



House Journal

Adopted:
January 9, 2008

3rd Day

Eleventh Special Session

Friday, January 4, 2008

The House of Representatives of the Fifteenth Northern Marianas Commonwealth Legislature convened its Third Day, Eleventh Special Session on Friday, January 4, 2008, at 10:50 a.m., in the House Chamber on Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Oscar M. Babauta, Speaker of the House, presided.

A moment of silence was observed.

The Clerk called the roll and fifteen members were present. Representatives Martin B. Ada, and Florencio T. Deleon Guerrero were absent and excused. Representative Crispin M. Ogo was absent and unexcused.

Speaker Babauta: Representative Martin Ada and Florencio T. Deleon Guerrero are excused for today's session. I have no idea where Representative Ogo is, so Clerk, take note.

ADOPTION OF JOURNALS

None

INTRODUCTION OF BILLS

None

INTRODUCTION OF RESOLUTIONS

None

MESSAGES FROM THE GOVERNOR

GOV. COMM. 15-419: (11/30/07) Transmitting the Analysis & Review of the CNMI Defined Benefit Plan Retirement Program.

GOV. COMM. 15-420: (11/30/07) Regarding the Legislative Branch's Retirement Contribution.

GOV. COMM. 15-421: (11/30/07) Certification of vacant position at the Department of Public Health.

GOV. COMM. 15-422: (11/30/07) Certification of vacant position at the Attorney General's Office.

GOV. COMM. 15-423: (12/4/07) Returning H. B. NO. 15-307, HD1 which was recalled by the House on December 3, 2007.

GOV. COMM. 15-424: (12/4/07) Certification of vacant position at the Tinian Health Center.

GOV. COMM. 15-425: (12/4/07) Certification of an annual salary in excess of \$50,000 for Dr. Raphael Loutoby.

GOV. COMM. 15-426: (12/4/07) Enclosing a copy of Ms. Ellsbeth Viola Alepuyo's drug test receipt.

GOV. COMM. 15-427: (12/6/07) From Lt. Governor Villagomez declaring a State of Disaster Emergency for the Commonwealth Utilities Corporation. [*Executive Order 2007-11*]

GOV. COMM. 15-428: (12/10/07) Certification of vacant positions at the Department of Community and Cultural Affairs.

GOV. COMM. 15-429: (12/13/07) Certification of vacant position at the Office of the Attorney General.

GOV. COMM. 15-430: (12/14/07) Informing the House that he signed into law H. B. NO. 15-325, HD3 (Amending the Local Bidder Preference Law to exempt federally funded capital improvements and procurement of goods and services). [Became **Public Law 15-118**]

GOV. COMM. 15-431: (12/14/07) Informing the House that he line item vetoed H. L. B. NO. 15-74, S1 (Appropriation of \$80,000 from poker and pachinko slot machine fees from the First Senatorial District). [Became *Rota Local Law 15-7*]

GOV. COMM. 15-432: (12/18/07) Certification of vacant positions at the Department of Labor, Rota.

GOV. COMM. 15-433: (12/18/07) Certification of vacant positions at the Rota Health Center.

GOV. COMM. 15-434: (12/19/07) Informing the House that S. B. NO. 15-14 (Work experience waiver for college graduates) became **Public Law 15-119**.

GOV. COMM. 15-435: (12/21/07) Informing the House that H. B. NO. 15-42 (Legislative approval of CIP & Compact Impact Funds) became **Public Law 15-121**.

GOV. COMM. 15-436: (12/21/07) Informing the House that H. B. NO. 15-38, HS1, SS1 (Regulate reconnection and disconnection of utility services) became **Public Law 15-122**.

GOV. COMM. 15-437: (12/21/07) Informing the House that H. B. NO. 15-293 (CUC separate billing for power, sewer, and water) became **Public Law 15-123**.

GOV. COMM. 15-438: (12/21/07) Informing the House that he signed into law H. B. NO. 15-324 (To enable Joeten-Kiyu Public Library to receive cash contributions under the Education Tax Credit). [Became **Public Law 15-120**]

Gov. COMM. 15-439: (12/21/07) Informing the House that he disapproved H. B. NO. 15-292, HS1, HD3, SD1 (Amending the Notaries Public Act). [Deadline: 2/19/08]

Gov. COMM. 15-440: (12/21/07) Informing the House that he signed into law H. L. B. NO. 15-77, D1 (Saipan Zoning Act). [Became *Saipan Local Law 15-29*]

Gov. COMM. 15-441: (12/21/07) Informing the House that he signed into law H. L. B. NO. 15-72, D1 (Name road in Navy Hill as Basilio Lane). [Became *Saipan Local Law 15-30*]

Gov. COMM. 15-442: (12/28/07) Certification of vacant position at the Office of Personnel Management.

Gov. COMM. 15-443: (1/2/07) Informing the House that he disapproved H. B. NO. 15-308, HD1 (To amend PL 11-78). [Deadline: 3/2/08]

Speaker Babauta: I recognize the Minority Leader.

Rep. Palacios: Actually, Mr. Speaker, as we struggle with the budget, I am still perturbed by the continuing certification of vacant positions. Some are prima facie in the face of the justifications really fall short of essential services. I just want to take note of that and I hope that the members take note of that. We still have essential services to be taken care of by trainees and interns in the Attorney General's Office (AGO) and the Department of Community and Cultural Affairs (DCCA). I do not know where we are going with that. I think we ought to consider these issues when we deliberate on the budget today. The second item that I would like to reference this morning is the state of emergency declaration by then Acting Governor Villagomez with reference Gov. COMM. 15-427. You know, Mr. Speaker, this is the second time that we have a state of emergency in this Administration specifically to deal with the Commonwealth Utilities Corporation (CUC). For the record, Mr. Speaker, I have written to Lt. Governor Villagomez requesting information on this particular state of emergency. I have asked for a fiscal plan as to where the funds are going to be reprogrammed from. I also asked how they are going to deal with it. Basically, if you have a state of emergency, you are supposed to submit at least a plan to the presiding officers of the legislature as to how the Executive Branch is to deal with that emergency and where funding are going to be reprogrammed from. I know for a fact that we have never really received such from the last state of emergency declaration and we have yet to receive one for this most recent state of emergency declaration. I have informally requested information from the executive director of CUC indicating that he has forwarded some information to the Administration to be submitted to the Presiding Officers of this Legislature and I really hope that we get those information so that we know what we are dealing with. We cannot continue to have states of emergency on one end and dole out \$26.7 Million on the other hand. We have to have some accountability of how we are dealing with this emergency. I have taken the liberty writing to the Lt. Governor as a member of this Body, Mr. Speaker, and I believe I have forwarded the communication to your office. I believe that the Chair should at least follow up on those inquiries. If anything, at least the Chairman of the Committee on Public Utilities, Transportation, and Communications (PUTC) should be advised and should be apprised of how we are dealing with the rehabilitation of the power plants and how we are dealing with the fuel subsidies. Thank you, Mr. Speaker.

The Chair recognized Rep. Yumul.

Representative Yumul: Thank you. Just to clarify Representative Palacios' comments. 3 CMC § 5121(d) actually states, an executive order declaring a state of disaster emergency shall serve to activate the disaster response and recovery aspects of the Commonwealth, local and inter jurisdictional disaster emergency plans applicable to the political subdivision or the area in question. What needs to transpire is – where is the so-called disaster team, board, or appointees or whatever the Governor wants to utilize to come up with a plan of action on CUC. I have yet to see that. I have asked this Body a few months ago that we really look at this very carefully because within § 5121 and I quote under the chapter: “(b) the governor shall issue regulations as provided by law for the administration and enforcement of this chapter and such regulations shall have the force and effect of law as if they are not in conflict with the expressed provisions of this chapter”, and this is where I emphasize, “or other laws of the Commonwealth.” It is very clear that you cannot have put forth a declaration of a state of emergency or a disaster emergency and be in conflict with other laws of the Commonwealth. He needs to come to us and ask us to either rescind certain laws that are the root cause of the issue, if he thinks it is, or deal with it. So I really see an issue where if we do not take action then we are basically allowing the Administration to walk all over CNMI laws. Unless he has declared marshal law—I do not know if he even has that authority—and chucked the entire NMI Constitution out the window. I think this is one-step in that direction. Thank you, Mr. Speaker.

