



# House Journal

## FOURTH REGULAR SESSION, 2009

6<sup>th</sup> Day

November 16, 2009

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened its Sixth Day, Fourth Regular Session on November 16, 2009, at 1:59 p.m., in the House Chamber on Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Arnold I. Palacios, Speaker of the House, presided.

A moment of silence was observed.

The Clerk called the roll and seventeen members were present. Representatives Oscar M. Babauta and Heinz S. Hofschneider were absent and excused. Representative McGinnis Torres will be arriving in shortly.

### ADOPTION OF JOURNALS

NONE

### INTRODUCTION OF BILLS

H. B. NO. 16-281: A Bill for an Act to amend the Northern Mariana Islands Election Law to allow for write-in votes for Municipal Councils; and for other purposes.

Offered by: Representative McGinnis Torres

Referred to:

H. B. NO. 16-282: A Bill for an Act to amend the Board of Professional Licensing's licensing requirements by repealing and reenacting Chapters 1 and 2 of Divisions 3, Title 4 of the Commonwealth Code; and for other purposes.

Offered by: Representative Ramon A. Tebuteb

Referred to:

H. B. NO. 16-283: A Bill for an Act to authorize the Department of Public Safety to dispose of all abandoned vehicles within its custody and to require DPS to promulgate rules and regulations for the fair disposition of all abandoned vehicles within its custody; and for other purposes.

Offered by: Representative Francisco S. Dela Cruz

Referred to:

Speaker Arnold I. Palacios: Short recess.

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

**RECESS**

*The House reconvened at 2:02 p.m.*

Speaker Arnold I. Palacios: We are back to session. I now recognize Representative Reyes.

Representative Reyes: Thank you, Mr. Speaker. If there are no objections on the floor I would like to withdraw H. B. No. 16-272 from the Committee and I would like to have it calendared for today's session on First and Final.

Speaker Arnold I. Palacios: Representative Reyes, can we wait until we get to the Bill Calendar for that request.

Representative Reyes: Okay, thank you Mr. Speaker.

Speaker Arnold I. Palacios: Thank you. Representative Stanley Torres, we are under the Introduction of Bills – you have a prefiled bill to introduce today?

Representative Stanley Torres: Mr. Speaker, I think my bill is moot. I was hoping that this bill would be acted on before the Election – this has to do with a Write-In Candidate for the Municipal Council...

Speaker Arnold I. Palacios: Do you just want to go ahead and introduce this just in case in the future the same situation.

Representative Stanley Torres: No, I will take that until the Seventeenth Legislature comes in then I will do that. Thank you.

Speaker Arnold I. Palacios: Thank you. Short recess.

*The House recessed at 2:04 p.m.*

**RECESS**

*The House reconvened at 2:04 p.m.*

Speaker Arnold I. Palacios: Thank you. Members, can we take our seats and maintain some decorum in here.

### **INTRODUCTION OF RESOLUTIONS**

H. COMM. RES. No. 16-95: A House Commemorative Resolution conveying the sincere condolences and sympathy of the House of Representatives to the bereaved family of the Late Honorable Jose Lujan Chong on the occasion of his untimely passing and to pay tribute to his invaluable service as a medical practitioner and community leader.

Offered by: Representative Arnold I. Palacios

H. COMM. RES. 16-96: A House Commemorative Resolution conveying the sincere condolences and sympathy of the House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature to the bereaved family of the late Honorable Herman Tudela Palacios, on the occasion of his untimely passing and paying tribute to his services to the people of the Commonwealth.

Offered by: Representative Joseph P. Deleon Guerrero and nine others

H. R. NO. 16-101: A House Resolution respectfully expressing a special recognition and commendation to Mr. Candido “Soughulmwar” Babauta Taman for his exceptional achievements in the promotion and preservation of the Marianas and Micronesian Language and Cultural Heritage through his composition and production of songs and for bringing regional distinction and honor to the people of the Commonwealth of the Northern Mariana Islands.

Offered by: Representative Justo S. Quitugua

H. R. NO. 16-102: To support the Commonwealth of the Northern Mariana Islands (CNMI) propose Community Service Block Grant (CSBG) State Plan for Fiscal Year 2010 to 2011.

Offered by: Representative Ramon A. Tebuteb and thirteen others

H. J. R. NO. 16-31: A House Joint Resolution to express support of the House of Representatives and the Senate of the Sixteenth Commonwealth Legislature for the approval of a salary schedule for the Office of the Public Auditor.

Offered by: Representative David M. Apatang plus four others

Speaker Arnold I. Palacios: We are under Introduction of Resolutions. Ready. The Chair will instruct that all Resolutions appearing on today’s Order of Business will be placed on the Resolution Calendar.

### MESSAGES FROM THE GOVERNOR

GOV. COMM. 16-424: (9/18/09) Certification for salary in excess of \$50,000 For Dr. Glenn Richard (Physician-Radiology).

GOV. COMM. 16-425: (9/22/09) Certification for salary in excess of \$50,000 for Dr. Joseph Sean Livingston (Physician-Pediatrician).

GOV. COMM. 16-426: (9/27/09) Executive Order 2009-9 – Declaration of a State of Disaster Emergency for CUC’s Imminent Generation and Other Failure and the Need to Provide Immediate Reliable Power, Water and Wastewater Services (Continuation #14).

GOV. COMM. 16-427: (9/29/09) Informing the House that he signed into law H. B. NO. 16-47, HD2, SD1, CCS1 (Smoke-free Air Act of 2008). Became Public Law 16-46.

GOV. COMM. 16-428: (10/20/09) Declaration of Health Emergency.

GOV. COMM. 16-429: (10/21/09) Informing the House that he signed into law Tinian Local Bill 16-3 (To authorize the borrowing of funds from MPLT using Tinian casino gaming revenues and fees). Became *Tinian Local Ordinance 16-2*.

GOV. COMM. 16-430: (10/27/09) Executive Order 2009-11 – Declaration of a State of Disaster Emergency for CUC’s Imminent Generation and Other Failure and the Need to Provide Immediate Reliable Power, Water and Wastewater Services (Continuation #15).

GOV. COMM. 16-431: (10/26/09) Certification of vacant positions at the Department of Public Safety.

GOV. COMM. 16-432: (10/26/09) Certification of vacant positions at the Department of Commerce.

GOV. COMM. 16-433: (10/26/09) Certification of vacant positions at the Department of Public Health.

GOV. COMM. 16-434: (10/26/09) Certification for salary in excess of \$50,000 for Dr. Hazel Christine Brown (Family Medicine/ER).

GOV. COMM. 16-435: (10/26/09) Certification for salary in excess of \$50,000 for Dr. Eric Bernon (Internal Medicine/Pediatrician).

GOV. COMM. 16-436: (10/26/09) Certification for salary in excess of \$50,000 for Dr. Joel Smith (Internal Medicine).

GOV. COMM. 16-437: (10/26/09) Certification for salary in excess of \$50,000 for Dr. John William Rodgers (Pediatrician).

GOV. COMM. 16-438: (Undated) Certification for salary in excess of \$50,000 for Dr. George Macris (Internal Medicine).

GOV. COMM. 16-439: (10/26/09) Certification for salary in excess of \$50,000 for Dr. Esther Grace P. Kanayjorn Na Ayuthaya (Internal Medicine).

GOV. COMM. 16-440: (10/26/09) Certification for salary in excess of \$50,000 for Dr. Leticia Borja (Pediatrician).

GOV. COMM. 16-441: (11/6/09) Informing the House that he disapproved S. B. NO. 16-23 (re Minimum Wage for CIP Projects). [*Deadline: 1/8/2010*]

GOV. COMM. 16-442: (11/10/09) Certification of vacant position at the Department of Public Safety.

GOV. COMM. 16-443: (11/3/09) Certification of vacant position at the Office of the Attorney General.

GOV. COMM. 16-444: (11/5/09) Certification of vacant position at the Department of Public Health, and certification for salary in excess of \$50,000 for Dr. Melissa Moore (Pediatrician).

GOV. COMM. 16-445: (11/3/09) Certification of vacant positions at the Division of Customs.

GOV. COMM. 16-446: (11/3/09) Certification of vacant positions at the Department of Public Works-Rota.

GOV. COMM. 16-447: (11/3/09) Certification of vacant positions at the Joeten-Kiyu Public Library.

GOV. COMM. 16-448: (11/3/09) Certification of vacant position at the Department of Lands and Natural Resources.

