



**House Journal**  
FOURTH SPECIAL SESSION, 2008

**Adopted:**  
**January 12, 2009**

**1st Day**

**Thursday, May 15, 2008**

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened in its First Day, Fourth Special Session on Thursday, May 15, 2008, at 2:05 p.m. in the House Chamber on Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

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

A moment of silence was observed.

The Clerk called the roll and eighteen members were present; Representative Reyes came in late and Representatives Rosemond B. Santos was absent and excused for the day's session.

Speaker Palacios: With eighteen members present, we have established a quorum for today's session. Representative Reyes will be coming in shortly. Representative Santos is excused for today's session.

**ADOPTION OF JOURNALS**

None

**INTRODUCTION OF BILLS AND INITIATIVES**

H. B. NO. 16-93: A Bill for an Act to amend Title 1, Division 1 by adding a new Chapter 6 to codify the provisions of Article II, Section 17, regarding the Legislative Bureau; and for other purposes.

Offered by: Representative Justo S. Quitugua and four others

Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 16-94: A Bill for an Act to repeal and reenact Chapter 8, Division 5, Title 4 of the Commonwealth Code relating to Mechanics' Liens, and for other purposes.

Offered by: Representative Justo S. Quitugua and four others

Referred to: Committee on Commerce and Tourism

H. B. NO. 16-95: A Bill for an Act to amend 3 CMC §§ 1311 and 1314 to provide that the NMC Student Council President shall be a voting member of the Board of Regents for the Northern Marianas College; and for other purposes.

Offered by: Representative Justo S. Quitugua and one other

Referred to: Committee on Health, Education, and Welfare

H. B. NO. 16-96: A Bill for an Act to prohibit the use of government or public funds to hire lobbyist without specific authorization by law.

Offered by: Representative Joseph N. Camacho

Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 16-97: A Bill for an Act to establish a CNMI Office of Transit Authority within the Office of the Governor; and for other purposes.

Offered by: Representative Ray N. Yumul

Referred to: Committee on Public Utilities, Transportation and Communications

H. B. NO. 16-98: A Bill for an Act to amend Title 2, Division 5, Chapter 6 of the Commonwealth Code by adding a new Section to Article 4 to establish recreational fishing license fees; and for other purposes.

Offered by: Representative Ramon A. Tebuteb

Referred to: Committee on Natural Resources

H. B. NO. 16-99: A Bill for an Act to mandate that the Commonwealth Utilities Corporation establish standard meter reading procedures to ensure that consumers are billed accurately; and for other purposes.

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

Referred to: Committee on Public Utilities, Transportation and Communications

Representative Stanley Torres: Mr. Speaker, H. B. NO. 16-99 is very important to the customers so I recommend that we this bill place on today's calendar for action.

Speaker Arnold Palacios: Okay, we will consider that when we get to the Bill Calendar.

H. B. NO. 16-100: A Bill for an Act to designate land parcel 018-G-03 in Kagman as a public park to be known as the Kagman Arboretum & Community Park; and for other purposes.

Offered by: Representative Heinz S. Hofschneider

Referred to: Committee on Natural Resources

Representative Hofschneider: Mr. Speaker, with the indulgence of the members, this bill has been resurrected and since the 12<sup>th</sup> Legislature, numerous public hearings have been conducted and committee reports have been submitted. With that, I humbly ask that we deal with this legislation on today's calendar.

Speaker Arnold Palacios: Is there any objection?

There was no objection from the floor.

Representative Sablan: Mr. Speaker, with all due respect to Representative Hofschneider – may I be recognized?

Speaker Arnold Palacios: You are now recognized.

Representative Sablan: Mr. Speaker, I was not here during the 12<sup>th</sup> Legislature and there is no report at this time. I wish to have some time to review the proposal, perhaps consult with the Zoning Board, and the Committee on Natural Resources and the representatives from Kagman.

Speaker Arnold Palacios: That is a well articulated concern. We will deal with the placement later. We have quite a number of bills on the calendar and if we have time, we will resurrect the issue of whether we can put it on today's calendar. Thank you.

H. B. No. 16-101: A Bill for an Act to repeal and reenact Chapter 1 of Division 8 of Title 4 of the Commonwealth Code (4 CMC § 8111 et seq.), as established by Executive Order No. 2006-04, reorganization Plan No. 2 of 2006 relating to the Commonwealth Utilities Corporation; and for other purposes.

Offered by: Representative Victor B. Hocog

Referred to: Committee on Judiciary and Governmental Operations

Representative Hocog: Mr. Speaker, there is no need for this bill to be provided a public hearing as we are just trying to reinstate Public Law 4-47 and to create the Commonwealth utilities with its corporate establishment to ensure a board will be in place. If there in no objection, I would like to have this bill placed on today's calendar if time permits.

Speaker Arnold Palacios: Is there any objection?

Representative Sablan: Objection.

Speaker Arnold Palacios: Representative Sablan, do you object to placing it on the Bill Calendar?

Representative Sablan: I do object, I think legislation with this magnitude should be reviewed.

Speaker Arnold Palacios: Okay. I now recognize Representative Babauta.

Representative Babauta: May I recommend to the members wishing to place their bills on the Calendar that upon entrance of Item 16 we will then discuss whether or not a bill is worth or needs to be placed for further deliberation. Thank you.

Speaker Arnold Palacios: Thank you, Representative Babauta. We will take up that question under Item 16. Is that okay, Representative Hocog?

Representative Hocog: You are the rule, Mr. Speaker.

Speaker Arnold Palacios: Thank you.

H. B. No. 16-102: A Bill for an Act to appropriate Three Hundred Fifty Thousand Dollars (\$350,000) from the Tobacco Control Fund pursuant to Public Law 13-38 beginning Fiscal Year 2009 for the Public School System Coordinated School Health Education Program; and for other purposes.

Offered by: Representative Justo S. Quitugua

Referred to: Committee on Ways and Means

H. B. NO. 16-103: To re-appropriate the fund balance of \$125,835.97 from the San Vicente waterline improvement project to the San Antonio Drainage project at the intersection of Tun Tomas Sablan Road to Sagamilon and Liguana St., respectively; and for other purposes.

Offered by: Representative David M. Apatang

Referred to: Committee on Ways and Means

*House Legislative Initiatives:*

H. L. I. NO. 16-16: A House Legislative Initiative to amend Article III, Section 10 of the Constitution of the Northern Mariana Islands to restrict the Governor's Emergency Powers.

Offered by: Representative Joseph N. Camacho

Referred to: Committee on Judiciary and Governmental Operations

*House Local Bills:*

H. L. B. NO. 16-11: A Local Appropriation Bill for an Act for the Third Senatorial District to reappropriate the \$75,000 from Saipan Local Law 15-12; and for other purposes. ()

Offered by: Representative Joseph C. Reyes [First Appearance]

H. L. B. NO. 16-12: A Local Appropriation Bill for an Act for the Second Senatorial District to appropriate \$18,500.00 from the local license fees collected for pachinko slot machines and poker machines in the Second Senatorial District; and for other purposes. ()

Offered by: Representative Edwin P. Aldan [First Appearance]

H. L. B. NO. 16-13: A Local Appropriation Bill for an Act for the First Senatorial District to appropriate \$21,000 from the local license fees collected pursuant to 10 CMC § 1901 (Rota Local Law 14-7); and for other purposes.

Offered by: Representative Victor B. Hocog [First Appearance]

H. L. B. NO. 16-14: A Local Appropriation Bill for an Act for the Third Senatorial District to reappropriate \$242,056.00 from the FY 2007 lapsed funds collected pursuant to Saipan Local Law 11-2 as amended for various road paving in Precinct 1 and for other purposes.

Offered by: Representative David M. Apatang [First Appearance]

H. L. B. NO. 16-15: A Local Appropriation Bill for an Act for the Third Senatorial District to reappropriate \$344,305.00 from Saipan Local Law 16-2 Section 2 d)(1) to Alu Drive for the Construction of the sewer collection line to the main sewer gravity line of CUC and for road improvement on Alu Drive in San Antonio area; and for other purposes.

Offered by: Representative David M. Apatang [First Appearance]

**INTRODUCTION OF RESOLUTIONS**

H. R. NO. 16-17: A House Resolution to express the strong objection of the House to Executive Orders 08-03, 08-04, and 08-05.

Offered by: Representative Victor B. Hocog and seventeen others

Representative Hocog: If I may ask, Mr. Speaker, that we place this on the Resolution Calendar. Everybody is welcome to sign the resolution, Mr. Speaker.

Several members voiced “no objection.”

Speaker Arnold Palacios: There is no objection, so we will place that on today’s order of business.

### MESSAGES FROM THE GOVERNOR

*(Representative Reyes took his seat in the Chamber at 2:13 p.m.)*

GOV. COMM. 16-88: (5/2/08) Informing the House that he signed into law H. B. NO. 16-55 (re Possession of Driver’s License) into **Public Law 16-1**.

GOV. COMM. 16-89: (5/3/08) Informing the House that he signed into law H. B. NO. 16-79, SD3, HD2, SS1 (re CUC Electrical Rates; 11% Retirement Contribution; Suspend Earmarking of non-general Funds; Raise Driver’s License and Motor Vehicle Registration Fees), into **Public Law 16-2**.

GOV. COMM. 16-90: (3/19/08) Copy of the Governor’s letter to Mr. Jay Nelson, Global Ocean Legacy regarding the establishment of a marine sanctuary in the CNMI.

GOV. COMM. 16-91: (4/29/08) Copy of the Governor’s letter to U.S. President George W. Bush regarding the designation of a Marine National Monument in the CNMI.

GOV. COMM. 16-92: (5/6/08) Appointing Mr. David Burger to serve as a member of the PUC representing Saipan. (For consideration)

GOV. COMM. 16-93: (5/6/08) Appointing Ms. Laura Mangloña to serve as a member of PUC representing Rota. (For consideration)

GOV. COMM. 16-94: (5/7/08) Certification of vacant position at the Department of Commerce.

GOV. COMM. 16-95: (5/5/08) Informing the House that he signed into law H. B. NO. 16-7 (Tinian Jr. /Sr. High Electrical Upgrade Appropriation). [Became **Public Law 16-3**]

GOV. COMM. 16-96: (5/7/08) Certification of vacant position at the Department of Community and Cultural Affairs.

GOV. COMM. 16-97: (5/8/08) Informing the House that he signed into law H. B. NO. 16-1, HD1 (To amend the Local Law Act to take into account the Rota Casino Initiative). [Became **Public Law 16-4**]

GOV. COMM. 16-98: (5/2/08) Appointment of Mr. Antonio Muna as the Executive Director for CUC.

