



House Journal

THIRD SPECIAL SESSION, 2008

**Adopted:
January 12, 2009**

First Day

Thursday, May 1, 2008

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened its Second Day, Second Special Session on Thursday, May 1, 2008, at 9:08 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 seventeen members were present; Representatives Ramon A. Tebuteb and Stanley T. Torres came in late, Representative Ray N. Yumul was excused.

Speaker Arnold Palacios: A quorum is hereby established for today's session. Representative Yumul is excused, he is off-island. Representatives Torres and Tebuteb will be coming in a little late. I recognize the Floor Leader for a motion to resolve into the Committee of the Whole.

Floor Leader Camacho: Mr. Speaker, a motion to resolve into the Committee of the Whole.

Speaker Arnold Palacios: The motion is to resolve into the Committee of the Whole so that we can receive briefings and presentation from the Bank of Guam.

The motion was seconded and carried by voice vote.

The House dissolved into the Committee of the Whole at 9:11 a.m.

COMMITTEE OF THE WHOLE

The House returned to plenary session at 10:50 a.m.

(Representatives Stanley T. Torres and Ramon A. Tebuteb took their seats in the Chamber during the Committee of the Whole.)

Speaker Arnold Palacios: We are now in plenary session.

ADOPTION OF JOURNALS

NONE

INTRODUCTION OF BILLS

H. B. NO. 16-92: A Bill for an Act to amend 4 CMC § 5554 and 4 CMC § 5557 to allow the sale of alcoholic beverages by on-sale licensees operating within the Sterile passenger holding areas at Commercial Airports of the Commonwealth of the Northern Mariana Islands, without restriction as to the hours or day of sale; and for other purposes.

Offered by: Representative Joseph N. Camacho

The Chair recognized Representative Babauta.

Representative Babauta: Mr. Speaker, we spent a little over an hour hearing the Commonwealth Ports Authority (CPA) and I wonder whether the consensus of the members is to consider H. B. NO. 16-92 as a priority legislation to help augment the predicament of CPA's financial problems.

Speaker Arnold Palacios: If there is no objection from the members, Representative Babauta is asking if we can consider placing H. B. NO. 16-92 on the Bill Calendar. We will get the procedures done when we get to the Bill Calendar. Thank you.

INTRODUCTION OF RESOLUTIONS

H. R. NO. 16-16: A House Resolution commending the CNMI Board of Elections for its diligence in establishing the NMI Descent Voter Registry as mandated by Senate Legislative Initiative 11-1.

Offered by: Rep. Stanley T. McGinnis Torres

Representative Stanley Torres: Mr. Speaker, may I ask that H. R. NO. 16-16 be placed on today's Calendar.

Several members voiced "no objection."

Speaker Arnold Palacios: So ordered, H. R. NO. 16-16 is placed on today's Resolution Calendar. We move on to Item 5.

MESSAGES FROM THE GOVERNOR

GOV. COMM. 16-81: (4/26/08) Extension of State of Emergency for Anatahan.

GOV. COMM. 16-82: (4/29/08) Certification of an annual salary in excess of \$50,000 for Dr. Gregory Kotheimer.

GOV. COMM. 16-83: (4/25/08) Certification of vacant positions at the Department of Community and Cultural Affairs.

GOV. COMM. 16-84: (4/28/08) Certification of vacant positions at the Division of Immigration, Office of the Attorney General.

GOV. COMM. 16-85: (4/29/08) Certification of vacant position at the Public Defender's Office.

GOV. COMM. 16-86: (4/29/08) Certification of vacant positions at the Office of Capital Improvement Program, Office of the Governor.

GOV. COMM. 16-87: (4/29/08) Certification of vacant position at the Department of Public Health.

There was no discussion under this Item.

SENATE COMMUNICATIONS

SEN. COMM. 16-32: (4/25/08) Transmitting a certified copy of S. R. NO. 16-9: “A Senate Resolution to commend Margarita M. Palacios for her many years of dedicated service to the people of the Commonwealth and to wish her well in all her future endeavors,” which was adopted by the Senate on April 22, 2008. [For info]

Speaker Arnold Palacios: We just received SEN. COMM. 16-33 and SEN. COMM. 16-34 which have been passed out to the members. If there is no objection, I would like to have these two communications inserted into the order of business.

There was no objection from the floor and SEN. COMM. 16-33 and SEN. COMM. 16-34 were made part of the day’s agenda.

SEN. COMM. 16-33: (5/1/08) Returning H. B. NO. 16-44, HD1 (Definition of Alien) which was passed by the Senate without amendments on April 30, 2008. [Will go to Governor]

SEN. COMM. 16-34: (5/1/08) Returning with amendments H. B. NO. 16-79, HD2, SD2 in the form of H. B. NO. 16-79, HD2, SD3: A Bill for An Act to Revise the Commonwealth Utilities Corporation’s Utility Rate Structure to Ensure CUC’s Continuing Ability to Deliver Vital Utility Services; To provide flexibility to the governor and other expenditure authorities to reprogram funds for the remainder of fiscal year 2008; to suspend earmarking of certain non-general fund revenue; to authorize CUC to use a portion of customer security deposits to pay for its fuel expenses; to set the government employer contribution rate at 11% for fiscal year 2008; to increase certain government services fees; and for other purposes,” which was passed by the Senate on April 30, 2008. [For action of Senate amendments]

The Chair recognized Representative Torres.

Representative Stanley Torres: Mr. Speaker, regarding the resolution for Mrs. Rubuenog, page one is missing.

Speaker Arnold Palacios: Which Senate communication are you making reference to?

Representative Stanley Torres: Mr. Speaker, my copy disappeared.

Speaker Arnold Palacios: Short recess.

The House recessed at 10:55 a.m.

RECESS

The House reconvened at 10:56 a.m.

Speaker Arnold Palacios: We are back in session. Representative Benavente, recognized.

