



# House Journal

## SIXTH SPECIAL SESSION, 2008

**Adopted:  
January 12, 2009**

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**First Day**

**Tuesday, June 17, 2008**

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The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened in its First Day, Sixth Special Session on Tuesday, June 17, 2008, at 9:48 a.m., in the House Chamber on Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

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

A moment of silence was observed.

The Clerk called the roll and nineteen members were present; Representative Justo S. Quitugua was excused.

Speaker Arnold Palacios: With nineteen members present, we have established a quorum. Representative Quitugua is off-island and is hereby excused.

### **ADOPTION OF JOURNALS**

The Chair recognized the Floor Leader.

Floor Leader Camacho: Mr. Speaker, I move for the adoption of the Sixth Day and the Seventh Day, First Regular Session Journals.

The motion was seconded.

*6th Day, First Regular Session, 2008 (3/12/08)*

*7th Day, First Regular Session, 2008 (3/26/08)*

Speaker Arnold Palacios: Again, I will allow time – if the member would like to make some amendments, please submit them to the clerk in a very timely manner.

There was no discussion and the motion to adopt the 6<sup>th</sup> Day and 7<sup>th</sup> Day, First Regular Session Journals was carried by voice vote.

### **INTRODUCTION OF BILLS**

H. B. NO. 16-115: A Bill for an Act to amend 4 CMC §8141 by adding a new subsection (j) to require CUC to establish internet payment service on its internet website for customers and to publish its regulations and all public notices including utility rates and outages on the CUC website in a timely manner; and for other purposes.

Offered by: Rep. Francisco S. Dela Cruz

Referred to: Committee on Public Utilities, Transportation and Communications

H. B. NO. 16-116: A Bill for an Act to establish standard guidelines for employees on military leave pursuant to the Uniform Services Employment and Reemployment Rights Act, Chapter 43 of Title 38 U.S.C.; and for other purposes.

Offered by: Rep. Ray N. Yumul and six others

Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 16-117: A Bill for an Act to appropriate lapsed funds and/or unobligated funds from Saipan Local Law 13-4; and for other purposes.

Offered by: Rep. Justo S. Quitugua and two others

Representative Babauta: Mr. Speaker, as authorized by Representative Quitugua, I hereby introduce H. B. NO. 16-117 and would like to request that it be place on the Bill Calendar for consideration today or tomorrow.

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

H. B. NO. 16-118: A Bill for an Act to amend 1 CMC § 8347; and for other purposes.

Offered by: Rep. Joseph C. Reyes

Representative Reyes: Without objection, Mr. Speaker, I would like to place H. B. NO. 16-118 on today's Bill Calendar.

Speaker Arnold Palacios: Floor Leader Camacho, please take note of the requests and we will take them up when we get to the Bill Calendar.

H. B. NO. 16-119: A Bill for an Act to reappropriate \$60,000 from the Office of the Resident Representative to the United States' FY 2008 budget to fund the November 4, 2008 Election for the CNMI Delegate to the U.S. House of Representatives; and for other purposes.

Offered by: Rep. Ray N. Yumul

Referred to: Committee on Ways and Means

H. B. No. 16-120: A Bill for an Act to amend Public Law 16-2 and to establish an electric fuel charge credit fund; and for other purposes.

Offered by: Rep. Victor B. Hocog

Representative Hocog: Mr. Speaker, I would also like to ask to consider placing H. B. NO. 16-120 on today's calendar for action.

Speaker Arnold Palacios: Floor Leader Camacho, please take note of that.

H. B. NO. 16-121: A Bill for an Act to reappropriate \$165,844.00 from Section 2(1) of Saipan Local Law 13-4 to the Saipan Mayor's Office to defray the expenses of the 2008 Liberation Day activities and to purchase new heavy equipment and parts; and for other purposes.

Offered by: Rep. Ray N. Yumul

Referred to: Committee on Ways and Means

## INTRODUCTION OF RESOLUTIONS

H. COMM. RES. NO. 16-3: A House Commemorative Resolution honoring and commending Ms. Christine Dela Cruz Torres for her exemplary performance and graduating from the United States Coast Guard Academy and for receiving her commission as an Ensign in the United States Coast Guard.

Offered by: Rep. Oscar M. Babauta and nineteen others

H. R. NO. 16-36: A House Resolution respectfully requesting the Director of Quarantine to investigate the matter of alien pests and insects invading the Commonwealth of the Northern Mariana Islands through our CNMI ports of entry.

Offered by: Rep. Stanley T. McGinnis Torres

Referred to: Committee on Natural Resources

Representative Stanley Torres: Mr. Speaker, I would like to read the Resolution so that the members can understand why I have this bottle in the Chamber in regards to the resolution. “WHEREAS, pests and insects are entering the ports of the Commonwealth without detection in containers being brought in from foreign countries, most especially from Thailand; and WHEREAS, pests and insects are transported into the CNMI in containers containing soil, potteries and plants imported into the islands, some of which are smuggled by owners of the containers; and WHEREAS, the importation of soil, potteries and plants that have been infested by these pests and insects have multiplied in the ponds and dirt in the Commonwealth; and WHEREAS, in April of 2006, a container from Thailand containing pottery and other products was permitted entry by COERCION despite the cargo was infested with spiders and roaches; and WHEREAS, among these containers one was owned by the girlfriend of the present CNMI Attorney General Matthew Gregory; and WHEREAS, as the result of all these alien invaders, I have brought in for proof of specimens in the jar containing three varieties of the alien invaders grown from the hidden eggs that made its way into the CNMI via containers from Thailand and began nesting, hatching and multiplying in fish and lily ponds; and WHEREAS, the shipment of foreign goods into the CNMI is a necessary continuous process to provide goods and services to the people that call these remote islands home; and WHEREAS, the continued entry and growth of alien pests will have a long term detrimental effect on the environment that will bring harm to our people, turn away investors, and further our economic downward spiral; and WHEREAS, the inspection process for containers entering the Commonwealth should be stringent and not randomly inspected to prevent the growing infestation of alien pests and insects destroying our beautiful islands; and WHEREAS, the growing population of the pests and insects similar to the invasion of the Ivy Gourd Vines that were brought in by the garment workers from Thailand back in the late 80's, and as it is known that the Ivy Gourd is a delicacy to the people of Thailand;”. If anybody would like to cosponsor the Resolution, you are welcome.

Representative Hofschneider: Mr. Speaker, I would like to recognize the presence of our Washington Representative Pete A. Tenorio.

Speaker Arnold Palacios: Welcome to the House of Representatives, Mr. Resident Representative.

H. J. R. NO. 16-6: A House Joint Resolution to call a special election on November 4, 2008 to ratify proposed legislative and popular initiatives pursuant to 1 CMC § 6505 and to request that the Commonwealth Election Commission expedite the special election process.

Offered by: Rep. Heinz S. Hofschneider

Referred to: Committee on Judiciary and Governmental Operations

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. I believe today is the day that we were supposed to receive a report from the Ad Hoc Committee on Rules on H. R. NO. 16-9.

Speaker Arnold Palacios: We will get to that when we get to the Resolution Calendar.

Representative Sablan: I notice that it actually is not anywhere on the Agenda.

Speaker Arnold Palacios: When we get to the Resolution Calendar you can raise that issue.

Representative Sablan: Okay, thank you.

Speaker Arnold Palacios: We move on to Messages from the Governor.

### MESSAGES FROM THE GOVERNOR

GOV. COMM. 16-117: (5/30/08) Report on the Exercise of Constitutional and Statutory Authority to Declare a State of Disaster Emergency for the Commonwealth of the Northern Mariana Islands with respect to the Commonwealth Ports Authority as to its obligations under its 1998 Bond Indenture Agreement for the \$20 million Airport Revenue Bonds.

GOV. COMM. 16-118: (5/27/08) Certification of vacant positions at the Division of Real Estate, Department of Public Lands.

GOV. COMM. 16-119: (5/27/08) Certification of vacant positions at the Department of Public Safety, Tinian.

GOV. COMM. 16-120: (6/4/08) Certification of vacant positions at the Commonwealth Zoning Board.

GOV. COMM. 16-121: (6/5/08) Informing the House that he signed into law H. L. B. NO. 16-7, D2, (To name the public beach park located near the PIC Hotel in San Antonio (Lot No. 028I01) to “Påkpå Beach Park”; and for other purposes) into *Saipan Local Law 16-3*.

GOV. COMM. 16-122: (6/5/08) Informing the House that he signed into law H. B. NO. 16-44, HD1 (To amend the definition of “alien” under Titles 3 and 4 of the Commonwealth Code; and for other purposes) [**Became Public Law 16-5**].

GOV. COMM. 16-123: (6/6/08) Informing the House that he vetoed H. B. NO. 16-81, SD1 (To amend 1 CMC §8347; and for other purposes) [*Deadline 8/5/08*].

GOV. COMM. 16-124: (6/10/08) Certification for salaries in excess of \$50,000 for Dr. Michael A. Koning and Dr. John Yarofalir.

GOV. COMM. 16-125: (6/10/08) Certification of vacant positions at the Department of Public Health-Tinian.

GOV. COMM. 16-126: (6/11/08) Certification of salary in excess of \$50,000 for Dr. Michael Seckeler.

GOV. COMM. 16-127: (6/11/08) Certification of salary in excess of \$50,000 for Dr. Jennifer A. Linden.

GOV. COMM. 16-128: (6/11/08) Certification of a vacant position at the Department of Public Health.

GOV. COMM. 16-129: (6/12/08) Executive Order 08-06 – Renewal of Declaration of a State of Disaster Emergency: Commonwealth Ports Authority's approach of technical Default on \$20 Million Indenture.

GOV. COMM. 16-130: (6/11/08) Certification of a vacant position at the Department of Public Health.

Speaker Arnold Palacios: I recognize Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. On GOV. COMM. 16-117 which basically is an extension of the State of Disaster Emergency called on the Commonwealth Ports Authority (CPA). Mr. Speaker, this House acted a couple of times in opposition to this declaration of emergency. One through a resolution objecting to the state of emergency call and challenging its constitutionality and the second was when we rejected the Executive Order (EO 2008-05) that would have granted the Governor control over the Commonwealth Ports Authority for a period of six months. This continued abuse should not be allowed, Mr. Speaker. I feel that this body should seriously consider the bill that was introduced by the Floor Leader that more specifically defines the state of disaster authority granted to the governor. This is a continued circumvention of the laws granted to the legislature and our Constitution. Thank you.

Representative Sablan: Mr. Speaker, just to add to Representative Benavente's comments, I share the same concerns that he has about this latest extension of the emergency declaration. And the bill that was passed by the House at the last session, as I recall, we had some concerns about how we were to redefine the definition of exactly what a disaster is under the constitution. I would also like to ask that we consider, I mean, if we firmly believe as a body that this is a violation of the constitution that we take this to the next level because the last executive order that we rejected would have extended the Governor's control of CPA for a hundred and twenty days. I can imagine that this state of emergency would just be extended another three times and who knows for how much longer beyond that. So, if this is going to continue, I would strongly suggest that we pursue the matter in court and resolve the issue before it gets worst. Thank you.

Speaker Arnold Palacios: In consideration of those statements, the Chair will immediately send a letter to the Governor conveying the concern that we have over this. Certainly, we have ample time under this state of emergency to put a lot of energy into reappointing new members for the board. Representative Hofschneider, your thoughts on this matter.

Representative Hofschneider: I actually have a legal question, Mr. Speaker, regarding the letter from the Governor. May I be allowed?

Speaker Arnold Palacios: I will allow it. You are recognized.

Representative Hofschneider: On the second page of his letter beginning with the paragraph “Therefore, I hereby invoke Article 3....” If you follow that and the enumerated number three, “(3) Transfer the direction, personnel, or functions of the commonwealth departments and agencies....” —does this mean it not only limits it to CPA but others such as the Commonwealth Development Authority (CDA)? In his argument in the preamble of the executive order, I find that the resignation of all members” is relating to CPA. But if you follow through the effective language of the executive order, number three is a general language provided to him under the constitution and laws that is all inclusive of even transferring even CDA potentially. Am I inconsistent with the reading of the letter or the executive order?

Speaker Arnold Palacios: Let us take a short recess.

*The House recessed at 10:08 a.m.*

*RECESS*

*The House reconvened at 10:11 a.m.*

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

Representative Hofschneider: Thank you, Mr. Speaker. The position of both houses of the legislature is very clear when we rejected Executive Order 2008-05 a couple of weeks ago. But it is interesting because I have not heard and I do not know if any member has heard if the Governor has submitted nominations to sit on the board of CPA. The longer that is not attended to and achieved in securing the nomination and the confirmation, the longer this will be repeated in terms of executing an emergency to emplace new rates and fees and other remedies provided and agreed upon with the Trustee, which is Bank of Guam, and recent report by Recando and Associates. So it is appropriate for the body to emphasize to the Governor the need to emplace independence of the Commonwealth Ports Authority through the nomination and confirmation of new board members. I do not want to second guess the Senate, but I think that the action taken by the Senate, in consistent with the House of Representatives in approving the joint resolution rejecting the executive order, that the Senate is ready and able to meet the request of the Governor in terms of confirming the nominees if they have been submitted. If not, Mr. Speaker, then it is the rightful domain of the body to impress upon the Governor the need to act on it expediently.

Speaker Arnold Palacios: Thank you. Once again the Chair will consider writing a formal letter to the Governor conveying these concerns. I recognize Representative Reyes.

Representative Reyes: This whole idea of the Governor issuing the executive orders and declaring the state of emergency happened because of the so-called urgency of the situation at CPA. Of course, by joint resolution of the members of congress we have rejected these executive orders. Now we have this letter again that he extended the state of emergency. Mr. Speaker, given the urgency of this matter because of the bond situation, can we ask the legal counsel to look over things all over again and perhaps give us more solid guidelines so that we can act on this as soon as possible. I will be interested to find out what would be the thorough legal opinion in all areas of the issue. Thank you.

Speaker Arnold Palacios: Representative Sablan?

Representative Sablan: Thank you, Mr. Speaker. I also wanted to note that that the Administration came out in the media, and I believe this is prior to the declaration of the extension of the state of emergency, but they stated their believe that CPA cannot function without a governing board in place. It is my understanding that all of the members of the former board have now resigned. Is that correct? Well, CPA is in fact functioning without a governing board and even under state of emergency and we have noticed in previous sessions that the Governor takes the hands-off approach and allows the executive director to run the agency. So if you could also note that in your letter, because it just does not make sense if that would be the justification for extending the state of emergency. It just does not seem justified at all.

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

### SENATE COMMUNICATIONS

SEN. COMM. 16-39: (6/3/08) From the Senate transmitting a certified copy of Senate Resolution No. 16-15, D1, entitled, “A Senate Resolution to request that the Department of Public Lands (DPL) refrain from entering into any new public land leases in the Third Senatorial District until all of the outstanding village homestead applicants are satisfied,” which was adopted by the Senate.

The Chair recognized Representative Raymond Palacios.

Representative Raymond Palacios: I have a question on the resolution with regards to public land. Does this resolution also prohibit land leases for maintenance purposes, like a small portion of public land?

