Speaker, I move for the change of referrals of the following measures:

1. House Bill No. 453, from the Committee on Public Order and Safety, to the Committee on Information and Communications Technology;

2. House Bills No. 1294, 3006, 3616, 4223, and 4695, from the Committee on Public Works and Highways, to the Committee on Ways and Means;

3. House Bill No. 2253, from the Committee on Basic Education and Culture, to the Committee on Welfare of Children;

4. House Bill No. 3225, from the Committee on Basic Education and Culture, to the Committee on Higher and Technical Education;

5. House Bill No. 1077, from the Committees on Government Enterprises and Privatization, and Public Works and Highways, to the Committees on Government Reorganization, and Public Works and Highways;

6. House Bills No. 1829 and 2895, from the Committees on Government Enterprises and Privatization, and Public Works and Highways, to the Committees on Government Reorganization, and Public Works and Highways; and

7. House Bill No. 2418, from the Committee on Public Works and Highways, to the Committee on Metro Manila Development.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

REP. DE VENECIA. Mr. Speaker, I move that we include additional coauthors of House Bills No. 4463, 4664, 4696, 4750, 4751, 4752, 4753, 4754, 4774 and 4775 as contained in the list to be submitted by the Committee on Rules.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

REP. DE VENECIA. Mr. Speaker, I move that we proceed to the Additional Reference of Business and direct the Secretary General to read the title of the said Bill.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

The Secretary General is so directed.

ADDITIONAL REFERENCE OF BUSINESS

The Secretary General read the following House Bill on First Reading, and the Deputy Speaker made the corresponding reference:

BILL ON FIRST READING

House Bill No. 4791, entitled:

“AN ACT MODERNIZING THE BUREAU OF IMMIGRATION, DEFINING ITS POWERS AND FUNCTIONS, EXPANDING, RATIONALIZING, AND FURTHER PROFESSIONALIZING ITS ORGANIZATION, UPGRADING THE COMPENSATION AND BENEFITS OF ITS OFFICIALS AND EMPLOYEES, AND APPROPRIATING FUNDS THEREFOR”

By Representative Hernandez
TO THE COMMITTEE ON JUSTICE

THE DEPUTY SPEAKER (Rep. Hataman). The Majority Leader is recognized.

CONSIDERATION OF H.B. NO. 78

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

REP. TADURAN. Mr. Speaker, I move that we resume the consideration of House Bill No. 78, as contained in Committee Report No. 5, and request that the Secretary General be directed to read the title of the Bill.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

The Secretary General is so directed.

THE SECRETARY GENERAL. House Bill No. 78, entitled: AN ACT PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE “PUBLIC SERVICE ACT”, AS AMENDED.

THE DEPUTY SPEAKER (Rep. Hataman). The Majority Leader is recognized.

REP. TADURAN. Mr. Speaker, the parliamentary status of the Bill is that it is in the period of sponsorship and debate. I move that Hon. Sharon S. Garin be recognized to continue her sponsorship of the measure.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Hon. Sharon S. Garin is recognized.

REP. GARIN (S.). Thank you, Mr. Speaker.

REP. TADURAN. Mr. Speaker, I move that we recognize Rep. Rufus B. Rodriguez of the Second District of Cagayan de Oro City for his interpellation.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Cong. Rufus B. Rodriguez of Cagayan de Oro City is hereby recognized.

REP. RODRIGUEZ. Thank you, Mr. Speaker. Thank you our distinguished Sponsor.

Would the distinguished Sponsor yield to some interventions by this Representation?

REP. GARIN (S.). Yes, Mr. Speaker.

REP. RODRIGUEZ. Distinguished Sponsor,

Mr. Speaker, is it correct that in this proposed bill the definition of public utility contains four kinds of businesses: a) distribution of electricity; b) transmission of electricity; c) water pipeline distribution; and d) the fourth one is sewerage pipeline. Is that correct?

REP. GARIN (S.). Yes, Mr. Speaker.

REP. RODRIGUEZ. Distinguished Sponsor, in your definition of terms, you defined “distribution of electricity”, you defined “transmission of electricity,” you defined “water pipeline distribution,” and you defined “sewerage pipeline systems.”

REP. GARIN (S.). That is correct, Mr. Speaker.

REP. RODRIGUEZ. And these are the ones that are now included in the definition.

REP. GARIN (S.). Yes, Mr. Speaker.

REP. RODRIGUEZ. You also defined the “common carrier” in this definition but has excluded common carrier as a public utility. Is that correct?

REP. GARIN (S.). Yes, Mr. Speaker, because the common carrier is mentioned in the latter part of the Bill. Whether or not it qualifies as a public utility does not change the responsibilities of a common carrier.

REP. RODRIGUEZ. And, in fact, page 4, you included the term “public service”. In letter (b) of Section 13, it says that it includes every person and so on and so forth, and then, it continues on the fourth line which says, “done for general business purpose, “x x x.”” May we know why there is an “x x x”?

