



House Journal

FIRST REGULAR SESSION, 2004

Third Day

February 11, 2004

The House of Representatives of the Fourteenth Northern Marianas Commonwealth Legislature convened in its **Third Day, Fourth Regular** Session, on **Wednesday, February 11, 2004**, at **10:14 a.m.**, in the House Chamber, Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Benigno R. Fitial, Speaker of the House, presided.

A moment of silence was observed.

The Clerk called the roll. Sixteen members were recorded present; Representatives Martin B. Ada and Oscar M. Babauta were excused.

Speaker Fitial: A quorum is constituted for the Third Day Session. Representatives Ada and Babauta are excused.

ADOPTION OF JOURNALS

None

PREFILED AND INTRODUCTION OF BILLS

H. B. NO. 14-85: A Bill for an Act to authorize the establishment of the Park Rangers under the Division of Parks and Recreation and to designate the Department of Lands and Natural Resources as the administering authority for the Commonwealth parks, recreational areas and tourist sites; and to amend 1 CMC § 2707 (a), (c), (d), and (e) and 1 CMC 2704 (b); and for other purposes.

Offered by: Rep. Janet U. Maratita and eight others
Referred to: Committee on Natural Resources

H. B. NO. 14-86: A Bill for an Act to boost the economy of the CNMI by establishing a specific nonimmigrant entry permit category in the Immigration Code to attract the “silver club” market in Japan and retirees from other countries; and for other purposes.

Offered by: Rep. Jesus SN. Lizama
Referred to: Committee on Judiciary & Governmental Operations

H. B. NO. 14-87: A Bill for an Act to impose liability and responsibility on non-resident workers for causes arising from personal acts; and for other purposes.

Offered by: Rep. Jesus SN. Lizama

Referred to: Committee on Judiciary & Governmental Operations

H. B. NO. 14-88: A Bill for an Act to protect confidential information and communications made to a “Crime Stoppers” organization; and for other purposes.

Offered by: Rep. Jesus SN. Lizama

Referred to: Committee on Judiciary & Governmental Operations

H. B. NO. 14-89: A Bill for an Act to protect pedestrians in the Commonwealth by establishing safe limits on motor vehicle window tinting.

Offered by: Rep. Benjamin B. Seman and six others

Referred to: Committee on Judiciary & Governmental Operations

H. B. NO. 14-90: A Bill for an Act requiring that all products sold, manufactured, or distributed within the Commonwealth that contain chemicals to be clearly marked with labels identifying the chemicals name in the English language; conferring powers and duties on the Division of Environmental Quality, providing penalties for violation of this Act; and for other purposes.

Offered by: Rep. Ramon A. Tebuteb and five others

Referred to: Committee on Judiciary & Governmental Operations

H. B. NO. 14-91: A Bill for an Act to re-appropriate a portion of the remaining balances from Public Laws 11-89 and 12-5.

Offered by: Rep. Ramon A. Tebuteb and six others

Referred to: Committee on Ways & Means

H. B. NO. 14-92: A Bill for an Act to improve education in the Northern Marianas by providing opportunities for learning earlier and later in each student’s life; and for other purposes.

Offered by: Rep. Joseph P. Deleon Guerrero and five others

Referred to: Committee on Education

H. B. NO. 14-93: A Bill for an Act to improve education in the Northern Marianas by putting resources in the hands of teachers; and for other purposes.

Offered by: Rep. Joseph P. Deleon Guerrero and five others

Referred to: Committee on Education

H. B. NO. 14-94: A Bill for an Act to establish a Parental Choice Scholarship Program; to authorize the adoption of necessary procedures and rules to implement this Act; to assign responsibilities duties and obligations among the administrators and participants in the Parental Choice Scholarship Program; and to provide a funding mechanism for the Program; and for other purposes.

Offered by: Rep. Heinz S. Hofschneider and four others

Referred to: Committee on Education

Rep. Hofschneider: Mr. Speaker, may I ask for an earliest possible date for a public hearing on H. B. NO. 14-94 in anticipation of the overcrowding in many of the schools in the Public School System and the shortfall of funding to PSS. If you read the bill, it provides for a funding mechanism of no less than \$5 million.

