

# Keys Projects of the Pending Legislative Agenda

**It is crucial for the government to give priority, through an organized use of urgent matters, to the bills that will have major impact on making Chile a more competitive and developed country. The present document ranks the most relevant from over 130 bills that are currently in the pipeline.**

An efficient and effective legislative process is not that which creates the highest number of laws. Regulatory excesses often generate more costs than benefits. Consequently, the legislative productivity should not be measured only in terms of the number of approved laws in a specific government period. The efficiency of a legislative process should consider the quality of the laws that are dealt with by the National Congress; the possibilities of each legal instrument to comply with the objectives that motivated their introduction; the potential difficulties foreseen in their implementation, and other aspects such as the proceeding of the bill in a reasonable period of time (that will depend on the complexity of the matters to be dealt with) and through a good use of the available human resources.

Therefore, rather than the number of initiatives sent by one or other Administration to be discussed in the Congress (and its efficiency measured in the amount of approved projects<sup>1</sup>), the perspective that interests us is related to the quality of the public policies promoted through the legislative process. In this respect, the legislative agenda carried forward by the Administration of Sebastián Piñera has been miscellaneous. It includes reforms in different spheres of public policies regarding the modernization of the State, the further development of democracy, the protection of security and public order, the continuous improvement of the

educational sector, and the refinement of our labor and economic institutional framework, with the aim of making Chile a more competitive country.

Notwithstanding the bills promoted by this government, whose orientation we have not shared<sup>ii</sup>, and beyond the fact that we have called the attention upon specific areas that need to be developed (such as competitive issues), we have to recognize that there are several initiatives that deserve to be highlighted for its contribution to the creation of a developed country, with a juridical and institutional framework that do justice to the recommendations made by renowned international organisms.

### **Relevant Initiatives that have Already Become a Law**

Under the recently described perspective, different legal initiatives that are worth mentioning have began in presidential messages that have turned into laws of the Republic, which have generated great benefits for the country.

As for further developing our democracy, we should highlight the Law N° 20,640 that established the primary elections system; Law N° 20,568 that regulated the automatic registration, established the voluntary vote and updated the voting system; and Law N° 20,678 that ordered the direct election of Regional Councilors (CORES). In social policy matters, the approval of Law N° 20,530, created by the Ministry of Social Development, and Law N° 20,595, which created the Ethical Family Income, stand out.

With regard to economic development and competitiveness, we underline the importance of Law N° 20,701, which streamlines the proceeding to grant electric concessions, Law N° 20,555, known as the financial SERNAC (National Consumer Service); Law N° 20,659 that established a simplified regime for the constitution of commercial firms; Law N° 20,552 about modernization and encouragement of competition in the financial system (which established public bidding of insurances associated to mortgage loans); Law N° 20,570, which modified Law N° 20,241 on tax incentive for private investment in research and development; and Law N° 20,544 on taxation of derivatives<sup>iii</sup>.

With respect to security and public order, we can highlight the Law N° 20,594, which created disqualifications for those convicted for sex crimes against children and established a record of these disqualifications; Law N° 20,593 that created the national fugitive register and Law n° 20,601 that increased penalties for stealing automated teller machines. In the education agenda, and despite how hard it was to achieve consensus to advance in this matter, the portfolio has managed to approve relevant legal initiatives. Among them, we can mention the Law N° 20,501 of Quality and Equity;

Law N° 20,550 on preferential school subsidy; Law N° 20,637 that improved the State subsidies for educational institutions, by increasing the regular subsidy (3.5%, added to the previous increase of 1.5% of the Law N° 20,501); a 50% increase of the preferential school subsidy (SEP, in Spanish) for 5<sup>th</sup> and 6<sup>th</sup> grade students; a SEP increase (it duplicated) for 7<sup>th</sup> and 12<sup>th</sup> grade students; the inclusion of secondary school in the preferential school subsidy regime one year in advance; and the Law N° 20,634 which grants benefits to debtors of state-guaranteed loans.