GOV. COMM. 16-449: (11/3/09) Certification of vacant positions at the Department of Public Safety.

GOV. COMM. 16-450: (11/3/09) Certification of vacant position at the Department of Lands and Natural Resources.

GOV. COMM. 16-451: (11/3/09) Certification of vacant positions at the Tinian Health Center.

GOV. COMM. 16-452: (11/3/09) Certification of vacant position at the Department of Commerce.

GOV. COMM. 16-453: (11/3/09) Certification of vacant position at the Department of Public Works.

GOV. COMM. 16-454: (11/5/09) Certification of vacant position at the Women's Affairs Office.

GOV. COMM. 16-455: (11/5/09) Certification of vacant position at the Department of Lands and Natural Resources.

GOV. COMM. 16-456: (11/5/09) Certification of vacant positions at the Emergency Management Office.

GOV. COMM. 16-457: (11/9/09) Certification for salary in excess of \$50,000 for Dr. Trenton Scheibe (Family Medicine/Pediatrician).

GOV. COMM. 16-458: (11/5/09) Certification for salary in excess of \$50,000 for Dr. Elizabeth Lundeen (Pediatrician).

Speaker Arnold I. Palacios: We are under Messages from the Governor. Are there any statements, observations or thoughts? I now recognize, Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. This is on GOV. COMM. 16-426 and GOV. COMM. 16-430. Both are renewals of the Governor's Emergency Declarations on the Commonwealth Utilities Corporation (CUC). At this time while we are meeting there is a Public Utilities Commission hearing with CUC in the Senate Chamber and I understand that there are very serious issues that CUC has run into lately with respect to complying with the stipulated orders issued by the Public Utilities Commission and even more seriously by the Environmental Protection Agency (EPA). The EPA has recently notified CUC of over half a million in fact over \$630,000 in penalties that have accrued so far for some cases egregious non-compliance with the Federal stipulated orders. Some of them are just inexcusable they include a failure to submit reports, failures to correct deficiencies in reports that were submitted, failures to hire or even advertise for critical positions such as the Chief Financial Officer and the Deputy Executive Director and I would recommend at this point, Mr. Speaker that the Chair request for a legislative briefing from CUC so that we can more clearly understand the reason for such failures not only to comply with the EPA orders but also with the Public Utilities Commission's orders. And I recommend that we do that as soon as possible.

Speaker Arnold I. Palacios: Thank you. The Chair will take that under consideration. Representative Sablan, you are the Chair in the Saipan Delegation PUIC. I recall having briefly attended some of your meetings and hearings with CUC and one of the issues that was brought up at the time was the stipulated orders and the compliance efforts that CUC had made or have not made, could you share very briefly some of the results of those hearings.

Representative Sablan: Well, sure just briefly. The last briefing with CUC was a couple of months ago and they were working very hard to meet certain deadlines that had been mandated in the stipulated orders by the Environmental Protection Agency. And the impression that we were given was that they felt very confident that they in fact would be found to be in compliant because there are certain deadlines and certain benchmarks that they have to meet in the stipulated orders. But as we have just recently discovered CUC has fallen far short. Some of it is for financial reasons financial shortfalls but even in that case the Public Utilities Commission has noted that CUC has not complied with recommendations to raise rates in order to achieve full cost recovery with respect to for example Water and Waste water. And I would be happy to ask Mr. Muña and his senior managers to come in for a briefing for all the members which ever is more appropriate whether it comes from the House or from the Saipan Delegation it is a CNMI wide issue, but I think it is something that I think that we should be monitoring more closely.

Speaker Arnold I. Palacios: Could I make this recommendation then. Would you be so willing to take this effort and jointly with the House Chair on PUTC to request and schedule for a briefing and please let the Chair know.

Representative Sablan: I would be happy to do that.

Speaker Arnold I. Palacios: Thank you. Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. I was just going over the Governor's Communications and I am very concern on some of these certifications for positions from other Agencies besides the Hospital, the Department of Public Safety (DPS). Just recently we had receive saying that we have to reduce our Government work hours to 64 hour work week, yet we continue to

see all these certifications for hiring and some of the other Agencies besides the Hospital and DPS that are really important to fill. Now I think this is something that we need to be concerned about because we continue to hire people into the Government service when we are in fact saying that there is no money and we are trying to reduce the Government work hours. As a matter of fact we have not started looking at the Budget for 2010 to finalize it – where the Senate recommends that we reduce the working hours. I would also like to ask the Chairman of the Ways and Means to sit down and take a look at this if this is proper. Is this allowable that we continue to hire additional manpower into this Government service on a continuing appropriation? Thank you.

Speaker Arnold I. Palacios: Thank you. Representative Yumul, being the Chair of Ways and Means I guess Representative Apatang is referring to seeing if some of these positions that are now being filled and certified as necessary to be filled are within the budget under continuing resolution. Are these positions indeed budgeted for or what? So perhaps you can call these Agencies and find out what are these positions that are being filled in the mist of a proposal both from the Senate and from the Administration to cut the work hours to 64 hours per pay period. Are there any more comments under the Governor's Communication? Representative Sablan, recognized.

Representative Sablan: Thank you. Yes, I just wanted to also follow up on Representative Apatang's concerns. I share the same concerns and there are some positions that I would find highly questionable. I do not think that any of us would question of the announcement of Physician positions that had been filled, but we have a number of Administrative Officers, we have a position a Receptionist, mostly administrative positions and in addition to asking the Chairman of Ways and Means to find out whether or not these positions are still within our means and within the continuing resolution. I would like to also find out if these positions are even being announced since it seems that the Administration is moving towards filling them are they being fairly announced so that people if there is in fact funding available and the positions are in fact critical are people being given a fair shot to compete for these jobs.

Speaker Arnold I. Palacios: Thank you. Representative Salas, recognized.

Representative Salas: Thank you, Mr. Speaker. Also in regards to these communications in hiring of Physicians I just take note that there is really quite a disparity in some of the salaries that are being given and I would like to possible ask the Chairman of the HEW to maybe discuss this area. I am concern that some of the Physicians, Pedestrians are making like one example here Gov. Msg. No. 16-440 we have Dr. Borja is making \$117,000 and in . Msg. No. 16-437 Dr. Rogers who has the same qualifications is making \$130,000. So there just seems to be a disparity there is one that is \$93,000 and it seems like they are just hiring without really any guideline and it is something that maybe could be looked at.

Speaker Arnold I. Palacios: Thank you for that comment. Representative Reyes, recognized.

Representative Reyes: Mr. Speaker, I can probably see the request of Representative Salas to the Chairman to look into the differences of salary and I think it is good to know but I am happy to see that we are finally getting Doctors after all this time that we need them. So I think that we should work together with the Administration to putting more Doctors to the Hospital after all he is putting some emergency.

Speaker Arnold I. Palacios: Thank you. Are there any other comments? Representative Sablan, recognized.

Representative Sablan: On Gov. Msg. No. 16-428 the Declaration of Health Emergency. I would like to ask the Chairman of Health Education and Welfare what the status is of the Committee's Oversight Report and also if there has been any update from the Department of Public Health on the medical emergency plan that was supposed to be presented by the Department within 15 days of the Governor's Declaration and that Declaration was dated October 20 so we should have seen a medical plan prepared and presented as of last week.

Speaker Arnold I. Palacios: Thank you. Representative Ralph Torres, recognized.

Representative Ralph Torres: Thank you. Mr. Speaker, the Report is being filed and numbered and will be issued out with the Committee with every member here and also a copy will be going to Public Health Secretary and to the Governor's Office. My office has not received anything from Public Health or the Governor regarding the State of Emergency plan. So I myself is still waiting on that report.

Speaker Arnold I. Palacios: They would have supposed to have done those fifteen days after this Declaration and so the deadline for those fifteen days has long passed. I believe we have a statute that mandates them to do that. So I will get on that.

Representative Sablan: May I also just find out if there has been any communication yet with the Secretary of Health now that he has returned?

Speaker Arnold I. Palacios: Please proceed Representative Ralph Torres.

Representative Ralph Torres: Not officially to my office but I have seen him in the news media that he is back and I have not spoken to him. I will try to call him.

Speaker Arnold I. Palacios: Thank you. Vice Speaker Deleon Guerrero, recognized.

Representative Deleon Guerrero: Thank you, Mr. Speaker. I just would like to ask the Chair regarding Gov. Msg. No. 16-429 the Tinian Local Bill No. 16-03. Since the Governor has signed this into law and I understand that the Senate Legal Counsel that came out with a Legal Opinion that this law is unconstitutional. What do we propose to do about this matter, Mr. Speaker?