The Chair recognized Representative Tenorio.

Rep. Tenorio: On the same Governor's communication, Mr. Speaker. If you look at 3 CMC § 5121, have we received any notification that there is an extension of the emergency.

Speaker Babauta: No.

Rep. Tenorio: Tomorrow will be the 30th day.

Speaker Babauta: The executive order expires 30 days as indicated by the Acting Governor.

Rep. Tenorio: I am reading the section on emergency powers and it kind of conflicts with this provision. It says that a state of emergency shall automatically terminate within 60 days of his proclamation unless the governor shall prior to the end of the 60 day period notify the presiding officers of the legislature that the state of emergency has been extended for a like term and giving the reasons for the extension. So, I am kind of confused. Have we received any notification on the extension of the emergency or any report for that matter?

Speaker Babauta: There is no extension submitted yet, so I assume that the 30-day period has already expired, knowing publicly that the government has paid Mobil Micronesia \$2.5 Million for the purpose of the emergency.

Rep. Tenorio: Mr. Speaker, I agree with the Minority Leader. I think the Administration should do a detail report of the state of emergency and what they are doing such as the transferring of funds, because we are kind of left in the dark.

Speaker Babauta: Well, the statute is very explicit according to the Planning and Budgeting Act, 1 CMC § 7403(a) that he made mention on the last sentence. So the Administration would have to do just that unless otherwise, the executive order that the Administration issued with respect to reorganizing CUC has indicated suspension of those pertinent statutes. If our legal counsels can

clarify this at a later time because certain aspects of the executive order that the Administration issued some time ago suspended some laws that are applicable as cited here the recent executive order. Mr. Catlett, please be mindful and we can probably get together later on today and look at prior executive order that was executed by the Administration. Thank you, Mr. Catlett. Any further comment on Item 5? Representative Taman.

Rep. Taman: Thank you, Mr. Speaker. This is regarding GOV. COMM. 15-42 regarding H. L. B. No. 15-77. This is a minor inquiry. I am sorry, I am commenting on a communication for the local delegation.

Speaker Babauta: No problem. I recognize Representative Torres.

Rep. Torres: First, to clarify, what does the word nephrology mean?

Speaker Babauta: It has to do with dialysis issues.

Rep. Torres: So we need to pay \$200,000 for a doctor.

Speaker Babauta: If that doctor is worth \$200,000 to cure and potentially prolong the lives of our renal patients then it depends.

Rep. Torres: So we have to assume that this doctor would not necessarily refer patients to Hawaii.

Speaker Babauta: Correct, unless that patient has further complications other than renal. I am not a doctor, but I am trying to answer your concerns at my best.

Rep. Torres: That is on GOV. COMM. 15-425. Now going down to GOV. COMM. 15-426 I see that the nominee of Ms. Alepuyo's drug test sheet and receipt, but the drug test result is blank. Are we waiting for another page with the result? There are three pages in that Governor's communication. The drug test receipt and drug test result. It is supposedly the result, but it is blank. There is no indication of a positive, a negative or neutral.

Speaker Babauta: Let me ask the Chairperson of the Committee on Public Utilities, Transportation, and Communications. Be mindful, Representative Torres, that this also involve privacy. Let me ask Representative Dela Cruz if he has indeed received any result as prescribed by law. Representative Dela Cruz.

Representative Dela Cruz: Mr. Speaker, if we can take a few minutes break, I can go and check my files and see whether I have a copy of the actual drug test results.

Speaker Babauta: I would recommend that you discuss that with our good representative since this involves a nominee. I know that we all support the confidentiality of this matter. I would like to respect the individual.

Representative Yumul: Mr. Speaker, point of clarification.

Speaker Babauta: State you point of clarification, Representative Yumul.

Representative Yumul: Can we then ask the Committee on Public Utilities, Transportation, and Communications Chairman if he is ready to act on the confirmation of that nominee because I believe there is a deadline that is fast approaching. If we are not going to act on it –

Speaker Babauta: Do you want to act on it under Item 5.

Representative Dela Cruz: As soon as I get that information, Mr. Speaker.

Speaker Babauta: If you are –

Representative Dela Cruz: I feel comfortable acting on it.

Speaker Babauta: The Chair is waiting for the disposal of the House. If you want to do it right now, let us do it.

Representative Dela Cruz: Okay, recess, Mr. Speaker.

Speaker Babauta: Short recess.

The House recessed at 11:09 a.m.

RECESS

The House reconvened at 11:16 a.m.

Speaker Babauta: We are back in session and we are still under Item 5, Governor's communications. Representative Torres, you still have the floor.

Rep. Torres: Thank you, Mr. Speaker. First of all, I have been informed that the Attorney General is moving into having the Public Auditor audit my office, again, and I am expecting maybe another raid. I am still waiting and stand ready. That is a message from me to the Attorney General. Secondly, this is in reference to GOV. COMM. 15-439. The veto message from the Governor of my bill, H. B. NO. 15-292 reference to the amendment of the Notary Public Act. I find it very insulting personally and very insulting to both houses of the legislature by coming out with a letter saying that the content of the bill is contradictory to the finding and purpose that it would provide more clarity and consistency for the prevention of fraud. Mr. Speaker and members, the reason for bringing it up to be more stringent is exactly for the prevention of fraud. The other paragraph that the governor wrote or somebody wrote for him, saying that the current term of the notary public from two to four years is not acceptable. Mr. Speaker and members, in the United States, there are some states that have notaries commissioned for six years or four years, but the most common is two years. So, that is my suggestion to increase it to four years. It is burdensome for a notary public to be renewed every two years as a notary public. I know many notaries public have given up because it is a burden and sometimes complicated. Next is the requirement of recommendation to become a notary public has been increased to three. Originally, it was three and I think in the 14th Legislature, then Vice Speaker Tim Villagomez introduced an amendment putting to two years. It has been three years ever since I became a notary public in 1971. I have to obtain three letters from people who have good moral character. The governor did not like the word, moral, so that is one reason that he probably vetoed this bill. I do not want to be recommended to be a notary public if the person recommending me for the commission of notary is an ex-convict. That is the purpose of