Speaker Fitial: The standing committees received the bills that were introduced in the First and Second Day Sessions yesterday afternoon. At this morning's leadership meeting, the committees will be meeting today to organize and prioritize the measures that have been referred to each respective committee. So I'm sure the bills that are introduced today will also be considered. Further introduction of bills? If none, we move to Prefiled and Introduction of Resolutions.

PREFILED AND INTRODUCTION OF RESOLUTIONS

H. R. NO. 14-10: A House Resolution to recognize and congratulate Juan S. Reyes, Secretary of the Department of Public Works (DPW), for his exemplary leadership and numerous accomplishments that has contributed to the growth of the Commonwealth of the Northern Mariana Islands.

Offered by: Rep. Justo S. Quitugua and seventeen others

Rep. Quitugua: Also, Mr. Speaker, if there's no objection, I would like to ask that this resolution be calendared for adoption on today's session.

There was no objection.

H. R. NO. 14-11: A House Resolution to establish a new subsistence allowance for the Representatives from the First and Second Senatorial Districts.

Offered by: Rep. Norman S. Palacios

Rep. N. Palacios: With no objection, I'd like to place this on the day's calendar.

There was no objection.

H. R. NO. 14-12: A House Resolution to express appreciation to Mark Erwin, Continental Micronesia's President and Chief Executive Officer, for extending the Saipan-Manila direct air service.

Offered by: Rep. Benigno R. Fitial and seventeen others

H. R. NO. 14-13: A House Resolution to urgently request the Office of Coastal Resources Management and the Division of Environmental Quality to expedite the permitting process for the Shell/D&W Retail and Gas Station Project in Kagman.

Offered by: Rep. David M. Apatang and six others

Rep. Apatang: I'd also like to request that we place this on the day's calendar. Thank you.

There was no objection.

Speaker Fitial: So ordered.

MESSAGES FROM THE GOVERNOR

GOV. COMM. 14-6 – [2/10/04] – From Lt. Governor Benavente providing a copy of the 702 Funding Agreement.

GOV. COMM. 14-7 – [2/9/04] – Informing the Legislature about Office of Insular Affairs' (OIA) change in policy in that OIA will only the review and approval CIP Projects of \$500,000 or more.

The Chair recognized Rep. A. Palacios.

Rep. A. Palacios: Thank you, Mr. Speaker. I'd like to refer to GOV. COMM. 14-7. I'm a little bit concern and I'm glad that the Office of Planning and Budget by the CIP Coordinator has raised some questions because it does and will affect how we appropriate CIP funds. I think that clarification must be made. If we're looking at the \$500,000 threshold, we all know that there are projects that are going to be below the \$500,000 threshold. I think it'll be also appropriate for the Committee on Ways & Means and perhaps even the Committee on Federal & Foreign Relations to communicate with the Office of the Governor and be on top of this issue. Thank you.

Speaker Fitial: The Governor has invited the leadership to meet tomorrow morning at 10:00 a.m. to go over the financial status of the Commonwealth, so I will ask the Committees on Ways & Means and Federal & Foreign Relations to bring this matter up at the meeting tomorrow morning. Any more comments?

Rep. Hofschneider: I have a comment, Mr. Speaker, on GOV. COMM. 14-6.

The Chair recognized Rep. Hofschneider.

Rep. Hofschneider: As traditionally practiced, Mr. Speaker, the Legislature is part of the team in the formulation and compilation of Capital Improvement Projects and I just wanted to raise that if there was any invitation to such undertaking to submit project listing for the Commonwealth.

Speaker Fitial: I think that has been a tradition for many years, but recently, I understand that the 702 Funding has become a grant instead. So as such, according to the Administration, legislative approval is no longer required.

Rep. Hofschneider: Then it shouldn't be called a 702 under the Covenant terms, Mr. Speaker. If it's a grant, then it should not be phrased or referenced as 702 Capital Improvement Projects.

Speaker Fitial: You and I share the same position on this issue. However, I have asked the Chairman of the Committee on Federal & Foreign Relations to not only look into this, but to see how

we can go back to the traditional practice of requiring legislative approval on the disposition of 702 Funds.

The Chair recognized Rep. Attao.