Speaker Arnold I. Palacios: The Chair will send a letter to the Marianas Public Land Trust (MPLT) advising them of our position of the Legal Counsels position and I guess that is as far as this body can go at this point in time to advise MPLT of our Legal Counsel's position that it is unconstitutional and share the information and the thoughts with them in the hopes that they will also agree with the Legal Opinion. We will take it from there and see what other actions that...

Representative Deleon Guerrero: Mr. Speaker, just out of curiosity have you received the legal opinion from MPLT that requested?

Speaker Arnold I. Palacios: No.

Representative Deleon Guerrero: Perhaps we should request their opinion also.

Speaker Arnold I. Palacios: Yes, perhaps, I am not sure it will be forthcoming, but that will not deter the Chair and I will send that official letter sharing our concerns. Thank you. Representative Hocog, recognized.

Representative Hocog: In the same subject, I wonder if any of my colleagues here realize the introduction of Local Law that it probably might have violated the Rule of three legislative appearances in the House Session and I am not quite sure whether Public Law 16-2 now which is Tinian Local Bill No. 16-3 did meet the three legislative session requirement prior to the enactment into local law. So if for some reason it has not appeared the three legislative sessions for this public law so I guess this public law is invalid. Thank you

Speaker Arnold I. Palacios: You are correct on that. Representative Sablan, recognized.

Representative Sablan: Thank you. Just to go back to the State of Health Emergency. I would like to request that there be an official summons to the Secretary of Health again as soon as possible since we are still under a State of Health Emergency. And since the deadline stipulated in the Governor's own order has already lapse I think it is unacceptable that this House has convene Oversight Hearings and not once officially spoken to the Secretary of Health on the record and in fact was not able to even get an official response from the Acting Secretary who have served for many months in that capacity. We should get something official on the record that would give us a clearer picture of where we are going in terms of addressing the Health Emergency of the Commonwealth.

Speaker Arnold I. Palacios: Thank you. The Chair on HEW will exhort every effort to summon or to request politely the Secretary of Public Health to give us a briefing on the emergency plans that was supposed to follow the Declaration and a briefing on what has been happening at the Hospital. Representative Ralph Torres, by next week.

Representative Ralph Torres: Actually right after our session I will be giving him a call and if I can bring him in by Thursday then it will be good.

Speaker Arnold I. Palacios: Thank you. Are we ready to move forward? Ready.

## SENATE COMMUNICATIONS

SEN. COMM. 16-184: (10/09/09) Returning H. B. NO. 16-178, HD1 (Juvenile Justice Act of 2008), which was passed by the Senate without amendment on October 8, 2009, 2009. [Will go to the Governor]

SEN. COMM. 16-185: (10/09/09) Transmitting S. B. NO. 16-61, entitled, "To amend Subsection (d) of section 8122 of Title Four of the Commonwealth Code to merely clarify an ambiguity regarding the commonwealth Utilities Corporation's authority to set rates until such time as the Public Utilities Commission shall issue an order setting rates, fees, charges or rents for a utility service; and for other purposes," which was passed by the Senate on October 8, 2009. [For action]

SEN. COMM. 16-186: (10/09/09) Returning H. B. NO. 16-146, HS1 (Northern Islands Village and Agricultural Homesteading Program), which was passed by the Senate with amendments on October 8, 2009, in the form of H. B. NO. 16-146, HS1, SD1. [*For action on Senate amendments*]

SEN. COMM. 16-187: (10/29/09) Returning H. B. NO. 16-219, HD1 (Laulau Bay Boat Launching), which was passed by the Senate without amendment on October 28, 2009. [Will go to Governor]

SEN. COMM. 16-188: (10/29/09) Returning H. B. NO. 16-229 (Office of Grants Management), which was passed by the Senate without amendment on October 28, 2009. [Will go to Governor]

SEN. COMM. 16-189: (10/28/09) Returning H. B. NO. 16-275, HD2 (FY 2010 Budget Act) which was passed by the Senate with amendments on October 28, 2009, in the form of H. B. NO. 16-275, HD2, SS1, SD1. [*For action on Senate amendments*]



SEN. COMM. 16-190: (10/29/09) Returning H. L. I. NO. 16-13, HD2 (Retirement-Unfunded Liability), which was passed by the Senate without amendment on October 28, 2009. [Will go to CEC & Governor]

SEN. COMM. 16-191: (10/29/09) Returning H. L. I. NO. 16-18, HD2 (DPL – Land Compensation), which was passed by the Senate without amendment on October 28, 2009. [Will go to CEC & Governor]

SEN. COMM. 16-192: (10/29/09) Returning H. J. R. NO. 16-29 (Mr. David J. and Mrs. Consolacion D. Sablan), which was adopted by the Senate on October 28, 2009. [For info]

SEN. COMM. 16-193: (10/29/09) Transmitting S. B. NO. 16-65, SD1, entitled: “To amend the Commonwealth Election Code to allow for absentee ballot requests to be made not less than ten days before an election, to require the counting of absentee ballots for five days following a general election, to require certification of ballots under 1 CMC § 6509 to occur twelve days after the general election; and for other purposes,” which was passed by the Senate on October 28, 2009. [For action]

SEN. COMM. 16-194: (10/29/09) Transmitting a certified copy of S. R. NO. 16-46, entitled, “A Senate Resolution to support the Commonwealth of the Northern Mariana Islands’ (CNMI) proposed Community Service Block Grant (CSBG) State Plan for Fiscal Years 2010 and 2011,” which was adopted by the Senate on October 8, 2009. [For info]

SEN. COMM. 16-195: (10/29/09) Returning H. B. NO. 16-9, HS1 (Commonwealth Healthcare Corporation Act), which was passed by the Senate with amendments on October 28, 2009 in the form of H. B. NO. 16-9, HS1, SD2. [*For action on Senate amendments*]

Speaker Arnold I. Palacios: Are there any comments under Senate Communications? Floor Leader, a motion for SEN. COMM. 16-189 please?

Floor Leader Camacho: Thank you, Mr. Speaker. So we can move forward on our business here, a motion to place in reference to SEN. COMM. 16-189, H. B. NO. 16-275, HD2, SS1, SD1 (FY 2010 Budget Act) on the Bill Calendar.

The motion has been seconded.

Speaker Arnold I. Palacios: The motion is to place H. B. NO. 16-275, HD2, SS1, SD1 for House action onto the Bill Calendar. Discussion on the motion.

There being no discussions for the placement the motion was carried by voice vote.

Speaker Arnold I. Palacios: Are there any comments on the rest of the Senate Communications? Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. I would like to move that we place SEN. COMM. 16-195 on H. B. NO. 16-9, HS1, SD2 on the Bill Calendar for action. Thank you.

The motion has been seconded.

Speaker Arnold I. Palacios: Floor Leader, could you effectuate the proper motion please.

Floor Leader Camacho: Appreciate Representative Apatang for pointing that out. In reference to SEN. COMM. 16-195 a motion to place H. B. NO. 16-9, HS1, SD2 on the Bill Calendar in order to take further action.

The motion has been seconded.

Speaker Arnold I. Palacios: The motion has been made and seconded, discussion on the motion. Ready.

There being no discussions the motion was carried by voice vote.

Speaker Arnold I. Palacios: Ready. Are there any comments under Senate Communications? Ready to move on.

### **HOUSE COMMUNICATIONS**

HSE. COMM. 16-124: (9/11/09) From Representative Benavente soliciting members' support another 12 months delay of PL 110-229 (re Federalization of Immigration).

*There were no discussions under this item of the Order of Business.*

### **COMMUNICATIONS FROM THE JUDICIAL BRANCH**

JUD. BR. COMM. 16-17: (9/30/09) From Chief Justice Demapan and Presiding Judge Naraja submitting the Proposed Rule of Appellate Procedure Establishing a Judicial Council (*Received: 9/30/09-Deadline: 11/29/09*)

*There were no discussions under this item of the Order of Business.*

### **COMMUNICATIONS FROM THE NMI DELEGATE**

NMI Delegate Comm. 16-3: (10/6/09) From Congressman Kilili requesting for Governor Fitial's input to the Eshoo-Engel amendment to H.R. 3200 regarding Medicaid benefits for citizens from the FAS.