Representative Benavente: Mr. Speaker, under SEN. COMM. 16-34 is a legislation that needs the action of the House. My understanding of it is that a couple of legislations that we acted on that were necessary and continues to be necessary were put together by the Senate and I just wonder if we will be taking action on this legislation today, or because of the fact that two legislations were put together that it might be necessary to send it to committee for review? I ask for your leadership.

Speaker Arnold Palacios: We will act on it. We will make the proper motion under the Bill Calendar. SEN. COMM. 16-33 is only for information. So we need a motion to accept those communications.

Floor Leader Camacho: Mr. Speaker, pursuant to our Rules, we do not have to accept the communications, but we do need a motion to place a legislation for action. For example, H. B. NO. 16-79, we need a motion to place it on the calendar. And if I may, can I make that motion at this time?

Speaker Arnold Palacios: Okay.

Floor Leader Camacho: Mr. Speaker, we received communications from the Senate -- SEN. COMM. 16-34 referencing H. B. NO. 16-79, SD3, HD2, SS1, I move to place it on the calendar.

The motion was seconded and carried by voice vote. Representative Sablan voted “nay.”

Speaker Arnold Palacios: The motion carries and H. B. NO. 16-79, SD3, HD2, SS1 is hereby placed on the Bill Calendar.

HOUSE COMMUNICATIONS

Representative Hocog: Mr. Speaker, I thought there was a communication officially submitted to you yesterday and for the purpose of discussing it, I would like for the Speaker to provide that communication so that we can discuss that matter on the floor.

Speaker Arnold Palacios: Let us take a short recess.

The House recessed at 11:00 a.m.

RECESS

The House reconvened at 11:03 a.m.

Speaker Arnold Palacios: We are back in session and I recognize Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. I do not have a written report, but I wish to offer, for the members' information, a report on the recent trip that I took and the recent meetings that I had with regards to the Pacific Islands Development Bank (PIDB). Earlier this week, PIDB had its annual Board of Governors meeting which I serve under the Legislative Branch when I was appointed by the Speaker of the House and the President of the Senate. We also had the quarterly meeting of the PIDB Board of the Directors in which Representative Justo Quitugua is a member of

as appointed by the previous board of governors. I would like to announce that I do have with me, and I am sure so does Representative Quitugua, the full report of the PIDB, financial report and other information that others may, if they wish, get from my office or that of Representative Quitugua. But serving as a member for many years previously when the bank was suffering financially and seeing the bank turn around now, for the first time since the inception of PIDB in 1989 we now have a very solvent bank in operation. The bank is currently operating, servicing, and benefiting many people throughout the region including the CNMI. At one time when the Board of Governors of the bank in the early 1990's came together to meet to dissolve the bank, we would have lost a large portion of the original two hundred and fifty thousand dollars contribution that the CNMI had made. Currently, we have recovered the entire deficit and then some. It was just the previous year – 2007 – when it actually became solvent. Again, if any member wishes additional information they may get it from my office or Representative Quitugua's office. And thank you for the opportunity to serve as a member of the PIDB Board of Governors.

Speaker Arnold Palacios: Thank you for that report, Representative Benavente, and I think every member would appreciate a short written report. I know that APIL (Association of Pacific Island Legislatures) would be convening next week and the Vice Speaker would be our appointee from the House to represent the House, so I would also encourage that written reports be submitted to the House so that members who are not really familiar with these regional organizations get familiarized with these reports and the functions of these regional bodies. With that, I recognize Representative Quitugua.

Representative Quitugua: Mr. Speaker, if I may, I would also like to provide additional information with regards to PIDB. PIDB is a creature of APIL for those who are new, and the bank has been receiving unqualified audits for the past few years. As Representative Benavente mentioned, the bank was in serious problems before and fortunately they hired a new president and he turned the bank around to a better situation. The bank has been in good standing that the Board of Governors now should be thinking whether the bank should remain as a nonprofit bank or a profit bank because it shows that it has been making profit for the past few years. The bank offers a variety of loan services to the region in agriculture, fishing, and also some scholarships were issued in prior years. The bank is also venturing into assisting residents of the region who are members of the bank in the area of home loans. So my report will be forthcoming to you. Because the PIDB report is so thick, I will perhaps send you the report and it is your discretion whether to make a copy for all the members for their review or not.

Speaker Arnold Palacios: Yes, and I will encourage you to at least give a summary, particularly for the benefit of the new members. Members who have been returning are fairly familiar with it, but the Chair would certainly appreciate a short summary report of the meetings and, if possible, a general synopsis of the organization. Thank you.

Representative Hofschneider: It is nice to hear that the bank has turned itself around. What is the P&L ratio, profit/loss ratio?

Representative Quitugua: This year the delinquency rate is less than one percent, so the loss is very, very minimal. The bank has written, as recommended by the auditor, a few loans that were issued right after its inception of about two to three thousand dollars. So those are very small amounts.

Representative Hofschneider: Are the other entities up to date?

Representative Quitugua: The only entities that have met the one million dollars contribution are the CNMI, Palau, Phonpei, and Yap. Guam has committed to eight hundred thousand dollars and they will be fulfilling the one million dollars. Kosrae has committed up to six hundred thousand dollars. The only entity that will probably never meet it is Chuuk. Chuuk remains at the original two hundred and fifty thousand dollar commitment.

Representative Benavente: Mr. Speaker, if I may add on to that, if you remember the PIDB was created by a ten-member entity of APIL. The ten-member entity included the four FSM states, Guam, CNMI, American Samoa, the Marshall Islands and Hawaii and Palau. So the membership of the PIDB actually has the ten members of APIL but when it started in 1989 and members were making the contributions, only seven member entities contributed the original two hundred and fifty thousand dollars, which were the four FSM states, Palau, Yap, and the CNMI. Since then only four have fulfilled the payment as report by Representative Quitugua. Guam and the FSM State of Kosrae are on their way to the final commitment. Chuuk definitely continues to be an issue. Of course, we understand their financial situation. But, this year's meeting was actually attended for the first time by a representative the Republic of the Marshall Islands and I have been informed by our PIDB President that they are now very interested in joining the Pacific Islands Development Bank, so we are looking at possibly an eight-member entity if the Republic of the Marshall Islands should join. The important information that I wanted to point out is that at one point when the Board of Governors wanted to dissolve the bank that CNMI would have lost a substantial amount of money that it had contributed. Presently, if the bank should be dissolved, we should be able to get our one million dollars and some back. That is the solvency that I am referring to.