REP. GARIN (S.). Yes, Mr. Speaker. In the original version or the current version of Commonwealth Act 146, they did not include it. But if you will allow me, I can read it to you since it will not be amended, Mr. Speaker.

REP. RODRIGUEZ. Yes, because, Mr. Speaker, distinguished colleague, you have an “x x x” because the next two words after the “general business purposes” are “common carriers.”

REP. GARIN (S.). That is correct, Mr. Speaker.

REP. RODRIGUEZ. So, why did we use an “x x x” when “common carriers” is the one that is mentioned in this and we have not included it in the definition? May we know why.

REP. GARIN (S.). It was not for the intention of excluding “common carrier,” it just so happens that we stopped the typing of the text of Commonwealth Act 146.

REP. RODRIGUEZ. Thank you, distinguished Sponsor. In fact, after “common carrier,” we have railroad, street railway, traction railway and subway motor vehicle for freight or passenger, all of those pertain to transportation. and you did not include that here in letter (b). You went directly to canal, irrigation system, electric light and so forth. Is that correct?

REP. GARIN (S.). Yes, Mr. Speaker, because the intention was to include telecommunications as a public service, which was not stated here. There is no intention to exclude any of the transportation or common carriers in the definition of public service, Mr. Speaker.

REP. RODRIGUEZ. Yes. Mr. Speaker, distinguished colleague, Section 11 of Article XII of the Constitution provides:

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 x x x.

Here, in other words, for public utilities, clearly the 60-40 requirement is embodied in the Constitution. Is that correct?

REP. GARIN (S.). That is correct, Mr. Speaker.

REP. RODRIGUEZ. And your contention here is that public utility has not been defined in the Constitution. Is that correct?

REP. GARIN (S.). Yes, Mr. Speaker.

REP. RODRIGUEZ. But you would also agree that constitutional construction or interpretation will go to the proceedings of the Commission or the constituent body that would recommend and approve the Constitution subject to a plebiscite by the people. Is that correct?

REP. GARIN (S.). Yes, Mr. Speaker, also the jurisprudence that we have over the years, Mr. Speaker.

REP. RODRIGUEZ. But, it is a very clear constitutional construction rule that when it seems vague and there is no definition in the Constitution, you go first to the Commissioners who drafted the Constitution because from there, you can see the constitutional intent, not only

the legislative intent but the constitutional having this provision. Don't you agree, Mr. Speaker?

REP. GARIN (S.). I agree, Mr. Speaker.

REP. RODRIGUEZ. Now, we go to the proceedings of the Constitutional Commission on August 23, 1986. I have here the proceedings and the questions and answers among the constitutional commissioners, and here, Commissioner Foz said: "I would like to ask a few clarificatory questions of the proponent". The proponent here is Mr. Davide, because Mr. Davide wanted not a 60-40 but a 70-30 in favor of the Filipinos. Seventy-three, that was the debate here.

And Mr. Speaker, the question here, as printed here officially in the proceedings states, "I would like to ask a few clarificatory questions on the proponent. By the term "public utilities," what are we referring to? Will the Gentleman give us some examples?" Former Chief Justice Davide, answering that question, he said, and I quote, "Not only these commercial telecommunications, but corporations supplying electric power and transportation." There is a clear intent that when they made this particular constitutional provision which is now Section 11 of Article XII, it was very clear that from the question of Mr. Foz to the former Chief Justice Davide, to give examples of public utilities, and clearly, transportation was mentioned by former Chief Justice Davide.

So, he continues, "those are public utilities"—telecommunications, electric power, transportation. "So, in this regard," he said, "we will allow aliens, even if it is only 40 percent." So, that is what he said. That is on that particular date.

Also, continuing the questioning by Commissioner Foz, he said, "At present", now, this is a question again to Commissioner Davide, "At present, are these public utilities required by law to be Filipino-owned? The examples that the Gentleman gave—ice plants, transportation—xxx," again here transportation, "xxx what is the statutory requirement as regards ownership?" Again, he stated it in this particular proceedings of the Constitutional Commission. We see already the mention of transportation. "Mr. Davide. I am not very familiar with special laws, but under the Constitution as worded in Section 15, all public utilities will be included." including transportation.

Now, we go to the next day, continuation of August 23, on a different page. It says here: "Mr. Foz. But I am not sure now in the case of other means of transportation such as land carriers, land transportation, also airlines." And then Davide said, "I am not sure about land transportation." However, he said that, transportation, in general, is part of the public utilities.

Now, Mme. Chair, would you still stick to your position earlier that the intention of the commissioners

did not mention transportation as one of the clear examples of public utilities? Because I have read to you already the constitutional proceedings of the ConCom stating that transportation is a prime example of public utilities, distinguished Sponsor.

REP. GARIN (S.). Mr. Speaker, Davide also mentioned ice plants.

REP. RODRIGUEZ. Yes.