GOV. COMM. 16-99: (4/26/08) Declaration of State of Emergency for Anatahan.

GOV. COMM. 16-100: (5/12/08) Executive Order 08-03 – Reorganization Plan No. 01 of 2008, allocating the Commonwealth Ports Authority (CPA) to the Office of the Governor for 120 days.

GOV. COMM. 16-101: (5/12/08) Executive Order 08-04 – Declaration of a State of Disaster Emergency: CPA Approach of Technical Default on \$20 Million Indenture.

GOV. COMM. 16-102: (5/13/08) Executive Order 08-05 – Reorganization Plan No. 02 of 2008, superseding Reorganization Plan No. 01 of 2008 re CPA.

GOV. COMM. 16-103: (5/13/08) To Mr. Lee Cabrera with regards to the implementation of EO 08-04; Declaration of State of Emergency Disaster; EO 08-05 pertaining to CPA.

GOV. COMM. 16-104: (5/13/08) Certification of vacant positions at the Department of Labor.

GOV. COMM. 16-105: (5/13/08) Certification for an annual salary in excess of \$50,000 for Dr. Irma Lucia Morales-Halaby.

The Chair recognized Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. I just realized that Representative Hocog just introduced a resolution and it will give us the opportunity to discuss further the Governor's actions with regards to the executive orders and the declaration of the state of emergency disaster. And because GOV. COMM. 16-102, which is Executive Order 08-05 Reorganization Plan No. 2 is superseding the first reorganization, basically the first executive order is moot and we should only discuss Executive Order 08-05. Is that how everyone reads it?

Speaker Arnold Palacios: That is correct.

Representative Benavente: Okay. And as I said since we have the resolution before us, I am sure that I and most members would discuss and should probably discuss that further during the deliberation of the resolution. Thank you.

Speaker Arnold Palacios: I now recognize Representative Hofschneider.

Representative Hofschneider: Mr. Speaker, I read that as a gag order on me not to debate on this so I will rest until we get to the resolution.

Speaker Arnold Palacios: I did not order the gag. Any other comment or statement on the Governor's communications? I recognize Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. This is in reference to GOV. COMM. 16-92 and 16-93. While I am please to see that new more members for the consideration of the Senate and the House for the Public Utilities Commission I would like to strongly urge that this body

consider formalizing a procedure for confirmation hearings for these nominees. This actually came up during the meeting that my Saipan Delegation PUTC Committee organized with Ms. Kimberlyn Hinds and with the other two members of the PUTC who are now confirmed as well. All three of them said that there should be a formal process for reviewing these nominations and for properly and thoroughly vetting the people who have been appointed by the Governor. So I would like to ask Mr. Speaker, that you perhaps appoint an ad hoc committee or use your discretion, but to formalize the procedures for reviewing these nominations.

Speaker Arnold Palacios: Your points are well taken. I will confer with the chairs of the committee who I will most likely assign those communications to, which most likely would be the Committee the Judiciary and Governmental Operations and the Committee on Public Utilities, Transportation, and Communications. I would certainly encourage them to get your input on the procedures or criterias to weigh on the nominations.

Representative Hofschneider: Mr. Speaker, I think the most appropriate entity in terms of permanently emplacing procedures in our House Rules is really the esteemed Floor Leader. He should take the lead in setting up the rules for appointments and confirmation.

Speaker Arnold Palacios: I will take into consideration and I will certainly call and confer with him. Thank you for those recommendations.

Representative Apatang: Mr. Speaker, on GOV. COMM. 16-94, 16-96 and 16-104 all it is saying is certification for vacant positions at various departments but it does not say anything about what kind of position. I would like to ask the Chairman of Ways and Means to look into these before we even sanction these vacancies. I would like to ask the Chairman to also look at the previous communications and provide us more information.

Representative Benavente: Clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Benavente: Actually those communications do actually state the positions of law enforcement officer and others, and just so that we clarify these further, the Governor is required by law to certify any vacant position under a continuing resolution. It is not necessarily hiring new individuals for old vacant positions, in which we have been advising him not to, this could be just a replacement of much needed positions within the Administration. The law says that the governor shall certify those to the legislature, the only thing that we can do is have an oversight hearing or get justification, but the law authorizes the governor to replace those vacant positions upon certification to the legislature. Thank you.

Speaker Arnold Palacios: I believe that you are correct. I also think that the good Representative is asking if the Chairman of the Committee on Ways and Means can take a look at these positions whether they are indeed funded in the continuing resolution and verify that. I do not think we have done that in the past and it kind of just goes by, goes through. So I think it would be appropriate to have the Committee on Ways and Means look at the continuing appropriations

act to see if these positions are indeed approved under the FY 2007 budget. Representative Quitugua?

Representative Quitugua: Mr. Speaker, if I may, I would like to ask if the Chairman of the Committee on Ways and Means can look at these positions and see whether these positions are recommended in the budget submission for deletion or are not funded for Fiscal Year 2009. If they are identified as zero-funded, it is going to throw off the amount in the Governor's proposed budget.

Representative Yumul: Mr. Speaker, if you look at the flip side of GOV. COMM. 16-94 and GOV. COMM. 16-104 you will see the respective department's attached letter. These are within the dates that would still keep those positions as valid. After ninety days that a position is not filled, it automatically dissolves. With regards to GOV. COMM. 16-104, the handwritten note so the left does state that the first three positions are funded for FY '09 and the rest were zeroed out. I will verify that for you, but just on the surface, these are critical positions. These are law enforcement positions and some are due to resignations of actual employees. I would take it on face value that it would seem to be okay, but, again, I will verify.

Speaker Arnold Palacios: Thank you. We move on to Senate Communications.

### **SENATE COMMUNICATIONS**

SEN. COMM. 16-35: (5/6/08) Transmitting a certified copy of S. R. NO. 16-13, entitled, "A Senate Resolution to commend and recognize the outstanding leadership of Mrs. Ramona T. Rubuenog "Mona" in the successful coordination of the 27<sup>th</sup> Flame Tree Festival," which was adopted by the Senate. [For info]

SEN. COMM. 16-36: (4/29/08) Certified copy of S. J. R. NO. 16-4 (re Northern Islands National Monument). [For info]

There was no discussion under this item of the Order of Business.

### **HOUSE COMMUNICATIONS**

HSE. COMM. 16-40: (5/1/08) From Representative Stanley Torres with regards to utility subsidy.

HSE. COMM. 16-41: (5/1/08) From Representative Reyes regarding the transfer of \$4 Million from CDA to the Administration.

HSE. COMM. 16-42: (4/30/08) From Representative Yumul to all department and activities heads regarding the budget hearings for FY'09.

HSE. COMM. 16-43: (4/5/08) From Representative Reyes to Governor Fitial recommending that a board member or the executive director for CDA be appointed to the PUC.

HSE. COMM. 15-44: (5/5/08) From Representative Reyes to Mr. Oscar Camacho (CDA) and Mr. Antonio Muna (CUC) requesting for updated information with regards to the MOA signed on January 2004.

HSE. COMM. 16-45: (5/14/08) From Representative Santos requesting for extension of time to review H. B. NO. 16-38.

The Chair recognized Representative Hofschneider.

Representative Hofschneider: Mr. Speaker, I would like to submit two communications. I believe that my office furnished you and each member a copy and I will dispense with reading the letters. If not, I will read the letter. One is address to Mr. Antonio S. Muna, Acting Executive Director and the other is to Ms. Lou A. Leon Guerrero, Chair of the Board of the Bank of Guam.

The following were submitted and entered into the House records.

HSE. COMM. 16-46: (5/14/08) From Representative Hofschneider to Ms. Lou A. Leon Guerrero, Bank of Guam Chair, as trustee for \$20M Bond Series for CPA with regards to the financial situation, bond rating and Governor's executive orders.

HSE. COMM. 16-47: 5/14/08) From Representative Hofschneider to Mr. Antonio Muna, CUC Executive Director requesting for historical data for electrical fuel rate (EFR).

Representative Sablan: We have not received those documents.

Representative Hofschneider: Let me just quickly read it then for the members who do not have their copies.

Speaker Arnold Palacios: Without objection from the floor.

Several members voice "no objection."

Representative Hofschneider: Dear Ms. Leon Guerrero: On May 1, 2008, representatives of the Commonwealth Port Authority and the Bank of Guam, as trustee for the Airport 1998 Revenue Bond Series A, met with Members of the Legislature to discuss the precarious financial situation of the port authority and to seek support for various legislative measures including revenue enhancement proposals and other items deemed necessary to satisfy bondholders and rating agencies. At no time during this briefing was there a mention of the need for an executive order that reorganizes government to effectively place the Commonwealth Port Authority under the Office of the Governor for a period of 120 days. Since the trustee has obligations to the market, bondholders as well as to the government agency it services, I relied and continue to rely on your representations regarding the financial status of the port agency, and your apparent willingness to accept the outline of the remedial proposals discussed at this meeting, without the need for an executive order. Let me know at your earliest convenience what purpose Executive Order Nos. 08-03,08-04, and 08-05 serves, whether the Bank of Guam as trustee, required it, and what effect

this will have on the agency's financial standing and the CNMI's bond rating. Explain, too, what effect this will have on the Rycondo & Associates report due out on June 2008. EO Nos. 08-03 and 08-5 specifically states that ". . . the Commonwealth Port Authority, through its inability to get a quorum at a number of its board of directors meetings, has approached technical default on the March 1, 1998 indenture on the Commonwealth Port Authority Revenue Bonds; ... ". Since a technical default is a specific term of art reflecting particular conditions and requiring certain action, please advise if a technical default has in fact been called, and if so, when, by whom and under what circumstances. If not, will this action by the Executive Branch trigger a technical default, and can this be regarded as favorable in any way? Given that time is of the essence, it is my hope that I can look forward to hearing from you soon. And the other, Mr. Speaker, is to Mr. Muna regarding my request to substantiate, breakdown and request for historical data on the electrical fuel rate ("EFR") going back six months in history and to ascertain to the public and to this body how did they arrive at the new rate that has been recently published.

Speaker Arnold Palacios: Thank you.

Floor Leader Camacho: Mr. Speaker, I apologize but there is construction going on, and there is—at least from our side—a really loud buzzing sound.

Speaker Arnold Palacios: Sergeant-at-Arms, would you take care of that.

Floor Leader Camacho: Thank you, Mr. Speaker.

Speaker Arnold Palacios: Let us take a one minute recess.

*The House recessed at 2:31 p.m.*

*RECESS*

*The House reconvened at 2:33 p.m.*

Speaker Arnold Palacios: We are back in session. Representative Sablan?