Rep. Attao: On the same communication, GOV. COMM. 14-6 on page 5, Section 4, Elimination of Matching Requirement. I think this is a loophole here because if there's no matching, then definitely the 702 financial assistance is treated as grant rather than 702. My recommendation to the leadership, Mr. Speaker, for discussion purposes is to bring this to the attention of the Governor tomorrow and raise this kind of question. It's useless to have the Legislature while they have no say so to whatever grant received by the CNMI. There should be accountability as far as grants or 702 moneys that the CNMI receives.

Speaker Fitial: Last week, I sent out a letter to the Secretary of the Department of the Interior on this very issue requesting the Secretary if they can propose a language to at least require legislative review if they don't require a legislative approval. But I think if the language of the Covenant can be proposed to require that the Legislature shall approve these funds before they are disposed by the Administration. That's the essence of that letter, which I sent out last week.

Rep. Hofschneider: May I, Mr. Speaker? I think it's beautiful and wonderful if you're a Governor when we have this latitude of the sole discretion of having to dispose and expend. I believe that they have received over \$15 million to date on such approach as a grant and not on Capital Improvement Project as appropriated under the Covenant Section. The problem with this, Mr. Speaker, is the liability of the government when you have no blessing to expend public funds whether it be a grant or under 702 and in context and consistency with the spirit and letters of the Covenant. The problem with it lies in that if there is a liability open on the Commonwealth and we did not participate and bless that project or Capital Improvement Project expenditure, then the sole discretion of the Governor is questionable because it'll come back to the Legislature if and when there is a lawsuit that in the name of the Commonwealth and we have to fork out the cost of having to mitigate or settle a lawsuit. Having the sole discretion is one. Second, this is one Commonwealth and the authority is in the Constitution that is formulated today. I don't believe that in the last Legislature we amended that Section – that all resources of the Commonwealth – that particular Section in appropriation – all resources received in the name of the Commonwealth shall be appropriated. Therefore, no expenditure within or without the Commonwealth, once it is in the hands of the Commonwealth, can be expended. It's very clear in the Constitution on expenditure and appropriation and we're letting it go. This subtle usurpation of legislative authority to appropriate and the House's purview. It's the domain of the House to appropriate and you should fight on the principle of what the Constitution presents us in the House. And that goes for all branches of government that the House shall initiate all appropriations and expenditure; therefore, shall be blessed by this House first.

Speaker Fitial: Once I receive the Secretary of the Department of the Interior's response to that letter we will have a much clearer direction as to the disposition of appropriated funds from the U. S. Congress.

Rep. Hofschneider: My only objection, Mr. Speaker, is the usage of the terminology provided in the Covenant. When you say and state 702 CIP, that's consistent with the provision provided in the Covenant establishing the Commonwealth.

Speaker Fitial: That's correct.

Rep. Hofschneider: If it's a grant, then it should be coming from OIA as an agency or EPA as an agency or the Department of Transportation as department.

Speaker Fitial: That's correct.

Rep. Hofschneider: But congressional appropriation, Mr. Speaker, we have to hold our grounds here in the House.

Speaker Fitial: But as Representative Attao clearly pointed out when they removed the matching requirement, they treat the 702 Funds now as grants.

Rep. Hofschneider: We are short of our memory in history, Mr. Speaker, because the first grant pledge agreement – you know this – did not come with matching conditions and it was appropriated by the Legislature consistent with the usage of 702 language in the Covenant. So this matching requirement came a midst of the Commonwealth having gone through the bubble economy and we have surpluses in our budget. That invoked OIA to impose a matching requirement because of our flourishing economy then not because there was a change in language in the U. S. Congressional appropriation. The matching came as a condition granted by the U. S. Congress to the Office of Insular Affairs to give discretion if and when to impose a matching requirement on all CIP. So it was an internal mechanism emplaced. So that has nothing to do with changing the language of grant or what, Mr. Speaker, if you spell it out as 702. This body has a say in those appropriated funds or funds to be appropriated and expended as provided by law.

The Chair recognized Rep. A. Palacios.

Rep. A. Palacios: Not to belabor the issue, Mr. Speaker, I also agree. In fact I had asked an attorney a couple of months ago to look into this and they have looked into this and short answer is that we have the authority even under the Planning and Budgeting Act has a new reference to the 702, which is the Covenant provision then this House, the Legislature has purview over it. I would also recommend that perhaps this is an issue that our legal counsel could be assigned to take a look at it and begin to give us direction as a point where we can discuss this with the Governor. That's a recommendation that I believe we should begin with. Thank you.