REP. GARIN (S.). I think, you would agree that it is not anymore a public utility, what I can derive from that is that the definition of public utility is not static. However you define public utility way back 20 years ago, it is not the same today. In fact, one of the records shows that Commissioner Monsod, back in 1986 said, "Precisely, the nature of a 'public utility' is that it is a natural monopoly; otherwise, it would be too expensive for the country and for the consumers."

Now, based on that, if we look at transportation, land transportation, for example, it is not anymore a natural monopoly. We have options of going by taxi, by jeep and by buses. In fact, there is also by train or by car. We have more options now and if you take a taxi, there are many taxi companies. Airline industry, you can take Cebu Pacific, PAL and any other company. In fact, in the transportation industry as a whole, if you cannot take the plane going to Iloilo, for example, you can take a RORO boat. So, there is no natural monopoly anymore. It is still imbued with public interest, it is still a public service, but as to how we qualify it now based on the amendments that we are proposing, it cannot qualify as a public utility, Mr. Speaker.

REP. RODRIGUEZ. But it is clear that when you have constitutional construction, then we go to what was said by the authors of the Constitution. And here, clearly, in another question by Mr. Foz to Mr. Davide, his specific question: "Is shipping a public utility?" shipping which is a common carrier, Mr. Davide: "It is a public utility. Transportation," I quote from his answer, "air transportation, is a public utility." There are many statements of the commissioners in relation to the section which now gives us the intention of the framers, that indeed, transportation is really a public utility and, therefore, it is a part of the public utility stated in Article XII.

Does the distinguished colleague agree to that because these are clear statements of commissioners that transportation should be a part of the public utility?

REP. GARIN (S.). Mr. Speaker, I agree with the distinguished interpellator in the sense that there was a list mentioned by former Chief Justice Hilario Davide and all the other members of the ConCom at that time.

But then such list also changes. Some of the mentioned industries that they said were public utilities then are now not applicable anymore.

I think we should focus more on the qualifications or the requirements for an industry to become a public utility. Hence, that is why in the Bill, we have provided such criteria. Still in line with the intention of the Constitutional Commission on what public utility is, that it has to be regularly supplied, transmitted and distributed to the public through a network, a commodity or service of public consequence, natural monopoly. It has to be a commodity or service necessary for the maintenance and life of occupational public and the persons obligated to provide adequate service to the public.

The intention of the Bill is not to change the intention or the spirit of the Constitution or what was intended by the members of the ConCom. We are still going with that line. But how the world is going now with the globalization, and internationalization, in fact, with the onset of the technological innovations that we have now, the list will not stay static. It will not stay the same as it was back in 1987, because the world changes; but the principles behind should stay true to themselves, that is how the framers of the Constitution stated them. Back then, we only had one airline industry. I do not know how many shipping industries we had back then. But there were limitations back then. But now we have more players in those industries, especially in the airline industry. So, it does not qualify as a natural monopoly, hence, we have excluded it in the list of public utilities, Mr. Speaker.

REP. RODRIGUEZ. Mr. Speaker, distinguished colleague, since clearly the intent of the framers of the Constitution was to include transportation as a public utility, is it not that if you want to change that, it has to be a constitutional amendment because no law can be above the Constitution? And the Constitution states that “public utility” and the intent of the Constitutional Commissioners is that public utility includes transportation as stated clearly by the proceedings of the Constitutional Commission.

And so, therefore, if you exclude common carriers or transportation, transportation is that common law definition—common carrier is the civil law jurisdiction, the definition found in our Civil Code. And so, therefore, clearly now, since the proponent agrees that the intention was that transportation is part of public utilities, then therefore, clearly, Mr. Speaker, it becomes unconstitutional if you have a law that excludes a public utility transportation or common carriers. Because we are talking here now of constitutionality. And when you talk about constitutionality, it is either you are violating the Constitution or you are not. And you are given the leeway.

Congress is not given the leeway or the discretion because our framers of the Constitution clearly intended, and nobody questioned former Chief Justice Hilario G. Davide Jr. and Mr. Vicente B. Foz, that transportation is a public utility. And so therefore, is it not, Mr. Speaker, distinguished Sponsor, that if he excludes common carriers or transportation, this particular definition will be infirm, as being contrary to the provisions of the Constitution?

REP. GARIN (S.). Mr. Speaker, specifically, in the Constitution there is no definition of “public utility.” But there are deliberations in the ConCom in which, as stated by the honorable Interpellator, former Chief Justice Davide mentioned other industries, other than water and electricity, including that of transportation. But then, in the same Constitutional Commission, Christian S. Monsod also mentioned that public utility is a natural monopoly. It is in fact not as clear as what the Honorable Rodriguez says, because right now, today, in these times, if we apply what was discussed by Christian Monsod as against what was mentioned by Hilario G. Davide, it says that—transportation is still transportation, but now, today, in these times, it is not a natural monopoly.

So, we just have to be clear that what we are trying to do here is to harmonize all the opinions as well as the deliberations in the ConCom, in which, this Sponsor does not think that it was clear enough that transportation—because based on how we apply the concepts that we discussed back then -- transportation would not qualify as public utility. It is a public service, but it is not a public utility, Mr. Speaker.