including the word moral, to be of good moral character. Do we not all agree to that? Now, it says here that those changes failed to justify the prevention of fraudulent acts. Again on the next paragraph, it says, requires the notary public to comply with do's and don'ts of a notary and that this is a language is poor legal writing and has no meaning. I do not know if the Attorney General or whoever that suggested this to be included as a justification to veto, but Mr. Speaker and members, the do's and don'ts in the National Notary Association is the main and major focus that mandate every notary candidate and learn about. There are so many issues that notaries public go to jail for, because the do's and don'ts is notarizing a paper when that person is not in front of the notary or some illegal acts—under the table. So those are the do's and don'ts and if it is not included in the present statute then it should be mandated that a candidate knows what are the do's and don'ts. On the third issue mentioning that the measure would automatically authorize all mayors and CNMI legislators to be commissioned and suggests that the number of government employees to be come notaries is a bad policy. I do not know if they do not know that the Attorney General is commissioning government employees in some departments for the need of the government department's matters without a fee. They do not pay a fee or bonding because it is under the protection of the Attorney General. So why now are they saying that commissioning government employees and elected people is a bad policy. My goodness, I do not know if they know what they are talking about. It is in the regulations and in existing law that allows for government employees to be commissioned for the government's purpose. So I suspect that the Attorney General wrote this letter for the governor. As with the flyer that I have just passed out, it says, lawyers worst violators of law. They do not understand notary role. That is what this flyer says. So if the Attorney General wrote this letter for the governor to veto, the Attorney General does not know what the law is for notaries public. A law professor emeritus from Chicago wrote his flyer in that most of the lawyers do not understand the law of notary. Notary law is not taught in law school, so that is why they do not know. If you want to become a notary, you have to learn. There is a book about notary law different from a lawyer. Am I correct counsel? That is the message that I want to say. I do not want to move for an override, because I discovered something that needs to be included in the amendment of the Notary Public Law that says that the U.S. Supreme law does not allow just anybody to become a notary. A person must be a U.S. citizen, a permanent resident of the United States holding a green card, and nobody else. I understand that in the CNMI, there are many nonresident contract workers who have become notaries public. So I would include that one amendment in the next introduction of this amendment.

Speaker Babauta: Good. Representative Torres, I recommend that we excerpt some of this and insert it in our findings and purpose.

Representative Stanley Torres: True, and I will add more to satisfy the governor, and I would recommend that the governor sign that bill when he receives it without consulting his attorney general. Thank you.

Speaker Babauta: And I would assure you. I recognize Representative Taman.

Rep. Taman: Thank you, Mr. Speaker. I finally found the Governor's communication I was looking for. I inadvertently looked at the SNILD communication. I want to refer to GOV. COMM. 15-440 concerning H. L. B. NO. 15-77, Draft 1 which subsequently became Saipan Local Law 15-29. I would like to ask a simple question and I stand corrected. If my memory serves me, I understood when we introduced this, we introduced it as a Committee of the Whole. Is this correct?

Speaker Babauta: This is a delegation matter that was introduced in a House session.

Rep. Taman: So maybe I am out of order.

Speaker Babauta: You are on track, it is just that when we deliberated on the bill for passage it was in the local delegation level. We might want to clarify that at the next delegation session, Representative Taman.

Rep. Taman: Thank you.

The Chair recognized Representative Tenorio.

Rep. Tenorio: Thank you, Mr. Speaker, in reference to GOV. COMM. 15-436 this bill was vetoed by the governor and overridden by both houses of the legislature. I want to thank the House and the Senate for doing so. The reason I want to go on record, Mr. Speaker, is that this law has three parts to it. One is the reduction of the reconnection fee; two, the security deposit to be used as an offset; and three, the disconnection of one utility meaning CUC cannot disconnect water services if one is delinquent for power services. I want it on record, Mr. Speaker, that this is going to be an everyday problem. It is a problem now. Our consumers have been suffering from disconnection because of the fact that they do not have enough money to pay and that is the purpose of this particular law. There is an enforcement section on page 3. Section 3 says the consumer consul designated within the Office of the Attorney General as mandated by Public Law 6-46 shall be responsible for the enforcement of this Act. I just want to request the Chair to perhaps make a notice of this and write to the Attorney General's Office in regards to this enforcement. As I said, this is a very practical matter and is an everyday problem faced by our constituents. (*End of Tape 1 side A*) (*Start of Tape 1 side B*) ...just for the record. Thank you, Mr. Speaker.

The Chair recognized Representative Joseph Deleon Guerrero.

Rep. J. Deleon Guerrero: Mr. Speaker, to add on to what Representative Tenorio said. I will make this short. I also commend the members of both houses for passing the override of not only this bill, which became Public Law 15-122, but also Representative Dela Cruz's H. B. NO. 15-293 which eventually became Public Law 15-123. I want to ask the Chair of PUTC because both bills are very critical especially now with the rate going up that the Chair write to the Executive Director of CUC and ask that the regulations for this law should be promulgated immediately so that they can begin effectuating the intent of this law. Often times, bills become law and sometimes the legislature does not notice but the law is sometimes overlooked by the agencies, sometimes it takes a long time to implement, and eventually we find out years later that it was never really implemented. These two laws very critical and they need to be implemented and enforced immediately. Again, I ask the Chair of PUTC and the Speaker to send out perhaps a joint letter, ASAP. Thank you.

Speaker Babauta: Representative Dela Cruz. Back to GOV. COMM. 15-426, are we ready for this.

Representative Dela Cruz: Yes, Mr. Speaker. If I am not out of order.

Speaker Babauta: You are allowed to continue.

Representative Dela Cruz: I make a motion to certify two nominees for the Public Utilities Commission, namely, Ms. Ellsbeth Alepuyo and Mr. Kyle L. Kalabrese. We find that their documentations are in order. I, therefore, move for their certification in this House.

The motion was seconded by several members.

Speaker Babauta: The motion as offered by PUTC Chairman Frank Dela Cruz is for the confirmation of the two nominees for the Public Utilities Commission (PUC) Board of Directors has been seconded. Discussion on the motion. Representative Joseph Deleon Guerrero.

Rep. J. Deleon Guerrero: I am sorry. I see the in the Governor's communication the results of the drug test for Ms. Alepuyo, but I do not see one for the other candidate. Do you have copies of that, Mr. Chairman?

Representative Dela Cruz: Yes.

Speaker Babauta: The Chairman can probably share that with us since I informed all of you about the confidentiality of the individuals, but he has already certified to us that they are in order. Unless you wish to continue—Representative Guerrero, do you want a copy?

Representative Dela Cruz: Mr. Speaker, I can take a few seconds to walk over to Representative Joseph Deleon Guerrero and show him.

Rep. J. Deleon Guerrero: I am not going to publicize it. I just want to read it.

Speaker Babauta: Each member is warranted a copy. I will call for a thirty-second recess.

The House recessed at 11:35 a.m.

RECESS

The House reconvened at 11:36 a.m.

Speaker Babauta: We are back in session and under discussion of the two nominees as endorsed by the Chairman and members of the Committee on Public Utilities, Transportation, and Communications. Clerk, call the roll first for Ms. Alepuyo in confirming her to the Public Utilities Commission.

The Clerk called the roll on the motion to confirm the Governor's appointment of Ellsbeth Viola Alepuyo as a member of the Public Utilities Commission and resulted as follows:

Rep. Martin B. Ada	excused
Rep. Edwin P. Aldan	yes
Rep. Francisco S. Dela Cruz	yes
Rep. Florencio T. Deleon Guerrero	excused
Rep. Joseph P. Deleon Guerrero	yes
Rep. Jacinta M. Kaipat	yes
Rep. Jesus SN. Lizama	yes
Rep. Crispin M. Ogo	absent (unexcused)

Representative Palacios was not present in the Chamber when the roll was being taken. The Speaker called for a short recess.

Speaker Babauta: Brief recess.

The House recessed at 11:37 a.m.

RECESS

The House reconvened at 11:37 a.m.

Speaker Babauta: We are back to our session. Continue, Clerk.

Rep. Arnold I. Palacios	yes
Rep. Justo S. Quitugua	yes
Rep. Benjamin B. Seman	yes
Rep. Candido B. Taman	yes
Rep. Ramon A. Tebuteb	yes
Rep. Manuel A. Tenorio	yes
Rep. Stanley T. Torres	yes
Rep. Absalon V. Waki, Jr.	yes
Rep. Ray N. Yumul	yes
Rep. Oscar M. Babauta	yes

Speaker: By a vote of fifteen “yes” the House hereby confirms the Governor’s nominee to the Public Utilities Commission of Ms. Ellsbeth Alepuyo. Next, Clerk, call the roll on Mr. Kyle Kalabrese. Representative Torres?