Speaker Arnold Palacios: No, it does not prohibit, it does not require. It is a resolution basically expressing and requesting the Department of Public Lands from entering from any new public land lease until the homestead program is satisfied, but it does not mandate them to do anything.

Representative Raymond Palacios: But does it include public lands that would be used for maintenance purposes because it does not specify.

Speaker Arnold Palacios: It is very general so it is all inclusive. If there is no further comment, we move on the House Communications.

### HOUSE COMMUNICATIONS

Hse. Comm. 16-51: From Representative Benavente with regards to the Pacific Islands Development Bank (PIDB) Board of Governors (Board) regular meeting that was held on April 28-29, 2009, in Koror, Palau.

Hse. Comm. 16-52: From Representative Stanley T. Torres with regards to the PEW.

HSE. COMM. 15-53: From the Speaker appointing Representative Benavente to the Commonwealth Comprehensive Infrastructure Plan Task Force.

Speaker Arnold Palacios: Representative Torres, recognized.

Representative Stanley Torres: Mr. Speaker, I am not prepared to distribute a copy but I am going to make a stern statement that this House should do something to call on the Attorney General for an oversight for gross dereliction as the highest enforcement officer in the Commonwealth for permitting a corrupted force under his direct supervision in his department. I have document to prove what I am accusing the Attorney General for dereliction of fiduciary responsibilities as the highest law enforcer in the Commonwealth. I request that you call your leadership in a closed door session so that I can produce and read what is at hand of the situation of the Attorney General Matthew Gregory. Thank you.

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

Representative Benavente: Thank you, Mr. Speaker. On HSE. COMM. 16-53, I want to thank you for the appointment. As you know the statute, Public Law 15-42, actually has some requirements and timetables. I want to make sure that I am excused from those timetables, Mr. Speaker, because I believe the six months period allowed under the law is getting close already, but I will do my best to comply with your appointment, Mr. Speaker.

Speaker Arnold Palacios: Thank you. I have already conveyed your appointment to the Governor. The person to get in touch with would be Ray Mafnas and Vicky Villagomez. We now move on to Judicial Communications.

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

JUD. BR. COMM. 16-5: (5/28/08) Certification for a vacant position at the Superior Court.

JUD. BR. COMM. 16-6: (6/4/08) Memorandum from Acting Chief Justice Alexandro C. Castro informing that he will be on personal leave beginning June 6 through June 15, 2008 and that Associate Justice John A. Manglona will serve as the Acting Chief Justice.

There was no discussion under this item.

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

None

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

DEPT./AGCY. COMM. 16-29: From the Acting Executive Director of the Commonwealth Ports Authority, Mr. Lee C. Cabrera, filing the first Interim Bond Indenture compliance report by Commonwealth Ports Authority as to its obligations under its 1998 Bond Indenture Agreement for the \$20 million Airport Revenue Bonds (*Emergency Declaration Executive Order No. 08-04*).

DEPT./AGCY. COMM. 16-30: From the Saipan Higher Education Financial Assistance (SHEFA) Board of Directors Chair, Ms. Felicidad T. Ogumoro, with regards to SHEFA response to OPA Review.

Speaker Arnold Palacios: I assume the Chairman of the Committee on Health, Education, and Welfare is considering the report under DEPT./AGCY. COMM. 16-30 and weighing the issues raised in the OPA's report. I recognized Representative Benavente.

Representative Benavente: Mr. Speaker, I know that we skipped Item 9, Communications from the Resident Representative because there is no communication, but I would like at this time to recognize the presence of our Washington Representative, the Honorable Pete A. Tenorio.

Speaker Arnold Palacios: Again, Washington Representative Tenorio, welcome to the House. I recognize Representative Hocog.

Representative Hocog: Mr. Speaker, I did not have time to submit the communication from the Executive Director of CUC yesterday, but I have attached such communication to H. B. NO. 16-120 for everybody's reference.

Representative Hofschneider: Mr. Speaker, I may be out of order, but I would like to raise the issue on the bill introduced by Representative Reyes that the Governor has vetoed with regards to the Office of Vocational Rehabilitation (OVR). We should take action and refine whatever the Governor's concern is because there are a growing number of people waiting for that.

Speaker Arnold Palacios: Thank you for that. We are going to take up legislation under the Bill Calendar. We move on to the next item of the Agenda.

### OTHER COMMUNICATIONS

MISC. COMM. 16-27: (5/9/08) From Assistant Inspector General for Audits Bob Romanyshyn providing a copy of the Office of Inspector General's Semiannual Report covering October 1, 2007 through March 31, 2008. (*Note: Report on CD ROM format – Website:www.doioig.gov* )

### REPORTS OF STANDING COMMITTEES

Speaker Arnold Palacios: I recognize the Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. I make a motion for the adoption of S. C. R. NO. 16-18 reporting on H. B. NO. 16-37.

The motion was seconded.

S. C. R. NO. 16-18: Reporting on **H. B. NO. 16-37** entitled, "To repeal and reenact Chapter 16 of Division 5 of Title 4 of the Commonwealth Code as established by Public Law 15-36 to regulate recycling businesses operating in the Commonwealth; to repeal Public Law 15-55 in its entirety; to establish the offense of theft of copper; and for other purposes." *Your Committee on Commerce and Tourism recommends passage of the bill in the form of House Substitute 1.*

Speaker Arnold Palacios: The motion has been made and seconded for the adoption of S. C. R. NO. 16-37. Discussion on that motion.

Several members voiced "ready."

There was no discussion and the motion to adopt S. C. R. NO. 16-19 was carried by voice vote.

Speaker Arnold Palacios: The motion carries and S. C. R. NO. 16-18 is hereby adopted. Floor Leader.

Floor Leader Camacho: Mr. Speaker, a motion to adopt S. C. R. NO. 16-19 reporting on H. B. NO. 16-43.

The motion was seconded.

S. C. R. NO. 16-19: Reporting on **H. B. NO. 16-43**, entitled, “To amend Title 4 Section 50138 of the Commonwealth Code regarding the sale of cigarettes; and for other purposes” *Your Committee on Commerce and Tourism recommends that the House file the bill.*

Speaker Arnold Palacios: The motion to adopt S. C. R. NO. 16-19 has been made and seconded. Is there any discussion on that motion? I recognize Representative Babauta.

Representative Babauta: May I ask the committee whether or not they engaged a dialogue with the Department of Commerce?

Representative Reyes: Mr. Speaker, I do not have a copy with me but I did recall some comments from the Department of Commerce. Their sentiment is shared with the committee that we need not necessarily enact this into law rather it is just a responsibility. There are current laws with heavy penalties on the issue that deals with the sale of cigarettes and this is just an additional burden that will be imposed on the business community. That is to the best of my recollection, but if Representative Babauta so desires, I will look for that communication and make copies.

Representative Babauta: Thank you. I appreciate the Chair providing my office with a copy, Mr. Speaker.

Speaker Arnold Palacios: Thank you. Is there any further discussion?

There being no further discussion, the motion to adopt S. C. R. NO. 16-19 was carried by voice vote.

Speaker Arnold Palacios: The motion carries and S. C. R. NO. 16-19 is hereby adopted by the House.

Floor Leader Camacho: Mr. Speaker, I now offer a motion to adopt S. C. R. NO. 16-20 reporting on H. B. NO. 16-78.

The motion was seconded.

S. C. R. NO. 16-20: Reporting on **H. B. NO. 16-78**, “To amend Public Law 15-22; and for other purposes.” *Your Committee on Commerce and Tourism recommends passage of the bill with amendments.*

Speaker Arnold Palacios: The motion has been made and seconded. Are you ready for the question?

Several members voiced “ready.”

There being no discussion, the motion to adopt S. C. R. NO. 16-20 was carried by voice vote.

Speaker Arnold Palacios: The motion carries and S. C. R. NO. 16-20 is hereby adopted. Floor Leader.

Floor Leader Camacho: Mr. Speaker, a motion to adopt S. C. R. NO. 16-21 reporting on H. B. NO. 16-102.

The motion was seconded.

S. C. R. NO. 16-21: Reporting on **H. B. NO. 16-102**, entitled, “To appropriate Three Hundred Fifty Thousand Dollars (\$350,000.00) 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.” *Your Committee on Ways and Means recommends passage of the bill.*

Speaker Arnold Palacios: The motion to adopt S. C. R. NO. 16-21 reference H. B. NO. 16-102 has been seconded. The floor is open for discussion.

Several members voice “ready.”

There was no discussion and the motion to adopt S. C. R. NO. 16-21 was carried by voice vote.

Speaker Arnold Palacios: S. C. R. NO. 16-21 is hereby adopted. Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. NO. 16-22 reporting on H. B. NO. 16-71.

Seconded by Representative Babauta.

S. C. R. NO. 16-22: Reporting on **H. B. NO. 16-71**, entitled, “To prohibit the solicitation of donations along and in public ways and intersections; and for other purposes.” *Your Committee on Judiciary and Governmental Operations recommends passage of the bill with amendments.*

Speaker Arnold Palacios: The motion is to adopt S. C. R. NO. 16-22. Discussion on the motion. Representative Yumul.

Representative Yumul: Thank you, Mr. Speaker. I seem to recall in the 15<sup>th</sup> Legislature that we passed a legislation that prohibits solicitation on public property. I think it was introduced by then Congressman Martin Ada. Is the committee aware of that and is this similar or is this a totally different provision.

Speaker Arnold Palacios: You are correct. We did pass and it became law, but let me ask the Vice Speaker to elaborate.

Vice Speaker Deleon Guerrero: You are correct, Mr. Speaker. There is a public law and it did prohibit solicitation on public roads, public sidewalks, public property and I think that was intended to curb prostitution in the streets of Garapan. Representative Martin Ada did introduce legislation to amend the enabling law to include beaches and other public areas. I do not know if Representative Ada's bill was passed but the original Anti-loitering Act was enacted.

Representative Yumul: Thank you, Mr. Vice Speaker. Mr. Speaker, I guess if this is an enhancement, then I do not have any objection. I just wanted to make sure that the committee was aware that we had something similar passed in the Fifteenth Legislature. Thank you.

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

Representative Sablan: Thank you, Mr. Speaker. I am a member of the committee and I actually was not aware that there was a public law passed in the Fifteenth Legislature.

Speaker Arnold Palacios: There was a public law enacted by the Fifteenth Legislature and subsequently amended. It is anti-solicitation primarily targeting the tourist areas in Garapan because of the proliferations of solicitation of tourists. But I believe the law was fairly general and it prohibits any solicitation whatsoever on public property. I would think that would include this. It was subsequently amended to include beach concessions at hotel properties to curb what is called *shobai*, again to curb the proliferation of solicitation of tourists to come to a beach concession. If anything, this would strengthen the statute. We see it now happening. It is starting to be very prevalent at intersections in Lower Navy Hill at the traffic light and at the Micro Beach area, also down at the San Jose triangle by Microl Corporation. We see a lot of solicitation and I think this bill is an extension of the current statute.

Representative Sablan: Sure, and I fully appreciate that. I guess my concern is that there may be possible conflicts between this bill and the public law. I do not know if there are penalties there were assessed in the public law, but this bill proposes to do the same and perhaps we should defer action on this committee report until we can determine that.

Speaker Arnold Palacios: That is a thought. I recognize Representative Babauta.

Representative Babauta: Point of observation on the Committee Report, Mr. Speaker. May I ask the Chair—I was reading the committee report and I noticed that there are only five members in the Committee? So that is it? Nobody else wants to join your committee?

Representative Santos: (Microphone off- inaudible).

Representative Babauta: Oh okay.

Speaker Arnold Palacios: Short recess.

*The House recessed at 10:30 a.m.*

*RECESS*

*The House reconvened at 10:31 a.m.*

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

Speaker Arnold Palacios: I would like to ask the Chair to respond.

Representative Santos: This is just a clarification that the Anti-loitering Law specifically targeted tourists in western Garapan. This is to address the fundraising of different organizations throughout the island. You see young kids on the islands on the roads and we thought that that is a danger to the community, and this is specific to that. It does provide for a penalty provision and I do not think that it will conflict with whatever penalty provision that was given in the loitering act.

Representative Sablan: Could we go into a short recess and look at the loitering act and make sure if we are not going to defer action on this?

Speaker Arnold Palacios: Before I call for a recess, let me recognize Representative Salas.

Representative Salas: Mr. Speaker, I just wanted to say that during the discussions of this bill in the committee we were very concern about the safety of those children and that is one of the reasons why we supported this bill, because as you said, it is prevalent, especially during the March of Dimes and events like that.

Representative Benavente: Point of information, Mr. Speaker. At one time under discussion, I think the issue raised by Representative Sablan actually has to do with the bill itself and that should be discussed at that time and not during the deliberation of the committee report. So I think we should act on the committee report and move on.

Representative Sablan: Point of clarification, Mr. Speaker. I would have to respectfully disagree with Representative Benavente. I think it is pertinent to the committee report as well because the committee report makes no mention of the Anti-loitering Law or whether or not this would possibly conflict. So, that should be in the report.

Speaker Arnold Palacios: Okay, we will take a five-minute recess.

*The House recessed at 10:35 a.m.*

*RECESS*

*The House reconvened at 10:43 a.m.*

Speaker Arnold Palacios: We are back to our session. We left off discussing S. C. R. NO. 16-22. I recognize the legal counsel to make some clarifications as requested.

House Legal Counsel Joe Bermudes: Basically Public Law 15-113 is very specific and limited to the solicitation loitering outside a business area. Later there was an amendment and beach areas were added. This is now specific to the middle part of the highway, so it will be okay to pass (End of Tape 1 side A)

Speaker Arnold Palacios: (beginning of Tape 1 side B) ...so we will now move to the main motion.

The motion to adopt S. C. R. NO. 16-22 was carried by voice vote.

Speaker Arnold Palacios: The motion is carried. I recognize the Floor Leader.

Floor Leader Camacho: Mr. Speaker, I move to adopt S. C. R. NO. 16-23 reporting on H. B. NO. 16-18, H. B. NO. 16-27, H. B. NO. 16-28, H. B. NO. 16-32, H. B. NO. 16-49 and H. B. NO. 16-87.

The motion was seconded.

