



House Journal
SECOND SPECIAL SESSION, 2008

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1st Day

Wednesday, April 16, 2008

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened its First Day, Second Special Session on Wednesday, April 16, 2008, at 10:08 a.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 nineteen members were present. Representatives Edwin P. Aldan was absent and excused.

Speaker Palacios: Representative Aldan called in and he is running late on a flight from Tinian. He will be coming in. We have established a quorum for today's session.

INTRODUCTION OF BILLS AND INITIATIVES

H. L. B. NO. 16-9: A Local Appropriation Bill for an Act for the Third Senatorial District to reappropriate \$500,000.00 from the \$1,780,425.00 under Saipan Local Law 15-5 SHEFA for the payment of salaries of certain government employees and for other purposes. [*First Appearance*]

Offered by: Representative David M. Apatang

INTRODUCTION OF RESOLUTIONS

H. R. NO. 16-13: Requesting the CNMI Zoning Board to change the present zoning classification of Vestcor Commercial Building in which the brewery is located from "Village Commercial" to "Mixed Commercial" for the purposes of reopening the brewery adjacent to Coffee Care.

Offered by: Representative Francisco S. Dela Cruz and five other

Representative Dela Cruz: If there is no objection, I would like to have H. R. NO. 16-13 placed on today's Calendar, Mr. Speaker.

There was no objection.

Speaker Arnold Palacios: We will place it on the Calendar for discussion and disposition. It is so ordered.

H. R. No. 16-14: A House Resolution respectfully requesting the office of the United States Fish and Wildlife to remove and reclassify the Nightingale Reed-Warbler under the endangered species list.

Offered by: Representative Stanley T. McGinnis Torres and three others

Representative Stanley Torres: By unanimous consent, I would like to introduce this as a Committee of the Whole.

Representative Sablan: Objection.

Speaker Arnold Palacios: We will allow members to sponsor the resolution if they so choose to.

Representative Stanley Torres: And Mr. Speaker, if I may continue, I would like to place the resolution on today's Resolution Calendar for adoption.

Speaker Arnold Palacios: So ordered, it will be placed for discussion and adoption.

MESSAGES FROM THE GOVERNOR

GOV. COMM. 16-73: (4/3/08) Certification for a vacant position at the Department of Public Health.

GOV. COMM. 16-74: (4/3/08) Certification for vacant positions at the Department of Public Health.

GOV. COMM. 16-75: (4/3/08) Certification for a vacant position at the Department of Public Safety-Rota.

GOV. COMM. 16-76: (4/3/08) Certification for a vacant position at the Department of Community and Cultural Affairs-Rota.

GOV. COMM. 16-77: (4/4/08) Submitting the Fiscal Year 2009 Budget.

GOV. COMM. 16-78: (4/4/08) Requesting that the date for the State of the Commonwealth Address be scheduled sometime in May.

GOV. COMM. 16-79: (4/9/08) From Acting Governor Villagomez informing the House that he vetoed H. B. NO. 16-83, HD5 (FY'09 Interim Fiscal Measures Act). [*Deadline 6/8/08*]

Speaker Arnold Palacios: Representative Benavente, recognized.

Representative Benavente: Thank you, Mr. Speaker. On GOV. COMM. 16-79, while I realize and even I question some of the provisions of what we had put into this legislation--a legislation that was first of all recommended by the Administration--to possibly avoid any crisis between now and the end of the fiscal year given the shortfall, every one understands and agrees that there is

that problem. It is a very, very serious problem. Once again, even I had objected to some of the provisions. If you were to weigh importance and the need of having to provide the savings so that we can avert a crisis--and I say that there is going to be a major crisis if somehow we do not come up with a way to fund those necessary public services--I just cannot understand why the restrictions became more important and the reason for the veto over the need for the savings to avert a possible crisis. I spoke this morning, Mr. Speaker, with the executive director for CUC. He informed me that he needs between eight and nine million dollars till the end of the fiscal year in subsidy, because of the legislation that has an impact of about two and a half million dollars a month, now going on two months, and I am glad that we will be entertaining the possibility of suspending it. So there is a million dollar impact. We already saw that they have not been able to meet the purchase of the fuel necessary for the power plant when the two million dollars worth of fuel was returned to Guam. There is a clear need and this is just for CUC alone. We saw the termination and the rehiring of employees within the offices of the Mayors of Saipan, Tinian, and Rota because of the lack of funds. I confirmed this morning with the Public School System in speaking with the Chairwoman of the Board that because of the lack of funding and if they do not receive additional funding by May 1st they would have to inform the teachers that they will not be able to renew their contracts because they do not have the necessary funding. Even though they will be able to continue with the school year and end it with a full school year, the thought of not securing teachers necessary for the next school year; the thought of seeing teachers possibly leave to Guam or move back to the states where they can secure a job because of the fact that they do not have that security here, PSS needs two million dollars. There are other programs including summer programs that will not be possible because they would have to shutdown the schools to save about eight hundred thousand dollars a month in utility bills in order for them to get on with the next school year, possibly without teachers. There is a very real, a very serious shortfall in government. When we started with this legislation, we were talking about fourteen to sixteen million dollars shortfall. The latest figure that I am hearing now is about twenty million dollars in shortfall. Obviously that is increasing because of CUC needs alone. I wonder when the Administration and the members of the legislature will come to grips with reality and understand the impact of this situation. I know that some of us are saying that if the Administration finds it unimportant to sign off the bill with the restrictions imposed, the maybe it is not as necessary. But, talk to the agencies and the programs managers that do not have the funding and you will realize what impact it has. It is there, Mr. Speaker. I am convinced that it is there and I just wish that everyone else is convinced that it is there. Thank you.

The Chair recognized Representative Hofschneider.

Representative Hofschneider: There are a couple of things, Mr. Speaker, that all the members should be really focusing on. It is a fact the economy has gone down, and nobody denies that. And I do not think any one in this body denies the fact that the General Fund is pressed to a point where we need to stretch up to September 30 as Representative Benavente tried to articulate. But, from the very beginning, I have impressed upon all the members that there has got to be trust established for us to honestly feel the reality as Representative Benavente pointed out. Reality must come with truth, reality has to come with real policy and not vacillate back and forth. Upon the veto of the austerity bill by the Administration, forget about the veto message. Friday and Monday were so revealing that the Administration does not seem to project the

urgency and the reality that is required of this body and the rest of the people. One action is that they pursue the austerity but yet on Friday, the last day, all of these anticipated rift individuals were rehired for another sixty days. Monday, the Secretary of the Department of Finance came out on MCV (Marianas Cablevision) saying the money was always there. So who is fooling who? If we want to give austerity to the Administration and the focus is – now I am hearing Representative Benavente pointing out that our responsibility is to focus on the priorities of the Commonwealth delivering public services, such as public school, public safety, public health, and CUC for fuel, then let us do that. I will support an austerity measure that specifically comes with an expenditure plan by this body. But, a blank check, I will continue to oppose it. What does the Administration take me? A fool – take me for a fool that you made me believe that these people will be rift from their government employment and on that very day the contracts were extended for another sixty days. Then on Monday, they come out and say that there was money to begin with. Let us for once do the right thing, and that is to attend to the gravest situation to relief the public from potential extended power outages. I have been echoing this priority since day one when we started working on the budget. Regardless of the language, Mr. Speaker, one glaring mistake that the Administration did in vetoing that bill is that it is an appropriation bill. They should have line-itemed those sections that do not conform to the flexibility that they think would allow them to function and send the veto message for us to reconsider. This is the first time that I have read a veto message that contains an acknowledgment that they agree on a section yet veto the bill forcing us to reconsider in overriding this bill. It has a very bitter taste in the public, because it is not believable anymore. Like the old saying, Mr. Speaker and members, put your money where your mouth is. Do not make the people believe otherwise, especially those hundreds that were listed to be rift. Do not subject them to fear. If we want to do the right thing, I will support the contention of Representative Benavente to do an austerity. But this is the responsibility of the House of Representatives, where the control of the purse begins, to provide the expenditure plan or the guidelines to spend that money. Let us stop arguing and begin trusting. If we give the Administration the austerity and he moves and he violates, then we go after him; but do not go after him when we have not gotten it, we have not given it to him. This is a message to the Administration – be serious about this issue and we will help you. Stop implanting fear in the public. Enough sacrifices have been made, hardships. As for the schools, Hopwood Jr. High School had to send the kids home because there was no power. We have to have the political will to do what is right. Let us go with an austerity. I will support it but I want to see clear applications of those anticipated savings in where it should go. Is it going to fuel – how much? Is it to carry the payroll for PSS, DPS and DPH – how much? GOV. COMM. 16-79, which is the veto message, is preceded by five communications about rehiring vacant positions. What is going on? This is a clear example of the left hand not knowing what the right hand is doing. Do not subject to the traditionalistic thinking that fear is upon us. If there is no money, there is no money. I asked the Secretary of the Department of Finance pointedly, I can not comprehend why you would include the entire Mayor of Rota personnel on the rift, subjecting the municipality to incapacitation. You incapacitate the Mayor of Rota by removing the entire staff of the Mayor. Is there a gamesmanship that we do not know and we are not privy to. You never subject a municipality to be incapacitated and you never impose fear on those hard working people in government that you should include them in the list. The business expanding the economy is priority one, not continued perennial attack on austerity. We have to wake up. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Thank you, Representative Hofschneider,. I now recognize Representative Reyes.

Representative Reyes: Thank you, Mr. Speaker. I believe we are talking about GOV. COMM. 16-79. Let me just add in my two cents into it. Mr. Speaker and members, we have worked so hard on this bill that was just vetoed. I gave my utmost admiration to the Chairman of Ways and Means Committee. There have been so many communications exchanged between this body and the Governor's Office, and it appears that we are not speaking the same language because it still creates a massive confusion not only between the members here, but also with the Senate and the Administration. Chances are, Mr. Speaker, that the Governor vetoed this bill and has his own reasons, and he has outlined quite a bit. Let us all bear in mind also that members of this body, especially the Ways and Means Committee has put in a lot of effort, a lot of time into this. The bottom like, Mr. Speaker, is the Governor cannot have everything that he wants. I personally feel that we tried to meet him halfway. I asked a question during a committee meeting whether overriding this bill will address a lot of the concerns that we have, or what would be the worst and the consequences that we are all going to suffer from when we do not act on this bill. The Governor, if I am not mistaken, has also submitted a proposed bill amending what we submitted. I feel that entertaining such would be a great insult to this body to give him everything that he wants. I heard somebody said earlier about a blank check – I feel that H. B. NO. 16-83, House Draft 5 is very much of a good compromise. As my colleague Representative Benavente mentioned, it is important to address it and act on it because the threats are real, especially coming from the Public School System and the health officials. I am not so sure about the Commonwealth Utilities Corporation because I still do not see anything there to convince me otherwise. All I know is that we have been paying a lot to CUC, but I do not see anything in light. So, I have my own reservations to that. However, it is important that we act of this today, and I hope that each of us will take it seriously and vote with your conscience because I understand that this will be up for vote today. Mr. Speaker, as I said, it is important to maintain the necessary public services especially the layoffs of hundreds of people particularly to the municipality of Rota, which is probably a hundred percent of what they have. Again, if we can speak the same language with the Administration to be better transparent, chances are we can come up with something else to assist the entire Commonwealth with what is needed. Thank you.

Speaker Arnold Palacios: Anymore comment? Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. This is also with respect to GOV. COMM. 16-79. It is has been said that the focus of this austerity bill that has just been vetoed was to save the hundreds of employees who were facing job losses while continuing to provide essential services to the community. We know now that those hundreds of employees that were supposed to be cut of Friday got renewed that very same day. We also know that essential services continue to fall apart. There is no denial at the hospital, at the schools, at CUC. And the papers the other day, we might not even have fuel for Friday. So we cannot – if we are going to talk about austerity and we are going to talk about coming to grips with reality, we cannot save payroll and go to such extreme measures to save the hundreds of employees that are on payroll now and also continue to provide for services. We do have to set priorities. The public outcry that came about when we passed on First and Final Reading this last austerity measure – it went through the House, fast

track to the Senate, and went to the Governor – the public outcry did not have to do so much with the need to cut because everybody understands that, but the fact that there was not a focus or reason, a plan for what the savings would actually provide. The other half of the public outcry that I think is just as persuasive is we have not even begun to address government fat – looking at ourselves and how we spend money at the legislature. Looking at the Judiciary and the hiring that they are doing there, and all the hiring that are still going on at the Governor’s Office, and all the independent contracts, the political hires. Those things continue to this day and all the perks that we are fully aware of that public officials enjoys. One of my colleagues mentioned about voting with our conscience. How can we vote with our conscience for this austerity bill when we have not begun to cut the fat that can be cut. How can we cut other people’s salaries, the lowest paid workers, without looking at how we spend public funds and really setting the priorities and making a decision that has to be made and coming to grips with reality as has been pointed out. Thank you, Mr. Speaker.

Representative Ralph Torres: Mr. Speaker, can we go back to introduction of bills?

Speaker Arnold Palacios: I will indulge you, when we are finished with this discussion.

Representative Ralph Torres: Thank you.

Speaker Arnold Palacios: Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker, for the second time. I just want to say that Representative Hofschneider and I agree on one thing and that I would like to put notice on all the members that as the saying goes, the ball is in our court right now with this situation. Even if we have concerns about how the Administration has reacted, or what the Administration has done so far with regards to the seriousness of this financial crisis, we need to remember that that could be a policy decision by the Administration and this Legislature does not have to follow that policy. What I am saying, Mr. Speaker, is that if we all agree that there needs to be a reduction in the size of government because of the shortfall and that is the reality that we all talk about. But, you do not do that overnight. You do not fire people by telling them today and then by tomorrow they are jobless. You do not cut public service tomorrow because you do not have the money. We have options here. We are proposing an option to phase this out. And while we do not have the plans, and I hope the Administration has the plans in the 2009 budget. We may even create this plan in the 2009 budget and I hope that we do. But you can not tell this community, the people of the Marianas that I am sorry, you are just not going to have a job tomorrow, I am sorry but you are just going to have to live with twelve hours of electricity a day because it is only fuel supply that we can afford. But I guess we have different opinions about how to protect and serve our community. The fact that thirty plus employees from the Saipan Mayor’s Office and maybe a hundred from the Rota Mayor’s Office were rehired for another sixty days does not change, that is really a small part of the big need of this government. The fact that the Secretary of the Department of Finance came out and said that the money has always been there, yes, a hundred thousand I am sure he can find, maybe even two hundred thousand. The money is there and that is all you need for these individuals to be hired for another sixty days. But, the eight million dollars for fuel, I am sure that no one in here can say, do not worry, the Secretary of the Department of Finance would say that the money has always been there when they do pay for

that. The last fuel shipment was sent back because we do not have two million dollars. Again, I just warn against going along if this is the policy of the Administration that sorry, but we do not have money – it can not be. Once again, the ball is in our court. Thank you.

Speaker Arnold Palacios: We need to just be aware that we are going to have to end our session this morning before twelve o'clock. I was just given a note that the power will be off at twelve noon. You may proceed, Representative Hocog.