Speaker Arnold Palacios: Since we do not have anything on the agenda from Items 8 thru 14, we move to Item 15.

COMMUNICATIONS FROM THE JUDICIAL BRANCH

None

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

None

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

None

OTHER COMMUNICATIONS

None

REPORTS OF STANDING COMMITTEES

None

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

Speaker Arnold Palacios: Floor Leader?

Floor Leader Camacho: Mr. Speaker, for expediency purpose, a motion to suspend Rule VIII, Sections 8, 9, 10, and 11 for the placement of H. B. NO. 16-92 on the Bill Calendar.

Speaker Arnold Palacios: Short recess.

The House recessed at 11:13 a.m.

RECESS

The House reconvened at 11:14 a.m.

Speaker Arnold Palacios: We are back in session. We move down to down to Bill Calendar and I recognize the Floor Leader.

BILL CALENDAR

Floor Leader Camacho: Mr. Speaker, again, for expediency purpose, a motion to suspend Rule VIII, Sections 8, 9, 10, and 11 for the placement of H. B. NO. 16-92 on the Bill Calendar.

Speaker Arnold Palacios: Discussion. Representative Sablan.

Representative Sablan: Mr. Speaker, I understand that that this is the legislation that CPA had been requesting, one of many pieces, but I would like to ask the members to consider that there are a number of pieces of legislation that they were going to present to us for our consideration and it will be nice to have the full picture of what revenues we are talking about, and what savings we will be making as a result of all those different pieces of legislation. They are going to have a meeting this afternoon and they are supposed to come back to us. So rather than rush just this one piece I would like to ask that we reconsider this motion.

Speaker Arnold Palacios: The motion is to suspend the Rules to place it. We do not have to take it up, we can just leave it on the Bill Calendar.

Representative Sablan: Are we voting on it today?

Vice Speaker Deleon Guerrero: Mr. Speaker, with all due respect, I can understand Representative Sablan's concerns, but it is a policy call however to treat it as one package -- and I am assuming that that is what you would like to see -- one omnibus bill with all the recommendations that we can consider and look at thoroughly and comprehensively.

Representative Sablan: And after there has been a public process. The public does not even know about the seriousness of this situation and this would just seem to come out of nowhere.

Vice Speaker Deleon Guerrero: It is a policy call on our part, Mr. Speaker, and I have no objection to just addressing this one bill.

The motion to suspend Rule VIII, Sections 8, 9, 10, and 11 in order to place H. B. NO. 16-92 on the Bill calendar was carried by voice vote.

Speaker Arnold Palacios: Floor Leader, recognized.

Floor Leader Camacho: Mr. Speaker, a motion to place H. B. NO. 16-92 on the Bill Calendar.

The motion was seconded and carried by voice vote. H. B. NO. 16-92 was placed on the Bill Calendar.

Speaker Arnold Palacios: Floor Leader, recognized.

Floor Leader Pro Tem Lizama: Mr. Speaker, I believe we are back to Resolution Calendar.

RESOLUTION CALENDAR

Speaker Arnold Palacios: Okay, we are now under Resolution Calendar. Recognized, Floor Leader.

Floor Leader Camacho: Pursuant to the House Rules, you have the authority to place resolutions on the calendar without appeal from the House.

Speaker Arnold Palacios: We have one resolution introduced this morning and I ordered that H. R. NO. 16-16 is placed on today's Resolution Calendar. So I now recognize a motion to adopt H. R. NO. 16-16.

Floor Leader Camacho: Mr. Speaker, a motion to adopt H. R. NO. 16-16 reference to Northern Marianas Descent Registry.

The motion was seconded.

H. R. NO. 16-16: A HOUSE RESOLUTION COMMENDING THE CNMI BOARD OF ELECTIONS FOR ITS DILIGENCE IN ESTABLISHING THE NMI DESCENT VOTER REGISTRY AS MANDATED BY SENATE LEGISLATIVE INITIATIVE 11-1.

Speaker Arnold Palacios: Discussion on that motion.

Several member voiced "ready."

There was no discussion and the motion to adopt H. R. NO. 16-16 was carried by voice vote.

Speaker Arnold Palacios: Floor Leader, recognized.

Floor Leader Camacho: We can now go down to Bill Calendar.

Speaker Arnold Palacios: If there are no more resolutions ...

Floor Leader Camacho: There are more resolutions for today, Mr. Speaker, we can move to Bill Calendar.

Speaker Arnold Palacios: I recognize Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. I happen to notice that we have had two resolutions that have been sitting in the Resolution Calendar for several weeks now. Could I get some clarification as to when we plan to act on these resolutions and that would be specifically H. R. NO. 16-6 and H. R. NO. 16-9.

Speaker Arnold Palacios: Floor Leader, particularly on H. R. NO. 16-9, has your committee—

Floor Leader Camacho: Mr. Speaker, I informally asked your office if we can have another thirty days on this resolution. We are doing some research to discuss the very deep and controversial matter on the resolution.

Representative Sablan: Mr. Speaker, if I recall correctly, the decision of the Chair was not to refer this resolution to committee but to actually place it on the calendar for action at a later date. So I was not aware that we are waiting thirty days for a report.

Speaker Arnold Palacios: Let me clarify that –I replaced it and I specifically requested the Ad Hoc Committee on Rules to look at the resolution and make its recommendation and that is why we are keeping it on the Calendar until the Ad Hoc Committee on Rules –

Representative Sablan: And it is the position of the committee chair that requiring public notice for three days and placing information on the website for public access are controversial and contentious? Is that what was stated for the record?