Representative Sablan: Mr. Speaker, this is in reference to Representative Hofschneider's communication to Mr. Tony Muna. I would like to note for the record that Mr. Muna did respond by email explaining the justification for the rate increase. I went ahead and forwarded that to the members for review, but it includes attachment including a computation of the electric fuel rate for May, the fuel purchase history for CUC and a couple of other documents that will be helpful for everybody.

Representative Hofschneider: Addressed to me?

Representative Sablan: Yes, this is addressed to Representative Hofschneider, me, and Representative Victor Hocog. The three of us have submitted inquiries to CUC.

Speaker Arnold Palacios: Representative Hofschneider?

Representative Hofschneider: Mr. Speaker, I guess I have to send the same letter back. I am asking for the formulary use. I am not asking for what they have concluded using a formula. I guess I have to break it down to every single meaning of the word—what is the price, what is the formula to begin with, and has it changed over time? I know for a fact that the formula has been change for the recent rate and it purports to recover the loss as a result of P.L. 15-94 which is on the seventeen cents. It is illegal to do so. I am asking for the formulary in place, historically, and break it down. You have a fourteen million dollars payroll cost, what is that computed to in kilowatt hours that every consumer is paying for. You have an inefficiency factor based on dilapidated generators, line losses, cross subsidization of operation cost on running those deep well pumps, cross subsidization between power over to sewer and water at a tune of five million dollars. What is that in kilowatt hours? Cross subsidization between Saipan consumers and operational costs for Rota and Tinian. What is that in terms of kilowatt hours?—that is what I am talking about. *(End of Tape 1 side 1) (Start of Side B)* ...Mr. Speaker, I want to put on record that when a member of the legislature writes and asks for an answer in writing, do not send me an email or text because I would assume that it was discombobulated in getting into my email. The purpose is to write and respond in writing for purposes of including it in public records. Do not assume that everybody has a computer. It does not work that way. Thank you.

Speaker Arnold Palacios: Those are points well taken. I now recognize Representative Hocog.

Representative Hocog: Mr. Speaker, I am very happy to go over the House communications and see a couple of my hardworking colleagues do their research and findings. I would like my good colleague, Representative Torres, to tell the representatives from Rota and Tinian, how they enjoy the power situation in Rota. My good colleague here said that he noted that the residents of Rota and Tinian enjoy CUC power rates lower than the cost to produce that power.

Representative Stanley Torres: Mr. Speaker, I guess my good colleague from Rota can read and understand. The letter in plain and self-explanatory. The eight hundred thousand dollars that we are paying for Rota and Tinian in the amount of four million seven hundred thousand dollars for power expenditures is coming out of the collections from Saipan consumers. I would say that that is lower because they are not coughing up enough to match their shortfall.

Representative Hocog: Thank you, Representative Torres for the substantiation of the Rota citizens' enjoyment of the lower cost of power rate. Mr. Speaker, in as much as we all understand that the municipalities of Rota and Tinian do not own – I repeat, do not own – the CUC power generation system. It is incumbent upon the corporation created under Public Law 4-47 to ensure that its subsidiary projects and responsibilities are well equipped with what it takes to run power generation system. I believe there is no enjoyment from the people of Rota and the people and the people of Tinian as we all pay, like the residents of Saipan. We are also being charged the same rate and the residents of Rota do not use power to generate enough pressure for water to be pumped into your faucets. We have a free gravitational flow of water that provides water to every household without using power generation. Secondly, we do not have a sewer system that will eat much more of the enjoyment as mentioned, but we pay the same. Unlike Saipan, it has a sewer system with much power generation to make that sewer system work. Besides, Mr. Speaker, the Rota Legislative Delegation had provided the Commonwealth Utilities Corporation with much needed infrastructure funds without a penny being charged to CUC. So I

believe the compensation of enjoyment matches the amount of money that the Rota Legislative Delegation redirected to infrastructure needs to provide to CUC, which is their responsibility to put power distribution and transmission to outlying areas where people require power usage. There is nothing free, we are paying the same. I do not know how—it is probably justified because we do not have much population that we overspend eight hundred thousand, but I guess Tinian has to come up and justify how it spent four million more than Rota. Thank you.

Speaker Arnold Palacios: I now recognize Representative Aldan.

Representative Aldan: Thank you, Mr. Speaker. In the matter of the letter that Representative Stanley Torres wrote I believe we are seeing what the Senate made comments about with regards to what Representative Torres is saying. My point is, the money used to place those power plants in Tinian came from our CIP funding. The issue here is the people of Tinian did not negotiate for Telesource to run CUC in Tinian. It was CUC that negotiated with Telesource. The letter is sort of insinuating that we are getting less of what we are supposed to be getting. In the first place, we did not sign the lease or MOU that was signed with Telesource. CUC has to come out and justify why the subsidy is going to Tinian. It is not the people of Tinian that have to answer to that. As Representative Hocog mentioned, we pay the same rate. Coming from the delegation part, we are as frustrated as you are, Representative Torres, as to how this much subsidy is going to Tinian. I understand your point about getting subsidized, but trying to put and pin it on the people of Tinian that we are getting a lesser rate is not true. By the way, we are getting sued by USGS (U.S. Geological Survey) for three million dollars, and guess who is getting the water out of here—CUC. But Tinian is going to court. The Tinian Mayor's Office was brought to court and judgment was made that we have to pay three million four hundred thousand dollars—for water that CUC is taking out and billing the people of Tinian. Even with that, we tried negotiating with CUC to help us pay USGS for those water wells in Tinian, but we are going to try and pay it on our own somehow. But we are not going to come back and say why Saipan this, Saipan that. Let us stop pointing fingers and just try and help out each other. This is a very big issue that CUC is going through and all of us are suffering. That is all, Mr. Speaker.

Speaker Arnold Palacios: I now recognize Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. While I would agree with Representative Torres on his figures several years ago when Power Plant 1 was not having all these problems that it is currently having, I would disagree that that continues to be the situation. Recently, when Tony Guerrero was still the Executive Director for CUC, I called him up and asked him a question – what is it costing the people of Saipan or what is it costing CUC to generate one kilowatt hour? His answer to me basically was that is about the same as Rota at this point given the use of Power Plant 4 and the inefficiencies of that plant, and the millions and millions of dollars that we are using to repair the broken engines at Power Plant 1. All of those added together is actually making it expensive for everybody including customers here in Saipan. Because of the situation with the power generation on Saipan, it has really brought up the cost to the point where it is now about even. Even the difference in providing electricity to a much larger population and a smaller population such as what we have in the Commonwealth with Tinian, Rota, and Saipan it is understandable that utilities will be cheaper for a larger population. Everybody realizes that, but let us not claim that now, not when we are spending millions and

millions of dollars on the power plants here in Saipan and not in Tinian or Rota because that does add up to the cost of providing power. Thank you.

Speaker Arnold Palacios: Thank you. I now recognize Representative Yumul.

Representative Yumul: Thank you, Mr. Speaker. I am just going through the email from Tony Muna and the email is from a [tmuna@cucgov.net](mailto:tmuna@cucgov.net). Not too long ago, then US President Clinton signed the electronic paperless act basically saying to effect that any type of document transmitted by facsimile or electronic is deemed actual document or official document. So if this is actual email address then I will assume that this is authentic. My issue is with the contents of what he is saying that because of a percent decrease – he is talking about kilowatt sales for January 2007 versus May 2008 – that there is a drop of about twelve point six percent. So is he trying to say then that because there are lesser customers on the grid that we have to pay for them? What about those customers who are not on the grid, such as, the hotels and the larger corporations. Are we then to say that CUC is not actively engaging these customers to get on the grid so that we can get more out of the power generation? If no one is on the grid, obviously, those engines, as long as it is spinning, it is producing. Whether we are paying for it or not, whether we are using it or not, it is burning up fuel. So I think this is a very serious issue that needs to be brought up by the Chairman of the Committee on Public Utilities, Transportation, and Communications. We need to validate this type of statement. The way I am reading it is that because there is a reduction in customers, it adds on to this so-called rate. I do agree with Representative Hofschneider that throwing numbers is far short of actually showing us the actual formula that he is using. Thank you.

Representative Hofschneider: Mr. Speaker, accountants by nature can do the somersault endlessly. With all due respect, the common people can not find a way through the smoke. So what I was asking specifically is for him to tell us the formula, that it is the standard industrial formula for electrical generation and this component attributes to the losses computed on an average: this component is attributed to the cost of fuel—whatever the cost of fuel; this component is for internal operational cost; this component is for depreciation. That is what we are asking. It is fine and dandy if you tell me there is a twelve percent drop. I can understand that. That is basic supply and demand. If the cost goes up, demand goes down. But in this respect, there is something in basic economics that does not work. You have a dilapidated engine that is not capable of producing beyond twenty four point eight megawatts and you have a twelve percent loss yet your rate has gone beyond the justified market price of the oil. The whole reason behind this is we suspended P.L. 15-94 to allow them to cost recover. The next day, he took us by surprise. It is beyond cost recovery. I want to see how they came up with thirty-five cents. I think the people deserve to know that if they are paying thirty-five cents per kilowatt hour and it is justified, then what can we do. But there are many uncertainties, mistrusts about what the people are paying. You can attempt and may achieve cost recovery for the last two months that P.L. 15-94 has been applied and that amounts to about three million dollars loss, but nowhere in the enabling law allows them to cost recover what has already passed. That is my point.

Speaker Arnold Palacios: Representative Hocog, would it appropriate to perhaps schedule a meeting with Mr. Muna. Bring him in to the House rather than having him email response that is

not responding appropriately to the questions being asked. Would you be amenable to finding out if you can schedule a meeting so that we can pose these questions to him?

Representative Hocog: Mr. Speaker, I believe Representative Hofschneider did forward his letter to Executive Director Muna, and he received a response and he is not satisfied with the response that was made. For the Speaker and the members' information, I also sent a letter to Mr. Muna, probably the same concerns that Representative Hofschneider is inquiring. I hope that I will not get the same fashion of response. If that happens, Mr. Speaker, your request will be so moved to invite Executive Director Muna to meet with the House members and answer those questions that Representative Hofschneider would like to know.

Speaker Arnold Palacios: Representative Torres.

Representative Stanley Torres: Mr. Speaker, I thought my letter is plain and self-explanatory but my colleagues from Rota and Tinian chose to defend. So I am putting on notice that I will be coming back with more bullets. Tinian consumers are causing the shortfall. One establishment by the name of Tinian Dynasty owes CUC eight hundred thousand dollars. Every time CUC threatens to cut off their power, the Tinian Dynasty jumps over to the Tinian Delegation to intervene and for protection. That is one issue that I am trying to put across. Anyway, I take the heat from the two representatives but I will be coming back with more.

