



House Journal

SECOND REGULAR SESSION, 2008

**ADOPTED:
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5th Day

Wednesday, October 1, 2008

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened in its Fifth Day, Second Regular Session on Wednesday, October 1, 2008, at 9:50 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 Ray N. Yumul was absent and excused from the day's session.

ADOPTION OF JOURNALS

NONE

INTRODUCTION OF BILLS

H. B. NO. 16-152: A Bill for an Act to amend Title 4, Division 8, Chapter 2 of the Commonwealth Code to provide a criminal penalty for any violation of the Commonwealth Damage Prevention Act of 1994; and for other purposes.

Offered by: Rep. Stanley T. Torres

H. B. NO. 16-153: A Bill for an Act to require health insurance coverage of the diagnosis and treatment of Autism Spectrum Disorders in individuals under 21 years of age; and for other purposes.

Offered by: Rep. Joseph C. Reyes

Referred to: Committee on Commerce and Tourism

H. B. NO. 16-154: A Bill for an Act to establish a Special Education Scholarship Program for students pursuing a post-graduate or post-baccalaureate degree in special education; and for other purposes.

Offered by: Rep. Joseph C. Reyes

Referred to: Committee on Health, Education, and Welfare

H. B. NO. 16-155: A Bill for an Act to provide to the parent of any qualified special education child a scholarship in order that child may receive special education and/or related services that implement the child's individualized education program (IEP); and for other purposes.

Offered by: Rep. Joseph C. Reyes

Referred to: Committee on Health, Education, and Welfare

H. B. NO. 16-156: A Bill for an Act to establish a comprehensive autism training program in the Commonwealth of the Northern Mariana Islands; and for other purposes.

Offered by: Rep. Joseph C. Reyes

Referred to: Committee on Health, Education, and Welfare

H. B. NO. 16-157: A Bill for an Act to establish an Incompetency Determination Act; and for other purposes.

Offered by: Rep. Joseph C. Reyes

Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 16-158: A Bill for an Act to establish a Guardianship Act; and for other purposes.

Offered by: Rep. Joseph C. Reyes

Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 16-159: A Bill for an Act to amend 3 CMC § 4532(a) and 3 CMC § 4972(b)(1) and (2); and for other purposes.

Offered by: Rep. Ralph DLG. Torres

Representative Ralph Torres: I would like ask if we can put this on the Bill Calendar for discussion today.

Speaker Arnold Palacios: Let me ask that we refrain from doing that today. We have a lot of legislations on the Calendar that we need to clean up. We also have a lot of committee reports that we will be deliberating on today. We will take that up when we get to the Bill Calendar and see if can vote on placing it and I will allow you to explain and justify why we should be put in on. Representative Apatang?

Representative Apatang: Thank you, Mr. Speaker. I would like to see that this bill is placed on the Calendar today. This is a very important bill regarding physicians at the hospital and some teachers for special education at the Public School System.

Speaker Arnold Palacios: Okay, we will consider that when we get to the Bill Calendar. Floor Leader, please take note. Representative Stanley Torres.

Representative Stanley Torres: Mr. Speaker, I am also making the same request for my bill, H. B. NO. 16-152. Thank you.

Speaker Arnold Palacios: Floor Leader, please take note.

H. B. NO. 16-160: A Bill for an Act to repeal and reenact 1 CMC § 8392; and for other purposes.

Offered by: Rep. Justo S. Quitugua

Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 16-161: A Bill for an Act to amend 1 CMC § 8276; and for other purposes.

Offered by: Rep. Justo S. Quitugua

Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 16-162: A Bill for an Act to prohibit the Commonwealth government including government autonomous agencies, boards and commissions, and municipal entities from offering advance annual leave, payment of unused sick leave to their employees; and for other purposes.

Offered by: Rep. Justo S. Quitugua

Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 16-163: A Bill for an Act to amend 2 CMC § 3411 to add betel nut spitting under the definition of littering; and for other purposes.

Offered by: Rep. Justo S. Quitugua

Referred to: Committee on Health, Education, and Welfare

H. B. NO. 16-164: A Bill for an Act to amend Public Law No. 15-105 to include core licensing requirements; and to allow for a limited license for physicians who are licensed to practice in a foreign country; and for other purposes.

Offered by: Rep. Justo S. Quitugua

Referred to: Committee on Health, Education, and Welfare

H. B. NO. 16-165: A Bill for an Act to appropriate \$111,000.00 from the Third Senatorial District Developers Infrastructure Tax Fund; and for other purposes.

Offered by: Rep. Justo S. Quitugua

Representative Quitugua: Mr. Speaker, H. B. NO. 16-165 is a very simple and straightforward legislation and I would like to ask if we can place this on the Calendar for consideration.

Speaker Arnold Palacios: Floor Leader, get a note of that and we will deal with the issue when we get to the Bill Calendar.

H. B. NO. 16-166: A Bill for an Act to prohibit the use of non-compostable plastic bags at the stores within the CNMI; and for other purposes.

Offered by: Rep. Rosemond B. Santos

Referred to: Committee on Natural Resources

H. B. NO. 16-167: A Bill for an Act to amend 1 CMC § 8222 regarding housing for key government officials.

Offered by: Rep. Joseph P. Deleon Guerrero

Referred to: Committee on Judiciary and Governmental Operations

Vice Speaker Deleon Guerrero: Mr. Speaker, just a request to put it on the Calendar. We do not need to act on it. I will justify it later, Mr. Speaker. Thank you.

Speaker Arnold Palacios: Floor Leader, please take note.

H. B. NO. 16-168: A Bill for an Act to provide for the lateral transfer of Division of Immigration personnel to other agencies or departments of the Commonwealth Government; and for other purposes.

Offered by: Rep. David M. Apatang and four others

Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 16-169: A Bill for an Act to make appropriations for the operations of the Government of the Commonwealth of the Northern Mariana Islands, its agencies, instrumentalities, and programs, and to provide budget authority for public corporations for Fiscal Year 2009, and for other purposes.

Offered by: Rep. Victor B. Hocog and four others

Representative Hocog: If I may ask, Mr. Speaker, that the Floor Leader take note, I would also like to request to place this on today's Calendar for First and Final Reading as today is the beginning of the budget year for Fiscal Year 2009. In addition, I would like to ask members who are interested to involve themselves as co-authors of the bill that they are most welcome to sign the appropriation bill. Thank you.

H. B. NO. 16-170: A Bill for an Act to suspend tax relief pursuant to 4 CMC § 1708 for Calendar Year 2009; to appropriate the funds realized from the tax relief suspension; and for other purposes.

Offered by: Rep. David M. Apatang and one other

Referred to: Committee on Ways and Means

H. B. NO. 16-171: A Bill for an Act to reappropriate \$20,000 from the fund balances of the funds appropriated under Section 3(b)(8) of Saipan Local Law 14-11 for Karidat; and for other purposes.

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

H. L. I. NO. 16-19: A House Joint Resolution to amend Article III Section 9(b) of the Constitution of the Northern Mariana Islands to require a mandatory State of the Commonwealth Address and a balance and detailed budget submitted to the legislature, and for other purposes.

Offered by: Rep. Joseph N. Camacho

Referred to: Committee on Judiciary and Governmental Operations

H. L. I. NO. 16-20: A House Joint Resolution to amend Article III, Section 9(c) of the Constitution of the Northern Mariana Islands to require notification for public comments before the Governor grants reprieves, commutations and pardons, and for other purposes.

Offered by: Rep. Joseph N. Camacho

Referred to: Committee on Ways and Means

INTRODUCTION OF RESOLUTIONS

H. R. NO. 16-52: A House Resolution to express the support of the House of Representatives of the Sixteenth Commonwealth Legislature of the establishment of the Northern Marianas Trades Institute.

Offered by: Rep. Justo S. Quitugua

H. R. NO. 16-53: A House Resolution to recognize, congratulate and commend Veterans of Foreign Wars Saipan Post 3457 for their tireless work on behalf of our community, Active Duty military members and their families, CNMI Reserve Units and their families, the CNMI Retired military community, disabled and hospitalized veterans, and CNMI students, teachers, firefighters, emergency medical technicians, and police officers.

