



REPUBLIC OF THE PHILIPPINES

S e n a t e

Pasay City

Journal

SESSION NO. 92

Tuesday, May 31, 2005

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 92
Tuesday, May 31, 2005

CALL TO ORDER

At 3:51 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Manuel B. Villar Jr. read the *Serenity Prayer* by Reinhold Niebuhr:

God, give us the grace to accept with serenity
the things that cannot be changed,
courage to change the things
which should be changed,
and the wisdom to distinguish
the one from the other.

Living one day at a time,
Enjoying one moment at a time,
Accenting hardship as a pathway to peace,
Taking, as Jesus did,
This sinful world as it is,
Not as I would have it,
Trusting that You will make all things right,
If I surrender to Your will,
So that I may be reasonably happy in this life,
And supremely happy with You forever in the next.

Amen.

ROLL CALL

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

Angara, E. J.	Lacson, P. M.
Arroyo, J. P.	Lapid, M. L. M.
Cayetano, C. P. S.	Lim, A. S.
Defensor Santiago, M.	Madrigal, M. A.
Drilon, F. M.	Pangilinan, F. N.
Ejercito Estrada, J.	Pimentel Jr., A. Q.
Ejercito Estrada, L. L. P.	Revilla Jr., R. B.
Enrile, J. P.	Roxas, M.
Flavier, J. M.	Villar Jr., M. B.

With 18 senators present, the Chair declared the presence of a quorum

Senators Magsaysay, Osmeña and Recto arrived after the roll call.

Senator Gordon was on official mission abroad.

Senator Biazon was absent.

APPROVAL OF THE JOURNAL

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 91 and considered it approved.

REFERENCE OF BUSINESS

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

**MESSAGES OF THE PRESIDENT
OF THE PHILIPPINES**

Letters of Her Excellency, President Gloria Macapagal Arroyo, dated May 28, 2005, certifying to the necessity of the immediate enactment of the following Senate bills, pursuant to the provisions of Article VI, Section 26(2) of the 1987 Constitution:

Senate Bill No. 1936, entitled

**AN ACT ESTABLISHING A CREDIT
INFORMATION SYSTEM, AND FOR
OTHER PURPOSES,**

to address the urgent need of establishing a centralized and efficient credit information system to improve the overall availability of credit to small borrowers, lower the cost of credit to responsible borrowers and reduce excessive dependence on collateral to secure credit facilities, thereby enabling financial institutions to lower overall credit risk for a healthier and more stable financial system;

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Senate Bill No. 1943, entitled

AN ACT AMENDING REPUBLIC ACT NUMBERED SEVENTY-SIX HUNDRED AND FIFTY-THREE ENTITLED "THE NEW CENTRAL BANK ACT" AND FOR OTHER PURPOSES,

to address the urgent need of adopting international best practices in the area of banking supervision and implementing other measures that will strengthen the regulatory and supervisory powers of the *Bangko Sentral ng Pilipinas* over banks and other financial institutions; and

Senate Bill No. 1949, entitled

AN ACT GOVERNING THE ESTABLISHMENT, OPERATION AND REGULATION OF LENDING COMPANIES,

to address the urgent need of regulating the establishment of lending companies by placing their operations on a sound, efficient and stable condition and by laying down the minimum requirements and standards under which they may be established.

To the Committee on Rules

BILLS ON FIRST READING

Senate Bill No. 2029, entitled

AN ACT DEFINING THE JURISDICTION OF LABOR CASES BETWEEN THE NATIONAL LABOR RELATIONS COMMISSION AND THE REGIONAL OFFICES OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, AMENDING FOR THIS PURPOSE ARTICLES 129 AND 217 OF PRESIDENTIAL DECREE FOUR HUNDRED FORTY-TWO (P.D. 442), AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES

Introduced by Senator Jinggoy Ejercito Estrada

To the Committee on Labor, Employment
and Human Resources Development

Senate Bill No. 2030, entitled

AN ACT PROVIDING FOR A P100.00 DAILY ACROSS-THE-BOARD INCREASE IN THE SALARY RATES OF EMPLOYEES AND WORKERS IN THE PRIVATE SECTOR AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