*There were no discussions under this item of the Order of Business.*

### **COMMUNICATIONS FROM DEPARTMENTS & AGENCIES**

NONE

### **OTHER COMMUNICATIONS**

MISC. COMM. 16-83: (10/5/09) From Mr. Arturo Pérez, NCSL Program Director, to meet with the Legislative Leadership and staff during his visit on October 21-22, 2009.

MISC. COMM. 16-84: (11/10/09) From Mr. Juan M. Sablan, Chair, Commonwealth Retirement Association, urging passage of H. B. NO. 16-254.

Speaker Arnold I. Palacios: Representative Santos, please take note of MISC. COMM. 16-84 from Mr. Juan M. Sablan, Chair, Commonwealth Retirement Association. I recognize Representative Dela Cruz.

Representative Dela Cruz: Thank you, Mr. Speaker. And on the same note on MISC. COMM. 16-84, Mr. Sablan had pointed out some recommendations to the Chair in regards to not only the name but the number of members and I hope that the Chair takes those into consideration. I have read the Standing Committee Report as well has the bill and there has been no changes on the bill and I believe the Chair will be making those amendments on the floor if I am not mistaken. Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: The legislative is on the Bill Calendar and I think those recommendations will be taken up when we deliberate on the bill. Let us take a five minute recess.

*The House recessed at 2:30 p.m.*

**RECESS**

*The House reconvened at 2:41 p.m.*

Speaker Arnold I. Palacios: We are back to our plenary session. If there is no objections on the floor I would like leave the Reports of Standing Committee on the Agenda and move onto the Resolution Calendar. Floor Leader, recognized.

Floor Leader Camacho: Mr. Speaker, I apologize could we go back to Senate Communications.

There were no objections raised on the floor.

**SENATE COMMUNICATIONS**

Speaker Arnold I. Palacios: Floor Leader, recognized.

Floor Leader Camacho: I believe one of our members made a request during our recess. In reference to SEN. COMM. 16-186 a motion to place H. B. NO. 16-146, HS1, SD1 on the Bill Calendar for further action.

The motion was seconded.

Speaker Arnold I. Palacios: The motion has been made and seconded, discussion on the motion.

There being no discussions the motion was carried by voice vote.

**REPORTS OF STANDING COMMITTEES**

S. C. R. NO. 16-117: Reporting on H. B. NO. 16-158, entitled, "To establish a Guardianship Act; and for other purposes. *Your Committee on Judiciary and Governmental Operations recommends that the House pass H. B. NO. 16-158.*

*There were no action taken on S. C. R. NO. 16-117.*

**REPORTS OF SPECIAL AND CONFERENCE COMMITTEES**

NONE

**UNFINISHED BUSINESS**

NONE

**RESOLUTION CALENDAR**

Speaker Arnold I. Palacios: I now recognize the Floor Leader.

Floor Leader Camacho: A motion to adopt H. R. NO. 16-94 in reference to Dr. Vicente Sablan Aldan.

The motion was seconded.

H. R. NO. 16-94: A House Resolution recognizing and commending Dr. Vicente Sablan Aldan for his achievements and community service to the people of the Commonwealth and for his success at the Saipan Health Clinic and the Saint Jude Renal Care Facility.

Speaker Arnold I. Palacios: The motion has been made and seconded. Discussion on the motion. Ready.

There being no discussions the motion to adopt H. R. NO. 16-94 was carried by voice vote.

Speaker Arnold I. Palacios: Floor Leader, recognized.

Floor Leader Camacho: A motion to adopt H. COMM. RES. No. 16-95.

The motion was seconded.

H. COMM. RES. No. 16-95: A House Commemorative Resolution conveying the sincere condolences and sympathy of the House of Representatives to the bereaved family of the Late Honorable Jose Lujan Chong on the occasion of his untimely passing and to pay tribute to his invaluable service as a medical practitioner and community leader.

Speaker Arnold I. Palacios: The motion has been made and seconded, discussion on the motion. Ready.

There being no discussions the motion to adopt H. COMM. RES. No. 16-95 was carried by voice vote.

Speaker Arnold I. Palacios: Floor Leader, recognized.

Floor Leader Camacho: A motion to adopt H. COMM. RES. 16-96.

The motion was seconded.

H. COMM. RES. 16-96: A House Commemorative Resolution conveying the sincere condolences and sympathy of the House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature to the bereaved family of the late Honorable Herman Tudela Palacios, on the occasion of his untimely passing and paying tribute to his services to the people of the Commonwealth.

Speaker Arnold I. Palacios: The motion has been made and seconded, discussion on the motion. Ready.

There being no discussions the motion to adopt H. COMM. RES. 16-96 was carried by voice vote.

Speaker Arnold I. Palacios: Floor Leader, recognized.

Floor Leader Camacho: A motion to adopt H. R. NO. 16-101.

The motion was seconded.

H. R. NO. 16-101: A House Resolution respectfully expressing a special recognition and commendation to Mr. Candido “Soughulmwar” Babauta Taman for his exceptional achievements in the promotion and preservation of the Marianas and Micronesia Language and Cultural Heritage through his composition and production of songs and for bringing regional distinction and honor to the people of the Commonwealth of the Northern Mariana Islands.

Speaker Arnold I. Palacios: The motion has been made and seconded, discussion on the motion. Ready.

There being no discussions the motion to adopt H. R. NO. 16-101 was carried by voice vote.

Speaker Arnold I. Palacios: Floor Leader, recognized.

Floor Leader Camacho: A motion to adopt H. R. NO. 16-102.

The motion was seconded.

H. R. NO. 16-102: To support the Commonwealth of the Northern Mariana Islands (CNMI) propose Community Service Block Grant (CSBG) State Plan for Fiscal Year 2010 to 2011.

Speaker Arnold I. Palacios: the motion has been made and seconded, discussion on the motion. Ready.

There being no discussions the motion to adopt H. R. NO. 16-102 was carried by voice vote.

Speaker Arnold I. Palacios: Floor Leader, recognized.

Floor Leader Camacho: A motion to adopt H. J. R. NO. 16-31.

The motion was seconded.

H. J. R. NO. 16-31: A House Joint Resolution to express support of the House of Representatives and the Senate of the Sixteenth Commonwealth Legislature for the approval of a salary schedule for the Office of the Public Auditor.

Speaker Arnold I. Palacios: The motion has been made and seconded, discussion on the motion. Representative Sablan, recognized.

Representative Sablan: Yes, I just wanted to ask for some comments from our Ways and Means Chairman on our Committee on Ways and Means if there had been a review or any discussion with the Public Auditor on the proposed salary scale.

Speaker Arnold I. Palacios: Short recess.

*The House recessed at 2:48 p.m.*

*RECESS*

*The House reconvened at 2:52 p.m.*

Speaker Arnold I. Palacios: Before we went on recess Representative Sablan posed a question – Representative Sablan would you like to restate your query please.

Representative Sablan: Sure. As I said before the recess I wanted to find out from the Committee on Ways and Means if there had been consultation with the Office of the Public Auditor to determine what impacts if any this might have on the budget and I would also like to hear from the author of the resolution to provide further clarity on what we are proposing to do today.

Speaker Arnold I. Palacios: Okay. Representative Yumul, recognized.

Representative Yumul: Thank you, Mr. Speaker. As stated on the attached pages 1 CMC 2305 (a) that the Legislature as a whole has to provide for an approval of the salary scale compensation and the like. The Office of Public Auditor used the existing wage scales of other similar positions in Government Agencies and Departments and compared and this is their recommendation. As far as budgeting wise from the Office of the Public Auditor they are guaranteed a 1% budget based on the annual budget appropriation for the Government and they are actually far below that. So this will not necessarily be an impact per se. Thank you.

Speaker Arnold I. Palacios: Okay, Representative Sablan, clear as mud? Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. I think the letter from the Public Auditor is very much self-explanatory as to the reasons that they are asking us to sanction their salary scale. They are mandated by 2305 that they do that. The Public Auditor's Office is just like the Commonwealth Health Center (CHC) they need to hire professionals and in order for them to do that they need to be flexible on their salary scale. They hire investigators from the outside or they hire people for their staff and they need to offer them the salary where they can be satisfied so they can maintain these people in their office. And this is one of the reasons why they want us to sanction their salary scale. They are not asking for any additional funding from the General Fund. They are satisfied with what they have now – the 1% from some Agencies and what they are getting as far as the funding from the General Fund. So I have spoken with one of the members of the Public Auditor's Office and they submitted this letter to us so this is one of the reasons why we are acting on this House Joint Resolution today so that we can sanction their salary scale. Thank you.