Floor Leader Camacho: Mr. Speaker, they are very controversial to the extent that those matters also cost money and we have to weigh, we have to balance. Every time we issue a public notice, we have to post them to the extent that there are very serious matters confronting the Commonwealth right now and seventy two hours can exceed. So we are in the process in researching if we can somehow balance Representative Sablan's resolution with what is needed for the Commonwealth and we will report hopefully in thirty days.

Representative Sablan: And I would like to point out for the record that if anybody has actually read the resolution that there are provisions in the resolution that take into account emergency situations. We should also consider, if we are going to talk about costs, the cost of passing bills without proper review and opportunity for public comment. Thank you.

Speaker Arnold Palacios: Thank you. Floor Leader, please expedite the report.

Floor Leader Camacho: We are moving as fast as we can, sir.

Representative Sablan: So, Mr. Speaker, are you ordering the committee to report within another thirty days?

Speaker Arnold Palacios: Within three weeks actually that is why I asked him to expedite it. He and I talked about this to try to get the report out so we can dispose of this resolution.

Representative Benavente: Mr. Speaker, I would agree that leaving it on the calendar and at the same time having the Ad Hoc Committee continue to review the Rules would not be proper. So I would like to refer it to the committee on Ad Hoc and have the Committee take it up as a review.

Speaker Arnold Palacios: Well, that is the procedure and we should have actually done that. We went ahead and placed it instead. At the request of some of the members and the Ad Hoc Committee ...*(End of Tape 1 side A) (Beginning of Side B)* ...in general. Today I am going to emphasize to the Ad Hoc Committee to please come up with the report so that we can dispose of this issue once and for all.

Representative Sablan: Mr. Speaker, can I request for a specific deadline for a report from the Committee?

Floor Leader Camacho: Mr. Speaker, respectfully, I take into consideration Representative Benavente's concern because this is before the committee and at the same time before the whole body, so that we have consistency, a motion to move this to the Ad Hoc Committee for full consideration.

The motion was seconded by Representative Babauta.

Representative Sablan: So this is a motion to remove it from the Calendar?

Floor Leader Camacho: To remove it from the Calendar, place it before the Ad Hoc Committee so that there are not inconsistencies if the Ad Hoc Committee should report to the House and this also remains on the Calendar.

Representative Sablan: But there is nothing that prohibits the –

Speaker Arnold Palacios: Representative Sablan, can we have decorum here and be recognized before speaking.

Representative Benavente: Mr. Speaker, there is a motion on the floor and it has been seconded.

Representative Sablan: But I am trying to clarify that motion.

Speaker Arnold Palacios: The motion is to refer H. R. NO. 16-9 to committee and it has been seconded, so let us go into discussion. Representative Sablan, what do you want clarified.

Representative Sablan: Thank you, Mr. Speaker. Can I get some clarification as to how this effort to place on the calendar, refer to committee, ask for another thirty days and then another thirty days. These are not really efforts to delay taking any action whatsoever.

Representative Babauta: Mr. Speaker, I strongly recommend to the committee chair to humbly invite the author of the resolution to have a dialogue with the committee when the committee decides to meet so we can discuss, once and for all, how best to handle these concerns. So I ask that her participation can be accommodated by the committee. Thank you.

Representative Quitugua: Mr. Speaker, there are also two other resolutions under the Resolution Calendar and if I am in order I would like to make a subsidiary motion to refer these two resolutions to the respective committee to be taken up and reported to the House.

The motion was seconded.

Speaker Arnold Palacios: A subsidiary motion to also refer H. R. NO. 16-6 and H. J. R. NO. 16-4 to the appropriate committee has been made and seconded. Discussion on the motion?

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

Speaker Arnold Palacios: The motion is carried. Floor Leader?

Floor Leader Camacho: Mr. Speaker, to clarify, we added H. R. NO. 16-6 and H. J. R. NO. 16-4 to the main motion. Ready on the main motion.

There being no further discussion, the motion to commit to committee H. R. NO. 16-6, H. R. NO. 16-9, and H. J. R. NO. 16-4 to the respective committee was carried by voice vote.

H. R. NO. 16-6: A HOUSE RESOLUTION RECOGNIZING THE NEED TO ASSIST THE DISABLED CITIZENS OF OUR ISLANDS IN THEIR PARKING NEEDS AT THE FRONT OF THE LEGISLATURE; AND FOR OTHER PURPOSES. (*Referred to Committee on Judiciary and Governmental Operations*)

H. R. NO. 16-9: A HOUSE RESOLUTION TO AMEND HOUSE RESOLUTION 16-1 TO PROVIDE THE PEOPLE OF THE COMMONWEALTH FULL AND FAIR NOTICE OF THE SESSIONS AND COMMITTEE MEETINGS OF THE HOUSE OF REPRESENTATIVES AND ACCESS TO THE PUBLIC RECORDS OF THE COMMONWEALTH LEGISLATURE. (*Referred to Ad Hoc Committee*)

H. J. R. NO. 16-4: A HOUSE JOINT RESOLUTION TO CREATE A JOINT FOCUS GROUP WITHIN THE LEGISLATURE TO STUDY THE GUAM MILITARY BUILD-UP AND TO HELP PREPARE THE COMMONWEALTH FOR THE MILITARY EXPANSION IN THE MARIANAS. (*Referred to United States and Foreign Affairs Committee*)

Speaker Arnold Palacios: Representative Sablan.

Representative Sablan: Mr. Speaker, if I can clarify an answer to the question I asked earlier, can I get a deadline from you as to when the Ad Hoc Committee should be reporting given that we have been, or I have been looking forward to the disposal of the resolution.

Speaker Arnold Palacios: Which resolution are you referring to, H. R. NO. 16-9?

Representative Sablan: H. R. NO. 16-9.

Speaker Arnold Palacios: I already answered and I asked the chairman to report as soon as possible, no later than three weeks.

Representative Sablan: From today?

Speaker Arnold Palacios: From today.

Representative Sablan: Thank you.

Speaker Arnold Palacios: Is that okay? That is the instruction.

Floor Leader Camacho: No, but that is fine.

Speaker Arnold Palacios: I now recognize the Floor Leader.