REP. RODRIGUEZ. Mr. Speaker, we are not concerned about what is monopoly, natural monopoly. We are saying that expressly, in the Constitutional Commission proceedings, clearly, the word “transportation” appears as a public utility. So, there is no leeway for us to say, that times have changed, Congress can now say “No”, let us exclude common carriers. No, because this provision has no comma and has no phrase that says, as may be provided by law. And that is why, this Representation has filed a bill, a concurrent resolution of both houses that will precisely have constitutional amendments, that will be in eleven sentences, that provides the 60-40 for public utilities, the development of natural resources, and a 70-30 percent for mass media education. There has to be an amendment to the Constitution. And that is why, pending before the Committee on Constitutional Amendments, precisely, are what we call the economic provisions amendments. And precisely, in this sentence, we are going to put a comma, because we cannot deviate from the Constitution. A comma, that will say, as

may be provided by law and then, therefore, we can increase the foreign investments in this case.

So, let us go to another point on the constitutionality. Now, you know, Mr. Speaker, here the proposal to change the legal definition of the term public utility may seem to be a simple amendment of Commonwealth Act 146, the Public Service Act, which was enacted in November of 1936. However, what is at stake here is not a simple legal definition. Rather, what is at stake here is our very own sovereign rights over our own national patrimony. And that is why the Constitution only allows 40 percent, nothing more. Otherwise, in this proposed Bill, you will attempt to exclude common carriers in transportation that would be directly in violation of Article 12, Section 11.

Now, in the landmark case of Manila Prince Hotel versus Government Service Insurance System, it is about, Mr. Chairman, Mr. Speaker, a hotel, and hotel acquisition. In the case of *Manila Prince Hotel versus GSIS*, the Supreme Court ruled that the Manila Hotel has become a landmark. And therefore, its existence is impressed with public interest. Its own historicity, associated with our struggle for sovereignty and nationhood—it has become a part of the national economy and patrimony.

How much more for our skies, for our seas, wherein there is sovereignty in the Philippines on this and that is why transportation which deals with air, sea, and land is considered to be part of the national patrimony so that we cannot just give it up 100 percent to foreigners and that is why we have a 60-40. If, for example, in this particular case, what we have is that it will be a violation of the Constitution if we give up our sovereignty over our national patrimony. And that is why in this particular case, let me cite to you, almost all countries of the world have limitations on foreign ownership especially on airlines. In Brazil, the limitation of foreign ownership for airlines is up to 20 percent only. We are better at 40 percent; in Canada, 25 percent only of voting equity; in China, 35 percent foreign; in India, only 25 percent is allowed for the airlines; in Japan, 34 percent; in Thailand, 30 percent; and in the United States, 25 percent. We even have 40 percent. Now, we are not going to include common carriers and we are going to say 100 percent for foreign airlines, foreign vessels and foreign land transportation. And by limiting the definition to just electricity and water, what we are going to do is we are giving up our natural patrimony by having foreigners go into airlines—they can already have 100 percent in this because it is not anymore listed in this new Bill.

So, Mr. Speaker, again, the case of *Gamboa vs Teves* GR No. 176579 June 28, 2011, it says that this provision on public utility is an expressed recognition of the sensitive and vital position of public utilities in the national economy and for national security. And

the evident purpose of the citizenship requirement is to prevent aliens from assuming control of public utilities by removing from the definition by not including common carriers and transportation—our seas, our skies.

Mr. Speaker, what happens here is that this will be able to have aliens assuming control of public utilities. Our airlines, our shipping companies, they will now be controlled by Chinese interests, by all kinds of foreign owners, and is therefore, according to the Supreme Court, in the case of *Gamboa vs Teves 2011*, this will be inimical to the national interest. Would the distinguished Sponsor agree that giving up our skies, our sea lanes, and our land transportation will be inimical because the public utility will be inimical to our national interest?

REP. GARIN (S). Mr. Speaker, the nature of the transportation industry, for example, air transport, in our proposed Bill, does not qualify it as a public utility because competition in fact is healthy in the air transport industry. In sea transport, competition is not good, hence, the cost of our agricultural products, 38 percent or 40 percent of that is transportation.

In land transportation, competition is not good. Hence, we have so many problems with land transportation. In air transportation, there is competition. Hence, the fares and the services have also improved.

The Sponsor insists that it is not a public utility, as we have derived from all the studies and researches that we have done that the nature of common carrier or air transport or transportation is not a public utility. It is, if the good interpellator insists, giving up our sovereign rights over our air patrimony ...

REP. RODRIGUEZ. And also our national security.

REP. GARIN (S.). ... our national security, then, that does not change the fact that it is not a public utility, Mr. Speaker.