Speaker Arnold I. Palacios: Thank you. Also if you look at Mr. Pai's letter on the second page – and apparently this is to remind us that the Legislature has never implemented a salary schedule to date. So basically their Human Resources Committee had come up with a recommendation of the salary schedule for the Public Auditor's Office recommending that we adopt it and approve it. Ready. Representative Salas, recognized.

Representative Salas: If I am not mistaken this particular schedule that is attached here is actually a result of a strategic planning that was done in 2003 that is about nine years ago.

Speaker Arnold I. Palacios: Right.

Representative Salas: So this particular salary schedule may be outdated. I mean it is...

Speaker Arnold I. Palacios: Well I would like to think that they still believe that it is still competitive enough.

Representative Salas: Okay, I would just like to note also that I was there last Friday and they did tell me that two of their staff is actually leaving because of the salary being so low. And they are not going off island they are staying on island because some of the Agencies are offering a lot more and so I think that this is needed.

Speaker Arnold I. Palacios: Okay. Ready for the question.

There being no further discussions the motion to adopt H. J. R. NO. 16-31 was carried by voice vote.

### **BILL CALENDAR**

Speaker Arnold I. Palacios: Floor Leader, do you want to take a two minute recess so you can set up the Bill Calendar? Okay short recess.

*The House recessed at 2:59 p.m.*

*RECESS*

*The House reconvened at 3:00 p.m.*

Speaker Arnold I. Palacios: We are back to our plenary session. I guess this afternoon we will accommodate Representative Reyes's request since we have not seen him in a long time. Floor Leader, please effectuate the motion please.

Floor Leader Camacho: Pursuant to a very humble request for our colleague here Representative Reyes, a motion to recall and placement on the Bill Calendar H. B. No. 16-272 in reference to CUC and damages in regards to appliances.

The motion was seconded.

Speaker Arnold I. Palacios: The motion to recall from Committee and to place onto the Bill Calendar H. B. No. 16-272 has been made and seconded, discussion on the motion. Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. I do have reservations about recalling this bill from Committee and moving to act on it given the serious crisis that CUC continues to face today and the lack of opportunity for CUC's Managers to comment on the proposal and I wanted to ask the Chairman on PUTC which I think has jurisdiction over this bill is that correct?

Speaker Arnold I. Palacios: I believe so.

Representative Sablan: Okay. If there had been any effort made to solicit comments from CUC on the proposal and if not if we may first move forward with seeking those comments before we act on this bill today.

Speaker Arnold I. Palacios: Just be reminded that this is for placement. Okay. Representative Apatang, do you want to share your thoughts on H. B. No. 16-272?

Representative Apatang: Thank you, Mr. Speaker. Since the last we have met which I believe almost last year we promised Representative Salas that we will recall from the Committee H. B. No. 16-65...

Speaker Arnold I. Palacios: Hold on. The discussions is on the motion recall and place H. B. No. 16-272.

Representative Apatang: Oh I thought you said go ahead.

Speaker Arnold I. Palacios: Let us just go on and your point is well taken, Representative Apatang. Let us just discuss that when we get to the Bill Calendar.

Representative Sablan: Well, sure, but this is for discussion about withdrawing the bill from the Committee and the Committee Chairman is not even here to answer my questions.

Speaker Arnold I. Palacios: Ready for the question.

There being no further discussions the motion was carried by voice vote.  
Representative Sablan voting “nay”.

Speaker Arnold I. Palacios: Before any more bills are recalled and placed onto the Calendar, Floor Leader I need a motion for the passage of H. B. No. 16-275 as amended by the House and the Senate, please.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion for passage on First and Final Reading H. B. No. 16-275, HD2, SS1, SD1 in reference to the 2010 Budget Act.

The motion was seconded.

H. B. NO. 16-275, HD2, SS1, SD1: A BILL FOR AN ACT TO MAKE APPROPRIATIONS FOR THE OPERATIONS AND ACTIVITIES OF THE GOVERNMENT OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, ITS AGENCIES, INSTRUMENTALITIES, AND INDEPENDENT PROGRAMS, AND TO PROVIDE BUDGET AUTHORITY FOR GOVERNMENT CORPORATIONS FOR FISCAL YEAR 2010; AND FOR OTHER PURPOSES.

Speaker Arnold I. Palacios: The motion has been made and seconded – please be advised that we are voting on the Senate version okay. The motion is for passage and approval of the amendment so if you want to approve the Senate’s version then vote *yes* if you do not agree with the Senate’s version please vote *no*. Okay. Discussion on the motion. Representative Sablan, recognized.

Representative Sablan: Just a procedural question before we discuss the substance of the bill. If we wanted to instead reject the bill and move into Conference Committee would we first have to vote *no* to this version of the bill or could we just move to reject right now?

Speaker Arnold I. Palacios: Well the motion by voting *no* we are basically rejecting it. Okay. There is two ways in doing this actually – we could have actually rejected in the Senate Communications. Discussion on the motion. Representative Sablan, please make a pitch on the substance.

Representative Sablan: Sure. I think it is important to get our sentiments and our recommendations with respect to this budget on the record since this is our most important responsibility as members



of the House. My preference is to reject the Senate version of this budget at this point and move for a Conference Committee primarily because I do not agree with the provisions for Austerity measures and I do think that there still remains room to cut the fat within this budget and I think we should discuss that today. So if we do go into Conference Committee the members representing the House can bring our recommendations to that Joint Conference Committee. So my concerns about Austerity measures have been the same since last year's as well I do not see this as the fairest or the most appropriate way to cut within the budget and I think it is worth noting that there are certain offices and programs that still remain funded even in the Senate version of the bill that perhaps members of the Conference Committee can agree are not critical and essential for Fiscal Year 2010. I would also recommend to the Conference Committee if there is to be one that we cut expenditures such as Board Compensation for Fiscal Year 2010 and also look at reducing within the Legislature for example no disrespect to our colleagues from Tinian and Rota but this version of the bill still recognizes their ability to take out \$5,000 per month for operational expenditures and subsistence allowances and we are already know from a 2003 Public Auditor's Report that – that is excessive if there is room and opportunity to cut we should cut there and start with that.

Speaker Arnold I. Palacios: Please, allow her to finish.

Representative Sablan: But there are other provisions of the Senate's version of the budget that I do like and that I think that we should retain in a compromise budget one is the proposal that we reduce the total number of FTE's and the Senate's version is based on the actual number of people employed as of June 2009 so perhaps that figure should be updated but it should not be the amount that the House has set in its version of the budget. And my third recommendation to the Conference Committee is to retain the Senate's approach to creating a reserve account to allow for adjustments in any revenue if there are changes in revenue I think that makes a lot of sense and we should retain that in the compromised budget.

Speaker Arnold I. Palacios: Representative Hocog, recognized.

Representative Hocog: Has the budget been rejected already?

Speaker Arnold I. Palacios: No, we are discussing and making recommendations. The motion is to pass it but we are going to reject it by you voting *no*.

Representative Hocog: How about we move to reject?

Speaker Arnold I. Palacios: The motion is for passage.

Representative Hocog: Can I make a subsidiary motion? A motion to reject rather than to pass it.

Speaker Arnold I. Palacios: You can actually reject it by voting *no*.

Representative Hocog: But the proper motion is to reject.

Speaker Arnold I. Palacios: Yes, I know that procedurally we could have done this in the Senate Communications for the rejection of the Communication, but that being the case we went all the way to the Bill Calendar procedurally we have to vote *no* if you want to reject the Senate version, okay that being the case. Ready for the question, Clerk please call the roll.

The Clerk called the roll on the motion to H. B. NO. 16-275, HD2, SS1, SD1 on First and Final Reading.

Representative Edwin P. Aldan	no
Representative David M. Apatang	no
Representative Oscar M. Babauta	absent (excused)
Representative Diego T. Benavente	no
Representative Joseph N. Camacho	no
Representative Francisco S. Dela Cruz	no
Representative Joseph P. Deleon Guerrero	no
Representative Victor B. Hocog	no
Representative Heinz S. Hofschneider	absent (excused)
Representative Raymond D. Palacios	no
Representative Justo S. Quitugua	no
Representative Joseph C. Reyes	no
Representative Christina M. Sablan	no
Representative Edward T. Salas	no
Representative Rosemond B. Santos	no
Representative Ramon A. Tebuteb	no
Representative Ralph DLG. Torres	no
Representative Stanley T. McGinnis Torres	abstain
Representative Ray N. Yumul	no
Speaker Arnold I. Palacios	no

Speaker Arnold Palacios: By a vote of seventeen “no”, H. B. NO. 16-275, HD2, SS1, SD1 hereby fails to pass the House on First and Final Reading.