Representative Reyes: Mr. Speaker, I think I heard you say that we will be meeting with the CUC Executive Director, so may I ask that we move on.

Speaker Arnold Palacios: Okay.

Representative Hocog: While Representative Reyes is holding the floor, Mr. Speaker, I would like to ask him to explain his finding of the four million dollars that he has been following up.

Representative Reyes: Mr. Speaker, my inquiry with my memo was replied through the newspaper and I really did not get an official reply from the person that I requested the information from. I have supported the request with numerous documentations, and perhaps it is best for me not to comment much further until I receive an official response that I can pass on to the members. Mr. Speaker, I also just passed out DEPT./AGCY. COMM. 16-27 in response to my request to CDA of my letter dated May 5<sup>th</sup> and that is HSE. COMM. 16-44. Thank you.

The Chair recognized Representative Sablan.

Representative Sablan: Mr. Speaker, a final comment on the communication from Mr. Tony Muna. I would just like to raise to the PUTC Chairman's attention that the email was addressed to him as well. So I think this was intended to be a response to his written communication. Also just a note here, Mr. Muna said that P.L. 16-2 did not specify who the fuel subsidy should benefit—whether it is residential or commercial—and also recommending that the subsidy be used not to reduce the fuel charge but to reduce fuel billing. I am not sure what the difference is, but if there is in fact going to be a meeting with Mr. Muna, I would like to recommend that we take those issues up at that point.

Representative Hofschneider: Point of clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Hofschneider: It is mind boggling that the Executive Branch has at their disposal numerous legal counsels and in fact they procure private counsels for independent agencies. And for Mr. Muna to say that he is not sure what P.L. 16-2 and the recipient thereabouts of the extension of the fuel subsidy...Mr. Speaker, I am not a lawyer, I never took law courses, but the suspension of P.L. 15-94 is on residential and we lifted that--very simple.

Speaker Arnold Palacios: Perhaps the question was posed and written by another lawyer. I now recognize the Floor Leader.

Floor Leader Camacho: Mr. Speaker, let me add my three cents on this CUC issue. I know everybody is tired. It has been a long day. We can go round and round sending letters and emails, but if we do not take decisive actions, I would like to call upon my very good and esteemed Chairman of PUTC to call in Mr. Tony Muna for answers, and not sit here and just make up answers. Put him under oath, put him on notice that if he lies, if he misleads this body, he is to be charged with perjury. That is the only way we can get an answer out of these people. From January to now, we have been talking about CUC over and over and over. We came in here January 15<sup>th</sup> with five gallons of patience and everyday a little has been taken out of that. Five months later, I am tired of sending letters, emails, and small signals and flare guns. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Thank you. That is a well put statement. I recognize Representative Hocog.

Representative Hocog: Mr. Speaker, I guess the good Floor Leader is out of gas and he only smells the fume, and that is why he is really hard on his statement today. I will, Mr. Speaker, subpoena the Executive Director to come here, and if the Committee on Public Utilities, Transportation and Communications is ready for an oversight make sure your question(s) is ready. If he fails to come when subpoenaed, I will ask the Sergeant-at-Arms to arrest him.

Speaker Arnold Palacios: Please let the members know the scheduled dates that you will have him come before the House. Thank you. We now move on to the next item on our agenda.

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

NONE

#### **COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE**

NONE

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

DEPT./AGCY. COMM. 16-24: (4/30/08) From Attorney General Matthew Gregory regarding appropriation for judgment in the case of Mr. Alfredo and Susan Gonzales.

DEPT./AGCY. COMM. 16-25: (4/14/08) From Public Auditor Mike Sablan to the Governor and the Presiding Officers of the Legislature informing them of his resignation, effective July 22, 2008.

DEPT./AGCY. COMM. 16-26: (5/14/08) From Chairman Jay Jones and Vice Chair Marian Aldan-Pierce (SEDC) inviting members of the legislature to attend their regularly scheduled meetings.

DEPT./AGCY. COMM. 16-27: (5/14/08) From Acting CEO Oscar Camacho, CDA, in response to Representative Reyes' inquiry regarding the MOA with CUC.

The Chair recognized Representative Quitugua.

Representative Quitugua: Mr. Speaker, on DEPT./AGCY. COMM. 16-24, to ease the load and the pressure that you have the Floor Leader and I are taking the initiative to act on this communication as soon as the Saipan and Northern Islands Legislative Delegation (SNILD) convenes.

Speaker Arnold Palacios: Thank you very much for addressing that issue.

Representative Stanley Torres: Mr. Speaker, it is not on the agenda but I would like to apprise the members about the rehiring of Rebecca Warfield as Assistant Attorney General, Assistant Prosecutor with a salary of sixty-five thousand dollars per annum, passing all the other assistant attorney generals like Tyrone, Stomps, Simms, Swagger, Mike Evangelista, Connor who are receiving a salary under sixty thousand dollars. The worst thing that happened is that she is placed under her husband who is the Chief Prosecutor. It is in direct conflict of the government rules and regulations on nepotism. What is going on with the Attorney General? Does he not understand that they are supposed to be alert and nepotism should not be practiced in that department? The Attorney General solicited the Governor's approval, it was him who requested the justification and forwarded to us. It is causing demoralization. It is okay that the Attorney General department is demoralized. I do not care. As long as Mr. Matthew Gregory is still the Attorney General who cares, right? So this is the impropriety that is now happening at the Attorney General's Office. Thank you.

Speaker Arnold Palacios: The Chair of the Committee on Judiciary and Governmental Operations is not here today, so I would like to request the Vice Chair to take a note of that and perhaps when the Chairwoman gets back see if we can write a letter to the Attorney General on this issue. Those are fairly serious concerns that Representative Stanley Torres has.

Representative Babauta: Mr. Speaker, if I may?

Speaker Arnold Palacios: Recognized.

Representative Babauta: Thank you, I was waiting for the recognition. I wish to acknowledge the contribution of our Public Auditor. Although it is sad to know that he will be leaving office soon,

I must applaud his efforts personally to the extent that he accomplished so much for that office in which the tremendous accomplishment is that he armed the office with our local potentials of accountants and certified public accountants. Aside from the many requests that he had received from this legislature and the previous legislatures, I find Mr. Sablan to be very competent and I wish him well and also to his family in his new endeavors. Thank you very much.

Speaker Arnold Palacios: Thank you. We move on to the next item.

### **OTHER COMMUNICATIONS**

MISC. COMM. 16-24: (4/11/08) From Executive Director Kitty M. Simonds (Wes Pac) thanking the Speaker for his participation at the 140<sup>th</sup> Council Meeting, and supporting the Governor's position not to support the Pew Charitable Trust's initiative regarding the Northern Islands National Monument.

MISC. COMM. 16-25: (12/20/07) From Director Jay Nelson, Global Ocean Legacy, to the Governor Fitial providing information about the organization and the designation of a marine monument in the CNMI.

MISC. COMM. 16-26: (5/14/08) From Mr. Angello Villagomez requesting to meet with the House on the week of May 20 to discuss any development regarding the national monument.

Speaker Arnold Palacios: I recognize Representative Benavente.

Representative Benavente: Mr. Speaker, I do not really have a problem with the letter in regards to MISC. COMM. 16-25, but I am concerned about the impropriety of this letter appearing in the order of business as it is not a letter addressed to you, it is not a letter providing a courtesy copy to you or any member. I just do not feel, I am not sure if you have the authority to include it, I mean, it was a letter that might have been circulated and passed among the members, but I just do not feel that it is proper.

Speaker Arnold Palacios: Let me apologize for that. Perhaps I had asked my secretary to submit that to the clerk. I apologize for the miscommunication.

Representative Benavente: Thank you, Mr. Speaker, that is all. Okay, we now move on to Reports of Standing Committees.

### **REPORTS OF STANDING COMMITTEES**

Speaker Arnold Palacios: Let us take a one minute break.

*The House recessed at 3:10 p.m.*

*RECESS*

*The House reconvened at 3:23 p.m.*

Speaker Arnold Palacios: We are back in session. Without objection, I would like to skip Item 12 and leave the standing committee reports in the calendar for our next session. We have some Resolutions and Bills that we need to get to this afternoon.

Several members voiced “no objection.”

With the consensus of the members, the House went to Resolution Calendar.

S. C. R. NO. 16-14: Reporting on H. B. NO. 16-57 entitled, “To provide the Mayor of the Northern Islands with the authority to issue landing permits for the islands north of Saipan; and for other purposes.” *Your Committee on Natural Resources recommends passage of the bill with amendments.*

S. C. R. NO. 16-15: Reporting on H. B. NO. 16-14, entitled, “To regulate the Land Exchange Program; and for other purposes.” *Your Committee on Natural Resources recommends passage of the bill.*

## **REPORTS OF SPECIAL AND CONFERENCE COMMITTEES**

NONE

## **UNFINISHED BUSINESS**

NONE

## **RESOLUTION CALENDAR**

Speaker Arnold Palacios: I now recognize the Floor Leader under Resolution Calendar.

Floor Leader Camacho: Thank you, Mr. Speaker. Pursuant to the Rules I believe you place H. R. NO. 16-17 on the Resolution Calendar.

Speaker Arnold Palacios: That is correct.

Floor Leader Camacho: Mr. Speaker, I then make a motion to adopt H. R. NO. 16-17 regarding the state of emergency to the Commonwealth Ports Authority (CPA)

The motion was seconded.

**H. R. NO. 16-17:** A HOUSE RESOLUTION TO EXPRESS THE STRONG OBJECTION OF THE HOUSE TO EXECUTIVE ORDERS 08-03, 08-04, AND 08-05.

Speaker Arnold Palacios: Does everybody have a copy of H. R. NO. 16-17?

Floor Leader Camacho: I believe copies were made and passed out to the members.

Speaker Arnold Palacios: Okay. There is a motion to adopt H. R. NO. 16-17 and it has been seconded. Is there discussion on the motion? I recognize Representative Hofschneider.