S. C. R. NO. 16-23: Reporting on **H. B. NO. 16-18**, “To amend 3 CMC § 7831 by adding a new subsection (e) that shall remove the requirement that the Commonwealth Utilities Corporation pay one percent of its annual budget to the Office of the Public Auditor; and for other purposes;” **H. B. NO. 16-27**, “To re-appropriate \$1,500,000.00 from the Office of the Public Auditor surplus funds in Fiscal Year 2007 for the Commonwealth Utilities Corporation’s non fuel costs; and for other purposes;” **H. B. NO. 16-28**, To Re-appropriate \$3,000,000.00 of the \$3,700,000.00 from Section 702 Funding for 2008 Allocated to Puerto Rico Dump for Northern Marianas College Building Improvements and Repair, and for the Development of a Master Plan and A&E Design for the New Campus; and for Other Purposes;” **H. B. NO. 16-32**, “To re-appropriate \$1,500,000.00 of the \$3,700,000.00 from Section 702 Funding for 2007-1 allocated to Puerto Rico Dump, \$750,000.00 from the Kalabera Cave development and \$750,000.00 from Lake Susupe Boardwalk Trail for Northern Marianas College Building Improvements and Repair, and for the Development of a Master Plan and A&E Design for the New Campus; and for other purposes;” **H. B. NO. 16-49**, “To establish a fuel subsidy account for the Commonwealth Utilities Corporation, and for other purposes;” **H. B. NO. 16-87**, “To repeal, reenact, and amend PL 12-71 and PL 14-28 and to provide a 120-day amnesty period for the filing of delinquent returns under Title 4, Chapters 2, 3, 4, 5 and 7 Division 1 of the Revenue and Taxation Act of 1982, as amended, and the payment of delinquent taxes without imposition of penalty and interest, with certain exceptions and for the waiver of penalty for failure to obtain a business license; and for other purposes.” *Your Committee on Ways and Means recommends that the House file the aforementioned bills.*

Speaker Arnold Palacios: I recognize Representative Hofschneider.

Representative Hofschneider: I move to the previous question.

The motion was seconded. Several members voice “ready.”

There was no discussion and the motion to adopt S. C. R. NO. 16-23 was carried by voice vote.

Speaker Arnold Palacios: The motion is carries, S. C. R. NO. 16-23 is hereby adopted. Floor Leader?

Floor Leader Camacho: Mr. Speaker, a motion to adopt S. C. R. NO. 16-24 reporting on H. B. NO. 16-112.

The motion was seconded.

S. C. R. NO. 16-24: Reporting on **H. B. NO. 16-112**, entitled, “A Bill for an Act to provide for the election of Delegate to the US House of Representatives, and for other purposes.” *Your Committee on Judiciary and Governmental Operations recommends passage with amendments.*

Speaker Arnold Palacios: The motion has been seconded. Discussion on the motion.

Several members voice ready, and the motion to adopt S. C. R. NO. 16-24 was carried by voice vote.

Speaker Arnold Palacios: S. C. R. NO. 16-24 is hereby adopted. Floor Leader.

Floor Leader Camacho: Mr. Speaker, a motion to adopt S. C. R. NO. 16-25 reporting on H. B. NO. 16-77.

The motion was seconded.

S. C. R. NO. 16-25: Reporting on **H. B. NO. 16-77**, entitled, “To allow and encourage the Commonwealth Utilities Corporation to engage the private sector to partner with the Commonwealth to secure reliable utility services at affordable rates; and for other purposes.” *Your Committee on Public Utilities, Transportation, and Communications recommends passage in the form of a substitute.*

Speaker Arnold Palacios: The motion is to adopt S. C. R. NO. 16-27 and it is has been seconded. Discussion on the motion. I recognize Representative Sablan.

Representative Sablan: Mr. Speaker, while I would like to show all due respect to the Committee on Public Utilities, Transportation and Communications my concern with this standing committee report is that it does not say much considering the weightiness of the bill that it is reporting on . The substitute that is being offered is a combination of two very significant pieces of legislation for which we have a report that amounts to a little more that a page. And most of the report pretty much reiterates the findings of the bill. Furthermore there is no cost benefit analysis for any portion of the bill that is at hand right now and I would really like to ask that we defer action on this committee report.

Speaker Arnold Palacios: Mr. Chairman?

Representative Hocog: Mr. Speaker, I am ready for the question.

Speaker Arnold Palacios: Representative Benavente, recognized.

Representative Benavente: Mr. Speaker, there is a need to resolve this serious and major crisis that the people of Saipan, and the people of Tinian and Rota as well, because we are not just talking about the unreliable power where power outages occur two, three or sometimes five times a day here in Saipan, but it also includes the high cost of the utilities in which the people of Tinian and Rota are suffering from as well. We needed to act yesterday, Mr. Speaker, not today, not tomorrow. This is an urgent matter. As we have discussed in the past, whether in this body or in the leadership meetings or at the committee level, if the Administration is not willing to move and proceed expeditiously on resolving this crisis, then we will and right now the option is for the privatization of at least the power generation. This legislation proposes such and that we provide the authority and the timetables so that we move forward. Once again, we do not have time financial analysis. We are proposing that this government move as quickly as possible to resolve this crisis. As we have discussed over and over about options that we think we have, we still need to act on a proposal, on a

bid process so that companies that can provide us more reliable and more affordable power can come in and do this today not tomorrow.

The Chair recognized Representative Reyes.

Representative Reyes: Mr. Speaker, I urge the members to seriously think about it. As Chair for the Committee on Commerce and Tourism this problem that we have with the Commonwealth Utilities Corporation (CUC) is probably much more than we can all think of. It does affect everybody on the island, not just the residents of the Commonwealth but including the business community. We need to address this and find some resolve to any extent to anything better than what we have right now because everybody is hurting. We lose money at anytime that CUC shuts down the power. The government loses revenue from the business revenue tax. I am tired of having to replenish my appliances and equipment because of failure of the power surges. It just breaks down everything. If anybody can tell me that you are not suffering from this, you can probably argue all day long about it. But if you think we are hurting with the CUC services as it is, we have had ample time in the past and nothing has ever been done or nothing has been corrected to remedy or relief us from this high cost of electricity. And with this the lateral effects that come with it, Mr. Speaker, I urge everybody to treat this with most urgency and let us act on it. It is a beginning, it may not be perfect, but it is something to go with right now. As Representative Benavente said it was long overdue. Thank you.

The Chair recognized Representative Apatang.

Representative Apatang: Mr. Speaker, I just want to say that this is the first step towards fixing our problem here in the Commonwealth as far as CUC issues are concerned. We need to support this bill. We have been passing legislation to subsidize CUC. This is now a serious legislation that will move CUC in the right direction. We need to support this bill so that we can get moving.

The Chair recognized Representative Dela Cruz.

Representative Dela Cruz: Mr. Speaker, I agree with my other colleagues in regards to CUC being in this critical state. This standing committee report – and by the way, I am a member of the Committee on Public Utilities, Transportation and Communications and I do not believe there has been a meeting of the committee to discuss this report. I do understand that there have been thirteen letters for comments sent out to government agencies. All I have seen is one comment from the Saipan Mayor's Office and he too does not agree with this legislation. I wonder what happened to the rest of the comments. Have we received these comments? Did we deliberate? I know I was not there to deliberate. There is a lot of cloud on this legislation right now. The original H. B. NO. 16-77 and this committee substitute are two totally different legislations. In the original legislation, we had five hundred million dollars for anyone that wants to takeover and privatize the entire CUC. Now it is down to two hundred and fifty million dollars. What happened? How did we lose two hundred and fifty million dollars in such a short time? Did we discuss this? The issue with property rights, it is stated on the bill that the Department of Public Lands (DPL) is to give the rights to CUC for all of CUC's properties or assets that sit on those properties. My question is, is DPL willing to give all the rights for all the waterlines on these easements and what will happen to Pacific Telecommunications Incorporated (PTI)? Will they be paying lease to CUC now? For all I know, CUC is not even collecting the pole attachment agreement fees for MCV? I do not know and these are questions that we need to ask. As it stands right now, I would not go along with this committee report. To be honest, I would agree with a performance management contract concept but not privatization at this time. We have Telesource (CNMI, Inc.) in Tinian that is basically privatized. Pacific Marine and

Industrial Corporation (PMIC), the lease will not be up until 2016. Is it helping the Commonwealth. Is PMIC saying: we understand the situation CUC, you are paying too much for oil and lubricants; we are going to find an alternative energy being a good company for this community. Have they taken that initiative?—No. Is Telesource taking initiatives to look at alternative energy?—Of course not. Plain and simple—they really do not care as long as they are running those engines and CUC is footing the bill for fuel and lubricants. Here we are saying that privatization is the way to go. Maybe, but we have had experiences and we are still experiencing it. I would recommend to the Committee to call CUC in again and find out what are they doing. I know that they have received submissions of proposals for alternative energy. We need to know what is going on with the power plants in Lower Base. We need to get more updates before we move forward to privatization. I would rather see privatization and let it go to somewhat of a public cooperative movement so that the people will become owners of CUC. I would rather see that because like I said, Telesource and PMIC are private companies and they are going to be here for the long haul, but at the same time CUC consumers are paying and they are paying handsomely for the fuel and lubricants that these engines run on. That is all, Mr. Speaker. Thank you.

The Chair recognized Representative Ralph Torres.

Representative Ralph Torres: Mr. Speaker, I do understand where Representative Dela Cruz is coming from. His concerns are all valid. At the same token, I would like to echo the concerns of my committee on Health, Education, and Welfare. As you know the Public School System (PSS) has reduced their department a month early and they are going to open up the schools a month late. A major concern is the utility billings for each school here in Saipan, as well as in Rota and Tinian. The fuel charges as we all know is not getting any cheaper. The condition of our engines is not getting any better. In fact, as the day goes, it is going to get worst. So we sit back and we analyze what is going on. And, we have to start somewhere. And to start somewhere, I strongly believe that we have to push for this bill. We have to understand that there is every concern for the past thirty years on CUC. We have done numerous RFPs (Request for Proposals), numerous private contracts yet we are still in the worst situation than ever. So what I am proposing is that we take this bill and push it forward and that is our first step to getting a better rate herein the CNMI. I understand and one of the biggest issues is that everyone in the CNMI is suffering. If this is what it takes for each department to pay less on their CUC bill that saving will go back to the department. For example, for PSS, instead of paying nine hundred thousand for their utility billings, they can use a portion of that in savings for books, hiring qualified teachers. So let us use our resources and provide a better utility rate because ultimately each one of us in the CNMI will benefit from it. Thank you, Mr. Speaker.

The Chair recognized Representative Hocog.

Representative Hocog: Mr. Speaker, I accept the message from those that would not want to have this legislation acted on today. I wish to inform my good colleague Representative Dela Cruz that I checked him yesterday to participate in the call of the Speaker and the members of the committee to discuss H. B. NO. 16-77. We had a lengthy discussion yesterday. We have come up with some bright ideas in how to move this bill forward. And for the information of the members, I do not know how many times members here go down to visit the power plants, they have made comments publicly about how bad the power generation is. Mr. Speaker, the intent to privatize CUC has a long history going to as far back as 1996. 1996 was the initial period when then Governor Froilan Tenorio intended to privatize the corporation because of the foreseeable burden of CUC. It came along with another four administrations. We talk about bad power generation, we talk about high fuel costs. There are reasons that the residents are experiencing these high costs and that is because the lack of

power generation extended out to the business community and to other big users. Let us assume that all these big hotels are connected to the grid. Do you think that we are going to be paying thirty or thirty-eight cents today?—No, I do not think so. And because of the lack of users and the continuity of high cost of fuel that we are experiencing, naturally, the residential consumers will be tagged with this high cost of power because the big businesses are not connect to the grid. Therefore, CUC realizes less revenue to meet its fuel costs. We have discussed all opportunities and probabilities that this privatization legislation will encourage. It will encourage a public management company to run that. There is an option here to run under bill, operate and transfer (BOT). There is an option in this bill that provides for an independent power producer (IPP). There is an option that will provide one hundred percent privatization. Now to the question of why two hundred and fifty million is not there. We never had five hundred million in the first place.

Vice Speaker Deleon Guerrero: Point of order. With all due respect, Mr. Speaker, are we talking about the committee report or the bill?

Speaker Arnold Palacios: The committee report, but there are some concerns being raised.

Representative Hocog: There are concerns being raised on the committee report, Mr. Vice Speaker, that I am providing information from what was discussed yesterday.

Speaker Arnold Palacios: The Chairman is in order to respond to those concerns.

Vice Speaker Deleon Guerrero: Okay, so clarified.

Speaker Arnold Palacios: You are in order.

Representative Hocog: Okay, I guess you are not following our discussion today.

Vice Speaker Deleon Guerrero: It sounds like we are already discussing the bill and can we please wait until we get to the bill.

Speaker Arnold Palacios: Mr. Vice Speaker, I think the Chairman is on track to respond to some of the concerns raised by some members regarding the committee report. So please let us move on. Representative Santos, please join us in the Chamber. You may continue, Mr. Chairman.

Representative Hocog: Thank you. Let me see if I can recollect where I left off, Mr. Speaker. But to answer some concerns because we are discussing the committee report as reported, and being directed accordingly to the legislation, that I need to answer those concerns. I will repeat the same during the deliberation of the bill. But if the members are not interested to listen in answering the concerns that drove the committee report to be what it is, I move to end discussion. Thank you.

Speaker Arnold Palacios: I will allow it because there are critical concerns that needs to be responded to. I recognize Representative Hofschneider.

Representative Hofschneider: Mr. Speaker, in relation to the committee report and the remarks made by Representative Dela Cruz, first of all, perhaps the committee report should have been expanded to not limit itself to the legislation but include some historical background. The point is, if one takes the time to read the bill properly, the bill contemplates three methodologies of privatization. One is performance based contract, performance management contract, the other is concessional franchise

similar to PMIC, and similar to Telesource in Tinian. A component or subset of CUC may be undertaken through those two that I specifically mentioned. The third is an outright privatization of the power generation, the electric portion, not to include transmission lines. So to answer Representative Dela Cruz's concern about the inevitable question of easement relating to PTI, there is an easement right given to CUC through every applicant and also from the government. So we are not delegating, we are not privatizing that transmission. We are delegating and privatizing the power generation component of CUC under the third concept of full privatization. As to the question of the original bill, I agree that initially I proposed a five hundred million dollars value on a full privatization. It was a typographical error. As pointed out by Chairman Hocog that we never had five hundred million to begin with. But why two hundred and fifty million today, it is a logical explanation on two levels. One is you have to be realistic. You want to get a bill, you have to compromise and accommodating other concerns. In relation to the economic potential, yes, it is still within the realm of two hundred and fifty million dollars. It is still a reasonable value that we can attach to the power generation component of CUC. Nobody has appeared and I do not, Mr. Speaker and members, have a definite value. But it behooves one to take and miss the opportunity to peg a value on CUC. Why not five hundred million, why not one billion? Being realistic, in terms of the dilapidated condition and the economic potential thereby of the current economic situation of the Commonwealth two hundred and fifty million is within the realm of good, big, serious operators that may in fact look at us when we issue the bill if we follow the law to the letter. The whole purpose of the committee report which I would like to see included is the very essential why the legislation is being proposed. One, you need to create clarity when you want to pursue a degree of privatization whether it be performance management contract (PMC), concession or franchise small components of CUC and the third option is if the CUC and the Commonwealth decides that the long term benefit should be in full privatization, like PTI which used to be a government entity and is now in private hands. So with CUC, the long haul is what we are concern about and perhaps the third option of fully privatizing the power generation component and not the transmission component is the right answer and the long term solution to our historical inability to maintain and expand reliable and affordable power. Keep in mind that the committee report also should have mentioned at a minimum that the emphasis should be on renewable energy with a combination of conventional production using fossil fuel. So perhaps the committee report may have been shortsighted in terms of the historical relevance provided in the content of the legislation. Be it as it may, I think that the emphasis should be that we provide clarity as to what the Commonwealth wants to embark and what this community needs in terms of affordable and reliable power. Number two, is to have a level playing field for all bidders. And third, probably the most important, is transparency in the process. RFPs should be stopped. This legislation stops it. That practice has plagued the Commonwealth and has brought us to our knees because of failed attempts using RFPs instead of clear and straight bids. We do not have in place in the law that provides for transparency and clarity as to the bidding requirements. This bill proposes that for the first time. There are other things that came by way of negotiations in this House that was not in the original bill. That also should have been mentioned. I sense that it should have been appropriate to mention the additives to the original bill. Be it as it may, I leave it to the rest.

