



House Journal

SECOND REGULAR SESSION, 2008

Fourteenth Day

Wednesday, November 19, 2008

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened in its Fourteenth Day, Second Regular Session on Wednesday, November 19, 2008, at 1:38 p.m., in the House Chamber on Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

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

A moment of silence was observed.

The Clerk called the roll and fifteen members were present. Representatives David M. Apatang, Oscar M. Babauta, Victor B. Hocog, Joseph C. Reyes came in late, and Representative Joseph N. Camacho absent and excused for the day's session.

Due to the absence of the Floor Leader Joseph N. Camacho, Representative Diego T. Benavente was appointed Floor Leader Pro Tem.

ADOPTION OF JOURNALS

NONE

INTRODUCTION OF BILLS

NONE

INTRODUCTION OF RESOLUTIONS

H. R. NO. 16-67: A House Resolution to respectfully request the CNMI Office of the Public Auditor to conduct a thorough and complete audit on the economic impact resulting from the issuance of all Qualifying Certificates granted since the **Investment Incentive Act of 2000 (P.L. 12-32, Amended by P.L. 12-50 and 12-80)**, as well as the projected impact of granting any pending applications or of additional benefits now being sought by existing Qualifying Certificate Beneficiaries.

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

H. R. NO. 16-68: A House Resolution to respectfully request the Secretary of the Department of Public Works to expedite all projects in the Third Senatorial District that are locally funded.

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

Speaker Arnold Palacios ordered the placement of the resolutions on the Resolution Calendar and there was no objections raised on the floor.

Speaker Arnold Palacios: Before we move on the next Agenda item I would like to say that when I read on the paper about several Federal Highways and CIP projects being on line for this year. I remember that the previous Secretary of Public Works said that same thing and I think we need to try to begin to push especially the Federal Highways because it takes two years, if we do not it lapses and we do have a need for some of this. The Committee on Transportation, the Committee on Public Utilities, Transportation, and Communications (“PUTC”) would have to look into the Federal Highway Funds and Federal Highway projects. Under privilege, Representative Yumul recognized.

Representative Yumul: I think about to witness another first for the CNMI Legislature and so let me be the first to congratulate one of us who is expecting and to please ask the members to be kind.

MESSAGES FROM THE GOVERNOR

GOV. COMM. 16-252: (11/12/08) Providing a copy of a report on the Economic Impact of Federal Laws on the CNMI.

Gov. Comm. 16-253: (11/12/08) Certification for vacant positions at the Department of Labor-Tinian.

Gov. Comm. 16-254: (11/12/08) Certification for vacant positions at the Office of the Public Defender.

GOV. COMM. 16-255: (11/12/08) Certification for vacant positions at the Division of Customs, Department of Finance.

GOV. COMM. 16-256: (11/12/08) Certification for vacant positions at the Department of Public Health.

GOV. COMM. 16-257: (11/14/08) Informing the House that he signed into law H. B. NO. 16-165, SS1 (Appropriation of \$367,000 from the Third Senatorial District Developer Infrastructure Tax Fund). [Became **Public Law 16-22**]

GOV. COMM. 16-258: (11/14/08) Certification for a vacant position at the Department of Public Lands.

GOV. COMM. 16-259: (11/17/08) Informing the House that he signed into law H. B. NO. 16-144 (re Composition of the Youth Congress) [Became **Public Law 16-23**]

GOV. COMM. 16-260: (11/17/08) Certification for a vacant position at the Lt. Governor’s Office.

GOV. COMM. 16-261: (11/17/08) Certification for vacant positions at the Department of Commerce.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you. This is on GOV. COMM. 16-252 can request a final version of the Malcolm McPhee Economic Report? I could not help but notice that there were editorial comments all over the version that was transmitted to us.

Speaker Arnold Palacios: Okay, I guess he is sharing the draft.

Representative Sablan: I think the final report has already been disseminated as well and we should get that too.

Speaker Arnold Palacios: Alright, we will note that. Representative Benavente, recognized.

Representative Benavente: Mr. Speaker, my concerns would be on the entire Governor's Communications regarding certification of vacant positions. I know and if I remembered correctly we had instructed either the Ways and Means Committee or a Committee to be looking carefully at these certifications of vacant positions because while there really is a need based on the continuing resolution that we are in right now for critical positions to be filled and therefore would require the certification. We need to continue to consider all of the issues that we are faced with in dealing with the budget process. There has been movement to somehow provide for some sort of reduction in those vacant positions and I just hope that the Committees or whoever is assigned to be reviewing this carefully makes sure that in fact those positions that are being certified as vacant are real positions that are necessary to be refilled. Thank you.

Speaker Arnold Palacios: Thank you, for that statement. The Chair will instruct the Chairperson on Ways and Means to be noting those to ensure consistency that these are positions that were previously budgeted. And if you may, and I think the members would appreciate a quantification of some of these positions that are being filled. I think you are aware and we have had these kinds of discussions before. Representative Yumul, recognized.

Representative Yumul: Thank you. I did put out a letter from my office explaining the Planning and Budgeting Act and how the certification for vacant positions is handled by the Executive Branch, Legislative Branch, and the Judicial Branch. Unfortunately, the Planning and Budgeting Act has language that specifies that as long as the Branch properly notifies the Legislature through the Speaker of the House and the President of the Senate that a certification of vacant position exists and that it is a critical needed position that they may go ahead and do so. However, on the quantification that is a new request and I will work on that and provide the Legislative body the current to date impact on all certifications of vacant positions since the start of this fiscal year and also the prior fiscal years. Thank you.

Speaker Arnold Palacios: Thank you, please ask the legislative staff to help you go through the Governor's Communications from the beginning of the year. Ready.

SENATE COMMUNICATIONS

SEN. COMM. 16-98: (11/14/08) Informing the House that the Senate adopted Joint Conference Committee Report 16-1 and passed H. B. NO. 16-169, HD9, SS1, CC1. [For info]

SEN. COMM. 16-99: (11/17/08) Returning H. B. NO. 16-159, HD2 (re Hiring of Certain Licensed Health Care Professional Employees) which was passed by the Senate without amendment on November 14, 2008. [Will go to Governor]

SEN. COMM. 16-100: (11/17/08) Transmitting S. B. NO. 16-27, SS1, entitled, “To require all contractors to be licensed in the CNMI; and for other purposes,” which was passed by the Senate on November 14, 2008. [For action]

Speaker Arnold Palacios: Floor Leader Pro Tem Benavente, recognized.

Floor Leader Pro Tem Benavente: Thank you, Mr. Speaker. SEN. COMM. 16-98 and SEN. COMM. 16-99 are for informational purposes, but SEN. COMM. 16-100 requires action. So at this time I to accept SEN. COMM. 16-100.

The motion was seconded.

SEN. COMM. 16-100: (11/17/08) Transmitting S. B. NO. 16-27, SS1, entitled, “To require all contractors to be licensed in the CNMI; and for other purposes,” which was passed by the Senate on November 14, 2008. [For action]

Speaker Arnold Palacios: Discussion on the motion? Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. With accepting it, can we refer that to the Committee? There are some amendments that we need to make on this. Thank you.

Speaker Arnold Palacios: Okay.

Floor Leader Pro Tem Benavente: Point of Clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Floor Leader Pro Tem Benavente: So that we can accept the communication so it can be the property of the House and therefore would allow you to take action on it. Thank you.

There being no further discussions the motion to accept SEN. COMM. 16-100 was carried by voice vote.

HOUSE COMMUNICATIONS

HSE. COMM. 16-85: (11/17/08) From the Speaker to Governor Fitial regarding Saipan’s power generation problems.