Representative Hofschneider: First of all, Mr. Speaker, for the record I believe that some of the information in terms of backdrop to this is stated in my letter to Ms. Lou Leon Guerrero of the Bank of Guam. Sometime in early May, in this Chamber, the Bank of Guam as Trustee of the

Revenue Bonds that we have with CPA, on behalf of CPA articulated the need for support in their attempt to prevent a technical default. By way of that they suggested some remedies. One of the remedies that they suggested was to raise the fees and rates at the airport. Also suggested were a couple of legislations to be acted on. Two that I recall was the legislation to allow the Rota and Tinian terminals to have some gaming activities, specifically poker machines, and the other legislation for revenue generation is to allow the airport facility to sell alcohol beyond the prohibition which is two o'clock in the morning. Nowhere in that discussion, Mr. Speaker and members, did they suggest that a reorganization of the airport structure be done by executive order or by other means. In the midst of it, there have been numerous attempts to call a quorum for the board to adopt the new fee schedules recommended by the bond trustee. It is a fact now that the failed in numerous attempts to get a quorum of the board. As a last resort, the Administration saw fit to suspend the board activities and authority, thereby giving rise to Executive Order 08-05. Initially it was Executive Order 08-03, but was superseded by EO 08-05. Then the accompanying Executive Order 08-04 is declaring a state of disaster. Now, let us think logically for a moment. The Governor has the authority to appoint and remove members to all boards and commissions for one reason or another under the law. Each board and commission is governed by their own internal rules and that is if you miss or fail to show up for a meeting for a number of times you are bound to go to that process of being removed, potentially be suspended, or whatever. The point is the Governor has the authority under the law. And having known that Friday with the Bank of Guam present that several attempts were made to get a quorum and CPA could not muster a quorum, the Governor should have removed the members of the board and replace them with new nominees, because this legislature, at a minimum, has been accused publicly of being complicit to whatever this Administrations asks. We give in and try to work with the Administration. I cannot understand that the gravity of an impending default on a twenty million bond series does not move the Governor to remove the entire board but rather resort to a monumental instrument under the CNMI Constitution and that is to reorganize the government through Plan No. 2 and that is Executive Order 08-05. Now, the executive order does not give him the authority to promulgate the regulations because that is dealt with in the state of emergency declaration. Now if Executive Order 08-05 is the attempt to deal with the lack of a quorum, it does not specifically abolish the board but rather suspended the board activities and authorities for one hundred and twenty days. That accompanying now EO 08-04, the state of emergency. The state of emergency allows him to supersede laws. Now he can effectively emplace what the board should have done through a quorum and promulgate the new rate and fee schedules appropriate to satisfy the bond trustee. Something is terribly wrong in this respect. The simplest analogy, Mr. Speaker, is there is a fly in front of me and instead of getting a fly swatter, the Governor took out a twelve gauge shotgun and shot the fly. At the end of the hundred and twentieth day of suspension under this action through Executive Order 08-05 the question is: Is CPA better off after the hundred and twentieth day, or status quo? I think the obvious is there. If you use the instrument of executive order to deal with a problem, and that is non-responsive board members, then remove or abolish the board and send over to the Senate a new list of people who would be responsive to the needs of the Commonwealth Ports Authority and satisfy the bond trustees. That did not happen in EO 08-03, EO 08-04, and EO 08-05. So what gives? Two very important problems are stipulated in EO 08-05. One is the lack of quorum which he dealt with by only suspending the board. He did not terminate and he did not abolish the board. The second component is to implement the rates effectively and that is accomplished through EO 08-04 which is the declaration of state of disaster emergency. But, lo and behold, the

effectiveness of a declaration is only for thirty days. The executive order ranges to a hundred and twenty days so after the thirty days declaration of disaster, what gives? Does he execute another state of disaster? Does he reconstitute the board? Will he get out of the one hundred and twenty days stipulated in the executive order? Does it satisfy the bond trustee heretofore, after the hundred and twentieth day? The answer is no. None is going to be achieved. In the immediacy it is a truncate to stop the bleeding and satisfy the bond trustee and for them to say we are satisfied, now you can implement the new rates; now we are satisfied, we would not call a default. Using executive orders or declaration of state of disaster on the assumptions of financial insolvency does not rise in definition of our Constitution and laws provided for the declaration of a disaster. Calamity is, natural causes, earthquake, typhoon, SARS, or similar public health issues, terrorism—these qualify and rise to the use of executive order and declaration of disaster. Financial insolvency is not. This is an outright abuse of executive power. I am concern, Mr. Speaker and members, because it is not only CPA that has a bond that this Commonwealth pledges. We have two bond indentures: the sixty million dollars for CIP and the forty million dollars for land compensation which are inexistence. This action taken by this Governor rises to a more frightening possibility and that is the first right to the general fund. The sixty million and the forty million dollars bonds that we have pledge the general fund. It is not a revenue bond. It raises a negative outlook on the Commonwealth of the Northern Marianas. The first right of refusal would be the bond holders, the trustees for those two bonds. Do you think they will wait around? They will walk in to the Federal Court and say we have the first right of use and access to the general fund. We satisfy our money, we have that obligation under the bond indentures, and the rest is up to you Commonwealth. Mr. Speaker and members, I propose that we limit the executive order. If you take the accompanying directive addressed to Mr. Lee Cabrera, it stipulates the functions clearly. In essence, the Governor is saying I have nothing to do with the functions of CPA, you, Mr. Lee Cabrera heretofore address those, and I give you the authority to do so. Now, if Lee Cabrera, the Acting Executive Director is given that authority under the directive, what is the purpose of the executive order? He has delegated the functions and authority to an Acting Executive Director. I will not transfer funds into CPA, nor will I transfer funds out of CPA, but you deal with it Mr. Acting Executive Director. Logically you should ask yourself, what is the real purpose of the executive order? In closing, I suggest that we need to still work with CPA and Bank of Guam so that there is no technical default or a default in essence. By way of that we should allow the implementation of the new rates to the directive issued. But at the most, not at the minimal, coincide with the term of the declaration of disaster, which is thirty days. After that, the Governor should be forced by amending the executive order to reconstitute the board. It was his option not to abolish or remove any member of the board. So what is the need to keep it under his wing when he has appointed a person to do the executive director's role, he had delegated that clearly in the directive. He suspended the authority and existence of the board, in thirty days after the declaration of disaster, what purpose does he need to continue for a hundred and twenty days thereafter in keeping it under the Executive Branch. This body must confine, limit the scope of the executive order to coincide with the thirty-day term of the declaration of disaster because it will fulfill the need to implement the rates satisfying the bond trustee and moving on. He has to tell the truth why he suspended the board and not remove them when they are negligent in attendance. There is some grand scheme in play here. Who is the fallout guy? Is it one member of the board? Is it two or four members of the board that did to show up for a quorum and neglected the responsibility almost to the point of the Bank

of Guam issuing a default on the Commonwealth Ports Authority? This body cannot turn its back and a blind eye on this issue. Thank you.

Speaker Arnold Palacios: I now recognize Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. I want to begin my statement by reminding all the members that it was not too long ago during the inauguration of this body when we swore to uphold the provisions of the Constitution and laws of the Commonwealth. And I say this because even though we fully understand the need to resolve the issue with the bond trustee, Bank of Guam in this case, and the demands of the trustee based on the agreement that CPA signed under the bond agreement, we cannot and we should not turn our eyes away from what we feel is a violation of the constitution. I feel it is a violation of the constitution. There is no question that the Governor is given the authority to amend existing law through an executive order, which is one of the few authorities granted to the Governor over the legislature. Any other way, it is the legislative branch of government that has the authority to enact, amend, and change laws in the Commonwealth. That responsibility is important to each of us. As a former Speaker of the House, I find that we should rise to protect the power granted to us under the Constitution. The Governor clearly, in our discussions with our legal counsel, does not have the authority to takeover and use the executive order along with a declaration of a state emergency disaster. Most of us consider a state of emergency as an emergency action, but if we look at the constitutional language it actually says, the state of emergency disaster. As pointed out by Representative Hofschneider, the events that have taken place, the demands by Bank of Guam and the situation of the ineffectiveness or unwillingness of the Board of CPA to come together to resolve this issue does not rise to the a level of a disaster or emergency disaster. One of the options that the Governor had was as pointed out by Representative Hofschneider, but there are several other options. One is to come to the legislature and explain to us the need to amend Public Law 2-48 that created the autonomy of the Commonwealth Ports Authority, and grants authority to the board to run CPA. He could have easily come to us and we would pass legislation, have a session back to back with the Senate so that we can resolve the issue with the Bank of Guam. There were several options, but he chose not to follow those options, Mr. Speaker. He chose to try to circumvent the provisions of the constitution. In this case -- what is the word, usurp -- he tries to takeover the authority of this body to make changes in existing laws. I would ask the members to support the Resolution. While I would not suggest or recommend that we file a restraining order or go to court with this matter, at the very least, I am speaking and I am sure it is Representative Hocog's intent to introduce this resolution to at least put the Attorney General, the office responsible in enforcing the law the constitution and laws on notice that there is a violation of the constitution here and it should not be tolerated. I hope that the message goes through and I hope that the Attorney General makes that recommendation to the Governor and the Governor recalls his action and stops the violation of the constitution and laws. I think that we also have the responsibility in sending the message out to the bond trustee, the Bank of Guam, that we are not trying to impede but we have a responsibility in preserving the authority of this body in upholding the constitution. We are standing by, ready. If the Governor who has the authority to remove the members of the board, I believe the Senate is ready to confirm the nominations. If the Governor wishes for us to suspend Public Law 2-48, we can do so. There are other options, but to abuse the powers of the governor in this case is not right. I hope that the Attorney General gets the message. Thank you.

Floor Leader Camacho: Mr. Speaker, we were discussing this earlier and I would like to add that I am trying to understand the explanation that was given to us by the trustees. They said that CPA was in technical default. As far as I understood when CPA came here, they said that they were able to meet their monthly payments, but the reason that they are calling it a technical default is because the cash reserve that they want to kind of set aside in case they are not able to meet their payment that money is dropped.

Representative Hofschneider: Mr. Speaker, point of clarification.

Speaker Arnold Palacios: State your point.

Representative Hofschneider: Mr. Speaker, with that letter that I furnished everyone earlier going to Ms. Lou Leon Guerrero of the Bank of Guam. I received a conference call this morning and she repeatedly assured that there is not technical default in place. She wants to make that sure. Because I told her that I have concluded that I was misled by everyone, but she made it very clear: there is not default and they would rather work with the Commonwealth to ensure that a no-default is in place. They have been meeting the payment on time. The next payment is on September. The only condition in the bond indenture is the failure to sustain the 1.25 ratio for every dollar borrowed. That is the only condition that they are concerned about and trying to prevent a technical default from being triggered by the obvious financial inability of CPA. That is why the remedy as being proposed when we met here earlier was accepted. I thought I made that clear because she wants to emphasize to the body that there is no technical default issued nor in place.

Speaker Arnold Palacios: You may continue, Floor Leader.