Offered by: Rep. Joseph C. Reyes

H. J. R. NO. 16-14: A House Joint Resolution to request that President George W. Bush, the Secretary of Homeland Security, the Secretary of State, the Secretary of the Interior, The Secretary of Labor, and the United States Attorney General ensure that the regulations implementing the

Consolidated Natural Resources Act of 2008 include China and Russia in the Guam and Northern Mariana Islands visa waiver program.

Offered by: Rep. Diego T. Benavente

H. J. R. NO. 16-15: To request the Congress of the United States to cause to establish, create or open a U.S. Department of Veterans Affairs Benefit Office and a Veterans Affairs Community Based Outpatient Clinic (CBOC) on the island of Saipan to service all veterans in the Commonwealth of the Northern Mariana Islands.

Offered by: Rep. Joseph C. Reyes

Speaker Arnold Palacios: I am going to order that all resolutions introduced today will be placed on the Resolution Calendar. Before we move on the Messages from the Governor, we will take a two-minute recess. Short recess.

The House recessed at 10:06 a.m.

RECESS

The House reconvened at 10:18 a.m.

Speaker Arnold Palacios: We are back in session. We move on to Agenda Item 5.

Representative Benavente: Privilege, Mr. Speaker.

Speaker Arnold Palacios: Representative Benavente, state your privilege.

Representative Benavente: Thank you, Mr. Speaker. I just want the members to recognize and acknowledge the presence of the parents of Representative Ralph Torres, Mr. Ben and Mrs. Primitiva Torres who travelled from Boise, Idaho to be here with their children. I just wanted to recognize them as well as their children and families in the gallery. (Applause)

Speaker Arnold Palacios: Welcome to the House Chamber.

Representative Benavente: Mr. Speaker, I would also like to recognize the presence of the former Chairman of the Saipan and Northern Islands Municipal Council, Mr. Greg Deleon Guerrero. (Applause)

Speaker Arnold Palacios: Mr. Deleon Guerrero, welcome to the House. We move on to Messages from the Governor.

MESSAGES FROM THE GOVERNOR

GOV. COMM. 16-190: (9/10/08) Certification of vacant position at the Department of Public Works.

GOV. COMM. 16-191: (9/11/08) Certification of vacant position at the Division of Environmental Quality.

GOV. COMM. 16-192: (9/11/08) Certification of vacant position at the Division of Environmental Quality.

GOV. COMM. 16-193: (9/11/08) Certification of vacant position at the Department of Commerce.

GOV. COMM. 16-194: (9/11/08) Certification of vacant position at the Department of Public Health.

GOV. COMM. 16-195: (9/15/08) Informing the House that he disapproved H. B. NO. 16-77, HS1, HD6, SD1 (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). [Deadline: 11/14/08]

GOV. COMM. 16-196: (9/19/08) Certification of vacant positions at the Department of Public Health.

GOV. COMM. 16-197: (9/19/08) Certification for an annual salary in excess of \$50,000 for Dr. Paul K. Nanda.

GOV. COMM. 16-198: (9/19/08) Certification for an annual salary in excess of \$50,000 for Dr. Hugh A. Ross.

GOV. COMM. 16-199: (9/19/08) Certification for an annual salary in excess of \$50,000 for Dr. George P. Macris.

GOV. COMM. 16-200: (9/25/08) Executive Order 2008-16 - Declaration of a State of Disaster Emergency: Pharmacy Department at CHC.

GOV. COMM. 16-201: (9/25/08) Extending the State of Emergency for the island of Anatahan.

GOV. COMM. 16-202: (9/26/08) Certification for vacant positions at the Department of Public Health.

GOV. COMM. 16-203: (9/26/08) Certification for an annual salary in excess of \$50,000 for Dr. Laura Shevy.

GOV. COMM. 16-204: (9/26/08) Certification for a vacant position at the Department of Public Health.

GOV. COMM. 16-205: (9/26/08) Certification for a vacant position at the Department of Public Health.

GOV. COMM. 16-206: (9/26/08) Certification for an annual salary in excess of \$50,000 for Dr. Martin Rohringer.

GOV. COMM. 16-207: (9/26/08) Certification for an annual salary in excess of \$50,000 for Dr. Edward Cornett.

GOV. COMM. 16-208: (9/26/08) Certification for an annual salary in excess of \$50,000 for Dr. Divya Sharma.

GOV. COMM. 16-209: (9/26/08) Informing the House that he signed into law S. L. B. NO. 16-4 (Rota Acting Mayor & Acting Municipal Council Chair Act). [Became *Rota Local Law 16-4*]

GOV. COMM. 16-210: (9/29/80) Report on the exercise of constitutional and statutory authority to Declare a State of Disaster Emergency for the CNMI with respect to CUC and its inability to provide power. (*See Legislature Network for attachments*)

Speaker Arnold Palacios: I recognize Representative Hofschneider.

Representative Hofschneider: Thank you, Mr. Speaker. I have two comments: one on GOV. COMM. 16-195 and one on GOV. COMM. 16-200. I will start of with GOV. COMM. 16-200 which has to do with the declaration of state of disaster for the pharmacy at the Commonwealth Health Center (CHC). If we recall, I introduced a bill, by request, several months back relating to the pharmacist situation down at CHC. We are talking about the inpatient pharmacist. That went out of the House and the Senate. It went to the Governor and he decided to veto the legislation on the basis that the bill also included a resolution to put a final enabling legislation to the issue of over the cap salaries when it relates to the Legislative Bureau. For the longest time we did not have to clarify as to the structure nor the authority for exemption of our Legislative Bureau staff, the counsels particularly the legislative clerk, the House Clerk that has been here for more than twenty-five years. Be it as it may, he decided to veto the bill on the contention that is predominantly a legislative issue. Now, I would have expected some degree of cooperation when it comes to the separate branches of government. There are myriads of reasons. In the budgeting act, we do not interfere with the Executive Branch, likewise it is expected of us in the second branch of government not to interfere to the extent within the confines of the law when it comes to judicial authority. But, that is water under the bridge. Now, he declared a disaster. To me, this is like taking out the biggest sledge hammer you have to swat a fly. It is an abuse of power. Why?—1 CMC § 8250(c) under “Exemptions” says: “(c) If the governor certifies to the presiding officers of the legislature and the chairman of the Civil Service Commission that after a diligent effort, the Commonwealth is unable to recruit a professionally or technically qualified person to take an appointed position, he or she may waive the salary ceiling established by law for that position. Now, it may have slipped scrutiny of already in place law as to the authority of the governor when it comes to filling hard-to-fill positions. The last time I check, the pharmacist is qualified under the professional category. Pharmacists go to medical school, must pass an exam and be board certified in their respective field. So, I do not know what is really going on in terms of exercising constitutional authority for something that is already authorized under the law. The only thing that I can come up with is total disregard of the legislative presence and authority. We do not have to duplicate this, Mr. Speaker. It is provided under 1 CMC § 8250. We do not have to resort to the declaration of disaster. There is no disaster. The Secretary of Public Health came to my office asking for this specific legislation back in February. Now, if the pharmacist is really critical, it took this long to see the merit of declaring a state of disaster. I wonder who has been dispensing and certifying controlled substances within CHC for inpatient medications. I come to GOV. COMM. 16-195. This bill was originally introduced in the 15th Legislature by, I believe, Representative Dela Cruz. Back in January when we were inaugurated we knew that the power situation is not going to get better but worst. I have been repeatedly saying since January and February that by July of this year the situation with the Commonwealth Utilities Corporation (CUC) would be worst if not eminent catastrophe. We have come to that stage. We

refined the bill, we included certain things that we thought were prudent in protecting public interest which is foremost, not special interests. We removed the provision in which no one was willing to support and that is the special privilege of 10% leeway or advantage of local bidders. So we cleaned it up. We took out the provision with regard to the Office of the Public Auditor from being forced to inject in the midst of protests. Protests, in the history of Commonwealth procurement, have cost us a lot of money, a lot of delays, and nothing gets done. There is no transparency. There is nothing legislatively that we can do to take away the general and specific oversight of the Office of the Public Auditor. Let us make that clear. There is nothing that we can pass legislatively to diminish, weaken, or erode what is given the authority of the Office of the Public Auditor. Having said that, I dispense with the argument put forth in the veto message by the governor. As far as the theoretical prospective argument of the economics of a potential bidder, Mr. Speaker, the best analogy is, when Yahoo! was being put up for sale, there are fixed asset value and there are potential economic value. A potential buyer does not necessary look at the fixed asset, which is the machinery part. The computer may be worth a million or two. But, when they consummate the purchase of that company, it is in the hundreds of millions of dollars. Why is that?—It is the customer based, it is the future economic potential of a business entity. Likewise, we should think that way. The U.S. Government and the people of the Commonwealth have spent millions of dollars into CUC. If one is to appraise the machinery today, it may cost five million to twenty million dollars at the most because they are all dilapidated. They have not been maintained. But what is the potential economic opportunity of an entity having monopoly over power generation in the Commonwealth. I have stated in the past, CUC spent good money and they did a report evaluating what is the economic potential. That report stipulates that anyone taking over CUC as a monopoly for 25 years stand to gain \$1.25 billion. That is why we can not get transparency in the procurement process. It is too lucrative.