Speaker Arnold Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: In regards, Mr. Speaker to your letter to the Governor regarding the power situation. It is important also Mr. Speaker to share with you and the members that we have been in fact meeting with Mr. Muña to reach not only meeting of the mind so to speak but also to make sure that the language on the Privatization bill that has now become law is consistent with what they are doing in terms of moving forward in privatizing all or portions of the Commonwealth Utilities Corporations (“CUC”) specifically the power generation side. I wholeheartedly agree with the need, Mr. Speaker, to emphasize upon the Governor to have “CUC” and the Administration submit a plan of action as to what is to be expected in terms of the rehabilitation of the current

engines and if so what are the timetables to be realized and where are the resources being used and coming from, but more importantly, is what the whole policy of the Administration and “CUC” in regards to privatization of some component of power generation or all of it. We do not have a clear indication as to whether they are in fact moving in a direction of privatizing a component or the entire power generation. For us as a Legislative body I think it is appropriate to be inform through a written plan as to what direction the Commonwealth is taking and would it include in fact a realization of affordable power for our people that is the end goal of all of us here in the Legislature and I am pretty sure it is in the Administration. But absent of any written plan and seeking this body also through “CUC” to amend certain sections of the now becoming law the Privatization Act I think is incumbent of us to first consider what direction and what policy has been decided upon for the Commonwealth people. And with that Mr. Speaker, I continue to get guidance from you as to the accommodation of a proposed amendment. Thank you.

Speaker Arnold Palacios: Thank you. I do hope that we get a respond to the letter. I sent this letter not just on behalf of the House Leadership but also on behalf of every member of this body and I know that we all share the same concerns. These discussions have continued and questions continues to be raised on what our plan is especially when unannounced power outages occurs. We tend to react usually on a crisis but I think we need a much clearer indication and I think it is at the urging of some several members in past sessions that I have sent this letter on behalf of the House. Floor Leader Pro Tem Benavente.

Floor Leader Pro Tem Benavente: Mr. Speaker, on the same communication and it is actually a few days ago maybe in even weeks ago that we had seen a communication where “CUC” had canceled the Request for Proposals (“RFP”) that was issued for the repair of Power Plant I. That was disturbing Mr. Speaker, because while currently we have 24 hour power we have all experienced since even Aggreko started that even time engines are down in Power Plant I there are areas in Saipan that do not receive power or we go back to the power outages and we continue to experience that. I had hoped that during the period when the Governor continues the Declaration of Emergency for “CUC” that they would use that authority to expedite the needed the repair for Power Plant I so that we are not threatened and we do not be continued to be threatened with power outages more importantly, Mr. Speaker, the Aggreko along with the Power Plant engines can now if they were up could start bringing back some of those customers that are currently on their own which would help in revenue and will improve every where around. So I think that we need to continue to push in this letter it is necessary that we need to continue to push “CUC” expedite the needed repair of Power Plant I for all of those reasons. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Thank you. Ready. There being no other Communications, Representative Benavente you have another issue on the House Communications?

Floor Leader Pro Tem Benavente: Thank you, Mr. Speaker. I know that I had asked to comment on a certain matter, but given that I am the acting Floor Leader I do not wish to violate the Rule at this point and make that comment in the more proper item of the Agenda which is the Miscellaneous Order of the Business. Thank you.

Speaker Arnold Palacios: Thank you. Let the record reflect that Representative Aldan is present the today’s session. We move on now.

COMMUNICATIONS FROM THE JUDICIAL BRANCH

NONE

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

None

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

NONE

OTHER COMMUNICATIONS

NONE

REPORTS OF STANDING COMMITTEES

NONE

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

Joint CONF. CMTE. REPORT 16-1: Reporting on H. B. NO. 16-169, HD9, SS1, the Appropriation and Budget Authority Act for 2008. Your Conference Committee recommends passage of the bill in the form of H. B. NO. 16-169, HD9, SS1, CC1.

Speaker Arnold Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: This is merely a suggestion Mr. Speaker to the body. Before we make any motion either to accept or reject the Conference Committee Report as it appears on Item 13, may we be able to discuss it before any motion is entertain and perhaps shine some glaring facts about the problem attributed to this report?

Speaker Arnold Palacios: Yes, I...

Representative Hofschneider: Without any motion, Mr. Speaker because I need to point out two things.

Speaker Arnold Palacios: I do not think we are going to entertain a motion for adoption right now. I think all of us here have fundamental concerns. Without objection, we will discuss the Committee Report without any motion for disposition. Representative Hofschneider, proceed.

Representative Hofschneider: In as much Mr. Speaker, and members as I firmly believe that in any given fiscal year we are entrusted with the responsibility under the Constitution to provide for a budget plan as submitted by the Governor. It goes without saying that we know our fundamental responsibility here and one of the highlights of that responsibility is, to pass a budget but not any budget. The Constitution speaks of the Governor being required and I will read it in verbatim, "In our Constitution the Governor shall submit to the Legislature a proposed annual balance budget for the following fiscal year. The proposed balanced budget shall describe anticipated revenues of the Commonwealth and recommend expenditures of the Commonwealth funds. With emphasis the anticipated revenues may not increased by the Legislature without the consent of the Governor. Further, if a balanced budget is approved by the Legislature the Governor may not reallocate

appropriated funds except as provided by law, specifically Public Law 3-68. If a balanced budget is not approved before the first day of the fiscal year, the appropriations for the government operations and obligations shall be at a level for that previous fiscal year, continuing resolution.” Mr. Speaker, and members in as much as I firmly believe that we should get a budget out but not at a cost where it is varying unconstitutionally. H. B. No. 16-169, HD, SS1, CC1, proposes a budget in excess of the estimated resources available for fiscal year 2009 by \$9,097, 361.00 is unconstitutional. The second problem, Mr. Speaker and members I refer you to the Planning and Budgeting Act of 1983 as amended. In it, in summary, Mr. Speaker, it shall not be in order in the House of Representatives or in the Senate to consider any bill making appropriation in excess of the resources identified in the House Concurrent Resolution until the Resolution is supplemented or revised to exceed or reflect such a level by the Legislature. Ala, \$9,097, 361.00 over appropriated as identified in the proposed budget submitted by the Conference Committee. So on two fronts, guiding decisions to get a budget out, one is the insistence of the Constitution for the Legislature to consider receiving a balanced budget by the Governor, acting and passing a balanced budget, two, that is consistent with the existing law governing how the budget process shall be considered in terms of the revenue until such time that the Governor has identified additional resources. We have no authority nor any business to include other than to increase taxes or revenue generating legislations that would accompany and justify the increase in resources beyond what the Governor has identified and more importantly that we pass a Concurrent Resolution stating the ceiling of the Commonwealth resources. In both occasions and both arguments the Budget Conference Committee has violated those two very obvious guidelines for us to consider a budget. I do not think that it was intentionally, Mr. Speaker and members. I do not honestly believe it was intentional that they exceeded the House Concurrent Resolution that went up and was blessed by the Senate and now is the ceiling of all resources as identified under the Constitution appropriately by the Governor. In the haste of accommodating all the pressures to meet demands from each respective branches of government, departments and instrumentalities, Mr. Speaker, I am pretty much sure in hind’s site that the Committee failed to look at the principle guidelines of passing a budget. There was so much work put into this both by the Chairman and members of the Ways and Means initially and the Conference Committee that worked on it. I cannot, Mr. Speaker, in good conscience support a Conference Committee for the sake of getting a budget out that is one quite obvious that they have spelled out the discrepancy in the Committee Report. They are forewarning us, that this anticipated revenue is forthcoming and if and when we cannot pass and we are prohibited in the Constitution from passing legislation in anticipation of a revenue that has not been identified by the Governor, simply put. My suggestion, Mr. Speaker, is that if we are sincere and honest and truly convicted in getting a budget so that we stop the bleeding that is occurring now and deficit spending then I propose, Mr. Speaker sending the Conference Committee Report back to the Committee and giving it one more chance, appealing to the Governor if there are other resources that the Governor has failed or has not identified. This may be an opportune time to reconsider, but we cannot for the sake of getting a budget however much work has been put by the Chairman and the members of the Committee and everyone that has contributed in one way or another, including the Senate. I do not think that in good conscience we can in fact make any motion for this to get out of this House. Thank you.

Floor Leader Pro Tem Benavente: Point of clarification, Mr. Speaker

Speaker Arnold Palacios: State your clarification.