Floor Leader Camacho: Back to the Bill Calendar Mr. Speaker.

Speaker Arnold Palacios: Correct.

BILL CALENDAR

Floor Leader Camacho: A motion for the passage on First and Final Reading H. B. NO. 16-21, reference to “QC” (Qualifying Certificate).

The motion was seconded.

H. B. NO. 16-21: 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.

Speaker Arnold Palacios: The motion to pass H. B. NO. 16-21 has been made and seconded. Discussion on that motion.

Several members voice “ready.”

There being no discussion, the Clerk called the roll on the motion to pass H. B. NO. 16-21 on First and Final Reading.

Representative Edwin P. Aldan	yes
Representative David M. Apatang	yes
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	yes (with reservation)
Representative Joseph N. Camacho	yes
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	yes

Representative Hofschneider: Mr. Speaker, may I say a few words?

Speaker Arnold Palacios: I will give you a few minutes, we are already voting.

Representative Hofschneider: Thank you. I remember asking the Chairman of the Committee on Ways and Means to do a cost benefit analysis on this bill. We are now acting on it and he has not submitted the cost benefit analysis on what it has done over the years and why we are capping it to be equal to the investment. Is this prospective and not retroactive to those that are awarded a qualifying certificate? I ask that this bill be reconsidered and wait for the chairman to produce that. It is critical because it will tell us whether to amend it, refine it, or completely repeal it.

Speaker Arnold Palacios: I believe the bill has a committee report which was referred to the Committee on Ways and Means and the Committee on Commerce and Tourism.

Representative Hofschneider: Mr. Speaker, if you read the committee report, it is laughable. It does not tell you anything.

Floor Leader Camacho: Point of Order.

Speaker Arnold Palacios: Floor Leader, state your point.

Floor Leader Camacho: We are doing the roll call at this time, sir.

Representative Hofschneider: I raise another point of order -- I asked the Speaker for consensus.

Speaker Arnold Palacios: I recognize the Committee on Commerce and Tourism Chair, Representative Reyes.

Representative Reyes: Thank you, Mr. Speaker. I am sorry, I do not like the word that Representative Hofschneider just mentioned that that the committee report is laughable. It is making a mockery of everyone who signed this committee report between my committee and the Committee on Ways and Means. We did discuss this thoroughly in the committee. There are attachments from the Commonwealth Development Authority. It was actually the at the urging of CDA to have this bill –

Speaker Arnold Palacios: I am going to raise a point of order. Representative Hofschneider, you need to vote.

Representative Hofschneider: Why did you hit the gavel? Are we in recess?

Speaker Arnold Palacios: No, I wanted to call his attention to the point of order. He was beginning to debate on the issue and we are voting.

Representative Hofschneider: My vote is no, Mr. Speaker.

Representative Sablan: Point of order, Mr. Speaker.

Speaker Arnold Palacios: We are in the midst of voting.

Representative Sablan: I understand that, but I did hear there was a request for discussion –

Speaker Arnold Palacios: Representative Sablan, please, you are out of order. When we are done voting, then you can ask to make a comment. Clerk, continue with the roll call.

Representative Heinz S. Hofschneider	no
Representative Raymond D. Palacios	yes
Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	yes

Representative Sablan: Mr. Speaker, may I speak now?

Speaker Arnold Palacios: I will allow you a brief period, Representative Sablan.

Representative Sablan: I would like to point out for the record that prior to your call for the roll there was a request for discussion. I do not know whether you heard it or not, but that was not acknowledged. I heard it from Representative Hofschneider.

Speaker Arnold Palacios: Representative Sablan, when the motion was made I called for a discussion. Nobody indicated they wanted discussion, we were ready to call the roll so we went on to call the roll. I distinctly remember giving the opportunity. I asked for a discussion and nobody raised an issue and so that is why I called for the roll. That is where we are at this time.

Representative Sablan: But when you hear a members say, “wait,” but perhaps you did not hear it.

Speaker Arnold Palacios: No.

Representative Sablan: Okay, then my vote is, no.

Representative Christina M. Sablan	no
Representative Edward T. Salas	yes
Representative Rosemond B. Santos	yes
Representative Ramon A. Tebuteb	yes
Representative Ralph DLG. Torres	yes
Representative Stanley T. McGinnis Torres	yes
Representative Ray N. Yumul	absent (excused)
Speaker Arnold I. Palacios	yes

Speaker Palacios: By a vote of seventeen “yes,” two “no,” and one member being absent, H. B. NO. 16-21 hereby passes the House on First and Final Reading. Representative Hofschneider.

Representative Hofschneider: I apologize for using the word, laughable, but it is. I apologize. Mr. Speaker, the Commonwealth is suffering. With all due respect to the Chairman, a cost benefit analysis is warranted whenever tax revenue is needed. And we are taking up this issue. So I apologize for using that word. It has no inference to the people who signed off. I am referring to the committee report itself, not the signatories. The committee report has to be extended –

Representative Benavente: Point of order, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Benavente: We are under Bill Calendar. If Representative Hofschneider wishes to raise an issue, there is the Miscellaneous Business section of the order of business where he may do so. We need to move on.

Speaker Arnold Palacios: Representative Hofschneider –

Representative Hofschneider: Mr. Speaker, this is the problem with this body –

Speaker Arnold Palacios: Let us take a short recess.

The House recessed at 11:36 a.m.

RECESS

The House reconvened at 11:39 a.m.

(Recording started when Representative Sablan was deliberating on S. B. NO. 16-79, SD3, HD2, SS1.).

(For record purposes: A motion was made by the Floor Leader for the passage on Final Reading of H. B. NO. 16-79, SD3, HD2, SS1 thereby accepting the amendments made by the Senate. The recording began when Representative Sablan was holding the floor.)