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

Speaker Arnold Palacios: State your point.

Representative Hofschneider: I will close for now, Mr. Speaker.

Speaker Arnold Palacios: Thank you.

Representative Hofschneider: Let me just close, Mr. Speaker. This legislation by no means is perfect. In 16 years here in the legislature, I have not seen a perfect legislation. But, it makes you think that the alternative of not having this in place is even worst. Having just repeated my comment on another issue with regards to the pharmacy, the usage, the continued abuse and with no plan as to what this CNMI Government intends to do with CUC on power generation. With that, Mr. Speaker and members, I urge you to think. We can emplace this into law and call everyone in that has a problem with the language so that we can work together making it work for the people of the Commonwealth – not for a specific company, but for us. Thank you.

Speaker Arnold Palacios: I now recognize Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. On the same communication, when we were faced with the power crisis I know that most of our people as well as the leaders are more concerned with the power outages, and rightly so. That was what was affecting everyone, especially here in Saipan. I continue to say over the past several months that we actually have two separate and equal crises with our power utilities. Of course at the time it was the power outages, but the other problem that we have with our power utilities is the expensive rate that our people pay and that is not being

experienced only here in Saipan but in Tinian and Rota as well. Mr. Speaker, over the months since we came in we have deliberated on the problems with our utilities. We have discussed this matter with our experts and actually travelled to Guam to look at their utility system. One of the things we have learned is that there really is an opportunity to reduce the rate. Knowing that diesel is what we use right now at Power Plant 1, the PMIC in Power Plant 4 and even the Aggreko Generators that are currently being used temporarily are using expensive diesel fuel. Guam uses heavy fuel oil and the rate is of course much cheaper given that heavy fuel oil is a cheaper fuel than diesel. So their rates are cheaper. I know that there are other factors that make Guam's utility rates cheaper, but the major factor is the cheaper heavy fuel oil. From the very beginning I felt that we needed to look at that option. Look at other opportunities to reduce the rate, because it is cost prohibitive. It continues to hurt our people. There are still so many people who are without power because they cannot afford it. Even though we are seeing a decline in oil prices the last couple of months, everyone that we have talked to are saying that that is probably temporary and it will go up again. So we really need to look at the other alternatives for our power generation system. This bill that was recently vetoed by the governor actually provides for separate opportunities for CUC to look at to be able to improve our power system, or if they want to improve the power generation side. There are separate issues which the governor raised in his veto message that are really separate issues on the different options that CUC has. One of those options is for privatization through an IPP (Independent Power Producer) of the power generation. Again, I cannot understand why CUC until now.... *(End of Tape 1 side A). (Start of side B)* ...in light of the old and tired engines over at Power Plant 1. I realize that we might be extending the legislative authority towards the administrative authority in taking steps requiring 120 days for CUC to issue this proposal for this IPP. But if the Administration is not doing it, then somebody has to do it and that somebody is us. Because I feel that there is a need to urgently have CUC start the process rather than— and as I have accused the Administration in the past — wait for them to sole source it and get it to the point where we cannot do it anymore but sole source it. Let us make sure that that does not happen. That will be the worst thing that can happen to the CNMI. Let us get an even playing ground in the process of an RFP for this IPP. Mr. Speaker, recently the Senate acted before we did in overriding this legislation as they see it necessary even though it is a House Bill. I would like for us to support the override and I so move to override the Governor's veto of H. B. NO. 16-77, HS1, HD6, SD1.

The motion was seconded.

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

Speaker Arnold Palacios: State your point.

Floor Leader Camacho: I believe we are still under discussion of the Governor's communications. The Floor Leader will entertain that motion.

Speaker Arnold Palacios: Okay. Representative Benavente, I would like to ask that you withdraw that motion and have the Floor Leader make the motion.

Representative Benavente: Mr. Speaker, we can further discuss the Governor's communication through the discussion on the motion to override. I do believe I am in order.

Speaker Arnold Palacios: You are in order. I am just asking that you consider the Floor Leader's request. He was going to entertain it, but the motion has been made and seconded.

Representative Benavente: Privilege, Mr. Speaker.

Speaker Arnold Palacios: State your privilege.

Representative Benavente: Is that to allow the members to discuss the other communications from the Governor, or --?

Speaker Arnold Palacios: Short recess.

The House recessed at 10:37 a.m.

RECESS

The House reconvened at 10:38 a.m.

[Portion of the session proceedings was not recorded after recess. Recording began with Representative Benavente holding the Floor.]

Representative Benavente: ...now that I have made the motion to review and consider carefully their decision on that and because there are so many communications under Item 5 of the Order of Business, I at this time withdraw my motion for a later time. Thank you.

Speaker Arnold Palacios: Thank you. Are there any other comments on the other communications from the Governor. I recognize Representative Reyes.

Representative Reyes: Thank you, Mr. Speaker. I think this is just on the same issue, GOV. COMM. 16-195. I disagree in a lot of what was mentioned in the Governor's veto message dated September 15th to you.

Representative Hocog: Privilege, Mr. Speaker.

Speaker Arnold Palacios: State your privilege.

Representative Hocog: May I ask my colleague to refrain from discussing GOV. COMM. 16-195 until the bill is placed for action so that we avoid duplication of comments on that particular issue.

Speaker Arnold Palacios: Representative Reyes?

Representative Reyes: In the interest of time because I know that we have a lot in our Agenda, I will stop at this time.

Representative Babauta: Point of information, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Babauta: Mr. Speaker, any member is entitled to dwell on the same issue. Regardless of whether we call it redundant, parliamentary procedure wise, we are still on track. So we can continue to allow Representative Reyes to deliberate. He might have the same phrase, but a different verse. He may put an adjective on his comment, so let us give him the chance.

Speaker Arnold Palacios: I understand that Representative Babauta that is why I recognized him and he decided to yield. Any other comments on the Governor's communications. I recognize Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. I want to comment briefly on GOV. COMM. 16-200 regarding the declaration of the state of disaster emergency on the pharmacy at CHC. I agree with Representative Hofschneider's statement that this declaration really could be construed as yet another abuse of power considering that the Governor had on his desk a bill that would have remediated the pharmacy problem at CHC along with other problems that we have had in retaining qualified professionals for the government. The Governor's rationale for vetoing the bill was that the language was too vague in allowing the legislature to hire professionals above the salary cap. I went back and looked at the law that Representative Hofschneider's bill would have amendment. In fact the language was quite similar. We already in current law allowed for the hiring of professionals within the legislative branch above the salary cap. So that rationale which was the basis for vetoing that particular bill seems to hold no water. The fact that the governor allowed for the pharmacy crisis at CHC to escalate to the point of declaring a state of emergency for me would constitute another abuse of power that I think we should take very seriously and consider overriding his veto on that particular bill. Thank you.

Speaker Arnold Palacios: Any more comment? Representative Reyes.

Representative Reyes: Mr. Speaker, I would like to ask that perhaps this declaration of a state of emergency for the pharmacy department at CHC be further looked at by the Chairman of the Committee on Health, Education, and Welfare and let us know what findings he may have. Thank you.

Speaker Arnold Palacios: Let me also add that I have also asked one of the legal counsels to look at this particular issue because it does appear, in my opinion, to be an abuse of power. As stated by members, there are other avenues in the statutes that our Governor could have taken. There are other avenues to address the issue of the opening of the public schools. If you recall, he issued a state of emergency that lasted for two days regarding some public schools' having contaminated water tanks. That declaration was rescinded two days after it was issued. So those are of grave concerns for the legislature, and I am having our legal counsel look at those and I believe that we will end up with a communication to the Governor expressing the sentiment of the House on this particular matter. Representative Benavente, recognized.