Floor Leader Pro Tem Benavente: At this point and because of the Senate’s action in adopting or passing the Conference Committee Report, the only way that we would be able to refer it back to the Committee is if the Senate were to reconsider their actions. So I guess the options are limited for us

either we act on it now or just defer action and wait out a time for the Senate to consider reconsidering their actions.

Speaker Arnold Palacios: Thank you. .

Representative Hocog: Privilege, Mr. Speaker

Speaker Arnold Palacios: State your privilege.

Representative Hocog: I would like for the record to reflect that I am present for the session.

Speaker Arnold Palacios: Yes, Clerk, let the record reflect that Representative Hocog is present for today's session. Representative Hofschneider, recognized

Representative Hofschneider: There was so much work put into this budget, Mr. Speaker. We are so close to getting a budget. It is the most appropriate thing to do and that is to keep the Conference Committee alive, send it back to the Conference Committee, ask and appeal to the Senate to reconsider their actions setting a new clock, so that we can receive word from the Administration and the Governor as to additional resources. Otherwise, we need to help one another and balance out the budget, we need to help the Committee and the members that worked so hard on this.

Speaker Arnold Palacios: Okay and that is clear what your recommendation is clear. Are there any more comments? Representative Babauta, recognized.

Representative Babauta: Mr. Speaker, I would recommend that we yield to our distinguished Conference Chairman on the recommendations whether he would like to absorb it or not I guess most of us here this afternoon already have a set of mind. So can we hear from the Conference Chairman? Thank you, Mr. Speaker

Speaker Arnold Palacios: I was-(*End of Tape 1, side A*)

(*Start of Tape 1, side B*)

Speaker Arnold Palacios: Representative Hocog, recognized.

Representative Hocog: Thank you, Mr. Speaker. I believe, Mr. Speaker, in order to eloquently explain to the members as to what transpired during the Conference Committee I would like to ask to that my five minutes be waived as the members felt the need to address the concerns of Representative Hofschneider.

Speaker Arnold Palacios: Please, proceed.

Representative Hocog: I applaud the good Representative Hofschneider for being well in tuned with the Constitutional provision after being a Speaker for two or three terms. I am sorry Congressman, but I want you to be former Speaker three times (LAUGHTER). Alright, Mr. Speaker, first I will like to start by saying that the House Conference Committee availed themselves to meet with the Senate counterpart. The Conference has done their best to address the House's concerns regarding the FY 09 Budget. Representative Hofschneider mentioned that the Conference Committee failed to pass a balance budget. Nonetheless, Mr. Speaker, during the Conference deliberation we had our

legal counsel from the Senate side that we thought would address the over budgeted fiscal year in the amount of \$9 Million by providing a section in the Joint Conference Committee's Section 702. I guess this section does not put weight to the overspending in the amount of \$9 Million as proposed in the Conference Report. Secondly, Mr. Speaker, we did pass a Concurrent Resolution in the amount of \$156 Million not to include the cover over and the outside source as part of the resources. Thereby, the question of \$165 Million is thereby indicated as the total available funds for fiscal year 2009. The total projected budget for 2009 actually, Mr. Speaker, \$174,472,000.00 that is inclusively the obligation that the CNMI Government continue paying for the bond. The notion of saying that the Rota and Tinian Delegation have done something to increase the budget for the First and Second Senatorial Districts is not correct, Mr. Speaker and I want to explain to the members why it is not correct. Your Conference Committee has never discussed First Senatorial and Second Senatorial appropriations, other than to stick on what the majority of the House wanted, a non-austerity, to revert back the Public School System's ("PSS") budget, the Northern Marianas College ("NMC"), the Judicial system and the retirees, other than that, I did not focus myself in truly looking into the First and Second Senatorial increase in their budget. But let me explain why the increase, the increase of the budget, Mr. Speaker, after the House wanted no austerity measures, so what the Conference Committee did is that they restored back the 1% from the proposed SS1 version. They restored back the 1%, they restored back the Austerity Friday's and Austerity Holidays. Let alone that the austerity measure that the Senate did, we are already in a shortfall of \$6.2 Million. With the reversion of the non austerity and reversion of the 1% back to the Public Auditors has no existence provided additional increase in budgetary, therefore it proportionately increased every business unit in this Joint Conference Committee. It is very true that it is our obligation of this body to deliver a balance budget without indicating in any Committee Report of the anticipated shortfall as a budget to be followed in any given fiscal year. It is very true, Representative Hofschneider have so stated it is unconstitutional. I would like to take this opportunity, Mr. Speaker again, under the recommendation of Representative Hofschneider, either we reject the budget, pass it, or provide the Committee with another fair chance to address accordingly the intent of the Constitution. And I want also, the members to understand that for the past decades from 1993 back, there was never a balanced budget being appropriated by this Legislature or in the past. And if it does, Mr. Speaker we will not be here today having meeting because we do not have the resources to pay us. Now, another version that I want to indicate to the members I want to make sure that the 30% actuarial funds will be also included in this fiscal year so that after addressing that, that is where we are going to operate a balance budget. Other than that I will not support a budget that would not consider a 37% of what the CNMI obligation to the Retirement Funds, otherwise, again it will constitute to an unconstitutional budget. Mr. Speaker, give the Committee a fair chance to go back and see if there is any luck to address additional funding and see whether we can correct the anticipated deficit in the amount of \$9 Million. Thank you.

Speaker Arnold Palacios: Thank you, Mr. Chairman. Mr. Chairman, those are very good options and I think under the circumstances as pointed out we do not have a lot options but I think the recommendation that we hold off to any actions on this Committee in abeyance until we can see and put effort to rectify the glaring discrepancies in the figures could be resolve is most likely what we want to take. Representative Hofschneider, recognized.

Representative Hofschneider: Yes, Mr. Speaker I take specific note on Representative Hocog, in reference to a statement he made. That whoever mentioned the concern about Rota and Tinian, I never said that, and I want that for the record to reflect. Second, we do have options the reality of things is right in front of us. One, is we need to believe that the Governor when he sent over \$156 Million as the resources we should come up with a budget spending plan based on \$156 Million and

not on the assumptions of other resources that the Governor has refused or do not have the resources readily available for him to identify under the Constitution. What it means, Mr. Speaker, is the condition that the 37% employer contribution for the Retirement is a must, if we all agree to send it back and keep the Committee alive. On one condition, Mr. Speaker, further that true we live up to the 37% but it will be contained with a language that it will be criminally and fiduciarly responsible for the person in charge of the coffer that would not remit that on time. That is the way it would make it work, why, even at 11% law they are not contributing, they are not remitting, so what are we saying. At even at \$156 Million, Mr. Speaker and members, minus the 11% by law contribution that is not being remitted, it is safe to say that even at \$156 Million the true picture of resources in Commonwealth is somewhere near \$142 Million not anywhere near \$150 Million. It could be further below \$142 Million if you minus the 11% that has not been remitted as a result of cash shortage. So regardless what the spending plan and the budget amount and the Concurrent Resolution we set consistent with the Constitution the fact of the matter remains that the capacity for this Commonwealth Government to collect revenue is far below the assumption of the Concurrent Resolution of \$156 Million, what does that tell us. It is time to make the real hard choices.

Speaker Arnold Palacios: Are there any more comments? Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. Can I just get some clarification as to where we are actually going from here? Are we going to first appeal to the Senate to recall this Committee Report and the bill that they have just passed and then move into another Conference Committee? Or do we reject this report as it stands now?

Speaker Arnold Palacios: That is the most appropriate action is hold on off to any action on our part. Just leave it as is on our Calendar and I will confer with the Senate President and both the Conference Chairs of the House and the Senate to see if they are amendable to going back and resolving the issue with the resources versus the expenditure plan that is in the Conference Report.

Representative Sablan: Sure. Can I also just clarify from Representative Hocog's remarks that the question of the constitutionality of this budget bill did come up during the Conference Committee meetings and it had been the understanding of the Committee before the report was issued that the constitutional question had been resolved? Is that correct?

Speaker Arnold Palacios: Representative Hocog, recognized.