We can apply some provisions if we are threatened, for example with the Chinese ships coming into our archipelago, that is a case of national security. And, in fact I think, in the Constitution, the President has the authority to intervene in any transaction in case of emergency and, in fact I think, it would include national security. But, I would beg to disagree, that the nature of the business does not change, the fact that it is not a public utility, Mr. Speaker.

REP. RODRIGUEZ. Well, the distinguished Sponsor already said that transportation is a public utility ...

REP. GARIN (S.). Mr. Speaker.

REP. RODRIGUEZ. ... earlier in her answer.

REP. GARIN (S.). Mr. Speaker, it is a ...

REP. RODRIGUEZ. So, it is a public utility. So, it should be enumerated here, "common carrier" should be a part of this. We do not have to wait for the President because precisely, in this case, it is clear in the Constitution that transportation, as the framers have said, is really part of public utility. So, we still wait for the President to act and our law allows now.

So, we can see here China Southern Airlines coming back and forth, being already an airline which is completely owned and they have all the rights and powers like Philippine Airlines, Cebu Pacific and so forth. And so, we will have no control because, you know why, what happened here is that one, foreign-owned airlines, shipping companies, foreigners do not owe allegiance to the Philippines and therefore we cannot expect fidelity and full commitment from them, especially in cases of national emergency and security because there is a provision here that provides that in cases of emergency, public utilities can be taken over. But, if we have Chinese interest, how can you just take over when these are already recognized, and are already here in the Philippines just like Filipinos?

So, that is why, Mr. Speaker, we are saying that the exclusion of transportation, in this particular case, will therefore be directly in violation of the Constitution.

I will now go to the second point because ...

REP. GARIN (S.). Mr. Speaker.

REP. RODRIGUEZ. Please proceed.

REP. GARIN (S.). Mr. Speaker, allowing foreign companies to operate in air transport subjects them to the same regulations that we have under CAB and under CAAB. They will still be subject to regulations; whatever we have in place right now. If they need a franchise, if they need a certain authorization for a certain route, that will still apply.

In fact, I am also addressing your concern on national security, Mr. Speaker. The Committee, at the proper time, Mr. Speaker, will propose an additional phrase to Section 14 of Commonwealth Act 146 that in case where there is a concern on national security, the President may, after review, evaluation, or recommendation of whatever government agency there is, or administrative agency, the President may suspend or prohibit any merger or acquisition, transaction, or any investment in public service, Mr. Speaker, that effectively results in the grant of control, whether direct or indirect, to a foreigner or a foreign corporation.

That is one proposal that we have for an amendment at the proper time in this plenary, so that we can protect all those imbued with public interest. There can be an intervention by the government in any transaction, Mr. Speaker.

REP. RODRIGUEZ. True, there may be that particular section; but in the first instance, in the preparation and approval of the Bill, Congress should already make sure that we are protected, we are protected in our national security, because allowing foreign corporations or entities to control air and sea transportation will give them unbridled access to Philippine air space and internal waters, and more critically, our international ports.

The possibility where airlines and shipping companies would be wholly-owned by foreign interests raises a number of serious security issues that these amendments to the Public Service Act do not appear have taken into consideration. Moreover, we can see here that the power of the State to take over in times of emergency will be curtailed because there is now ownership by foreign investments, and we are duty-bound to State that foreign investments here are protected by law.

The importance, Mr. Speaker, of a public utility is also highlighted in Section 17, the same way as Section 11 as earlier stated. Let me go now to Section 17. "In times of national emergency, when the public interest so requires, the State may, during 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."

Now, if it is already owned by the government of China, or if airlines operating here are already owned by China, Mr. Speaker, how can we be able to just take over when there is now a foreign element involved? May we know, distinguished Sponsor, whether you have seen the repercussions of having—you know we were already jittery when Chinese vessels entered our internal waters. How much more when this big shipping companies can run through and go to different parts of Mindanao, in Surigao, with Cong. Ace Barbers there, entering Mindanao sea, entering our internal waters. Why, because they are already going to be allowed under this. The Bill will allow 100 percent foreign ownership. We have Chinese people coming here and taking pictures, they pass by Subic Bay and take pictures of our installations. That is for shipping. And more, you have airlines flying over here, China Southern, they put cameras and they take pictures of Fort Bonifacio or Camp Aguinaldo. That is the problem of national security, air and sea transportation really would make it very difficult to give up to foreigners because of our interest in national security. Would the distinguished colleague agree so that we can already put an amendment

and finish this? Will you be amenable if I put common carriers here as public utility, where there will be no 100 percent but only 40 percent ownership so that Filipinos will be in control, because our Constitution states that management and officials of reserved companies only allow 40 percent, that is why there is the Anti-Dummy Law. There will all be Filipinos in the airlines and the shipping industry. Would you agree that at the proper time I may propose an amendment, because I still have so many questions. It seems that it is now very clear that common carriers cannot be excluded from the definition. We cannot allow Chinese vessels and Chinese planes to just crisscross the Philippine territory.