Representative Benavente: Mr. Speaker, I would agree with you. That is the only thing we can do which is express our sentiment. Unlike an executive order to reorganize an office allowed under the constitution, on state of emergency disasters we really have no authority to reject it. I just wanted to question the Attorney General's Office in allowing the Governor which is really a clear abuse of power. It is not just this declaration of state of disaster emergency, but there are others. At this time, our country is faced with a major economic crisis in the Fannie Mae and Freddie Mac situation. That, in my opinion, rises to the level of an economic disaster in which the President of the United States we would have hoped would have the authority to act unilaterally as the Governor continues to do here in the Commonwealth, but even the President's hands are tied. It needed congressional action and that is why the situation continues. We should understand that the Commonwealth should not and cannot be doing this abuse of authority by the Administration, by this Governor. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Thank you. Floor Leader.

Floor Leader Camacho: Mr. Speaker, I move to override the Governor's veto of S. B. NO. 16-19, SD1 under GOV. COMM. 16-148 reference to the Mayors in the respective municipalities.

Speaker Arnold Palacios: The motion is to override the Governor's veto of S. B. NO. 16-19, SD1. If you look at the footnote on our Agenda under the Governor's communications, we included those communications. Short recess.

The House recessed at 10:45 a.m.

RECESS

The House reconvened at 11:01 a.m.

Speaker Arnold Palacios: We are back to our session. I recognize the Floor Leader.

Floor Leader Camacho: Mr. Speaker, while the members are getting their copy of the respective Senate Bill, if there is no objection, I will withdraw my motion to override that particular bill, S. B. NO. 16-19, SD1.

There was no objection from the Floor.

Speaker Arnold Palacios: The Floor Leader has withdrawn the motion and we will proceed to other matters.

Floor Leader Camacho: Thank you, Mr. Speaker. I move to override the Governor's veto of H. B. NO. 16-177, HS1, HD6, SD1 reference to GOV. COMM. 16-195 on the privatization of CUC power generation.

The motion has been seconded.

GOV. COMM. 16-195: (9/15/08) Informing the House that he disapproved H. B. NO. 16-77, HS1, HD6, SD1 (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). [Deadline: 11/14/08]

Speaker Arnold Palacios: The motion is to override the Governor's veto of H. B. NO. 16-77 as amended by the House and the Senate. Discussion on the motion. I recognize Representative Hofschneider.

Representative Hofschneider: Thank you, Mr. Speaker. First of all, the bill as originally introduced and by way of amendments so the floor on the day the House acted on it included other things that each member is privileged of amending or offering on the floor. As it evolved and went up to the Senate, it was with those amendments perhaps the comments made during the override specifically by the Saipan Chamber of Commerce pointed out the evolution of that legislation as originally introduced. Be it as it may, Mr. Speaker, here is the logic that I feel is very important for people to understand. Having looked at the Administration's pattern of usage of power. The most important

thing is what has been plaguing CUC which lacks transparency. The previous years that they have attempted to privatize portions, including the entire power generation, has been plagued with discrepancies in the procurement process which brought us to this state. Because each member is privileged with inserting or offering amendments to the bill, it came down that the bill is offering four ways to privatize power generation. Perhaps the most contentious one is if and when this government through the procurement process decides that it is best to sever it permanently and completely from public interest and bid it out as a private entity. There is a price tag under this legislation that specifically amounts to \$250 million. But we are not interested in cash. As the language provided in that section, we are asking that whoever takes the power generation portion of CUC completely, privately and permanently for not less than 40 years means in perpetuity potentially to reinvest back into this community. That is what it means. An analogy to this reinvestment, all FDIC banks are required under the CRA, Community Reinvestment Act, the privilege of doing business in a particular community and give back to the community in myriads of forms. It may be contribution or special interest rates for a specific community purpose. So the Community Reinvestment Act is duplicated in this intent under this section of \$250 million. We are not interest in cash, but if there is a company that says I do not want any attachment to the government or in a public interest, I want to completely and wholly own the power generation, I will rebuild it, finance it but leave me alone as a private entity. The price tag is \$250 million. That is negotiable. Nothing in law is etched in stone. We have to be practical and we have to be ready to accommodate and compromise. How do we know that they are not takers? To give it away, fire sale, is ludicrous. The Department of the Interior through congressional appropriation and this community has invested millions of dollars. We deserve something in return. All I am asking is for underground power generation instead of the aerial that is prone to typhoons, deterioration from termites, and line losses due to the ambient temperature and salt content in our air. Twenty-six percent is the line loss today. So the legislation contemplates four different ways of privatizing CUC. It does not mandate that the \$250 million is it. There is IPP, there is what is called a power management contract for 25 years. And there is another one – like in California and other states -- that individual households that have the capacity to generate renewable energy and you produce more than you consume, it goes out to the grid. This is thinking outside the box. We are not inventing new wheels. It is in place throughout the United States. All we need to invest in is the meter and how CUC, through regulations, will accommodate these customers who overproduce through capacity of their own. This is one way of conserving. The most important consideration is the things have been going on in CUC in privatizing portions or all of the power generation has plagued us of enriching this community with reliable and affordable power. The 15th Legislature enacted renewable energy laws complementing this legislation. The drawback of not voting for the override is even more catastrophic. Assume that we fail to override today and the Governor exercises a declaration of disaster to fast track, no transparency and no competitive bidding to the best qualified company out there who is willing to look at the Commonwealth at this stage and juncture to say I am interested and I am offering the people of the Commonwealth better options. That is the consequence of not overriding the veto. There is a lot of mistrust already. And let us talk about that. The community does not trust the legislature. The community does not the Administration. There is a triad of mistrust in all three concerns. This legislation at a minimum is providing for check and balances. At a minimum, they have to follow the procurement process written under this legislation. The details as to the concern of the \$250 million or the other sections, once this becomes law, Mr. Speaker, it is our responsibility to call in the concern parties and let us consider amending it. But not to override may in fact find ourselves in the next week, or months, that it may be bid out or sole sourced without the knowledge of the public and without the protection of we the very people that we are supposed to be protecting. Mr. Speaker, I ask that the members consider voting for the override only because we need a check and balance in the process in privatizing power generation. We can work on the

details. That is the art of the legislature – to be able to compromise and be realistic that in lieu of the \$250 million equivalent, we do not want to see underground power, so be it. Let us reduce it. Let us do away with it. But, how do we know for certain. We do not have \$250 million, we do not have \$20 million to do underground power. We are prone to typhoon damages. That will be the next excuse once privatization of the power generation is completed. The power distribution still remains with the public. So, Mr. Speaker, in closing I ask that each member – I know it is not a perfect legislation as we wanted it to be, but it is a start. It is a start in transparency, in putting a check and balance with what the Executive Branch is doing. It is not to say do not trust them, do not trust the Administration, but there is a lot of it already. We cannot get the public support if we are not above the table, and this legislation provides that. Thank you.

Speaker Arnold Palacios: I now recognize Representative Reyes.

Representative Reyes: Thank you, Mr. Speaker. I think I was very instrumental back then when we discussing the bill before we passed it and likewise the Senate on H. B. NO. 16-77, HS1, HD6, SD1. Mr. Speaker, a lot has been said about the Commonwealth Utilities Corporation, how it affects the community overall, the business community, and individual citizens and I would say even getting investors into the Commonwealth because of the utility problems that we had. Well, we took it one by one and now that we have 24/7 power, everyone's concern right now is the rates. I do not agree with a lot of what the Governor has mentioned in his communication with regards to the veto of this bill. The bottom line, Mr. Speaker, is for many years now, millions and millions of dollars have been wasted on CUC. I have yet to see any plan. A business plan of whatever in revitalizing CUC to make it work whereby the consumers would be charged less or even be refunded for their losses, not to mention the losses in dollars when we used to have power outages. In the absence of planning, because I have not seen one yet from the management of the Commonwealth Utilities Corporation or the Governor's Office having declared a state of emergency for the third time, if I am not mistaken. We have yet to see what plans are in the making. There is also Public Law 15-23 that I asked Mr. Muna the other day, which requires them to look and have in place ten percent of our electricity in renewable energy by the end of this year. Perhaps that is not achievable, but none of us in my opinion has ever been presented with any plans at all. In the absence of such for the last fifteen years, all the millions of dollars that we have spent we have yet to find out whether or not the power plan will be indeed be up to par and running six months or twelve months from today. Should there be a plan in place to rehabilitate or replace the whole power plant, we have yet to see one. We have yet to see any planning in cost recovery or savings or whatnot. This is much more that what we know. Something has to start somewhere including the plans in the drawing board for renewable energy. This bill also has the provision whereby we privatize it. Representative Hofschneider did mention that this bill does have options. Yes, the \$250 million price tag is there, and personally I think that is more than reasonable for privatizing the Commonwealth Utilities Corporation. Overall, it will generate more than \$250 million in forty years. But there are options into this. Privatizing this – I do not know if I should use the word or it is the appropriate word to use – incompetence in the Commonwealth Utilities Corporation management in drafting up a business plan as to what to do and we are heading to and what we are going achieving within five years or ten years from today, I have not seen that. But I assure you, the experts in the private industry can and will manage and give us a plan within six months if – if – privatization indeed comes to play. We have spent a lot of money and the consumers are hurting. Everybody is leaving. We are killing our own economy because of this power crisis. I am suffering myself. My office is registering all the damages that we have had experienced and we are not even done yet. But, Mr. Speaker and members of this Body, I too support the override of this bill because I have had enough. I am sure that we can work out the rates with whoever is interested. I can assure you that if and when privatization is awarded, we have