### **Pending Legislative Agenda**

The legislative agenda pending in the Congress is copious and diverse, and it should be complemented by other bills announced by the Executive to date (among others, the bill creating the Council for Financial Stability, the Reform to the National Congress, etc.). Considering that this Administration will conclude in just a few months, priorities must be given to the bills intended to giving Chile –both in the ends as in the means- a better institutional framework, under a more consolidated juridical framework that ensures efficiency in the use of public resources and allows us to reach development through increased growth, without falling into regulatory excesses. A criterion of political reality is also needed to notice, among priority bills, those that should be put an extra effort because they have greater possibilities of being dispatched by the Congress, notwithstanding the improvements that these initiatives may undergo during their proceeding.

It is not an easy task to rank the priorities of the legislative agenda if we consider the volume of bills being handled in the legislative agenda (more than 130 bills) and which “compete” during these months with the public sector Budget Law Bill for 2014. Additionally, there is the field activity inherent to parliament members in an election year. Nevertheless, we present the following list of bills that, introduced by the Piñera Administration (including the substitutive indications)<sup>iv</sup>, should concentrate, in our opinion, the attention of the government and the parliament members for the reasons explained in detail below.

### **Improving the State Modernization**

We believe that there are two primary initiatives: that which establishes the *Organic Law of the National Statistics Institution*<sup>v</sup>, and the bill creating the *Securities and Insurances Commission*<sup>vi</sup>. In the first case, the new institutional framework will result in generating more trust, which is essential when considering that statistics and data collection processes are relevant for developing public policies and a source of information for the citizens. On the other hand, the bill replacing the Superintendence of Securities and Insurances by a Securities and Insurances Commission

should be highlighted for being the first to advance in redesigning the regulatory architecture of the financial market's supervising bodies, surpassing the Superintendence model and establishing a ruled procedure to improve the regulatory quality, and also taking steps towards a more modern penalizing process, with higher levels of legal certainties to those who are supervised.

### Further Development of Democracy

In this area we should highlight the bills on *probity in the public service*<sup>vii</sup> and the *reform to the organic law that regulates the political parties*<sup>viii</sup>. The first bill adapts and reorganizes the regulations in force related to administrative probity, stating the obligation to declare interests and assets; and adds the obligation of certain authorities to constitute a blind trust or discretionary management instruction of the assets portfolio, thereby constituting an organic whole on probity in the exercise of public service. The bill is a step forward in the pro-transparency reforms agenda and democracy's further development. On the other hand, the bill aimed at reforming the political parties organic law deals with essential issues such as the structure and internal democracy of political parties, requiring standards in terms of organic structure and participation that are valuable and necessary.

### Strengthening Public Order and Security

The *bill that strengthens the protection of public order*<sup>x</sup> is properly focused and proposes to modify the penalty type for public disturbances, increase the penalties for public disturbance offenders when acting with covered faces (*“encapuchados”*) or other elements that hinder, complicate or delay the identification of the perpetrator, and strengthen the protection of the authority. It seeks to refine the penalty types associated to public disorders (typical of demonstrations), grant more power to the police forces and, particularly, augment the responsibility of the designated.

Another interesting bill aims at *amending the Criminal Code*<sup>x</sup> *with the purpose of strengthening the protection of the victims*, enhance the role of the Public Ministry and strengthen the police action and the efficiency of the criminal courts system. The initiative aims at making relevant improvements to the Criminal Justice (reform of the criminal justice reform), granting more early reaction powers to the police forces; establishing higher requirements for the Public Ministry; and better protection measures for the victims, enabling more space for the private complainants' proceedings.

Another relevant initiative *eliminates the current National Service for Minors (Servicio Nacional de Menores, SENAME)*<sup>xi</sup>, *creating two new services for attending children and teenagers*. The bill seeks to modify the SENAME by

creating two differentiated services (one for the protection of children and teenagers and another one for wrongdoers). The new National Service for Adolescent Criminal Responsibility is particularly relevant, which will serve to structure new reforms to the juvenile criminal institutional framework (proposals of the panel of experts on Adolescent Criminal Responsibility).