REP. GARIN (S.). Mr. Speaker, as I mentioned earlier, I disagree. We cannot include transportation in the public utility based on the definition that we have. But based on Section 17 that was mentioned by the Gentleman, in times of national emergency, the State may temporarily take over or direct the operation of a privately-owned public utility or business affected with public interest. This means that both or anything that is of public service, whether public utility or not, can be taken over, or the government can direct its operations. If there is a Chinese vessel coming in, operating in the Philippines, in times of an emergency or national security, the government can come in and take over the ship should there be a threat or an emergency.

The proposal of the Gentleman to include all common carriers is not acceptable to the Committee.

REP. RODRIGUEZ. What is acceptable to the distinguished colleague? Let me just proceed because it has not been accepted. We go to another point. Our laws have already made sure that we protect the strategic nature of our air and seaports. Example, PD 601, as amended, expressly empowers the Philippine Coast Guard to control, operate and manage all privately-owned ships, barges and other watercraft of Philippine registry relative to the movement of strategic materials as the national security and economic interest of the country may warrant.

Now, PD 601 will be violated because there will already be Chinese-owned ships that will pass through our shores, and they will be able to know what we have in our country. Another example, Mr. Speaker, Republic Act. No. 6958 likewise identified the possibility of “emergencies or imminent danger involving national security within the airport premises.” In such case, the Philippine Air Force is given the power and authority to take charge. The problem here, Mr. Speaker, distinguished colleague, is that there is the proximity of military bases to airports. Meaning, at the airports we have, the Chinese planes can land,

and these can be a Philippine Air Force installation. This will clearly allow access. The foreign airlines can look from the plane’s windows and see what may be notable down there, just like the Col. Jesus Villamor Air Base adjacent to the NAIA. Can you imagine that? The NAIA where they will land, Villamor Air Base or the Philippine Air Force Headquarters is clearly very proximate to these foreign airlines.

The Mactan-Benito Ebuen Air Base is another airbase used by the Philippine Air Force for air operations in the Visayas area. It shares a runway with the Mactan-Cebu International Airport. Therefore, if you are going to allow foreign control on these airlines, what will happen is that they are proximate to our bases which they can easily spy on.

Do you not agree that the air bases of the Philippine Air Force are located near our civilian airports, such that if you have foreign companies coming here at will, because they will be domestically-based already or will be Philippine-registered because we allowed them 100 percent ownership, security of the Philippine Air Force bases will therefore be at risk?

REP. GARIN (S.). Mr. Speaker, currently, there are international airline companies that land or operate in our international airports. They are allowed to come in and come out of the country. What we do not allow is for them to operate within the Philippines. For example, to fly from Manila to Iloilo or domestic flights for foreign air transport companies.

Now, allowing foreign companies to land in our international airports, I do not think there is any security threat in that. In fact, once we allow foreign companies to fly from Iloilo to Cebu, they will still have to get proper authority or certification of franchise for that route. We will still have some guidelines, as well as security measures to make sure that these planes that are flying over our islands are not actually spies of other countries. They will have to go through certain requirements to be able to operate here.

Mr. Speaker, the previous proposal of Congressman Rodriguez was to include all common carriers as public utility, hence, not allowing anybody, any foreigner to operate in the Philippines.

REP. RODRIGUEZ. That is at 60-40 sharing only.

REP. GARIN (S.). Yes, 60-40, Mr. Speaker.

Mr. Speaker, the threats posed; probably by sea and by air are not as much as the threats to land transport. Hence, you cannot equate all common carriers when it comes to national security and say that the threats are the same on air, sea and land. Hence, it is difficult to accept, Mr. Speaker, that all common carriers should be exempted from the liberalization that we are proposing.

REP. RODRIGUEZ. My colleague will accept air and sea, but not land transportation.

REP. GARIN (S.). Maybe, Mr. Speaker.

REP. RODRIGUEZ. On land transportation, it may not seem that there is much security interest there but the interest of our Filipino entrepreneurs.

Can you imagine we have, from Manila to Bicol, Chinese drivers driving our Chinese buses? What will happen to our workers? We are protecting our workers, but since you are already opening land transportation, then wala na. We will not anymore have these big countries with so much money, like China, overrun our land routes, and therefore, put in a lot of buses with their own drivers and their own officials. What will happen to the Filipino drivers and conductors? What will happen to our companies such as Victory Liner, Fariñas Transit and all the others? It will now really have a big effect on our national economy.

That is why I am saying that if there is an exemption, it should be to include public utilities, include all in transportation. There is enough Filipino capital in transportation companies here that we do not need to open this up to foreigners.

In our air industry, we have the Philippine Airlines, we have the Cebu Pacific and we have Air Asia. These are locally-bred. These are our own, and therefore, we are able to make sure that they will be flying in the interest of the Filipino people.