a plan in the making for the next fifteen or twenty years of what the utilities can be operated and what we can expect from them. I hope everybody would join us in addressing this and override the Governor's veto of H. B. No. 16-77, HS1, HD6, SD1. I thank you.

Speaker Arnold Palacios: I recognize Representative Dela Cruz.

Representative Dela Cruz: Thank you, Mr. Speaker. First of all, I must say that I am a bit concern about this override of H. B. No. 16-77. We all know what the people of the Commonwealth wants. And that is quality and affordable power, nothing more, nothing less. The people out there do not care of the inner workings of our power plant. They just expect to get quality power for their homes or businesses at an affordable price. The biggest concern I had initially with H. B. NO. 16-77 was the price tag on full privatization. There are six options in as far as working with the private sector for the privatization. One is the performance management contract or the PMC. This is doing real well for our neighbors in the south – Guam. It has been working great on their island. The second is a concession or a franchise. Third, is a utility cooperative in which people of the Commonwealth, or government agencies can own the power facilities after all it is a kasha. The problem that CUC seems to be running into all the time is how to manage the plant efficiently, how to perform preventative maintenance on the engines as they are required to do. The fourth option is a BOT of build/operate/transfer. The fifth is a contract for an independent power producer or an IPP to sell power to CUC, and lastly, full privatization that has a prize tag of \$250 million. It went down from \$500 million as we all know. The problem that I see here is – and Representative Hofschneider stated clearly – there has been no appraised value for the power plants. Power Plants 1 and 2 have no appraised report on these plants. So how do we know exactly what is the value. I understand the idea of putting a price tag of \$250 million whether in cash or other infrastructure. A few years ago, I asked economists.com when they were here how much they think our plants is worth. Their answer was you should put it on eBay and see -- put it on eBay? Now, the other concern that I have is once we override this and it becomes public law, how do we know that the Governor is not going to take option 6 first on top of the other options. How do we know?—and once that is done, there is that \$250 million tag. Who is going to pay for it? A business is not in business to lose money. They are there to make money. Mr. Speaker and colleagues, I have gotten the assurance from the author and some other speakers that as soon as this is overridden we shall come in and do an amendment on the privatization. When the legislation was introduced, H. B. NO. 16-77, I voted against the legislation itself for the mere reason that I stated just now. If there is an amendment to be made to this, I will support it. As the legislation stands as it is right now, I am sorry, but I cannot do an override while these languages are still there. I would be more than happy to help with an amendment because it is unclear yet what this legislation will actually do. I stated earlier that if option number 6, which is privatization, will supersede all the other five above it, then as the language stands I am not for it. That is all, Mr. Speaker.

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

Representative Apatang: Thank you, Mr. Speaker. Mr. Speaker, recently we got a letter from the Saipan Chamber of Commerce with regards to this issue. The letter is pretty specific as to their concern. But there is no statistics, no explanation, nothing attached to the letter to justify their concerns on this particular bill. The letter says that if we override this, we will increase the utility rates, but there is not attachment to the letter that can show us how that is going to increase. There is no justification whatsoever. I just wonder if anybody else received a letter from the Saipan Chamber of Commerce in regards to this. I have no problem with the override. Thank you.

Speaker Arnold Palacios: Before we continue, I would like to call your attention to MISC. COMM. 16-47. It is provided to each member and should be in your package. This is the letter from the Saipan Chamber of Commerce stating their position on H. B. NO. 16-177 and its potential override. I now recognize the Vice Speaker.

Vice Speaker Deleon Guerrero: Thank you, Mr. Speaker. I have listened to both sides of the issue whether to support the override or not to support it. In listening to Representative Dela Cruz's comments not to support the override, I would like to briefly respond to some of the points he made. First of all, I supported this bill because it provided more than one alternative for privatization. As he mentioned, there are six different possibilities. It allows for the performance management contract perhaps for the Power Plant 1 to allow the management of that existing utility to be managed by a private company that knows how to manage utilities. Through his recommendation, we amended this bill to include a public cooperative so that our people can be allowed to be owners of this utility. It allows for an IPP so that we can have a new power plant using heavy fuel oil as recommended by Representative Benavente. The big concern here seems to be the full privatization of the power generation system. If that is the big concern, I look at it as a disincentive. I do not think one, that the governor would choose that option simply because that was one of his biggest arguments against signing this bill into law. Second, let us say for some weird reason he decides to go that option. I do not think any private contractor in his right mind would pay \$250 million for a utility company that could be sold on eBay for only several million dollars. But let us say that happens. Some idiot out there decides to pay \$250 million – excuse my language. It is still in the purview of CUC and PUC in reviewing that contract to accept it. If everything falls into place, then that eventuality could possibly occur. But the important thing that we should keep in mind is that it allows us to take that next step. Aggreko came in as our short-term very immediate solution to our power crisis, and that is all that is. It is just to give us breathing room so that we can look at what our long term options would be. This, my friends, is the first step as Representative Hofschneider said to the long term. This is what would give CUC the tools to make that decision. And we do not have a lot of time. Aggreko's contract is for 12 to 18 months. The second important thing about this bill is that it takes away the process that had led to many protests in the past. It requires that it be bid out and not be one by way of an RFP. That is very important to allow for transparency to occur. We went one step beyond that. We even have a provision in here so that an independent company who is qualified to review bids will conduct the evaluation of the bids, not internally. I think that is a very good step in making this process transparent and making it fair by having an independent company evaluate the proposals. Third it allows for a process for protests, for appeals; it is spelled out in this bill. I do not think you can really ask for much more than that. Colleagues, time is of essence here. We cannot, and I think all of us have seen the letters to the editor, the feelings of the people that we need to move. We cannot keep being wishy-washy here. Thank you. Mr. Speaker.

Speaker Arnold Palacios: I now recognize Representative Hocog.

Representative Hocog: Thank you. Mr. Speaker and members, while everybody is saying their peace of mind, I am trying to decide whether I will speak in vernacular or I will speak in the American language. Unfortunately I cannot say that I will speak in Carolinian because I do not know. Be it as it may, I choose to speak in English and probably mixtures of Chamorro down the line. Mr. Speaker, as what the proponents of the anti-override have said about CUC, I understand CUC has been operated when the legislation crafted by in 1984. It has been 24 years since the creation CUC to run the public utilities. Little did we know that had that legislation was not dismantled piece by piece, I believe we will not be experiencing today's problem of mismanagement. Nonetheless, Mr. Speaker, today is the day where this honorable body will decide and to inform our constituents whether we