Speaker Fitial: Well, this is not only on the 702 Funds. This also includes Impact Funds. I'm happy to report that the Governor is willing to meet with the leadership and discuss the disposition of the Impact Funds.

Rep. Hofschneider: More importantly, Mr. Speaker, if I may be recognized.

Speaker Fitial: Yes.

Rep. Hofschneider: It's for our Washington Representative to appeal before the U. S. Congress to redefine, or provide appropriate language for Compact Impact because there is reluctance on the Federal side to use the word Compact Impact reimbursement for certain hitch in the Covenant. That should be reviewed by the Washington Representative and this legislative body and the Executive

Branch and, once and for all, we know that it is moneys coming as a result of Micronesian impact. And let's not use Micronesians for God sake as a means of getting monies from the Federal government. It's appalling and it's quite distasteful for us to look the other way and call it a grant and not a reimbursement because realities are that there is an impact and there is such a thing as a Compact Impact policy. But when reimbursement granted they call it a grant and that relieves the legislative body of appropriately assigning allocations and appropriations to the much impacted agencies like the Public School System, the Department of Public Health and the Department of Public Safety. I think, Mr. Speaker, we can do the public a favor. If we review this in context of the Covenant establishing it and the agreements thereabouts that were hooked as a result of the entities that came into existence after the Covenant. This has to be reviewed.

Speaker Fitial: I will ask the legal counsel to share copies of the letter I sent to Secretary Norton for your information. We move to Item 9, Communications from the Resident Representative.

SENATE COMMUNICATIONS

None

HOUSE COMMUNICATIONS

None

COMMUNICATIONS FROM THE JUDICIAL BRANCH

None

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

Speaker Fitial: We don't have anything under Item 9, but I am inserting a letter, which I just received from the Washington Representative concerning the upcoming House Committee on Resources hearing on the nonvoting delegate bill. Does everyone have a copy of that letter? Does anyone want to make a comment or remarks?

Rep. Hofschneider: I just made my comment in reference to that letter, Mr. Speaker. So it should be raised to the attention of the Washington Representative.

Wash. Rep. Comm. 14-1 – February 10, 2004 – From Resident Representative Tenorio informing the members that the House Committee on Resources of the U. S. Congress will be scheduling an oversight hearing on the CNMI nonvoting representation.

Speaker Fitial: If there's no comment, let's proceed to Other Communications.

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

None

OTHER COMMUNICATIONS

MISC. COMM. 14-1 – [2/10/04] – Informing the Speaker and the Chairman of the SNILD of his appointments to Saipan Higher Education Financial Assistance Board.

MISC. COMM. 14-2 – 2/4/04] - From Ms. Frances Muña, SNIMC Administrative Officer, transmitting a certified copy of 8SMC-1RS-02 through 8SMC-1RS-06.

There was no discussion.

REPORTS OF STANDING COMMITTEES

None

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

Speaker Fitial: Floor Leader, we have four resolutions that were introduced and asked that they be placed on the day's calendar for adoption. H. R. NO. 14-10, H. R. NO. 14-11, H. R. NO. 14-12 and H. R. NO. 14-13.

Acting Floor Leader Norita: H. R. NO. 14-10, Mr. Speaker?

Speaker Fitial: Yes. H. R. NO. 14-10 is introduced by Representative Quitugua.

Acting Floor Leader Norita moved for the suspension of pertinent Rules for the placement and adoption of H. R. NO. 14-10, H. R. NO. 14-11, H. R. NO. 14-12 and H. R. NO. 14-13, was seconded and carried by voice vote.

Speaker Fitial: Motion carries. Adoption motion, Floor Leader.

Acting Floor Leader Norita moved for the adoption of H. R. NO. 14-10 and was seconded by several others.

H. R. NO. 14-10: A HOUSE RESOLUTION TO RECOGNIZE AND CONGRATULATE JUAN S. REYES, SECRETARY OF THE DEPARTMENT OF PUBLIC WORKS (DPW), FOR HIS EXEMPLARY LEADERSHIP AND NUMEROUS ACCOMPLISHMENTS THAT HAS CONTRIBUTED TO THE GROWTH OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

Speaker Fitial: Discussion. Representative Attao.