Speaker Arnold Palacios: Perhaps, those specific issues may be raised when we deliberate on the bill. I recognize Representative Babauta.

Representative Babauta: Thank you, Mr. Speaker. If I may clarify with the counsel on page 17 --

Speaker Arnold Palacios: Representative Babauta, we are discussing the committee report at this time.

Representative Babauta: Oh, I am sorry, Mr. Speaker.

Speaker Arnold Palacios: I now recognize Representative Benavente.

Representative Benavente: Mr. Speaker, I believe that enough has been said as to the committee report itself. As you can see, most of those who have spoken are starting to get into the bill itself. Any further discussion could be done under the deliberation of the bill, and any further action whether it is to refer it to the committee. So I move to end debate, Mr. Speaker.

The motion was seconded

Speaker Arnold Palacios: Thank you. The motion is to end debate on the committee report.

Representative Sablan: Mr. Speaker, I understand that but I would like to make some points that are relevant to the committee report – if there is not objection and with the indulgence of the members.

Speaker Arnold Palacios: I will give you two minutes.

Representative Sablan: Actually the Rules allow me five. I will take what I can get. Mr. Speaker, nobody would dispute the urgency of CUC's mess right not. And I certainly will not do that either. My concern with this committee report is that the comments of the members only affirm the point that this committee report is incomplete. It is insufficient to justify either the proposal to restore the governing board, or the proposal to legislate privatization. The fact of the urgency of our situation is all the more reason why we should do this right from the beginning. This committee report was drafted yesterday. There was a committee meeting yesterday. The two major bills were combined yesterday. We have had less than a day to really even the bill and the committee report. And it is wrong, Mr. Speaker.

Speaker Arnold Palacios: Let me say this, Representative Sablan. I will allow extensive debate and deliberation on the legislation itself so that even the committee report will be extended beyond what it is. That is why I hope everybody have rescheduled their day because we will have a session all day long to address some bills on the Bill Calendar including this legislation. So at that time, I will allow for more time than usual for the members to share their thoughts. We will have extensive deliberation. Let us get to the committee report.

Representative Sablan: Even with four more hours, Mr. Speaker, will still not constitute extensive debate, not with less than twenty-four hours to read the bill and twenty-four hours to write the committee report. There has not even been a public hearing. It is noted in the committee report. Why not?

Representative Hocog: Point of order, Mr. Speaker.

Speaker Arnold Palacios: Recognized.

Representative Hocog: I guess you have allowed Representative Sablan two minutes after a motion to end debate has been seconded. I guess she ran out of her time, and if she wants to make more comments she can wait until the bill is being discussed.

Speaker Arnold Palacios: Okay, I will call for a vote right now. We have had a very lengthy discussion on this committee report and it is only a one-and-half page report. Let us get to the meat of the report. I will now call for a vote.

The motion to adopt S. C. R. NO. 16-24 was carried by voice vote.

Speaker Arnold Palacios: S. C. R. NO. 16-25 is hereby adopted. By virtue of the adoption of the committee reports, all legislations requiring action for passage are automatically placed on the respective Calendar. Before we move on, I recognize Representative Apatang.

Representative Apatang: (Inaudible – microphone off)

Speaker Arnold Palacios: Can we hold off on that. Short recess.

*The House recessed at 11:25 a.m.*

*RECESS*

*The House reconvened at 11:28 a.m.*

Speaker Arnold Palacios: We are back in session and if there is no objection we will deliberate on two bills first before we break for lunch and then come back to the Resolution Calendar.

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

NONE

## **UNFINISHED BUSINESS**

NONE

## **RESOLUTION CALENDAR**

H. COMM. RES. NO. 16-3: A House Commemorative Resolution honoring and commending Ms. Christine Dela Cruz Torres for her exemplary performance and graduating from the United States Coast Guard Academy and for receiving her commission as an Ensign in the United States Coast Guard.

H. J. R. NO. 16-6: A House Joint Resolution to call a special election on November 4, 2008 to ratify proposed legislative and popular initiatives pursuant to 1 CMC § 6505 and to request that the Commonwealth Election Commission expedite the special election process.

## **BILL CALENDAR**

Speaker Arnold Palacios: Mr. Floor Leader, we move on to Bill Calendar.

Floor Leader Camacho: Mr. Speaker, I move for the passage on First and Final Reading S. B. NO. 16-16, reference to Resident Directors for DPL for the First and Second Senatorial Districts.

The motion was seconded.

**S. B. NO. 16-16:** A BILL FOR AN ACT TO AMEND THE PUBLIC LANDS ACT OF 2006, 1 CMC §§ 2801, *ET SEQ.*, TO INCLUDE A NEW SECTION ESTABLISHING A RESIDENT DIRECTOR FOR THE DEPARTMENT OF PUBLIC LANDS IN THE FIRST SENATORIAL DISTRICT AND SECOND SENATORIAL DISTRICTS; AND FOR OTHER PURPOSES. (Ref. Sen. Comm. 16-27)

Speaker Arnold Palacios: The motion is to pass S. B. NO. 16-16 on First and Final Reading and it has been seconded. For discussion, I recognize Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker, I would like to ask the Chairman of the Ways and Means Committee if the committee had the opportunity to review this bill. It seems to be establishing two new positions and I would be concerned about additional costs incurred as a result.

Speaker Arnold Palacios: Representative Yumul, would you like to respond?

Representative Yumul: Mr. Speaker, I am still trying to locate that bill. So if you can give a minute. No, Mr. Speaker, the Committee on Ways and Means has not looked at the legislation as of this time.

Representative Sablan: I guess in reviewing the committee report of the Senate, they also do not indicate any potential cost and where the funding will come from for these additional positions, so I would be concerned about passing this bill because of that insufficiency.

Speaker Arnold Palacios: Funding for these positions will be sourced out of the Department of Public Lands, specifically DPL's operational trust established under Public Law 15-2. I would venture to say that that cost would be equivalent to all resident directors of executive departments as specified in existing laws. Representative Aldan, what do the resident directors from the Second Senatorial District make?

Representative Aldan: Thirty-six thousand dollars, Mr. Speaker. There are being reverted by the Department of Finance from forty-five thousand dollars to thirty six.

Speaker Arnold Palacios: Okay.

Representative Sablan: Point of clarification, Mr. Speaker. You state that the funding for these positions will come out of the budget for the Department of Public Lands, but the Senate bill says that the resident director shall be appointed by the Mayor of Rota and shall serve at the pleasure of the Mayor of Rota, and Tinian with respect to the Second Senatorial District. So it is not clear to me where the funding will come from—will it come from the respective mayor's office?

Speaker Arnold Palacios: No.

Representative Sablan: Well, perhaps we should clarify.

Speaker Arnold Palacios: Let me clarify. All resident directors for the First and Second Senatorial Districts are appointed by the mayor and confirmed by the respective municipal councils. So the cost of those positions, specifically to DPL, will be sourced out of DPL's funding.

Vice Speaker Deleon Guerrero: Mr. Speaker, page 1, line 16 of the bill says that the resident department head shall submit a budget to the mayor. I believe that the budget is intended to be provided by the mayor according to the bill.

Speaker Arnold Palacios: No, all resident directors submit their proposed budget to the mayor and the mayor packages those proposals to the Executive Branch. In regards to the Department of Public Lands, Public Law 15-2 is very specific in sourcing the functions of the departments from rentals. We established a special operational account.

Vice Speaker Deleon Guerrero: Mr. Speaker, if I still have the floor, may I proceed.

Speaker Arnold Palacios: Proceed.

Vice Speaker Deleon Guerrero: I understand Public Law 15-2 but because of the way this bill is worded it will lead one to believe or under normal process, the municipality submits its budget to the legislature. Unless we clarify, and that is my point, that even though they submit their budget request to the mayor that the budget should be funded through DPL and that can dispel that or provide clarity.

Speaker Arnold Palacios: I will entertain an amendment if you would like make that point clarified. I recognize Representative Hocog.

Representative Hocog: Mr. Speaker, the finding in the Senate's committee report, it is to comply with Article 3 section 17(b) of the NMI Constitution which mandates that the executive branch be administered by resident directors. I guess as salary is concern, a reclassification of the present personnel will probably be appointed as the resident directors. They will probably not be adding more personnel but renaming the positions of those presently serving the Department of Public Lands in the respective municipality. Thank you.

Representative Hofschneider: There is potentially a constitutional conflict with regard to the intent of this legislation. If the income is coming from the General Fund and the supervision is coming from the Department of Public Lands, there is potentially a constitutional conflict. The fundamental policies of DPL still exist. The income to pay for the resident director proposed under the legislation is to be paid out of the General Fund through the budgetary process. So there is a direct conflict between the supervision and who pays for those positions. It has to be clarified. In other words, you cannot have the direct supervision from the DPL and yet be paid by the General Fund.

Speaker Arnold Palacios: Short recess.

*The House recessed at 11:35 a.m.*

*RECESS*

*The House reconvened at 11:43 a.m.*

(A portion of the session proceeding was not recorded.)

Speaker Arnold Palacios: (*Start of Tape 2, Side A*) ...Floor Leader, a motion to withdraw.

Representative Hocog: Mr. Speaker, why do we not just go on recess and act on the bill when we come back?

Speaker Arnold Palacios: Is that a recommendation?

Representative Sablan: Mr. Speaker, I would like to make a subsidiary recommendation to have a session tomorrow as well, and I can justify it.

Speaker Arnold Palacios: The motion is to recess.

Floor Leader Camacho: Mr. Speaker, I will make the motion.

Speaker Arnold Palacios: Recognized.

Floor Leader Camacho: A motion to recess to break for lunch and come back at 1:30 in the afternoon, pursuant to your instructions.

The motion was seconded

Speaker Arnold Palacios: Discussion.

Representative Sablan: Mr. Speaker, I would really like to request that we reconvene our session tomorrow morning. I understand that there are a number of bills that people want to act on, but the weightiest one that I am obviously most concerned about is H. B. NO. 16-77. There is a community forum this evening and people are going to talking about this bill. I would like to invite everybody to come at six o'clock and they can hear the sentiments of their constituents.

Representative Benavente: Mr. Speaker, the motion to come back and continue our session this afternoon is in order. The concern raised by Representative Sablan as to the legislation she is talking about can be considered then. We have other legislations that we need to act on.

Representative Babauta: Point of clarification, Mr. Speaker.

Speaker Arnold Palacios: We seem to be very contentious even what time we are going to come back from our recess. I am the rule, so we will be voting on the motion to come back at 1:30 this afternoon.

The motion to recess until 1:30 p.m. was carried by voice vote.

*The House recessed at 11:45 a.m.*

*RECESS*

*The House reconvened at 1:50 p.m.*

Speaker Arnold Palacios: Our session is now reconvened. Before we get back to the issue we were discussing before we recessed, I would like to ask for everybody's cooperation that we please maintain decorum. Please refrain from walking around when one of your colleague's is speaking.

Representative Stanley Torres: Privilege.

Speaker Arnold Palacios: State your privilege.

Representative Stanley Torres: Mr. Speaker and colleagues, I passed out a piece of paper regarding alternative energy. Do you remember Dr. Arkle's presentation in Tinian last year about the nuclear battery?—This is it. I am glad that it came out on the national energy insights publication of the nuclear energy institute. If you look at the page, I am receiving this publication monthly. This is what we will probably be looking at as our next power source. It is good for thirty years and the rate is very low, maybe about five cents per kilowatt hour. Who would refuse such an offer of five cents a kilowatt? Thank you.

Speaker Arnold Palacios: Before we recessed, we were discussing S. B. NO. 16-16. I recognize the Floor Leader.

Floor Leader Camacho: Mr. Speaker, I would like to offer an amendment to insert a language on page 1 line 18 after the words, "commission or authority.", and insert "Funding for this positions shall be source from the Department of Public Lands operations fund bank accounts."

The motion was seconded.

Speaker Arnold Palacios: I recognize Representative Babauta under discussion.

Representative Babauta: Mr. Speaker, I am in support of the oral amendment, but again, going back to line 16, that second sentence still requires the resident department to submit a budget to the mayor. Would that be contrary to the Floor Leader's amendment?

Speaker Arnold Palacios: No, it is not. Why would it be?

Representative Babauta: I am just concern that the amendment as offered by the Floor Leader would subject the resident department to submit a budget to the mayor. I do not know.

Speaker Arnold Palacios: Correct me if I am wrong, counselor, but even at present all departments and agencies in the First and Second Senatorial Districts submits their budget to the respective mayor and the mayor submits it to the governor as a budget proposal of all the instrumentalities of the First and Second Senatorial Districts. And then the budget process is to then submit it to the legislature.

Representative Babauta: Understood. I understand the process but although Public Law 15-2 as part of the Executive Branch as a principle executive agency, the funds appropriated for operational costs is from the revenues generated the Department of Public Lands. Unless we just want to follow the standard procedure where the resident department heads submit their budget to the Secretary of DPL to be incorporated in the overall DPL annual submission.

Speaker Arnold Palacios: By creating a resident department and having this provision in this bill, if this becomes law the resident department heads shall, therefore, by the requirement in the constitution, submit the budget for the Department of Public Lands for Rota or Tinian and then that is submitted to either as a DPL package. I will allow the legal counsel to answer your question.

House Legal Counsel Joe Bermudes: At first glance I thought that we needed to delete it, but that is basically taken out of the NMI Constitution, Article 3, Section 17. (Due to a power outage, the recording is unavailable.)

*The Chair declared the House recessed at 2:00 p.m. due to a power outage.*

*RECESS*

*The House reconvened at 2:38 p.m.*

Speaker Arnold Palacios: We are back in session. We were in the midst of discussing S. B. NO. 16-16 when we were interrupted. I now recognize the Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. We actually took advantage of the recess period in the dark and made some discussion. If there are no objections from the members, I would like to withdraw my motion to amend and offer another motion to amend. My motion is to strikeout any reference to “resident director” and insert “deputy secretary for the Department of Public Lands.” In addition to that, on page 1, line 16 where it says, “each resident department head shall submit a budget to the mayor” that portion shall be deleted. On line 18 after the word “authority”, insert “Funding for such positions shall be sourced from the Department of Public Lands operation fund bank accounts. In addition, on page 2, line 3 and line 7 which are actually the same language where it starts off “this department head shall serve at the pleasure of the Mayor of Rota...” that language shall be stricken out. That is my motion.

The motion was seconded.

Speaker Arnold Palacios: I recognize Representative Babauta under discussion.