Floor Leader Camacho: I am trying to conceptualize this—if you have a checking account and you write checks out of that account. Then you have a function where you overdraft they take it out of your savings accounts. You are still able to write checks with your checking account, it is the small savings account where that overdraft protection that you may be short. And for this reason, the Governor has declared a state of emergency and wiped clean the board and solve it to implement policies. With that understanding, Mr. Speaker, I ask the other members that this does not rise to the level of the state of emergency, and I will support this resolution.

Speaker Arnold Palacios: I now recognize Representative Hocog.

Representative Hocog: Thank you, Mr. Speaker, for allowing the author to say a little of his peace. Believe it or not, I find this very unusual and perturbing to have received three executive orders in one day, one declaration of state of emergency the same day. Members, this will lead to one's thinking and even a deaf man or individual will be forced to hear something that supposedly he is not to hear. A blind man or individual, again, is therefore forced to see when he is unable to see because of the speed these executive orders are intended to be exercised. And it is not enough with the three executive orders that have been prepared is followed with a declaration of state of disaster and received by your office, Mr. Speaker. Needless to repeatedly say what others have said, but as once upon a time a Chairman of CPA, Mr. Speaker, this does

not require – it is unwarranted for the Executive Branch to do this at this point in time. Elementarily speaking, Mr. Speaker, and using a lot of common senses, one could have called in all the members in which the Governor could have done and force them to meet with the Governor, so the Governor can call a special meeting for the board if the members will not report or conform with the call of the chair to have a board meeting. It leads me to believe that perhaps board members.... (*End of Tape 2 side A*) (*Start of Tape 2 side B*) ...was being pointed out to the chairman of CPA. Whatever the case may be, I think the Governor has all the authority by virtue of calling these members to conduct the business and not frustrate the predicament of CPA. Furthermore if the members fail to come to that call, the Governor has the right to terminate with cause for dereliction of duties and responsibilities and these executive orders and state or disaster does need to be before us today. I would like to caution, Mr. Speaker, whoever will be appointed to act in the absence of the board that any commitment that he exercises or executes to insure that he is protected with this executive order, because as it stands today, this has no effect until the thirty days has come. Secondly, Mr. Speaker, I cannot understand, the Governor has bonds with one attorney general and several assistant attorney generals plus the attorney for CPA that can come and rescue the predicament of the board. I can feel these attorney generals particularly the ones that drafted this state of emergency that they should be reviewed by whatever or whoever will be responsibly to check their ethical conducts in responding an instruction that is not legal. It is therefore, Mr. Speaker, that this House and I ask the indulgence of my colleagues to support this Resolution to avoid further disaster of CPA. It is sad, Mr. Speaker, that for the past thirty years CPA has been making good revenue, self-sustained and has never come to the legislature to request for any appropriation. If I may point out, perhaps the depleting of their cash reserve is also constituted from the past commitment by legislators. It is also depleted because CPA was forced to execute what we call an incentive. We should all understand that the landing fee is the primary source of revenue or the substantial part where CPA collects their revenue aside from seaport. But if this executive order or state of emergency prevails, this will also take the management of seaport, it is not only the airport. Like I said, a blind man or individual will come to see what is happening, and what lies behind there is what all of us need to be suspicious of. This is what I call – a leader is a sunset type of leadership. It is a sunset decision that we block the light for tomorrow to provide the airport with a better opportunity to hear the problems that they have. Believe me if this legislature can find nine million dollars to bailout CUC, if the Governor comes forward, why would we not assist the bond trustee and everybody. Thank you, Mr. Speaker.

Representative Quitugua: Mr. Speaker, I have some questions, and probably the legal counsel can answer because he worked for CPA and might know the rules. If this declaration goes through, will the federal grant agreements be affected?

*House Legal Counsel Joe Bermudes: I do not think so.*

Representative Quitugua: My next question is – if we object to the disaster declaration primarily and the Governor decides to cancel it and leave it up to the legislature to solve the problem, are we ready to take actions to satisfy the trustee? Are we ready to impose the fees? If the CPA Board does not want to increase the fees, are we ready to do that by law to satisfy the bond trustees? In the Governor's communication to the Acting Executive Director, on number seven, he is reminding him that there will be no general fund revenues coming to CPA and that they have to take care of it to satisfy the bond. So are we prepared?

Representative Hofschneider: I think it is a foregone conclusion when CPA came, and the Bank of Guam came here with their trustee people. It was very obvious and I think we have no other choice but to come on board with their intention and remedial plan to increase the fees. As they proposed the first initial increase will be sixty percent and by mid-June it will go up to a full hundred percent increase in fees and rates. In the statements made by the trustee, they are comfortable with that as a remedy. So I do that think we can question in terms of whether we can take the responsibility on behalf of the board if they are not willing to do it. I do not think we have a choice. The reality is no airline is willing to see the rates go up, but if that is the only option that we have to prevent a default, in the words of the trustee, to their satisfaction they are willing to go with that with a couple legislation being proposed. I think the answer is absolutely yes. We are ready to deal with that. But the real point is really dereliction of duty of those board members. That is what we need to focus on. It cannot be tolerated because this is twenty million dollars that we had no partaking in the risk venture. They were given the authority to decide that and appropriately raise revenue to satisfy the borrowing. Now it is quite obvious that the very people that have been appointed to protect the public, the interest of the Commonwealth Ports Authority has gone awry. We cannot tolerate that, not even for an instant. Suspending them is beyond question. That is not the cure. There is a grand scheme in play right now that nobody knows. So to answer, yes, we have no other choice. According to the Bank of Guam, they are willing to satisfy that if we do these rates, and that was presented by CPA at that time and Bank of Guam concurred. So at a minimum we have to go with it. All these things going on are a real deflection on the real fact. The fact is that we have, the Commonwealth government, this Administration has totally failed to revive the economy. At a minimum, get the airlines back because it is not only CPA but the entire economy and nobody wants us to look at that. So all these little things going on, buzzing here and there, gets the people out of focus and this is the mishap that is waiting to happen.

The Chair recognized by Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. I have some questions that I think could probably best be addressed by our legal counsel, if I may.

Speaker Arnold Palacios: I will allow it.

Representative Sablan: The Governor cites in Executive Order 08-04 his authority under the constitution and under the Commonwealth Disaster Relief Act to declare a state of emergency on CPA. I am just wondering if there is a legal definition of disaster that is flexible and broad enough for possible technical default or state of insolvency of an agency that would justify this declaration.

*House Legal Counsel Joe Bermudes: Let me just start off by saying that I think the person who drafted the executive order, the disaster, was probably gasping for air because the brain was saying where do I find the authority and the heart is saying I got to do something for the Administration. If you look at Article 3 Section 15, it talks about the executive branch departments' reorganization and all that stuff. They cited that, and they also cited Article 3 Section 10, which is basically saying that the governor may declare a state of emergency in a case of invasion—this is not a invasion, civil disturbance—this is probably not, natural disaster—definitely not, and other calamity as provided by law. I have never seen a definition established by the legislature, which is the body that enacts laws, that may mobilize resources to respond to the emergency. If you looked at the disaster emergencies under the code, it is*

*defined. § 5114 defines disaster and you can read it. And I would find myself gasping for air to try and fit this emergency with CPA to fit any of this definition from (a), (b), (c), and (d) as a disaster. Basically from my statement, you can tell my answer and it is not. The question whether the CPA's problem of financial insolvency is a disaster, no, not in accordance with the definitions in the code and what is stated in Article 3 Section 10 of the constitution.*

**Representative Sablan:** Okay. To further clarify that point though, just so we are absolutely in total agreement about the definition of disaster – so even the part of the code that says – I know that it gives a listing of possible situations that could qualify as disasters, but it does say, it is not limited to these situations. Is that correct? So a man made situation of financial insolvency could not be construed as a disaster even under that definition? I am just asking.

*House Legal Counsel Joe Bermudes:* If I was the lawyer at the other side, I would say yes.

**Representative Sablan:** Thank you. Then my next question is what recourse, if any, does the legislature have in challenging the Governor's state of emergency declaration?

*House Legal Counsel Joe Bermudes:* I would change part of the wordings in the resolution and follow the exact words in the Constitution with respect to the Article 3, Section 15. I think the resolution says, "strongly objects" I do not know what that means but if I use the word "disapprove" because the executive order will become effective sixty unless "specifically modified, or disapproved by a majority of the members of each house." So rather than use "strongly objects" I would say "disapprove." Use that word.

**Representative Sablan:** So to merely strongly object has no effect then on any of the executive orders that have been issued?

*House Legal Counsel Joe Bermudes:* Again, using a broad argument I would say true. I mean, what does "strongly object" mean? We are just objecting, we are not disapproving, and we are not modifying it.

**Representative Sablan:** My final question then is what happens to rate increases and any other change that are implemented during a state of emergency and upon the expiration of the executive order, because the declaration of disaster expires after thirty days, but the other executive order would expire after a hundred and twenty days. So what happens to these changes that are implemented when these terms expire?

*House Legal Counsel Joe Bermudes:* I think they'll be okay. I think there is a missing link here because the bond indenture is an agreement. It is a contractual agreement between CPA and the bond holders. And it says in there that in the case where the CPA does not meet the bond ratio of a hundred and twenty-five percent, there are obligated – it says, shall hire a professional consultant to review the rates and then follow the recommendations. Back in 2006 there was a report and for whatever reasons nothing happened. None of the recommendations were implemented. But also in the agreement between the airlines and CPA all they have to do is notify the airline and they can increase the rates. They are obligated by their agreement to look at the review of the rates and implement the recommendations. So I would say that that would cover the change of any of the rates in the face and that would cover CPA or the Acting Executive Director's decision.

**Representative Hofschneider:** (Microphone off) ...the increase done in the midst of the thirty day disaster declaration, would it die at the end of the thirty days?

*House Legal Counsel Joe Bermudes:* No, because I am basing the increase of the rates on the agreement – the contractual obligation of CPA not based on the executive order.

Speaker Arnold Palacios: Excuse me. Do you have a clarification, Representative Benavente? You have been raising your hand.