### **Towards a Quality Education**

Several initiatives are relevant to advance towards improved quality and higher standards of education, for example, the *creation of the Superintendence of Higher Education*.<sup>xii</sup> The bill could still be improved, but the truth is that it moves forward towards a regulatory institutional framework for higher education that is inexistent today, assimilating it to the quality assurance system of the school education. The bill that *establishes the system of professional promotion and development for teachers of the municipal sector*<sup>xiii</sup> is also worth mentioning. The purpose of this government's original bill was to attract and retain the best teachers in the public sector by increasing wages and tying part of it to their classroom performance. The substitutive indication which replaces the original bill (in order to reach consensus) aims only at taking charge of the access to the teaching profession by increasing the salaries of good graduates, so as to make the entry to the subsidized sector more attractive, and especially, to the most vulnerable schools (where they will have a still greater remuneration). The evidence on the importance of relying on good teachers to improve the quality of education is concluding. Therefore, and notwithstanding some complex indications that have been gradually incorporated to the bill, which distort it and could contain some unconstitutional irregularities, and in spite of the fact that the original bill represented a great improvement, the substitutive indication is also positive while going in that direction, even if it deals with just part of it.

*The bill that creates the National Accreditation Agency*<sup>xiv</sup> is equally interesting, despite of requiring improvements. The university accreditation plays a significant role in the compatibility of the institutions' quality and autonomy. The new system means a progress inasmuch as it defines the meaning of accreditation correctly, establishes the specific measured items, and tries to ensure a bigger continuity in the supervising mechanism regarding the compliance with relevant standards. It would cost less and allow more feedback on the criteria to be evaluated. Finally, the bill on *authorization of preschools*<sup>xv</sup> proposes a registration system for nursery schools, in order to rely on more information, and the establishment of the Superintendence of School Education as a supervising body (instead of the JUNJI (National Nursery Schools Council), which is now judge and jury), which means an improvement in relation to the current model.

### **In the Interest of Growth and Greater Competitiveness in our Country**

In this matter, the bill regarding the *Administration of Investment Funds, Mutual Funds and Individual Portfolios* (known as LUF)<sup>xvi</sup> is of the uttermost importance; it proposes a single, common and organized legal framework for the industry that manages third-party assets; it introduces more flexibility; it establishes the VAT exemption regarding the management commissions corresponding to foreign investors, and it improves the access to funds for the risk capital industry and Small and Medium Businesses (PYMES). In relation to the objective of turning Chile into a financial services platform, the truth is that following certain indications introduced in the bill's second proceeding, the achievement of this goal has become more complex, since tax concessions associated to foreign investors have been restricted.

The initiative *which introduces adjustments to the tax legislation of electronic invoice matters* and provides for other measures is substantial<sup>xvii</sup> in the context of the technological agenda boosted by the government; it contributes to the modernization of the State and the fight against evasion, thus improving the tax collection. From the perspective of taxpayers, it simplifies the proceedings in the Internal Revenue Service (SII), reducing the associated transaction costs and enabling the fulfillment of their tax liabilities. However, this bill should adopt preventive measures, so that the cost of implementation and adjustment to the system is as low as possible, especially considering the smaller and less sophisticated taxpayers. Another relevant bill is that which updates and strengthens the operation and supervision of registrars and notaries.<sup>xviii</sup> It fulfills the double purpose of streamlining the proceedings in the notaries, registrar of lands, mines and industrial properties, and judicial records, and keeps safe the public faith involved in the activities of the sworn judicial officers thereof.

In turn, the bill *amending the General Law on Electricity Services*<sup>xix</sup> with the end of promoting the interconnection of independent electricity systems is also important. According to studies carried out by the National Energy Commission (CNE), the interconnection between the SIC and SING systems would be highly convenient. In our opinion, it is important for the State to rely on a legal possibility to promote the interconnection. The bill stipulates that, in case of including the interconnection between two electricity systems in the expansion plan, invitation to tenders for the necessary works are allowed.