Rep. Attao: On line 10 of the last page under "Be It Further Resolved", I would like to offer an oral floor amendment to include after, "Mayor of Saipan," "the Honorable Benjamin T. Mangloña, Mayor of Rota, the Honorable Francisco M. Borja, Mayor of Tinian, and the Honorable Valentin I. Taisakan, Mayor of the Northern Islands."

Speaker Fitial: Is that a motion?

Rep. Attao: Yes.

The motion was seconded. There was no discussion, and the oral floor amendment offered by Representative Attao to H. R. NO. 14-10 was carried by voice vote.

Speaker Fitial: Motion carries. Any further amendment?

There was no further discussion; the motion to adopt H. R. NO. 14-10, HD1 was carried by voice vote.

Speaker Fitial: H. R. NO. 14-10 as amended is adopted. Floor Leader, adoption motion for H. R. NO. 14-11.

Acting Floor Leader Norita moved for the adoption of H. R. NO. 14-11 and was seconded by several others.

H. R. NO. 14-11: A HOUSE RESOLUTION TO ESTABLISH A NEW SUBSISTENCE ALLOWANCE FOR THE REPRESENTATIVES FROM THE FIRST AND SECOND SENATORIAL DISTRICTS.

Speaker Fitial: Discussion. Representative Hofschneider.

Rep. Hofschneider: With all due respect, Mr. Speaker, this is a contentious matter before the House and we tried to deal with it last Legislature. I believe that the Public Auditor has come out with an adjusted allowance for both senatorial districts and we should be in conformance to the recommendation with the Public Auditor. There is a report already out.

The Chair recognized Rep. N. Palacios.

Rep. N. Palacios: I haven't read the Public Auditor's report yet but we patterned the Senate's resolution. So it's sort of informal now.

Speaker Fitial: Did you say you read or have not read the OPA report?

Rep. N. Palacios: Have not read.

Speaker Fitial: So who has read the OPA report?

Rep. Hofschneider: Can we just put this on the calendar and hold action on it until we...

Speaker Fitial: Does anybody know what the OPA's report?

Rep. Hofschneider: It's close to 50% less of what is being proposed.

Speaker Fitial: So can we just hold this until we meet and then call in the OPA and ask the OPA the legal basis for his recommendation?

Rep. N. Palacios: No problem, sir.

Speaker Fitial: So ordered. Floor Leader, H. R. NO. 14-12.

Acting Floor Leader Norita moved for the adoption of H. R. NO. 14-12, was seconded and carried by voice vote.

H. R. NO. 14-12: A HOUSE RESOLUTION TO EXPRESS APPRECIATION TO MARK ERWIN, CONTINENTAL MICRONESIA'S PRESIDENT AND CHIEF EXECUTIVE OFFICER, FOR EXTENDING THE SAIPAN-MANILA DIRECT AIR SERVICE.

Speaker Fitial: H. R. NO. 14-12 is adopted.

Rep. Hofschneider: Point of information, Mr. Speaker.

The Chair recognized Rep. Hofschneider.

Rep. Hofschneider: Just so that we all support this resolution, may I ask that it'll be Committee of the Whole so that...

Speaker Fitial: No objection.

There was no objection.

Speaker Fitial: So ordered.

Rep. Hofschneider: Thank you.

Speaker Fitial: Floor Leader, H. R. NO. 14-13.

Acting Floor Leader Norita moved for the adoption of H. R. NO. 14-13, was seconded and carried by voice vote.

H. R. NO. 14-13: A HOUSE RESOLUTION TO URGENTLY REQUEST THE OFFICE OF COASTAL RESOURCES MANAGEMENT AND THE DIVISION OF ENVIRONMENTAL QUALITY TO EXPEDITE THE PERMITTING PROCESS FOR THE SHELL/D&W RETAIL AND GAS STATION PROJECT IN KAGMAN.

Speaker Fitial: H. R. NO. 14-13 is adopted. We still have H. R. NO. 14-8.

Acting Floor Leader Norita moved for the adoption of H. R. NO. 14-8, and was seconded by two others.