Representative Babauta: Thank you, Mr. Speaker. Just to shorten the time on this particular amendment, I would recommend to the members that we allow the Floor Leader at the end of the session to finalize the amendment that he just offered.

Speaker Arnold Palacios: I think he had conferred with the legal counsel on that and I will allow that. I now recognize Representative Yumul.

Representative Yumul: Thank you, Mr. Speaker. My concern is with the existing Rota and Tinian resident directors. That means we are going to add on two additional positions. The original intent of this bill was to have the Rota and Tinian resident directors appointed by the municipal mayors, but since we are going to change it to mean “deputy secretary” I think we need to clarify that the existing directors respective islands remain the same otherwise we will be adding two more positions and it is going to cost and that is a very big concern.

Speaker Arnold Palacios: It is clear that the deputy secretary shall be appointed by the mayor. Their resident directors are not. Representative Salas, recognized.

Representative Salas: Taking the sentence on lines 3 and 4 and I believe lines 7 and 8 is the same language.

Floor Leader Camacho: That is included on the amendment.

The Chair recognized Representative Sablan.

Representative Sablan: Mr. Speaker, I feel that Representative Yumul's concerns have not been addressed yet. It seems to me that perhaps we are not ready to act on this bill at this time. If we accept the amendments that are being proposed right now, will that conflict in any way with the original intent of the Senate Bill? The Senate report says that the purpose was to bring Public Law 15-2 in conformity with Article 3 of the Constitution. Does that change with the amendments that are being proposed now? Earlier Representative Santos suggested that we might have to now amend Public Law 15-2. If we have all these questions at this point, perhaps it would make sense to refer this to the committee to do additional research so that we can make sure we are not conflicting with either the Constitution or with existing statues.

Representative Benavente: Mr. Speaker, as far as Representative Yumul's concern, that was discussed earlier in the bill. Yes, there is going to be two additional people and that was raised. That is the intent of the bill and that is to hire two more persons. Whether we want to change that and just replace the existing directors that is a policy call, but the bill does proposed to hire two new people. Because of the constitutional requirement, we have to make these changes. The intent the bill is still consistent with the amendments that we are making. The primary concern of the Senate is that they would like for the positions to be named by the Mayor. That is still in tact. The concern from the very beginning was how do we fund these two new positions and so in trying to conform with the Constitution, those positions will be paid from the DPL's operations funds. Even though they are appointed by the mayor, they still report to the Secretary of Public Lands just like the resident directors of the Department of Public Safety. They are appointed by the mayor but they report to the Commissioner of Public Safety. So I would think that the amendment is still consistent with the Senate's intent.

Representative Sablan: Mr. Speaker, can I get some clarifications from the Ways and Means Chair though. I think he said earlier that there are already resident directors at the Department of Public Lands on Tinian and Rota. What effect does this have?

Representative Yumul: I think we can ask the legal counsel to just the allow the two existing directors to be elevated to this position.

Speaker Arnold Palacios: You cannot really do that because you are then preempting the authority that is given to the mayor. I recognize Representative Aldan.

Representative Aldan: The two positions that are in Rota and Tinian are not resident directors or directors. They are just field representatives. There is no position for directors on both senatorial districts under that particular department.

Representative Yumul: Just so that we can clarify and this might solve the issue – is there a Teresita Santos working on Rota as the director of the division and also a Reynaldo Cing for Tinian. Or, are these positions vacant?

Representative Aldan: Mr. Cing is working for Tinian, but I believe his position was field representative. That is the position that Ms. Debra Fleming used to occupy.

Representative Yumul: Under the Governor's submission under FY 2009, their position title is respectively "director".

Speaker Arnold Palacios: Well, Fiscal Year 2009 has not come yet, so this is proposing a different title.

Representative Yumul: Otherwise, there second concern is there is no Section 2809. It is actually vacant so this might be just a technical. I confirmed that with the Law Revision Commission.

Speaker Arnold Palacios: Representative Yumul, what are you referring to?

Representative Yumul: Just a simple mention that there is no Section 2809, it is unused. This bill aims to use Section 2810. That is all.

Speaker Arnold Palacios: What do you suggest, Representative Yumul? Shall we make Section 2810 Section 2809?

Floor Leader Camacho: Mr. Speaker, I move to end debate so that we can vote on the amendment.

The motion was seconded.

Speaker Arnold Palacios: Okay, the motion to end debate and vote on the amendment has been made –

Representative Sablan: Mr. Speaker, the question about whether or not we should even change the position –

Speaker Arnold Palacios: Representative Sablan –

Representative Hocog: Point of order, Mr. Speaker.

Speaker Arnold Palacios: A point of order has been made. Representative Benavente had already explained that this does meet the constitutional muster and it does not conflict by changing the title. Because if you have a resident directorship, that becomes under the purview of the mayor and that resident director then reports to the mayor. In order to avoid that and have these individuals report directly to the Secretary of Public Lands, we will change the title to Deputy Secretary of Public Lands.

Representative Sablan: I guess what has not been established is the need to do this. If we are already have people on the ground on Tinian and Rota who report to the Department of Public Lands are funded by DPL and –

Floor Leader Camacho: Mr. Speaker, point of order.

Speaker Arnold Palacios: State your point.

Floor Leader Camacho: My motion to end debate has been seconded and it is still pending.

Representative Sablan: But you floor amendment has not bee justified –

Speaker Arnold Palacios: Representative Sablan, you are out of order.

Representative Sablan: I apologize.

Speaker Arnold Palacios: You can still raise those issues on the main motion. The motion to end debate on the motion to amend offered by the Floor Leader has been seconded so we will vote on the question.

The motion to end debate was seconded and carried by voice vote.

Speaker Arnold Palacios: The motion carries, and we are back to the main motion. I recognize Representative Hofschneider for further discussion.

Representative Hofschneider: Mr. Speaker, the word urge – u-r-g-e – has multiple meanings, and I sense an urge that regardless of what transpires out of this bill, there is a consolidated intent to get it out in spite of real concerns on this issue and now having been amendment by the Floor Leader sort of throws another spin to the intent. Duties and responsibilities as to these two respective positions on behalf of DPL has to be, I guess, ironed out by the Secretary of DPL once this bill goes through. I am not too concerned about that because that can be remedied by the Secretary. However, I have a real concern as to the Secretary of DPL actually supporting the intent to establish it by law. The Department of Public Lands as we speak has filled these positions. Perhaps there is no difference and their functions will continue to be the same, but it may come to a surprise that because of the change on title may increase financial burden on DPL. As we speak they collect about three million dollars and spend about two million dollars in payroll costs. They have not made any significant progress towards relieving some of the prescriptions provided under the Public Lands Act and the CNMI Constitution on the management and disposition of public lands in general for the Commonwealth. That is to pursue homesteading programs, manage and dispose of public land and account for them, develop a land use plan. These have not been fulfilled. So I hope that there will not be any complications relating to Amendment 25. Second, I hope that DPL is consistent with their request. For clarity and protection of these two employees under this legislation, perhaps it is needed. I think that we really need to work with DPL to ensure that we maximize the income of public lands relative to Rota and Tinian also. We have not done that. So, Mr. Speaker, because of the findings and purpose and the intent of this bill as provided in the language as a result of the amendments provided on the floor to try and make it work, I think that we will fulfill our objectives today in relieving ourselves. Thank you.

Representative Benavente: Mr. Speaker, I hear loud and clear the comments by Representative Hofschneider, but our experience by having the public hearings on the initiatives that he had introduced in traveling to Rota and Tinian, we heard first had the problems that they face in the management of their own lands. I think that we should all agree that while there is the fundamental policies of the Constitution that still exist that we should try to respect the management of the lands in Rota and Tinian. We have always had that respect over the years when it comes to land leases in that we would refer to the leadership of Rota, Tinian or Saipan, wherever the case may be. What I am trying to say is that there is a need to allow to some extent, acknowledging and respecting the provisions of the constitution, some authority of the leadership of Rota and Tinian or be part of the management of those lands. This bill proposes to do that. If that means investing and using additional funds, that may be necessary. I think the original intent and the primary concern of the people of Rota and Tinian is that they be allowed through this appointment by the mayor that they have some say in the management of those lands on their respective islands. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Thank you. Ready?

Several members voiced “ready.”

There was no further discussion and the Clerk called the roll on the motion to pass S. B. NO. 16-16, HD1 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	absent (excused)
Representative Joseph C. Reyes	yes
Representative Christina M. Sablan	no
Representative Edward T. Salas	yes
Representative Rosemond B. Santos	yes
Representative Ramon A. Tebuteb	yes
Representative Ralph DLG. Torres	yes
Representative Stanley T. McGinnis Torres	yes
Representative Ray N. Yumul	yes
Speaker Arnold I. Palacios	yes

Speaker Palacios: By a vote of eighteen “yes,” S. B. NO. 16-16, House Draft 1 hereby passes the House on First and Final Reading. I recognize the Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. I move for passage of H. B. NO. 16-77, House Substitute 1 on First and Final Reading.

The motion was seconded.

**H. B. NO. 16-77, HS1**: A BILL FOR AN ACT TO ALLOW AND ENCOURAGE THE COMMONWEALTH UTILITIES CORPORATION TO ENGAGE THE PRIVATE SECTOR TO PARTNER WITH THE COMMONWEALTH TO SECURE FELIABLE UTILITY SERVICES AT AFFORDABLE FATES, AND FOR OTHER PURPOSES. (Ref. S. C. R. NO. 16-25)

Speaker Arnold Palacios: The motion for the passage of H. B. NO. 16-77, has been made and seconded. The Floor is open for discussion on the motion. I recognize Representative Hofschneider.

Representative Hofschneider: Mr. Speaker, I have two written floor amendments. The first one is to substitute the last page in its entirety and remove my name as the author, and with the consent of the Committee on Public Utilities, Transportation and Communications Chair be introduced by Representative Victor B. Hocog. I so move.

The motion was seconded.

Speaker Arnold Palacios: Under discussion of the amendment, I recognize Representative Hofschneider.

Representative Hofschneider: Simply put, Mr. Speaker, my decision to remove myself as the author of the bill is that over the past months, I have been very attentive to the remarks made by some of the members in your leadership that any bill consistent with what the leadership of the Senate have made very pointedly clear that anything that comes up to the Senate that has Heinz S. Hofschneider as the author is dead on arrival. It has nothing to do with proprietary glorification, nor do I need an additional law to be placed in the books of the Commonwealth, nor to sulk in the credits thereabouts in having this legislation passed. It has nothing to do with that. It is about looking at the plight and public interests to get this bill out to help the people of the Northern Marianas. That is simply the reason why I am recalling my name from the bill and offering it to the Chairman on PUTC who has worked hard to get this bill out in the form of a substitute. I am looking at it from a realistic point, Mr. Speaker. That is, if we can not argue, debate, and critic one another and still hold decorum then I think that this legislature has succumbed to another Boys Scout committee. Personalities are bountiful. Efforts are not to be found. And that, Mr. Speaker and members, is simply my reason for recalling my name. I offer it to the PUTC Chairman. Thank you.

Representative Hocog: This calls my attention to rise on the Floor at this time, Mr. Speaker. While I appreciate the gesture that Representative Hofschneider is giving and offering to put my name will be on this H. B. NO. 16-77, I would like to mention that it is never right and it will always be wrong that we have this kind of mentality as to what Representative Hofschneider just said that if his name bears under this legislation that it will not get through the Senate. I want to challenge that message, Mr. Speaker. We are not fighting. We are not introducing bills or offering support because of who introduced the bill. I should credit Representative Hofschneider for the initiative that he took to prepare the bill. The committee, of course, has to come forth and worked along with the bill because the bill was referred properly into the committee. I do not deserve to be given the credit or to have been offered this piece of legislation to bear my name. Needless to say, I do not have to have my name here. The content of this bill is what the public has been waiting for. If any one of us is threatening one of our colleagues that if he is not liked at the Senate, his bill will die, I want to prove that, Mr. Speaker. I will work with the Rota Legislative Delegation and the Tinian Legislative Delegation and see where they stand on that issue. This piece of legislation, Mr. Speaker, warrants our immediate attention for the people. They have been waiting for this for years. I might just turn around and go against the bill for that matter. But, let us stop this nonsense, Mr. Speaker. I can also say that I will go and lobby with the Rota and Tinian Delegations not to support any bill coming from this House. I can do that too. Rota and Tinian have the number at the Senate, Mr. Speaker. I want to make that known. So, forget about threats. Representative Hofschneider introduced this bill. He deserves to have his name on this bill. That is it, Mr. Speaker.

Representative Hofschneider: Point of clarification, Mr. Speaker.

Speaker Arnold Palacios: Thank you, Representative Hocog. State your point, Representative Hofschneider.

Representative Hofschneider: It was not about fear. I have it in me just to have it killed. It has nothing to do with fear as he points out. It is about doing something good for the people. So take the bill and get it through because it is another obstacle to bring it to the desk of the Governor for him to consider whether he likes it or not.

Speaker Arnold Palacios: Your points are clarified. Let me say this firmly, I do not believe that we have to get to this point where any member introducing a bill has to succumb or to submit to trying to end up changing the authors because of what the Senate purportedly intends to do with the legislation. I think this house must continue, and we do not need to succumb to that. If necessary, I also will personally lobby. It is not right that we have to change the author because of some veiled threat. This is an important piece of legislation. Whether it comes from Representative Apatang or Representative Benavente, or Representative Stanley Torres, or Representative Babauta or Representative Tina Sablan for that matter, it should stay. I apologize, but I am going to have to vote against that.

Representative Hocog: Privilege, Mr. Speaker. May I be excused for five minutes?

Speaker Arnold Palacios: You are excused. I apologize but I am going to have to vote against this amendment, and I am going to ask that every member of this House take a position. I think it is a confrontational position. It is the right thing and the most decent thing to do. Any further discussion on that motion?

There was no further discussion and the motion to substitute page 30 of H. B. NO. 16-77 in entirety thus removing the sponsor of the legislation from Representative Hofschneider to Representative Hocog was defeated by voice vote.

Speaker Arnold Palacios: The motion is hereby disapproved. We are still under discussion of H. B. NO. 16-77, HS1. I recognize Representative Hofschneider.

Representative Hofschneider: My second amendment is to –

Speaker Arnold Palacios: Representative Hofschneider, I beg your indulgence – let me call for a short recess.

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

*RECESS*

*The House reconvened at 3:10 a.m.*

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

Representative Hofschneider: Thank you, Mr. Speaker. I offer an amendment to H. B. NO. 16-77, HS1 on page 29 line 12. On Section 12 under the full privatization of CUC to read: “**Section 12. Full Privatization of CUC Authorized.** Notwithstanding any provision of law to the contrary, the full privatization of the CUC’s electric ~~utility service~~ power generation operation is authorized; provided that any private entity acquiring the CUC’s electric ~~utility service~~ power generation operation in full shall pay a total of not less than two hundred fifty million dollars (\$250,000,000.00) in cash or in cash and equivalent infrastructure improvements in the form of aerial and underground power transmission lines and expanded renewable energy generation facilities to meet greater than 50% of demand; and provided further that any acquisition of the electric ~~utility service~~ power generation operation shall be for a period of not less than forty (40) years. A full privatization of

CUC’s electric power generation operation shall comply with the requirements of Sections 3(e) and (f) of this Act.”