To the Committee on Labor, Employment
and Human Resources Development

RESOLUTIONS

Proposed Senate Resolution No. 268, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEES ON GOVERNMENT CORPORATIONS AND PUBLIC ENTERPRISES; AND PUBLIC SERVICES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE REPORTED HAZARD IN THE LIGHT TRAIL TRANSIT (LRT) LINE 2 WITH THE END IN VIEW OF ENSURING THE PROVISION OF SAFE AND CONVENIENT MEANS OF TRANSPORTATION TO THE PUBLIC

Introduced by Senator Jinggoy Ejercito Estrada

To the Committees on Public Services; and
Government Corporations and Public Enterprises

Proposed Senate Resolution No. 269, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON TRADE AND COMMERCE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE PROLIFERATION OF THE ILLEGAL IMPORTATION OF USED VEHICLES ENTERING THE DOMESTIC MARKET, WITH THE END IN VIEW OF REVITALIZING AND STRENGTHENING THE LOCAL AUTOMOTIVE INDUSTRY

Introduced by Senator Jinggoy Ejercito Estrada

To the Committee on Trade and Commerce

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COMMUNICATION

Letter from Executive Secretary Eduardo R. Ermita of the Office of the President of the Philippines, dated May 16, 2005, transmitting to the Senate the letter of even date of Her Excellency, President Gloria Macapagal Arroyo, addressed to Speaker De Venecia of the House of Representatives, certifying to the necessity of the immediate enactment of House Bill No. 4275, entitled

AN ACT AMENDING SECTIONS 15 AND 31 OF REPUBLIC ACT NO. 6770, OTHERWISE KNOWN AS "THE OMBUDSMAN ACT OF 1989" AS AMENDED, ENSURING OBJECTIVITY AND THE PROTECTION OF WITNESSES IN THE PROSECUTION OF CASES BY THE OMBUDSMAN, ALLOWING PRIVATE LAWYERS TO ACT AS PROSECUTORS ON HIS BEHALF, AND FOR OTHER PURPOSES,

pursuant to the provisions of Article VI, Section 26(2) of the Constitution.

To the Committee on Rules

Thereafter, the Chair invited the attention of the Committee on Rules to the messages of the President relative to Senate Bill Nos. 1936, 1943, 1949 and House Bill No. 4275 and requested it to look into the possibility of prioritizing said measures.

Senator Pangilinan gave assurance that the Committee would do so.

COMMITTEE REPORT NO. 26 ON SENATE BILL NO. 1952

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1952 (Committee Report No. 26), entitled

AN ACT GRANTING PHILIPPINE
CITIZENSHIP TO MAHMOUD A.M.
ASFOUR.

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

Thereupon, the Chair recognized Senator Arroyo, Sponsor of the measure.

INTERPELLATION OF SENATOR DEFENSOR SANTIAGO

Senator Defensor Santiago noted that the House bill originally filed by then Cong. Rodolfo Agbayani in 2004 and other similar bills cite that under Article IV, Section 1 of the Constitution, "The Congress is empowered to grant Philippine citizenship to foreigners who have rendered outstanding service to the country and to the people."

Upon request of Senator Defensor Santiago, Senator Arroyo read Article IV, Section 1 of the Constitution, to wit:

"Section 1. The following are citizens of the Philippines:

- (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution;
- (2) Those whose fathers or mothers are citizens of the Philippines;
- (3) Those born before January, 1973, of Filipino mothers, who elected Philippine citizenship upon reaching the age of majority; and
- (4) Those who are naturalized in accordance with law."

Senator Defensor Santiago pointed out that if the Members are to be strict about the constitutional provision, it is not correct to cite that "Congress is empowered to grant Philippine citizenship to foreigners who have rendered outstanding service to the country and the people." She stated that the Members should take caution because nowhere in the Constitution is that statement found. She said that, in fact, the Constitution states, "Those who are naturalized in accordance with law."

Senator Arroyo asserted that Article IV, Section 1(4) refers to a congressional grant, thus, when Congress passes a law granting citizenship, it is the law.