Representative Hocog: Thank you for the information, Mr. Speaker, but I believe I will far finish my deliberation on the governor's communication prior to the power outage as you announced. Nonetheless, Mr. Speaker, my morale today is very low. Before when I drive to the Legislature, my spirits are very high. After hearing my honorable colleagues' comments on GOV. COMM. 16-79, Representative Hofschneider acknowledged that the Administration made a mistake by not exercising the item veto power. And if this is an appropriation bill, it is prudent that the Administration could have line item vetoed those that are not fit to carry out the duties and responsibilities of the Executive Branch that will disrupt public services. My good colleague Representative Hofschneider stated why should we work under fear. I do not know what recommendation there is today if we are not to work under fear. And I do not know, Mr. Speaker, if it is appropriate for me today to take the lead to do something about this vetoed bill on austerity measures. We talk about austerity – how can we make an austerity measure cease to exist during this fiscal year. Maybe today, Mr. Speaker, will be the right day that we fear nothing and I will ask my colleagues to join me in overriding the governor's veto. But before we do that, how can we take austerity measure out of the conversation? Maybe it is that we must move forward and override the Governor's veto of H. B. NO. 16-83, House Draft 5 to ensure that the people and the employees will not be panicking between now and September 30. Representative Hofschneider is correct at whose game are we playing. If there is a good reason that the Governor vetoed this austerity bill, the question is why did he not exercise his item veto power? I can probably offer solutions to work not under fear but to move forward by assuring our colleagues and the Administration that perhaps when we take the stand to override this veto that we will provide a corrective measure at a later date so that we can also repeal the word "austerity" and replacing it with "a five percent cut across the board." Probably, that will be the fairest way of implementing austerity. In the face of this bill, there are people being exempted, which I believe is not fair to those that will be required to take a Friday off every other Friday. It will be more fair, Mr. Speaker--and our honorable colleagues will probably go along with me--to consider overriding and replacing all these sections in lieu of correcting those items that need to be corrected, repeal them after the bill is assigned a number that it becomes law to reference what we will be repealing or reenacting that will be more workable to the working force and more assurance that there will be no panic within the community regarding the absence of funding to purchase fuel, the absence of funding for the continuity of PSS to operate, and so as DPH and DPS. In particular, Mr. Speaker, it was made known that thirty-two of our law enforcement officers will soon depart for special assignments. And with some provisions of this section that the Governor vetoed indicating that there will be a freeze in hiring, those are the provisions that we would like to consider when an override is called for at this point in time to give authority to this department to recruit replacements once our present force depart from the CNMI. If we are to continue arguing and go in circles as to who is correct and who is wrong, we cannot close the book of panic. So, I believe it is timely during this session and I ask my

colleagues to consider overriding the Governor's veto and assuring alternative measures that can reduce the panic due to the inaction of this legislation at this point in time. I hope, Mr. Speaker, that we will act in that direction to consider overriding the Governor's veto today, if the Floor Leader would move to put this on the floor. But these are the reasons that we ought to consider. What would happen again if June 30 comes? What would happen again if these affected employees surround this legislative hall? They will be told to go and see your legislators and ask for mercy again to reconsider funding. None of us are privileged to know that there is substantial money left behind for the next three months after their contracts expire. God knows. My request to consider action to override this veto will just seal those unanswered questions from July till September 30. I hope my colleagues will agree with my vision of what will happen after June 30. Thank you.

The Chair recognized Representative Yumul.

Representative Yumul: First of all, the Sergeant-at-Arms had just passed out additional information to the members, which is an update of the employees listed that were to be rift Friday. I have taken it upon myself, Mr. Speaker, to provide in sessions, as much as possible every piece of document that comes to my office. Everybody will be fully informed. There would not be an excuse of I did not get any information or I did not see that document. You will have it. At this point, I have done nothing but provide financial information, upon financial information, upon financial information, but I do not get the support that really needs to come to the Committee on Ways and Means. It does not matter whether you are a member or not. Time is of the essence because everyday that passes is another day that the government has to pay out. We are on a reverse clock, we are running down the fiscal year and at the end of the fiscal year we are going to basically see whether we end up in the black or in the red. The legislation, H. B. NO. 16-83, HD5 on page 5 has one of the first austerity holidays of April 18, that is just two days from today. So if this legislation is not acted upon, that is another four hundred thousand dollars that I and the Committee on Ways and Means will have to figure out, because that is going to be another day cut towards the end of this fiscal year. Public finance is a very different animal, if you will, versus the private business finance. We are relying on the Secretary of Finance to look into his last three years of financial data and project forward for this fiscal year. This fiscal year is still active. He is spending based on assumption that is why the numbers are not solid and they can never be. If we had one year lapsed where we allow ourselves, the CNMI government, to spend what we have collected last year, this would be a very simple, very easy workable financial projections and expenditures, because we are not projecting we are spending what we have collected. But this is not how public finance operates. We are projecting what we are to collect and we are spending and hoping that our projections will meet up with our collections at the end of the term. If not, then we need to make adjustment along the way, up or down. Just because it may seem that the Secretary of the Department of Finance had found money, it aggravated me when the Secretary of the Department of Finance said that the money has always been there on the Monday interview. Before I came this close to blowing my top, I backed off and I said maybe that is just a slip of his tongue, because it does not matter if the money is there or not. I will give you a very good analogy. Look at your pockets. You have four pockets in your pants. If the General Fund budget is your right front pocket, all the receipts of the money you have spent... (*End of Tape 1 Side A*) (*Beginning Side B*) ... on your left front pocket, at the end of the term come September 30, all those receipts have to move to the front right

pocket. If you have exceeded the budgetary limit as set forth under Public Law 15-71 which was reduced by 2.3% across the board or to one hundred and sixty point four million dollars, you will go to jail. So it does not matter whether there is money. You just have to constantly remind the secretary, do not spend a penny more that what was set in the prior year. If we were to believe that there is money lying around and he is hiding it, and we were to forget for a moment that there is a spending limit, how then can we operate the first quarter of Fiscal Year 2008 which begins October 1st? He is going to have to wait and collect, then we are going to have government funds. We do not do that, this is public finance. The crossing over from one fiscal year to another clearly, even a second year business student will tell you that there is money. You can not go from one fiscal year to another without having cash on hand. You do not collect taxes but two ways: at the end of the month for customs, and then quarterly, which is business gross. I really urge everybody, if you really want to understand the budgetary processes please sit down with me and we will go though how public finance operates. But, we cannot have these types of discussion when you do not know what we are talking about. Unfortunately public finance is difficult and even I have to rely on advisors – people who have worked for public finance for many years. Even I will admit, I am having a hard time catching up, but I try. I read every chance I get that is why I am always optimistic. I have boiled it down to two simple things: getting to everyone of you information that is accurate and timely and then we, all twenty of us and the nine at the senate, all sit down and make a decision. That is how we are going to play this.

Representative Hofschneider: Privilege, Mr. Speaker.

Speaker Arnold Palacios: State you point.

Representative Hofschneider: Mr. Speaker, while we have the Chair of Ways and Means holding the floor – did the austerity bill that was vetoed in any way reduce the targeted amount?

Representative Yumul: What targeted amount are you referring to?

Representative Hofschneider: The anticipation of the seventeen million dollars as a result. If you amortize the austerity Friday and holiday pay suspension, the projection is somewhere between fourteen to seventeen million dollars. Did any of the provision reduce that effectively? That was one of the reasons for the veto.

Representative Yumul: I have my own reasons why this legislation was vetoed. The Speaker had made it abundantly clear that it was nitpicking. This legislation will provide relief. To what extent, that again is debatable because the secretary is saying that is all based on quarterly collections, not projections. So, we are hoping that this will free up about sixteen million dollars because when we went from FY'07 with no contribution to the Retirement Fund to now FY 2008 with eighteen percent, that is an additional burden on government. This is part of the pay down because this is an obligation.

Representative Hofschneider: Mr. Speaker, what I am trying to get at is the total impact of those listed in all the three senatorial districts, and I stand corrected, I think it is around nine million dollars? Correct?

Representative Yumul: I do not recall that information, but I will take your word for that.

Representative Hofschneider: No, Mr. Speaker, he is the chairman of the fiscal committee.

Representative Yumul: Right, but the problem is I do not have the information on me right now. If you would like to go to recess, I will walk over to my office and I will qualify that.

Representative Hofschneider: Alright, Mr. Speaker, the next question then is of all the debates that I have heard so far is on the human side of those people to be terminated. If the objective of the austerity is to save those people then that is equal to nine million dollars. Do we know for a fact of other significant contracts eating into the General Fund forcing the issue of austerity? I believe, Mr. Speaker, it is not a matter of resources availability to move money around, but running out of budget authority. When you repeatedly advance government utility to help purchase fuel for CUC, you have pretty much run out. This is the reason why the state of emergency has to be repeated, over and over. It gives budget authority a new life. We have the former lieutenant governor here. He knows that. It is an issue of running out of budget authority, not resources.

Floor Leader Camacho: Point of order.

Speaker Arnold Palacios: Mr. Floor Leader, recognized.

Floor Leader Camacho: Respectfully to Representative Hofschneider, he asked for a point of information.

Representative Hofschneider: Yes, I am directing it, giving you historical relevance to the question and that is do we have that information – what are the contracts in existence putting an additional pressure on the General Fund. I know of one, Mr. Speaker, and I am on top of this right now. Did we know, or do we know, do we realize CHC went out for an RFP (Request for Proposal) for purchase of new machines such as CT scanners. Is that appropriated? DCM Contract with the power plant – is that appropriated? All these activities move towards exhausting your budgetary authority. I ask those questions. We have concluded that our human concern to save those people listed in the rift document. The next logical question is, if it is seventeen million dollars, what is the rest going to be used for? If we are taking it away from good hard working government employees, then they deserve to be told where the money is going to go. We will save the Rota, Saipan, and Tinian employees with nine million dollars. What about the six million dollars? That is a direct question to the fiscal committee chairman.

Representative Yumul: Mr. Speaker, if Representative Hofschneider will refer to HSE. COMM. 16-26, we did do a budget summary with projections to the end of this fiscal year as to the estimated surplus or shortfall that will be incurred by every branch and its respective divisions and agencies of this government. We have quantified that to the tune of about fourteen point five million dollars. This is based on data that we received on each respective department and their expenditure trend. Of course if the information that was provided the committee is flawed, then they will be pretty much held to pay from their providing sources. I understand the questions

arising from Representative Hofschneider, but if we were to go down that route and I know what he is alluding to, I will not hesitate to call for a Ways and Means emergency meeting this afternoon and I will subpoena everybody that will be need to come in starting with OPM and the Department of Finance and we will get to the bottom of this. I promise everyone here that we will get to the bottom of this, and that is very simple to do.

Representative Benavente: Clarification, Mr. Speaker.

Speaker Arnold Palacios: Point of clarification recognized.

Representative Hofschneider: For the last time, Mr. Speaker, I will vote on austerity. I will vote to take away from salaries of hard working government employees if it is clear what we are going to use it for and let them know where it is going.

Representative Benavente: Under clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Benavente: Just to provide information. Representative Hofschneider asked the question of where the rest of the funding go and as I mentioned in my earlier statement and speaking with the CUC executive director and the Chair of the Board of PSS. These are just two of the critical agencies that are short Ten Million Dollars up to the end of the fiscal year, plus all the other programs and agencies that the Representative Yumul is referring to. Thank you.

Speaker Arnold Palacios: I now recognize the Vice Speaker.

Vice Speaker Deleon Guerrero: Thank you, Mr. Speaker. I have been listening, I have been trying to bite my tongue to keep from talking so that I listen to all the concerns being raised. Mr. Speaker, I also came in today with the intent to push for an override of vetoed H. B. NO. 16-83, HD5. I do not see how anybody in this body can not understand the predicament – maybe that is not the right word – the crisis this government is in. To let this issue remain as it is, status quo, I do not see how anybody can sleep tonight knowing that in two days this island will be without power. And that is just the tip of the iceberg. I have looked at the Governor's reasons for vetoing the bill, and while he does have some points that I can understand--and can be corrected through an amendment perhaps subsequently--I do not know if there is any other timely recourse at this point. I hear Representative Hofschneider saying that he can support it provided that these savings are identified for what purpose. And I do not think that is unreasonable. I think this legislature ought to be commended for making the hard choices when it initiated this legislation. We could have acted politically – somebody said, never mind, let it go, and when the power goes out, when the teachers leave and things really become chaotic we can just blame the Administration for vetoing it. But as one of my colleagues said, I do not think blaming somebody will fix the problems. Some of us who were here in the Fifteenth Legislature that did initiate the austerity measure felt insulted because we made the unpopular decision to cut peoples' salaries because we understood that we had a crisis, we lacked funding. We cut peoples' salaries only to be insulted when we found out later on that hundreds of hires were initiated. That is not only a slap on the face to us who made the hard choice, who have had to face the wrath of the public for

doing that, but it was an insult to the people whose salaries were cut. This time around, having experience that, this legislature decided when the Administration asked for these five austerity measures that we would place controls to ensure that the same abuses will not happen again. Representative Sablan raised points about trimming the fat, and while there can be more areas that we can cut – cell phones, car leases and other things in this body – I think the great savings that will be realized are included in the measure. Hiring freeze – it does not say within the Administration or the Executive Branch, it says in all branches of government. Freeze of salary raise – again it did not just say in the Executive Branch, it says in all branches of government. And that is where the abuses happened and we saw last year. This is a start and we even went one step further and that is not only to freeze hiring but to eliminate FTEs that have been vacant. This is one step towards reducing the size of government. I think we should take notice of some of the proactive steps in this bill to trim the fat, so to speak. It may not be the best bill, but it is a step in the right direction. I just worry as some of my other colleagues have stated that doing nothing right now is tantamount to us neglecting why we are up here. Mr. Speaker, I want to push for an override and if the members want to amend it further so that some issues raised by the governor which may be unconstitutional can be addressed, then let us work on that in a subsequent bill. If some members feel that we should include additional cuts to trim the fat, then let us do that. Let us prepare our bills and have them ready to amend this. But I do not think not doing anything or letting it go is an option. I am really concerned about what could happen. The rehires for a period of sixty days that happened, Representative Yumul and some other members had addressed that. It is two months. It is not like they have a big chunk of money hidden somewhere. I believe it was the Special Assistant for Administration that qualified that the funding did come from left over funds that the Saipan and Northern Islands Legislative Delegation appropriated last year under Saipan Local Law 16-31. That is what they used to reinstate these employees. I do not think that by leaving it alone we will have money and things will be honky dory. I do not think that is the case. Mr. Speaker and members, I ask that we act and we can put our thoughts together and offer subsequent amendments, but we do need to act so that we avert looming crisis that will happen. It is not a matter of if, it is a matter of when. Thank you.

Speaker Arnold Palacios: Before we continue, we will take a two-minute recess.

The House recessed at 11:15 a.m.

RECESS

The House reconvened at 11:25 a.m.

Speaker Arnold Palacios: We are back in session. We will be having a power outage in about twenty-five to thirty minutes. I will allow about three more members to express their thoughts on this issue this morning. This is a critical issue that we face and certainly I appreciate the thoughts and the statements being made this morning by the members and to look at the different options that we have regarding this particular issue. I do not think we should hold ourselves to making a decision today. While the time is ticking, we still have time to make that final decision: one, whether to override it, and the other is to possibly have an accompanying legislation. With that, let me recognize Representative Apatang.

Representative Apatang: Thank you, Mr. Speaker. All this morning we talked about overriding the austerity bill. Someone mentioned that we have several options and one option is to probably to leave it alone. Mr. Speaker, there are several bill pending in the committees that are revenue generating bills. They have been sitting there for the longest time. If the committees would have entertained these bills, put them out for discussion, we would not be in this predicament at this time. Some of those bills will help CUC. Some of those bills will generate revenues that will help the government.. There are revenues sitting at the Northern Islands. We can also call in the Department of Public Lands and discuss the issue about Northern Islands. Those are the options that we have. Instead of taking money away from government employees, this is the option that we should pursue. It is not going to hurt anybody. Those sands sitting in the Northern Islands needs to be mined. Those are revenues. That can collect millions and millions of dollars into the government coffers. We also have other bills pending. You know, we have been here since January 14 and some of those bills were introduced during the following sessions.

Representative Hocog: Point of Order.

Speaker Arnold Palacios: State your point.

Representative Hocog: I thought that my good congressman is going to discuss the Governor's messages. He is discussing legislation in the committees.

Speaker Arnold Palacios: I think he was about to get to there.

Representative Hocog: Okay, thank you.

Representative Apatang: Mr. Speaker, those are the bills that we need to concentrate on and get out. I ask the committee chairs to work on those bills. Get them out, so we do not have to be working on this, not sleeping at night thinking about revenues. Those are options and those are the options we should pursue as soon as possible, not sit on them and dream on them because I have reservations or whatever the cause may be. Put it out and we will decide on it. We have several public hearing already. That is very sad because people do not come to the hearings. There are only two individuals showing up at the hearings. So let us work on those initiatives and put them out on the floor so that we can vote on them and get them out. Those are the revenues that we need to generate. Thank you, Mr. Speaker.