Representative Hocog: While I informed you that we had our legal counsel with us and that the recommendation in providing Section 702 in the Committee Report or in the bill would substantiate a balanced budget, but I guess it is not. So thereby we need to really address and focus the real McCoy. I regret to inform the members that I am going to take a hard stand at this point in time, Mr. Speaker and probably the anticipated resources that Representative Hofschneider so stated will be way below than what he just state in the number of \$140 Million. Thank you.

Speaker Arnold Palacios: Representative Sablan.

Representative Sablan: As a final comment, Mr. Speaker and members I would like to say that I do appreciate the amount of work that went into the Conference Committee meetings and the report that ultimately came out. And if it is the intent of the members to go back and address the issue of having a balanced budget at the end I would like to request them that special attention be paid to judgments against the government and the government's liabilities to the Retirement Fund. Just noting the Districts Courts decision recently with respect to judgments and the Superior Courts

decision with respect to the Retirement Fund. The Committee Report says that further research needs to be done and since we are taking the time to go back we should consider those two realities more seriously and in more detail. Thank you.

Speaker Arnold Palacios: Thank you. Are there anymore comments? Ready. So I will confer with the Senate President and ask the Chair to with and see if we can confer and see if that is an option. Certainly I would like to see that option exercise that I will take that option. Okay.

Representative Babauta: Point of clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Babauta: I understand the recommendation is to return this to the Conference Committee defer action.

Speaker Arnold Palacios: We will hold it on the agenda and we will defer action on it. Ready.

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

H. R. NO. 16-67: A HOUSE RESOLUTION O RESPECTFULLY REQUEST THE CNMI OFFICE OF THE PUBLIC AUDITOR TO CONDUCT A THOROUGH AND COMPLETE AUDIT ON THE ECONOMIC IMPACT RESULTING FROM THE ISSUANCE OF ALL QUALIFYING CERTIFICATES GRANTED SINCE THE INVESTMENT INCENTIVE ACT OF 2000 (P.L. 12-32, AMENDED BY P.L. 12-50 AND 12-80), AS WELL AS THE PROJECTED IMPACT OF GRANTING ANY PENDING APPLICATIONS OR OF ADDITIONAL BENEFITS NOW BEING SOUGHT BY EXISTING QUALIFYING CERTIFICATE BENEFICIARIES.

H. R. NO. 16-68: A HOUSE RESOLUTION TO RESPECTFULLY REQUEST THE SECRETARY OF THE DEPARTMENT OF PUBLIC WORKS TO EXPEDITE ALL PROJECTS IN THE THIRD SENATORIAL DISTRICT THAT ARE LOCALLY FUNDED.

Speaker Arnold Palacios: We are on the Resolution Calendar. Let me call for a short recess.

The House recessed at 2:09 p.m.

RECESS

The House reconvened at 2:11 p.m.

Speaker Arnold Palacios: We are back to session and I recognize Floor Leader Pro Tem Benavente.

Floor Leader Pro Tem Benavente: Thank you, Mr. Speaker. I move to adopt H. R. NO. 16-67.

The motion was seconded.

H. R. No. 16-67: A HOUSE RESOLUTION O RESPECTFULLY REQUEST THE CNMI OFFICE OF THE PUBLIC AUDITOR TO CONDUCT A THOROUGH AND COMPLETE AUDIT ON THE ECONOMIC IMPACT RESULTING FROM THE ISSUANCE OF ALL QUALIFYING CERTIFICATES GRANTED SINCE THE INVESTMENT INCENTIVE ACT OF 2000 (P.L. 12-32, AMENDED BY P.L. 12-50 AND 12-80), AS WELL AS THE PROJECTED IMPACT OF GRANTING ANY PENDING APPLICATIONS OR OF ADDITIONAL BENEFITS NOW BEING SOUGHT BY EXISTING QUALIFYING CERTIFICATE BENEFICIARIES.

Speaker Arnold Palacios: Discussion on the motion. Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. Could I hear from the authors of the resolution is to whether or not the Commonwealth Development Authority (“CDA”) was asked for relevant reports already. I think that they have done internal assessments about the impact of the QC program and also offered recommendations as to ways that the program could be improved. Were they asked before this resolution was drafted? And would the Public Auditor be the proper agency to conduct this assessment if we have not yet consulted with CDA first?

Speaker Arnold Palacios: Representative Yumul, recognized.

Representative Yumul: Thank you. “CDA’s” reports that are coming in are not providing the actual cost benefit. There is an impact, we need to what. It is more of a financial issue because the whole issue here is there a benefit to the community at large from QC recipients for both the investor and the community. Because if we do not have a baseline from for example Office of the Public Auditor’s (“OPA”) opinion and we cannot go in and make those necessary changes because we want to know quantitatively what these impacts are. The “CDA’s” reports just provides an outline of what has been granted and at what levels but yet they have not provided any quantitative measures in terms of multiplier effect and the like. So “OPA” is the right agency to go in and conduct the audit. From a Ways and Means perspective we just want to know whether it is working or not financially.

Speaker Arnold Palacios: Thank you. You still have the floor Representative Sablan.

Representative Sablan: Thank you. I guess I think it maybe would not be entirely accurate or fair to say that “CDA” has not provided figures or at least made figures available to legislators. During our meeting with “CDA” recently and that included the Economic Analysis whose job it is to review these figures and prepare recommendations and also assess impacts on the tax base for the CNMI of the QC program. They did provide an assessment that was done a couple of years ago of the program recommendations for improvement and then spreadsheets that included the amounts of investment, the number of tickets issued, the benefits that were offered in the program whether or not the benefits were accepted. And so I would think that it would be more appropriate for an Economist to do this type of evaluation. And it seems that this type of evaluation has been done we just have to read it...

Speaker Arnold Palacios: Go ahead, Representative Yumul.

Representative Yumul: The problem here is that other than “OPA” no one else can really go in and ask the Department of Finance, Revenue and Taxation to provide information. I know most of these applicants have already included within their request for QC to open up their books. But an Economist does not have the authority under the law to go and ask Revenue and Taxation to concur with what “CDA” is reporting out, only “OPA” can do that. Thank you.

Speaker Arnold Palacios: That is correct. Representative Reyes, recognized.

Representative Reyes: Thank you, Mr. Speaker. For the record I have actually requested “CDA” to give us a presentation including Northern Marianas Housing Corporation (“NMHC”). The delay on that is because of Oscar Camacho has a death in the family, but they will be making a presentation and the whole works, CDA Loans, CDA QC program, NMHC Loans, foreclosures and whatever. So just to let you know that is forthcoming. Thank you.

Speaker Arnold Palacios: Representative Benavente, recognized.

Floor Leader Pro Tem Benavente: Mr. Speaker, I tend to agree with Representative Sablan’s comments but I also think that any additional information is good for us but in the QC’s in the system in this process, a lot of the consideration for benefits in the community really goes outside of the real numbers and into what is called the multiplier effect in the community. And I really do not see how the “OPA” can get those kinds of numbers for us to review the impact of the multiplier effect. But again if the intent is to audit those reports that “CDA” provides out and clearly shows those numbers and any additional numbers that the “OPA” and I am sure at some point the “OPA” is going to tell us that there is only so much they can do based on this resolution. But anything that they can do and provide I guess it will be beneficial to all of us. Thank you.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you, I was actually going to just follow up on the comments about the ability of the “OPA” at this point and their resources to do what is being asked in this resolution. We are not just asking for an evaluation or a performance review of the program, but a full and thorough audit. We just recently asked for another audit from the “OPA” to be conducted on the Washington Representative’s Office. And I understand that the Auditor is presently trying to hire more staff, he also had to contract out projects to Deloitte and Touché and perhaps other firms because he is short staffed. I guess, I would like to ask the author if we could hold off on acting on this, wait for “CDA” to come back with this comprehensive report on the QC Program and apparently other programs that they are managing and then see from there if a full and thorough audit is really in order.

Speaker Arnold Palacios: Okay. Representative Hofschneider.