Representative Benavente: Yes, Mr. Speaker, but I do want to comment also. But just to clarify further, the counsel responded to one of the two questions, I believe, that was offered by Representative Sablan and that is what happens with regards to the EO. But the bigger problem is the state of emergency disaster which the Governor is using as a tool to implement his actions today, immediately. The recourse for that is of course to challenge in court. I feel that we would have the standing because it is taking authority away from this body. I also believe that the board members have a standing in challenging this action because there is –what is the term, they are being hurt by that action. The other question that is raised is what happens to the fees, but more importantly what happens to the removal of the incentives which under present law requires the approval of the board. And if there is question as to the Governor’s authority in this case, will the airlines then – I mean I believe the airline will be included in the possible challenges for the removal of the incentives because they are now hurt by the decision of the Governor in removing the incentives that they were benefiting from. This is one of the reasons why when we start playing with fire we are going to get burned. I believe in this case, the Governor is playing with fire. He is opening up more problems because of the challenges that could possibly come. Again, I am not saying that we should because it is going to cost a lot of money to the taxpayers for us to go to court. Maybe some of the board members may want to challenge it. And, Mr. Speaker, as I stated earlier, I think the answer of whether we should use “disapproval” or “objection”, I think “objection” is proper at this time for this resolution because we are sending the message to the Attorney General to advise the Governor to refrain from taking any action.

Representative Sablan: I guess I am just wondering if there members feel so strongly about this that this is a violation of constitutional power and abuse of his powers under the state of emergency disaster act while we would not – because we do have the authority to tell him to even the state of disaster declaration just by stating disapprove rather than object...we do not?

Speaker Arnold Palacios: Only on executive orders.

Representative Salas: That is an executive order – Executive Order 08-04.

Speaker Arnold Palacios: Short recess so that we can clarify.

*The House recessed at 4:15 p.m.*

*RECESS*

*The House reconvened at 4:18 p.m.*

Speaker Arnold Palacios: We are back in session. Representative Sablan, would you like to yield to Representative Babauta.

Representative Sablan: Just a final question—if we were going to challenge not the state of disaster declaration but the other executive order for reorganization, that would also require the concurrence of the Senate, is that correct?

Speaker Arnold Palacios: Yes.

Representative Sablan: Okay, thank you.

Speaker Arnold Palacios: Thank you. I now recognize Representative Babauta.

Representative Babauta: Thank you, Mr. Speaker. Perhaps, I had the feeling that this resolution would pass whether it be today or tomorrow, but Mr. Speaker, just before lunch I received these communications from the Executive Branch. And as I listen to many of our colleagues express concerns on the intent of the executive orders and the state of emergency declaration I for one personally do not know the extent of his intention whether it will be thirty days, sixty days lasting to a hundred and twenty days and that is it. We do not even know if the Governor will continue to extent it beyond the hundred and twenty days. One thing that I do not know exactly is what transpired in depth of CPA to the extent of its financial injury. I do not think any of us know the extent of the exact injury. I ask that we look at the situation for the next thirty days based on the Governor's state of emergency and provide this house with his plans on how to resolve CPA's financial issue. Since January, Mr. Speaker, we have been constantly debating amongst ourselves where to get this much money for that, where to get that for that. That is a dilemma with this house—financial. I am afraid and many members echo the words technical default. I fully understand and I know all the board members of CPA. They are capable people, but personally, Mr. Speaker, I must say that I am afraid that in due time I might be riding in an airplane that would landing in Rota soon and it says: Welcome to the Bank of Guam international airport, Rota branch. This is by dilemma, Mr. Speaker, to the extent that the indentured instrument that was executed between CPA, the trustees. and the bond holders, there probably is going to be a humongous legal implication. With that, I urge and ask the members to reassess their intentions, as somebody put it, objecting to these executive orders for the time being. Thank you, Mr. Speaker.

Representative Quitugua: Mr. Speaker, I have one clarification on the Resolution. There are two executive orders on the Resolution. So we are merely objecting to the executive orders. Are we going to come back to address Executive Order 08-05 whether we are going to modify or disapprove it? Is that the plan of the House?

Speaker Arnold Palacios: Yes.

Representative Hocog: Mr. Speaker, in line with my good colleague's statement about later on to find out that Continental will be landing in Rota and say: Welcome to the international Bank of Guam. That is exactly why I urge the members to register their concerns because I for one would not like to be known as a legislator, and a division of the legislature under the office of the governor.

Vice Speaker Deleon Guerrero: Mr. Speaker, on a technical point that Representative Quitugua raised, because the Resolution does object to EO's 08-03, 08-04, and 08-05 we do know that there is a provision under EO 08-05 that basically states.... (End of Tape 2 side B) (Start of Tape 3 side A) ...perhaps we may want to correct the Resolution to delete EO 08-03 wherever it appears because it was superseded by EO 08-05. So really what we are objecting to are EO 08-04 which is the emergency declaration and EO 08-05 which superseded EO 08-03.

Representative Hocog: I have no objection to the Vice Speaker's recommendation to remove EO 08-03.

Vice Speaker Deleon Guerrero: It is just a point I wanted to clarify. If EO 08-05 basically supersedes then EO 08-03 is no longer valid.

Representative Hofschneider: Mr. Speaker, we need to show the historical cause for everyone to understand how EO-05 came about, we need to show even for posterity reason. For all intents and purposes it does not have any effect because EO 08-05 is the absolute, the final game, but we need to put into perspective that the evolution of 08-05 came from 08-03.

Vice Speaker Deleon Guerrero: I was just going to suggest that perhaps if you read the language of the title, you can remove on the title, because the Resolution is to express the strong objection of the House to executive orders four and five. You can leave the references to EO 08-03 in the body of the Resolution, but just remove it from the tile.

Speaker Arnold Palacios: Okay, we will allow that. Without objection we can just delete that. Are we ready for the main question? I recognize Representative Apatang.

Representative Apatang: Thank you, Mr. Speaker. On page 3, line 19, after "Authority" insert "members of the Board of Directors of the Commonwealth Ports Authority."

The motion was seconded.

Speaker Arnold Palacios: Okay. There is an amendment motion to add the members of the Board of Directors of CPA at the end and it has been seconded. Is there any discussion on that motion?

There was no discussion on the amendment offered by Representative Apatang and the motion was carried by voice vote.

Speaker Arnold Palacios: The motion carries. I now recognize Representative Sablan.

Representative Sablan: Mr. Speaker, in looking at the differences at Executive Orders 08-03 and 08-05 I have notice on the major difference on the effective date and on Section 206. There is a provision that I had not noticed in an earlier version which says that it acknowledges the authority of the legislature to modify or disapprove the executive order within sixty days of its submission provided that in case in shall appear to the Governor that the interest of economy or management require that any transfer, consolidation or abolishment be delayed beyond the date of this plan becoming effective then the Governor may at his discretion fix a later date therefor

and may for like cause further defer such date from time to time. Does he really have the authority to do that?

Speaker Arnold Palacios: The counsel can enlighten us but I think not.

House Legal Counsel Joe Bermudes: *The answer is no.*

Representative Sablan: Okay, thank you.

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

Representative Raymond Palacios: Just a brief remark, Mr. Speaker. I am very puzzled with this body that we are very quick in trying to counter the Governor's action which is the executive orders. This was done only two days ago. Representative Hocog mentioned earlier that by adopting this resolution it will avoid further disaster, but what assurances or guarantees do we have in place that by really supporting this Resolution that it will truly avoid further disaster. We were talking about the board members not attend meetings. If we are very much concerned of the board members, why do we not draft a resolution and like Representative Hofschneider mentioned, and force the Governor or mandate the Governor to reappoint to take actions to those board members that at non-committal. I am kind of hesitant in voting yes for this Resolution because we have other alternatives. One is, like I said earlier to pass a resolution mandating or forcing the Governor to appoint new board members so they can take action with regards to their plans. That is all. Thank you. Mr. Speaker.

Representative Reyes: Mr. Speaker, just to register a concern. I wonder what impact this will do in anyway with the FAA. I am sure that it might in one way or another. Thank you.

Speaker Arnold Palacios: Let me try to answer Representative Palacios. That is actually what Representative Hofschneider, the author, and Representative Benavente were actually implying. The Governor need not go to the extent of declaring an emergency state of disaster. He indeed can exercise his authority to terminate errant boards. We could perhaps send another letter, send another resolution to that effect, but the Resolution at hand basically deals with the executive orders that have been executed and the declaration of emergency state of disaster. Representative Salas?

Representative Salas: Mr. Speaker, may I request for a recess.

Speaker Arnold Palacios: Short recess.

*The House recessed at 4:31 p.m.*

*RECESS*

*The House reconvened at 4:33 p.m.*

*(A portion of the session proceedings was not recorded after recess.)*

The motion to adopt H. R. NO. 16-17, as amended was carried by voice vote.

Speaker Arnold Palacios: H. R. NO. 16-17 as amended is hereby adopted by the House. What a long discussion. I would like to state for the record that I abstained from voting on that Resolution for obvious reasons.

Representative Babauta: Roll call then, Mr. Speaker, so that we may clarify your vote.

Speaker Arnold Palacios: I do not think so, I think I have stated for the record. We move down to Bill Calendar.

### **BILL CALENDAR**

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

Floor Leader Camacho: Mr. Speaker, I would like to make motion to recall H. B. NO. 16-11 from the Governor.

The motion was seconded.

**H. B. NO. 16-11: AN ACT TO AMEND THE SAFE DIVING ACT OF 1990, TO ALLOW THE DEPARTMENT OF PUBLIC SAFETY ENFORCEMENT AUTHORITY AND STRENGTHEN ENFORCEMENT OF SAFE DIVING ACT.**

Speaker Arnold Palacios: The motion on the floor is to recall H. B. NO. 16-11, the Safe Diving Act, from the Governor.

Representative Babauta: Mr. Speaker, may I ask the Floor Leader to restate that motion and recommend that it be recalled and placed on the Bill Calendar, so that committee would substitute that bill instead of putting out a new bill.

Speaker Arnold Palacios: Floor Leader, do you want to restate that motion?

Floor Leader Camacho: I believe that was my motion, but for clarification, a motion to recall H. B. NO. 16-11, reference to the Safe Diving Act and place it on the Calendar.

Speaker Arnold Palacios: I was just informed that is not in order. We cannot place it until the recall occurs because the Executive Branch has the prerogative. Even if we recall it and he says, no, then we do not have anything on the calendar.

Representative Babauta: So clarified, Mr. Speaker.

Speaker Arnold Palacios: So we have a motion on the floor to recall H. B. NO. 16-11. I recognize Representative Quitugua.

Representative Quitugua: Mr. Speaker, I just want to know the reason for recalling the legislation.

Representative Babauta: Mr. Speaker, I rise in defense of my Chairman on Natural Resources. As we understood from our committee meeting the other day, the counsels of the House and that of the Administration have agreed on some technical enforcement language that is problematic in the bill. So in working with the Administration, we agreed to recall instead of having the Governor veto it since tomorrow is the deadline. So the Representative Tebuteb and I are working on a final draft as recommended by the Administration to substitute that bill. Thank you.