Representative Quitugua: *Si Yu'us ma'ase, Mr. Speaker. Mr. Speaker, este i para baihu sangan germane este yan i GOV. COMM. 16-79. Para etyi i mangaike gi Fifteenth Legislature, estigi fina'an mina' sinko na akto anai para ta satba i empleáon gobietnamento. Ta na'i i governor one hundred percent reprogramming authority under continuing resolution. Later on para u fan ma fai'ah, para u fan ma furlough five hundred plus employees. Man ma faisen hit para ta waive i employer retirement contribution kosake siña man ma save este siha na empleáo. Ta cho'gue etyo. Anai munhayan, guaha ta'lo para u fan ma fai'ah empliao sa' taya' salape. Pues man ma faisen hit para ta cho'gue i austerity measure. Ta cho'gue etyo i austerity measure sa' ilek-niha para u guaha savings of thirty million dollars ya ti para u fan ma fai'ah i empleáo. Anai munhayan etyo para u fan ma fai'ah ha' ta'lo i empleáo, pues ta pasa etyo i Public Law 15-71.*

Ta na'i ta'lo i governor reprogramming authority. Anai munhayan etyo, para u fan ma fai'ah ha' ta'lo i empleáo. Pues estague ta'lo i H. B. NO. 16-83. Ya achuka' ta bota este pa'go ya ta override, ileleku na siempre ha' ta'lo man machek hit magi nu i empleáo osino i governor ta'lo ha faisen hit for another austerity sa' osino u fan ma fai'ah i empleáo. Temporary solutions – katda six months man ma chek hit, man ma agang hit gi ofisina-ta. Esta i empleáo ti under threat esta ni man gaige. Esta ma eskpekta ha na katda six months para u mana fan ready siha sa' para u fan ma fai'ah, pues katda three months, pa'go two months. Mr. Speaker, baihu rekomenda na este i ma veto na bill i komiten Ways and Means u redraft este na bill kosake siña u ma incorporate mas lengguahe ni etyo i siña ta satba na ti para up to June ha i empleáo u fan ma emplea. In the meantime, tododos hit guine debi di ta hahassu hafa mas permanent na solution anai para ta ayudayi i iyota gobietnamento ni para u na'halom salape. Hu tuñgo ha' i governor na anai sessu mu appear gi Harry Blalock's radio interview, ilekña na todo tax increase fees para u veto. Para u ma reduce i tax rebates, para u veto. Guaha mana'halom bill para u ma reduce i rebates, guaha proposed bill para u ma increase i minimum wage, some taxes, fees. Guaha ma pass gi House, guaha manma pass gi Senate, guaha man mapuno' ha gi komiteh sa' hafa na para u ma lagñgos ya para u ma veto ha'. Pa'go i governor ha nana'i hit magi recommendations para ta atan kosake siña man collect i government revenues. Mr. Speaker, estague rekomendasion kosake siña ta atan otro alternatives after man munhayan hit nui este i austerity measure an siakasu na ma override, an siakasu na ma redraft ya ta pass. Lao yanggen ma override este, Mr. Speaker, hu a'atan na siña ha' i governor ha tatiyi, siña ha' ti ha tatiyi. Kulan guaha guine siha ni hu a'atan na ileku i Attorney General siempre mangge' opinion na unconstitutional ya ha tatiyi i governor. Pues ti bumali ta'lo i H. B. NO. 16-83. Si Yu'us ma'ase, Mr. Speaker.

Speaker Arnold Palacios: Let me recognize Representative Babauta. He has not spoken on the issue.

Representative Babauta: Mr. Speaker, probably I require a change of tape. Thank you, Mr. Speaker. I know you have warned all of us that the power will be out in several minutes, so I beg to be expedient. Whether or not, Mr. Speaker, the actions of the House would be to override the Governor's veto of H. B. NO. 16-83, HD5, I heard quite clearly Representative Benavente and so as Representative Hofschneider's comments. And I agree with those recommendations, but bringing back the insinuation or even to the extent of recommendation to push for an override of this bill is tantamount to saying, in sixty days it will be the same thing. Why?—After reading for the fourth time the Governor's message and looking at the various sections that the Administration has indicated, let me caution the members that overriding this bill would do a great disservice to those employees that were recently recaptured back. There is a compelling providing in the bill that when the sixty days comes up, how do we know the Administration's game plan. Will they continue to renew employment of this people, or let them go? This is the catchy part and we have to be very, very careful – I agree to a certain extent as former Vice Speaker Quitugua eloquently expressed and as I understand from the leadership, there is also a bill that is being crafted as a result of the Governor's message not necessarily watering it down, but to the extent that it would accommodate the Administration's goal in meeting the financial needs up to September 30. So members, I urge you to be cautious on you decision. It is your prerogative to decide that and I respect that decision, but bear in mind that we never know what the Administration's plan is or what it will do after May 30. With that, Mr. Speaker, I would like

to inform the members that I will not be supporting any recommendation or for that matter a motion to override the Governor's veto. Thank you very much.

Speaker Arnold Palacios: I am going to allow for one more comment or statement. I want to get to a particular legislation this morning, so I would ask that we would suspend further discussions on this and come back on Tuesday and we can continue this discussion. With that, I recognize Representative Hocog.

Representative Hocog: *Si Yu'us ma'ase, Mr. Speaker. Anai kumentos si Representative Quitugua ya hu e'ekungok, Mr. Speaker, esta baihu fatinas pa'go i decision-hu. Mr. Speaker, i hafa lini'ehu ni este na kuetpon lehislatura, este na kuetpo pa'go ni man gaige hit, Mr. Speaker, pa'go na baihu konfitma na ha'ane ha ahe ti gi'ma espantao este na kuetpo. Guma' enkantao este ni man gaige hit pa'go. Yanggen magahet si Representative Quitugua nui fino'ña, enkantao, Mr. Speaker, i lehislatura na kuetpo. Ti hu komprende este nai man gaige hit guine pot para ta na'guaha balansia gi eksegatibu, lehislatibu yan i hustisia. Hafa pa'go ta chocho'gue, Mr. Speaker, man e'emisirikotdia i lehislatura rekomendasion ginen i eksegatibu. Sa' hafa na guaha este? Tododo che'chu umatok gi un banda, Mr. Speaker, naturat na siempre un protehi. Lao mangge' Mr. Speaker, i kualidatña i lehislatura, mangge' i direksionña i lehislatura yan mangge' i disision este i manma elihi pa'go. Ma sangan hafa para ta ma'añaogue. Un ma'añañaogue, Mr. Speaker, i lache, cha'mu ma'a'ñaao ni dinanche. Pues pa'go este na guma', ni hafa ya u ma cho'gue, gima' enkantao este yan espantao na guma'. Taigue yo' guine na kuetpo para baihu ma espanta ya ti enkantao tinanos hu para baihu fatinas i direksion anai para u guaha proteksion. Pa'go yanggen bali umekalag guato ya umesueti gi Administrasion, kapas yo', Mr. Speaker, para baihu ekalag guato ya baihu chule hafa malago'-hu. Lao kao enao na gaige yo' guine?—Ahe, Mr. Speaker. Yanggen guaha en ma'añaogue agupa', agupa'ña, taya bisnis-ta guine para ta fan matatachong ya guaha amista gi difirentis na direksion. Hafa direksionña i lehislatura, Mr. Speaker? Hafa koniksion-ña i lehislatura? Hafa hungandoña i legislature? Esta pa'go enkantao titanos-hu, Mr. Speaker. Sa' hafa na enkantao?—Sa man espantao hit guine nai. Pues pa'go ta agang hit, kongresson espantao yan enkantao sa' munga hit manmanule' aksion nai kombeni para ta fatinas i mauleg na direksion para i publiku. Alleluia, Mr. Speaker.*

Representative Babauta: Point of information, Mr. Speaker.

Speaker Arnold Palacios: State your point, Representative Babauta.

Representative Babauta: Mr. Speaker, I beg to differ with my distinguished colleague from Rota. Mr. Speaker, ti i lehislatura enkantao yan i indibiyuat gi membru. I prublema ni ta fafana' eyigi enkantao ya nisisario ta danche este kakayongña sa' yanggen ti ta danche nai, Mr. Speaker, guaha siempre man lotgun man inosente ni man tinitika nui este na akto. Enague hu kekesangan, Mr. Speaker. Lao hu rispeta i opinion Representative Hocog sa' entitle gue para u sangan etyo. Lao munga giya hamyo gi membrus para in pega na man enkantao titanus miyo, taya lokkue espantao guine. Ta chocho'gue hafa minauleg. Katda unu gi membru, Mr. Speaker, guaha opottunidatña para u ekspresa hafa disisionña yan sinenteña pot este siha na asunto. Enao ha' ya u guaha rispeta ti entalo'. Shiongonai' gi fino' Japanese yanggen ti man a'danche' hit gi

posision lao dipotsi ha este i dimokrasia este gi pison kongresu. Enao ha' si Yu'us ma'ase, Mr. Speaker, ya ta bota pa'go enao i iyomu bill.

Speaker Arnold Palacios: Thank you. We will defer further discussions on GOV. COMM. 16-79. I believe we will open the next session that we have and consider the actions or options that we have on this particular issue. With that, we move down to Senate Communications.

Representative Yumul: Mr. Speaker, before we do that, can we agree then to leave the Governors' messages on the Order of Business.

Speaker Arnold Palacios: So ordered.

SENATE COMMUNICATIONS

SEN. COMM. 16-19: (4/3/08) Returning H. B. NO. 16-11 (Safe Diving Act) which was passed by the Senate without amendments on April 3, 2008. [*Before the Governor*]

SEN. COMM. 16-20: (4/3/08) Returning H. B. NO. 16-79, HD1 (CUC Utility Rate Structure) which was passed by the Senate with amendments on April 3, 2008, in the form of **H. B. NO. 16-79, HD1, SD2**. [*For action on Senate Amendments*]

SEN. COMM. 16-21: (4/3/08) Transmitting S. B. NO. 16-26, SD1, entitled, "To amend Section 3304 of Title 1 of the Commonwealth Code to reduce the salary of the Commonwealth's jurists; and for other purposes," which was passed by the Senate on April 3, 2008. [*Referred to Committee on Judiciary and Governmental Operations*]

SEN. COMM. 16-22: (4/4/08) Returning H. B. NO. 16-83, HD5, Fiscal Year 2008 Interim Fiscal Measures Act, which was passed by the Senate on April 4, 2008. [*Vetoed*]

SEN. COMM. 16-23: (4/9/08) Transmitting S. B. NO. 16-19, SD1, entitled, "To amend PL 15-2 to codify its provisions as a new chapter 14 of Pat 1, Division 2, Title 1 of the Commonwealth Code and to give mayors of each municipality, Saipan, Rota, Tinian and Aguiguan, and the Northern Islands an opportunity to affect the disposition of public lands in their respective municipality; and for other purposes," which was passed by the Senate on March 19, 2008. [*Referred to Committee on Natural Resources*]

SEN. COMM. 16-24: (4/9/08) Transmitting S. L. I. NO. 16-9, SD1, entitled, "To propose a constitutional amendment to Article XII Section 3 of the CNMI Constitution to change the term permanent and long-term interests in real property," which was passed by the Senate on March 19, 2008. [*Referred to Committee on Natural Resources*]

Speaker Arnold Palacios: I now recognize the Floor Leader.

Floor Leader Camacho: Mr. Speaker, a motion to place H. B. NO. 16-79, HD1, SD2 on the Bill. Calendar reference SEN. COMM. 16-20.

Vice Speaker Deleon Guerrero: Point of clarification.

Speaker Arnold Palacios: State your point.

Vice Speaker Deleon Guerrero: Respectfully to the Floor Leader, I think he is more aware of the House Rules, but do we not have to accept the Senate communications first and then go to the individual ones that require action so that they become a property of the House.

Speaker Arnold Palacios: Yes, I think we need to accept it first before we place it.

Floor Leader Camacho: Mr. Speaker, respectfully to the members, I move to accept SEN. COMM. 16-20.

Representative Hofschneider: Are we accepting the Senate amendments?

Speaker Arnold Palacios: No, just the communication.

Representative Hofschneider: When you accept the Senate communication, you are accepting the Senate amendment.

Representative Benavente: Mr. Speaker, point of clarification.

Speaker Arnold Palacios: State your point.

Representative Benavente: We check in the Rules and –

Speaker Arnold Palacios: Short recess.

The House recessed at 11:48 a.m.

RECESS

The House reconvened at 11:49 a.m.

Speaker Arnold Palacios: We are back in session. Floor Leader, please restate the motion and make it clear that we are accepting the communication itself.

Floor Leader Camacho: Mr. Speaker, respectfully to inform the members I looked this up yesterday. When we receive communications from the Senate or other parties, it is not covered in the Rules. So I looked at *Mason's Manual of Legislative Procedure*, and it is also not covered in *Mason's Manual* specifically. It is covered in *Robert's Rules of Order*. We do not have to make a motion to receive any communication, but if we want to respectfully act on a specific communication then we need to make a motion on that matter. So to receive alone, we do not need to do anything other than go down the line. If we are going to act on a bill that has been from the House and has gone up to the Senate and come back to the House, I need to make a motion to place that on the Bill Calendar, which respectfully, I am about to do. I will make the motion for the record, Mr. Speaker. Mr. Speaker, with the indulgence of all the members, I make

a motion to place on the Bill Calendar H. B. No. 16-79, HD1, SD2 in reference to SEN. COMM. 16-20.

The motion was seconded and carried by voice vote.

Speaker Arnold Palacios: H. B. No. 16-79, HD1, SD2 is hereby placed on the Calendar. I would like to ask for your indulgence that we skip all the other items on the agenda and go directly to Bill Calendar. Is there any objection?

There was no objection from the floor.

Speaker Arnold Palacios: There being no objection, we move down to Bill Calendar.

HOUSE COMMUNICATIONS

HSE. COMM. 16-33: (4/4/08) From Representative Aldan informing the Speaker that he will be off-island from April 7-11, 2008.

HSE. COMM. 16-34: (4/3/08) From Representative Stanley Torres with regards to congressional immunity.

HSE. COMM. 16-35: (4/11/08) From Representative Torres with regards to CUC and the FY'09 budget.

HSE. COMM. 16-36: (4/16/08) From Representative Yumul providing a summary of the Overall Fund Status with projection up to 9/30/08 as of 2/6/08. (*Copy of attachments provided to the members 4/16/08*)

COMMUNICATIONS FROM THE JUDICIAL BRANCH

NONE

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

NONE

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

DEPT./AGCY. COMM. 16-21: (4/7/08) From Public Auditor Mike Sablan to Rep. Quitugua regarding the review of SHEFA.

DEPT./AGCY. COMM. 16-22: (4/8/08) From Chairwoman Lucy Maratita-Blanco, BOE, urging the House to consider passing a piece-meal budget for PSS before May 1, 2008.

OTHER COMMUNICATIONS

MISC. COMM. 16-23: (2/20/08) From Michael Camacho regarding Alaska's power generation system.

REPORTS OF STANDING COMMITTEES

S. C. R. No. 16-12: Reporting on H. B. NO. 16-21, entitled, “A Bill for an Act to amend 4 CMC § 50204 to cap the tax benefits of qualifying certificates to the amount of investment of each certificate; and for other purposes.” *Your Committees on Commerce and Tourism, and Ways and Means recommends passage of bill.*

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

NONE

UNFINISHED BUSINESS

NONE

BILL CALENDAR

Speaker Arnold Palacios: We are under Bill Calendar.

Vice Speaker Deleon Guerrero: Mr. Speaker, are we also going to skip Resolution Calendar?

Speaker Arnold Palacios: Yes. Under Bill Calendar, I recognize the Floor Leader.

Floor Leader Camacho: Mr. Speaker, I move for the passage on First and Final Reading H. B. No. 16-79, HD1, SD2.

The motion was seconded.

H. B. No. 16-79, HD1, SD2: TO REVISE THE COMMONWEALTH UTILITIES CORPORATION’S UTILITY RATE STRUCTURE TO ENSURE CUC’S CONTINUING ABILITY TO DELIVER VITAL UTILITY SERVICES; AND FOR OTHER PURPOSES.

Speaker Arnold Palacios: The motion has been seconded. Discussion on the motion? Representative Hofschneider, we are kind of running out of time so –

Representative Hofschneider: Thank you, Mr. Speaker, I am aware of that. I move to reject the Senate Communication and send it back to the Senate as originally passed by the House.

The motion was seconded by Representative Babauta.

Speaker Arnold Palacios: Discussion on that motion? There is actually a motion for passage on Final Reading already.

Representative Babauta: Point of clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Babauta: I guess the clarification is to accept the Senate amendment made on H. B. No. 16-79, HD1, correct?

Speaker Arnold Palacios: We already placed the legislation. The Floor Leader has made a motion for passage on Final Reading and it has been seconded. That motion is under discussion.

Representative Hofschneider: Clarification, Mr. Speaker, the motion should have been the motion to pass House Bill – (*End of Tape 2, Side B*)....

(*Beginning Tape 3, Side A*)

Speaker Arnold Palacios: Okay. Mr. Floor Leader, please restate that motion.