Rep. Torres: Mr. Speaker, I think Kyle Kalabrese is in conflict to become a commissioner. He is now employed by the entire business sector in Saipan. Can he be unbiased in making –

Speaker Babauta: Sort recess.

The House recessed at 11:39 a.m.

RECESS

The House reconvened at 11:43 a.m.

Speaker Babauta: We are back to our plenary session. With the consensus, we will hold off on the voting of Mr. Kyle Kalabrese until this afternoon subject to the confirmation of information to be addressed by Representative Torres. Without objection, we go to Item 6, Senate Communications.

Representative Yumul: Mr. Speaker, before you do that –

Speaker Babauta: State your point of privilege, Representative Yumul.

Representative Yumul: Thank you. I know that H. B. NO. 15-328 soon to be HS1 has a section 611 regarding cover over funds. Since there is no communication from the governor about that, can we even act on this section?

Speaker Babauta: It is a policy call, primarily the House, that we can inject.

Representative Yumul: It means that we are going to pass a budget –

Speaker Babauta: With sufficient evidence to impose.

Representative Yumul: But the Secretary of Finance has not officially recognized it.

Speaker Babauta: It was recognized publicly.

Representative Yumul: Well –

Speaker Babauta: We will discuss that when we get there. We now move down to Item 6 and I recognize the Floor Leader.

SENATE COMMUNICATIONS

SEN. COMM. 15-308: (12/6/07) Returning H. B. NO. 15-282, HD3 (Board of Professional Licensing Revolving Fund), which was passed by the Senate with amendments on December 5, 2007, in the form of H. B. NO. 15-282, HD3, SD1. [***For action on Senate amendments***]

SEN. COMM. 15-309: (12/6/07) Returning H. B. NO. 15-325, HD3 (Amending Local Bidder Preference Law) which was passed by the Senate on December 5, 2007. [For info - Became PL 15-118]

SEN. COMM. 15-310: (12/6/07) Transmitting S. B. NO. 15-106, SD1, “To amend 1 CMC § 1616; and for other purposes,” which was passed by the Senate on December 5, 2007. [For action]

SEN. COMM. 15-311: (12/12/07) Transmitting a certified copy of S. R. NO. 15-54, A Senate Resolution congratulating Mr. Walt Frederick Jerome Goodridge on his numerous accomplishments within and without the Commonwealth; expressing gratitude for his efforts for the betterment of the people of the commonwealth; wishing him success in all his future endeavors. [For info]

SEN. COMM. 15-312: (12/12/07) Transmitting a certified copy of S. R. NO. 15-55, A Senate Resolution conveying the sincere condolences and sympathy of the Senate of the Fifteen Northern Marianas Commonwealth Legislature to the bereaved family of the late Officer Juan M. Ayuyu on the occasion of his untimely passing and paying tribute to his fond memory. [For info]

SEN. COMM. 15-313: (12/10/07) Informing the House that the Senate overrode the Governor’s veto of H. B. NO. 15-39, HS1, SS1 (Regulation of disconnection and connection of utility services) on December 5, 2007. [For info]

SEN. COMM. 15-314: (12/10/07) Informing the House that the Senate overrode the Governor’s veto of S. B. NO. 15-14 (re Waive work experience for Civil Service positions) on December 5, 2007. [For info]

SEN. COMM. 15-315: (12/19/07) Returning H. B. NO. 15-305, SD1, HD1 (To appropriate \$50,000 for A&E design of a gymnasium) which was passed by the Senate with amendments on December 19, 2007 in the form of H. B. NO. 15-305, SD1, HD1, SD2. [***For action on Senate amendments***]

SEN. COMM. 15-316 (12/19/07) Informing the House that the Senate rejected H. B. NO. 15-322, HS1, HD1 (Tourism Entertainment and Destination Enhancement Act of 2007) on December 19, 2007. [For info]

SEN. COMM. 15-317: (12/19/07) Informing the House that the Senate accepted the House amendments to S. B. NO. 15-104, SD1, HD1 (Curfew Law). [For info]

Speaker Babauta: I recognize the Floor Leader for the acceptance of the communications.

Floor Leader Pro Tem Lizama: Thank you, Mr. Speaker. Mr. Speaker, I move to accept all Senate communications: SEN. COMM. 15-308 through SEN. COMM. 15-317.

The motion was seconded and carried by voice vote.

Speaker Babauta: Continue, Floor Leader.

Floor Leader Pro Tem Lizama: Mr. Speaker, I move for the passage of H. B. NO. 15-282, HD3, SD1 by accepting the Senate amendments.

SEN. COMM. 15-308: (12/6/07) Returning H. B. NO. 15-282, HD3 (Board of Professional Licensing Revolving Fund), which was passed by the Senate with amendments on December 5, 2007, in the form of **H. B. NO. 15-282, HD3, SD1**. [*For action on Senate amendments*]

Speaker Babauta: The motion is to accept the Senate amendments on H. B. NO. 15-282, HD3. Let me ask the author if the amendments are okay.

Floor Leader Pro Tem Lizama: Yes, Mr. Speaker.

Speaker Babauta: Okay.

There was no discussion, and the motion to accept the Senate amendments to H. B. NO. 15-282, HD3 was carried by voice vote.

Speaker Babauta: The motion is carried. Consider it as a 15-0 vote. Floor Leader, motion for placement.

Floor Leader Pro Tem Lizama: Thank you, Mr. Speaker. I move to suspend Rule X, Section 15 for the placement of S. B. NO. 15-106, SD1 (SEN. COMM. 15-310), and H. B. NO. 15-305, SD1, HD1, SD2 (SEN. COMM. 15-315) on today's Bill Calendar for action.

The motion was seconded and carried by voice vote.

Speaker Babauta: The motion carries. S. B. NO. 15-106, SD1 and H. B. NO. 15-305, SD1, HD1, SD2 are hereby placed on the Bill Calendar. The House will now break for lunch until 1:30 p.m.

The House recessed at 11:48 a.m.

RECESS

The House reconvened at 1:58 p.m.

Speaker Babauta: We are back to our session and, without objection, we will go back and entertain the motion that was suspended earlier regarding the nomination of Mr. Kyle Kalabrese. There is a standing motion. Under discussion, are we ready to vote for the confirmation? Clerk, call the roll.

The Clerk called the roll on the motion to confirm the Governor's appointment of Kyle Kalabrese as a member of the Public Utilities Commission and resulted as follows:

Rep. Martin B. Ada	excused
Rep. Edwin P. Aldan	absent (during voting)
Rep. Francisco S. Dela Cruz	yes
Rep. Florencio T. Deleon Guerrero	excused
Rep. Joseph P. Deleon Guerrero	yes
Rep. Jacinta M. Kaipat	yes
Rep. Jesus SN. Lizama	yes
Rep. Crispin M. Ogo	absent (unexcused)
Rep. Arnold I. Palacios	yes
Rep. Justo S. Quitugua	yes
Rep. Benjamin B. Seman	yes
Rep. Candido B. Taman	no
Rep. Ramon A. Tebuteb	yes

Speaker Babauta: Thirty-second recess.

The House recessed at 2:02: p.m.

RECESS

The House reconvened at 2:02 .m.

Speaker Babauta: We are voting on the last nominee for PUC, Mr. Kyle Kalabrese. Your vote, Representative Tenorio.

Rep. Manuel A. Tenorio	yes
Rep. Stanley T. Torres	yes
Rep. Absalon V. Waki, Jr.	yes
Rep. Ray N. Yumul	no
Rep. Oscar M. Babauta	yes

Speaker Babauta: By a vote of twelve "yes", the House hereby confirms Mr. Kyle L. Kalabrese to be a member of our Public Utilities Commission as nominated by the Governor. Thank you. We go down to Item 16.