are the leaders as a sunset of life or leaders for sunrise for bright and new opportunities. Today, Mr. Speaker, we opted to create this legislation in a form of privatizing the authority and the management of CUC for the reason of mismanagement. We eliminated the RFP process which the CNMI Government had long-term adopted the concept to get a cheaper price rate. Mr. Speaker, I asked CUC a question – have they won any protest from the RFPs. I say none, Mr. Speaker. Out of the seven protests launched at CUC, none have been won. Companies who decided to come and assist us with to provide reliable cheaper power back then and today are fed up with the idea of RFP and that is why this privatization process eliminated the RFP. The focus of the override is being highlighted on the \$250 million. I do not know. But why only \$250 million and not mention the other opportunities provided in this legislation. Who will make that decision?—it is CUC. So why do we fear the amount of \$250 million and it will take place tomorrow if this legislation becomes law by override. I do not believe that. I regret to inform the Governor that at the height of nearing the death of this legislation to be signed into law I was asked to recall the bill. I have informed the most able legislative liaison to the Governor to inform the Governor to proceed and sign the bill and I am more than willing to sit down and work together to provide the necessary amendment so that we will not waste time with the reintroduction of this important legislation. Citing the reasons for override requiring the contractor to operate the power plant to have five years of experience in emission compliance. Mr. Speaker, even the RFP that calls to provide technical assistance, the firm of Delgado was paid \$300,000 to provide this technical assistance, ran away with \$300,000 for nothing. By providing this section of the bill for a company to comply with the U.S. EPA will provide those big companies and to encourage them to participate. By having this under the bid proposal, Mr. Speaker, I am confident that big power providers from the United States and other countries that are certified EPA providers will participate without reservation. Companies that have participated years back are no longer interested to participate in an RFP because of the expenses they have put in. And after protests and protests, CUC continues to lose to protect the integrity of their selection thereby costing these companies substantial amounts of money for nothing. And after such protests have been won by the protestor, CUC drops the ball and nothing goes on. Second, Mr. Speaker, on the issue of what was claimed that the rate will increase, or let me cite Section 8 as the reason for the override. I love to see the employees of the present CUC to be boarded with the company that will be successful in taking this privatization operation for CUC. We will as leaders encourage them to train those individuals to meet their requirements. There is nothing wrong to protect these employees of CUC to participate in the privatization. The other issue, Mr. Speaker, on Section 10 regarding the CDA issue. There was a court order that CDA and CUC work out and fork up an idea, a reasonable and amicable solution to resolve what was supposedly be a write-off. Nothing has been done, Mr. Speaker. The rate increase as claimed that will happen, we have provided incentives to CUC putting burden to our community, our constituents, our employees in an agreement to reduce the power rate and instead they raised the power rates. So what more increase would we realize if we give the private sector to operate the utility. Today, none of the big hotels are on the grid causing this power rate hike. By providing this alternative and a bright opportunity for the future of the CNMI an affordable and reliable power source, Mr. Speaker, this is the time and the day, and the beginning of life for everybody. This will bring economic development back to the NMI. No business in its right mind will come today and tomorrow with the present rate of power utility—no one. We will continue to suffer and see a decrease of economic return. For these reasons, Mr. Speaker, I ask and I urge my colleagues to join me and other members to override the Governor's veto of H. B. NO. 16-77. Thank you.

Speaker Arnold Palacios: I recognize Representative Quitugua.

Representative Quitugua: Thank you, Mr. Speaker. Mr. Speaker, there are a couple of concerns that I have. I apologize because I was not in the session when this bill was passed. Nonetheless, Mr. Speaker, these are all assumptions. There is no guarantee. Even the bill does not guarantee that the Governor would choose any of the options. The Governor may choose to privatize the entire CUC with the \$250 million price. Do we guarantee that if the Governor chooses this route the rate will go down? I myself do not guarantee that. The forces beyond our control – the oil and other factors – might not make the private company guarantee a lower rate. If in case CUC is privatized, where does CDA come in? Will CDA come in and claim their \$100 million from the private company although there is a provision in the bill that gives some kind of direction on how to deal with CDA. The other issue is the land. Will the Department of Public Lands come in and put a price tag on the private company that wants to takeover CUC. Are all these issues going to come in play and then no private company will come in a takeover CUC. On the other hand, Mr. Speaker, I am assuming that if nothing happens, the Governor might issue another declaration on CUC and perhaps privatize CUC because there is no legislation that will give direction to the Governor at this time. But do we want that?—do we want the Governor to make another declaration later on so that he can privatize CUC? And if the Governor does that are we guaranteed a lower rate for our consumers. Mr. Speaker, I have spoken to Representative Hocog who co-authored the bill. I have also heard from the main author that if this bill becomes law we still have the opportunity to make amendments based on discussions of individuals or agencies that are affected. I also truly believe, Mr. Speaker, that since this legislation is not really based on actual statistics that we need to make amendments if it becomes law, and I support that. I truly support that there are laws that we can perfect with one passage, there are laws that we cannot perfect with one passage because there are factors out there that we probably do not see. That is why we make amendments on laws—amendments after amendments – because many laws cannot stand the test of time. This one legislation, I do not see that it will stand the test of time that it needs some work after other agencies or individuals are consulted that perhaps have an interest in the power plant doing business with the CNMI. So I truly believe that. If this legislation is left on the side, what are our options as legislators. Are we going to scream out hearts out again if the Governor sends us another declaration of emergency because there is no guidance, there is no starting point? What are we going to do?—as Representative Benavente said, nothing. All we could do is scream out on declarations of disasters. That is all we could do here. Perhaps the Governor in vetoing the bill has other minds, which I do not know. But we here in the legislature hear our constituents. We are the worst people on this planet nowadays, as Representative Hofschneider mentioned. We are the most hated people in this planet. Everything that we do is not good. I have heard this from constituents. We are the ones that they are blaming that we created all these problems. Are we going to continue to allow our community to put those labels on us, or are we going to take a chance and say well we are going to give CUC some direction and help guide CUC in the initial stage to the right direction. And if that is what we want, I think we have a starting point. If that is not what we want then I do not know who is going to do the perfect bill on CUC. Maybe we need to hire a consultant and pay the consultant \$250 million to come up with a perfect CUC legislation. With that, Mr. Speaker, I look at both sides. If I do not want to do anything at this time I will look at the left side. If I want something done as this time I will look at the other side which is providing some direction. I cannot tell everybody to vote yes on the override. I cannot tell everybody to vote no on the override. I think each of us has received enough information from our constituents; we have received enough black eyes from our constituents that I think each of us can now make a decision on this legislation. Thank you, Mr. Speaker.

Speaker Arnold Palacios: I recognize Representative Hofschneider.

Representative Hofschneider: Thank you, Mr. Speaker. Briefly, I think it warrants that answer be given to the questions raised by Representative Quitugua, first on the CDA issue. The grant from the second grant pledge agreement that came by way of congressional appropriation and the Interior Department putting guidelines as to the usage of those funds under the Covenant funding was initially intended to spur economic development. CUC was given and converted into a loan so that the payment return to CDA can be given out for economic development for the local people to get into business. That was the whole idea for the second grant pledge agreement. The idea of dispensing with the loan condition and helping CUC is logical. (*End of Tape 2 side A*) (*Start of side B*) ...to do away with the loan instrument and just waive it from CUC's obligation is another step to be ventured into. But, this is one aspect that the \$250 million may be brought into context with – also your question about land – whether DPL will assess rental as mandated by the fundamental policies on public land as provided in the constitution. These two issues may be talking points. In lieu of \$250 million, you have a \$40 million write-off from CDA, the rental for 40 years. So you couple that, you have a talking point, leverage, for whoever is willing to go with the full privatization. So you have in fact the public interest on your side. When they come in and say what about \$45 million of CDA obligation, well, trade it off. You put back into the community. And by the way if you divide \$250 million by 40 years comes down to five million dollars per annum. So \$250 million may be a big amount, but if you amortize it for 40 years, it comes down to about five million dollars that we are asking this private company to reinvest, rebuild the transmission lines underground. That is not much to ask. It is not going to make a significant interest in the power rates. By the way one the creative financing in this legislation is if we do not have \$200 million to do power upgrades on the transmission lines, let the private company finance it. There is no free lunch on earth. The Wall Street is a good example. Taxpayers do not want to pay for this mess. Likewise, we do not want to be asking people to pay for something that we are now going to remove \$250 million in their interest and give it for free, a fire sale. It is \$1.25 billion potential income for that private company over a forty-year period. Five million dollars of renewable energy or underground transmission is not much to ask. So those are your leveraging. If the Governor decides to go with full privatization, so be it, let us support it. Transparency, sealed bids, competitive bidding and when a proposal comes back, because now it behooves every interested party to come in with the best proposal knowing in fact what CUC owes to CDA, the situation with DPL on government properties. These are all part of the obligation of the bidder to consider and other laws, qualifying certificates and so forth. So to answer that specifically, these are just a few of our leveraging to protect the interest of the public that we can offer in lieu of the \$250 million. We are not asking for cash, but if they are willing to give us \$250 million, pay NMI Retirement Fund, the bonds and we have a clean slate to begin with. Declaration of disaster – here is the logic. If we fail to override this and he declares a state of disaster, we have no standing in court. But if we override veto this and there are mechanisms to be followed under this legislation if it becomes law by overriding it and he nonetheless looks the other way and uses the declaration of disaster, we have a standing to stop him in court. That is the logic behind this. So, you can argue on the details, but those arguments are insignificant to the greater picture of why we need to emplace it. I do not like amending a law after it becomes effective, but this is the first time we are going to do it right and we need to be willing to sit down with bidders that are willing to stay for the long haul. The \$250 million comes in two forms: renewable energy, that is going to answer a cheaper rate and affordable power for the people. That is the only solution to bring down the price of power per kilowatt hour. In closing, Mr. Speaker, the Interior Department has granted this Administration seed money to explore the potential of geothermal. One figure that has been tossed around for a full fledged operational geothermal is \$350 million. Think again, what would the \$250 bring you and buy you. I am asking that portion of the \$250 million is considered for renewable energy. Thank you.

Speaker Arnold Palacios: I am going to ask that we try to limit our discussion from here on. We have some members that have to take medications, but I will still give the chance for members to express their concerns. I recognize Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. I do not support this effort to override the Governor's veto on this bill. It is not because I do not support some form of privatization in the future for our public utilities. Representative Hofschneider and other members have talked about the consequence of not overriding this bill. Frankly, I am more concern and I think the bigger picture here should be our consideration of the consequences of overriding this veto. If the fear, Mr. Speaker and members, is that the Governor will declare a state of emergency, yet again, and sole source privatization of our utilities this bill will not stop that. We have seen and we do not have to go very far in the past in the 15th Legislature the Governor under a state of emergency, also under his power of issuing executive orders actually went in and rewrote statute – rewrote Public Law 4-47, the CUC's enabling statute and the Legislature then did nothing to challenge it.

Representative Hofschneider: Point of clarification, Mr. Speaker. I am sorry for interrupting.

Speaker Arnold Palacios: State your point.

Representative Hofschneider: I have to inject myself, with all due respect, there is not legislative authority on the declaration of disaster. That is where the loophole in the constitution lies.

Representative Sablan: And certainly – if I may re-inject myself back into the record – Mr. Speaker, Representative Hofschneider and all the members, I respectfully disagree that there is nothing that we can do about declarations of disaster when we believe that all these declarations constitute abuses of authority. We have already gone through many, many declarations and yet again we hear members saying oh there is nothing we can do constitutionally. An abuse of power is an abuse of power. And of course, a fundamental tenet of democracy is that the branches of government can check each other. We have the powers to begin impeachment proceedings if we really believe that power is being abused in the Executive Branch. If our fear is sole sourced privatization, we have the power to pass legislation that specifically that. This bill does not address that problem. If the problem, Mr. Speaker and members, is a runaway Governor, then certainly we have the power to address that. Other members have said that this bill is not perfect, and all of us I am sure have our own particular concerns about the bill but the mentality that we can always comeback and amend this bill is itself a problem and undermines the already deteriorated credibility of this government. Mr. Pula of OIA was here just last week and in listening to his comments before us I picked out two problems that he identified with this government and with our efforts to fix our power problems once and for all. One is a problem of credibility. He noted that this is the third time that this government has attempted privatization and the cautioned us not to repeat the mistakes of the past. One of our mistakes in the past, members, is that we rushed that we did not do our homework, that we did not have public hearings for example, and we did not do everything that we could in our power to get as close to perfection as we could for something as vital as the future of our public utilities. The second problem that Mr. Pula identified was that we do not have a plan. And this bill does not really offer a plan, not with all the problems are raised with the creation of a governing board that maintains the same structure as the old governing board that also came with its own set of problems. With the limitation of the procurement process to invitations to bid (ITB) only, I noted with interest members said that the privatization effort in the past was the request for proposals were always problematic, and there were always protests and the protestors always prevailed. The

problem is not with the protests. The problem is that there was merit to the protests that CUC failed to implement its own procurement regulations and to follow our own laws. Restricting the procurement process to invitations to bid, you ask any procurement specialist this makes not sense when one of your options – which other members have expressed support for – is the performance management contract. In that case, you do not just want the lowest price possible, you want the best and most qualified person. And an ITB severely limits our ability to do just that. I would also like to note that the invitation to bid process we specifically by the way prohibit RFPs. We do not even offer that as an option. The ITB is also subject to abuse. So fine, we get the lowest price and I can predict with reasonable belief that this is very likely to happen that there will be change orders and what was once the lowest price will soon start to mount in cost. And who pays for that in the end?-Of course, it will be the rest of us. As for the \$250 million price tag, the Saipan Chamber of Commerce – representing businesses, representing the private sector and they certainly support privatization in some form in the future for CUC – have objected to this bill primarily for that reason, for the \$250 million price tag that does not come with a professional assessment. It does not consider the liabilities that CUC currently has towards CDA. It does not consider the enormous liabilities that CUC is presently responsible for as a result of its used oil violations. It has not considered the value of the public land on which our power generation facilities rest. It does not consider the state of dilapidated infrastructure. Some are concern that the \$250 is too high; it could also be too low. The problem is that we do not know that because we have not done our due diligence. What I suggest, members, what I earnestly ask you to consider is that we not override this veto that we go back to the drawing board, that we consider the Public Auditor's comments, that we consider the comments from the community and the business sector to make this bill better. It is a good start. I think most of us here support privatization in some form, but this bill in its present form has too many problems. And to say that we can always come back and amend it, I fear, is creating even more problems. Thank you.

Speaker Arnold Palacios: I recognize Representative Dela Cruz for the last time.

Representative Dela Cruz: I will try and make it short. Mr. Speaker, you know the biggest concern and some of the speakers have risen is the rates that we have right now at CUC. Last week we had an audience with Mr. Nick Pula. We had a presentation by Mr. Muña from CUC and the short term plan that is being looked at. One of the things that Mr. Pula agreed with was to work with EPA in trying to get the CNMI exempted from CUC to go back and use HFO #6 fuels in place of diesel #2. What is the point in this?-the point in this is forty percent savings in the fuel that we and the people of the Commonwealth stand to realize in the future. Are we know saying that if we override this veto we are in essence telling Mr. Pula we do not need you to go anymore to EPA. We do not need you to reallocate CIP funds for our power plants that are in need of repairs. Is that the message that we are going to be sending Mr. Pula now? Most of us, if not all, were at that meeting. Most of us heard, if not all, that Mr. Pula made it a priority in his agenda for the Commonwealth to assist in our power needs. I do not think it would be proper for us to turn around now and say, look, Mr. Pula, we have had a change in plans and we are going with privatization or other options. Something caught me by surprise also during the presentation from Mr. Muña and that is they are actually contemplating or building a new power plant at the southern part of the island. I do not know where that came from. I do not know what engines they are going to use. I hope it is HFO so that the rates will come down. But, there are some issues that have not been clarified. One thing is clear, we are going to be sending a message to OIA saying we do not need the millions of dollars for repairs anymore, and we do not need you to talk with EPA anymore. Is that the message that we want to send today to Mr. Pula. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Floor Leader, recognized.

Representative Camacho: Thank you, Mr. Speaker. I have a lot of comments, but some of them were addressed by the members so I would not touch too much on that. I know that this bill envisioned putting back the board for CUC. CDA has shares that need to be taken care of. Representative Dela Cruz is correct. Mr. Pula said I can authorize to reprogram monies so you can use it for CUC. Assuming this bill should become law and the board is empanelled and we move towards privatization, maybe we do not need to reprogram those monies and continue with those projects that we have been working on. But, my main concern here, Mr. Speaker, is that there are members who are of the mind that we not override the veto and go back to the drawing board and start from scratch. There is nothing wrong with that, but what is to prevent the Governor if we should pass this new bill about CUC here in the legislature and go back to the Governor. What is prevent the Governor if we should pass new bill about CUC here in the legislature and it goes to the Governor from making up whatever reason or not reason at all to veto that bill again and start this clock all over again. To prevent this bleeding, we need to override the Governor's veto and then go to the drawing board and make those adjustments. We struggle everyday here at the legislature with imperfect solutions. If every legislation was perfect from the get go, the first legislature would have done all the job for us and there will no need for legislatures after that. That is what we do here, we are legislators. We have to constantly run in order to keep in place. So, I ask the members to consider if we do not override the veto and go back to the drawing board, it will be many months if not to the end of our term before we can see a CUC bill that the Governor will not veto. I ask the members to support the override. Thank you, Mr. Speaker.

Speaker Arnold Palacios: We need to put a closure to this, so I am going to recognize one more and I recognize the Vice Speaker.

Vice Speaker Deleon Guerrero: I will not take more than three minutes, Mr. Speaker. This is about the message to OIA. I was not there during the meeting with Mr. Pula, but if Representative Dela Cruz is concern that we would be sending mixed signals to OIA by overriding this bill, I disagree. If OIA is willing to allow the CNMI to reprogram funds so that we can convert Power Plant 1 to use HFO I think most of the members would agree that that would not be the case. I do not think EPA would allow that. We do not have to go far to answer this question Guam, a very close destination, that was granted a waiver by EPA has power plants at Cabras Island and they can only run HFO as long as the wind is blowing out towards the ocean, that the prevailing winds does not blow the smoke back into the island. That is the only time they can run HFO. Here, if we were to convert Power Plant 1 to use HFO and the prevailing winds blows the smoke in the regular director of northeast to southwest it would carry that smoke to Garapan or our tourist district. So, using HFO can only be used at a plant perhaps at the southern end of the island where it would be blown out, hopefully not to Tinian, but towards the ocean. But, just to clarify it would not conflict. The bill does allow for an IPP to construct a power plant using HFO at another location, so I do not think it will be inconsistent with the message from the Department of the Interior. I just want to clarify that.

Speaker Arnold Palacios: Representative Apatang.

Representative Apatang: Thank you, Mr. Speaker. I move for the previous question.

The motion was seconded.

Representative Sablan: Mr. Speaker, point of clarification.

Speaker Arnold Palacios: State your point.

Representative Sablan: Representative Guerrero just said that we should not worry about mixed signals from Mr. Pula, and Mr. Pula is willing to provide his assistance to the CNMI. But I just want to clarify here that he did say that one of our problems is mixed signals. We have the Governor saying no to this bill and we are saying yes, and I could not have been the only one who heard -- after we had asked for technical assistance and reprogramming assistance and all these other requests -- that he said that, well if you pass this bill maybe you do not need that assistance. So this should be a very real concern for us that we should take into serious consideration in voting on this override. Thank you.

Members voice “ready.”

Speaker Arnold Palacios: We will now vote for the motion to override the Governor veto of H. B. NO. 16-77. Clerk, please call the roll.

The Clerk called the roll on the motion to override the Governor’s veto of H. B. NO. 16-77, HS1, HD6, SD1 with reference to GOV. COMM. 16-195:

Representative Edwin P. Aldan	yes
Representative David M. Apatang	yes

Representative Babauta: Mr. Speaker, because I was not here when the House accepted the Senate amendments, I was looking at the amendments this morning and since I voted for the bill when it passed the House, I am not too content with the Senate amendments and therefore abstain from voting. Thank you.

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

Speaker Palacios: By a vote of 15 “yes” the House hereby overrides the Governor’s veto of H. B. NO. 16-77, HS1, HD6, SD1. It is 12:20 p.m. I will ask that we recess until tomorrow morning.

SENATE COMMUNICATIONS

[Suspended until the next day]

HOUSE COMMUNICATIONS

NONE

COMMUNICATIONS FROM THE JUDICIAL BRANCH

[Suspended until the next day]

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

[Suspended until the next day]

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

[Suspended until the next day]

OTHER COMMUNICATIONS

[Suspended until the next day]

REPORTS OF STANDING COMMITTEES

[Suspended until the next day]

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

[Suspended until the next day]

BILL CALENDAR

[Suspended until the next day]

ANNOUNCEMENT

Speaker Arnold Palacios: Representative Ralph Torres, do you have an announcement?

Representative Ralph Torres: I would like to encourage everyone to be here for the presentation on the Palliative Care. I would like to ask the members to participate.

Representative Babauta: Especially the members of Committee on Health, Education, and Welfare, Mr. Speaker. It is very important.

Speaker Arnold Palacios: Representative Benavente, do you have an announcement?

Representative Benavente: Just a request, Mr. Speaker, because we have a lot on our agenda that if most of the members are coming in for the presentation if we can continue our session after that.

Speaker Arnold Palacios: Why do we not just recess until tomorrow morning at nine o'clock. Representative Stanley Torres, under announcements.

Representative Stanley Torres: Mr. Speaker, unless you have enough for another override, can we have the session tomorrow afternoon? I plan to be absent tomorrow morning, but if you are short of number for another override, I ask that we move the session to tomorrow afternoon.

Speaker Arnold Palacios: Representative Babauta?

Representative Babauta: Mr. Speaker, the west wing members are traveling tomorrow afternoon so I suggest that we conduct the session in the morning. We are asked to participate in Tinian for the military buildup, so I am sure if we are going to have a quorum tomorrow afternoon. I prefer having it in the morning, Mr. Speaker.

Speaker Arnold Palacios: You are fortunate. The west wing is the only ones invited for the military buildup. I think we can consider our colleague's request and come back at one o'clock tomorrow afternoon and have a four-long session. Do you have another request, Representative Stanley Torres?

Representative Stanley Torres: Yes, thank you, Mr. Speaker and members. This is regarding the Legislative Bureau employees and another employee. Six months ago we assigned Mr. Lawrence Duenas as Acting Sergeant-at-Arms for the House, and Mr. Duenas was instructed by the former Director Jack Omar to obtain his obtain clearance in which he did. However, Mr. Speaker, up to this date, I never see Mr. Duenas' appointment as to whether or not he is the House Sergeant-at-Arms. I would like to know the status of Mr. Duenas' appointment. I just found out that some employees of the Legislative Bureau that caught my attention that their contracts are signed and only for 90 days. I am a little disturbed because some of the employees are ready to.... (*End of Tape 2 side B*) (*Start of Tape 3 side A*) ...That is it, Mr. Speaker.

Speaker Arnold Palacios: I will take that into consideration. I will clarify the issue and hopefully I can report to you tomorrow. Representative Quitugua, do you have an announcement to make?

Representative Quitugua: Miscellaneous, Mr. Speaker.

Speaker Arnold Palacios: I will allow it.

MISCELLANEOUS BUSINESS

Representative Quitugua: Mr. Speaker, in the interest of time and supplies, I recommend that when there is a Governor's Communication that we plan to override, it be placed in the Agenda so that we can bring in our copy of the communication so that we do not have to have another set of copies run again by the Bureau.

Speaker Arnold Palacios: I will try as much as possible to keep tabs on the members' intent whether to override a specific legislation or not. I recognize Representative Apatang.

Representative Apatang: Thank you, Mr. Speaker. Before we adjourn I just want to wish my uncle and my good colleague Representative Stanley Torres a Happy Belated Birthday – yesterday was his birthday – and a happy new year. (Applause)

Speaker Arnold Palacios: Representative Stanley Torres, you have the floor.

Representative Stanley Torres: Mr. Speaker, you know that announcing your birthday every year is not a good format. It is making you walk faster. Anyway, Mr. Speaker, I wrote a letter to you and the Senate President about my friend Harry Blalock calling us, meatheads, snakes, leaches. Why is it not calendared under House Communications. I ask that you instruct our Clerk to place that for tomorrow' session for whoever wants to debate.

Speaker Arnold Palacios: I am not sure why it is not on the Agenda. I thought I asked my secretary to bring it over to the Clerk's Office. But, I will look into it and assure you that it will be on tomorrow's Agenda. I recognize the Floor Leader for a motion to recess until tomorrow at 1:30 p.m.

ADJOURNMENT

Floor Leader Joseph N. Camacho moved to adjourn subject to the call of the Chair; it was seconded and carried by voice vote.

The House adjourned 12:25 p.m. and will reconvene on Thursday, October 2, 2008 at 1:30 p.m. in the House Chamber.

Respectfully submitted,

Evelyn C. Fleming, House Clerk

APPEARANCE OF LOCAL BILLS

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

SECOND APPEARANCE: NONE

THIRD APPEARANCE: NONE