REP. GARIN (S.). Mr. Speaker, we have to remember that we still protect the small and medium enterprises. There are laws that prohibit investments of foreigners or foreign-owned companies. In fact, I think, we just took up Retail Trade, as well as the Foreign Investment Act. There is a \$200,000 minimum requirement for a foreigner to invest in a business. When we talk about these businesses like tricycles and smaller businesses, they will still be protected and that has been taken into account already, Mr. Speaker. Also, if you have Chinese drivers wanting to work in the Philippines, we still have our own regulations for that. We still protect our own human resources. In fact, if there are drivers still in the Philippines, a Chinese driver cannot come here. When the time comes when we run out of drivers, that is the only time they can come here. But as far as I know, the Immigration Law prevents that for the time being, because we can only allow, I think, technical people or experts to come in when there are no Filipinos that can perform such job, Mr. Speaker.

REP. RODRIGUEZ. Yes, Mr. Speaker, distinguished colleague, precisely, by not including transportation,

common carriers here, we have practically opened our doors. They are considered as having the rights of Victory Liner, of Fariñas Transit, DLTB and others because the restriction on maximum capitalization of 40 percent equity rights will be removed already.

Is the distinguished colleague aware that recent events have likewise shown that the threat of encroachment from our neighbors is neither imagined or insignificant? Vietnamese and Chinese vessels have within the last 12 months been repeatedly caught fishing and extracting valuable resources from our territorial waters. This was climaxed by the highly publicized sinking of a Filipino fishing boat by a Chinese vessel that was unlawfully situated in our areas. Now, when you allow these Chinese vessels, they will be around and we may not even know because they are the only persons there. They will now extract, they will get our sea turtles, they will get all our shells, they will get our reefs, our corals because they are already allowed to be on our waters. Unlike now, you have to get permission. But now, we are already open to foreign interest in shipping. Is that not correct, distinguished Sponsor?

REP. GARIN (S.). Mr. Speaker, those acts, I think, those are illegal acts whether you are a foreigner or not, then it is not allowed to be done here. Addressing the concern of Congressman Rodriguez, I would like to reiterate there are proposals to amend the current version that we include provisions that would allow the President, or upon the recommendation of the administrative agency, that when it comes to national security concerns, they can intervene in any transaction, any merger or any activity that will affect the ownership of such activity or such business. If it is foreign-owned and concerns our national security or welfare, then the President can intervene and stop or do away with the negotiation, Mr. Speaker.

REP. RODRIGUEZ. Thank you, Mr. Speaker.

REP. GARIN (S.). That is one of the proposals that we will introduce at the proper time, Mr. Speaker.

REP. RODRIGUEZ. Yes, Mr. Speaker, not only do we depend on the President. We have to do it in Congress. That is why we may not put as no. 5 transportation of common carriers in the definition, but there might be a provision like this, Mr. Speaker: "Notwithstanding the foregoing, in the interest of national security, the restriction of foreign ownership imposed on public utilities under the 1987 Constitution

shall continue to apply to a person that manages, operates, and controls public service involving air and sea transportation.” Will that be a possibility, that there can be an exception to the rule to make sure that we protect Philippine national security?

REP. GARIN (S.). Mr. Speaker, it is a possibility, but if the good, honorable Congressman Rodriguez will allow the Committee to review the consequences of the proposal and to maybe, if not, then we can qualify the proposal. The Sponsor is willing to consider his proposal.

REP. RODRIGUEZ. Thank you, Mr. Speaker, distinguished colleague. I am now going to my third point. To summarize, we have already clearly established that the constitutionality of this Bill is questionable, to say the least. And, if brought to the Supreme Court, clearly, this Bill excludes transportation as a public utility, although the intent of the Commissioners is really to include public utility in Article XII of Section 11. We have already shown that as my first point—the point of constitutionality. We are clear that this will violate the constitutional provision of the 60-40 on public utilities because transportation, as already stated by the Commissioners, is clearly within that definition.

My second point is that national security demands that we cannot pass this kind of a Bill that will open up our skies and our seas to 100 percent-owned foreign interest. National security should be protected by all means because that is the survival of the sovereignty of our country.

Now, I will go to my third point, Mr. Speaker. Tradition, through the Civil Code and through jurisprudence, has already established the fact that our law—the Civil Code of the Philippines and of course, jurisprudence from a long line of cases and I know this, Mr. Speaker, because this Representation is the author of the book, *The Law on Transportation*. This author has taught for 30 years in the best university—San Sebastian, the best in Quiapo.

REP. GARIN (S.). I beg to disagree, Mr. Speaker.

REP. RODRIGUEZ. Precisely because, what school do you come from, Mme. Sponsor?

REP. GARIN (S.). Ateneo Law School.

REP. RODRIGUEZ. That is the best in Makati. (*laughter*). And UP is the best in Diliman, right here. So, there is no question about what is the best. But the point is that my book, and that is why this

is close to my heart, because the book, *The Law on Transportation*, that is precisely, the book that governs transportation, is a book that explains and annotates Article 1732 of the Civil Code. And the Civil Code provides, and here is the definition clearly showing that—this is, has been and will always be—a public utility:

Article 1732. Common carriers are persons, corporations, firms, or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water or air for compensation offering their services to the public.