HOUSE COMMUNICATIONS

None

COMMUNICATIONS FROM THE JUDICIAL BRANCH

None

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

DEPT./AGCY. COMM. 15-82: (11/29/07) From PSS Commissioner David Borja commenting on H. B. NO. 15-324.

There was no discussion under this item.

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

None

OTHER COMMUNICATIONS

None

REPORTS OF STANDING COMMITTEES

None

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

None

BILL CALENDAR

Speaker Babauta: For the benefit of the members, earlier I requested that we get some bill going and then recess until tomorrow morning at 9:00 a.m. I intend to bring in Representatives Ogo and Ada with the assistance of the Department of Public Safety Commissioner so that then can be here in session to deliberate on the budget. Floor Leader, motion for the first bill.

Floor Leader Pro Tem Lizama: Thank you, Mr. Speaker. I move for the passage of S. B. NO. 16-106, SD1 on First and Final Reading.

The motion was seconded.

S. B. NO. 15-106, SD1: A BILL FOR AN ACT TO AMEND 1 CMC § 1616; AND FOR OTHER PURPOSES.

Rep. J. Deleon Guerrero: Point of clarification.

Speaker Babauta: State you point of clarification, Representative Joe Deleon Guerrero.

Rep. J. Deleon Guerrero: I thought I heard him say SEN. COMM. 15-315.

Speaker Babauta: It is on SEN. COMM. 15-310 on S. B. NO. 15-106, SD1. Discussion on the Senate Bill. Representative Yumul.

Representative Yumul: Mr. Speaker, I am concern about the members from Rota and Tinian that they are allowed -- oh, I see the strikeout on related travel expense. I would like to get a clarification

on that because if they were only allowed air transportation, would the per diem include ground transportation and housing or hotel, is that part of it.

Speaker Babauta: Part of it.

Representative Yumul: Ready.

Speaker Arnold Palacios: Ready for the vote? Clerk, call the roll.

The Clerk called the roll on the motion to pass S. B. NO. 15-106, SD1 on First and Final Reading, which resulted as follows:

Rep. Martin B. Ada	excused
Rep. Edwin P. Aldan	absent (during voting)
Rep. Francisco S. Dela Cruz	yes
Rep. Florencio T. Deleon Guerrero	excused
Rep. Joseph P. Deleon Guerrero	yes
Rep. Jacinta M. Kaipat	yes
Rep. Jesus SN. Lizama	yes
Rep. Crispin M. Ogo	absent (unexcused)
Rep. Arnold I. Palacios	yes
Rep. Justo S. Quitugua	yes
Rep. Benjamin B. Seman	yes
Rep. Candido B. Taman	yes
Rep. Ramon A. Tebuteb	yes
Rep. Manuel A. Tenorio	yes
Rep. Stanley T. Torres	yes
Rep. Absalon V. Waki, Jr.	yes
Rep. Ray N. Yumul	yes
Rep. Oscar M. Babauta	yes

Speaker Babauta: By a vote of fourteen “yes”, S. B. NO. 15-106, SD1 under SEN. COMM. 15-310 passes the House on First and Final Reading. Continue, Floor Leader.

Floor Leader Pro Tem Lizama: Mr. Speaker, I move for the passage of H. B. NO. 15-305, SD1, HD1, SD2 in reference to SEN. COMM. 15-315.

The motion was seconded.

H. B. No. 15-305, SD1, HD1, SD2: A BILL FOR AN ACT TO APPROPRIATE \$50,000.00 FOR THE A&E DESIGN OF A GYMNASIUM FOR THE NORTHERN YOUTH BASKETBALL ASSOCIATION; ~~TO RE-APPROPRIATE \$500,000 UNDER PL 13-48 FOR PROJECTS IN THE FIRST SENATORIAL DISTRICT;~~ AND FOR OTHER PURPOSES.

Speaker Babauta: The motion has been seconded. Discussion on S. B. NO. 15-305 in the form of Senate Draft 2. Minority Leader.

Rep. Palacios: Mr. Speaker, what started as a very simple piece of legislation for a youth basketball facility ended up being amended by the Senate, and certainly it is their prerogative because this is funding for Route 100. I just want to be on record, Mr. Speaker, that I am not sure whether CIP

funds could be used for these purposes. So I just want to be on record questioning the validity, the legality of using CIP funds for tourism promotion. Thank you.

Speaker Babauta: Representative Joe Deleon Guerrero.

Rep. J. Deleon Guerrero: Thank you, Mr. Speaker. I agree with Representative Palacios' comments. I think one similar bill that was introduced earlier intended to do the same thing and they skirted the issue by having a notwithstanding clause. This bill does not have that. So I want to be on record also that absent that language, I do think the current rider is in conflict with the current language for that CIP appropriation which does not allow for use for anything other than capital improvement projects. That is the first comment, Mr. Speaker. The second I want to make is that I want to be on record also saying that this practice continues to happen where funding is appropriated to a particular senatorial district for very specific purposes and then they reappropriate it for other uses. Later on down the road, they come back to the floor and say there is not enough funding for their Route 100 project, and can we appropriate funding to that. So, I want to be on record that I do not want to entertain any further discussion about reappropriating funds to put into this project when there are adequate funds right now, but the First Senatorial District is reprioritizing the use of that fund. It is like a slush fund, which basically what it amounts to. They appropriated for a project, the project does not move forward. They reappropriate the money and later on, they come back and ask the legislature for more money. I just want to be on record, Mr. Speaker. Thank you.

Rep. Tenorio: Point of clarification.

Speaker Babauta: State your point of clarification, Representative Tenorio.

Rep. Tenorio. Mr. Speaker, with that comment by Representative Deleon Guerrero, it brings a question whether if we do an appropriation bill and it goes to the Senate it changes the entire appropriation bill. All we want is \$50,000 and they are actually appropriating for other projects. Is that allowable under the Rules, because then it becomes them who are appropriating already so it is coming from the Senate. This is not an amendment to the original appropriation, this is something else. I just want clarification if that is allowable, because if it is, then our constitutional mandate as the body that makes appropriation is no longer there. You know what I am saying—we appropriate and when it goes to the Senate they do not amend the bill, they insert another appropriation that is totally different.

Speaker Babauta: Let me further try to clarify that. Yes, appropriation measures can be amended in the Senate, but they cannot initiate an appropriation in itself. So, similar to what you are trying to clarify, the Senate can put in a rider in any appropriation bill that the House initiates. Similar to the budget, we concur on a figure, they could also change that figure.

Rep. Tenorio: But the appropriation was initially for \$50,000. It is no longer the same bill. It is another bill.

Speaker Babauta: It is called a rider.

Rep. Tenorio: They put a rider.

Speaker Babauta: An appropriation rider in an appropriation bill.

Rep. Tenorio: Mr. Speaker, I think you ought to clarify that just to make sure that it is allowable.

Speaker Babauta: Under the NMI Constitution, the Senate cannot initiate appropriation measures.

Rep. Tenorio: Is that not what is happening?

Speaker Babauta: No, they amended the House Bill and injected a half a million dollars into that same House Bill. If I may, a very brief recess to clarify the provision on page 3, line 4 with the counsel. Short recess.

The House recessed at 2:12 p.m.

RECESS

The House reconvened at 2:25 p.m.

Speaker Babauta: We are back to our session and we continue to discuss H. B. NO. 15-305, SD1, HD1, SD2. I recognize Representative Waki.