H. R. NO. 14-8: A HOUSE RESOLUTION TO ADOPT THE AMENDED RULES FOR THE HOUSE OF REPRESENTATIVES, ATTACHED HEREWITH AS APPENDIX "A"; AND FOR OTHER PURPOSES.

Speaker Fitial: Discussion. Representative Hofschneider.

Rep. Hofschneider: On page 1, Mr. Speaker, of the Rules as proposed so that we clarify, Mr. Speaker, since we're striking out – our copy's showing that the striken out language would resolve only into the Speaker shall appoint nonmembers as Clerk of the House and Sergeant-At-Arms and Deputy Sergeant-At-Arms. May we also include that the Sergeant-At-Arms and the Deputy

Sergeant-At-Arms shall be supervised by the Speaker so that we don't have ambiguity as to the supervision, Mr. Speaker?

Speaker Fitial: Well, after several meetings with the legal counsels this is the proposed language that we have agreed to propose. The point here is we should separate the issue of appointment from the issue of employment.

Rep. Hofschneider: But supervision can be delegated and you can supervise and you should supervise the Sergeant-At-Arms.

Speaker Fitial: Well, that's a separate issue – supervision. I don't mind supervising but as you know me, I love to delegate.

Acting Floor Leader Norita: Mr. Speaker, isn't it obvious that the appointment is also supervised in that extent because of the appointing authority?

Speaker Fitial: Yes, but like I said, I can always delegate.

Rep. Hofschneider: The color of the law does not have an implied intent. It should be spelled out. What you intend and what I intend, and what the public intends are three different things. So if you intend to supervise the Sergeant-At-Arms as appropriately being done, then state so. Because in the service of subpoenas, who executes it? You should supervise that.

Speaker Fitial: I don't mind supervising these staffs.

Rep. Hofschneider: Is it provided?

Speaker Fitial: So do you wish to propose or effectuate your amendment, Representative Hofschneider?

Rep. Hofschneider: If it is provided, then there's no need for redundancy.

Speaker Fitial: According to the legal counsel, it is already provided.

Rep. Hofschneider: What do I know? I rest.

The Chair recognized Rep. Attao.

Rep. Attao: Can we ask the legal counsel to explain to us the definition of nonmember? Is this away from the Legislative Bureau? Nonmember?

Speaker Fitial: No. Nonmember is just a distinction between staff and legislators.

Rep. Attao: Okay. So in a sense the Sergeant-At-Arms does not report to the LB. It's a total separate authority under the Speaker. Is this what you're trying to say?

Rep. Hofschneider: That's the supervision part that I was trying to get at.

Speaker Fitial: Well, they will be under the LB.

Rep. Attao: Under the LB?

Speaker Fitial: Yes.

Rep. Hofschneider: Paid for by the LB.

Speaker Fitial: Paid for by the LB.

Rep. Hofschneider: But the supervision shall be by the Speaker.

Speaker Fitial: So that's what you are proposing?

Rep. Hofschneider: But, again, I rest with the counsels having said that there are sufficient guidelines and procedures for...

Speaker Fitial: Yes. I just talked to the legal counsel and she assured me that your concern is already provided for.

Rep. Hofschneider: May I continue, Mr. Speaker?

Speaker Fitial: Yes, you may.

Rep. Hofschneider: I believe in the last session when we tried to deal with the amendment I also pointed out Article XII, Section 8. Whatever happened to those requests?

Speaker Fitial: Article XII?

Rep. Hofschneider: Article XII, Section 8. I pointed out in the last session, Mr. Speaker, when we were discussing this resolution to reference in Section 8 that the employers themselves shall be burdened with the costs of compliance with this Section.

Speaker Fitial: I would like our legal counsel to respond directly to that issue. Mr. Bermudes.

Legal Counsel Bermudes: Under Section 8, it attaches the Appendix for Drug Free Policy. If you look at the Drug Free Policy – looking at Appendix A...

Rep. Hofschneider: Who pays for it? Certainly not the employees – we'll never get it done.

Legal Counsel Bermudes: The Drug Free Policy basically applies to pre-employment. It's a pre-employment requirement. At nowhere in Appendix A does it state who pays for the testing.

Rep. Hofschneider: So this is just for posterity?