Floor Leader Camacho: Mr. Speaker, pursuant to House Rule IX, Section 15, Bills received from the Senate. Pertinent part says the bill may upon motion be placed on the Bill Calendar for First and Final Reading without the need for suspension of the House Rules.

Speaker Arnold Palacios: I think Representative Hofschneider is saying that we should also include “the bill as amended.”

Floor Leader Camacho: I did read that out as H. B. NO. 16-79, House Draft 1, Senate Draft 2.

Speaker Arnold Palacios: Alright. Any further discussion? Representative Babauta, recognized.

Vice Speaker Deleon Guerrero: On which motion, Mr. Speaker?

Speaker Arnold Palacios: On the motion for passage.

Representative Babauta: Point of clarification, Mr. Speaker. Representative Hofschneider, under discussion, made a motion – consider that as a subsidiary motion to reject the Senate amendment made on H. B. NO. 16-79, HD1, SD2 and I seconded the motion. Can we dispose of that motion first?

Speaker Arnold Palacios: Short recess.

The House recessed at 11:55 a.m.

RECESS

The House reconvened at 11:56 a.m.

Speaker Arnold Palacios: We are back in session. The motion Representative Hofschneider made is to reject the Senate amendments and it has been seconded. We consulted the legal counsel and counsel has advised us that. Let us go back into recess.

The House recessed at 11:58 a.m.

RECESS

The House reconvened at 11:59 a.m.

Speaker Arnold Palacios: We are back in session.

Representative Babauta: Clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Babauta: So that the clerk and the counsel are clarified that Representative Hofschneider's subsidiary motion is to send back the original version as passed by the House to the Senate. Thank you.

Speaker Arnold Palacios: I recognize Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. I would like to object to that proposal. Mr. Speaker, when we were discussing the Governor's veto of H. B. NO. 16-83, HD5, I mentioned in my comments earlier the impact of this particular statute on CUC's financial crisis to the tune of about two and a half million dollars per month. Now, you do the math and break that down to a per day basis. The problem and what I am trying to point out is that every day that we delay the repealer or the suspension even if it is for two months, I know that we are going to have to come back before the two months is up and offer an amendment or repeal it or even suspend it for a longer period of time. The fact is that we need to act on it now. The Senate has spoken on their position on this issue and they would rather see a suspension. Delaying it further only increases the crisis, the problems that CUC is faced with right now. I would like to ask the members to accept this amendment by the Senate. It is not a correct or right amendment, I do not agree with it, but it helps the situation with CUC. And I would like for us to go ahead and accept the suspension knowing that we will be coming within the next couple of months for move for the repealer or even suspend it longer, because it will be necessary.

Speaker Arnold Palacios: Thank you. I now recognize Representative Sablan. Please be as brief as possible.

Representative Sablan: Yes, I would just like to make a point about the Senate amendment and that is that they moved to suspend P.L. 15-94 rather than repeal it not knowing that the PUC is in no position right now, and will not be in any position in sixty days to implement a rate structure. They are not presently qualified. There are two trainings that are supposed to get them up to speed, tentative trainings in May and November, far beyond the sixty-day suspension. And they are on the waiting list. We are not even sure if they can get there by November. So, knowing that, they are already mandated to act, but this provision right now, the Senate amendment sets them up for failure. And if we know that now, we should change that now.

Representative Hofschneider: Mr. Speaker, one thing that we have to be cognizant of is even if we go ahead and accept the suspension it takes a thirty-day billing cycle to effectuate it. So, the interesting part is the governor should have invoked an emergency declaration or suspended P.L. 15-94. The governor has that authority. He has not done so. So, Mr. Speaker, for once let us do it

the right way. There is a difference between suspending it. It takes three months to effectuate the real rate. So even if you wait another day, it is not going to matter because it is not going to be implemented right off the bat.

Representative Benavente: Clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Benavente: I totally agree with that except that the additional days would add on to the thirty days, so you cannot tell me that by waiting for another week or two weeks that there is no immediate impact. The thirty days that you are talking about is the thirty days after the governor's signs it into law. And the longer we wait for the governor to sign it into law, the impact continues per day.

Representative Hofschneider: Mr. Speaker, the Senate is waiting. They did not realize the impact of the suspension. So, let us just remove it, accept the motion, and send it to the Senate. They will act immediately on this and that is the end of this argument.

Speaker Arnold Palacios: Unless there is information that we are not – Mr. Floor Leader.

Floor Leader Camacho: Mr. Speaker, the PUC met last week and that was their first organizational meeting. I had a chance to talk to the chair of PUC last night and she informed me that they do not even have one pen or one calculator, or once piece of paper. They have yet to really be organized and up and running. They do not even have a part-time staff, let alone the proper training to make a decision on the rates and CUC. They asked us if we can consider giving them, at a minimum, six months with maybe an additional six months on top of that. So how this body wants to handle this information on how to amend or repeal the Senate amendments that is up for discussion. But that is the information that is relayed to me.

Speaker Arnold Palacios: Those statements made by Representative Sablan when she had her meetings with some of the PUC nominees were information revealed and that they could not training until at least six months after their confirmation. While I believe this repealer legislation is critical, I think it puts the Public Utilities Commission in a bind with this amendment and that if we accept this amendment, we will definitely coming back to add another six months or another year. The legislation gives them about a year to organize, something that we need to consider and vote accordingly. Perhaps our counterparts in the Senate are not aware of these details and so maybe they will be willing to compromise if we send this back.

Floor Leader Camacho: Point of clarification and additional information. The training that the commissioners will attend is about seven to fifteen days long of intensive training. That is my understanding from the information given to me. There is big bold letters that comes in the packages, which says, do not make any other plans for field trips or side trips. It really is a working training. It is not a junket trip if you would like to call it that.

Representative Benavente: Mr. Speaker, there are two things that we are discussing here. The opportunity for PUC to develop the rate structure, and the other important factor is where the

current status is costing CUC greatly financially. And that is why I was saying earlier that I am sure we would have to come back when the Senate finally realizes that this is really necessary, they will come back, and either agrees to the total repealer or grant an extension for six months to a year on the suspension. The problem I am having is that we are second guessing. We are guessing what the Senate might be able to do and their policy call on this matter. We are hoping. We are going to amend it and send it back to the Senate hoping that the Senate would realize or understand and make the difference. In the meantime, every single day that this is delayed, it is causing more of a financial crisis for CUC. What I am offering is this is now the most immediate action that we can take to stop the bleeding. Let us take this and then try to convince the Senate leadership to accept the repealer.

Speaker Arnold Palacios: If the legislation itself is passed and signed into law, CUC may begin to charge immediately the rate that has been set but was suspended by P.L. 15-94. That would give them that two months period and then PUC would begin their work on those rates. Both legislations would do that except that one puts the commission in a very short timeline to act on it. If they do not act on it, we are going to come back in two months and amend that to extend it to one year or even eighteen months. So, that is the issue that we are facing. We all want to do this, but what is the timeline. Representative Hofschneider, do you have a compromise?

Representative Hofschneider: Mr. Speaker, I think the compromise is to pass the amendment that I offered, and this is where the two leaders of the legislature should really have an open dialogue and act on it immediately. There is nothing preventing the Senate from seeing some of the information now being revealed on the floor. Maybe they are not privy when they inserted the amendment. So a matter of twenty-four hours, is going up to the Senate and appeal to the Senate President, Mr. Speaker, that this new information has come to light in the House and we took at the Senate amendments and these are the reasons. And encourage the Senate to pass it immediately, so there is no delay. So with that, Mr. Speaker, I move to end debate.

The motion to end debate was seconded by Representative Babauta.

Speaker Arnold Palacios: We will end debate and let us vote on the subsidiary motion offered by Representative Hofschneider. Again, the motion is to reject the Senate amendment and send the bill back to the Senate, in other words, amending the bill by reinstating the provisions of the bill when it first passed the House.

The motion to reject the Senate amendments by amending H. B. NO. 16-79, HD1, SD2 by reinstating the original provision of H. B. NO. 16-79, HD1 was carried by voice vote.

Speaker Arnold Palacios: The motion is carried. The main question is for passage of H. B. NO. 16-79, SD2, HD2.

The Clerk called the roll on the motion to pass H. B. NO. 16-79, SD2, HD2 on First and Final Reading:

Representative Edwin P. Aldan	absent (excused)
Representative David M. Apatang	yes
Representative Oscar M. Babauta	yes

Representative Diego T. Benavente no

Floor Leader Camacho: Point of clarification.

Speaker Arnold Palacios: State your point.

Floor Leader Camacho: We are now voting on the main motion on H. B. NO. 16-79, HD2, SD1, HD1?

Speaker Arnold Palacios: Legal counsel, I think we are going through a motion that is not necessary. The amendment that we adopted basically made the passage of the Senate amendment moot.

Legal Counsel Bermudes: Correct, because removal of the Senate amendment returns it back to the original version that was passed by the House.

Speaker Arnold Palacios: Short recess.

The House recessed at 12:12 p.m.

RECESS

The House reconvened at 12:18 p.m.

Speaker Arnold Palacios: We are back in session. Floor Leader, can you please restate the motion?

Floor Leader Camacho: Mr. Speaker, a motion for the passage on First and Final Reading of H. B. NO. 16-79, SD2, now HD2.

Speaker Arnold Palacios: Okay, that motion has been made and seconded. Further discussion, Representative Palacios.

Representative Raymond Palacios: Mr. Speaker, correct me if I am wrong – are we voting on the amendment to reject the Senate’s amendment and then send the original back to the Senate?

Speaker Arnold Palacios: Correct. We need to vote on the main motion for the passage of H. B. NO. 16-79, SD2, HD2 on First and Final Reading. Ready? I will again for a roll call. Clerk, call the roll.

The called the roll on the motion to pass H. B. NO. 16-79, SD2, HD2 on First and Final Reading:

Representative Edwin P. Aldan	absent (excused)
Representative David M. Apatang	yes
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	no
Representative Joseph N. Camacho	yes
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	yes
Representative Heinz S. Hofschneider	yes
Representative Raymond D. Palacios	yes

Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	no
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	yes
Speaker Arnold I. Palacios	yes

Speaker Palacios: By a vote of seventeen “yes” two “no,” H. B. NO. 16-79, SD2, HD2 hereby passes the House on First and Final Reading. The Chair will confer with the Senate President and we will try to expedite the legislation harmoniously. I now recognize Representative Babauta.

Representative Babauta: Thank you, Mr. Speaker. I thank the majority for supporting the west wing’s contentions. Thank you very much.

Speaker Arnold Palacios: That is the north wing. Before I call for a recess, I recognize Representative Yumul.

Representative Yumul: If there is no objection, Mr. Speaker, I would like to submit a communication from the Committee of Ways and Means to every member of this body. I will distribute an enclosed report that has been certified by Ms. Esther S. Fleming as the Acting Special Assistant for Management and Budget. It includes the overall fund status with projections up to September 30. She certified this, this is actual and I will take it as concrete documentation as to the anticipated shortfall that we are to encounter. In the explanation of the spreadsheet, it is going to list columns one and two as “as posted to J.D. Edwards Accounting System.” For those of you who are not familiar with the J.D. Edwards Accounting System that is the accounting system that OMB uses and it is posted. That means it is locked in unless wants to illegally tinker with it. Every business unit with the FY continuing budget resolution amount is column one, column two will be the anticipated business unit as posted by J.D. Edwards, and then column three is the personnel expense to date. Column four is all is red. As what I said earlier, these are all negatives. So I would distribute this to you so that you can understand the severity and the ramifications of not acting on any measure to deal with the budget shortfall that we are in the middle of.

Speaker Arnold Palacios: What is the date of that report, Representative Yumul?

Representative Yumul: This is as of February 6th, I will ask for an update to bring us up to current, but this will get you started.

Vice Speaker Deleon Guerrero: Mr. Speaker, I would just like to inform the members that I have contacted CUC and ask that they issue a reprieve on the termination of our power and they said they will not turn off the power today. And so I ask, Mr. Speaker, because there are other pending bills on the calendar that we have postponed for several sessions now, if we can act on them now or continue after lunch because if we reschedule or have another session tomorrow, the power may be off. We might as well work while there is light. Thank you.

Representative Babauta: Mr. Speaker, in defense of my chairman on Natural Resources, the committee is departing this afternoon for a public hearing. Oh I apologize, Mr. Speaker, I thought it is today, but I just got word that it is tomorrow.

Speaker Arnold Palacios: Okay, we will come back at two o'clock. I would like to recognize Representative Stanley Torres before we recess for lunch.

Representative Stanley Torres: Thank you, Mr. Speaker. I have a prepared letter there that I sent to the Governor. This is an important issue that everybody must hear and be concerned about. "Dear Governor Fitial: On February 18, Mobil and Shell raised their gas price per gallon from \$3.94 to \$4.05.

Representative Benavente: May I offer an objection here, Mr. Speaker.

Speaker Arnold Palacios: Representative Torres, we are going to come back this afternoon. We are just going to recess for lunch. Perhaps you can take the time then.

Representative Stanley Torres: Mr. Speaker, if a member does not care to listen, I do not have a problem with it, one can leave, but this is very important for our constituents.

Speaker Arnold Palacios: Okay, I am going to ask Representative Benavente to give indulgence and give you five minutes. I hope you can expedite that. You may continue.

Representative Stanley Torres: The gasoline price was raised from \$3.94 to \$4.05 that was still in their reservoir stock before their new supply arrived on March 5th, seventeen days of gasoline remaining in their farm followed by Shell's supply arrival on March 15 and twenty-seven days of Shell's gasoline remaining on their farm. We have been paying for their gas that has been increased two times for their new supply that arrived on March 15th. Then again, they raised the gas price on March 16 to \$4.15. Then they raised their gas prices for the third time on April 11th, last Friday to \$4.209 for a gallon for the new supply that have not arrived yet. Mobil and Shell have raised their prices three times. We have been cheated, coerced by these two gas companies. I say this is price fixing and hoarding of their supply. I personally know when they raise their price, I always know when their tanker arrives and departs. I live on a hill that I can not avoid not seeing the ship or not at our seaport with every step I make. I am asking the governor for his help on behalf of our people – tell your Attorney General to immediately investigate this situation. And if he cannot do it, fire him and hire another Attorney General that will do it for our people. Thank you. *(End of Tape 2, side A)*

(Start of Tape 2, side B)

Speaker Arnold Palacios: Thank you. The House stands recess until two o'clock.

The House recessed at 12:29 a.m.

RECESS

The House reconvened at 2:30 p.m.

Speaker Arnold Palacios: We were on Bill Calendar when we left off for our lunch break.

Representative Stanley Torres: Mr. Speaker, I have a privileged speech before we go on.

Speaker Arnold Palacios: Are you sure you want to do that now?

Representative Stanley Torres: It has to be before we start, sir.

Speaker Arnold Palacios: I will allow it without objection.

Representative Stanley Torres: Thank you, Mr. Speaker, and fellow colleagues. I am addressing my statement to my good colleague Representative Benavente. I am his former ally and a member of his leadership for two terms of his three tenures as the Speaker of the House. I know that my colleague does not like me anymore since 911 won, but I did not how much he hated me until this morning. I would like to hear now from him saying he hates me that much so that I will repent and pray so that my soul will be healed and saved. Amen. Thank you.

Speaker Arnold Palacios: Thank you, Representative Torres. I think Representative Benavente will take that to heart and probably say a few words during Miscellaneous Business. We move on. I believe that Representative Torres requested that we go back to the Introduction of Bills. So, I will allow him to introduce his bill and we go back to the Introduction of Bills.

INTRODUCTION OF BILLS AND INITIATIVES

H. B. No. 16-84: A Bill for an Act to increase the funding for the health, education and welfare of the CNMI people by reducing the salaries of elected officials; and for other purposes.

Offered by: Representative Ralph DLG. Torres

Referred to: Committee on Judiciary and Governmental Operations

Representative Ralph Torres: Thank you, Mr. Speaker. I know that each one of us is going through difficult times, whether it is economic reasons, family reasons, whatever it is our economy here is affecting everyone--every department, every employee. So I do know the urgency to protect these employees. I am pretty sure that wherever we go, we are being asked, how about the legislature, what are you doing? So I have a bill to increase funding for health, education, and welfare of the CNMI people by reducing salaries of elected officials, and for other purposes. I know it is not going to affect the 16th Legislature. It is going to affect the 17th Legislature, but we have to go out and show the people that we are trying and that there is a projection in 2009 that the economy is not going to be good, and I do not know what 2010 holds. But if we start showing the people that we are moving in one direction to contribute to the economy and to the employees, I am pretty sure that they will understand that we are also cutting up our end of the bargain. And so I appreciate it if we all join on this bill so that we can show the people of the CNMI that we feel for their suffering. Thank you very much.