Representative Hofschneider: I think it is good to get an audit on the direct implication. Mr. Speaker, let us not forget that Representative Benavente also mentions to the extent of the multiplier effect is there. The point about of now the revisiting the interest of the Legislature to revisit the QC amounts to whether this economy that we have now is saturated with QC applicants and recipients. It is not about whether we are looking for dirt in the process, we are not, that is the Public Auditor’s responsibility. I am more concerned about to what extent this economy that we have today has been saturated and now negatively impacted by QC, that is more important as a policy level for us to consider. It is not so much going on a witch hunt I think it is foolish to send that message to investors that having extended the law, they took advantage of the law and now we are going on a witch hunt, let us not send that message. The purposes of revisiting and reevaluating the interest of the body is to ascertain to what level this economy that we have, if we have any sort of economy remaining. And to continue extending it, should we suspend it, should we amend it, should we get rid of it entirely, that is the whole purpose, it is a policy decision that we are interested in.

Speaker Arnold Palacios: Thank you. Ready. Representative Sablan.

Representative Sablan: Mr. Speaker, may I just request the response from the author about whether or not we should vote on this. Can we wait until “CDA” response to the Commerce and Tourism Chair’s request?

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

Representative Yumul: No, Mr. Speaker, I think the Committee at large at include also the QC recipients we had this mudsling obviously between the Administration and the Legislature. We want an independent body and I am pretty sure the Auditor has a high standard that he will make sure that he does not go on a witch hunt. He is just merely going to go in and give this legislative body an honest opinion and to quantify that opinion on whether or not the QC is working, that is it.

Speaker Arnold Palacios: Let me just also interject. One of the concerns, of course, and rightly so is that the Public Auditor may at this point in time not have the necessary human resources to do this job and Representative Sablan’s concern that we have just during the last session adopted a resolution in regards to a closeout audit of the Washington Representative’s office those are concerns, but I believe that even if the Public Auditor at this point of time does not necessarily have the staff in in-house he is certainly authorized to contract audits and specific types of audit, either financial audits or in this case looking at the QC program and evaluating whether what impacts it has had for the past 5 to 10 years and they can actually go out and submit a contract to an independent contractors and they do that. Representative Sablan.

Representative Sablan: Can we say that then?

Speaker Arnold Palacios: Well, they are authorized to do that...

Representative Sablan: No but I mean in the resolution, we could just say, to conduct a full and thorough evaluation of the program. Because an audit comes with certain very rigorous standards and perhaps we should give them that flexibility.

Speaker Arnold Palacios: Short recess.

The House recessed at 2:25 p.m.

RECESS

The House reconvened at 2:31 p.m.

(End of Tape 1, side B)

(Start of Tape 2, side A)

Speaker Arnold Palacios: We are back to our session. We are under discussion. Are there any further discussion? Le the record reflect that I request and Legal Counsel and the Clerk to insert the word “shall” after the word “audit” on line 18. Okay.

There being no further discussion the motion to adopt **H. R. NO. 16-67** has been carried by voice vote.

Speaker Arnold Palacios: Floor Leader Pro Tem Benavente.

Floor Leader Pro Tem Benavente: Thank you, Mr. Speaker. I now move to adopt H. R. No. 16-68.

The motion was seconded.

H. R. NO. 16-68: A HOUSE RESOLUTION TO RESPECTFULLY REQUEST THE SECRETARY OF THE DEPARTMENT OF PUBLIC WORKS TO EXPEDITE ALL PROJECTS IN THE THIRD SENATORIAL DISTRICT THAT ARE LOCALLY FUNDED.

Speaker Arnold Palacios: Discussion on the motion?

Several members voiced “ready”.

There being no discussion the motion to adopt **H. R. NO. 16-68** was carried by voice vote.

Speaker Arnold Palacios: Proceed with your question, Representative Hofschneider.

Representative Hofschneider: On the last page where we are furnishing copies to Mr. Oscar Camacho. What is his official title? Acting?

Speaker Arnold Palacios: Yes. Okay.

BILL CALENDAR

Speaker Arnold Palacios: We are now on the Bill Calendar. Short recess.

The House recessed at 2:43 p.m.

RECESS

The House reconvened at 2:50 p.m.

Speaker Arnold Palacios: We are back to our session. Floor Leader Pro Tem Benavente.

Floor Leader Pro Tem Benavente: Thank you, Mr. Speaker. So that we may consider the legislations on the Bill Calendar, I would like at this time to offer an amendment to our Rules. I would like to move that we suspend Rule IX, Section IX, X, and XI and Rule VII, Section IX.

The motion was seconded.

Speaker Arnold Palacios: Discussion on the motion? Floor Leader, Can you clarify please?

Floor Leader Pro Tem Benavente: The Rules that I am referring to would be the Rules that requires the House to pass legislation on First Reading, we are exempting that, so that we can allow the First and Final Reading on all of the legislations. And the other Rule is on the requirement for a Committee Report which two of these legislations do not have Committee Reports. And Rule IX, Section XI is to allow us to offer oral floor amendments if we should chose to do so.

Several members voiced “ready”.

Speaker Arnold Palacios: Short recess

The House recessed at 2:52 p.m.

RECESS

The House reconvened at 2:53 p.m.

Speaker Arnold Palacios: We are back to our session.

There being on further discussions the motion to suspend Rule IX, Section IX, X, and XI and Rule VII, Section IX was carried by voice vote.

Speaker Arnold Palacios: Okay, we are in order now, Floor Leader Pro Tem Benavente, recognized.

Floor Leader Pro Tem Benavente: Thank you, Mr. Speaker. I now move for the passage on First and Final Reading H. B. No. 16-145, HD1.

The motion was seconded

H. B. NO. 16-145, HD1: A BILL FOR AN ACT TO MANDATE THE COMMONWEALTH GOVERNMENT TO PRIORITIZE AND PAY THE RETIREMENT EMPLOYER CONTRIBUTIONS OF GOVERNMENT EMPLOYEES WHO ARE ELIGIBLE TO RETIRE; AND FOR OTHER PURPOSES. (SEE S. C. R. NO. 16-44)

Speaker Arnold Palacios: Discussion on the motion? Representative Ralph Torres, recognized.

Representative Ralph Torres: I would like make an amendment to strikeout Section 3 and replace it with the one that was handed out earlier which is, “**Section 3. NMI Retirement Fund.** Notwithstanding any law or regulation to the contrary, the NMI Retirement Fund Board and Administrator shall, upon receipt of the CNMI government employer contribution as stated under Section 2 of this Act, accept and provide full pension to all government employees described under Section 2 above”. I had the Sergeant At Arms to make a copy

The motion was seconded.

H. B. NO. 16-145, HD1, page 2, to replace Section 3. as follows:

“**Section 3. NMI Retirement Fund.** Notwithstanding any law or regulation to the contrary, the NMI Retirement Fund Board and Administrator shall, upon receipt of the CNMI government employer contribution as stated under Section 2 of this Act, accept and provide full pension to all government employees described under Section 2 above”.

Speaker Arnold Palacios: Representative Ralph Torres, did you pass out? Short recess.

The House recessed at 2:54 p.m.

RECESS

The House reconvened at 2:56 p.m.

Speaker Arnold Palacios: We are back to our session. We are under discussion on the amendment offered by Representative Ralph Torres. Are there any further discussions? Representative Hofschneider, recognized.

Representative Hofschneider: Move to the previous question.

Several members seconded the motion.

Speaker Arnold Palacios: I will recognized Representative Sablan. She does have a...

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

Speaker Arnold Palacios: Okay. On the amendment motion offered, Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. During the recess I was trying to get some clarification from the mover of the amendment about the rates that we are talking about for the employer contribution. If an employee is considered paid up at a rate that is lower than the actuarial rate. Would that employee then be allowed to retire by the Retirement Fund? And if they would not be allowed presently to retire for example in the case of the Public School System (“PSS”), if a “PSS” employee is paid up at the 18% rate and is eligible to retire is the Retirement Fund presently allowing those employees to retire and if not, would the Retirement Fund be forced to retire those people at a rate that is lower than the actual rate?

Speaker Arnold Palacios: Okay, Representative Ralph Torres.