Rep. Waki: Thank you, Mr. Speaker. Mr. Speaker, if I am not out of order I would like an amendment to this particular House Bill. The amendment would be to delete all amendments from the Senate. Like I said, whatever the amendments from the Senate placed on this particular bill will be deleted and sections are renumbered accordingly.

The amendment was seconded.

The amendment reads as follows:

{FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FOURTH REGULAR SESSION, 2007

H. B. NO. 15-305, SD1, HD1 SD2

A BILL FOR AN ACT

To appropriate \$50,000.00 for the A&E design of a gymnasium for the Northern Youth Basketball Association; ~~to re appropriate \$500,000 under PL 13 48 for projects in the First Senatorial District; and for other purposes.~~

BE IT ENACTED BY THE FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Findings and Purpose. *The Legislature finds that the mission of the Northern Youth Basketball Association (NYBA) is to “Build our Youth’s Lives through the game of basketball.” The NYBA has two main goals: (1) To develop and promote the sport of basketball throughout the CNMI, specifically Saipan; and (2) To use the sport of basketball to develop and nurture positive life skills in all players, parents, volunteers, and coaches. The NYBA seeks to provide an alternative program that focuses on the prevention of at-risk behaviors including the use of drugs, alcohol, domestic violence, and other forms of juvenile crime. The NYBA aspires to provide the youth of the community with a diversity of alternative activities that will teach and promote positive life and social skills, character development, and provide strategies for combatting negative influences or pressures.*

A Youth Risk Behavior Survey conducted by the Public School System in 2005 showed that 81.5% of senior high school students have used illegal drugs and inhalants at one or more times during their life. The same survey also indicated that 73.9% of senior high school students had at least one drink of alcohol on one or more days during their lives. The 2004 Youth Tobacco Survey conducted by the Department of Public Health further indicated that 39% of junior high school students and 63% of senior high school students used any form of tobacco. Science-based research from the Center for Substance Abuse Prevention, under the Center for Disease Control and Prevention, has showed that tobacco, alcohol, or marijuana are gateway drugs that lead to more potent and deadlier drugs like ice, PCP, etc.

The Legislature also finds that the NYBA has partnered with the Division of Youth Services, Division of Sports & Recreation, Community Guidance Center, Division of Public Health, NMC CREES, Substance Abuse & Prevention Coalition, Diabetes Coalition, and Commonwealth Cancer Association to achieve their goal of preventing the initiation of substance and tobacco use among children, youth, and adults, as well as, to reduce substance and tobacco use among community members who are already using substances or tobacco. The NYBA has applied for and received grants from the federal government and funding from various private organizations; however, they still lack enough funds to pay for the A&E design portion of their gymnasium construction project.

The Legislature finally finds that the NYBA is aligned with the principals of Public Law No. 13-38 to educate and to promote prevention and awareness of the hazards of tobacco use. Therefore, the purpose of this Act is to appropriate \$50,000.00 from the Youth Tobacco Free Program to fund the A&E design of the gymnasium.

~~Further Section 3 below reprograms funding from Public Law 13 48 for PSS projects and for airline incentive program in the First Senatorial District.~~

Section 2. Appropriation. Notwithstanding any limitations of Section 3 of Public Law 13-38 or Section 3 of Public Law 14-80, there is hereby appropriated Fifty Thousand Dollars (\$50,000.00) from the Youth Tobacco Free Program (BU#2067C) to the Northern Youth Basketball Association for the A&E design of its gymnasium.

~~**Section 3. Appropriation.** There is hereby appropriated to the Public School System one hundred thousand dollars (\$100,000) from the money appropriated by Public Law 13 48 to the Rota Route 100 Road Project from the interest income earned by the Commonwealth Development authority bonds held in the Bank of Guam CIP account to finance the needed PSS capital improvement projects in the First Senatorial District. The funds appropriated shall be under the expenditure authority of the Mayor of Rota. There is hereby appropriated to the Rota Airline Incentive Program four hundred thousand dollars (\$400,000) from the money appropriated by Public Law 13 48 to the Rota Route 100 Road Project from the interest income earned by the Commonwealth Development authority bonds held in the Bank of Guam CIP account to promote new charter flights and existing flights, routes and providers to the Rota International Airport. These funds shall be appropriated by Rota Delegation Resolution and shall be available without fiscal year limitation.~~

Section 3 ~~4~~ 3. Expenditure Authority. The President of the of the Board of Directors of the Northern Youth Basketball Association shall be the expenditure authority of the funds appropriated in Section Two of this Act ~~herein~~.

Section 4 ~~5~~ 4. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 5 ~~6~~ 5. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation, or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of the Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

Section 6 ~~7~~ 6. Effective Date. This Act shall take effect upon its approval by the Governor or becoming law without such approval.)

Speaker Babauta: Discussion on the oral amendment.

There was no discussion and the motion to amend as offered by Representative Waki was carried by voice vote.

Speaker Babauta: The motion is carried. We will give it back to the Senate again for Monday's session. Clerk, please try to engross this for the Senate's action. Floor Leader, continue.

Floor Leader Pro Tem Lizama: Mr. Speaker, on H. B. NO. 15-330, I move for its passage on Final Reading. Mr. Speaker, with the understanding with the mover of the bill, I have a substitute bill here.

The motion was seconded.

H. B. NO. 16-330: A BILL FOR AN ACT TO AMEND 1 CMC § 6601(B) TO CLARIFY THE METHOD RECOUNTING BALLOTS IN ELECTION CONTESTS; AND FOR OTHER PURPOSES.

Speaker Babauta: I understand there is a substitute. Who is offering the substitute?

Floor Leader Pro Tem Lizama: Yes, Mr. Speaker.

Speaker Babauta: You are?

Floor Leader Pro Tem Lizama: Yes.

Speaker Babauta: You may continue.

Floor Leader Pro Tem Lizama: Mr. Speaker, the mover authorized me to offer the substitute on H. B. NO. 15-330. I now offer H. B. NO. 15-330, HS1.

The motion to amend was seconded.

The substitute reads as follows:

{FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

2ND DAY, ELEVENTH SPECIAL SESSION, 2008

H. B. NO. 15-330, HS1

A BILL FOR AN ACT

***TO AMEND 1 CMC § 6601(B) TO CLARIFY THE METHOD RECOUNTING BALLOTS IN ELECTION CONTESTS;
AND FOR OTHER PURPOSES.***

***BE IT ENACTED BY THE FIFTEENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:***

Section 1. Findings and purpose. *The Commonwealth Legislature finds that the current practice of recounting ballots during an election contest where fewer than five votes separate the person declared elected and the next highest vote getter has raised several concerns in regards to the methods used for such a recount. The current statute is vague on how recounts are to be conducted. To*

ensure accuracy, a manual recount should be conducted and then may be verified through the use of ballot tabulating machines.

Additionally, the use of Avery tapes in cases where the ballot-tabulating machine rejects a ballot is also questionable. It is possible for ballots to be tampered with through this practice. To further ensure that such ballots are not tampered with, all ballots where Avery tapes were used because the ballot was originally rejected by the tabulating machine should be set aside and separated from the rest of the ballots for future reference and review. Ballots ruled invalid by the Commission should also be set aside and separated from the rest of the ballots for future reference and review.

It is therefore, the purpose of this Act to clearly specify the methodology of recounting ballots during an election contest or a request for a recount as provided by law and to require that the ballots originally rejected by the ballot tabulating machine and ruled invalid by the Commission be set aside and separated from the rest of the ballots for future reference and review in case of an election contest or a request for a recount.

Section 2. Amendment. 1 CMC § 6601(b) is hereby amended as follows:

“(b) Recount. If ~~less~~ fewer than five votes or less than one-half of one percent (0.005) of the total votes cast separate the person declared elected and the next highest vote getter, then the next highest vote getter is entitled to a recount.”