That is why it is called public utility. It offers itself to the public. And, in a long line of cases, the Supreme Court has established that the common carriers are public utilities. And that is why, if you proceed to the diligence, required for transportation and common carriers, under Article 1733 of the Civil Code, it has extraordinary diligence, not only the diligence of a good father of a family, which is the ordinary diligence of all persons. But when you are engaged in air, sea and land transportation, the law elevates you to the requirement of extraordinary diligence in the vigilance as to the safety of passengers and of the goods that are being transported.

If we are going now with this definition, you are not going to consider public utility, transportation as public utility. Our problem, Mr. Speaker, is that we cannot hold anymore transportation companies, airlines, shipping companies and land transportation. We cannot anymore demand extraordinary diligence.

Why is it important to have extraordinary diligence? Because, once the fact of injury is established, the evidence, the presumption of guilt goes immediately to the operator of the common carrier. You do not have to prove negligence once you just proved that you were injured. That is the extraordinary diligence.

Mr. Speaker, if we lower the category of transportation from an ordinary business not a public utility, then we have a danger ...

REP. DE VENECIA. Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). The Majority Leader is recognized.

REP. DE VENECIA. We would like to invoke Section 91 of our Rules that states, “A Member shall not be allowed to speak for more than one (1) hour in debate on any question”, and we would

like to respectfully remind Hon. Rufus Rodriguez that he has exceeded that hour.

REP. RODRIGUEZ. Mr. Speaker, I would like to appeal.

I have only discussed—I have 10 points, we are only on the third point. So if possible ...

THE DEPUTY SPEAKER (Rep. Hataman). The session is suspended.

REP. RODRIGUEZ. If possible, I can continue tomorrow ...

REP. DE VENECIA. Mr. Speaker, I move to suspend the session..

REP. RODRIGUEZ. ...because these are very leading ...

SUSPENSION OF SESSION

THE DEPUTY SPEAKER (Rep. Hataman). The session is suspended.

It was 7:47 p.m.

RESUMPTION OF SESSION

At 7:48 p.m., the session was resumed.

THE DEPUTY SPEAKER (Rep. Hataman). The session is resumed.

SUSPENSION OF CONSIDERATION OF H.B. NO. 78

REP. DE VENECIA. Mr. Speaker, I move that we suspend the consideration of House Bill No. 78, as contained in Committee Report No. 5.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

REP. DE VENECIA. Mr. Speaker, I move that we recognize Honorable Minority Leader Bienvenido “Benny” M. Abante Jr.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Honorable Abante is recognized.

ELECTION OF MEMBERS TO COMMITTEES

REP. ABANTE. Mr. Speaker, may I move

for the election of the following Members for the Minority to the following Committees, Mr. Speaker:

The Minority Leader read the names of the House Members elected to the various Committees, per Journal No. 20, dated September 24, 2019.

COMMITTEE ON DANGEROUS DRUGS

As Senior member:

Rep. Arnolfo “Arnie” A. Teves Jr.

As members:

Rep. Sergio C. Dagooc, and

Rep. Argel Joseph T. Cabatbat

COMMITTEE ON GOOD GOVERNMENT AND PUBLIC ACCOUNTABILITY

As Senior member:

Rep. Gabriel H. Bordado Jr.

As members:

Rep. Stella Luz A. Quimbo,

Rep. Bayani F. Fernando,

Rep. Argel Joseph T. Cabatbat,

Rep. Angelica Natasha Co, and

Rep. Joseph Stephen “Caraps” S. Paduano

COMMITTEE ON MICRO, SMALL AND MEDIUM ENTERPRISE DEVELOPMENT

As Senior member:

Rep. Angelica Natasha Co

As members:

Rep. Argel Joseph T. Cabatbat, and

Rep. Stella Luz A. Quimbo

COMMITTEE ON NATIONAL DEFENSE AND SECURITY

As Senior member:

Rep. Argel Joseph T. Cabatbat

As members:

Rep. Joseph Stephen “Caraps” S. Paduano, and

Rep. Jose Christopher Y. Belmonte

SPECIAL COMMITTEE ON NORTH LUZON GROWTH QUADRANGLE

As member:

Rep. Jose “Bonito” C. Singson Jr.

SPECIAL COMMITTEE ON REFORESTATION

SUSPENSION OF SESSION

As members:

Rep. Stella Luz A. Quimbo, and
Rep. Eufemia “Ka Femia” C. Cullamat
I so move, Mr. Speaker.

REP. TADURAN. Mr. Speaker, I move that we suspend the session until tomorrow, September 25, 2019 at 3:00 p.m.

I so move, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Hataman). Is there any objection? (*Silence*) The Chair hears none; the motion is approved.

The said Members are elected.

The Majority Leader is recognized.

THE DEPUTY SPEAKER (Rep. Hataman). The session is suspended until three o’clock tomorrow, September 25.

It was 7:50 p.m.