Senator Defensor Santiago argued that the aforesaid statement in the bill misleads other Members who have not read the Constitution. She said that in this instance, Congress is being asked to pass a law that naturalizes a foreigner, a proposal congruent with the Constitution. Senator Arroyo suggested that Congressman Agbayani be forgiven for the oversight.

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Asked about the purpose and status of Mr. Asfour when he came to the Philippines in 1984, Senator Arroyo stated that Mr. Asfour came to the Philippines as a tourist, fell in love with and married a Filipina, and decided to stay for good. Consequently, he said, Mr Asfour changed his status to permanent resident. He recalled that the citizenship bill of Mr. Asfour was first taken up during the Twelfth Congress by the Committee on Justice and Human Rights which was then chaired by Senator Pangilinan.

Asked if Mr. Asfour came as a tourist but intended to apply for permanent residence, Senator Arroyo replied in the negative.

On whether Mr. Asfour's marriage to a Filipino facilitated the change of status, Senator Arroyo stated that Mr. Asfour does not know if it helped.

On whether Mr. Asfour has ever applied for naturalization in a judicial forum, Senator Arroyo replied that he has not. He explained that when a foreigner applies for a citizenship through the court, he has to prove that he merits the citizenship; on the other hand, citizenship granted through a congressional act is usually initiated by certain sponsors who feel that the candidate has done something meritorious that makes him fit to be a Filipino citizen. Such is the case of Mr. Asfour who is supported, on the part of the House, by several congressmen from Cagayan Valley and, on the part of the Senate, by Senators Enrile, Madrigal, Lim and Revilla, he said.

Senator Arroyo mentioned that as certified by PNB-Bayombong Branch and Citibank, Mr. Asfour has substantial accounts in said banks and has paid taxes thereon.

Queried about the occupation of Mr. Asfour, Senator Arroyo stated that he was former chief credit officer of Citibank. He confirmed that Mr. Asfour has retired and is living on his bank deposits.

At this point, the Chair asked if Mr. Asfour was employed in any local branch of Citibank, Senator Arroyo replied in the negative.

Senator Defensor Santiago noted that since Mr. Asfour's arrival in the Philippines, he has been living on his bank deposits and not on earnings devised from a livelihood, and he has devoted his time to social civic projects. Senator Arroyo stated

that this seems to be the case because being a foreigner, Mr. Asfour cannot own properties.

Asked about Mr. Asfour's work experiences, Senator Arroyo revealed that Mr. Asfour held key positions in the field of credit, investment, special assets, government lending and risk asset management in banks that include First National City Bank, Citibank, Saudi American Bank, Saudi Hollandi Bank and National Commercial Bank; and his educational credential includes a Bachelor of Arts degree, a master's degree in banking and several advanced professional courses. He confirmed that in the course of Mr. Asfour's work as a banker, he saved enough money that he lived on when he moved to the Philippines.

On whether Mr. Asfour is engaged in business with the Philippine government, Senator Arroyo replied in the negative. As regards the construction of the Rizal shrine, he explained that Mr. Asfour did it on his own using personal funds that he brought to the country. He added that the shrine does not charge any admission fee and is open to the public.

In reply to another query, Senator Arroyo stated that the children of Mr. Asfour hold Philippine passports and are aged 16, 14 and 6, respectively.

INTERPELLATION OF SENATOR PIMENTEL *(Continuation)*

Asked by Senator Pimentel how Mr. Asfour brought his money into the Philippines, Senator Arroyo replied that it was transferred through the banks and invested in the Philippines.

Senator Pimentel expressed hope that the money was not the product of illicit activities. He warned foreigners that it is not easy to acquire Philippine citizenship through an act of Congress that, in fact, should be discouraged because Congress is obviously not equipped to dig deeper into the character of the applicant such as putting him on the witness stand and asking him about his business dealings in the Philippines. This would not be the case, he emphasized, if the naturalization process had been done through the courts. Nonetheless, he stated that he would give Mr. Asfour the benefit of the doubt in the absence of evidence that would destroy the presumption that he came to Congress in good faith. He observed that if the residents of

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Nueva Vizcaya believe that Mr. Asfour is a good man worthy to become a citizen of the Philippines, then it is a good enough endorsement.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

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

TERMINATION OF THE PERIOD OF AMENDMENTS

There being no committee or individual amendment, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of amendments.