Legal Counsel Bermudes: What I'm saying is that it doesn't provide for...

Rep. Hofschneider: Random?

Legal Counsel Bermudes: ...any testing but it applies to pre-employment. In other agencies, for example, the AG's Office, the payment of the testing is paid by the person seeking the employment.

Rep. Hofschneider: And that's one of the problems encountered over the years. If you leave it up to the employees themselves, it ranges from \$40 to \$70 to have that test. Now, we have the discretion to use taxpayer's money and this is probably the most appropriate way on ensuring that there is safeguard for the public. Some of us drive leased vehicles and some of us employ people who drive leased vehicles. These are all liabilities of the government and the public.

Speaker Fitial: Legal counsel, can we mandate or require House employees to take the drug test?

Legal Counsel Bermudes: The answer of the question, Mr. Speaker, is we're going to run into all sorts of problems. We have blanket mandatory drug testing with respect to the employees of the Legislature.

Speaker Fitial: So your answer is no?

Legal Counsel Bermudes: Yes.

The Chair recognized Acting Floor Leader Norita.

Acting Floor Leader Norita: I would direct my attention to our Drug Free Policy Section 109. Referral for Testing. It specifies specific reasons as to employees' requirement for testing: Pre-employment/post-offer testing, sensitive reasonable suspicion testing and accident or post-accident requirement testing and returning to duty testing. If those criteria are found, then I believe that this body – or we should demand that the test be administered to that employee. Other than that, just because we want everybody to run their tests we're going to run into problems of specific rights in the Constitution.

Rep. Hofschneider: That is if post-hiring, Mr. Speaker. So can we get one thing in terms of our House Rules clear that there be some employees or all of the employees would be subject to renewals cannot...

Acting Floor Leader Norita: Supervisor for pre-employment testing.

Rep. Hofschneider: May I finish? And at such time upon renewal, that's the time that an employee may be subjected to such policy. But I think it's – there should be a default language in other words in the House Rules. Correct?

Speaker Fitial: Legal counsel, if your answer to my question is no...

Rep. Hofschneider: Post-employment.

Speaker Fitial: In other words, drug test can only be administered as a pre-employment requirement.

Legal Counsel Bermudes: Yes.

Speaker Fitial: Anyway, can we defer this drug issue until the two legal counsels can get together and come up with a work of – if there’s no objection, can we just defer Section 8?

There was no objection.

Speaker Fitial: And I would also like to ask Representative Hofschneider to come up with a proposed language.

Rep. Hofschneider: I’m not a lawyer, Mr. Speaker, with all due respect. This is a legal matter. It should be referred to the legal counsel.

Speaker Fitial: Okay. Can you help the legal counsel then? Let’s proceed. Further discussion on the Rules? If there’s no objection, I would like to include a phrase on page 12, Section 4(c) after “All bills must be reviewed” the words “and signed”. No objection?

There was no objection.

Rep. Hofschneider: And I think it should go to resolutions in cases where resolutions are bound to Federal agencies that it should also be reviewed by the counsels. Often times, I get this quiet whisper that some of the resolutions requesting Federal agencies and the U. S. Congress are ill-prepared. And it’s such an embarrassment, Mr. Speaker, to have a resolution drafted, and adopted by this House, and the syntax and grammar were all interchangeable and misplaced. So I think that resolutions intended to reach Federal agencies and the U. S. Congress and diplomatic communications in the form of resolution should be reviewed by the legal counsel.

Speaker Fitial: You wish to propose an amendment then? On Section 4...

Rep. Hofschneider: Section 4(b) – well, just add “all bills and resolutions must be reviewed and signed”.

Speaker Fitial: Any objection?

There was no objection.

Rep. Hofschneider: Objection on the floor, the counsel should not be lobbying. Can we take a short recess, Mr. Speaker?

Speaker Fitial: Short recess.

The House recessed at 11:01 a.m.

RECESS

The House reconvened at 11:02 a.m.

Speaker Fitial: [beginning of recording]...all bills and resolutions must be reviewed and approved by the legislative counsel for legal sufficiency so forth and so on. If there’s no objection...

There was no objection.

Speaker Fitial: Any further discussion? Representative Arnold Palacios.