H. B. No. 16-79, SD3, HD2, SS1: A BILL FOR AN ACT TO REVISE THE COMMONWEALTH UTILITIES CORPORATION'S UTILITY RATE STRUCTURE TO ENSURE CUC'S CONTINUING ABILITY TO DELIVER VITAL UTILITY SERVICES; TO PROVIDE FLEXIBILITY TO THE GOVERNOR AND OTHER EXPENDITURE AUTHORITIES TO REPROGRAM FUNDS FOR THE REMAINDER OF FISCAL YEAR 2008; TO SUSPEND EARMARKING OF CERTAIN NON-GENERAL FUND REVENUE; TO AUTHORIZE CUC TO USE A PORTION OF CUSTOMER SECURITY DEPOSITS TO PAY FOR ITS FUEL EXPENSES; TO SET THE GOVERNMENT EMPLOYER CONTRIBUTION RATE AT 11% FOR FISCAL YEAR 2008; TO INCREASE CERTAIN GOVERNMENT SERVICES FEES; AND FOR OTHER PURPOSES.

Representative Sablan: ...substitute bill, because I believe that it is, at its core, an act of fear and poor planning. While I fully realize the situation in which CUC has fallen, we are not solving either immediate or our long term problems to raise taxes without cutting costs or to borrow from the Retirement Fund which is already tethering on the brink of insolvency because of this government's continual failure to pay its debts. It could be said that we are actually worsening our problems, Mr. Speaker, by further increasing our liabilities, damaging our credit rating, and impairing our ability to secure financing for critical infrastructure at affordable interest rates at a time when we are considering not just one but several proposals to issue public debt. I do not understand how we can pass this measure without a full picture of the funds that will be generated and the impact that this would have on public services. The Senate Fiscal Affairs Committee did, to its credit, come out with a report that attempted to provide some basis for passing this bill. But even the report acknowledges its shortcomings, Mr. Speaker, mainly that we do not have all the information that we need. The report points out that we do not know how much money actually exists in the CUC Trust Fund for security deposits. Besides that, we cannot just say with a reasonably straight face that we actually expect CUC, which is notorious for its accounting mishaps and its auditing nightmares, to use only fifty percent of the security deposit and return those funds within three years. Who are we really kidding here? We also do not know how much money will be made available from repealing 4 CMC § 1304 or the potential impacts of this action on the banks and their customers. We do not know the full impact that this will have on the Retirement Fund, but we do know that the Fund has been forced to liquidate assets and that the central government has not paid a penny even with the existing mandate to pay eighteen percent. And now we are reducing still further the contributions not just to the entire government or the central government but of autonomous agencies that are actually paying. We do not know the impact that this will have on the Marpi Landfill which is already bordering on noncompliance and may be shutdown or subject to have hefty fines as a result of our action or on the public services that depend on the Tobacco Control Fund. And with respect to PUC (Public Utilities Commission) we are giving eighty thousand dollars in startup funding, but we do not know what happened to the CTC (Commonwealth Telecommunications Commission) funds that supposedly remained. And speaking of the PUC, this bill now proposes to allow them to set rates without a quorum even if there is one commissioner and without prior public hearing or notice or any supporting documents. Why even have a PUC then? Is it really that much worst to have an unregulated utility than to have one or two PUC czars calling the shot under the guise of oversight? Finally, Mr. Speaker, we are proposing to give the governor and others with expenditure authority unlimited power to reprogram lapsed funds retroactive to October 1st 2007, but we do not know if they have already exceeded their budget authority nor do we even know exactly how much money we are talking about. The Senate committee report refers to data that is almost three months old.

Appendix A of this bill draws on data from January. And then we are threading into dangerous territory again, Mr. Speaker, when we relinquish our authority to control the government purse. Suppose the governor were to use his unlimited reprogramming power to direct funding towards costly litigations against the federal government or towards expensive and ambiguous consultancies. Can any of us honestly say that this would be a prudent use of funds in the best interest of the public given our serious infrastructural and fiscal woes? But we have no controls whatsoever to safeguard against this waste. Unlimited power is unlimited. So I would like to ask again – how can we vote on this measure not knowing really what we are voting on and how is this a solution? And with my time remaining, I realize that I may be criticized for not offering solutions of my own, let alone a bill of my own. But the fact is, Mr. Speaker, that we have not done enough as a body with the solutions that are staring us in the face. We know that there are unexpended federal funds, tens of millions of dollars available for the CNMI for capital improvements that could be directed towards CUC but are not. Well, why not? We can certainly do more that we have to investigate the reasons for this government’s failure to use those funds and make those reasons known to our people who are also asking the very same questions. We have H. B. NO. 16-77, which would lay down the guidelines for a transparent and legitimate privatization process for CUC including mandates for renewable energy, and it sits in the House Committee on Public Utilities, Transportation, and Communications. We can act on that bill, and we can cut cost in all branches of government. Downsizing is inevitable. We all know that. We just have to have the will and we have to be honest with our people when we do so.

Speaker Arnold Palacios: Representative Sablan, let me give you some background on this legislation.

Representative Sablan: Let me just finish, Mr. Speaker.

Speaker Arnold Palacios: I thought you were done.

Representative Sablan: No, not yet.

Speaker Arnold Palacios: Please be brief because you already –

Representative Sablan: Yes. You said in your inaugural address very eloquently that a new era of policymaking can begin with this legislature. You said that we must stop with a shortsighted shoot from the hip strategy that has characterized legislatures of the past. You said that we need a plan, and I agree. And while we recognize the urgency of our times, Mr. Speaker, we should not be driven by fear or desperation when we act. We do need a plan – a sound, cohesive, transparent, and long term plan that involves the concerted efforts of all the leaders of the Commonwealth sitting at one table. Such a plan cannot be developed, Mr. Speaker, in private bathroom meetings where deals are struck between a handful of members and the governor. These meetings are the trademark of old policies and tired politics and these have not served our people. While I recognize that the likelihood of us not acting on this bill today and doing anything different today is slim, I also realize that there is only so much that I can do as one member, a freshman at that, and an independent to boot. But I want to state for the record, Mr. Speaker, that if and when the members of the body and the administration are ready to change the old ways of doing things and engage in meaningful and measured planning and action, I am ready to participate and to lend my full support to your leadership. But in the meantime, I cannot be complicit to the shortsighted and fear-driven policies that are put forth in this bill. And I would like to request that my name be removed from the list of sponsors. I also move to amend this bill, Mr. Speaker, by deleting lines 21 through 26 on page 9.