- (1) Such recount shall be ~~made~~ conducted either manually or both manually and by tabulating machine in the presence of ~~the~~ all interested parties and under the supervision of the ~~Commonwealth Superior Court~~ Commonwealth Election Commission at no cost to the interested parties.
- (2) All ballots originally rejected by the tabulating machine or ruled by the Commission as invalid shall be separated from the rest of the valid ballots for future reference and review in the case of an election contest or a request for a recount.
- (3) Any final recount determination of the Commonwealth Election Commission shall be reviewable in the Superior Court pursuant to the Administrative Procedure Act (1 CMC §9101 et seq.).”

Section 3. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 4. Savings clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of the Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

Section 5. Effective date. This Act shall take effect upon its approval by the Governor or upon becoming law without such approval.” }

Speaker Babauta: I recognize Representative Yumul.

Representative Yumul: Thank you, Mr. Speaker. On page 2, line 6, I would like to ask the author why the Superior Court was removed and the Commonwealth Election Commission is placed back in as the supervising authority. I think that as witnessed at the last recount, Judge Wiseman did good in supervising the issue. I see that it will also expedite a decision because if you go down to line 12, it talks about another review. So, why are we going to have multiple reviews?

Speaker Babauta: I assume we are trying to create a fourth branch of government.

Representative Yumul: The constitution actually says that we can delegate this issue to the Superior Court.

Speaker Babauta: Absolutely.

Representative Yumul: But like the comment from the Taotao Tano group, the question of who is to place and under what conditions do they place these stickers or Avery labels because from Representative Tenorio's comments from the media, these machines are very sensitive. That means if a person makes slight mark or an indentation, and they attempt to erase it and the ballots gets picked out, do they have white Avery labels to ensure that it is not reread? We do not know what the method is. I still do not know what the method is. According to Representative Tenorio, even the recount by the machines over thirty ballots were kicked out. You were there too, Mr. Speaker.

Speaker Babauta: Let me clarify that, I was not there.

Representative Yumul: So the point of the matter is *hamyo guine mu test i sisteman gi eleksion*.

Speaker Babauta: No, I did not contribute to the request.

Representative Yumul: So the whole point is we need to allow for choices here. My point is why the removal of the Superior Court.

Speaker Babauta: Let me recognize Representative Kaipat, she may have something to your concern. Representative Kaipat, recognized.

Rep. Kaipat: Mr. Speaker, *ti pot i marking. An man halom hit para ta fan man bota, ta usa lapis. Lao i Avery tape ni ma usa, ma tulaika gi etyo siha i ma usa pen. Etyigue. Pues guaha difirensiaña enao. Un komprede hafa ilelekhu? Munga nai ma patch etyo sa' un tulalaika i risutta. Komu lache hao sa' un usa pen, pues lache hao. Lao munga i Election Commission na para u ma ayuda para u ma tulaika sa' para u fan hanao para u ma chule' i Avery tape ya para u ma pega' guihe.*

Speaker Babauta: Representative Tenorio, do you want to shed some light because you were there.

Rep. Tenorio: No. I just want to ask a question to the legal counsel. I know the Commonwealth Superior Court was there initially. I do not know who –

Speaker Babauta: Brief recess.

The House recessed at 2:33 p.m.

RECESS

The House reconvened at 2:41 p.m.

[The recording after recess began when Representative Kaipat was holding the floor.]

Rep. Kaipat: I wish to offer an amendment on page 2, line 6. I wish to propose that Commonwealth Superior Court be retained, and on the next line, line 7 take out "Commonwealth Election Commission". Also take out item 3 on line 12, in its entirety.

The motion was seconded.

"(1) Such recount shall be ~~made~~ conducted either manually or both manually and by tabulating machine in the presence of ~~the~~ all interested parties and under the supervision of the Commonwealth Superior Court ~~Commonwealth Election Commission~~ at no cost to the interested parties.

- (2) All ballots originally rejected by the tabulating machine or ruled by the Commission as invalid shall be separated from the rest of the valid ballots for future reference and review in the case of an election contest or a request for a recount.
- (3) Any final recount determination of the Commonwealth Election Commission shall be reviewable in the Superior Court pursuant to the Administrative Procedure Act (1 CMC §9101 et seq.).”

There was no discussion, and the motion to amend H. B. NO. 15-330, HS1 was carried by voice vote.

Speaker Babauta: The motion carries, and we continue to discuss H. B. NO. 15-330, HS1, HD1. Ready. Clerk, call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 15-330, HS1, HD1 on First and Final Reading, which resulted as follows:

Rep. Martin B. Ada	excused
Rep. Edwin P. Aldan	yes
Rep. Francisco S. Dela Cruz	yes
Rep. Florencio T. Deleon Guerrero	excused
Rep. Joseph P. Deleon Guerrero	yes
Rep. Jacinta M. Kaipat	yes
Rep. Jesus SN. Lizama	yes
Rep. Crispin M. Ogo	absent (unexcused)
Rep. Arnold I. Palacios	yes
Rep. Justo S. Quitugua	yes
Rep. Benjamin B. Seman	absent (during voting)
Rep. Candido B. Taman	excused
Rep. Ramon A. Tebuteb	yes
Rep. Manuel A. Tenorio	yes
Rep. Stanley T. Torres	absent (during voting)
Rep. Absalon V. Waki, Jr.	yes
Rep. Ray N. Yumul	yes
Rep. Oscar M. Babauta	abstained

Speaker Babauta: I have to abstain from voting on this legislation because it is a cloudy area. I was part of this litigation, so I will abstain. So that my heart is sincere, I have to abstain. I recommend that Representative Tenorio to do the same.

Rep. Tenorio: Mr. Speaker, with all due respect, conflict of interest does not fall on this.

Speaker Babauta: You may probably be right, but in any case.

Rep. Tenorio: Is there any legal basis for an abstention? I want to know.

Speaker Babauta: The appearance of supporting the legislation would further cloud the issue that this legislature purposely amended the law because of some.... Although the intent is noble, it is to further clarify the administrative provisions that require the CEC to conduct itself. At any rate, we have more than enough votes.

Rep. Tenorio: I am confused, Mr. Speaker, with the explanation.

Speaker Babauta: You leave with your personal desire. I would not force you to recuse yourself. This is only on my part.)

Speaker Babauta: By a vote of twelve, “yes” H. B. NO. 15-330, HS1, HD1 passes the House on Second and Final Reading. Anymore, Floor Leader?

Floor Leader Pro Tem Lizama: A motion to recess, Mr. Speaker.

Speaker Babauta: Before I recognize that motion, I would officially inform the House Sergeant-at-Arms to bring in Representative Ogo and Representative Martin Ada for tomorrow morning’s session at ten o’clock in the House Chamber. I would inform the members that you could appear casually. Representative Aldan.

Rep. Aldan: Mr. Speaker, I just want to say something with regards to House Local Bill 15-78.

Speaker Babauta: Would you like to make an amendment.

Rep. Aldan: No, Mr. Speaker. It is just that I have been dwelling on it for one day.

Speaker Babauta: Are you talking about the Governor’s communication?

Rep. Aldan: No, Mr. Speaker.

Speaker Babauta: Oh, I thought I heard Public Law 15-78. You may continue.

Rep. Aldan: Mr. Speaker, I want to go on record and request that this bill be taken out.

Speaker Babauta: It is already taken out today.

Rep. Aldan: It is only the second day.

Speaker Babauta: No, it is the third day.

Rep. Aldan: Mr. Speaker, I have been talking to the legal counsel and I did not agree on how he interpret that this law is allowable. Article 21 is very specific that there are only two ways that you can come up with this type of measure.