Rep. A. Palacios: Thank you. If you read further, it says that a bill may be introduced on the floor without such review if the bill is referred to an appropriate committee pursuant to Rule IX, Section 8(a). Does that mean that we don't have to go through this process if our bill is going to be referred to, for example, Representative Norman Palacios or any of the committee chairman?

Speaker Fitial: This is an exception. I think the bills that will be referred to the committees will already have been reviewed and approved by the counsel so I really don't see any need for this exemption.

Rep. A. Palacios: Maybe we should take that out.

Speaker Fitial: It's redundant.

Rep. A. Palacios: Correct. Because it defeats the...

Speaker Fitial: Discussion? None. Ready?

Several members voiced, "ready."

There was no further discussion, and the motion to adopt H. R. NO. 14-8 as amended was carried by voice vote.

Speaker Fitial: H. R. NO. 14-8 as amended is adopted. Before we proceed, I'd just like to inform the members that the Governor has confirmed the meeting at 10:00 a.m. tomorrow.

Rep. Deleon Guerrero: Mr. Speaker, can I interpret that as an invitation to the minorities?

Speaker Fitial: I will seek clarification and advise you all.

Rep. Deleon Guerrero: In the spirit of cooperation.

Speaker Fitial: Miscellaneous. If there's no Miscellaneous Business, let's go down to Announcements.

BILL CALENDAR

None

MISCELLANEOUS BUSINESS

None

ANNOUNCEMENTS

The Chair recognized Rep. Quitugua.

Rep Quitugua: Thank you, Mr. Speaker. Now that the meeting with the Governor is confirmed for tomorrow morning, I believe the session will not take place in the morning and if we'll...

Speaker Fitial: It will take place in the afternoon.

Rep Quitugua: The House Committee on Education has its weekly meeting on Thursdays and since there's going to be a session, the meeting for tomorrow is postponed until further notice.

Speaker Fitial: Well, that's your prerogative. You're the Chairman. Representative Maratita.

Rep. Maratita: Just for information. The Committee on Natural Resources will be meeting at 3:00 p.m. this afternoon. Thank you.

The Chair recognized Acting Floor Leader Norita.

Acting Floor Leader Norita: For information. There's an informal meeting with TSA this afternoon at 2:00 p.m. They're doing a presentation on who they are. It's an invitation to all members so they can attend that meeting if they want to.

Speaker Fitial: Okay, so there's the invitation Congressman Deleon Guerrero.

Rep. Deleon Guerrero: That's for TSA.

Rep. Tebuteb: He wants the Governor.

The Chair recognized Rep. N. Palacios.

Rep. N. Palacios: I would like to announce that the Committee on Ways & Means is having a meeting right after the session to organize and prioritize those bills that came in at 3:30 p.m. yesterday. Thank you.

Speaker Fitial: Thank you. Any more announcements? If there are no more announcements, the House stands recess until tomorrow at 3:00 p.m.

The House adjourned at 11:08 p.m.

Respectfully submitted,

Lavida S. Palacios, Journal Clerk
House of Representatives

APPEARANCE OF LOCAL BILLS

H. L. B. NO. 14-5: To amend Section 2 of Saipan Local Law 13-8 and Section 4 of Saipan Local Law 13-11 to require payment of the thirty percent (30%) early retirement bonus to eligible person in the Third Senatorial District who have retired or will retire by September 30, 2005; and for other purposes. (Second Appearance)

H. L. B. NO. 14-1: To fund various improvements at the Capitol Hill Park in Precinct IV, Saipan by re-appropriating the sum of \$110,000.00 previously appropriated under S. L. L. No. 13-14. (Third Appearance)

H. L. B. NO. 14-2: To appropriate \$145,000.00 from the Developer Infrastructure Tax Fund; and for other purposes. (Third Appearance)

H. L. B. NO. 14-3: To appropriate the sum of \$20,345.00 from the fees collected from the Bingo, Batu and cockfighting; and for other purposes. (Third Appearance)

H. L. B. NO. 14-4: To appropriate \$20,000 for the CNMI Agricultural Fair to be held on Saipan in May 2004 from the special account under 10 CMC § 3617. (Third Appearance)

H. L. B. NO. 14-6: To appropriate \$20,000.00 from the fees collected under the Saipan Local Law 11-2; and for other purposes. (Third Appearance)