Speaker Arnold Palacios: Representative Sablan, before you make a motion, you touched on certain issues that require some reply from some of us. So please wrap up before you make a motion.

Representative Sablan: I am done. I actually wanted to request that my name be removed from the list of sponsors and I would also like to offer an amendment after members have had a chance to respond.

Speaker Arnold Palacios: Okay. Let me for the record state in my inaugural address I hoped that we can begin to carve up new ways of doing things. But when you have a vessel carrying the fuel with CUC basically penniless, the coffer is empty as Representative Hofschneider mentioned, we have to move. This is not fear driven, it is reality. I took at your urging a serious consideration to repealing Public Law 15-94. I took that step. Yes, the Senate crafted the substitute to H. B. NO. 15-79 that included many components of H. B. NO. 16-90. The Committee on Ways and Means, the Vice Speaker, Vice Chairman Hocog, and Representative Apatang were present at the meeting when it was called by the Senate Fiscal Affairs Committee. I briefly dropped in and the Secretary of Finance was present. The Special Assistant for Administration who is also the Acting Budget Officer was also present. These people sat down and looked at all the issues confronting us. One is to repeal Public Law 15-94 so that we can have CUC and PUC work on an interim rate or suspend the seventeen cents set by Public Law 15-94. That was one of the pieces put and considered in the meeting yesterday. I walked away confident that the Committee on Ways and Means Chairman and our Vice Chairman as well as other member of the House sitting with the Senate Committee Affairs would address this issue. Although when I looked at this bill, there are provisions that I did not expect to be in there. If we were to weigh the urgency versus those particular provisions that to me may be objectionable, I would rather put my objections aside and move on with this. And I agree with you that this body should begin to look at the issue of CUC and put together a plan to address the generation of power or the power plant itself. We cannot continue to put four million dollars here, two million dollars there – we must address this issue holistically. That is why I brought up with the Washington Representative yesterday that we have to sit down. If it is going to be this body to initiate it, we will. This body has been sitting and waiting, because it really does not have any authority to inject itself into CUC being an autonomous agency and being that the Executive Branch seems to be periodically -- and sometimes now, I believe, conveniently -- going in and declaring states of emergency in and out. But is going to have to come out of the Committee on Public Utilities, Transportation, and Communications on how to address the sourcing of financial resources to CUC so that we can have a stabilized and better infrastructure. That is my take on that. Representative Apatang was present at the meeting two days ago, Representative Hocog was also present and these members may, at their option, certainly interject and inject themselves into this discussion. I recognize Representative Hofschneider.

Representative Hofschneider: Thank you, Mr. Speaker. I know the Floor Leader urgently needs to leave. I will keep it short. Nothing is perfect. We started off with this bill with good intentions, not the best solution in dealing with the Retirement Fund and the current situation of CUC, at the same time keeping in mind the scarce resources in the General Fund and the other pressure that comes from the General Fund by way of departments, agencies, and programs. Be it as it may, Mr. Speaker, to summarize the urgency – last night I appeared for two hours on the John Gonzales show (MP 96950). In the entire two hours, a caller called in and was audibly irritated. He said, Heinz, all the things you are doing, we support, but please put that secondary and pay attention to CUC because that is where we are hurting. A majority of the people out there are hurting, businesses are hurting. He was repeatedly appealing to the legislature, the House and Senate, that we need to work together. This bill went up to the Senate and came down quite different. Insertions of things that are not

necessarily to my liking, but I have to compromise. The art of legislating is knowing when to compromise to achieve the greater good, the greater aim. Nothing is perfect and will ever be perfect in this body. But when things are really critical in need and attention, we have to trust that flagrant and outright abuses of resources may be checked by this body, by the taxpayers, and by the Public Auditor to name a few. In summary, Mr. Speaker, I want to make it perfectly clear that this bill is an appropriations bill. The reason why I am raising this is to send a message to the Governor that the things that are not comfortable to him, he may in fact line item veto those and remove it from the content of this bill and sign this into law to give the direct aim at intention of this bill to provide funding for fuel for CUC so that we can sustain ourselves. The bigger picture is obviously mentioned by Representative Sablan and that is we need to come together and decide to deal with CUC first short term and long term and put finality to this debacle. One of them is the legislation. But for now, I ask, even Representative Sablan, that this remedy is a truncate approach to try and save what we have to save in the immediate time and let us look at the longer or even the medium range solution to the problems. Thank you.

Representative Benavente: Mr. Speaker, it will not be proper to debate on how well you have led the House of Representatives, so I would not and limit my comments on this legislation. I would agree with Representative Sablan's statements that there are a lot of things that we do know, but I feel what we have before us is a solution to something that we know. And that is, we have a situation where CUC will not be able to afford paying for the shipment of oil, which obviously means that they will shutdown the power plant. We do not understand why or how that happens, well, let me try to explain. CUC purchases its fuel two different ways. Fifty percent of those purchases is done via the transshipment of fuel directly to the CUC tanker and fifty percent is purchased from Mobil's fuel farm. On a daily basis that fifty percent of the fuel means fifteen days for every month. So if we do not purchase that fuel, that tanker translates fifteen days out of the thirty that we might be out of power because the lack of fuel. Picture that in this community. That is the reality of what we know might happen, and there are other information what we know of with regards to this because of the shortfall for operations that this government is faced with that... *(End of Tape 1 Side B) (Start of Tape 2, Side B)* ...most important that we need to act on is to remove this possibility of jeopardizing critical public service. This is service to our people, so I also ask that we put that objection aside and pass this legislation. Thank you.

Speaker Arnold Palacios: I am going to really limit time allotted to each member. Representative Reyes.