The motion to amend by Representative Hofschneider to H. B. NO. 16-77, HS1 was seconded.

Speaker Arnold Palacios: The motion has been seconded. There are some members requesting for a copy of the amendment, so I call for a short recess.

*The House recessed at 3:12 p.m.*

*RECESS*

*The House reconvened at 3:20 p.m.*

Speaker Arnold Palacios: We are back in session and we are discussing the amendment offered by Representative Hofschneider. Any discussion?

Vice Speaker Deleon Guerrero: Mr. Speaker, Representative Hofschneider and I debated on this yesterday. I still have to maintain that when you add a fixed figure in any privatization scheme such as \$250 million or \$500 million for that matter, it will eventually be passed on to consumers. Somebody is going to have to absorb that. Even if the intent is noble that it can be in cash or equivalent infrastructure improvement such as underground power transmission lines or expanded renewable energy facilities, it will be passed on to consumers. What we have basically done by having this language is raise the cost of utilities for our consumers. If the \$250 million figure were not there and a power generation privatization is the only requirement in the scope then the contractor would base his price on this investment, nothing more. I can argue that if we want underground transmission lines, we do not have to pass it on to consumers, the legislature can do its part and use CIP funding for those purposes. That way you relieve the customers of that burden. But to include it in here would basically raise the cost for the consumers. Our purpose here today is to find alternatives for two primary purposes: one is to for reliable power and the second is for affordable power. Nothing more really. I am asking the members to confine our goal to those two purposes. *(End of Tape 2 side A) (Start of Tape 2 side B)* ...I will keep it short to that for now. Thank you.

The Chair recognized Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. In addition to that statement and even though it is a policy call whether we want to basically tax in the form of higher utility rates our consumers so that we can provide more reliable utilities through the use of underground cables, that is still something that we should debate and make this policy call or decision. Do we ask our consumers to pay for these expensive rates so that we can provide better for the future, or do we find a way to reduce as much as possible given the expensive fuel costs, which I believe we are going to be stuck with for a while. I do believe still that we are doing to end up using fossil fuel and that fossil fuel cost continues to rise, so it is still going to be expensive. As the Vice Speaker pointed out, what we really should be look for is a company that would offer the lowest possible rates for our constituents. I am not going to object to the legislation with this provision in it. As a matter of fact, I like this amendment better than the language in the existing statute and I would probably vote yes on it. But, I would hope that we just remove so that if there is that option for fully privatizing our utilities and

that translates into even lower than the other options of PMCs and BOTs then that is good for our constituency because we are actually offering something that is even lower as far as utility rates. Thank you. Mr. Speaker.

The Chair recognize Representative Santos.

Representative Santos: Mr. Speaker, I am in opposition of Section 12 for several reasons. I do not think the CNMI is ready for privatization yet. We are not cognizant of its consequences. We do not know if we will lose any federal aid during typhoons, if we qualify for FEMA anymore or do we then become subject to loans such as SBA. And then who carries the burden of that cost. Also, I noticed that in the findings, it is stated that full privatization within the fifty states is common. That may be true because they have land mass. They are a population of millions, and they have other sources other than fossil fuel. They have water. They have wind. But, over here, we are such a small island entity much like Guam. Guam was here, made a presentation and I learned a little bit more about PMC, IPPs, BOTs or those types of public-private partnerships. A group of us also then went to Guam and had onsite tours of their facilities. We have learned a lot more. We are not completely blinded. We may be guided by our neighbors and they are willing to help us. But, I am very, very suspicious about full privatization at this point. We are venturing into a new idea or approach with our utilities with regards to PMC public-private partnerships. I am in full support of that. And let us make this a learning process and maybe at some point in the future we may then be ready for full privatization. Until then, I would ask that we should be very cautious about full privatization without knowing its full implications and how much that is going to cost to our rate payers. Thank you.

The Chair recognized Representative Hofschneider.

Representative Hofschneider: Mr. Speaker, it is understandable that we have great reluctance in trying something new. It is not easily accepted. The fact of the matter is since we purchased Mitsubishi engines in 1990 we have continued to have mismanagement at it highest level. We continue to squander taxpayers' money. The people continue for the last eighteen years insisting that we put finality to the debacle of electricity, water, and sewer in the Commonwealth. We have an opportunity before us to tag a price tag under the full privatization of the power generation or the power plants of \$250 million. This is on behalf of the public that we can extend much better reliable and efficient electrical distributions to homes, to the businesses. We do not have the capacity today nor in the next five years to borrow another \$250 million worth of CIP or infrastructural bond or revenue. The fact that this is an offering, it is one of three in the legislation that proposes to deal with power plant management. One is PMC or performance management contract, which has been earlier stated that limits itself to five years. Then you come back and continue to revisit that. The cost of fuel is beyond PMC. The other section is concession and franchise up to twenty-five years similar to Telesource in Tinian, similar to PMIC in Power Plant 4 which are in existence. The concept of full privatization is not new. We have been sort of corralled even with the in Department of the Interior to deal with power or CUC for the longest time that I have been here in the legislature. They have spent money on OMIP (Operations and Maintenance Improvement Plan). We failed. We tried to privatization it three times, we failed. In the midst of this undertaking the underpinning is a corrupted process. Always pull the rug underneath public objective. Leave it in because this is the only kernel that can attract serious large companies, energy management companies, around the world that can look at the Commonwealth legitimately. If you look at the language, it does not limit itself to underground power and aerial expansion and refurbishment. It went on to state that the offering in \$250 million in cash equivalent can come in the form of renewable energy – there is your solution to cheaper rates. If you insist, we do not care about the

money, we care about the facility, the affordability, and the reliability of power in the Commonwealth. That is the most important thing to argue on. Let us face it, we have mismanaged CUC for eighteen to twenty years. When are we going to look at ourselves in the mirror and admit we squandered taxpayers' interests. What is so scary about full privatization if that is what is going to get the people renewable energy, cheaper rate, and reliable power even in the midst of a typhoon. As far as federal aid is concerned, in disaster conditions, even the private sector is entitled. We are not privatizing the transmission side. In any catastrophic during typhoons, the damage is not at the power plants. It is at the transmission-end or the user-end. I think that we are not that far about in terms of our understanding and our desire under this legislation, and that we want to see and try PMC, we try to deal with limited privatization through concession and franchise. But in the end, if there are large legitimate companies out there with the financial means globally to tap into cheaper oil pricing, to tap into renewable energy, they have the technical expertise to back it up we are not looking for rinky-dink companies to come and complete and take over the power generation in the Commonwealth. We are looking for large global operators that have a long lasting professional appropriately run facility for the people of the Commonwealth. I think we are not that far apart in our desire. The cost of \$250 million at the power plants' dilapidated state today, perhaps thirty million is the going price. Nobody knows the economic potential, so do not look at it specifically and only inherently the cost of the \$250 million to be borne by the consumers. The end result is you have multiple options so for the bidders to come in and offer us. If they have a check for \$250 million, take it. Give subsidies to the people who need it, pay the loans on obligations of the Commonwealth so that you do not have to raise the taxes. There are many ways to skin the cat. But do not fear what is inevitable as the final solution to this mess. Eighteen to twenty years of massive infusion of money from the federal and the local governments and yet we cannot get the system on track. We have to face reality, and let us not fear new ideas. This is good for the people, we must pay for reliable power and cheaper fuel rates. We know of nobody living that has that big goodness in their hearts to come in and drop a hundred million dollars and say, people of the Northern Marianas, here is a gift from me for free. The garment game, it left us a huge mess. Think again. Thank you.

Speaker Arnold Palacios: I now recognize Representative Hocog.

Representative Hocog: Mr. Speaker, I guess the area that I was to suppose to expound to the members is very similar to Representative Hofschneider. I just want to make certain to this House that H. B. NO. 16-77, HS1 was not amended or prepared in a way for any special interest group. I would state further that by allowing the concept for an alternative full privatization on the power generation will restore the integrity of the Commonwealth and allow potential big companies to come and participate in offering their management, knowledge, technical and financial assistance. That is how we bring big investors—by allowing them to play on a playing field without much political intervention. The bill address the elimination of RFP, as RFP has been proven to be successful to whoever is protesting to CUC or to the evaluation committee. That is why we take this route to go on a straight forward bid proposal. If we fear something, we will not get anywhere. It is always difficult, Mr. Speaker and members that if we need to change, there is fear. But in order to grow, we need to change. Otherwise we will remain with what we have today. I can recall as far as sixteen years ago when the first intent to privatize the power generation was without success through RFP. Companies came and participated. They spent a lot of money, wasted, and nothing was accomplished. By having an alternative, Mr. Speaker, for full privatization does not jeopardize the intent of this bill to provide essential affordable and efficient power generation. This, perhaps, will make the big boys offer and bargain as to who can offer the accessibility to run the power generation for forty years. Who knows, any big company that comes this way and looks and assesses our power generation perhaps may just turn their eyes away because they are not interested. I agree with the

concept of PMC, but will that relieve the Commonwealth from incurring financial assistance to generate efficient and reliable power. Do we guarantee that if we go on the route of PMC, IPP, or BOT the rate that we all expect to be cheap? Who can guarantee? The bill provides that under a period of seven years under full privatization will provide fifty percent of renewable energy. And if we are thinking that a private company that wants to come and purchase the power generation outright in the amount of \$250 million that the full tag will be charged directly to the consumers in a very short time, no. They have to amortize also because they will not give us one hundred fifty megawatts when we know that the consumers' need is only eighty megawatts. It is going to be a waste. Even if we take the route of IPP, for example, if no one comes to offer an IPP, if no one comes for a BOT, where do we go? Having a tag on the fixed capital assets of what we have on this dilapidated power generation, whoever the big companies are that wants to provide us full privatization will offer full privatization under this condition. What we need, Mr. Speaker, is financial ability to restore affordable and reliable power generation. The Commonwealth of the Northern Marianas government, I believe, is being black listed from making and floating bonds in substantial amounts. We do not have the ability, Mr. Speaker. What are we waiting for if there is a company out there that is willing to give us that. An alternative is an alternative. If we go PMC, are we requiring a private management corporation to put the necessary finances to restore the energy generation? Are we requiring them to? If not, we will still be required because we have to put out the money for them to manage our power generation. What we need here is restoration of new power generation that will satisfy the needs of the residential and the business sector. Who can provide us?—companies that have the capital. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Let me remind members that we are discussing the amendment that was offered by Representative Hofschneider. I believe that Section will come in to full focus during the deliberation of the legislation as a whole. I kind of let the members take full force on Section 12, but the amendment is fairly straight forward and has been presented to you in a written form. If I may, I would like to ask that we limit our discussions on the amendment offered. That will give us more time to deliberate, if we need to, on the full context of section 12. I now recognize Representative Reyes.

Representative Reyes: Mr. Speaker, for clarification on the amendment to clear my confusion. The power generation operation – I kind of heard Representative Hofschneider saying something like the grids are not inclusive. The words “full power generation operation”, is that just the power plant, or does that include the billing department, the transmission lines, the administration, or the overall?

Speaker Arnold Palacios: It is just the power plant, the generation portion of the system.

Representative Reyes: Just the power plant, so it does not include the billing section, the grids, and the whole works, right? Just the power plant operation?

Speaker Arnold Palacios: That is correct.

Representative Hofschneider: I think that is very important for the record to reflect that intent of this legislation or this amendment in particular is only the power generation – the power plant.

Speaker Arnold Palacios: The amendment clarifies that. I now recognize Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. I will try not to repeat the Vice Speaker's comments as he articulated very clearly the issue here with regards to this amendment. But after

hearing Representative Hofschneider, I would have to disagree with some of his statements. One is that this does not necessarily invite larger companies, because whether it is a large company or a small company, they are going to have to charge for the expenditure of this \$250 million. What this does is increases the rates, it really does. Again, I keep saying this is a policy call because it is a decision for us whether we want to charge our people today a higher rate so that we can protect their future, or go ahead and charge them the cheaper rate without the \$250 million requirement and somehow find money to improve the reliability of the power through the improvements of those distribution systems. I raise my concern that because I feel we are going to be stuck with a fossil fuel power generation system and that translates into a very expensive operation. Guam right now uses heavy fuel with a larger customer base and the rate is twenty-four cents per kilowatt hour as of last week. That is still a very expensive rate. I know that our rate is thirty-eight cents, but what I am trying to say that even if we were to have a large company like those that are in Guam to come in and provide this power to us and we manage to somehow pay the twenty-four cents per kilowatt hours that is being charged to the Guam customers right now, by adding on this \$250 million requirement you are basically suggesting to our constituents that the twenty-four cents is what would have cost you without the \$250 million requirement. But with the \$250 million requirement, it is going to be thirty cents. That is my concern. I guess it is a policy call and I leave it to the members to vote on this matter. Thank you.

Speaker Arnold Palacios: Thank you. I recognize the Vice Speaker.

Vice Speaker Deleon Guerrero: You clarified that we should limit our comments on the amendments to Section 12, so I will hold off. I do have comments on Section 12, but not on the amendments.

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

Representative Sablan: Just a question about the amendment – the last two lines requiring compliance with the requirements of Section 3(e) and (f). I would like to ask Representative Hofschneider why we would not also require compliance with the rest of the privatization portion of this act. Section 4, for example, deals with review of procurement decisions. Why would we not subject any full privatization agreement to those same requirements?

Representative Hofschneider: It works either way. You can strike out “of Sections 3(e) and (f) on the last sentence and just say “of this Act” and that would be a catch all phrase. But Sections 3(e) and (f) is the triggering mechanism for transparency and legitimacy on the bidding process, and that is for CUC to procure first the U.S. contractor to write up the bid document and the second contractor, to be procured again is the evaluators of the bids. So if the members feel that that is restricting it to those sections and wants to apply the entire act, that is fine with me, we can strike it out.

Speaker Arnold Palacios: Do you want to make a subsidiary motion?

Representative Sablan: Sure. I would need a minute. Can I have a couple of minutes with the legal counsel?

Representative Hofschneider: There is a motion on the floor right now, Mr. Speaker.

Speaker Arnold Palacios: Yes. We are now discussing the motion. Are we ready to vote?

There was no further discussion and the motion to adopt the amendment as offered by Representative Hofschneider to H. B. NO. 16-77, HS1, HD1 was carried by voice vote.

Speaker Arnold Palacios: I now recognize Representative Sablan.

Representative Sablan: I am sorry, Mr. Speaker, I just noticed this because this amendment was just introduced. Is it even necessary to say that a full privatization shall comply? Would this not be considered a private sector assistance agreement (PSAA)? So what worries me is that earlier on in the bill it lists two types private sector assistance agreements, it is either performance management contract or concession and franchise agreement. And later on Section 12, full privatization is authorized as if to imply that there is a distinction between a PSAA and a full privatization. So is there a distinction? Can we establish that from the legal counsel?

Speaker Arnold Palacios: Short recess.