Representative Benavente: Mr. Speaker, I just asked one of the senators if they had made a recall in today's Senate session and I was informed that they did not in fact make the recall. I feel and I stand to be corrected by counsel that a legislation that has been transmitted to the Governor is a property of the House and Senate and would require motions and adoption of those motions by both houses. And if tomorrow is the deadline then I am not sure if the Senate is acting, but I am ready to make that decision for the House side. Thank you.

Speaker Arnold Palacios: Ready? Clerk, please call the roll on the motion to recall H. B. NO. 16-11.

The Clerk called the roll on the motion to recall H. B. NO. 16-11 from the Governor for reconsideration.

Representative Edwin P. Aldan	yes
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	absent (excused)
Representative Ramon A. Tebuteb	yes
Representative Ralph DLG. Torres	yes
Representative Stanley T. McGinnis Torres	abstained
Representative Ray N. Yumul	yes
Speaker Arnold I. Palacios	yes

Speaker Palacios: By a vote of eighteen "yes" the recall motion passes the House. H. B. NO. 16-11 will be recalled from the Governor. Floor Leader.

Floor Leader Camacho: Mr. Speaker, I move for the passage on First and Final Reading H. B. NO. 16-2, a bill to reallocate poker fees.

The motion was seconded.

**H. B. NO. 16-2:** A BILL FOR AN ACT TO AMEND 4 CMC § 1503 TO REALLOCATE POKER LICENSE FEES TO EACH SENATORIAL DISTRICT; AND FOR OTHER PURPOSES.

Speaker Arnold Palacios: The motion is to pass on First and Final Reading H. B. NO. 16-2, which has been sitting on the Calendar. Representative Hocog, I understand you have a substitute version. Short recess.

*The House recessed at 4:40 p.m.*

*RECESS*

*The House reconvened at 4:41 p.m.*

Speaker Arnold Palacios: We are back in session. And under discussion of H. B. NO. 16-2, I ask Representative Hocog if he would like to offer the substitute.

Representative Hocog: Thank you, Mr. Speaker, I offer H. B. NO. 16-2, HS1.

The motion was seconded.

Speaker Arnold Palacios: Discussion on the substitute.

Representative Hofschneider: I move to refer to committee.

The motion was seconded.

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

Speaker Arnold Palacios: Vice Speaker.

Vice Speaker Deleon Guerrero: Just so I understand this bill completely, on page 1, this is the gist basically of the bill. On line 14, subsection (2), notwithstanding any other provision of law, any amount equal to the amount of license fee collected in the senatorial district with the fewest number of poker machines shall be retained by each senatorial district for local appropriation. Meaning if for example Tinian is the senatorial district with the fewest number of poker machines then that shall be the threshold which shall be retained by all three senatorial districts. Correct?

Representative Hocog: That is correct.

Vice Speaker Deleon Guerrero: So any amount about that – on the next sentence it says, any amount in excess of this amount shall be distributed according to law. I am not really concerned

about the earmarked funds to the Department of Finance, but the point that it shall be distributed according to law meaning there would be a subsequent bill to reallocate those?

Representative Hocog: No. Whatever the distribution is now, it will be followed. For example, six thousand to the delegation, six thousand to the general fund.

Vice Speaker Deleon Guerrero: Correct me if I am wrong, but there are different distributions for each senatorial district, correct? Yes, it is by local law.

Representative Hocog: That is correct. For example the share for the island of Rota is sixty-forty, while the island of Saipan is fifty-fifty. So that will remain as it. The bill is trying to get the total license fee on the lowest threshold of license per senatorial district. For example Tinian or Rota has the lowest of 30, Saipan will get one hundred percent of that thirty from the license fees, and the rest apply to the present distribution of fees of fifty-fifty for Saipan, for example.

Vice Speaker Deleon Guerrero: Just to clarify – so in the case of the Third Senatorial District, if thirty machines are the lowest for Tinian or Rota, the revenue for the thirty machines will stay in the Third Senatorial District for local appropriation, in addition to that, there would be the amount of whatever the fifty-fifty cut.

Representative Hocog: Correct.

Representative Babauta: Mr. Speaker, I am in support of the author's intent, but I keep reading this between lines primarily from line 14 to page 2 line 4. Can I ask the counsel to explain this in the broadest term, Mr. Speaker?

Speaker Arnold Palacios: Without objection, can we allow the counsel to explain?

There was no objection.

House Legal Counsel Joe Bermudes: *I do not think you need a legal opinion on this. Even me reading it ...*

Representative Babauta: Not an opinion, but can you –

House Legal Counsel Joe Bermudes: *The first question that came up is according to what laws because it is unclear. I will keep reading it too, but it still going to be unclear to me. So...especially the provision that was brought up – any amount in excess of this amount shall be distributed according to law. I think we can work on it and make it clearer, but as is, it is very unclear.*

Representative Babauta: Mr. Speaker, I find it hard to understand and maybe that would include the Secretary of Finance, Mr. Inos himself. I am afraid that he might shortchange Tinian and Rota and whatever the amount is beyond and above the number would probably land in SHEFA for the Third Senatorial District. This provision, as former Congressman Norita says, discombobulates my chain thought.

Speaker Arnold Palacios: And that is the unclarity of the sentence of according to law. My understanding is that if there are 30 in Rota and it has the lowest number of machines, then

basically what it does is migrates \$180,000 to the local funds for each senatorial district. Anything after that remains as is.

Representative Yumul: Point of clarification.

Speaker Arnold Palacios: State your point.

Representative Yumul: I have the actual number so if anybody cares to know the numbers.

Speaker Arnold Palacios: Representative Yumul, this was actually in your committee.

Representative Yumul: No, it was not, I believe this bill was introduced and calendared, there is no committee report.

Speaker Arnold Palacios: There was a committee report.

Representative Hocog: Representative Yumul, this was passed on First Reading and referred back to your committee.

Representative Yumul: Okay, well, I will go ahead and update. The island of Rota and the island of Tinian have both fifty-eight machines as of today. The island of Saipan has seven hundred and two machines. Saipan collects \$12,000 per machine, the island of Rota and Tinian collects \$10,000 per machine. The sixty-forty split is \$174,000 and \$116,000 respectively, of which the three percent on page 1 line 19 is \$52,200. The allocation for Saipan if we were to continue will be the \$290,000 which will go to the local delegation.

Representative Benavente: Mr. Speaker, the Chairman of Ways and Means just said 58 machines, so at this point that is the smallest threshold. What does 58 and \$6,000 translate to?

Representative Yumul: (Microphone off)

Representative Benavente: So the bill's intent is to take \$300,000 which would stay in Tinian-- and this is from the \$6,000 that is going to the general fund -- \$300,000 would stay in Rota , and \$300,000 would be for Saipan –

Representative Yumul: Point of clarification. For Tinian and Rota I believe the fees are \$5,000.

Speaker Arnold Palacios: Short recess.

*The House recessed at 4:51 p.m.*

*RECESS\*

*The House reconvened at 5:03 p.m.*

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

Representative Hocog: Mr. Speaker, let me withdraw my motion and probably refer this again to the committee. Because of too much fear in this house, I would like to give them the benefit of the doubt and not to be fearful. Thank you.

The motion was seconded, and carried by voice vote.

Speaker Arnold Palacios: Thank you. So H. B. NO. 16-2, HS1 is hereby referred back to the Committee on Ways and Means.

Floor Leader Camacho: Do you want to keep going, Mr. Speaker.

Speaker Arnold Palacios: I think we will adjourn and allow our staff to –

Representative Hocog: Mr. Speaker, I would like to request to be excused. I am catching my flight at 5:30 and I do not think I will be able to catch it if I say another ten minutes.

Speaker Arnold Palacios: You are hereby excused.

Representative Hocog: Okay. I would like to exit now the house of fear. Thank you, Mr. Speaker.

Floor Leader Camacho: Mr. Speaker, a motion for the passage on first and final Reading H. B. NO. 16-92 reference to 24-hour sale of alcohol at the airport.

The motion was seconded by several members, and voiced “ready.”

**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 OF DAY OF SALE; AND FOR OTHER PURPOSES.

Speaker Arnold Palacios: Discussion.

Representative Sablan: Mr. Speaker, I understand that it is the view of this body that this a relatively innocuous bill, but there is no report, there is this issue with CPA.

Speaker Arnold Palacios: Okay, I will allow a ten-minute discussion on this and you are going to be the only person asking the questions. I am going to have the author explain it.

Representative Hocog: Point of order, Mr. Speaker. Again, Mr. Speaker, you are out of order, we are ready to vote.

Speaker Arnold Palacios: Okay, so roll call.

The Clerk called the roll on the motion to pass H. B. NO. 16-92 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
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 Sablan: Mr. Speaker, can I speak – you would not give me two minutes to say this earlier so –

Speaker Arnold Palacios: Okay, I will allow it.

Representative Sablan: And only because it seems to be the habit of this House when everybody is cranky and tired and wants to rush a bill that, you know, it seems innocuous, but who knows. If there is and debate were allowed and encouraged in this body we might actually find some points that are worth considering and some amendments that are work making. For that reason – because debate was not even entertained – I will vote no. Thank you.

Speaker Arnold Palacios: I do agree with you but I was put on order by several members so I had to call the vote. Clerk, continue.

Representative Christina M. Sablan	yes
Representative Edward T. Salas	yes
Representative Rosemond B. Santos	absent (excused)
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 eighteen “yes,” one “no,” H. B. NO. 16-92 hereby passes the House on First and Final Reading.

### **MISCELLANEOUS BUSINESS**

Speaker Arnold Palacios: Representative Hocog, recognized.

Representative Hocog: In my opinion, Mr. Speaker, I am very glad to be a member (inaudible) (*Laughter*).

Speaker Arnold Palacios: Thank you and welcome to the club. You better go and get on the plane.

Representative Hocog: And now, I must say to my independent partner Representative Tina Sablan, *adios*.

### **ANNOUNCEMENTS**

None

### **ADJOURNMENT**

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

The motion has been seconded and carried by voice vote.

Speaker Arnold Palacios: The House is hereby adjourned subject to the call of the Chair.

The House adjourned at 5:10 p.m. subject to the call of the Chair.

Respectfully submitted,

Evelyn C. Fleming, House Clerk  
House of Representatives

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### **APPEARANCE OF LOCAL BILLS**

**FIRST APPEARANCE:** 1<sup>st</sup> Appearance of a local bill is on the date of introduction.

**SECOND APPEARANCE:** NONE

**THIRD APPEARANCE:** NONE