APPROVAL OF SENATE BILL NO. 1952 ON SECOND READING

Submitted to vote, there being no objection, Senate Bill No. 1952 was approved on Second Reading.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1952

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

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended,

It was 4:28 p.m.

RESUMPTION OF SESSION

At 4:51 p.m., the session was resumed.

COMMITTEE REPORT NO. 14 ON SENATE BILL NO. 1943

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 1943 (Committee Report No. 14), entitled

AN ACT AMENDING REPUBLIC ACT NUMBERED SEVENTY-SIX

HUNDRED AND FIFTY-THREE ENTITLED "THE NEW CENTRAL BANK ACT" AND FOR OTHER PURPOSES.

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

The Chair recognized Senator Angara for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR ANGARA

In sponsoring Senate Bill No. 1943, Senator Angara delivered the following speech:

Financial Reform Agenda II: Amendment of the New Central Bank Act

In behalf of the Committee on Banks, Financial Institutions and Currencies, I have the pleasure to introduce the amendments to the New Central Bank Act or the *Bangko Sentral ng Pilipinas*.

In 1993, Congress made a very important milestone in the financial system. We overhauled the entire Central Bank and created the new *Bangko Sentral*. With the BSP as its overseer, the Philippine banking system withstood – relatively unscathed – the Asian financial crisis of 1997.

Indeed, the BSP plays a critical role in our development as a nation. Its wise stewardship will accelerate economic growth. On the other hand, its failure will destabilize the economy. With the dominance of the banking system in the financial sector, a situation very unique to the Philippines where financing of enterprises is almost 95% dependent on banks which is not true in any other country around us – its assets make up 82.3 percent of the whole system – the BSP's role is undoubtedly important.

Developments in the banking environment

More than a decade has passed since the enactment of the BSP Charter. During that period, the financial and banking

environments have almost changed dramatically and radically.

The liberalization of the financial market, the conglomeration of financial institutions, and advances in technology have morphed the world of banking and exposed banks to an increased level of risks.

The liberalization of the banking system ushered in new players -- both local and foreign. It allowed banks to take advantage of international opportunities and encouraged efficiency and competition. The increased competition forced banks to continually develop products and services to expand their clientele. However, some of these innovations have unclear, uncertain and unforeseen risks, exposing banks to increased threat of failure.

On the other hand, the emergence of financial conglomerates made the ownership structure of financial institutions inter-related. Such inter-connectiveness or inter-relation exposes the banking system to risk of failure due to contagion from problematic subsidiaries and affiliates. In fact, we may attribute some of the bank failures we encountered in this country to the failure of related entities more than the failure of the mother bank.

And probably the most interesting development in our financial system is the technological advances. E-banking innovations enable our citizens to enjoy the convenience of phone banking, Internet banking, and mobile banking. Banking transactions are now feasible on a 24-hour by 7-day basis from the workplace, from the home, and indeed from wherever one can use a mobile phone. These technologies, however, also come with operational hazards which further increase the risks in the financial system.

Weakened regulatory framework of the BSP

Banking has indeed evolved since the passage of the BSP Charter in 1993. With rapid innovations in the market, BSP's powers and authority should be correspondingly made more effective and responsive.

It is our duty, as legislators and policy-makers, to ensure that the BSP is up to the challenge in the new financial environment. It is our task to see that BSP's regulatory framework is kept abreast with the global trends in banking supervision.

Proposed amendments

Against this background, the Committee on Banks, Financial Institutions and Currencies proposes essential amendments to the BSP Charter. This is the second component of the Committee's financial reform agenda which we submitted about two months ago. The first is the setting up of a credit bureau.

The proposals attempt to achieve a four-fold objective: The first is to strengthen the bank's supervisory powers, prudential jurisdiction and authority; the second is to empower the BSP in improving banks' ownership and capitalization; the third is to enhance the bank's administration of the monetary, credit and banking system; and the fourth, to encourage the BSP and its personnel to become stronger and more responsive.

Let me discuss each one in a little more detail.