*The House recessed at 3:54 p.m.*

*RECESS*

*The House reconvened at 3:59 p.m.*

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

Representative Sablan: I would like to offer a motion, Mr. Speaker, to renumber the amendment that was just adopted introduced by Representative Hofschneider. We are renumbering it to Section 3(c)(3) and striking out the last two lines in their entirety. So this will be on page 4, there will be a new Section 3(c)(3) and also striking out Section 12 from the bill.

The motion to amend as offered by Representative Sablan is to insert a new paragraph (3) to Section 3(c) on page 4 line to read:

“(3) Full Privatization of CUC Authorized. Notwithstanding any provision of law to the contrary, the full privatization of the CUC’s electric power generation operation is authorized; provided that any private entity acquiring the CUC’s electric power generation operation in full shall pay a total of not less than two hundred fifty million dollars (\$250,000,000.00) in cash or in cash and equivalent infrastructure improvements in the form of aerial and underground power transmission lines and expanded renewable energy generation facilities to meet greater than 50% of demand; and provided further that any acquisition of the electric power generation operation shall be for a period of not less than forty (40) years.”

The motion was seconded.

Speaker Arnold Palacios: Is everyone clear with the amendment? Section 12 becomes Section 3(c)(3). There is no more Section 12. The last two lines of the amendment submitted by Representative Hofschneider will be deleted, and the sections are numbered accordingly. So, basically the amendment is to take the whole section 12 and put it under Section 3. The only significant change is on the last two lines. Ready?

The motion to amend H. B. NO. 16-77, HS1, HD1 was carried by voice vote.

Speaker Arnold Palacios: The motion carries. We are back to discussing the bill as amended. I now recognize Representative Hofschneider.

Representative Hofschneider: Mr. Speaker, I have two more oral amendments. On page 5, line 13, after the word “permitted” delete the comma and insert “in a U.S. or international jurisdiction.”

The motion to amend as offered by Representative Hofschneider was seconded.

Speaker Arnold Palacios: The motion has been seconded. Representative Yumul, recognized.

Representative Yumul: Thank you, Mr. Speaker. I am curious – it is either “U.S.” or “international”.

Representative Hofschneider: “Or.”

Representative Yumul: Does that not mean global then? You are either in the U.S. or in international. What are we trying to accomplish here?

Representative Hofschneider: There are European companies, there are Japanese companies, and there are Philippine companies that have experience working and operating in U.S. jurisdictions and with the U.S. Environmental Protection Agency (EPA). The intent is that is that we are trying to get are companies that are global and experienced, and have dealt EPA in emission controls. We do not want a company that is inexperienced, whether it is U.S. or international.

Representative Yumul: That is why the continuing lines 14 and 15 already mention EPA. I am just trying to get a handle of what we are trying to do here.

Representative Hofschneider: That is exactly it.

Representative Benavente: May I ask the mover of the motion to just read out that paragraph, please?

Representative Hofschneider: “...permitted in a U.S. or international jurisdiction...” If you want to include foreign, then that is fine.

Speaker Arnold Palacios: Any further discussion on the amendment? Ready?

There being no further discussion, the motion to amend H. B. NO. 16-77, HS1, HD2 as offered by Representative Hofschneider was carried by voice vote.

Speaker Arnold Palacios: The motion carries. I recognize Representative Hofschneider.

Representative Hofschneider: Last oral amendment, Mr. Speaker. I think it was inadvertently deleted, but is it very essential and very crucial since both the public auditor –

Representative Babauta: Point of Order, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Babauta: We have a disturbance in the background and we can hardly hear what Representative Hofschneider's offering of an amendment.

Speaker Arnold Palacios: Please continue, Representative Hofschneider.

Representative Hofschneider: I think Section 10 of the original H. B. NO. 16-77 as introduced was inadvertently deleted in the drafting of the substitute, which states: "Section 10. Scope of Procurement. Procurement under this Act shall be exempt from 1 CMC § 7404 et seq., as amended, and regulations promulgated pursuant to those sections." I move to reinstate that to read a new Section 12 of the bill.

The motion was seconded.

Representative Yumul: Can we get can a copy of the omitted section, Mr. Speaker.?

Representative Hofschneider: Do you have your original copy as introduced in the House?

Speaker Arnold Palacios: Do you want to restate that Representative Hofschneider, and where it should go?

Representative Hofschneider: It is either we incorporate it as a new Section 10 and renumber the rest accordingly, or we can insert it as a new Section 12 since we removed Section 12 and no longer have a Section 12 in the bill. So I will read again: A new section 12 is inserted, "Section 12. Scope of Procurement. Procurement under this Act shall be exempt from 1 CMC § 7404 et seq., as amended, and regulations promulgated pursuant to those sections." This has to do with local preference.

Speaker Arnold Palacios: Okay, we are reinserting Section 10 that was in the original legislation as Section 12. I recognize Representative Yumul under discussion.

Representative Yumul: Mr. Speaker, just so we understand this – we are removing local preference from this.

Representative Hofschneider: Right, level playing field.

Representative Yumul: It is going to be a level playing field for the best.

Speaker Arnold Palacios: I recognize Representative Salas.

Representative Salas: I am just not clear with this, Mr. Speaker. What page are we looking at?

Representative Hofschneider: Just add a new section 12.

Speaker Arnold Palacios: Let us take a short recess.

*The House recessed at 4:10 p.m.*

*RECESS*

*The House reconvened at 4:10 p.m.*

Speaker Arnold Palacios: We are back in session. Representative Hofschneider, please restate your motion to amend.

Representative Hofschneider: Yes, Mr. Speaker, I recall the amendment I made earlier that instead of a new Section 12, create a new Section 6 and add that language in, and renumber the rest accordingly.

The motion was seconded.

Speaker Arnold Palacios: Okay, the motion is to reinsert Section 10 of the original legislation into H. B. NO. 16-77, HS1, HD3 as Section 6 and renumber sections accordingly.

Representative Benavente: Point of clarification.

Speaker Arnold Palacios: State your point.

Representative Benavente: It is not to add another section, but to add it to Section 6 as a new subsection?

Speaker Arnold Palacios: No, add a new Section 6 and renumber accordingly.

Representative Benavente: So current Section 6 becomes Section 7?

Speaker Arnold Palacios: Correct.

Representative Benavente: Okay. Ready.

Speaker Arnold Palacios: Ready?

There was no discussion and the motion to amend H. B. NO. 16-77, HS1, HD3 was carried by voice vote.

Speaker Arnold Palacios: The motion is carried. I recognize the Vice Speaker.

Vice Speaker Deleon Guerrero: Thank you. To clarify for my own understanding please refer to page 4, the private sector assistance agreement. The new Section 3(c)(3) is which authorizes full privatization of CUC. The subsection before that, Section 3(c)(2) which is a concession or franchise agreement. Which of the two will qualify as and IPP, if it does? Section 3(c)(2)? The reason I ask -- let me read the definition of and IPP according to *Wikipedia*. *An independent power producer, it also called a non-utility generator or NUG is an entity which is not a public utility but which owns facilities to generate electric power for sale to utilities and end-users.* So if that is the definition and section 3(c)(2) says “A concession or franchise agreement which CUC transfers a utility service” one would think that power plant is a utility service and transfers it to a private company is not independent in a way because the facility is still owned by the state. So that is why I am unclear with that. Can that be clarified? That is my first question. *(End of Tape 2, side B)*

*[(Start of Tape 3, side A) Representative Hofschneider was holding the floor.]*

Representative Hofschneider: ...they are now independently producing power, so that qualifies them under IPP. SNM in Rota is another good example, duty free for all intents and purposes when then go online in July they may over producing and they can be selling electricity back into the grid. So these are all independent power producers by definition that you have stated. As long as you have a binding contractual agreement that allows or divests for a limited period of time or completely into the hands of an entity no longer belonging to the public for an “x” period or in perpetuity and CUC becomes a purchaser, that confines it to Section 3(c)(2).

Vice Speaker Deleon Guerrero: But if you read Section 3(c)(3), does that not qualify as an IPP in the language that you have just provided? To me that is the true definition of IPP.

Representative Hofschneider: Sure, as long as the government has no involvement.

Vice Speaker Deleon Guerrero: So why are we having two sections that dictate or authorize the same thing?

Speaker Arnold Palacios: Let us go into a short recess.

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

*RECESS*

*The House reconvened at 4:30 p.m.*

Speaker Arnold Palacios: While an amendment is being drafted by the legal counsel, I will discussion from the members. I recognize Representative Yumul.

Representative Yumul: The question I have is on Section 3(c)(2). I am concern about this language because it talks about a concession or franchise agreement which CUC will transfer a utility service which will include the related required capital investment to the private sector for a limited term not to exceed twenty-five years. If we were to break this down, the concession or a franchise agreement is basically a privilege of a public nature conferred on an individual, a group, or a corporation to market its products or services, which is going to be utility, in a specific territory which would mean Saipan as an example. The inclusion of a required capital investment -- capital investment being the total funds invested in that enterprise which is power generation, this would be almost like an escape clause, if you will, that if I was an investor I am going to look at \$250 million, or I will take the twenty-five year franchise agreement. It is going to be a very interesting issue because CUC will have the authority to say one, two, or three. The average rate payer -- a nice lady down the street -- would care less of that terms of what we are trying to do. All they want to know is what the final rate is going to be to them. We do not have that here, so it is a very grave concern of mine that we are going about this in a manner that we are not or may not be helping the community because we are not saying something to get the best rate possible with the current factors such as cost of fuel, and the type of power generation that is going to be utilized. This was even brought up by Public Auditor Mike Sablan and even in our meetings with Guam-based power and other consultants. In the end all we really want is the end product. Tell CUC what we want. Tell them this is what we want, we want a lower rate. We want it achievable in “x” number of years, and we are willing to give concession of up to “x” number of years for that. What you do on your part, you are the expertise. You go and get

the best rate for the people of the Commonwealth. I do not see that here. So, it is a very big concern that we may be overshooting the real issue which is to get a lower rate.

Speaker Arnold Palacios: I think your concern in terms of the guidelines, if you look at the same page on Section 3 on line 25, the procurement of whichever PSAA we go would be set by a United States certified contractor experienced with CUC's facilities or other power generations to draft a PSAA invitation to bid. And within those invitations to bid, that is when your specifications begin to form. We do not want to put that in the statute. We want to let the experts, as you have stated, to put together the specifications. The end product is to have the best rate possible for the Commonwealth consumers.

Representative Yumul: And I think, Mr. Speaker, you have just nailed it. I think that very sentence you have stated right now, if that was included in this Section 3(e) would solve that.

Speaker Arnold Palacios: It is on the same page, it all follows that if you have all these different options inclusive of the new paragraph (3). I am pretty sure the Vice Speaker will be coming in with his amendments to include other options. After all that, I think it is appropriate that we bind all the different options with line 25.

Representative Benavente: Can I provide additional information, Mr. Speaker. Unless I am mistaken, I think Representative Yumul's concern is there is nothing there that the bid shall be for the best and lowest rate, but that is how the bid process works. That is what we are trying to do, and that is what you select on when you issue a bid.

Speaker Arnold Palacios: And that should be the underlying objective of this as a whole that is why we kind of went away from the RFP issue.

Representative Yumul: Thank you, Mr. Speaker. If we are then to use this journal as testimony to that fact, then I will let that be. On page 5 line 6, I have a technical question on the bid evaluation with respect to a PSAA pursuant to subsection (b)(2). I do not believe there is a Section (b)(2). It was corrected on page 4, line 26.

Representative Hofschneider: It was part of the oral amendment, Mr. Speaker.

Representative Yumul: Was that an oral amendment? I am sorry I may have missed that. Thank you on that clarification. The other concern that I have is on the new Section 3(c)(3) on full privatization of full privatization. We are naming a period of not less than forty years, but since Section 6 of Act will give CUC the right to hold title, is title going to be transferred if full privatization happens? If it is, it is going to be a conflict with Article 11, section 5(c) about legislative approval on land leases.

Speaker Arnold Palacios: That is why it is limited to forty years.

Representative Yumul: Right, but the Constitution says it is twenty-five years, plus fifteen requires legislative approval.

Speaker Arnold Palacios: Forty.

Representative Yumul: So are we then to assume that we are conferring automatically the fifteen-year extension.

Speaker Arnold Palacios: The easements will stay with CUC. Most of the easement is on distribution. What we are talking about is on the generation.

Representative Yumul: Right, especially when we are talking about transmission lines on the ground.

Representative Hofschneider: Point of clarification.

Speaker Arnold Palacios: Recognized.

Representative Hofschneider: I think he missed the floor amendment I introduced. I think he was jotting between his office and the session three times. We made it very clear that the full privatization is on the power generation not on the transmission thereabouts. I think he missed it when he got up and left the session.

Speaker Arnold Palacios: *I generation ha' este, Representative Yumul.*

Representative Yumul: I have been trying to get some legal documents. I will yield to that.

Speaker Arnold Palacios: I now recognize the Vice Speaker to offer his amendments.

Vice Speaker Deleon Guerrero: Thank you, Mr. Speaker. On page 4, line 20 which would be the new paragraph (3), I would like to change that so that a new paragraph (3) would read: "(3) A contract for a public utilities cooperative;". After that a new Section 3(c)(4) would read: (4) A build/operate/transfer (BOT) contract;". A new Section 3(c)(5) would read: (5) A contract for an independent power producer (IPP); or" and Section 3(c)(6) would read: (6) Full privatization of CUC as follows: notwithstanding any provision of law to the contrary, the full privatization of CUC's electric power generation operation is authorized; provided that any private entity that acquires CUC's electric power generation operation in full shall pay a total of not less than two hundred fifty million dollars (\$250,000,000.00) in cash or in cash and equivalent infrastructure improvements in the form of aerial and underground power transmission lines and expanded renewable energy generation facilities to meet greater than 50% of demand; and provided further that any acquisition of the electric power generation operation shall be for a period of not less than forty (40) years." This just allows for different options as the author asked that we should explore all options.

The motion was seconded.

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

Representative Sablan: Thank you. I would like to ask if there are definitions that are being provided for these additional options in line with the options that are already there for the sake of consistency, if you can humor me.

Speaker Arnold Palacios: I would appreciate it if we do this in a proper manner. I am going to recognize the Vice Speaker.

Vice Speaker Deleon Guerrero: Representative Sablan is asking for definitions for these. I am not sure I am qualified to give a definition on the Floor right off hand, but just for the sake of informing you, I can.

Representative Sablan: That was not the reason I asked. I would like see it included. I am sorry --

Speaker Arnold Palacios: Representative Sablan, let him finish. But, I will allow you to clarify your question.

Representative Sablan: I was here and listening to the earlier discussion about the differences between these options. What I am suggesting is that we put into the amendment a definition of those additional options that are being proposed to be included just so that it is clear in the legislation. So I would like to hear it.

Vice Speaker Deleon Guerrero: As I mentioned earlier, the definitions are included in prior statutes. If there is not objection from the members, can I ask the legal counsel to include definitions based on those prior laws on what build/operate/transfers are, what independent power producers are. I already mentioned for the record what independent power producers are. I defined it. But if you want it writing and if you want it in here, I have no objections.