Speaker Babauta: Which way is that?

Rep. Aldan: You can read under Article 21. Ian, if you do not mind please because I am still not content.

Speaker Babauta: Okay, counselor. [End of Tape 2 side A]

Legal Counsel Ian Catlett: [Start of side B]...constitutional provision says it should be established by Commonwealth law meaning the entire legislature, or by popular initiative in the senatorial district which in Saipan did fail in the past election. The next question though is 1 CMC § 1402-- and I am just trying to recall this from memory because I do not have it in front of me -- does allow the local delegation to regulate gambling. That is specific power given the local delegation, but that statute is in conflict with 4 CMC – I am sorry I do not have it in front of me – but a potential conflict so there is a gray area. I do not have an absolute answer right now, but there appears in the laws of the Commonwealth whether that would be allowed through a local delegation or not. So, § 1402 does allow the local delegation to, quote, regulate gambling. There are other conflicts potentially in § 5162.

Speaker Babauta: Thank you. Does the analysis of that provision state anything about definition of Commonwealth law.

Legal Counsel Ian Catlett: I think Commonwealth law is definitely one passed by the entire legislature. A local law is a delegation law. So it would have to be authorized by the entire legislature. The question in this case is whether § 1402 which was adopted by the entire legislature then authorizes delegations to do it or is that in complete conflict with § 5162. I do not have a full answer for that.

Speaker Babauta: Meaning a policy call for the delegation?

Legal Counsel Ian Catlett: Well, I am not sure. There has to be a full analysis of the two statutes, which I have not been able to do quite yet.

Speaker Babauta: Because in some instance, the local delegation would inject something on a Commonwealth law, or rather a sub-law in the Commonwealth law and that has not been challenged in many instances. Similarly on some local taxes for that matter. But, we will see. I understand the representative's concern because there is no clear cut legal opinion as to the issue at hand.

Rep. Aldan: Mr. Speaker, if Ian can go back and look into to the journal and the analysis of the Second and the Third Constitutional Convention (ConCon), it is clear in their reports that any form of gaming or gambling should be left for the people to decide. Tinian had it seventeen years ago. Rota and Saipan have been trying to do it the way it was intended in the constitution. If this is the case, that we can do it through a local bill, then Tinian should not have gone through an initiative. We could have just submitted something like this and have a casino seventeen years ago, but that is not the intent. Ian, look at the analyses of the ConCon. The ConCon members wanted to leave that for the people to decide or through a CNMI-wide law meaning that both houses have to vote on it.

Speaker Babauta: Can I ask an important point. What is the threshold licensing fee for the Tinian Gaming Commission?

Rep. Aldan: Two hundred and fifty.

Speaker Babauta: Two hundred and fifty thousand dollars?

Rep. Aldan: Yes.

Speaker Babauta: What amends that?

Rep. Aldan: I think it is in the initiative.

Speaker Babauta: Are you sure? Or, the local delegation amended the constitution.

Rep. Aldan: Mr. Speaker, I do not think that the delegation amended the constitution. There was a court case and it was settled by the commission and the governor at that time which was Governor Larry Guerrero. Some of those provisions came directly from the judgment from the court.

Speaker Babauta: That is what I am alluding to because I recalled the commission sued the delegation for amending the initiative and that is the reason you have the two hundred and fifty thousand dollars threshold. It used to be five hundred under the constitution.

Rep. Aldan: Which one?

Speaker Babauta: Under the constitution, the initiative that was passed in Tinian, the threshold was five hundred thousand dollars.

Rep. Aldan: Half a million.

Speaker Babauta: And the delegation amended that half a million.

Rep. Aldan: No, it went though an initiative. It did not pass.

Speaker Babauta: It did not pass.

Rep. Aldan: So we stayed with the two hundred and fifty thousand.

Speaker Babauta: Huh? What happened to the five hundred thousand.

Rep. Aldan: Initially it was five –

Speaker Babauta: Correct.

Rep. Aldan: But it was changed to two hundred and fifty.

Speaker Babauta: What changed it?

Rep. Aldan: The initiative.

Speaker Babauta: Was it ratified?

Rep. Aldan: It was not ratified.

Speaker Babauta: Oh, so how did you change the constitutional provision.

Rep. Aldan: It went through the legislature.

Speaker Babauta: Are you sure?

Rep. Aldan: It came here, Mr. Speaker.

Speaker Babauta: The Tinian Delegation change the local constitution unilaterally, am I correct? And, that is the reason why the commission sued the –

Rep. Aldan: If I may, Mr. Speaker, I want to move to reject the bill as a non-local matter and have it moved to placed as a CNMI matter in the form of a House Bill. I strongly object that it is not a local matter. That is a CNMI issue.

Speaker Babauta: Representative Aldan, you do not have to make that motion. The Speaker will automatically remove it from the calendar. You have my word.

Rep. Aldan: Mr. Speaker, to remove from the Calendar to send to the delegation, or remove to --? (Laughter) Because this is the third appearance, Mr. Speaker.

Speaker Babauta: Short recess.

The House recessed at 3:00 p.m.

RECESS

The House reconvened at 3:10 p.m.

Speaker Babauta: We are back to our plenary session. I recognize Representative Aldan.

Rep. Aldan: Mr. Speaker, my motion still stands to reject the bill as a non-local matter.

The motion was seconded.

Speaker Babauta: Discussion on the motion.

The motion to consider H. L. B. NO. 15-78 as a non-local matter was carried by voice vote.

Speaker Babauta: The motion carries, this matter now becomes the property of this House, and we will take it up at a later time. Okay, I suggest that we recess until tomorrow morning at ten o'clock and allow the Sergeant-at-Arms to bring in Representatives Ogo and Ada. The second step will have to be dealt with by the Department of Public Safety. Representative Taman.

Rep. Taman: Is the Sergeant-at-Arms also going to bring in Representative Bobby Pan (Florencio Deleon Guerrero).

Speaker Babauta: No, Representative Bobby Pan is in the Mainland. He has informed my office that he would not be back until the 22nd of this month. So, may I ask the indulgence of the members for tomorrow's session. As I informed all of you, I plan to close out the 15th House of Representatives on Wednesday morning at nine o'clock.

Representative Yumul: Mr. Speaker, am I to assume that you are to do a *sine die* on Wednesday.

Speaker Babauta: Yes.

Representative Yumul: Because the concern is that any legislation, such as the local delegation or from the Senate, comes down after Wednesday, it would be invalid because you would not be able to sign. It must be transmitted by Wednesday.

Speaker Babauta: By Wednesday morning at the latest and that is the reason the Saipan Delegation is having a session Monday morning and the Senate on Monday afternoon. So we have a day and a half.

Representative Yumul: Likewise, if there is a communication from the governor such as a veto message we would not be able to act.

Speaker Babauta: Correct. Okay,

MISCELLANEOUS BUSINESS

None

ADJOURNMENT

Speaker Babauta: The House stands recessed until tomorrow at ten o'clock in the morning.

There was no objection from the floor and the House adjourned at 3:14 p.m. will reconvene on Saturday, January 5, 2008, at 10:00 a.m.

Respectfully submitted,

Evelyn C. Fleming
House Clerk

APPEARANCE OF LOCAL BILLS

FIRST APPEARANCE:

SECOND APPEARANCE:

THIRD APPEARANCE: H. L. B. No. 15-78: A Local Revenue Bill for an Act for the Third Senatorial District to raise local revenues by permitting certain non-gaming activities; and for other purposes. (Rep. Jesus SN. Lizama +3)

[Pursuant to the objection raised and adopted to consider H. L. B. NO. 16-78 as a non-local matter, it is reassigned and numbered as H. B. No. 15-331.]