Speaker Arnold I. Palacios: I would like to now appoint a Conference Committee to be headed by the Chairman on Ways and Means, Representative Yumul, with Representatives Justo Quitugua, Victor Hocog and Edwin Aldan. Floor Leader, recognized.

Floor Leader Camacho: A motion to pass H. B. NO. 16-254, HD1 reference to Board of Trustees of the Retirement Fund.

The motion was seconded.

H. B. NO. 16-254: A BILL FOR AN ACT TO AMEND 1 CMC SECTION 8314(A) TO PROVIDE FOR ADDITIONAL EIGHTH TRUSTEE TO THE BOARD OF TRUSTEES OF THE RETIREMENT FUND; AND FOR OTHER PURPOSES. [*S. C. R. NO. 16-102*]

Speaker Arnold I. Palacios: The motion has been made and seconded, discussion on the motion. Representative Santos, recognized.

Representative Santos: I would like to offer an oral amendment starting from the title:

*On the title:*

*To amend 1 CMC Section 8314(a) ~~to provide for an additional eighth trustee to the Board of Trustees of the Retirement Fund; and for other purposes.~~ to include membership from a chartered or incorporated organization representing CNMI retirees.*

*On page 1 Section 1, beginning line 1:*

***Section 1. Purpose.** The Legislature find it is necessary ~~to enlarge the Board of Trustees of the Retirement Fund from seven (7) members to eight (8)~~ to include membership from a chartered or incorporated organization*

representing CNMI retirees so that the retirees of the Retirement Fund can be fully and fairly represented in all decisions of the Board of Trustees, relative to the Retirement Fund.

On page 1 Section 2, beginning line 7:

*“(a) All powers vested in the Fund shall be exercised by the Board of Trustees, composed of eight members called trustees, appointed as follows: Seven (7) by the Governor and one (1) by the Commonwealth Association of Retired People (CARP), with the advice and consent of the Senate. All powers vested in the Fund shall be exercised by the Board of Trustees, composed of seven members called trustees, including one member nominated by a chartered or incorporated organization representing CNMI retirees, and all appointed by the Governor with the advice and consent of the Senate. The Board shall select a chairman by majority vote. Members shall serve for a term of four years. Trustees of the Fund prior to the effective date of this Act shall continue to serve the remainder of their previous term. Vacancies shall be filled in the same manner as the original appointment.”*

Speaker Arnold I. Palacios: Discussion on the motion? Vice Speaker, recognized.

Representative Deleon Guerrero: Mr. Speaker, could we get copies of the floor amendment?

Speaker Arnold I. Palacios: Short recess.

*The House recessed at 3:17 p.m.*

*RECESS*

*The House reconvened at 3:25 p.m.*

Speaker Arnold I. Palacios: We are back to session please take your seats. Before we went on recess we were discussing the amendments offered by Representative Santos on H. B. No. 16-254 and under recess we wanted to work out the language so Vice Speaker, you had the floor.

Representative Deleon Guerrero: Thank you, Mr. Speaker. I wish to offer an oral floor amendment to this written amendment so that on the second line maybe...

Speaker Arnold I. Palacios: Vice Speaker, could you hold on. Why not just have the original mover of the amendment recall her amendment because we are dealing with her amendments right now.

Representative Deleon Guerrero: No objection, Mr. Speaker.

Speaker Arnold I. Palacios: Representative Santos, could you please restate your amendment motion to reflect the recommendations made by the Vice Speaker.

Representative Santos: So you want me to incorporate the Vice Speaker's amendment to my amendments?

Speaker Arnold I. Palacios: That is correct.

Representative Santos: So we are starting off from the title:

*To amend 1 CMC Section 8314(a) ~~to provide for an additional eighth trustee to the Board of Trustees of the Retirement Fund; and for other purposes. to include membership from a chartered or incorporated organization representing CNMI retirees; and for other purposes.~~*

On page 1 Section 1, beginning line 1:

***Section 1. Purpose.** The Legislature find it is necessary ~~to enlarge the Board of Trustees of the Retirement Fund from seven (7) members to eight (8) to include membership from a chartered or incorporated organization representing CNMI retirees so that the retirees of the Retirement Fund can be fully and fairly represented in all decisions of the Board of Trustees, relative to the Retirement Fund.~~*

On page 1 Section 2, beginning line 7:

*“(a) ~~All powers vested in the Fund shall be exercised by the Board of Trustees, composed of eight members called trustees, appointed as follows: Seven (7) by the Governor and one (1) by the Commonwealth Association of Retired People (CARP), with the advice and consent of the Senate. All powers vested in the Fund shall be exercised by the Board of Trustees, composed of seven members called trustees, including one member nominated by a chartered or incorporated organization representing CNMI retirees, and all appointed by the Governor with the advice and consent of the Senate.~~ The Board shall select a chairman by majority vote. Members shall serve for a term of four years. Trustees of the Fund prior to the effective date of this Act shall continue to serve the remainder of their previous term. Vacancies shall be filled in the same manner as the original appointment.”*

The motion was seconded.

Speaker Arnold I. Palacios: The motion has been seconded, discussion on the amendment motion. Ready.

There being no discussions the floor amendment offered by Representative Santos was adopted and carried by voice vote.

Speaker Arnold I. Palacios: Short recess.

*The House recessed at 3:28 p.m.*

*RECESS*

*The House reconvened at 3:37 p.m.*

Speaker Arnold I. Palacios: We are back to our plenary session. At the recommendation of Representative Benavente. Ready on the amendment. Representative Sablan, recognized.

Representative Sablan: Which amendment?

Speaker Arnold I. Palacios: Representative Santos’s amendment – everything is good. On the amendment I recognize Representative Sablan.

Representative Sablan: If I am understanding the proposed amendment correctly the person representing the Chartered or Incorporated Organization would be selected by that Organization...

Speaker Arnold I. Palacios: Nominated.

Representative Sablan: Nominated...

Speaker Arnold I. Palacios: And appointed.

Representative Sablan: Is it necessary to specify what the procedure would be for nomination in the law since this is a person who will be appointed to the Board? And then will the Governor have to appoint this person or would he also have the flexibilities to reject that nomination? That is not clear to me in this amendment.

Representative Santos: Did you want me to answer that?

Speaker Arnold I. Palacios: Yes.

Representative Santos: Well, procedurally – I mean a nomination is a nomination – how you convey the message to the Governor is entirely up to you be it orally or in paper. Now, if the Governor accepts or rejects that is entirely up to him. It is not mandatory that the Governor accepts or...

Speaker Arnold I. Palacios: Excuse me Representative Santos – one of the reasons why and she has a valid point we have the Body to nominate at least two individuals from their Organization if that official nomination we should have the language say that the Governor shall appoint from those nominations. Otherwise it could go on and on just like the Teacher's Representatives. Vice Speaker, recognized.

Representative Deleon Guerrero: The other option if we were to follow the language that was proposed right now well basically what it states that the Organization shall nominate a name, a person which the Governor may appoint. Now, the Governor may decide to reject that nomination, but the point is it comes to that organization again to nominate somebody else it still comes from within. The Governor still has the purview to like I said it could be two names and the Governor may appoint one or the two or may not. But the important thing is that the nomination comes from this Organization. I do not know if it could mandate that the Governor shall appoint.

Speaker Arnold I. Palacios: I think we can. We can do that and basically – not mandate but put a prescription that the Governor must make the appointment based on the nomination from the Association. If you recall one of the issues with the Teacher's Representative to the Public School System (PSS) is that sometimes made the recommendation and that recommendation was never heeded and it just never had a representation. I have seen Federal Laws where the Department Head is given the authority to appoint based on nominations from the different Governor's of the Territories or the States in whatever the Organization is – three names for example from each jurisdiction, but the appointing authority rest with for example the US Department of Commerce Secretary. But if has to stay within the confine of those three names. Now, if they do reject the three names then it has to come back to the Association to resubmit three names and the appointing authority cannot go outside of the recommendation of the Association because if they do then the legislation that we are proposing would be almost useless. My point is that it has to be re-language so that it is clear.

Representative Deleon Guerrero: The language as I understand it is just that. The nomination comes from this Chartered Organization representing retirees.