In labor issues, three bills can be highlighted which bring more flexibility to the labor market, thus eliminating the restrictions of some legal rigidities imposed on sectors with diverse needs: the bill *adjusting the regulations for agricultural workers stipulated in the Labor Code*<sup>xx</sup>, the bill creating the

*labor by-laws for higher education students<sup>xxi</sup> and the bill adapting the labor regulations to the tourism sector.<sup>xxii</sup>*

### **Towards a Modern Institutional Framework and Environmental Management**

The bill which creates the *Service of Biodiversity and Protected Wild Areas and the National System of Protected Wild Areas<sup>xxiii</sup>* is of major importance. It allows consolidating the environmental institutional framework, by strengthening the country's sustainable development and enabling a more effective management of issues related to biodiversity and protected areas. The bill that establishes the *framework for the management of solid waste and extended producer responsibility<sup>xxiv</sup>* is also important. It should significantly foster the reduction, reuse and recycling of solid waste, even though it would be desirable to also incorporate greater liabilities for final consumers.

### **Taking Steps towards Decentralization**

The initiative regarding the *strengthening of Chile's regionalization process<sup>xxv</sup>* is worth mentioning, because it establishes mechanisms for transferring competences to regional governments, in accordance with the Political Constitution of the Republic. The chosen scheme keeps the concept of unitary State stipulated in the Constitution and complies with the instructions of promoting the regionalization, as well as with the constitutional reform of 2009 regarding the competences that the President of the Republic may transfer to the regional government, according to the law.

### **Conclusions**

Considering the large and varied legislative agenda, it is crucial for the government to give priority, through an organized use of urgent matters, to the bills that will have major impact on making Chile a more competitive and developed country. Therefore, the Legislative Power will play a relevant role in the following months. With a long-range view and national vision, the willingness to achieve the necessary consensus should be more present than ever. Good public policies, no matter from what government they come from, should rely on the support of the Congress in the interest of the benefit they generate to the population.

### In brief...

- Just a few months ahead of the end of this government, priorities must be put on the bill aimed at giving Chile a better institutional framework and a consolidated legal framework that ensures the efficiency in the use of public funds and allows achieving development through greater growth.

<sup>i</sup> The Piñera Administration has sent more than 300 bills to the Congress, from which more than 170 have been already approved.

<sup>ii</sup> We are talking about specific aspects of the tax reforms: long-term financing to the *Transantiago* public transport system, the bonus in the month of March, and the bill concerning the advertisement in food products.

<sup>iii</sup> Although it is still not a law of the Republic, the Congress dispatched this week the bill concerning the reorganization and wind-up of businesses and individuals, which seeks to delimit the proceeding period for these procedures, thus promoting re-entrepreneurship. The approved bill is important, since it helps those who have failed in a business activity to start all over again.

<sup>iv</sup> The list of priority bills considers only the presidential dispatches (including substitutive indications) introduced by this Administration that are still under legislative proceeding. This does not mean that no other bills, initiated in relevant parliamentary motions, have attracted the attention of the government, parliament members and citizens, as for example, the bill that is still pending (integrated Bulletins N° 6037, 6331, 6523 and 6858), which modifies the Sanitary Code regarding the regulation of drugstores and medicines; in our opinion, this bill would favor the increased competition in the market and benefit consumers.

<sup>v</sup> Bulletin N° 8767-06

<sup>vi</sup> Bulletin N° 9015-05

<sup>vii</sup> Bulletin N° 7616-06

<sup>viii</sup> Bulletin N° 8937-06

<sup>ix</sup> Bulletin N° 7975-25

<sup>x</sup> Bulletin N° 8810-07

<sup>xi</sup> Bulletin N° 8487-07

<sup>xii</sup> Bulletin N° 8041-04

<sup>xiii</sup> Bulletin N° 8189-04

<sup>xiv</sup> Bulletin N° 8774-04

<sup>xv</sup> Bulletin N° 8859-04

<sup>xvi</sup> Bulletin N° 7966-05

<sup>xvii</sup> Bulletin N° 8874-05

<sup>xviii</sup> Bulletin N° 9059-07

<sup>xix</sup> Bulletin N° 9022-08

<sup>xx</sup> Bulletin N° 7976-13

<sup>xxi</sup> Bulletin N° 8996-13

<sup>xxii</sup> Bulletin N° 8770-23

<sup>xxiii</sup> Bulletin N° 7487-12



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<sup>xxiv</sup> Bulletin N° 9094-12

<sup>xxv</sup> Bulletin N° 7963-06