Representative Sablan: I stand to be corrected here, of course, because we have not seen all the existing laws that define these additional options that are being proposed. I think it should include the terms of each of these agreements.

Speaker Arnold Palacios: The Vice Speaker is putting in the different options. There is no term yet. The final agreements would be dawned when the big documents are prepared whether it is twenty-five years or up to forty years for a full privatization. It could be up to twenty-five years. What he is trying to propose is to include all the different options and he is asking that those definitions be put in by the legal counsel per your request.

Representative Sablan: What I am requesting then is that we see exactly what those are in writing before we vote.

Representative Benavente: Mr. Speaker, I just want to know what definition Representative Sablan is asking for. A definition/description of what a co-op is?

Representative Sablan: Yes, and what are the terms. Just like we do in the legislation as it exists now for a PMC, that is defined. We do that for a concession or franchise agreement. We do that for privatization. Here is a definition not to exceed forty years. I do not think it is unreasonable to ask that we be consistent and do the same with these other options that we are going to be voting on today apparently.

Representative Benavente: As I understand it, this co-op proposal is something that the State of Hawaii has. So, it is not a new thing. I believe that in preparing for this particular option, CUC can look at the type of co-op that Hawaii has. Therefore, there is no need now to go into a recess and put together a full description of what a co-op means. Thank you.

Representative Hocog: Let me help the Vice Speaker, not only to mention what is BOT, IPP. If that is included in this legislation, people that are engaged with the power business fully understand the meaning of build, operate, and transfer or BOT. IPP is an independent power producer.

Vice Speaker Deleon Guerrero: Colleague, I think what Representative Sablan is asking for is not really a definition. May I, Mr. Speaker?

Speaker Arnold Palacios: Recognized.

Vice Speaker Deleon Guerrero: Now I understand what she is asking for. What I thought you were asking for was the definition. Apparently what you are asking for is to set restrictions or parameters regarding those types of contracts, and I have intentionally stayed away from that. The board which we are going to reconstitute does have the authority to promulgate regulations and set those parameters. So I am of the opinion that we should allow them to do that, to look at what are the best returns, to look at how much time, if an IPP or a BOT is to be awarded, what is standard, what is acceptable, what is best practices and let them make those decisions and not us.

Representative Sablan: By that logic --

Speaker Arnold Palacios: Representative Sablan -- let us take a break.

*The House recessed at 4:50 p.m.*

*RECESS*

*The House reconvened at 4:54 p.m.*

Speaker Arnold Palacios: We are back in session. We were discussing the amendments offered by Representative Deleon Guerrero. Any further discussion? A copy of the amendment has been passed out. Ready?

There being no further discussion, the motion to amend as offered by Vice Speaker Deleon Guerrero to H. B. NO. 16-77, HS1, HD4 was carried by voice vote.

Speaker Arnold Palacios: The motion is carried. We are back to the main motion. I recognize Representative Hofschneider.

Representative Hofschneider: Mr. Speaker, an oral floor amendment on page 29. I have discussed this with the Chairman. Beginning line 10 “(b) The Executive Director of shall remain in his position until a quorum of Board members is in place and shall serve thereafter at the pleasure of the Board. The Executive Director shall issue an invitation for bids pursuant to Section 3(e) and (f) of this Act within ~~forty-five (45)~~ ninety (90) days of its effective date.” For all intents and purposes, I think forty-five days is too short.

The motion was seconded.

Speaker Arnold Palacios: The motion to amend has been seconded. I recognize Representative Yumul under discussion.

Representative Yumul: Mr. Speaker, a concern on the ninety days is with relation to page 4 on line 26 that CUC shall procure the services of a United States certified contractor experience with CUC's facilities. So is there going to be enough time for CUC to procure the certified contractor and then engage within ninety days.

Representative Hofschneider: May I clarify?

Speaker Arnold Palacios: Yes, clarify that please.

Representative Hofschneider: That is why I inserted Section 3(e) and (f). That is the triggering mechanism for the process of complete bidding. Section 3(e) relates to the first contractor to write up the bid document, Section 3(f) is the contractor to evaluate. So you need to procure them, secure them, and then you go out for bid.

Representative Yumul: Thank you.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. I believe about a month ago we had a section by section analysis of the original H. B. NO. 16-77 and there were concerns that were raised and not all of which are addressed in this bill. Mr. Speaker, it is no secret that the procurement process has always been the Achilles' heel of any privatization effort in the history of the CNMI. And this bill does make significant changes to the procurement process that was originally proposed in H. B. NO. 16-77 without any justification for the changes, or description of the changes in the committee report. Specifically --

Speaker Arnold Palacios: Representative Sablan, could you please restrict your comments right now to the amendment offered by Representative Hofschneider.

Representative Sablan: Oh, we have not disposed of that. I defer for the time being.

Speaker Arnold Palacios: Okay. Ready for the question?

There was no further discussion and the motion to amend H. B. NO. 16-77, HS1, HD5 was carried by voice vote.

Speaker Arnold Palacios: The motion is carried.

Representative Babauta: Point of clarification.

Speaker Arnold Palacios: State your point.

Representative Babauta: On page 29, Section 11(b), I think this could probably be considered as a typo beginning with the words "Executive Director of" and just insert "CUC".

Speaker Arnold Palacios: Thank you, we will insert. Ready for the question? Representative Sablan, I imagine that would be your statement for the legislation.

Representative Sablan: Thank you, and we have disposed of the amendment, right?

Speaker Arnold Palacios: We have disposed all the amendments already. I am not going to entertain any more amendment.

Representative Sablan: Well, I do not understand why, but regardless, there were concerns that were raised during the section by section analysis meeting that have not been addressed yet, Mr. Speaker. Representative Dela Cruz mentioned just on Section 6 the issue of title to property and easement rights. I believe the committee was supposed to consult with PTI legal counsels and with DPL. And it is my understanding that neither of those entities has actually been consulted. I share the same concern that Representative Dela Cruz has raised. Some sections have been moved around or otherwise amended. It is a good thing that we caught the oversight about the local preference exemption, but who knows what else we may have missed as a result of rushing this bill. The issue of bankruptcy protection for CUC now is on Section 10 on page 28. As I recall during the meeting with the Governor's legal counsels and other legal counsels, there was an issue raised about that because of restrictions governing municipal corporations declaring bankruptcy. It was actually stated that we may have to actually pass another law that would set the guidelines for public corporations declaring bankruptcy. So, that concern has not been addressed either, Mr. Speaker. I would really just like to reiterate my strong conviction that we would be acting irresponsibly to rush this bill on First and Final Reading today given the fact that there has been, again, no public hearing. There is this one page committee report. There is a \$250 million price tag for which there is no basis provided in the committee report. The PUTC Committee has not even met officially to discuss this bill. There was no review by the Public Auditor, and the auditor by the way has been removed from the procurement review process. Well why? We do not know that because it is not in the committee report. There were not comments from CUC, PUC, OPA, DPL, or from anyone one really from the community because except for the mayor who opposed the original bill, nobody has seen this substitute bill. In fact none of us really saw it until yesterday. The committee report itself was not drafted until yesterday. We have not even really talked about the proposal to restore the governing board of CUC. That is a major portion of this legislation. This whole bill is a major piece of legislation that really should not be fast tracked. It should be deliberated. It should be open to public comments. We should all have a chance to review it. Considering the gravity and the urgency of the situation that would be all the more reason why we should do this right. Past privatization efforts have failed, Mr. Speaker, because they were rushed and because they were overly politicized. And if we do not learn from our mistakes from the past we are going to repeat them.

Floor Leader Camacho: Point of information, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Floor Leader Camacho: Is there a motion from the representative?

Representative Sablan: Yes, fine. I am wrapping up right now. I do not think we should pass this today. Let us make a motion.

Speaker Arnold Palacios: You are certainly welcome and it is your prerogative to make recommendations. Representative Sablan, please wrap up.

Representative Sablan: Sure. Here is my first recommendation and that would be to come to the community forum tonight and ask your constituents if they would like to see you act on a bill today

on First and Final Reading given everything that I have just stated. You are saying that this is so urgent, I agree, we should do it right.

Representative Hofschneider: Yes, just for the record. There is a typographical error on the citation on page 5 under the bid evaluation. That should now reflect the new subsections therein in (c)(1), (2) (3), (4), (5), and (6) as amended.

Speaker Arnold Palacios: Okay, please make those changes. I now recognize Representative Dela Cruz.

Representative Dela Cruz: Thank you, Mr. Speaker. I would like to make a motion to place this under First Reading only.

The motion was seconded by two others.

Speaker Arnold Palacios: The motion is to pass H. B. NO. 16-77, as amended on First Reading only. Are you ready for the motion?

There was no discussion and the motion to pass H. B. NO. 16-77, as amended on First Reading was defeated.

Representative Sablan: It is definitive, Mr. Speaker, perhaps we should take a roll call.

Speaker Arnold Palacios: Representative Sablan, please. The motion was to pass this on First Reading. It has been rejected.

Representative Sablan: It did not sound to me like an obvious rejection.

Representative Hofschneider: Mr. Speaker, you have made your ruling.

Speaker Arnold Palacios: I recognize Representative Hofschneider.

Representative Hofschneider: Ultimately, Mr. Speaker, the success of any privatization is going to be measured against the stakeholders, and that includes the government, the businesses, and the public at large. We politicians want low prices for our constituents while most economists will agree and they will seek efficiency and reliability in the market. Both will argue that competition is really the means in achieving efficiency and pricing objectives. But even both must realize and recognize that subsidies and cross subsidies must be eliminated before privatization can pursue especially in the power generation side because it will hamper even the usage, the consumer, and the progress of improving the system. This in effect will retard competition, and that is what we are embarking creating a staging point where it is a level playing field, transparent processes so that the serious entities can come and look at the Commonwealth's needs favorably. Privatization works if the government integrates all these conflicting ideas clearly. And that is what we are trying to do -- to provide clarity so that there is a level playing field for everyone to follow. I think that in the end, no matter what we put down the objectives are to be very clear and unified in what we want and what this community wants. That requires good leadership in CUC, in the government so that we can in fact get the best for our people. Let us get over the first hurdle and see if it works. If it does not work, let us give it another try. But if we can allow ourselves to exhaustively contribution to making the legislation better and clearer, I think we achieved a goal.

Speaker Arnold Palacios: Representative Sablan, let me go back to the question. I ruled that the motion failed to pass. I may be fifty-two years, but my hearing still heard more nays than there were yeas. Thank you.

Representative Sablan: Then I would like to offer another motion, Mr. Speaker.

Speaker Arnold Palacios: Before you do that, I recognize Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. What I want to say is we are not with this legislation setting any standard in this process. What we are allowing is basically an enabling legislation that will allow professionals under certain sections in this bill to come up with the scope and to do this process correctly. I do not think we should be going deeper than that. Once again, this is something that is urgent and is necessary that we act on as quickly as possible, Mr. Speaker. At this time I would like to move that we end debate.

The motion was seconded by several others.

Representative Sablan: I think I still have the Floor.

Speaker Arnold Palacios: No. Representative Benavente had the Floor. Representative Sablan, I think that you have basically communicated your objection to voting on this today. That is your prerogative. Representative Sablan, please do not interrupt. We have been very accommodating to every member. At the end we have to wind it down. Representative Benavente has stated that this is an enabling statute. It is not the end-game to the whole privatization issue. It allows for the procurement process, if need be, to begin. The specifications of what is to be procured will have to be done outside. This legislation would authorize that, and that is why the legislation calls for a team of experts to do this to be contracted by CUC. None of us here are engineers, at least not that I know of, or CPA's. There are a couple of lawyers, but this is a fairly technical procurement. We have a lot of discussions and most members would like to see finality to this legislation.

Representative Sablan: Can I make a point of information please.

Speaker Arnold Palacios: State your point. I will be very courteous and allow you.

Representative Sablan: Thank you, I appreciate that. I would like to state for the record that I would be the last person to object to a transparent and fair and legitimate privatization process. My contention today, is that even the way we legislate should be fair and transparent and legitimate. And I do not believe we have done that today.

Speaker Arnold Palacios: Thank you. I recognize the Floor Leader.

Floor Leader Camacho: Mr. Speaker, I do not know if this legislation is going to solve all the problems here in the CNMI. I do not think if it is going to solve all the power problems here in the CNMI, but it is an attempt by the members of this house. We do not have the luxury to go and march by the road and protest things. Everywhere we go, people are asking -- what are you doing? This is what we do. We are legislators. And on that note, Mr. Speaker, let us end debate and vote on this.

Speaker Arnold Palacios: I recognize the motion to end debate. Ready? Clerk, please call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 16-77, HS1, HD6 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	no
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	absent (excused)
Representative Joseph C. Reyes	yes
Representative Christina M. Sablan	no
Representative Edward T. Salas	no
Representative Rosemond B. Santos	yes
Representative Ramon A. Tebuteb	yes
Representative Ralph DLG. Torres	yes
Representative Stanley T. McGinnis Torres	yes

Representative Yumul: Mr. Speaker, I am happy to vote yes for legislation introduced by Representative Heinz Hofschneider. I am not scared of anybody who says otherwise.

Representative Ray N. Yumul	yes
Speaker Arnold I. Palacios	yes

Speaker Palacios: H. B. NO. 16-77, HS1, HD6 hereby passes the House on First and Final Reading.

### ANNOUNCEMENT

NONE

### ADJOURNMENT

Speaker Arnold Palacios: Floor Leader, for adjournment. Representative Hocog and Representative Aldan, you are from off island so which days would you rather have, tomorrow or Thursday.

Representative Hocog: (Microphone off -- inaudible).

Speaker Arnold Palacios: Representative Dela Cruz.

Representative Dela Cruz: Mr. Speaker, I know time is very short, but there is legislation, H. B. NO. 16-120, which has to do with the subsidy of CUC. I think this is very important. I do not think it is going to take a lot of discussion.

Speaker Arnold Palacios: We will get that on the Bill Calendar for the next session. Does anybody have an objection to having a session tomorrow afternoon? I recognize the Floor Leader for a motion to recess till tomorrow at 1:30 p.m.

Floor Leader Camacho: Thank you, Mr. Speaker. I make a motion to recess until tomorrow at 1:30 p.m.

The motion was seconded by several others and was carried by voice vote.

The House adjourned at 5:20 p.m.

Respectfully submitted,

Evelyn C. Fleming, House Clerk

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**APPEARANCE OF LOCAL BILLS**

None

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

**SECOND APPEARANCE:** NONE

**THIRD APPEARANCE:**

H. L. B. NO. 16-16: A Local Bill for an Act for the Third Senatorial District to appropriate \$20,000 from the Developer's Tax Fund collection, Third Senatorial District; to reappropriate \$3,000 from Saipan Local Law 15-10; to reappropriate \$10,000 from Saipan Local Law 15-12; to reappropriate \$10,000 from Saipan Local Law 15-28; and to reappropriate \$31,479.00 from the completed and closed local projects to fund the replacements of the dilapidated kindergarten classrooms at San Vicente Elementary School; and for other purposes. (Rep. Justo S. Quitugua +3)