Representative Sablan: If I may, it is my understanding that the Retirees Association did in fact submit names to the Governor and he rejected all of them and went ahead and appointed whoever he wanted to appoint and that was part of the impetus for this bill in the first place. And so we are not really addressing a concern if all we are saying is that they have the right to nominate anybody can nominate but it is not clear in the language right now as it stands that the Governor can only pick that person from that Organization or somebody from that Organization who is duly nominated. And if he rejects the person he rejects but again, I do not see what problem we would be resolving if it is still not assured that the Retirees will have a representative.

Representative Deleon Guerrero: If I may Mr. Speaker, Representative Sablan, this bill calls for an additional member to the Board – *an additional eighth Trustee to the Board of Trustees* is the title of the bill. Okay.

Representative Sablan: But that is not the subject of the amendment. We are changing that it is still back to seven – one of the seven would have to be.

Representative Deleon Guerrero: Well the language that Representative Santos is proposing is for that member to come from within this Organization and just that – it has a specific intention and that is clear and I do not think there is any additional language here saying that the Governor can appoint other than from what is nominated by this Organization. There is nothing in here and I do not read it like that.

Speaker Arnold I. Palacios: Representative Santos, recognized.

Representative Santos: Mr. Speaker, I think the Vice Speaker is right on procedurally. The sentence reads *nominated by and appointed by the Governor*. If the appointment fails because he did not accept the nomination then that is exactly what is going to happen a new nomination will come up by one, two, three names it really does not matter but the appointment begins with a nomination by the Association and the language does ensure a membership from that Organization.

Speaker Arnold I. Palacios: Okay, at least that is clarified. Everybody agrees that – that is the intent of this legislation and this amendment. Representative Santos, could you please read out the last part of the amendment?

Representative Santos: Let me just read out the whole sentence.

Speaker Arnold I. Palacios: Yes, that whole sentence.

Representative Santos: *All powers vested in the Fund shall be exercised by the Board of Trustees, composed of seven members called trustees, including one member nominated by a chartered or incorporated organization representing CNMI retirees, and all appointed by the Governor with the advice and consent of the Senate.*

Speaker Arnold I. Palacios: Okay. So it is not eight it should be seven but of the seven one shall come from the Retirees Association. Okay. Ready on the amendment.

There being no further discussion the motion to adopt the floor amendment offered by Representative Santos was carried by voice vote.

Speaker Arnold I. Palacios: We are back to the main motion. Representative Sablan, recognized.

Representative Sablan: I do not think that the concerns raised by the Floor Leader and by the Representative Reyes have yet been adequately addressed. I can certainly see their point about potential conflicts of interest arising should this retiree representing the Retirees Association also be implicated in a lawsuit against the Retirement Fund and the Board of Trustees and it is not clear to me how we would address that. And I see that we do have in the Gallery not to put her in the spot or anything but the Counsel for the Retirement Fund and I would be interested in hearing her perspective on this bill.

Speaker Arnold I. Palacios: Before we even invite Ms. Alepuyu I see the validity of those points but if I was appointed to represent the Associations of Retirees and I also have a fiduciary responsibility holding me personally liable I would be forced to make a decision first on my fiduciary responsibility and if there is a conflict I would resign because I would be personally liable. To give back the nomination for them to nominate another person. To me it is not really a conflict I think this individual would be to represent and be the voice of the Retirees Association in terms of policy decisions, but I think when it comes to taking a vote on a particular issue the fiduciary responsibility should kick in as the number one priorities. I am just sharing my thoughts and I am not taking any position. Representative Benavente, recognized.

Representative Benavente: Thank you, Mr. Speaker. I do not believe that we have not ever have a retiree be a member of the Board. So this potential problem I think was not over the years when the Governor actually appointed and the Senate granted and a retiree a member of the Retirement becomes a Trustee. I believe there is one or two are currently members. I realize that we are now talking about an Association, but I do not see the difference as to what liabilities you to have as a retiree versus being a member of an Association. I think what we are trying to do is that we would like to guarantee that the members are protected and this legislation actually as come up in the past – the idea has been suggested to the Legislature for many years now and I think it is high-time given the situation with the system presently that someone from the membership and especially from the Organization that speaks for the members be a part of this Trustee. And I think if we are talking about the potential problem versus the need for representation I think we need to put it on scale and decide on the one that is more important. So I would like to encourage the members to support this which I believe is a necessary thing to protect the members of the Retirement in the Fund. Thank you.

Speaker Arnold I. Palacios: Floor Leader, recognized.

Floor Leader Camacho: Thank you, again Mr. Speaker. Just for the record so when people ask whether we brought this up and discussed this. As I mentioned earlier it is not just the handling of the Money Mangers the Board actually sits and hears cases and many of these are retirees and members of the same Organization. And for the members to disclose that the same Organization nominated me and now my colleagues or my co-members in the Organization I am going to hear their cases. It weaves into the fiduciary duty and you have to balance that. It really creates a lot of problems and we have yet have not addressed the issues whether what will happen if this member that was at once a member of the Retirement Association and becomes a Board and then does not pay their dues or decides to no longer be part of that Organization – are they now no longer eligible for that position or do they sit as a Trustee but do not represent the Association. I think maybe – no disrespect I agree that there are some issues that need to be provided so that there is access to the Board from the Association but we really need to look at this a lot more closely. Because a fiduciary duty is the highest form of duty – it is higher than a parent’s duty to a child, it is higher than a duty of a public official to their constituents. If you were on the boat and you had a fiduciary duty and it

was capsized and there is only one life vest you would have to give that to the people that you have a fiduciary to. So I am just saying it creates problems at the moment we do not have those problems because we are not obligated to two Organizations at the same time. Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: Thank you. Representative Benavente, recognized.

Representative Benavente: Thank you, Mr. Speaker. Representative Apatang had mentioned this earlier and I think the fact is that there are seven members and only one with this potential problem – I mean that does not even though the Floor Leader mentioned earlier that there seems to be a lot turn-over in the Trustees. By having a member abstain from a decision does not necessarily limit the Funds ability to make this decision and move on – on any of this issues – just like here at the Legislature we also have our own responsibilities and we can always refrain from participating in voting on a matter. If that should happen then this particular member may refrain from voting and you still have six members of the Funds that can move on and make that decision. Thank you.

Speaker Arnold I. Palacios: Okay. Can we vote on this now? Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. Again, whoever is appointed to go in there from the Retirees Association they still have the same fiduciary responsibility as those Board members sitting in there right now, and as a matter of fact there are several retirees that are currently serving as Board members. So they should have the same fiduciary responsibility to protect the Fund and to protect the interest of the retirees that is what they are there for in the first place. So I do not see where the conflict of interest or whatever it is. If you are put up there then you should uphold the policies and the laws.

Speaker Arnold I. Palacios: Representative Santos, is this your bill?

Representative Santos: No, Mr. Speaker, this is Representative McGinnis's bill. But on the note of conflict of interest, I believe our Code of Ethics is clear on recusal if there should be an appearance of conflict of interest from a Board member of any Board or any Commission. So if that Board member continues to participate they are actually breaking the law and of course if the other members allow such participation then they are also in violation of the law and I really do not think Trustees of such fiduciary in special duties would allow such conflict or violation to continue.

Speaker Arnold I. Palacios: Alright. Representative Sablan, for the last time.

Representative Sablan: Thank you. Not to belabor the point or anything but we do have pending lawsuits still that have been filed against the Retirement Fund Board, the Board of Trustees, the Retirement Fund, the Government by Retirees. And it is quite foreseeable that sometime in the future there would be lawsuits filed by the Retirees Association also against the Retirement Fund. And sure we can say that the member representing this Chartered Organization can recues themselves and not participate in Executive Sessions and be left out of the loop when the Retirement Trustees meet to vote on issues related to litigation or other sensitive matters that perhaps this one member will not be privy to. But I wonder if that is really the road that we want to go down on. And in reviewing the recommendations that were given to us by the Retirees Association it seems to me that the root of the problem and I completely sympathize is that they feel that they have not been properly represented and they are not satisfied with the people that have been appointed and confirmed by the Senate. One recommendation that I think we should look at more closely and actually move on is the recommendation to require just basic qualifications for the people who would be nominated by the Governor and appointed and confirmed by the Senate – if that is the crux



of the dissatisfaction of retirees my sense is that is a major part of it then we can address that without going into these potential conflicts of interest that I think are valid points raised by the members. And with that I would like to make a motion to go into committee of the whole and invite the people in Gallery who have come to us today to witness our deliberations on this particular bill – invite the Legal Counsel from the Retirement Fund and the representative from the Retirees Association and they could also give us their thoughts before we take action today. And that is a motion.