Speaker Arnold Palacios: Okay, let us take up the resolutions. There are resolutions to be discussed and disposed of. We move to Resolution Calendar.

RESOLUTION CALENDAR

Speaker Arnold Palacios: I now recognize the Floor Leader.

Floor Leader Camacho: Mr. Speaker, in reference to SEN. COMM. 16-15, this is on the State of the Commonwealth Address, S. J. R. NO. 16-3 a motion for adoption.

Speaker Arnold Palacios: There is a motion to adopt S. J. R. NO. 16-3 reference to the State of the Commonwealth Address. Is there a second to that motion?

The motion was seconded.

S. J. R. No. 16-3: A SENATE JOINT RESOLUTION TO CALL FOR A JOINT SESSION OF THE LEGISLATURE TO RECEIVE THE STATE OF THE COMMONWEALTH ADDRESS BY THE GOVERNOR AND THE STATE OF THE WASHINGTON OFFICE REPORT BY THE RESIDENT REPRESENTATIVE TO THE UNITED STATES.

Speaker Arnold Palacios: Discussion on the motion. I recognize the Vice Speaker.

Vice Speaker Deleon Guerrero: Thank you, Mr. Speaker. I have a substitute in the form of S. J. R. NO. 16-3, HD1. I ask the Sergeant-at-Arms to please make copies.

The amendment made by the Vice Speaker to S. J. R. No. 16-3 reads:

“A SENATE JOINT RESOLUTION

To call for a Joint Session of the Legislature to receive the State of the Commonwealth Address by the Governor and the State of the Washington Office Report by the Resident Representative to the United States.

WHEREAS, the Constitution of the Northern Mariana Islands, Article III, Section 9(b), directs the Governor of the Commonwealth of the Northern Mariana Islands to report at least annually to the Legislature regarding the affairs of the Commonwealth and new measures that are necessary or desirable for the Commonwealth; and

WHEREAS, 1 CMC § 4207 directs the Resident Representative to the United States to appear personally before a joint session of the Northern Marianas Commonwealth Legislature on the same day following the delivery of the State of the Commonwealth Address by the Governor each year and deliver a State of the Washington Office Report on the official activities and matters requiring the attention of the government or the people of the Commonwealth; and

WHEREAS, the last joint session of the legislature held for the purpose of receiving the above reports was on March 30, 2007; and

WHEREAS, in compliance to the Article III, Section 9(b) of the Northern Marianas Constitution and 1 CMC § 4207 and the desire of the legislature that a joint session of the legislature be held to receive the Governor’s annual State of the Commonwealth Address and the Resident Representative’s Report on the State of the Washington Office; and

WHEREAS, traditionally, the joint sessions of the legislature held for the purpose of receiving the above reports have been held at the Honorable Pedro P. Tenorio Multi-purpose Center, Susupe, with much fanfare and celebratory feasting; and

WHEREAS, traditionally, holding the joint sessions at the Honorable Pedro P. Tenorio Multi-purpose Center has required the expenditure of public funds to pay for excess power consumption, equipment rentals and transportation, as well as the costs associated with tasking employees of the Legislative Bureau to Susupe prior to, during, and after the event; and

WHEREAS, the Legislature finds that in these troubling economic times, it would be highly inappropriate, to the point of being a breach of our duty to our constituents to expend one dollar more than necessary to receive the reports; and

WHEREAS, the Legislature finds that in these troubling economic times, when many are fearful of losing their jobs, it would be highly inappropriate and insulting to receive the reports in the usual celebratory manner; now therefore,

BE IT RESOLVED, by the Senate of the Sixteenth Northern Marianas Commonwealth Legislature, the House of Representatives concurring, that a joint session of both houses of the Legislature is hereby called for Friday, ~~April 25~~ May 2, 2008, at ~~nine ten~~ ten o'clock ante meridian, at the ~~Chamber of the House of Representatives, Honorable Jesus P. Mafnas Memorial Building, Capitol Hill, Honorable Pedro P. Tenorio Multi-purpose Center, Susupe, Saipan,~~ for the purpose of receiving the annual State of the Commonwealth Address by the Governor followed by the Report on the State of the Washington Office by Resident Representative pursuant to Article III, Section 9(b) of the Constitution of the Northern Mariana Islands and 1 CMC § 4207, respectively; and

BE IT FURTHER RESOLVED, that not one dollar of public funds shall be expended to purchase food or beverages to be served prior to or after the session, and no public funds shall be expended for the rental or purchase of any chair, table, public address system, or any other goods to be used for the session, except the Legislative Bureau may print and make available to the public an order of business if sufficient funds exist; and

BE IT FURTHER RESOLVED, that normal session attire shall be worn; and

BE IT FURTHER RESOLVED, that, the leadership of the Sixteenth Northern Marianas Legislature has agreed that the proper location for the annual address by the Governor and the report of the Washington Representative given in 2009 is if for any reason the Chamber of the House of Representatives is not available, the joint session shall be held in the Chamber of the Senate, Legislature Building, Capitol Hill, Saipan, at the aforementioned time and date; and

BE IT FURTHER RESOLVED, that the Legislature requests the Governor to deliver his annual address and the Resident Representative to deliver his report during the Joint Session of the Legislature in accordance with Article III, Section 9(b) of the Constitution and 1 CMC § 4207, respectively, at the time and place indicated hereinabove; and

BE IT FURTHER RESOLVED, that the Senate and House of Representatives, at the appropriate time during the joint session, shall adopt rules for the governance of the joint session; and

BE IT FURTHER RESOLVED, that the President of the Senate and the Speaker of the House of Representatives shall certify and the Senate Legislative Secretary and the House Clerk shall attest to the adoption of this joint resolution and, thereafter, the Senate Clerk shall transmit a certified copy to the Honorable Benigno R. Fitial, Governor, Commonwealth of the Northern Mariana Islands, and to the Honorable Pedro A. Tenorio, Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands.”

Speaker Arnold Palacios: We will take a short recess for copies of that substitute to be made. Short recess.

The House recessed at 2:35 p.m.

RECESS

The House reconvened at 2:54 p.m.

Speaker Arnold Palacios: We are back in session and we are under discussion of S. J. R. NO. 16-3, HD1.

Representative Babauta: Mr. Speaker, just out of curiosity is that what the Senate's preferred language to be inserted on page 2, lines 21 to 26?

Speaker Arnold Palacios: That is basically what they wanted. We needed to put a rest to this issue, especially with the time constrain that we have on the State of the Commonwealth Address. I personally agreed to it, but this is under discussion so you can express your thoughts. Representative Babauta, you still have the floor.

Representative Babauta: I will yield to Representative Hofschneider.

Representative Hofschneider: I move to end debate.

The motion was seconded and carried by voice.

Speaker Arnold Palacios: We are voting on the substitute offered by the Vice Speaker, S. J. R. NO. 16-3, HD1.

The motion to adopt S. J. R. NO. 16-3, HD1 was carried by voice vote.

Speaker Arnold Palacios: S. J. R. NO. 16-3, House Draft 1 is hereby adopted. I recognized Representative Hofschneider.

Representative Hofschneider: I move to recess.... I withdraw.

Speaker Arnold Palacios: Floor Leader Camacho, we have two more resolutions, H. R. NO. 16-13 and H. R. NO. 16-14.

Floor Leader Camacho: Mr. Speaker, a motion for the adoption of H. R. NO. 16-13 referencing Vestor and the Zoning Board.

The motion was seconded.

H. R. NO. 16-13: A HOUSE RESOLUTION REQUESTING THE CNMI ZONING BOARD TO CHANGE THE PRESENT ZONING CLASSIFICATION OF VESTCOR COMMERCIAL BUILDING IN WHICH THE BREWERY IS LOCATED FROM "VILLAGE COMMERCIAL" TO "MIXED COMMERCIAL" FOR THE PURPOSES OF REOPENING THE BREWERY ADJACENT TO COFFEE CARE.

Speaker Arnold Palacios: Discussion on the motion. I recognize Representative Hofschneider.

Representative Hofschneider: Mr. Speaker, in as much as I am going to make the same comment with the previous action that we had taken on the other request, again, the resolution is sending us an advisory to the Zoning Board not to have an effect on the legislative authority to change the zoning, but for the benefit of the members I asked the said parties to come in, and they did

come in yesterday. Mr. Tilley from the Zoning Board came in and I emphasize that in as much as we want to accommodate similar requests my dismay is continued practice of this through by way of legislation is in fact adopting and promoting spot zoning, which will become a total failure of the Zoning Act. So I asked that Mr. Tilley receive the said parties, Mr. Stafler, and try to work with them. As the parties involved in this pointed out, they are reactivating the brewery and because the Zoning Law became effective in February and they were not functional in operations yet. In other words, they are just beginning to revive the facility because they have new investors on board. Be it as it may, one of the complicated issues is that they will be producing volumes that I was not informed in the beginning. I think they anticipate producing something like thirty thousand cases a month. That in itself will probably complicate matters in terms of traffic and the foul smell as a result of brewery. So, Mr. Tilley assured that they will receive Mr. Stafler and the investors and try to work with them to go through the process of accommodating them for a change of zoning condition. In fact they are meeting today as we speak. So this resolution is by way of giving advisory to the Zoning Board which I have also shared with Mr. Tilley that the House is contemplating a resolution but by no means mandating the board. Thank you.

Representative Sablan: Mr. Speaker, this resolution brings to mind the similar resolution that we actually did pass last week. My concerns remain the same. I realize that we are not mandating the Zoning Board to act, but we are exerting, I feel, undue influence and intervening inappropriately in the functions of this agency that we created. There is already a process in place. In fact I spoke to Mr. Stafler during lunch and he had not even talked to the Zoning Board about his concerns. As we said during the last session that we had, the Zoning Office is already considering changes to the Zoning Code. And resolutions like this, I understand the intention, but I feel that these good intentions are misplaced. And rather than meddling in the work of the Zoning Board that exists for these purposes, we should let them do their jobs. To point out something here on lines 5 and 6, to say that it is a small scale and environmentally friendly business, we do not really know that. There is going to be noise, there is going to be wastewater. Thirty thousand cases of beer a month will have an environmental effect. There is going to be traffic. And so not having all the background information, I feel that it will be premature even if we all supported this it will be premature to pass something like this and exert that type of influence on the Zoning Board. Thank you.

Representative Benavente: Mr. Speaker, there is a saying now amongst young kids and that is, been there, done that. This brings back memory when we first had the Zoning Law and our constituency came to us and basically aired a lot of complaints about the way the zoning regulations at that time were being implemented. There were a lot of good concerns and we had tried to work with the Zoning Board at that time to try to accommodate those concerns. And while we understand that the only way that a zoning law could work is if you eliminate it, just say stop and that is it. As Representative Hofschneider pointed, spot zoning does not really work. I understand the concern being raised by Representative Sablan that if we start meddling with it, we are going to end up losing the real reason we reestablished the Zoning Board. But again, because we have been there and done that, if it does not happen, if we do not provide some kind of flexibility and allow the community to kind of gradually understand the need for the Zoning Law, then we are going to go back to what we did and that was suspended zoning. There it went and look at all the problems that we see after it was repealed. I did not support that repeal, I

objected to that repeal when it went through the House. I just do not want to see that happened again. I have always believed in the need for zoning, but at the same time there needs to be flexibility. It is better to allow the flexibility than to get to the point where the members of the legislature would say forget it and just repeal the Zoning Law and we do not want that. Thank you.

Speaker Arnold Palacios: Thank you. I think the issue is not so much to dictate the Zoning Board, it is actually requesting them to consider the change or grant variance. I also talked with Mr. Stafler two days ago and I believe that there are provisions in the Zoning Law which for provides for its constituents such as Mr. Stafler to request for a variance and the Board will take up that question appropriately. I do not feel we are dictating them. We are in a way communicating with them to request that they consider changing that area from village-commercial to mixed-commercial zone. So that is the intent. I talked to Mr. Stafler and I also said that we will look into it and see what we can do to maybe talk with Mr. Tilley himself. Representative Dela Cruz, the author's thoughts on this.

Representative Dela Cruz: Thank you, Mr. Speaker. I agree with what has been said earlier. We are not mandating the Zoning Board to push forward in this regard the application process. What we are basically trying to do is instill a message to the board that this body supports businesses of this nature. And I would like to point out a couple of things why this resolution came about. First of all, the company that is trying to reestablish itself has been in operation from 1994 to 1995. At the same time, the brewery equipment is still present within the confines of this location. One of the things in the resolution is that it is a small scale operation. If you look at the size of the brewery, you can basically see what is there. One of the other issues that were raised is that the brewery required a certain type of water supply. That water supply is being produced in that area, the water supply coming out from Donni Springs, and that is why this location is well-suited for this type of business operation. There other issue that was brought up is that a German brewer is set to come in to inspect the facilities and the equipment that are situated to begin this venture. I think it is a complement really to the neighboring areas on that location being a coffee shop and restaurant, a retail store, and even a warehouse area. It will also be a compliment. I know some of you here are booze drinkers, beer drinkers. I guess the point of what we are trying to look at also is the residual effect of this business. They plan on exporting. And guess what?—The military is relocating from Okinawa to Guam. I know they love to drink beer. And who is going to brew it?—The Commonwealth is going to brew it. But going back, I want to say that we are in no way trying to mandate. We want to get them through the process and maybe if the Zoning Board looks at this resolution, it will be a positive as to what they come out with in as far as decision goes. That is all, Mr. Speaker.

Vice Speaker Deleon Guerrero: Mr. Speaker, Representative Quitugua asked a question – is it CNMI Zoning Board or Saipan Zoning Board?

Speaker Arnold Palacios: Saipan Zoning Board.

Vice Speaker Deleon Guerrero: So, I move to correct wherever it says “CNMI” to “Saipan.”

Speaker Arnold Palacios: If there is no objection, we will make that correct.

There was no objection, and the change was reflected in the enrolled Resolution.

Representative Reyes: Mr. Speaker, I would like to recommend to the members and I would like to make a minor amendment on line 3, to say “to supply the local market and for export.” I think it is best for it may not necessarily export to Korea. I think it is best to just leave it open. Besides that, I support the resolution. Thank you.

Speaker Arnold Palacios: Do you want to make that motion?

Representative Reyes: Mr. Speaker, I would like to move to amend lines 3 and 4 of the House Resolution to read: WHEREAS, an investor is interested in re-opening the brewery to brew a beer brand to market locally and for export ~~to Korea~~; and

The motion was seconded.

Speaker Arnold Palacios: Is everybody clear with that motion? Okay, it has been seconded. Discussion on that motion?

Representative Stanley Torres: Just for humor, I was going to say to export to Korea and Micronesia except Chuuk. (Laughter)

Speaker Arnold Palacios: I am pretty sure the words “to export” will encompass the Federated States of Micronesia. I recognize Representative Hocog.

Representative Hocog: (Inaudible) ... is very gong-ho in all his legislation in the committee and revenue making and this is one resolution that perhaps can help make revenues for the CNMI.

Representative Salas: Mr. Speaker, I would like to ask the author if that company has submitted their application for rezoning.

Representative Dela Cruz: The company is now meeting with Mr. Tilley and at the same time, I spoke with Mr. Stafler this morning and they will be submitting their application.

Representative Stanley Torres: Mr. Speaker, the reason that this resolution is before us is because of attitude. I do not know why Mr. Stafler did not say that but I know that the attitude of the administrator is not to give the permit for the reopening of the brewery, and that it why it came before us.

Speaker Arnold Palacios: We have to dispose of the motion to amend as offered by Representative Reyes.

There was no further discussion at the motion to amend H. R. NO. 16-13 offered by Representative Reyes was carried by voice vote.

Speaker Arnold Palacios: We are back to the main motion. I recognize Representative Yumul.

Representative Yumul: Mr. Speaker, I would like to state for the record for clarification that on page 1 line 5, it indicates that the proposed brewery operation is small scale, which is I consider a technicality. They really should be using the word “micro brewery” that is the definition used from state to state. I have gone through the Saipan Zoning Law and looked at the types and usages and I believe because of clarity issues – and this is probably on the part of the investor when you talk about large scale production. People will tend to perceive that as a huge endeavor meaning a large scale production plant. But to state for the record, a micro brewery basically is a brewery which produces a limited amount of beer. A micro brewery usually produces about 15,000 barrels or 475,000 gallons a year. So I would like to state for the record that if these guys are contemplating 30,000 cases a month, multiply that by the ounces to get the gallons. If they are going to exceed that, then that is really something that the Zoning Board needs to contemplate. I do not have any real issues with that, but I just want certain facts to be stated clearly so that we really know what we are talking about.