Representative Reyes: Thank you, Mr. Speaker. I also have a lot of reservations on this bill, but you said it yourself, priorities. The bottom line is CUC does not have the money. I do not know how reliable this source is but I have been told that if we do not have the money by Friday, we do not have fuel and we do not have power. This is going to cause a lot of problems to the entire community. I do not want to feel responsible for not acting on this legislation now and voting yes for it should it happen that there is not fuel delivery because there is no money to pay for it and the power will shutdown and it will cripple everybody—essential services, businesses. We stand to lose more so to speak than to consider the objections that may not be popular in the bill. But, Mr. Speaker, I will support it because we have to pay for fuel because if we do not have the funds, we do not have power and I do not want to be responsible when that happens. Thank you.

Speaker Arnold Palacios: Let me allow Representative Hocog to deliberate. He is the Vice Chair of Ways and Means and he was present at the meeting, so maybe he can give a summary.

Representative Hocog: Thank you, Mr. Speaker, while I share the concern of Representatives Sablan and Representative Hofschneider, with all due respect, I must recognize the efforts of the Senate by providing the committee report on the impact of this legislation as well as having the courtesy with good intent to invite the members of the House, particularly the Committee on Ways and Means to sit with them and come up with the most workable approach in addressing the eminent needs of CUC. Mr. Speaker, as what was stated, nothing is perfect. But, I can only urge the membership to seriously consider this urgent House bill before us and to put confidence on the many heads that have looked into and worked on the bill. As far as having the line item veto rest with the governor, I have no doubt that will not happen for the fact that we have gotten the assurance from the Executive Branch as they took part in working on this bill in order that it will be passed also by this body. I understand that we all want to be like Saint Thomas – that we can only see facts if we touch them, by feeling them. But I must ask my colleagues that we also need, at times, to make high risk decisions on critical times. I am hoping, Mr. Speaker, that the action that we are about to take today will not in any way jeopardize due public services and we cross our fingers that none of the provisions will be line item vetoed. And because of the many heads that came together in the Senate President's conference room, I am very confident, Mr. Speaker, that this bill has merits to take our attention and support. God knows, we can only be a predictor of what will take place two days from now, but if we do not take any action today and assumingly that the true fact is that there is no money available to provide for the continuity of public services with respect to the utilities, then I will accept the blame if I and the rest of this body just decided not to support this legislation. With this, Mr. Speaker, I ask the membership to support this. Doing the right thing and doing it the right way is eminent at this point in time, thank you.

Vice Speaker Deleon Guerrero: Mr. Speaker, I move to end debate.

The motion was seconded by several others.

Representative Sablan: Does this mean, Mr. Speaker, that we will not be entertaining the amendment I was going to offer?

Speaker Arnold Palacios: That is what it means.

Representative Sablan: Can I just state for the record what I would have offered?

Speaker Arnold Palacios: Okay.

Representative Sablan: I would have offered an amendment that would have taken out lines 21 thru 26 on page 9 and the entire subsection (d) on page 10, which would allow the PUC to act and set rates even if there is just one member. That, I think, makes a mockery of regulations and -- to borrow from Representative Hofschneider's word -- it would make PUC laughable.

Speaker Arnold Palacios: Those are the sections that I also find objectionable and even question the validity. So I am glad every bill that has a severability clause. In case that it is determined unconstitutional and probably unlawful in terms of establishing a quorum -- a quorum of two in a five-member body -- the severability is that only that becomes unlawful and the rest stands. Ready?

Representative Salas: Mr. Speaker, could I?

Speaker Arnold Palacios: If there is no objection.

Representative Salas: I guess I am out of order.

Speaker Arnold Palacios: Could we allow our colleague a couple of minutes?

There was no objection from the floor.

Representative Salas: I just wanted to say, Mr. Speaker, that when H. B. NO. 16-79 and H. B. NO. 16-90 went up to the Senate, it came back to us with some amendments. I too have a lot of questions. In particular, some of the ones that Representative Sablan had indicated. I am not very, very comfortable with this particular bill in its form right now so I am going to ask that my name also be removed from being an author.

Speaker Arnold Palacios: Clerk, please take note. I will now call for the vote.

The Clerk called the roll on the motion to pass H. B. NO. 16-79, SD3, HD2, SS1 on Final Reading thereby accepting the Senate amendments:

Representative Edwin P. Aldan	yes (with reservation)
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	no
Representative Edward T. Salas	no
Representative Rosemond B. Santos	yes
Representative Ramon A. Tebuteb	yes
Representative Ralph DLG. Torres	yes
Representative Stanley T. McGinnis Torres	abstained
Representative Ray N. Yumul	absent (excused)
Speaker Arnold I. Palacios	yes

Speaker Palacios: By a vote of sixteen “yes,” H. B. NO. 16-79, SD3, HD2, SS1 hereby passes the House on Final Reading. Let me state for the record that although the Chairman of the Committee on Ways and Means is not present today, I want to acknowledge his efforts in meeting with the Senate Fiscal Affairs Committee to iron out an agreement in the form of the Senate substitute. I know for a fact that he was a little stressed in trying to get this through the Senate. I wish to acknowledge his contributions although he is not able to be here to vote on this today. With that, we do have urgency with one of our members and, if there is no objection, I would like to ask for an adjournment subject to the call of the Chair.

ADJOURNMENT

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

Floor Leader Camacho: Mr. Speaker, thank you. I move to adjourn subject to your call.

The motion was seconded and carried by voice vote.

Speaker Arnold Palacios: The House stands adjourned subject to the Call of the Chair.

The House adjourned at 12:09 p.m.

Respectfully submitted,

Evelyn C. Fleming, House Clerk

APPEARANCE OF LOCAL BILLS

FIRST APPEARANCE: 1st Legislative appearance of a local bill is on the day it is introduced.

SECOND APPEARANCE: NONE

THIRD APPEARANCE:

H. L. B. NO. 16-10: A Local Appropriation Bill for an Act for the Third Senatorial District to appropriate \$4,752,000.00 from revenues collected pursuant to Saipan Local Law 11-2 as amended for Fiscal Year 2008; and for other purposes. (Rep. David M. Apatang)