First objective: Strengthened supervisory powers of the BSP

First, BSP's supervisory powers will be made more effective through:

- ◆ Consolidated supervision. This means that the supervision of the banks will not stop at the parent bank but will also reach out to the subsidiaries and affiliates. This is the modern international best practice. We are adopting it.
- ◆ Stringent requirements on DOSRI borrowings. We tighten up the rules on borrowings of related or interested stockholders, directors, or officials.
- ◆ Stronger and more responsive powers in the receivership and liquidation of banks; and
- ◆ Higher penal and administrative sanctions.

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The adoption of the international best practice of consolidated supervision will authorize the BSP to examine the books of subsidiaries and affiliates. This is essential with the emergence of financial conglomerates since banks can be adversely affected by the failure of its related entities.

The stringent requirements on DOSRI borrowings will promote transparency. Waiver of the secrecy of bank deposits shall be required for borrowings by directors, officers, stockholders and related interests in excess of 1% of the bank's capital. The benchmark was reduced from 5% to 1% of bank capitalization. This amendment will promote transparency since examiners will now be able to scrutinize "related party" transactions.

The bank will be made more responsive in dealing with problem banks. A bank's announcement of unilateral closure, suspension of payment of deposits and deposit substitutes, or inability to pay liabilities as they become due are now grounds for its closure. Prompt closure of problematic banks will prevent the dissipation of bank assets. Thus, losses of depositors' money and of public funds will be minimized.

Criminal penalties for violation of banking laws and regulations will be increased from P20,000.00 to P2 million. Administrative sanctions will be raised from P30,000.00 per day to P300,000.00 (subject to a graduated scale depending on bank classification). In the past, banks, undeterred by very minimal sanctions, openly and brazenly violated banking laws and regulations in expectation of huge profits. This is illustrated in foreign currency trading because the fine is only P30,000 a day, whereas the profit in foreign exchange trading is much more enormous that they do not mind paying P30,000 a day. The increase in penal and administrative sanctions will deter this industry practice of defiance.

Second Objective: Improved bank ownership and capitalization

The second objective is to improve the quality of bank ownership by requiring prior BSP approval of transfers or acquisitions of

substantial number of shares of supervised institutions. This is a proactive measure that would prevent the entry of undesirable persons into the banking system. This vetting system will ensure that unqualified and undeserving persons will not enter the banking institution.

The adequacy of banks' capital will be maintained by empowering the BSP to direct the infusion of additional capital. Likewise, the BSP may direct banks to accept new investors or merge or consolidate with a qualified financial institution. This could become a key instrument in preventing bank failures.

Third Objective: Enhanced administration of the monetary, credit and banking system

The third objective is the enhancement of the payments system, empowering the BSP to gather information on a broader scale, and allowing it to obtain membership in international and regional organizations. This will guarantee smooth operation and discharge by the BSP of its functions.

Fourth Objective: Revitalized BSP organization

And the fourth objective of enhancing the morale of the BSP personnel is to insulate them from unnecessary, needless and harassment suits. The requirement of extraordinary diligence in the exercise by BSP personnel of their functions is quite unique to our system and this extraordinary level of diligence has imposed a very heavy pressure and burden on BSP employees and they are vulnerable to all sorts of suits in the performance of their functions.

What we are proposing is that the diligence required of the BSP personnel should be the same as the diligence required of other public servants which is, that they are otherwise not liable unless they commit bad faith, malice, gross negligence, or gross misconduct.

So, with these proposed amendments, we hope that the BSP will become an even more effective watchdog of the banking and financial system.

Handwritten initials

We are embarking on an uncertain and perilous period. We need to strengthen our financial banking system but we would not be successful if the watchdog itself is a puppy, a weak watchdog. This proposal hopes to strengthen the *Bangko Sentral ng Pilipinas*.

I urge our colleagues to consider this measure and get their approval.

MANIFESTATION OF SENATOR PANGILINAN

Senator Pangilinan manifested that Senator Enrile has expressed his desire to deliver his cosponsorship speech in the next day's session.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1943

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

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:05 p.m.

RESUMPTION OF SESSION

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

ADJOURNMENT OF SESSION

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

It was 5:08 p.m.

I hereby certify to the correctness of the foregoing.

OSCAR G. LABES
Secretary of the Senate
Yes by elr

Approved on June 1, 2005