Representative Ralph Torres: I would say, yes. Mr. Speaker, and Representative Sablan, the one thing that I asked and it goes back to the listing that I asked for if example on both the autonomous agencies and the government agencies what would the amount be in order for them to retire. So whether the amount that they gave me whether it is 11% or 18% I guess they have their own calculation to allow them to retire.

Speaker Arnold Palacios: So I would think that if Retirement Fund are the ones that are going to be calculating those they would be calculating at the actuarial rate at certain times. And those would be added up and then a total amount over the years would be given. So it is the actuarial rate. Representative Sablan, continue.

Representative Sablan: And it should be at the actuarial rate, and my understanding is that the bill as it is presently reads would acknowledge the actuarial rate and would require that government agencies prioritize the payment at the actuarial rate for these employees. My concern though, is that this amendment would negate that requirement because the Retirement Fund I understand adopted a resolution that recognizes the actuarial rate and does not allow employees to retire at anything less than that, and I stand to be corrected here. But this amendment now would negate that resolution or attempt to because it says “Notwithstanding any law or regulation to the contrary they shall provide full pension to all government employees”. So this could force the Retirement Fund to accept and pay out full pensions even if employees are not paid up at the actuarial rate.

Speaker Arnold Palacios: Well the mover is saying that it is the actuarial rate. So that is on legislative record. We are on record saying that it is on the actuarial rate and that has been clarified. Representative Ralph Torres, recognized.

Representative Ralph Torres: Currently like I stated earlier there is \$4.1 Million on all the Class II eligibility to retire. Now, obviously not all of them is going to retire. So when you are ready to retire you should be given that opportunity to retire and the employer contribution should be mandated. The government should pay your employer contribution base on your actuary study.

Speaker Arnold Palacios: That is on record...

Representative Ralph Torres: There is a listing on how much and I showed you how much.

Speaker Arnold Palacios: Representative Sablan.

Representative Sablan: So what is the necessity then of saying "Notwithstanding any law or regulation"? Is there any law or regulation that would contradict this?

Speaker Arnold Palacios: Representative Babauta, recognized.

Representative Babauta: I am sure I would assume the mover of the amendment, Mr. Speaker, is alluding to the prior decisions of the Board of Trustees that have impede the needs of these retirees to move forward with their retirement plan and that includes the Trustees resolution itself.

Speaker Arnold Palacios: Okay. Representative Hofschneider.

Representative Hofschneider: Further to that, Mr. Speaker, I think it is also implied that in the Fifteenth Legislature the exemption of the employer contribution to the Retirement Fund from the Executive Branch, notwithstanding that obligation and notwithstanding that law anyone who has been and in fact upon receipt of the CNMI government employer contribution as stated under Section 2 of the bill means that these people are entitled to getting their pension. So the Fifteenth Legislature created a liability so it is outside a person's responsibility to petition Retirement Fund to retire. So notwithstanding those previous laws that exempted the Administration the Executive Branch from paying the contribution to the Retirement booking it as a liability of \$52 Million in that exemption prevents these people from actually being accepted by the Retirement Fund because Retirement Fund has a fiduciary. So in order to safeguard the fiduciary of the Board you need to provide that language.

Speaker Arnold Palacios: Okay. Final question, Representative Sablan, recognized.

Representative Sablan: My second concern, Mr. Speaker and members, deals with comments that received from the Retirement Fund. I do not have the communication number for this but they did say that although they welcome any legislation that would ensure the payments of the government's contribution they said that the piece meal passage of this legislation will in the long term undermine the financial viability of the Fund and also increase the Funds pension cost. And I do not think that concern of the Retirement Fund has yet been addressed in the present bill.

Speaker Arnold Palacios: Correct. I think we certainly kind of asked the Ways and Means Committee to look into the long-term which is the pension obligation bond and its potential. We

called in the Retirement Fund to address this issue at one time I recall and they are willing to do this calculations for the number of employees that have submitted their application to retire and they are will to take that route. I think that comment in saying that although we pass this and we can retire these people are waiting it is their strong official position that the government has to address the long-term liability for the solvency of the and rightly so they have to take that position also. While this legislation does not resolve that issue, the bigger debts of the Retirement Fund, it does resolve some of the issues of those folks waiting and pending retirement.

Representative Sablan: And so this would not just apply for this year but for all the years as long as this law is in effect. People who are eligible to retire this year and next year should be prioritized.

Speaker Arnold Palacios: Right, and it mandates the Department to prioritize payment into that. Okay.

There being no further discussion on the motion for adoption of the floor amendment offered by Representative Ralph Torres was carried by voice vote.

Speaker Arnold Palacios: We are now on the main motion.

Several members voiced “ready”

Representative Deleon Guerrero: Privilege, Mr. Speaker.

Speaker Arnold Palacios: Before I recognize you, let me first recognize Representative Reyes.

Representative Reyes: Thank you, Mr. Speaker. I understand that the bill is primarily to prioritize and pay the retirement employer contribution so that people can retire. I am just a little bit concern Mr. Speaker, given that the lawsuit that was filed which my name is there is now held the government liable to pay and although I would like to see people retire and draw the benefits that they were contractually promised I find this very difficult because also in today’s market with the pension it continues to go down and we do not know what would happen to the Fund and that would jeopardize or imperils the program entirely and to all other members present and future retirees to be. Also just to mention this and actually I have looked into this about I do not exactly know what statute there is but there is a wage grade increase also that is a law emplaced right now that has not been factored in and in so many ways and some people have retired that they have yet to get their pensions adjusted because of that. And I am just a little bit concerned how much of an impact this would create. I wonder if the Fund has given us a figure of the number of qualified employees that would be eligible and how much that would be in dollars versus a continued decline on the investment in the stock market and only God knows what is going to happen in the next quarter. And when we talk about the pension obligation bond Mr. Speaker, I hate to say this but, to have a pension obligation bond pass through this body may not even be possible, the question is, who is going to give us that money and I do not think this is the right time also to float bond at all given our financial rating as to where we are at and I do not know if we can get it. So it is pretty much a promise hearing out. Although I admire the author of bill I do not know I am torn between this and that, I cannot decide.

Speaker Arnold Palacios: Well let me just comment on that pension obligation bond. Certainly, today is not the right time to be even considering that. But the proposal before the House and the proposal that was passed by the Senate actually is to authorize it and change the Constitutional

restriction. That is the first step. We do not have to this next year we can wait until the climate is favorable. But even if the climate is favorable today absent the amendment to the constitution that is why that initiative is necessary. Representative Deleon Guerrero.

Representative Deleon Guerrero: Thank you, Mr. Speaker. Mr. Speaker, the intent of the bill is noble, all of us are cognizant of what is going on and we have been looking at different ways of addressing that situation and you as Speaker have appointed a Special Committee to deal with this issue. We have allowed for the budget to be the mechanism to address this issue and while we have a budget that has provisions to address this issue we also have a bill that we may be approving and sending two different signals out. And I am a little bit concern about the way this bill will impact agencies. It proposes to have divisions and departments and agencies prioritize their funding so that they can pay their full employer contribution for employees who are eligible to retire. The problem with that is the funding and that is why the budget would have been the appropriate way to address this it is the money there. Now when you just tell an agency you will prioritize your funding to pay for this and when we got reports from the Retirement Fund in one case in one department in one agency you had one employee whose deficient employer contribution amounted to a quarter of a million dollars, one employee. Now if that agency has an operational budget of \$200,000.00 you are basically saying cut out your operational funds or maybe even cut into your personnel funds to pay for this. I just want to understand that we understand what we intend to do here. I understand the intent and even saying when we say to pay the full retirement employer contribution what you are really saying is to pay the full deficient employer contribution, right and maybe you should state that. Because I can interpret this as saying, well you are going to pay 37% instead of the 11% as a definition of a full employer contribution but even despite that I really wan to support this bill I just feel that by doing so we may be placing agencies and all of us know even with the budget that is being looked at now by the Conference Committee that agencies are still going to be operating at bare bones budget. And that example that I cited with just one employee we have not even contemplated what other small agencies have several employees that want to retire and how much those deficient employer contributions are and can the agency afford to give up those funds. If we are going to get to the root of the problem the way to do it is to address through either a separate appropriation to the Retirement Fund to address the deficient employer contribution or as the Conference Committee have done now is to somehow come out with a pool of funds, right, from which they can pull the money from to address the deficient employer contribution, I stand correct. But I just wanted to state that for the record, Mr. Speaker. Thank you.