Speaker Arnold Palacios: If there is no further discussion, we will now vote on H. R. NO. 16-13, House Draft 1.

The motion to adopt H. R. NO. 16-13, HD1 was carried by voice vote; Representative Sablan voted no.

Speaker Arnold Palacios: The motion carries. I now recognize the Floor Leader.

Floor Leader Camacho: Mr. Speaker, a motion for adoption on H. R. NO. 16-14 reference to the US Department of Fish and Wildlife and the Reed-Warbler.

The motion was seconded.

H. R. No. 16-14: A HOUSE RESOLUTION RESPECTFULLY REQUESTING THE OFFICE OF THE UNITED STATES FISH AND WILDLIFE TO REMOVE AND RECLASSIFY THE NIGHTINGALE REED-WARBLER UNDER THE ENDANGERED SPECIES LIST.

Speaker Arnold Palacios: Before we go into discussion, I project that there will be a lot of discussion on this issue. We do have some bills that we want to attend to also, but having said that, I will reserve the power to inject and refer it to committee at a later date. (*End of Tape 2, side B*).

Representative Hofschneider: (*Beginning of Tape 3, side A*)... of the *National Geographic* edition, on the cover page is the Northern Marianas with the Weed Warbler. That in itself speaks volume. So with all due respect, we cannot take this issue lightly. The other point that I want to make is the hundreds of thousands of federal assistance to the Commonwealth for myriads of things, not only weed warbler, but also brown tree snakes and other pests. We may see this to be true. We tend to agree that there in an increase of the weed warbler. Be it as it may, when a resolution such as this passes this House, it is with the contentious nature that this body is acting on. And we have to be very, very careful in that we may appear again on the cover page of the *National Geographic*, but all for a different reason. That spells disaster to the economy, disaster

to world respect on endangered and disappearing species and it speaks volumes about how we view our existence within our environment -- forget the outside the Commonwealth but how we look at our sustainability with human activity plus all that surrounds us that matters the most to human lives. There are a lot of issues to be taken up with this resolution, and even if we can actually proof that the weed warbler population has in fact multiplied to a sustainable level that we can prevent its disappearance, we have not other choice but to ask the author to allow us to move this to committee so that the Committee on Natural Resources may in fact call up the Division of Fish and Wildlife and make sure that we are consistent with how we view and manage species, not only the weed warbler but other species that are important to our community. With that, Mr. Speaker, I move that H. R. NO. 16-14 is referred to the Committee on Natural Resources.

The motion was seconded.

Speaker Arnold Palacios: Before I entertain that, let me allow other members to deliberate. That is certainly a consideration.

Representative Hofschneider: I withdraw my motion then, Mr. Speaker.

Speaker Arnold Palacios: Thank you. I recognize Representative Benavente.

Representative Benavente: Mr. Speaker, I understand why this resolution is before us. There definitely has been a lot of potential development on the island that did not materialize that the impact of the weed warbler on those properties that were supposed to be developed. In agreeing with Representative Hofschneider, it is important for us to review further this resolution and what this development means to us and at the same time what the environment means to this community. So, it really is necessary that this be referred to the committee where professionals in the fish and wildlife area can make those recommendations on any future action. Thank you.

Vice Speaker Deleon Guerrero: Mr. Speaker, I think you are biased. You recognized the former Speaker and then the other former Speaker.

Speaker Arnold Palacios: And then the Vice Speaker. (Laughter) They did raise their hands first, so I am not biased.

Vice Speaker Deleon Guerrero: Just joking. Mr. Speaker, I will make my comment short and to the point. I have no problem supporting a resolution like this provided that there is data. Normally the process of reclassifying species from one category to another comes with some data, bird counting data from the Division of Fish and Wildlife. That is point number one. So, I ask that there be that data to support this resolution. Secondly, I think the resolution needs to be clearer because the intent is to remove and reclassify the weed warbler, but it does not really say where to reclassify it under. It is to threatened status, or whatever status.

Speaker Arnold Palacios: Usually when you declassify from an endangered species, you go down to the status of threatened.

Vice Speaker Deleon Guerrero: We do not know that, the resolution does not clarify that, Mr. Speaker. And so, I also support the first two speakers to refer to committee.

Representative Yumul: Mr. Speaker, I do not have a problem supporting this resolution, but at the very least I would like to see factual data. We are going to send a resolution to the United States Fish and Wildlife Services and there is no supporting document. I would like the author to answer whether the CNMI Division of Fish and Wildlife supports this and whether there are documents to be included here. Just as a note, if we are sending this to the U.S. Fish and Wildlife Service perhaps lines 8 and 9 on page 1 needs to be revisited where it states “they are even habitat below my house.” Maybe a geographical reference point or a latitude-longitude reference ought to be inserted.

Speaker Arnold Palacios: I get your point. Representative Stanley Torres.

Representative Stanley Torres: I yield to Representative Tebuteb.

Representative Tebuteb: Thank you, Representative Torres. I do not know who is lying. If you compare the resolution that we just adopted on the mixed zoning, this is basically requesting. I just wanted to point that out.

Representative Stanley Torres: First I would gladly say refer it to the committee for fine tuning of the language, but I would like to say thank you to Vice Speaker Guerrero. Let me say a little background of what I know personally. Mr. Ben Sablan “Pacho” former Speaker of the House and Ignacio Demapan were convicted for cutting tangantangan down in Obyan. My friend “Tan G” George Teregeyo almost went to jail too for clearing his private land because they found the birds there, the golf course at Kalabera and in Chalan Piao at the early morning hour of five thirty and at six in the evening, there are all over. The singing of that bird is very entertaining. Even at my front yard, they come and sing. Let me play it because I recorded it personally. I tried to get the copy from the Division of Fish and Wildlife here, but they would not give it to me because they told me that it is against federal law to even duplicate the sound of the bird.

Speaker Arnold Palacios: Representative Stanley Torres, you better be careful because that might be a form of harassment of endangered species. You have immunity, I guess.

Representative Stanley Torres: Somehow I heard it and recorded it myself. If I go to a U.S. jail, so be it.

Speaker Arnold Palacios: If there is no objection, we can hear it.

(At this time, Representative Stanley Torres played his recording.)

Speaker Arnold Palacios: We will go into recess.

The House recessed at 3:35 p.m.

RECESS

The House reconvened at 3:35 p.m.

Speaker Arnold Palacios: We are back in session. Representative Torres, you still have the floor.

Representative Stanley Torres: Mr. Speaker, that proves that the weed warbler is now over populated. We need to reassess and we are asking the federal agency to come and take new inventory because this is our main problem. I am not in connection with any investor but can you imagine, I hear the birds singing just outside my master bedroom window. It is abundant from Tina and Ben Camacho's house to my house all the way to Mike Sablan's place. It is all over the island. When I can hear them very loud, what does it tell you – they are all over the island. Thank you.

Representative Reyes: Mr. Speaker, a lot has been said about this and perhaps rather than the author requesting the United States division or department to reclassify, to give us an up-to-date population of the weed warbler instead. I think it will be a good beginning.

Speaker Arnold Palacios: I think that is the intent of the recommendation of some of the members and that is to refer it to the committee so that the fish and wildlife people can give us an assessment. I recognize Representative Hofschneider for the last time.

Representative Hofschneider: I move now, Mr. Speaker, that the resolution be referred to the Committee on Natural Resources.

The motion was seconded.

Floor Leader Camacho: Mr. Speaker, before you call a vote on that motion, for clarification and respectfully to Representative Stanley Torres -- he stated that former House Speaker Ben Sablan was convicted. For the record, Mr. Sablan himself and his son were indicted. I represented the father, Ben Sablan, and the case towards him was dismissed in federal court – just to clarify the record on that.

Representative Stanley Torres: I stand corrected.

Speaker Arnold Palacios: Okay, I would like to ask the Floor Leader withdraw the motion to adopt and then I will refer it to the committee.

Representative Stanley Torres: No problem with me, Mr. Speaker, at your discretion so that the committee can come up with a better resolution.

Representative Babauta: Point of clarification.

Speaker Arnold Palacios: State your point.

Representative Babauta: I do not think the Chair has ruled on the recognition of the motion. It was seconded but it was never recognized.

Speaker Arnold Palacios: Let us entertain one motion at a time. The motion is to refer the resolution to the committee. Ready?

The motion to refer H. R. NO. 16-14 to the Committee on Natural Resources was carried by voice vote.

Speaker Arnold Palacios: The motion is adopted, and H. R. NO. 16-14 is hereby referred to the committee. I recognize Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. I do not want to belabor at this point but I would like to ask the Committee on Natural Resources to consider several things when they review this resolution and that is the nightingale weed warbler is found nowhere else in the world, just in the Northern Marianas, and it is not just a bird endangered species list intended to protect but also unique habitats, and that this bird is also part of our cultural and national heritage, and that they do not prevent development and that when people are arrested it is usually for illegal land clearing – massive land clearing that they should have known better about. They do not prevent development. You can still develop property as long as you do mitigation. So protecting endangered species does not necessarily discount development. Thank you.

Speaker Arnold Palacios: Mr. Chairman, please take note. Thank you. We move down to Bill Calendar. Mr. Floor Leader.

BILL CALENDAR

Floor Leader Camacho: Mr. Speaker, I move for the passage on First and Final Reading H. B. NO. 16-3.

The motion was seconded.

H. B. NO. 16-3: A BILL FOR AN ACT TO AMEND 4 CMC § 1301 TO EARMARK GROSS RECEIPTS TAXES COLLECT FROM GAMBLING ESTABLISHMENTS IN THE FIRST SENATORIAL DISTRICT SO THEY MAY BE APPROPRIATED BY THE LEGISLATIVE DELEGATION FROM THE THIRD SENATORIAL DISTRICT; AND FOR OTHER PURPOSES. (REF. S. C. R. NO. 16-4)

Speaker Arnold Palacios: Discussion on the motion. Ready? Short recess.

The House recessed at 3:41 p.m.

RECESS

The House reconvened at 3:42 p.m.

Speaker Arnold Palacios: We are back in session and we are under discussion on the motion to pass H. B. NO. 16-3. Representative Hocog, a member was inquiring whether there is an amendment to this bill.

Representative Hocog: No, Mr. Speaker, this is a very clean bill.

Speaker Arnold Palacios: Alright, further discussion. I recognize Representative Apatang.

Representative Apatang: Thank you, Mr. Speaker. Just one question, we are talking about gross receipts taxes collected and I wonder if this has been cleared with the Secretary of the Department of Finance.

Speaker Arnold Palacios: I recognize Representative Hocog to respond.

Representative Hocog: Sir, what is the concern of my good representative Apatang?

Representative Apatang: My concern is whether or not this will interfere with the Revenue and Taxation Code. The Secretary of Finance has direct responsibility on revenue and taxation and I wonder if we can earmark the BGRs from the First Senatorial District when it goes directly into the General Fund, if I am not mistaken.

Representative Hocog: Mr. Speaker, we can direct that to the legal counsel if that can be done.

Speaker Arnold Palacios: I recognize Representative Hofschneider before counsel responds.

Representative Hofschneider: Mr. Speaker, nothing prevents the legislature from earmarking any tax, whether it be BGRT or otherwise, unless it has been earmarked and the delegation shall not supersede the CNMI statute. But nothing is preventing us from doing so. It may be out of tradition or practice, but as far as the authority, it is clear.

Speaker Arnold Palacios: Right. This is new. The gross receipts have yet to materialize because the Rota Casino Act revenues have not been realized until the business activities on Rota start. So there is no present impact on the BGRT. Basically what it will do is it will take the BGR realized under this industry on Rota and say that only ninety-five percent should go to the General Fund and five percent is hereby earmarked for this purpose. I hope that clarifies your concern.

Representative Apatang: That is my only concern. I just want to make sure that it is right.

Speaker Arnold Palacios: Do we still need counsel to clarify? – Counsel, please.

House Counsel Bermudes: This was signed by legal counsel for sufficiency so I would defer to that decision. If you force me to do an opinion, I will not do that because I need to look at it. But it was signed for legal sufficiency.

Speaker Arnold Palacios: Okay, so it is basically legally sufficient and it could be done.

Representative Hocog: Mr. Speaker, I discussed this with our legal counsel whether we can direct the BGR not to the General Fund but earmarking it to a special account that states the Third Senatorial District and it is within the realm of the legislative prerogative to do that.

Speaker Arnold Palacios: That is clarified.

Representative Stanley Torres: Point of information. I would like to ask Representative Hocog if this is signed by Michael Earnest, the Senate Legal Counsel.

Representative Hocog: Our legal counsel, Ian.

Representative Stanley Torres: Oh, Ian, I just want to clarify that. Thank you.

Speaker Arnold Palacios: I recognize Representative Sablan.

Representative Sablan: I would like to ask Representative Hocog to explain why he would do this, and have there been any comments. I asked about this during the Committee on Ways and Means meeting as well but that was a while back. Are there any comments from the people of Rota, or say the municipal council because another gambling related bill was just passed with objections that came very recently from that municipal council. So if anybody had the chance to see this, I would like to know if anybody had commented and if you could share those comments with us please and also explain the rationale for the record.

Representative Hocog: To Representative Sablan, I have taken this bill with me to Rota and have shown it to the people that are involved in the formulation of the initiative. And they have supported the intent to provide this incentive from a municipality that will be forthcoming to realize revenues from its casino industry. I have been discussing this issue with the Rota Delegation and they have not objection to provide this incentive from the island of Rota to the Third Senatorial District. I am just happy on behalf of the people of Rota that we had our casino initiative passed while the Saipan initiative failed. And it is a gesture to the Third Senatorial District to think that the people of Rota have cherished a lot from all the opportunities being given to them from the Third Senatorial District. It is only fair – without strings attached – that Rota when this is realized would generate revenues to compliment the casino dream of Saipan that failed the last election. Perhaps this will be an opportunity of Saipan to also feel that this industry that Rota is about to realized will be shared accordingly as what my good colleague elaborated regarding our power fuel situation that Saipan is subsidizing Rota and Tinian. If this is realized, Mr. Speaker, for real, the people of Rota are willing to provide this opportunity to the municipality of Saipan.

Representative Hofschneider: Mr. Speaker, I will speak in analogy. For the longest time every one of you sees me waiting at the bus stop, taking the bus to work. One morning, my wife saw Victor had stopped and said, do not wait for the bus, I will give you a ride. My wife was so taken by that that she admires Victor that he gave me a ride and not to wait for the bus. Only to find out that the second time around, perhaps he is going to ask me to put gas in the car. Thank you.

Representative Hocog: I am not going to rebuttal my good colleague's statement. He is just saying what he thinks I will be asking. In essence it will be repaid. Not counting that, Mr. Speaker, that is a true and sincere offer. I yield to the Vice Speaker.

Vice Speaker Deleon Guerrero: Point of Clarification.

Speaker Arnold Palacios: State your point.

Vice Speaker Deleon Guerrero: (*End of Tape 3, Side A*) (*Beginning of Side B*) ...shall be appropriated by local appropriation bills enacted by the legislative for the Third Senatorial District, meaning that the appropriation would be appropriated by the First Senatorial District, correct?

Representative Hocog: No, that is not the intent.

Vice Speaker Deleon Guerrero: So it is of the Third Senatorial District.

Representative Hocog: The intent is that such revenues realized as a result shall be appropriated by the legislative delegation for the Third Senatorial District.

Vice Speaker Deleon Guerrero: So for clarification, can I make a minor amendment to change “for” to “of.” Is that okay?

Representative Hocog: I have not problem with that.

Speaker Arnold Palacios: Where are you making the change?

Vice Speaker Deleon Guerrero: On page 1 line 18 after the word “legislative delegation” strikeout “for” and insert “of” – very minor.

The motion was seconded.

Speaker Arnold Palacios: Okay. The amendment has been offered and it has been seconded to delete the word “for” after the word “Delegation” and replace it with the word “of.”

There was no discussion, and the amendment offered by the Vice Speaker was carried by voice vote.

Speaker Arnold Palacios: The motion is carried and the amendment is adopted. We are back to the main motion to pass H. B. NO. 16-3, HD1. Any other discussion? Ready on the main motion? We will now vote on H. B. NO. 16-3, HD1 on First and Final Reading. Clerk, please call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 16-3, HD1 on First and Final Reading:

Representative Edwin P. Aldan	absent (excused)
Representative David M. Apatang	yes
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	yes
Representative Joseph N. Camacho	yes
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes

Representative Victor B. Hocog	yes
Representative Heinz S. Hofschneider	yes
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	yes
Representative Ramon A. Tebuteb	yes
Representative Ralph DLG. Torres	yes
Representative Stanley T. McGinnis Torres	yes
Representative Ray N. Yumul	yes
Speaker Arnold I. Palacios	yes

Speaker Palacios: By a vote of nineteen “yes”, one member absent, H. B. NO. 16-3, HD1 hereby passes the House on First and Final Reading. Representative Torres, recognized.

Representative Stanley Torres: Mr. Speaker, I was going ask my good colleague from Rota is there a relationship between this bill and H. B. NO. 16-1 that the municipal council vehemently objected to?

Representative Hocog: (Inaudible – microphone off)

Representative Stanley Torres: On another point that I ask my colleague whether he knew who signed the legality of this bill, and I told him that it was Mike Earnest. I just want to make that clear. No offense.

Representative Hocog: Mr. Speaker, I do not know, but I actually had Ian review this bill and I assumed that Ian signed for it. But I think Ian was off island at that time, and I had to go check another counsel to look at the legality of the bill.

Speaker Arnold Palacios: Thank you.

Representative Stanley Torres: What I am trying to say, Mr. Speaker, is that there may be interference from the Senate legal counsel to the House materials.

Speaker Arnold Palacios: We will be very careful with that.

Representative Hocog: In the absence, Mr. Speaker, of the House legal counsels, I think we have use of the Senate legal counsels to address the issues here.

Speaker Arnold Palacios: That is correct.

Representative Hocog: But I respect Representative Stanley Torres’ concern.

Speaker Arnold Palacios: Representative Babauta.

Representative Babauta: Mr. Speaker, in no way will Representative Stanley Torres' vote be in conflict with the signatory for legal sufficiency putting aside the camaraderie that happened a couple of weeks ago. That is a different story.

Speaker Arnold Palacios: With that, Mr. Floor Leader, one more bill.

Floor Leader Camacho: Mr. Speaker, motion for passage on First and Final Reading H. B. NO. 16-4.

The motion was seconded.

H. B. NO. 16-4: A BILL FOR AN ACT TO REPEAL AND RE-ENACT PORTIONS OF CHAPTER 1 OF PART 2 OF DIVISION 7 OF TITLE 1 OF THE COMMONWEALTH CODE GOVERNING THE DEPOSIT SECURITY REQUIRED OF FUNDS OF THE CNMI GOVERNMENT AND ITS VARIOUS AGENCIES, INCLUDING AUTONOMOUS ENTITIES, AND FOR OTHER PURPOSES. (REF. S. C. R. NO. 16-1)

Speaker Arnold Palacios: Discussion on the motion. I recognize the Vice Speaker.

Vice Speaker Deleon Guerrero: Thank you, Mr. Speaker, before any comment, perhaps I should offer my floor amendment first.

Speaker Arnold Palacios: You are recognized.

Vice Speaker Deleon Guerrero: I move to offer a substitute in the form of H. B. NO. 16-4, HD1.

The motion was seconded.

The amendment offered by Vice Speaker Deleon Guerrero reads:

[“A BILL FOR AN ACT

TO REPEAL AND RE-ENACT PORTIONS OF CHAPTER 1 OF PART 2 OF DIVISION 7 OF TITLE 1 OF THE COMMONWEALTH CODE GOVERNING THE DEPOSIT SECURITY REQUIRED OF FUNDS OF THE CNMI GOVERNMENT AND ITS VARIOUS AGENCIES, INCLUDING AUTONOMOUS ENTITIES, AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Title. This Act shall be known and shall be cited as the “CNMI Government and Public Deposit Safety Act of 2008.”

Section 2. Findings. In order to safeguard the funds of the Government and its various agencies, including those of autonomous agencies, it is necessary to establish minimum standards required of banks and financial institutions in which such deposits are placed.

Section 3. Repealer and re-enactment. 1 CMC Section 7723 is repealed and re-enacted to read as follows:

“**Section 7723. Deposit safety requirements.** Unless otherwise provided by law, no officer or employee of the Commonwealth Government or its agencies and public corporations shall deposit or cause to be deposited public funds in an institution other than a bank whose deposits of less than \$100,000 are insured by an agency of the United States Government or by a U.S. Treasury listed surety agency. All of the deposited funds in excess of the insurance coverage of the funds shall be secured by bank assets valued

at all times at 100% of these excess funds. Bank assets which serve as collateral [for Commonwealth Government and Public Corporation deposits] under this chapter shall be in the form of United States Treasury bonds and United States Government agency securities having readily ascertainable market value and bearing the full faith and credit of the United States Government in an amount at least equivalent to the excess funds. Such securities pledged to funds on deposit pursuant to this chapter once pledged may not be pledged for any other purpose or funds except to the extent that the underlying deposits have been withdrawn from the bank.”

Section 4. Repealer and re-enactment. 1 CMC Section 7725 is repealed and re-enacted to read as follows:

“Section 7725. Regulations.

(a) The Secretary of Commerce and Director of Banking shall issue regulations to establish standards that banks shall meet in order to be eligible to receive and hold deposits, including deposits made under this chapter.

(b) The Secretary of Finance shall issue regulation for selection of banks which comply with the standards as required by the Department of Commerce and the Director of Banking.

(c) The Secretary of Finance shall issue regulations to interpret, execute, and enforce the purposes of this chapter not otherwise covered by law or regulation and shall issue regulations that other government agencies, including those of the various branches, political subdivisions, and autonomous agencies must follow in the deposit of their respective funds.

(d) The Secretary of Finance shall issue regulations requiring funds which are not in compliance with the deposit requirements of this chapter to be transitioned into compliance within a reasonable time as determined by regulation; however, funds deposited pursuant to law allowing for a specific manner of deposit other than as set forth in this chapter shall be made in compliance with such applicable law.”

Section 5. Repealer and re-enactment. 1 CMC Section 7726 is repealed and re-enacted to read as follows:

“Section 7726. Bank preferences.

(a) In determining where public funds may be deposited, the Secretary of Finance shall select among banks operating in the Commonwealth that comply with 1 CMC § 7723, that are in good standing with the requirements of the Director of Banking and Secretary of Commerce, and offer the best possible interest rate for the term required.

(b) The Secretary of Finance may, among those banks meeting the requirements of subsection (a), give a preference to banks that offer housing, small business, agricultural or fishing development, energy efficiency or renewable energy, and educational student loans to Commonwealth residents at a favorable interest rate or which otherwise demonstrates a commitment to availability of financing services within the Commonwealth.”

Section 6. Repealer and re-enactment. 1 CMC Section 7727 is repealed and re-enacted to read as follows:

“Section 7727. Provisions of depository contracts.

(a) Any acceptance by a depository of government funds shall constitute an acceptance of the provisions of 1 CMC § 7723 and those provisions shall be deemed a part of and incorporated into the contract of deposit without necessity for specific mention thereof. Any depositor of government funds shall furnish to the Secretary of Finance and to the Public Auditor true and accurate copies of any contracts or agreements for deposit.

(b) The Office of Public Auditor shall be authorized to examine and audit any account of deposit established pursuant to this chapter. Any depositor subject to this chapter shall be deemed to have authorized the Office of Public Auditor access to the records regarding any account of deposits under this chapter. Any bank accepting deposits pursuant to this chapter shall provide access to the records of any account subject to this chapter to the Office of Public Auditor.”

Section 7. Grandfather Clause: Transition Period. Notwithstanding any provision of this Act or other law to the contrary, any Commonwealth Government and Public Corporation funds that are deposited as of the effective date of this Act or funds that are deposited thereafter in a financial institution or bank in the Commonwealth that the Director of Banking deems is not in compliance with 1 CMC § 7723 may continue to remain in deposit with such institution or bank provided that:

(a) the institution or bank furnishes and pledges security, at all times until the institution or bank complies with 1 CMC § 7723, in the form of U. S. Treasury bills valued at 100 percent of such deposits; and

(b) all such funds shall be withdrawn from the institution or bank, unless the institution or bank, within 10 years after the effective date of this Act, is in compliance with deposit insurance and other requirements under 1 CMC § 7723.

(c) the institution or bank shall disclose the security pledged pursuant to this Act on a quarterly basis and such disclosure shall be made public.

Section 8. 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 9. 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 10. Effective date. This Act shall take effect upon its approval by the Governor or becoming law without such approval.”]

Speaker Arnold Palacios: We will take a one minute recess.

The House recessed at 4:00 p.m.

RECESS

The House reconvened at 4:03 p.m.

Speaker Arnold Palacios: We are back to our session. Representative Deleon Guerrero, do you want give a brief summary of the substitute.

Vice Speaker Deleon Guerrero: Thank you. Regarding the new Section 7, the Grandfather Clause and Transition Period, this change was brought about to accommodate one of the banks that is not FDIC, mainly the Bank of Saipan, who holds our government deposits right now, not only from the MPLC that was deposited there prior to the incident, but also with moneys that I believe they bid for and was awarded by MPLT to manage the ten million dollars housing loan. So they are holding that right now. If the bill were to pass as it is their financial situation is such that they may stand to close at least one of their branches in the CNMI. So they asked for consideration and we amendment it to grandfather them provided that they pledge a hundred percent of those deposits in the form of T-Bills (Treasury Bills), and we also gave them a transition period time frame that in the event that they do not become FDIC within ten years from the effective date of this act, that all funds shall be withdrawn from the Bank. So this was a compromise. We did not want them to close down. It was not the intent of this bill to close down any bank, so there was consideration.

Representative Hofschneider: 1 CMC § 7723, is that the FDIC requirement? It is. Mr. Speaker, if a bank or an institution does not meet or in compliance with this section, ten years is a lot of latitude. There is a lot of leeway for mistakes to happen. We have in fact two incidents in the

history of the Commonwealth, first the Commonwealth Bank and then the Bank of Saipan. When are we going to learn our lesson that the security of public funds is a must. Ten years is too long. They have been in existence for many years, I do not know how many years exactly, but to conform to § 7723 in addition on the effective date of this act ten years thereafter. Mr. Speaker, anyone who is privy to the fact or the information that MPLC deposit that was stuck as a result of the almost catastrophic incident with the Bank of Saipan, as we speak, there is effort to get the our money and is being deposited in the Bank of Saipan and there is still about four million dollars remaining in that account. CDA also has a deposit. A compromise is not the right way, because this is deposits on behalf of the public. And when government deposits are being used to shore up a bank that bank tells you that they are not solvent on their own. They have over extended themselves to loans and this is the same reaction that is going on in terms of the sublime fiasco in the states where people with less credibility have been extended a credit and than injures the bank. So when government deposits are made, that shores up the bank. *Kulan an un totche i aligi. Ha u'usa i government deposit para u tohni i bangku.* That is not supposed to be allowed by this government. If they cannot stand on their own, then let it be. That is the free market principle. We should not be in the business of extending solvency through public deposits when they do not comply with § 7723 in spite of their continued existence for many years. It is a policy decision for the government to ensure that you safeguard the deposits of the public. I honestly believe, Mr. Speaker, that we take a second look at this compromise language, because it is dangerous. I do not care which bank is not FDIC approved today, we should not be extending this so-called veil of solvency. It was difficult for individual depositors to get their money. When banks become reckless in activities, you subject that hardship to individual depositors. The government should not be in that position to do so. One should never, never allow government deposits to shore of a bank. This substitute, Mr. Speaker, has to be thoroughly looked at. This is a new language and it bothers me quite a lot. On page 4 beginning line 6, I know that the preceding provision starting on line 3 insures that that Treasury Bills should be used dollar for dollar. But at a minimum, the Banking Commissioner should be allowed to come in on this provision because it is very critical. Thank you.

Representative Yumul: Point of clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Yumul: Section 7723 is not on FDIC. In fact, Sections 7721 thru 7728 is the Government Deposit Safety Act. I was just going to bring up Section 7723 as a problem because page 4, line 5 says that U.S. Treasury Bills valued at a hundred percent, but under the existing statute, Section 7723 is actually calling for 110%. So are we amending Section 7723 to go down?

Representative Hofschneider: The 110% is to ensure that the dollar for dollar is not lost, so ten percent of ten million dollars is a million dollars that the banks themselves have to insure over and above the actual deposit made.

Representative Benavente: Mr. Speaker, I was in the Administration when the Bank of Saipan fiasco, as it was referred to, and when the problems came about. I was also one of the few in the Administration who felt that it was necessary to assist rather than to close down the Bank because of the potential loss that the CNMI Government and many individuals and businesses in

our community would have had to face. At the time we were looking at about four million dollars in total that the CNMI government would have lost if we had shut it down and taken what was left of the funds in the Bank. As we see now, I really feel that the decision I pushed for rehabilitation and to allow the Bank to try to recover was the right decision. It is serving this community very well. For your information, I was actually the member who introduced the bill that allowed for non-FDIC banks to receive government deposits in the early 1990's. In reviewing the incident, basically, it was a loophole that that happened. I hope the other provisions with regards to protections that are in the proposal offered by Representative Deleon Guerrero would protect. The situation, as Representative Hofschneider pointed out, is that there is still currently CNMI public money in the Bank. I am not sure what the exact amount is, but about four million dollars. I hope that we do not anything that would jeopardize the Bank in its effort to continue to serve the community and someday see the total amount of these funds be returned to the CNMI Government. Currently, there is an arrangement where the Bank continues to pay and I think we should consider that, Mr. Speaker. I agree with Representative Hofschneider's statements, but at the same time, we are talking about a major public service in this community when it comes to banks and their services. The Bank of Saipan is really one of the banks going out of its way to assist individual and businesses in our community. Once again, I am concerned and that the four million dollars not be jeopardized if we were to impose new restrictions that would create a problem for the banks to continue to exist. Thank you.

Representative Stanley Torres: Mr. Speaker, the Vice Speaker mentioned the Bank of Saipan. We are discussing this bill and it is relative to the Bank of Saipan. Am I correct?

Vice Speaker Deleon Guerrero: There are other banks, including City Trust that fall under this category.

Representative Stanley Torres: Okay. You mentioned that if we do not pass this bill the bank would close a branch on the island?

Vice Speaker Deleon Guerrero: That would be grandfathered under the amendment.

Representative Stanley Torres: I would like to add salt to the injury. I am going to be directing my salt to the Bank of Saipan. When the Bank of Saipan fiasco happened, it was Bank of Saipan's Board of Directors that pulled the bank down to the graveyard – almost – it came back. And now, I find that most of the board members who tried to close down the Bank at back in full force and authority. I am very scared. I just want to bring that up and maybe direct that to while I am voting.

Speaker Arnold Palacios: Thank you, Representative Torres. I now recognize Representative Reyes.

Representative Reyes: Thank you, Mr. Speaker. For the benefit of my colleagues here, the Bank of Saipan problem – you know who was president of the bank at the time and I do not have to mention names. I was the Chairman of the Board of Trustees of the NMI Retirement Fund and there was a correspondence that assured the Retirement Fund that the deposits of the Retirement Fund were secured by U.S. Treasury bills. However, come to light later on, it was not true. You

all know what I am talking about. Because we went to court on this, Mr. Speaker, there was indeed an agreement handed down by the court and the Bank of Saipan has paid one hundred percent of the money to the Retirement Fund. I believe the only money pending right now is whatever the Marianas Public Lands Trust has there. But, there is also an agreement in place for that, and I think the Bank of Saipan has been very diligent with the payments as ordered by the court. So, I am proud to have the Bank of Saipan here rather than Bank of Guam, because I live on Saipan. I think we should all be proud of that. To sink the Bank of Saipan right now – this is why the Vice Speaker offered this amendment. This is to save the Bank of Saipan, because the bank was hurt big time when the Retirement Fund withdrew the entire fund balance that was deposited there. I hope my colleagues would give this some consideration. Thank you, Mr. Speaker.