The motion was seconded.

Speaker Arnold I. Palacios: The motion has been made and seconded so that we can receive members from the Retirees Association and the Legal Counsel for the Retirement Fund to give us some perspective on this particular issue, discussion the motion. Ready.

The motion was carried by voice vote.

*The House dissolved into the Committee of the Whole at 3:59 p.m.*

### COMMITTEE OF THE WHOLE

*The House reconvened at in plenary session at 4:19 p.m.*

Speaker Arnold I. Palacios: We are now back to our plenary session. We are back to our main motion. Clerk, please call the roll.

The Clerk called the roll on the motion to H. B. NO. 16-254, House Draft 1 on First and Final Reading.

Representative Edwin P. Aldan	yes
Representative David M. Apatang	yes
Representative Oscar M. Babauta	absent (excused)
Representative Diego T. Benavente	yes
Representative Joseph N. Camacho	absent (excused)
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	absent (excused)
Representative Heinz S. Hofschneider	absent (excused)
Representative Raymond D. Palacios	yes
Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	abstain
Representative Christina M. Sablan	yes
Representative Edward T. Salas	yes
Representative Rosemond B. Santos	yes
Representative Ramon A. Tebuteb	yes
Representative Ralph DLG. Torres	yes
Representative Stanley T. McGinnis Torres	yes
Representative Ray N. Yumul	absent (during voting)
Speaker Arnold I. Palacios	yes

Speaker Arnold Palacios: By a vote of fourteen “yes”, H. B. NO. 16-254, HD1 hereby passes the House on First and Final Reading. If there is no objection we need to go back to the Resolution Calendar to revote by Roll Call H. J. R. No. 16-31.

## RESOLUTION CALENDAR

Speaker Arnold I. Palacios: We need to have a roll call for voting on H. J. R. No. 16-31, so Floor Leader recognized for the motion.

Representative Benavente: Mr. Speaker, without objection just to follow the procedure I would at this time to move that we reconsider our actions on H. J. R. No. 16-31.

The motion was seconded and was carried by voice vote.

Speaker Arnold I. Palacios: Floor Leader, can you effectuate an adoption motion.

Representative Benavente: I now move for the adoption on H. J. R. No. 16-31 via roll call of the members.

The motion was seconded.

Speaker Arnold I. Palacios: The motion has been made and seconded, this is procedural that we had to go back and revote on this as required by the House Rules. Ready, Clerk please call the roll.

The Clerk called the roll on the motion to adopt H. J. R. NO. 16-31.

Representative Edwin P. Aldan	yes
Representative David M. Apatang	yes
Representative Oscar M. Babauta	absent (excused)
Representative Diego T. Benavente	yes (with reservations)
Representative Joseph N. Camacho	absent (excused)
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	absent (excused)
Representative Heinz S. Hofschneider	absent (excused)
Representative Raymond D. Palacios	yes
Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	yes
Representative Christina M. Sablan	yes
Representative Edward T. Salas	yes
Representative Rosemond B. Santos	no
Representative Ramon A. Tebuteb	yes
Representative Ralph DLG. Torres	yes
Representative Stanley T. McGinnis Torres	no
Representative Ray N. Yumul	absent (during voting)
Speaker Arnold I. Palacios	yes

Speaker Arnold Palacios: By a vote of twelve “yes”, H. J. NO. 16-31 is hereby adopted by the House.

Representative Benavente: Privilege, Mr. Speaker.

Speaker Arnold I. Palacios: Under privilege, I recognize Representative Benavente.

Representative Benavente: Just to remind you and the members that we are under lame duck the Legislature right now and I just wondered if this particular issue would have been affected by the lame duck situation?

Speaker Arnold I. Palacios: No, is it just an adoption of a salary schedule. It has nothing to do with appropriation or expenditure of funds. It is a policy I supposed. Are there any announcements? I think we need to call it a day. Representative Apatang, what was your request again? Short recess.

*The House recessed at 4:26 p.m.*

*RECESS*

*The House reconvened at 4:26 p.m.*

Speaker Arnold I. Palacios: We are back to our session. Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. I would like to recall from the Committee of PUTC, H. B. No. 16-65 to place it on the Bill Calendar for passage.

The motion was seconded.

Representative Apatang: H. B. No. 16-65 is to restrict the use of wireless telephones while driving vehicles and for other purposes.

Speaker Arnold I. Palacios: Okay. The motion has been seconded. This is a recall and placement motion. Ready. Representative McGinnis Torres, recognized.

Representative Stanley Torres: Ready to vote? I have another recall.

Speaker Arnold I. Palacios: Ready on the recall and placement motion.

There being no discussions the motion was carried by voice vote.

Speaker Arnold I. Palacios: We are not going to place bills I will entertain that, but we are not going to deliberate. Representative Reyes, recognized.

Representative Reyes: I do not know if we had done it or not, but earlier I requested and if there is no objection to recall H. B. No. 16-272.

Speaker Arnold I. Palacios: We already did.

Representative Reyes: Okay. I forget Mr. Speaker.

Speaker Arnold I. Palacios: Representative Stanley McGinnis Torres, recognized.

Representative Stanley Torres: Thank you, Mr. Speaker. I would like to make a motion to recall H. B. No. 16-268 from the Committee and place it on to the Bill Calendar for action.

Speaker Arnold I. Palacios: Is that the Status Commission...

Representative Stanley Torres: No, I am going to reserve that until the next Legislature. This is about the Notary Public Act.

Speaker Arnold I. Palacios: Alright. That is a motion to recall and place on the Bill Calendar. Is there a second to that motion?

The motion was seconded.

Speaker Arnold I. Palacios: The motion has been made and seconded, discussion on the motion.

There being no discussions the motion was carried by voice vote.

Speaker Arnold I. Palacios: No more recall that was it. We move down.

### **MISCELLANEOUS BUSINESS**

Speaker Arnold I. Palacios: Representative Sablan, you have a Miscellaneous communication?

Representative Sablan: Yes, just to remind the members if they have not already that the Department of Homeland Security is soliciting and accepting comments on the Transitional Guest Worker Regulations. I was reminded by the House Communication calling for a delay and I just wanted to state for the record that I oppose the delay, but I do hope that in light of I think we have until November 25<sup>th</sup> and then of course as everybody knows implementation is expected to take place on November 28<sup>th</sup> of the Federalization Law and it would be helpful and productive I think for people from the community and especially the Leaders of this community to comment on those Regulations. Thank you.

Speaker Arnold I. Palacios: Thank you. Are there any other miscellaneous? Vice Speaker, recognized.

Representative Deleon Guerrero: Thank you, Mr. Speaker. I sat in for you during a meeting with the Military and I just want to inform the members that this week I believe Thursday they will be bringing over and delivering to the Presiding Officers a copy of the draft EIS which should be completed already. There will be a comment period and public hearing I believe sometime in January or February. So it is a huge piece of document. The Speaker's Office will hold one copy from which we can get copies from, but they would be distributing cd's not of the main EIS, but of the appendices. It would be delivered to us this Thursday to the Speaker's Office and to the Senate President's Office.

Speaker Arnold I. Palacios: Any body is welcome to it. Vice Speaker, EIS would be specifically on the Guam and the CNMI's specifically Tinian? Alright. Ready.

### **ANNOUNCEMENT**

Speaker Arnold I. Palacios: Please if you can make it on Friday at five o'clock in the evening at the Mount Carmel Cathedral for the Youth Congress Mass and on Saturday at ten o'clock in the morning for the their Swearing In and Inaugural Ceremony in the House Chamber. I encourage all of you to be present for these kids. Floor Leader, please effectuate a motion for adjournment.

## **ADJOURNMENT**

Acting Floor Leader Diego T. Benavente moved to adjourn subject to the call of the Chair; it was seconded and carried by voice vote.

The House adjourned at 4:33 p.m., subject to the Call of the Chair.

Respectfully submitted,

Linda B. Muña, Journal Clerk  
House of Representatives

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## **APPEARANCE OF LOCAL BILLS**

**FIRST APPEARANCE:** 1<sup>st</sup> Legislative appearance of a local bill is on the day it is introduced.

**SECOND APPEARANCE:** NONE

**THIRD APPEARANCE:**

H. L. B. No. 16-46: To amend the Saipan Zoning Law of 2009, 10 CMC § 3511; and for other purposes.  
(Rep. Rosemond B. Santos)