Speaker Arnold Palacios: Thank you. I think your concerns are well stated. Representative Hofschneider, recognized.

Representative Hofschneider: It may appear to be the case Mr. Speaker, whatever we do I think it is going to impact the allotments for each specific departments or divisions in the government, whereby, an employee who is wishing to retire must come out of that and that is the intent. Well I believe it was in the Thirteenth or Twelfth Legislature when we started doing just exactly that. That an employee is ready to retire that FTE will not be filled and the budgeted amount will be used to be remitted to the Retirement Fund and it has worked. The problem today is the insistence and enforcement of Department of Finance to remit on time the contribution whether it be 11%, 37% it is beside the point. The point is, since "Teno's" Administration that MOA started which gave at that time \$1,050,000.00 required to be remitted to the Retirement Fund on a pay period basis. That MOA was signed to absolve the Administration at that time in anticipation of downturn of revenues in the government contemplated to be paying \$500,000.00 per pay period instead of the \$1,050,000.00 at that time. That MOA was carried through two more Administrations that aggravated the situations of the overall contribution required under law to be remitted to the

Retirement Fund. Now there is a law in place that stipulates that an FTE being filled currently and that person is ready to Retire saves that FTE from being filled the budgeted amount is used to pay. What is not happening today is not adhering to the law but rather as soon as that person is received and approved by Retirement to retire and vacates that position in goes a new employee instead of using that FTE and the appropriations to pay for the delinquent amount owed to the Retirement Fund. Another example that is now expired is the 30% Bonus. In the Eighth Legislature the 30% Bonus was passed without appropriation. It obligated Retirement Fund that in the absence of the general fund of a specific person retiring that FTE was for all intent and purposes to be reserve to pay for the 30% that did not happen and dumped the obligation to the Retirement to a tune of \$2 Million that we still owe today. So there are mechanisms in place that have worked to get people off who wants to retire and by the way that in itself is an attrition. It reduces the obligation of the government to pay for the contribution into the Retirement Fund. So there is a position additive to getting people to retire who wants to retire and using that appropriated amount for that FTE now do not fill it use that money to pay for it and get that person to retire. In the midst of this you do not fill it that is minus the contribution inspected into the Retirement Fund. So we need to this is a policy call to allow this to go through and insist upon the enforcement of that Rule. We should also send a strong message to the Retirement Fund that it should not be operating on discretionary policy. In the past that we have known people who have retired accepted to retire and the contributions have never been fulfilled. And I just pointed a glaring example since the “Teno” Administration that MOA owing \$500,000.00 per pay period, how in the world can a person retire from that day to today if we are going to hold that Rule to be strict. On the other hand Mr. Speaker, Section 3, of the bill, “60 days”, this is a deadline...strikeout? So completely, okay. Thank you. I reserve my comments. Thank you.

Speaker Arnold Palacios: Representative Hocog, recognized.

Representative Hocog: Well, again, Mr. Speaker, if the bill intends to address the future retirees I guess again that could be address on an annual budget appropriation. If it will accommodate every single government employee that will take their retirement today, Mr. Speaker, I just want to note that again, even with the 11% that we are contributing the Retirement Fund again the budget now is very clear that it is a budget pass outside the bound of the Constitutional requirement. Secondly, Mr. Speaker, again it is another problem with the Retirement Fund the loss of investment in the amount of \$58 Million will also or is already booked as a liability of the CNMI. That is another problem that we have. And again, the bill contains good intentions but if we are going to make this as a law to be perpetual it is going to eat all the resources within the government. And with that I would like to ask the author whether he really wants to have this bill pass and see the future employees employment is bye bye. I do not know because Mr. Speaker I am pretty sure that we will address the actuarial percent of the Retirement in this next budget deliberation.

Speaker Arnold Palacios: Representative Ralph Torres.

Representative Ralph Torres: Mr. Speaker, with all due respect to my Chairman, yes, I do want to see this bill pass. To be honest with you every employee here in the CNMI you go around finding excuses about no money it is going to jeopardize the department up until now (*End of Tape 2, side A*)

(*Start of Tape 2, side B*)

Representative Ralph Torres: There is an employee that has worked over twenty years is that how we are going to award our employees and to say let us wait to another actuarial study, let us wait for another two years, I think it is about time that we address this issue and yes I would like to have this bill pass today and I appreciate it if we do act on and pass it. Thank you.

Speaker Arnold Palacios: Thank you. Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. I just wonder and because we keep sitting here debating on this issue about retirement. I think the problem is that we need to change the Constitution. We mandate every government to participate in the Retirement program, yet we cannot allow them to retire. So we tell them to pay, no options whatsoever and then we tell them, you cannot retire because the government is not fulfilling its side of the house. Yet the employee is faithfully contributing to the retirement program this is double-standard. All it takes is for several of these government employees to take the Retirement to court and they will retire for sure. That is all it takes. There is nobody up there that can say you cannot retire when you did your side of the house, you put in your money the other side did not put in the money, it is not your problem it is their problem. It is our job to find solutions to get these people out of the system. As long as they are in the system we continue to pay them. So maybe we should look into the Social Security System instead. We go onto the other type of retirement issues. Right now the 401K is going down the drain, where is the retirement for our employees. These are the things that we need to start looking into. The new government employees coming in now I guarantee you they do not have any future. But if they go into the Social Security System at least they can retire under Social Security. I do not know, Mr. Speaker, but this bill has been sitting in the Calendar, I will support this bill. Let Juan Pan get the headache. Thank you.

Speaker Arnold Palacios: Representative Benavente, recognized.

Representative Benavente: Thank you, Mr. Speaker. I believe that a lot has been said on this matter already, so I move to end debate.

The motion was seconded.

Speaker Arnold Palacios: The motion to end debate has been seconded and I think we are ready to move on. Clerk, please call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 16-145, HD2, on First and Final Reading.

Representative Edwin P. Aldan	yes
Representative David M. Apatang	yes
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	yes with reservations
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	yes
Representative Heinz S. Hofschneider	yes
Representative Raymond D. Palacios	yes
Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	abstain

Representative Christina M. Sablan: Mr. Speaker, just a very brief comment.
Speaker Arnold Palacios: Very brief please.

Representative Sablan: Thank you, we ended debate a little bit prematurely for me but I just wanted to point out and following up on the Vice Speaker’s comment that this policy although it is certainly noble in its intent is at odds with two other policies that have receive the blessings of the House. The first, is that the Legislature shall not pass legislation that we know to would have an eroding effect of the Fund and the Fund has already said that this bill would be such a piece of legislation. And two, there is this Committee Report that the Vice Speaker has also mentioned that has recommended considering the contributions in one Central Government pool and the bill proposes a policy that would be at odds with that. And so having considered these and weigh these policies against each other my vote would have to be no.

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

Speaker Arnold Palacios: With a vote of seventeen “yes” H. B. NO. 16-145, HD2 hereby passes the House.

Representative Ralph Torres: Mr. Speaker, privilege.\\

Speaker Arnold Palacios: State your privilege.

Representative Ralph Torres: I just wanted to thank everybody for entertaining H. B. NO. 16-145, HD2.

Speaker Arnold Palacios: Floor Leader Pro Tem Benavente one more bill.

Floor Leader Pro Tem Benavente: Thank you, Mr. Speaker. I now move for the passage on First and Final reading **H. B. NO. 16-152**.

The motion was seconded.

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.

Speaker Arnold Palacios: Discussion on the motion.
Several members voiced “Ready”.

Speaker Arnold Palacios: Let us take a short recess.

The House recessed at 2:58 p.m.

RECESS

The House reconvened at 3:08 p.m.

Speaker Arnold Palacios: We are back to session and I now recognize Representative Apatang.