Vice Speaker Deleon Guerrero: Needless to say, the original intent of H. B. NO. 16-4 is to ensure that kind of fiasco does not happen again. So, the bill really has two purposes. One is to protect the government's deposits by ensuring that any government deposit is made where the institution is FDIC for deposits up to a hundred thousand dollars, and anything above that have to be pledged a hundred percent in the form of U.S Treasury bonds or T-Bills. So that is the first intention. The second intention is to leverage those funds to have these banks compete for our money – who can offer the most favorable rates, who can offer loans to farmers, fishermen, and what this island needs. It is to have them compete and those with the most favorable programs would be the ones that we would give our money to. That is why the Secretary of the Department of Commerce and the Secretary of Finance are tasked with developing the regulations to create the criteria so that we can leverage our funds. With the Bank of Saipan, and I did sit down with them and I did ask them about complying with FDIC. I asked them point-blank whether they have applied for FDIC and they said, no. And I asked if there is any intention of applying for FDIC and they said, eventually yes. There are a few obstacles, a few things they have to complete first but that the process does take a while. I am not an expert by any means, but they said it takes years, somewhere in the realm of four or five years is what they told me. And so, whether they decide to be FDIC at some point in time is really up to them. We cannot impose that on them. But if they wish to continue holding government deposits, then they should apply for FDIC. And because the process does take years, I offer ten years as more than being reasonable. If it takes them four or five years for the application to go through and they start at this, then they should not have any problem. In the meantime, for whatever funds we have there, it shall be protected by pledging or collateral, if you may, at one hundred percent of our deposits. The intent to protect what are put in there is still there, but when they asked for consideration that they may have to close down, specifically the Rota Branch, we tried to accommodate them. And if Rota Branch stands to be closed and the senators from Rota know that, I did not want this be a problem in the Senate, so granting this consideration would not kill the bill at the Senate.

Representative Quitugua: Mr. Speaker, this is just to clarify line 5 on page 4 of the bill. Representative Yumul mentioned that the one hundred percent is not consistent with 1 CMC § 7723, but on a letter from the Public Auditor dated April 3, 2002, to then Speaker Hofschneider, it mentioned that the one hundred and ten percent was amended by Public Law 12-16 to one hundred percent. So this line is consistent with the existing statute.

Representative Apatang: Mr. Speaker, I do not have a problem supporting this bill as long as we put in a timeframe for these banks to comply with the FDIC requirement. As we met with MPLT personnel, they mentioned that the money that they have in the bank are put there because they also have an agreement with the bank to help those land owners who are in arrear with their housing loans with Northern Marianas Housing Corporation (NMHC). The Bank of Saipan agreed that they will work with those homeowners so they will not lose their homes. This kind of institution is the type of institution we need here to help us and will work with the people in our community. So I strongly support this bill. There is a timeframe for them to comply with the requirements. Thank you.

Representative Sablan: Could I ask Representative Apatang if he is proposing to reduce the number of years that they will be required to comply?

Representative Apatang: No, I am not.

Representative Sablan: Okay. I would like to offer an amendment for the consideration of this body to strikeout “ten years” on line 7, page 4, and require them to be compliant within “five years”. Could that be reasonable? (*End of Tape 3, side B*)

(The motion was seconded. Representative Quitugua was holding the Floor when recording started.)

Representative Quitugua: (*Beginning of Tape 4, side A*) ...now, Mr. Speaker, we have to really take into consideration the timeframe that the bank needs in order to comply with the FDIC requirement. It is a lengthy process and sometimes it takes four to five years to be reviewed by the FDIC for compliance. So five years is probably too short for a bank to become compliant with the FDIC.

Representative Reyes: So that it be known, it is not easy to be FDIC compliant. Five years is just about the minimum, not to mention to be considered a member of the FDIC in that you have to have a minimum assets of no less than five million dollars. So the process takes a long time, I know, because it is similar to being approved for an insurance company, it take a minimum of five years to be admitted even with a very strong financial statement and deposits. And given the state of the economy we are in right now where people are exiting the Commonwealth, particularly the garment industry it is not really helping the banks in their quest to become FDIC compliant because of the withdrawals. As I said, there was a big withdrawal by the Retirement Fund at the Bank of Saipan. The bank has good intentions to file for FDIC it just has to work on the process, and capitalization is a major factor.

Speaker Arnold Palacios: Vice Speaker Deleon Guerrero, this discussion is still on the oral amendment by Representative Sablan.

Vice Speaker Deleon Guerrero: I was going to ask the mover of the motion if she can reconsider her amendment for five years. I do not have a problem if then years is too long, but offer something that is reasonable. We are debating this issue without any real knowledge of the process of being FDIC compliant. There are two things I know – one is it is lengthy; two it is

expensive. And the Bank, without coming out and saying it, it is trying to say that we are not there yet to be able to apply, give us some breathing space to be able to institute our programs so we can grow and then we can consider applying. But just coming out and saying this number of years without any basis, the ten years may sound like a long time but again it allows them to recoup and be financially solvent and be able to apply for the process and have enough time to get it approved. So, I just ask the mover of the amendment if she can reconsider.

Representative Sablan: Do these points then not lead the question why we have public funds in such a bank in the first place? There are currently FDIC banks in the Commonwealth. If we are worried about a bank that is not as you have just stated financially solvent, they are not properly capitalized, they are not anywhere near being able to apply, because I thought you said earlier that they were preparing to apply for FDIC insurance and so I thought that process had already begun. So they have not begun if they are not financially solvent. And if we have concerns about this bank falling apart and public funds are taken out, why are they there to begin with? It seems to me that we should not be considering this at all. Those public funds are not safe. My sense would be that the people of the Commonwealth would rather make sure that their funds are safe rather than protecting a bank that is not solvent?

Vice Speaker Deleon Guerrero: Mr. Speaker, to respond to that, when I mentioned the two intents of the bill and one is to leverage our funds so that we these banks can compete. If FDIC is not a requirement here, the Bank of Saipan would be very high in terms of their ratings in terms of offering programs, low interest rates and, as Representative Apatang said, in giving consideration to loaners and homeowners. They would rank very high. If it were not for the FIDC insurance, they would actually be the bank that we would probably give preference to. And this improvement in terms of their portfolio and their programs is relatively recent. They are really trying to build it up. Now, if our concern is the protection of our deposits that did not go away. We are requiring that our funds be protected at a hundred percent. If we put in four million, they have to set aside four million dollars to protect our funds. So protection is not removed or lowered in any way. Besides, the only protection in terms of FDIC is on any fund up to one hundred thousand. That is all FDIC covers – deposits up to a hundred thousand. Our money is in the millions. So the protection we want is above a hundred thousand, and we want to protect it and it is being protected as provide for in this bill through collateral of T-Bills.

Representative Sablan: I believe Representative Reyes said that this requirement for pledging security a hundred percent of the deposit that that was not placed before and that the Bank of Guam did not adhere to that requirement. Is that right?

Representative Reyes: Actually the reason why there were deposits made at the Bank of Saipan is because, and I stand corrected, there was never a law that mandates that government deposits be made on FDIC banks. As a result there were deposits made by the Retirement Fund and the Department of Public Lands for a total of sixteen million dollars. As I have said, they have paid out everything that they owed the Retirement Fund. It is a long story, but you can talk to Mr. Oscar Camacho about it being at the Commonwealth Development Authority and a Trustee. However, remaining about four million -- there was a court order as you may recall when the bank was under receivership. It is good to know that the bank has been paying to the agencies what has been ordered and they are doing okay. But the last withdrawal by the Retirement Fund

of about one million dollars would hurt the bank's cash. The process again, takes a minimum of five years but you also have to have the assets to back it up. We still have deposits at the Bank of Saipan. And the author can correct me that in the absence of the grandfathering clause, it would cripple the bank that still holds four million dollars, not to mention shutdown the operations in Rota. So the grandfathering clause says "within ten years" so it does not mean that we have to wait seven years. If they can do it faster than that, it will be great. Personally, having dealt with it when I was in Guam, I would say ten years is a reasonable timeframe to be FDIC insured upon application. What happened sometime ago, Representative Sablan, when these deposits were made it was under the assumption that monies of the government were deposited and secured by T-Bills. However, that was not the findings after. That was not true. I am not going to mention names, I am sure everyone know who that person is, but that was not true.

Representative Hofschneider: Mr. Speaker, can you call for a short recess. I would like to offer a solution to this.

Speaker Arnold Palacios: Okay. Short recess.

The House recessed at 4:36 p.m.

RECESS

The House reconvened at 4:50 p.m.

Speaker Arnold Palacios: We are back in session. Before we went on recess, there was an amendment motion offered by Representative Sablan. I now recognize Representative Sablan.

Representative Sablan: Mr. Speaker, I would like to withdraw that amendment and offer a minor amendment.

Speaker Arnold Palacios: Is there any objection to the withdrawal of the first oral amendment by Representative Sablan.

Several members voiced "no objection."

Speaker Arnold Palacios: The motion is hereby withdrawn. You may continue Representative Sablan.

Representative Sablan: I would like to offer a minor amendment on page 3, line 6, after "fishing development," insert a comma (",") "energy efficiency or renewable energy or educational student".

The motion to amend H. B. NO. 16-4 as offered by Representative Sablan was seconded and carried by voice vote.

Speaker Arnold Palacios: The amendment as offered by Representative Sablan is hereby adopted. I recognize Representative Hofschneider.

Representative Hofschneider: Thank you, Mr. Speaker. Mr. Speaker, earlier we discussed whether to amend it under Section 6 or 7. I believe the author preferred for the amendment to be under Section 6, but if you look at purpose of the amendment which is to apply it to the grandfather provision so that any one who fall under that provision shall follow this amendment that I am going offer.

Vice Speaker Deleon Guerrero: But if you put it under Section 6, all banks not necessarily just the ones grandfathered would have to be subjected to that provision.

Representative Yumul: To add on to the concern, we have to remember that FDIC banks are covered by federal guidelines and laws. It might be an exercise in futility because it would not be applicable to them anyway.

Speaker Arnold Palacios: So that is why it is better to put it under Section 7.

Representative Hofschneider: Alright then, Mr. Speaker, I move to add a new subsection (c) under Section 7 to read: “(c) the institution or bank shall disclose the security pledged pursuant to this Act on a quarterly basis and such disclosure shall be made public.”

The motion was seconded. There being no discussion, the motion to adopt the amendment offered by Representative Hofschneider to H. B. NO. 16-4, HD2 was carried by voice vote.

Speaker Arnold Palacios: The amendment offered by Representative Hofschneider carries. We are back to the main motion and I recognize Representative Yumul.

Representative Yumul: Mr. Speaker, I am concern with regards to the legislation that we have too many “may” and “must” especially on page 2. Line 8 “The Secretary of Commerce and Director of Banking may issue regulations” or not; on line 14, “The Secretary of Finance may issue regulation” or not; on line 18, “autonomous agencies must follow”, that is debatable; and on line 19, “The Secretary of Finance may issue,” and one more on line 28, “In determining where public funds may be deposited”. Again, that is debatable. The intent of this legislation is stated on page 1 which is to safeguard the funds of the government and its various agencies and yet we do not require agencies. On page 3, line 4, it is just the Secretary of Finance and that means the General Fund. What about agencies? I just passed out the Department of Public Lands’ banking summary and they are not included. They may or may not be included in this.

Speaker Arnold Palacios: Representative Yumul, do you want to offer an amendment?

Representative Yumul: There are too many amendments, Mr. Speaker, if the author of the bill can work it out. We just do not want to give a blanket *may* or *shall* and in may mean the wrong thing.

Speaker Arnold Palacios: I recognize Representative Babauta.

Representative Babauta: Mr. Speaker, probably Representative Yumul is astonished to learn about the words “may” and “may be” and “may not”, but I guess the Commonwealth over the years adopting the CNMI Code have continuously adopted similar provisions that appears in other state codes of the United States. So this is a flexibility that the empowering authority is given by the legislative authority. So, it depends on him whether he will mandate it, but I feel present code is sufficient.

Representative Hofschneider: To satisfy the concern, on page 2, line 28 “In determining where public funds may be deposited” you do not want to change that to “shall”, but on the same page beginning on line 8, if you want to insist that the regulation is issued then change it. Strikeout “may” on line 8 and insert “shall” and likewise on line 14, and line 19, so that would be mandated by this Act.

Speaker Arnold Palacios: Representative Yumul, would you like to offer that change. You came up with the issue.

Representative Yumul: Okay, I make a motion to have “may” on line 8, line 11, line 14, line 19 changed to “shall”, and line 18 from “must” to “shall”. I would make it simple, Mr. Speaker, I will withdraw.

Representative Hofschneider: For purpose of clarity, Mr. Speaker, this is a legislative drafting permissiveness. “May” has always been viewed as the prerogative of the agency to do so.

Speaker Arnold Palacios: One more comment, and then I will call for a vote.

Representative Sablan: Well, I actually agree with the motion that Representative Yumul has just withdrawn. It seems to me that this bill would be meaningless if we do not have regulations that would require it and govern the implementation of this bill if it becomes law. I did speak to the Director of Banking and one thing to consider is that they said that they do not have the resources to draft regulations to implement this law anyway. So that is something that the Committee of Ways and Means might want to consider in the drafting of the budget to appropriate, at a minimum, \$50,000 which is the number they quoted me that they would need to contract the expertise to draft the regulations.

Speaker Arnold Palacios: All this issue of regulations gives the empowerment authority to the Departments of Finance and Commerce. If you look at the intent of the legislation, which is on page 3 and 4, you have the “shall”. That is the key. On page 4 has all the “shall”.

Floor Leader Camacho: There is case law that says if you use “may” that is very discretionary, if you say “shall” that is mandatory. It is up to this body to decide whether you want the regulations to be mandatory or not. Take your pick.

Vice Speaker Deleon Guerrero: Let us go with “shall” to appease everybody.

Speaker Arnold Palacios: The problem with that is the mover does not know where to put them.

Vice Speaker Deleon Guerrero: May I then offer it?

Speaker Arnold Palacios: Okay.

Vice Speaker Deleon Guerrero: On page 2, Section 7725. Regulations. Line 8 after “Director of Banking” strikeout “may” and insert “shall”; on line 11, after “the Secretary of Finance ~~may~~ shall”; on line 14 “the Secretary of Finance ~~may~~ shall” and on line 18 after “the autonomous agencies ~~may~~ shall”, on line 19 “the Secretary of Finance ~~may~~ shall” and on line 16, “and ~~may~~ shall issue”. And on line 21, strike out “may be” and it should read: “as determined by regulation”; and change “must” to “shall”.

The motion was seconded.

Speaker Arnold Palacios: The amendment offered by the Vice Speaker is basically changing the words “may” and “must” to “shall”.

There was no discussion and the motion to amend H. B. NO. 16-4, HD3 was carried by voice vote.

Speaker Arnold Palacios: The motion carries. We will now go to the main motion. We will be voting on H. B. NO. 16-4, House Draft 4. Clerk, call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 16-4, HD4 on First and Final Reading:

Representative Edwin P. Aldan	absent (excused)
Representative David M. Apatang	absent (during voting)
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	yes
Representative Joseph N. Camacho	yes
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	abstained
Representative Heinz S. Hofschneider	yes
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	absent (during voting)
Representative Ramon A. Tebuteb	yes
Representative Ralph DLG. Torres	yes
Representative Stanley T. McGinnis Torres	no
Representative Ray N. Yumul	yes
Speaker Arnold I. Palacios	yes

Speaker Palacios: By a vote of fifteen “yes,” H. B. NO. 16-4, as amended hereby passes the House on First and Final Reading.

Representative Hofschneider: Mr. Speaker, may I move to recess.

Speaker Arnold Palacios: Before we do that, Representative Reyes would like to make an announcement.

MISCELLANEOUS BUSINESS

None

ANNOUNCEMENTS

Speaker Arnold Palacios: I recognize Representative Reyes.

Representative Reyes: Thank you, Mr. Speaker. I would like to make this announcement that our legal counsel Antonette Villagomez is back in the Philippines, I believe she is at the Asia Pacific Medical Center. She was referred to St. Luke the first time and she came back, she had more problems, she ended up in Guam and now she is in the Philippines. I ask everyone to please pray for her and that she will recover soon. Thank you so much.

Representative Yumul: Mr. Speaker, did we introduce our new legal counsel?

Speaker Arnold Palacios: You were not here. You left the Chamber when I made the introduction.

Representative Yumul: I stand corrected.

ADJOURNMENT

Speaker Arnold Palacios: Floor Leader, a motion to adjourn.

Floor Leader Camacho: Mr. Speaker, a motion to adjourn subject to the call of the Speaker.

The motion was seconded and carried by voice vote.

The House adjourned at 5:09 p.m. subject to the call of the Chair.

Respectfully submitted,

Evelyn C. Fleming, House Clerk
House of Representatives

APPEARANCE OF LOCAL BILLS

FIRST APPEARANCE: 1st Appearance of a local bill is on the date of introduction.

SECOND APPEARANCE: NONE

THIRD APPEARANCE: NONE