Representative Apatang: Thank you, Mr. Speaker. On page one, I would like to make an amendment. On line 19, after “committed” add “additionally any said person shall be responsible for any and all repair and or replacement cost associated with each offense committed”.

The motion was seconded.

H. B. NO. 16-152

Page one, line 19:

After the word “committed” add “additionally any said person shall be responsible for any and all repair and or replacement cost associated with each offense committed”.

Speaker Arnold Palacios: Discussion on the amendment motion?

Several members voiced “ready”.

There being no discussion on the adoption of the floor amendment offered was carried by voice vote.

Speaker Arnold Palacios: We are on the main question **H. B. NO. 16-152, HD1**, Representative Sablan, recognized.

Representative Sablan: Thank you. In reviewing this bill I went back to Title IV, Division 8, Chapter II, and looked at exactly what we would be assessing criminal penalties for and I think that the language of this particular provision needs to be further refined. Because even a violation of the requirements for “Notice of Intent” if an operator commits any mistake in that provision they would be guilty of a criminal offense. So for example the written notice that is required under this Chapter says that there should be the name, address, telephone number of the person filing the intent. If a person forgets to add his telephone or forgets his mailing address then that would be considered a criminal offense and there is no flexibility in the language as I see and perhaps this could be clarified by our legal counsel that would allow for a smaller fine to be assessed. I would like to ask if that was truly the intent of this legislation.

Speaker Arnold Palacios: Representative Yumul.

Representative Yumul: I was going to offer a minor amendment. On page one, line 16, after the word “who” to insert “knowingly”. If a person obviously excavates and did not know because the sign says, No Digging in this area or Please call this if it has been removed or has fallen over or not readable then they definitely should not be penalized. Thank you.

Speaker Arnold Palacios: Representative Sablan, would that...

Representative Sablan: I would like actually hear from the legal counsel if there should be a concern if any provision under that Chapter any violation of any provision would be considered a criminal offense and if Representative Yumul’s amendment would address my concern.

Speaker Arnold Palacios: Short recess.

The House recessed at 3:41 p.m.

RECESS

The House reconvened at 3:45 p.m.

Speaker Arnold Palacios: Representative Yumul, you need to restate it.

Representative Yumul: Thank you, Mr. Speaker. I would like to restate my oral floor amendment on page one, line 16, after the word “who” to insert “knowingly”. I so move.

The motion was seconded

H. B. NO. 16-152

Page one, line 16:

To insert the word “knowingly” after the word “who”.

Speaker Arnold Palacios: Discussion.

Several members voiced “ready”

There being no discussion on the motion to adopt the oral floor amendment offered was carried by voice vote.

Speaker Arnold Palacios: We are on the main question, Representative Yumul, recognized.

Representative Yumul: Just a quick question to the legal counsel to make sure that the criminal penalties we are specifying here is within the range of misdemeanors or is this going to be considered a felony.

Speaker Arnold Palacios: Legal Counsel.

LC Villagomez: A felony.

Representative Yumul: So it is okay. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Representative Quitugua.

Representative Quitugua: Mr. Speaker, the word itself “knowingly” might not prevent mistakes that are unintentionally in nature. Like the earlier example that Representative Sablan mentioned, you have to fill out all the correct numbers, but unintentionally you made a mistake in filling it out, but you know you are supposed to fill it out, but unintentionally you made a mistake. You still are in violation. But I recommend that we insert the word “or intentionally violate”.

Speaker Arnold Palacios: Let me ask the Legal Counsel. Would the amendment offered by Representative Yumul and the concerns being raised by Representative Quitugua would that amendment encompass and address the...would knowingly have a sense of intention in it...my guess it would.

The House recessed at 3:49 p.m.

RECESS

The House reconvened at 3:54 p.m.

Speaker Arnold Palacios: We are back to session Representative Quitugua can you make the motion please.

Representative Quitugua: After the word “knowingly” to add the words “or intentionally”.

The motion was seconded.

H. B. NO. 16-152

Page one, line 16:

After the word “knowingly” to add the words “or intentionally”

Speaker Arnold Palacios: Discussion on the motion.

Several members voiced “ready”

There being no further discussion on the adoption of the floor amendment offered, it was carried by voice vote.

Speaker Arnold Palacios: Ready for the question. Clerk call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 16-152, HD3, 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 Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	yes
Representative Heinz S. Hofschneider	yes
Representative Raymond D. Palacios	yes
Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	yes
Representative Christina M. Sablan	yes
Representative Edward T. Salas	yes
Representative Rosemond B. Santos	yes
Representative Ramon A. Tebuteb	yes
Representative Ralph DLG. Torres	yes
Representative Stanley T. McGinnis Torres	yes
Representative Ray N. Yumul	yes
Speaker Arnold I. Palacios	yes

Speaker Arnold Palacios: With a vote of nineteen “yes” H. B. NO. 16-152, HD3 hereby passes the House. That is it for the bills today.

MISCELLANEOUS BUSINESS

Speaker Arnold Palacios: Representative Benavente, recognized.

Floor Leader Pro Tem Benavente: Thank you, Mr. Speaker. In today's paper both the Marianas Variety and Saipan Tribune there was a coverage with regards to Guam Senate Resolution 196 which was adopted by the Guam Senate, supporting the opposition of the proposed Marine Monument. I would think Mr. Speaker, the support that we received in this resolution given the Legislature's opposition in both the House and the Senate that we do something to acknowledge and maybe through a letter to extend our appreciation for their support and I would like to recommend Mr. Speaker, that you ask the Senate President to jointly write a letter of appreciation to the leadership of the Guam Legislature. Thank you.

Speaker Arnold Palacios: I will take that under advisement. Let me recognize Representative Stanley Torres.

Representative Stanley Torres: I am not debating I just want to make a comment. That is a sign of one step in the beginning becoming a Marianas Reunification.

Speaker Arnold Palacios: Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. If you are going to write this letter to the Guam Leadership I would like to respectfully request that you indicate that not everybody agrees. And go ahead and mention my name specifically I have no problem with that.

Speaker Arnold Palacios: Representative Salas.

Representative Salas: Mr. Speaker, can you clarify again what is going to happen to the budget?

Speaker Arnold Palacios: Okay. The Committee Report is on the Calendar and our intent the recommendation is to leave it there. We do not take action on it and I will confer with the Senate President and see if we can find ways to ameliorate the concerns the constitutional issues that were raised. We will leave it there and then if necessary then the Senate would have to reconsider its action and then we will come back with an amended version of the Committee Report and then take it from there. Okay.

Representative Salas: Thank you.

Speaker Arnold Palacios: We hope we can do that. Are there any more? Representative Hocog, recognized.

Representative Hocog: Yes, Representative Sablan had asked me last Friday whether Floor Leader Camacho left to the trip officially and whether he has incurred public funds, I want to personally and officially inform her that Floor Leader Camacho left using his wife's money on official business. (LAUGHTER)

Speaker Arnold Palacios: Representative Dela Cruz.

Representative Dela Cruz: The parishioners of Kristo Rai invites everyone to their Kristo Rai Fiesta this coming Sunday. So all of you are most welcome to come and participate.

Speaker Arnold Palacios: By the way I have duly charged the OR Accounts of each Precinct III Representatives donations. (LAUGHTER)

ANNOUNCEMENT

Speaker Arnold Palacios: Representative Hocog.

Representative Hocog: If anybody in the Committee is running out of money I have funds available to lend them. Thank you.

ADJOURNMENT

Speaker Arnold Palacios: Floor Leader Pro Tem, motion to adjourn subject to the call.

Floor Leader Pro Tem Benavente moved to adjourn subject to the call of the Chair; it was seconded and carried by voice vote.

The House adjourned at 4:05 p.m.

Respectfully submitted,

Linda B. Muña
Journal Clerk
House of Representatives

APPEARANCE OF LOCAL BILLS

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

SECOND APPEARANCE:

H. L. B. NO. 16-24: A Local Bill for an Act to appropriate \$10,000.00 from the local license fees collected for pachinko slot machines and poker machines in the First Senatorial District; and for other purposes. (Rep. Victor B. Hocog)

THIRD APPEARANCE: