



House Journal

SECOND REGULAR SESSION, 2008

Sixteenth Day

Friday, December 19, 2008

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened in its Sixteenth Day, Second Regular Session on Friday, December 19, 2008, at 9:45 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 twelve members were present. Representatives Edwin P. Aldan, Joseph P. Deleon Guerrero, Heinz S. Hofschneider, Rosemond B. Santos and Stanley T. Torres came in late, and Representatives Victor B. Hocog, Justo S. Quitugua and Joseph C. Reyes were absent and excused for the day's session.

ADOPTION OF JOURNALS

NONE

INTRODUCTION OF BILLS

H. B. NO. 16-199: A Bill for an Act to amend Title 4, Division 5, Chapter 5, by adding a new section 5569 and amending section 5593 to criminalize the sale and/or resale of products purchased or obtained from the Army and Air Force Exchange Services ("AAFES") and to authorize the Commonwealth of Department of Commerce, Division of Alcohol Beverage and Tobacco Control, the Department of Public Safety and the Office of the Attorney General to enforce and prosecute violations of this Act; and for other purposes.

Offered by: Representative David M. Apatang and three others

Representative Apatang: Mr. Speaker, H. B. NO. 16-199 is an urgent bill and I would like to request if we can place it on the Bill Calendar for debate and action.

Speaker Arnold Palacios: Floor Leader, could you please take note of that request when we get to the Bill Calendar.

H. B. NO. 16-200: A Bill for an Act to amend the Phosphate Detergent Act (2 CMC §§ 3701 et seq.); to amend 6 CMC § 2301(a) to prohibit the importation of any cleaning agent that contains phosphate; and for other purposes.

Offered by: Representative Christina M. Sablan

Referred to: Committee on Natural Resources

H. B. No. 16-201: A Bill for an Act to establish a government service severance package for employees funded by the General Fund with at least eighteen years of government service; and for other purposes.

Offered by: Representative Heinz S. Hofschneider and seven others

Representative Hofschneider: Mr. Speaker, with the indulgence of the members, I would like to ask that we calendar H. B. NO. 16-201 but not take action. I would like to allow for members and the Retirement Fund, in particular, to submit their comments as well as the people affected by this. This is intended to establish the security of a debt service of the POB, the Pension Obligation Bond. As you know, we cannot afford to wait another year for the infusion of revenue into the Retirement Fund. I think the finding is self-explanatory. Thank you.

Speaker Arnold Palacios: Floor Leader, please take note of this request when we get to the Bill Calendar.

Representative Hofschneider: And I welcome members, Mr. Speaker, to co-sponsor.

Speaker Arnold Palacios: Thank you. Clerk, please reflect on the record that Representative Santos is present.

H. B. NO. 16-202: A Bill for an Act to establish a special account to ensure that adequate funding is readily available for the operational, inter-island travel, and training expenses of the inspection and investigation section of the Fire Division; and for other purposes.

Offered by: Representative Oscar M. Babauta

H. B. NO. 16-203: A Bill for an Act to amend 4 CMC § 1407 to allow automobile dealers to pay excise taxes on the importation of new vehicles upon first sale or distribution in the CNMI; and for other purposes.

Offered by: Representative Ray N. Yumul

Referred to: Committee on Ways and Means

H. B. NO. 16-204: A Bill for an Act to amend Public Law 16-17 sections 3(c) to modify PSAA requirements and 3(g)(2) to clarify contractor eligibility requirements for Private Sector Assistance Agreements (PSSA) and adding a new section 3(h) defining “United States Certified Contractor”; and for other purposes.

Offered by: Representative Heinz S. Hofschneider

Referred to: Committee on Public Utilities, Transportation, and Communications

Representative Hofschneider: Mr. Speaker, I know the urgency of this, but I would like to again ask that we hold it on the Calendar in spite of the weeks of working, together with Mr. Muña, on this amendment. I would like everyone to really digest the amendment provided with a new light, with a new prospective contractor that presented sort of a briefing yesterday at the Governor’s Office with some of the members, and the urgency of the Aggreko contract ticking away with no real progress in terms of the rehabilitation of the power plant that we have here on Saipan. I would like everyone to please help in articulating and rationalizing whether this is appropriate for us to act on.

Speaker Arnold Palacios: Thank you. Floor Leader, please take note of that. This is the proposed amendments of Public Law 16-17, the Privatization Act of CUC. When we do get to the Bill Calendar please take consideration on that bill.

H. B. NO. 16-205: A Bill for an Act to simplify and enact a Commonwealth flat tax; to repeal and reenact Chapter 2 of 4 CMC Division 1 (Revenue and Taxation); and for other purposes.

Offered by: Representative Ray N. Yumul
Referred to: Committee on Ways and Means

Representative Yumul: Mr. Speaker, H. B. NO. 16-205 is good for debate. We can add this to the economic summit so that we can talk about it. H. B. NO. 16-203 is a simple legislation to allow auto dealers to continue bringing in vehicles into the Commonwealth and defer tax until the vehicle is sold. I am sorry to see a decline in model offerings, so this is a request from the industry to help with their economic woes. If there is no objection, I would like to place this on the Bill Calendar for action. Of course, you can always send it to committee, and if you do, I would like to request that you send it to my committee so that I can expedite a report. Thank you.

Speaker Arnold Palacios: Thank you that you are asking. Floor Leader, please take note of that legislation also.

INTRODUCTION OF RESOLUTIONS

H. COMM. RES. 16-67: A House Commemorative Resolution conveying the sincere condolences and sympathy of the House of Representatives, Sixteenth Northern Marianas Commonwealth Legislature, to the bereaved family of the late Francisco Matagolai Pangelinan "Bokonggo" on the occasion of his untimely passing and paying tribute to his fond memory. (+19)

Offered by: Representative Ralph DLG. Torres and nineteen others

H. J. R. NO. 16-21: A House Joint Resolution to request that the U.S. Department Homeland Security ensure that priority hiring consideration be given to Commonwealth of the Northern Mariana Islands immigration employees and United States citizens and national applicants residing in the CNMI consistent with the mandate of Public Law 110-229.

Offered by: Representative Diego T. Benavente and seven others

Representative Benavente: Mr. Speaker, because time is of the essence here as the Department of Homeland Security is currently hiring for the positions here, I would like to request that we consider this joint resolution in today's session.

Speaker Arnold Palacios: So ordered. I order that all resolution introduced this morning are put on the Resolution Calendar.

MESSAGES FROM THE GOVERNOR

GOV. COMM. 16-262: (undated) Certification for a vacant position at the Division of Customs, Department of Finance.

GOV. COMM. 16-263: (11/27/08) Certification for an annual salary in excess of \$50,000 for Dr. Robin S. Shearer.

GOV. COMM. 16-264: (11/27/08) Informing the House that he signed into law H. B. NO. 16-186, HD2 (Reappropriating \$400,000 from Section 2 of PL 13-48). [Became Public Law 16-24]

GOV. COMM. 16-265: (11/28/08) Informing the House that he signed into law H. B. NO. 16-176, HD1 (Regarding Health Care Professional Licensing Board). [Became Public Law 16-25]

GOV. COMM. 16-266: (11/28/08) Certification for a vacant position at the Department of Public Health.

GOV. COMM. 16-267: (11/28/08) Certification for a vacant position at the Division of Customs, Department of Finance.

GOV. COMM. 16-268: (11/28/08) Certification for vacant positions at the Community Guidance Center, Department of Public Health.

GOV. COMM. 16-269: (11/28/08) Certification for an annual salary in excess of \$50,000 for Dr. Edward H. Kolner.

GOV. COMM. 16-270: (11/28/08) Certification for vacant positions at the Commonwealth Health Center, Department of Public Health.

GOV. COMM. 16-271: (12/1/08) Urging the members of the Legislature to attend the presentation by Mr. Malcolm D. McPhee on the Comprehensive Assessment of the CNMI Economy. (See GOV. COMM. 16-252 – Economic Report)

GOV. COMM. 16-272: (12/3/08) Executive Order 2008-21 - Declaration of a State of Emergency: CUC's Imminent Generation Failure and the need to provide Immediate Reliable Power during Repairs, Continuation #4.

GOV. COMM. 16-273: (11/28/08) Certification for a vacant position within the Department of Finance-Rota.

GOV. COMM. 16-274: (11/28/08) Certification for an annual salary in excess of \$50,000 for Dr. Kenneth Taguchi.

GOV. COMM. 16-275: (11/28/08) Certification for an annual salary in excess of \$50,000 for Dr. Debesh Basu.

GOV. COMM. 16-276: (12/2/08) Certification for vacant positions at the Department of Public Lands.

GOV. COMM. 16-277: (12/2/08) Certification for a vacant position at the Office of the Special Assistant for Administration, Office of the Governor.

GOV. COMM. 16-278: (12/2/08) Certification for a vacant position at the Tinian Health Center.

GOV. COMM. 16-279: (12/5/08) Certification for a vacant position at the CHC, Department of Public Health.

GOV. COMM. 16-280: (Undated) Certification for an annual salary in excess of \$50,000 for Dr. Theodore McMenemy.

GOV. COMM. 16-281: (12/5/08) Certification for vacant positions at the CHC, Department of Public Health.

GOV. COMM. 16-282: (12/5/08) Certification for an annual salary in excess of \$50,000 for Dr. Eric Bernon.

GOV. COMM. 16-283: (12/5/08) Certification for an annual salary in excess of \$50,000 for Dr. Rodney Klassen.

GOV. COMM. 16-284: (12/5/08) Certification for vacant positions at the CHC, Department of Public Health.

GOV. COMM. 16-285: (12/5/08) Informing the House that he signed into law H. L. B. NO. 16-19, D2, the Saipan Zoning Law of 2008. [Became *Saipan Local Law 16-6*]

GOV. COMM. 16-286: (12/11/08) Informing the House that he disapproved H. B. NO. 16-108, SD1 (To restrict the application of disaster emergencies). [Deadline 2/9/08]

GOV. COMM. 16-287: (12/11/08) Certification for a vacant position at the Commonwealth Superior Court.

GOV. COMM. 16-288: (12/11/08) Certification for a vacant position at the Tinian Mayor's Office.

GOV. COMM. 16-289: (12/11/08) Certification for vacant position at the CHC; Department of Public Health.

GOV. COMM. 16-290: (12/11/08) Certification for annual salary in excess of \$50,000.00 for Dr. Ruben P. Arafiles.

GOV. COMM. 16-291: (12/11/08) Certification for vacant position at the Commonwealth Election Commission.

GOV. COMM. 16-292: (12/12/08) Certification for vacant position at the Department of Public Works.

GOV. COMM. 16-293: (12/12/08) Certification for vacant position at the Office of the Mayor of Tinian.

GOV. COMM. 16-294: (12/12/08) Certification for vacant position at the CHC, Department of Public Health.

GOV. COMM. 16-295: (12/12/08) Certification for vacant position at the Division of Customs.

GOV. COMM. 16-296: (12/16/08) An invitation to meet with him together with a major energy company operating in India on Thursday, December 18, 2008, at 10:00 a.m.

The Chair recognized Representative Raymond Palacios.

Representative Raymond Palacios: Thank you, Mr. Speaker, and good morning. I was just going over the Governor's Communications and I am really appalled by the number of certifications for exemptions in the annual salary for doctors. I just hope, with this number and the number of certification from the previous communications, that our health services would greatly improve and expedite services which are what we really lack at Commonwealth Health Center ("CHC"). I just hope that there would not be any more complain because we know that there are probably more than 20 doctors there now. And if we are to continue lacking these services, you know, many of our people are complaining that they wait for hours and hours, and hopefully, by allowing this number to be approved, it would greatly improve our services at the CHC.

Speaker Arnold Palacios: Thank you, your observance are well noted. Representative Benavente.

Representative Benavente: Mr. Speaker, on GOV. COMM. 16-286 with regards to the veto of H. B. NO. 16-108 I know that this body has raised concern on this matter and I wonder if members of the House are in a position to override this veto, as I am ready to vote on the override. Thank you.

Speaker Arnold Palacios: We have sixty days to consider that. Representative Hofschneider, recognized.

Representative Hofschneider: Mr. Speaker, I think that in all seriousness, we have deliberated on this issue and there is in fact weaknesses in our statute as to the application of declaration of disasters. With that, Mr. Speaker, as they say, with no further ado, I move for an override.

The motion was seconded by several others.

Speaker Arnold Palacios: The motion is to override the Governor's veto of H. B. NO. 16-108, SD1 with reference to GOV. COMM. 16-286. The floor is open for discussion. Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. I had opposed this measure when it was first introduced because of weaknesses in the language that we have thoroughly discussed in the first session and in subsequent sessions. I would like to note also that there is another bill that has been introduced by you and many members, myself included, that would also attempt to do what this particular bill is attempting to do and that is to restrict the applications of disaster emergencies, require more accountability from the governor in terms of reporting back to the legislature. I would like to ask that we reconsider this motion to override the Governor's veto and carefully scrutinize and compare this bill along with the bill that was just recently introduced and now it is in committee.

Speaker Arnold Palacios: Short recess.

The House recessed at 9:00 a.m.

RECESS

The House reconvened at 9:05 a.m.

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

Representative Hofschneider: Thank you, Mr. Speaker. With that, I reconsider my motion and leave it for us to consider at a later date. We do not have to vote.

Several members voiced “no objection.”

Speaker Arnold Palacios: The motion is for the reconsideration. And there being no objection, the motion is hereby withdrawn. Any further comments? If none, we move on to Senate Communications.

SENATE COMMUNICATIONS

SEN. COMM. 16-101: (11/20/08) Transmitting a certified copy of S. R. NO. 16-24, entitled, “A Senate Resolution commending Mr. Francisco Sasakura Mendiola for his achievements and for becoming the first commercial pilot from the Commonwealth of the Northern Mariana Islands, Island of Rota.” [For info]

SEN. COMM. 16-102: (11/25/08) Returning H. B. NO. 16-92 (To allow the sale of alcoholic beverages at the commercial airports without restrict), which was passed by the Senate without amendment on November 25, 2008. [Before the Governor]

SEN. COMM. 16-103: (11/25/08) Transmitting for House action S. B. NO. 16-44, CS1, “To amend Public Law 14-62; and for other purposes,” which was passed by the Senate on November 25, 2008. [For action - Referred to Committee on Health, Education, and Welfare]

SEN. COMM. 16-104: (11/26/08) Returning H. J. R. NO. 16-4 (Re Joint Task Force on the U.S. Military expansion in the Marianas) which was adopted by the Senate without amendment on November 25, 2008. [For info]

SEN. COMM. 16-105: (11/25/08) From Senate President Pete Reyes appointing members to serve on the Joint Legislative Task Force on the Military Expansion in the Marianas. [For info]

SEN. COMM. 16-106: (12/4/08) Transmitting for House action S. J. R. NO. 16-8, entitled, “To express the gratitude of the People of the Commonwealth of the Northern Mariana Islands for the recent statements of support of the Commonwealth’s position concerning any designation of a marine monument in the waters adjacent to the Commonwealth made on behalf of the People of Guam by their elected representatives,” which was adopted by the Senate on December 4, 2008. [For action]

SEN. COMM. 16-107: (12/4/08) Informing the House that the Senate reconsidered its previous action on Joint Conference Committee Report No. 16-1 which reported on H. B. NO. 16-169, HD9, SS1, CC1 on December 4, 2008. [For info]

SEN. COMM. 16-108: (12/5/08) Informing the House that the Senate adopted Joint Conference Committee Report 16-2 and passed H. B. NO. 16-169, HD9, SS1, CC2, the “Appropriations and Budget Authority Act of 2009,” on December 4, 2008. [For info]

SEN. COMM. 16-109: (12/4/08) Transmitting for House action S. B. NO. 16-45, entitled, “To amend 4 CMC § 5941(a) to abolish the security deposit requirement for long term business

certificate applicants; and for other purposes,” which was passed by the Senate on December 4, 2008. [For action - Referred to Committee on Committee on Commerce and Tourism]

SEN. COMM. 16-110: (12/4/08) Transmitting for House action S. B. NO. 16-46, entitled, “To amend § 8422 of Public Law 15-35; and for other purposes,” which was passed by the Senate on December 4, 2008. [For action - Referred to Committee on Public Utilities, Transportation, and Communications]

SEN. COMM. 16-111: (12/4/08) Transmitting for House action S. L. I. NO. 16-11, entitled, “Proposing to amend Article VIII, Section 1 of the CNMI Constitution regarding regular general elections,” which was passed by the Senate on December 4, 2008. [For action - Referred to Committee on Judiciary and Governmental Operations]

SEN. COMM. 16-112: (12/12/08) Transmitting a certified copy of S. R. NO. 16-28, entitled, “A Senate Resolution requesting the Honorable Governor Benigno R. Fitial to immediately conduct an internal oversight on the Commonwealth employment and training programs and to provide the 16th Commonwealth Senate a written and oral report on or before the first Thursday in March 2008; and for other purposes,” which was adopted by the Senate. [For info]

The Chair recognized the Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. In reference to SEN. COMM. 16-106 transmitting to the House for action S. J. R. NO. 16-8, I would like to make a motion to place on the Resolution Calendar.

Seconded by Representative Babauta, and there being no discussion the motion to place S. J. R. NO. 16-8 on the Resolution Calendar was carried by voice vote.

Speaker Arnold Palacios: The motion carries and S. J. R. NO. 16-8 is hereby placed on the Resolution Calendar.

Floor Leader Camacho: Mr. Speaker, there are several legislations requiring action and I defer to the Chair to assign those to committees.

Speaker Arnold Palacios: Okay, let me refer some of the communications requiring House actions. SEN. COMM. 16-103 on S. B. NO. 16-44 is referred to the Committee on Health, Education, and Welfare. Please work with some expediency. SEN. COMM. 16-109 on S. B. NO. 16-45, Representative Salas, I am going to assign that to Committee on Commerce and Tourism. SEN. COMM. 16-110 on S. B. NO. 16-46 is assigned to Committee on Public Utilities, Transportation, and Communications. Clerk, please take of those assignments. On SEN. COMM. 16-111 reference S. L. I. NO. 16-11, I hereby assigned that to the Committee on Judiciary and Governmental Operations. Any more, Floor Leader?

Floor Leader Camacho: Thank you, again, Mr. Speaker. I believe there is no other communication requiring immediate House action. We can move on to the next item.

Speaker Arnold Palacios: Okay, we move on to Item 7 of our Agenda, House Communications.

HOUSE COMMUNICATIONS

HSE. COMM. 16-86: (12/1/08) From the Speaker appointing members to the Joint Legislative Task Force on the Military Expansion in the Marianas.

HSE. COMM. 16-87: (12/2/08) From the Vice Speaker informing the Speaker that he will be off-island from December 3rd thru December 6, 2008.

HSE. COMM. 16-88: (12/9/08) From Representative Reyes informing the Speaker that he will be off-island from December 10-19, 2008.

HSE. COMM. 16-89: (12/11/08) From the Speaker and the Senate President to Mr. Nikolau Pula requesting funding support from the OIA in the amount of \$40,000 for travel costs associated with upcoming Micronesia Youth Services Network (MYSN) Conference.

HSE. COMM. 16-90: (12/11/08) From Representative Sablan making an Open Government Act request to the Secretary of Finance regarding *CNMI v. USA, et al.*, 1:08-cv-01572 concerning U.S. Public Law 110-229.

Speaker Arnold Palacios: Any comments or statements.

Representative Salas: Mr. Speaker, may I just clarify. SEN. COMM. 16-109 is the one that you are referring to the Committee on Commerce and Tourism.

Speaker Arnold Palacios: Correct.

Representative Sablan: Thank you.

Speaker Arnold Palacios: We move on with our Agenda.

COMMUNICATIONS FROM THE JUDICIAL BRANCH

JUD. BR. COMM. 16-8: (12/3/08) From Presiding Judge Robert Naraja certifying that a position for Law Clerk is vacant and must be filled.

There was no discussion under this Item.

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

NONE

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

DEPT./AGCY. COMM. 16-58: (11/26/08) From Secretary Eloy Inos, Department of Finance, attaching an advance and preliminary report on the revenues and expenditures for the CNMI Government operations and activities for FY'08.

DEPT./AGCY. COMM. 16-59: (12/11/08) From PSS Commissioner Rita A. Sablan to the Governor regarding unfunded liability to the Retirement Fund.

There was no discussion under this Item.

OTHER COMMUNICATIONS

MISC. COMM. 16-57: (11/13/08) From Mr. James L. Connaughton expressing his appreciation to the Speaker during his visit to the Commonwealth.

There was no discussion under this Item.

REPORTS OF STANDING COMMITTEES

S. C. R. NO. 16-57: Reporting on H. B. NO. 16-119, entitled, "To reappropriate \$60,000 from the Office of the Resident Representative to the United States' FY 2008 Budget to fund the November 4, 2008 Election for the CNMI Delegate to the U.S. House of Representatives; and for other purposes. *Your Committee on Ways and Means recommends that the House file H. B. NO. 16-119.*

S. C. R. NO. 16-58: Reporting on S. B. NO. 16-9, entitled, "To amend Section 4101 of Title seven of the Commonwealth Code relating to the computation of interest on judgments; to specifically assert the Commonwealth's Sovereign Immunity as it pertains to claims for post-judgment interest; and for other purposes." *Your Committee on Ways and Means recommends passage of S. B. NO. 16-9.*

S. C. R. NO. 16-59: Reporting on H. B. NO. 16-76, entitled, "To amend 2 CMC § 7181; and for other purposes." *Your Committee on Judiciary and Governmental Operations recommends passage of the bill in the form of H. B. NO. 16-76, HS1.*

S. C. R. NO. 16-60: Reporting on H. L. I. NO. 16-8, entitled, "To amend Article XII of the Constitution of the Northern Mariana Islands by adding a new Section 7 to allow each senatorial district to amend or repeal the restrictions on alienation of land with respect to its senatorial district.." *Your Committee on Natural Resources recommends that the full membership of the House shall decide upon the H. L. I. No. 16-8.*

S. C. R. NO. 16-61: Reporting on H. L. I. NO. 16-6, entitled, "To Amend Article III Section 9 of the Constitution of the Northern Mariana Islands to Require the Adoption of an Annual Budget". *Your Committee on Committee on Judiciary and Governmental Operations recommends that the House file H. L. I. NO. 16-6.*

S. C. R. NO. 16-62: Reporting on H. B. NO. 16-24, entitled, "To implement Article XI, Section 6 reporting by the Board of Marianas Public Land Trust; and for other purposes." *Your Committee on Judiciary and Governmental Operations recommends that the House file H. B. NO. 16-62.*

S. C. R. NO. 16-63: Reporting on H. B. NO. 16-29, entitled, "To provide for the efficient winding-up of large-scale business operations in the Commonwealth of the Northern Mariana Islands, and for other purposes". *Your Committee on Judiciary and Governmental Operations recommends that the House file H. B. NO. 16-29.*

S. C. R. NO. 16-64: Reporting on H. B. NO. 16-73, entitled, "To establish an attorney reciprocity program with the Territory of Guam; and for other purposes." *Your Committee on Judiciary and Governmental Operations recommends that the House file H. B. NO. 16-73.*

S. C. R. NO. 16-65: Reporting on H. B. NO. 16-74, entitled, “To amend 4 CMC § 3216 to establish an ‘inactive status’ period for the renewal of certificates or licenses; and for other purposes.” *Your Committee on Judiciary and Governmental Operations recommends that the House file H. B. NO. 16-74.*

S. C. R. NO. 16-66: Reporting on H. B. NO. 16-125, entitled, “To amend Public Law 15-46; and for other purposes.” *Your Committee on Judiciary and Governmental Operations recommends that the House file H. B. NO. 16-125.*

S. C. R. NO. 16-67: Reporting on S. B. NO. 16-26, SD1, entitled, “To amend section 3304 of Title 1 of the Commonwealth Code to reduce the salary of the Commonwealth’s jurists; and for other purposes.” *Your Committee on Judiciary and Governmental Operations recommends that the House file S. B. NO. 16-26, SD1.*

S. C. R. NO. 16-68: Reporting on H. L. I. NO. 16-2, entitled, “To amend Article III, Section 11 of the Constitution of the Commonwealth of the Northern Mariana Islands to authorize the election of an Attorney General; and for other purposes.” *Your Committee on Judiciary and Governmental Operations recommends that the House pass the initiative in the form of H. L. I. NO. 16-2, HS1.*

S. C. R. NO. 16-69: Reporting on S. L. I. NO. 16-10, entitled, “To amend Article X of the Constitution of the Commonwealth of the Northern Mariana Islands by amending Section 7 to require the reduction of government employment and to add a new section 10 to authority the Commonwealth to issue pension obligation bonds; and for other purposes.” *Your Committee on Ways and Means recommends that the House pass initiative in the form of S. L. I. NO. 16-10, HS1.*

The Chair recognized the Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. NO. 16-57 reporting on H. B. NO. 16-119.

The motion was seconded.

S. C. R. NO. 16-57: Reporting on H. B. NO. 16-119, entitled, “To reappropriate \$60,000 from the Office of the Resident Representative to the United States’ FY 2008 Budget to fund the November 4, 2008 Election for the CNMI Delegate to the U.S. House of Representatives; and for other purposes. *Your Committee on Ways and Means recommends that the House file H. B. NO. 16-119.*

Speaker Arnold Palacios: Discussion on the motion to adopt S. C. R. NO. 16-57, Representative Hofschneider.

Representative Hofschneider: Ready.

There was no discussion and the motion to adopt S. C. R. NO. 16-57 was carried by voice vote.

Speaker Arnold Palacios: S. C. R. NO. 16-57 is hereby adopted. Floor Leader.

Floor Leader Camacho: Mr. Speaker, a motion to adopt S. C. R. NO. 16-58 reporting on S. B. NO. 16-9.

S. C. R. NO. 16-58: Reporting on S. B. NO. 16-9, entitled, “To amend Section 4101 of Title seven of the Commonwealth Code relating to the computation of interest on judgments; to specifically assert the Commonwealth’s Sovereign Immunity as it pertains to claims for post-judgment interest; and for other purposes.” *Your Committee on Ways and Means recommends passage of S. B. NO. 16-9.*

Speaker Arnold Palacios: The motion is to adopt S. C. R. NO. 16-58 reference S. B. NO. 16-9, and it has been seconded. Discussion on the motion. Representative Hofschneider.

Representative Hofschneider: Can we have the chairman of the committee to briefly tell us what this is going to achieve.

The Chair recognized Representative Yumul.

Representative Yumul: Short recess, Mr. Speaker. This was put in the committee just a few weeks ago and I want to gather my thoughts.

Speaker Arnold Palacios: Short recess.

The House recessed at 9:10 a.m.

RECESS

The House reconvened at 9:20 a.m.

Speaker Arnold Palacios: We are back to our session. Representative Hofschneider, you had the floor.

Representative Hofschneider: I rest, Mr. Speaker, until we get to the Bill Calendar.

Speaker Arnold Palacios: Representative Sablan, do you still have some concerns?

Representative Sablan: Yes, Mr. Speaker, and this is with respect to the Committee Report. A very similar bill had been introduced earlier by Representative Santos that would have resulted in actually more cost savings for the government and that is H. B. NO. 16-80. I just wanted to clarify from the Chairman and the Committee if they had done any kind of comparison, and if they had considered the provisions in H. B. NO. 16-80 and what the basis, if they did consider it, for not accepting some of the provisions which would have made some sense, I think, to this bill.

Representative Yumul: The issue here is the difference between simple interest and compound. We are not discussing reduction of interest. That is not the question before the committee. Representative Santos’ legislation can still move forward because it deals with interest in and of itself whether we want to peg it at three percent. So there is still validity to her legislation. This legislation that was put forth by the Senate is to clarify whether the intent of the exiting code is simple interest or compound interest.

Representative Sablan: But Representative Santos' bill is the same thing and also specifies that it should be simple interest at a lower interest rate. I think my understanding of the Senate bill is that the intent is to limit the government's liability. And so if that is the intent, then it would also make sense to limit the interest rate.

Speaker Arnold Palacios: Perhaps we should just move forward with the Committee Report and place the bill on the Bill Calendar. We will leave the bill on the Bill Calendar and the committee will and even Representative Santos or you, Representative Sablan, could amend the legislation to include appropriate provisions that Representative Santos' bill allotted. Is there any further discussion? Ready?

There was no further discussion, and the motion to adopt S. C. R. NO. 16-58 was carried by voice vote.

Speaker Arnold Palacios: The motion carries and S. C. R. NO. 16-58 is hereby adopted. Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. NO. 16-59 reporting on H. B. NO. 16-76.

The motion was seconded.

S. C. R. NO. 16-59: Reporting on H. B. NO. 16-76, entitled, "To amend 2 CMC § 7181; and for other purposes." *Your Committee on Judiciary and Governmental Operations recommends passage of the bill in the form of H. B. NO. 16-76, HS1.*

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

Representative Babauta: Mr. Speaker, I would like to state my position to the committee chair and members for allowing this bill to move forward in the committee and eventual passage by the House. Thank you very much.

Speaker Arnold Palacios: Representative Hofschneider – short recess

The House recessed at 9:25 a.m.

RECESS

The House reconvened at 9:26 a.m.

Speaker Arnold Palacios: We are back in session and the motion on the floor is for the adoption of S. C. R. NO. 16-59.

There was no discussion and the motion to adopt S. C. R. NO. 16-59 was carried by voice vote.

Speaker Arnold Palacios: The motion carries and S. C. R. NO. 16-59 is hereby adopted by the House. I hereby call for a short recess.

The House recessed at 9:23 a.m.

RECESS

The House reconvened at 9:24 a.m.

Speaker Arnold Palacios: We have several more committee reports. As I have stated we would leave the rest on the calendar for now and move on to Resolution Calendar because we have an engagement at 10:45 a.m. Representative Hofschneider, recognized.

Representative Hofschneider: Mr. Speaker, may I ask the indulgence of the members to go back to Introduction of Bills.

Several members voiced “no objection”

INTRODUCTION OF BILLS

Speaker Arnold Palacios: Without objection, we are now under Introduction of Bills and I recognize Representative Hofschneider.

Representative Hofschneider introduced the following:

H. B. NO. 16-206: A Bill for an Act to authorize the Department of Public Lands to pay for land compensation judgments using its operations fund bank accounts by amending 1 CMC § 2803(c)(3); and for other purposes.

Offered by: Representative Heinz S. Hofschneider

Representative Hofschneider: Mr. Speaker, in my discussion with DPL, they have a few millions of dollars, but the reluctance of the Administration and the position of DPL unless we authorize it by law that they may in fact be able to use some of the incomes because it is specifically mandated and pointed out in Article XI of the Constitution that land exchanges is part of their responsibility. We are just redefining it and authorizing the use of those funds and perhaps we can reimburse them at a later date. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Thank you.

Representative Hofschneider: I would like to request that this be put on the calendar for today.

Speaker Arnold Palacios: Can you take note, Floor Leader. Clerk, please let the record show that the Vice Speaker is present. We move down to Resolution Calendar.

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

Speaker Arnold Palacios: Floor Leader.

Floor Leader Camacho: A motion to adopt H. COMM. RES. 16-57 reference to Mr. Frank Pangelinan Bokonggo.

The motion was seconded.

H. COMM. RES. 16-67: A HOUSE COMMEMORATIVE RESOLUTION CONVEYING THE SINCERE CONDOLENCES AND SYMPATHY OF THE HOUSE OF REPRESENTATIVES, SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE, TO THE BEREAVED FAMILY OF THE LATE FRANCISCO MATAGOLAI PANGELINAN "BOKONGGO" ON THE OCCASION OF HIS UNTIMELY PASSING AND PAYING TRIBUTE TO HIS FOND MEMORY.

Speaker Arnold Palacios: Discussion. Representative Benavente.

Representative Benavente: Mr. Speaker, I know that we are not opposed to this Resolution. As a matter of fact I am sure that we would all agree and support this Commemorative Resolution. But I stand to be corrected because I believe that in order that a commemorative resolution is allowed to be presented prior to the action is to have a majority of the members signing off on the resolution. No? As I said, I stand to be corrected but if that is not in the House Rules then I hope that we do put that back in the House Rules because... (*End of Tape 1 side A*)

(*Start of Tape 1 side B*)

Speaker Arnold Palacios: I understand your concern, but let me clarify. Representative Benavente, I hope I did not offend the members of the House. This is a commemorative resolution to express the condolences and sympathy to the family and Representative Torres was pressed for time. He had the commemorative resolution. I met with him on Friday and we could not gather most of the members and I took it upon myself to ask the Clerk that this Commemorative Resolution be presented as a Committee of the Whole. I hope you do not have any objection to that. But, certainly your concerns are well taken. Representative Babauta.

Representative Babauta: So that I appease my good colleague, on that morning when Representative Torres presented that Resolution, he publicly announced that it was endorsed by him and ten other members.

Speaker Arnold Palacios: But it is actually by the Committee of the Whole.

Representative Ralph Torres: Ten?

Representative Babauta: That is what you said in church, right?

Representative Ralph Torres: No, I said the whole 16th Legislature.

Speaker Arnold Palacios: It was presented as a Committee of the Whole.

Representative Hofschneider: Mr. Speaker, I echo Representative Benavente. If it is not in the Rule, then I suggest that the Floor Leader, Mr. Speaker, takes a look at the procedures and the protocol of commemorative resolutions versus the House resolution which is concurred by the entire members. It is in fact somewhat loose. A person recognition on commemorative resolution is not innocuous, but if one or two members commits the House is a commemorative resolution fashion that has far more greater impact in terms of the responsibility of this House, there is no way that you can recuse yourself after being committed by two persons of the members of the House. I agree with Representative Benavente pointing out the protocol and the authority of a commemorative resolution.

Speaker Arnold Palacios: So noted. Floor Leader, please take note of that. Representative Babauta, recognized for the last time.

Representative Babauta: Mr. Speaker, the 16th House have extended all that power and authority to the Chair, so be mindful of that.

Speaker Arnold Palacios: Thank you. I remember that I gave that to my Speaker in the 13th Legislature. So we move on. Floor Leader.

There was no further discussion and the motion to adopt H. COMM. RES. 16-67 was carried by voice vote.

Speaker Arnold Palacios: The motion carries and H. COMM. RES. 16-67 is hereby adopted. Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. J. R. NO. 16-8 reference to the Guam resolution.

The motion was seconded.

S. J. R. NO. 16-8: A SENATE JOINT RESOLUTION TO EXPRESS THE GRATITUDE OF THE PEOPLE OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS FOR THE RECENT STATEMENTS OF SUPPORT OF THE COMMONWEALTH'S POSITION CONCERNING ANY DESIGNATION OF A MARINE MONUMENT IN THE WATERS ADJACENT TO THE COMMONWEALTH MADE ON BEHALF OF THE PEOPLE OF GUAM BY THEIR ELECTED REPRESENTATIVES.

There was no discussion and the motion to adopt S. J. R. NO. 16-8 was carried by voice vote. Representative Sablan voted no.

Speaker Arnold Palacios: The motion carries, S. J. R. NO. 16-8 is hereby adopted by the House.

Representative Sablan: Mr. Speaker, just for the record, I would like to request that the record show that I voted no for this resolution for obvious reasons, but also I am a little bit bewildered by the Guam Senate decision to weigh in on an issue that affects the Marianas. I am not quite sure what they were attempting to do.

Speaker Arnold Palacios: I understand. Floor Leader, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt H. J. R. NO. 16-21 in reference to immigration employees.

The motion was seconded.

H. J. R. NO. 16-21: A HOUSE JOINT RESOLUTION TO REQUEST THAT THE U.S. DEPARTMENT HOMELAND SECURITY ENSURE THAT PRIORITY HIRING CONSIDERATION BE GIVEN TO COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IMMIGRATION EMPLOYEES AND UNITED STATES CITIZEN AND NATIONAL APPLICANTS RESIDING IN THE CNMI CONSISTENT WITH THE MANDATE OF PUBLIC LAW 110-229.

Speaker Arnold Palacios: The motion for the adoption of H. J. R. NO. 16-21 has been seconded. Discussion on the motion, Representative Hofschneider.

Representative Hofschneider: I support the resolution, Mr. Speaker, but in reality and in terms of practical approach we have very little influence as to amending federal regulations, specifically for our specific needs as opposed to amending the regulation for the entire national concern. So, with that I am fully aware that perhaps the reality of things that we continue to express to our local immigration employees may not be totally be up front. If in case, Mr. Speaker, that we do not have the luxury of time on our side before our Delegate-elect Gregorio Sablan can be effective to some degree in getting some accommodations for our concerns through this resolution, this is the reason why that severance package accommodating a majority of the needs of those employees at the Division of Immigration impacted by PL 110-229. With that, Mr. Speaker, I think that it is also in line that the impact of the federal law on those employees be also brought up with out Delegate-elect so that other jurisdiction -- other jurisdictions have gotten compensation for impacts created by federal laws, and this is not different and I think that we should be advocating in that direction too.

Speaker Arnold Palacios: Thank you. Representative Benavente.

Representative Benavente: If we remember, a majority of the employees of the Division of Immigration were up here meeting with us and asking us for assistance somehow because of the uncertainly of the situation that they are in right now because of PL 110-229. Mr. Speaker, there are provision and mandates in the federalization law that take into consideration the employees presently working at our Division of Immigration. Their administration through Director Mel Grey sent several correspondences to Homeland Security communicating those provisions of the public law and requesting response from them as to how Homeland Security is to deal with the current employees and how they plan to implement the law based on the mandate of PL 110-229. And from what we heard during that meeting, the Director told us that there had been no response from Homeland Security and there were those of us who felt that it was because of the lawsuit presently. We decided then that one of the ways that we as members of the legislature can assist is to take those correspondences, put it in a joint resolution form and send it off to Homeland Security for their consideration. I agree, I do not know what impact this may have but at the time when we met and at the time when the task force on federalization met and discussed this with Mr. Grey and other employees of the Division of Immigration, they supported and agreed with the intent of the joint resolution to basically kind of just do something rather than just sit back and wait for something to happen. Once again, I believe, if the lawsuit was not there that there would have been a response from the correspondence made, there might even be some acknowledgment to some of the provisions as pointed out in those correspondence. But, since there is nothing, this is what we feel as

members of joint task force of the House and Senate was necessary at the least we can do as members of the legislature. Thank you.

Speaker Arnold Palacios: Representative Apatang.

Representative Apatang: Thank you, Mr. Speaker. I support this resolution. We have met with the employees of the Division of Immigration last month. We were aware the situation is coming up and we should have done this a long time ago. But, we sat on this. I introduced a bill in the House to help these people and we sat on it until I started getting lopsided on this side of the House, pissed off about it because we were not doing anything. Anyway even though it is kind of late because I know that people are being tested for positions for immigration officers beginning December, it is something that we can try and let it go and see what is going to happen. Maybe they can reconsider their position. So I wholeheartedly support this resolution. Thank you.

Representative Hofschneider: Just briefly because I think Representative Santos has been raising her hand, Mr. Speaker. You have a uni-focal not bifocal vision on the floor. This is the hypocrisy of island politics. Someone is trying to cook a meal and someone is standing and fanning the fire while someone is hosing it down at the same time, and the lawsuit in respect. Thank you.

Speaker Arnold Palacios: Representative Santos.

Representative Santos: Mr. Speaker, after we met with personnel and folks from the Department of Labor I was scheduled to go to Hawaii and I did. I managed to meet with a David Gullick, he is a resident director for United States citizenship and Immigration services. Just so that you know, it took me a day and a half to track this guy down. The red tape was unbelievable and I can imagine the implementation of the federal immigration here and how hard it is to get through. Anyway, I met with him and he had no clue as to what the priority is, what the federal government is planning to do as far as prioritizing the employment of our local immigration officers. He did give me some information to talk to some folks in DC but, apparently, they are very hesitant to talk to us. For whatever reason maybe, like Representative Benavente said, it has to do with the lawsuit. Nevertheless, it is going to be an uphill battle for the CNMI.

Speaker Arnold Palacios: Representative Sablan, recognized for the last time.

Representative Sablan: Thank you, Mr. Speaker. I actually just wanted to ask for some time to read this resolution. We just received it a few minutes ago. It has been circulated, the members have been talking about it and I try to listen to members and read the resolution at the same time.

Speaker Arnold Palacios: Short recess.

The House recessed at 9:43 a.m.

RECESS

The House reconvened at 9:50 a.m.

Speaker Arnold Palacios: We are back to our session. The author had advised me that he had to leave briefly, but we can continue deliberation. Representative Sablan, you have some concerns.

Representative Sablan: Sure. It is unfortunate that Representative Benavente is not here but perhaps the other authors of the resolution could weigh in and answer some of my concerns. The first is that U.S. Public Law 110-229 does provide for priority hiring for U.S. citizens and nationals residing in the CNMI, not specifically for CNMI Immigration employees. So I wanted to ask if we can clarify that in this resolution, unless the intent of the resolution is to specifically ask for priority hiring just for immigration employees.

Speaker Arnold Palacios: What is your recommendation?

Representative Sablan: I am not sure what the intent is. Is it to ask that Homeland Security fulfill the mandate that is specifically stated within the law, or to ask that they go beyond that and prioritize also immigration employees, give them, I guess added preferential points? It is not clear to me what we are asking here.

Speaker Arnold Palacios: Are you referring to line 16 of page 2?

Representative Sablan: Page 2, lines 16 thru 18, but also in the "Be it Resolved" clauses. On the one hand it sounds like we are asking for special priorities to be given to CNMI Immigration employees, and not just priority hiring to given to qualified U.S. citizens and nationals living in the CNMI. So, we are not just asking them to fulfill that mandate that is in the law, we are asking to go beyond that and give special priority to the people employed at the CNMI Immigration Division.

Speaker Arnold Palacios: I think that is the intent of the joint resolution to ask Homeland Security to give consideration to the local Immigration employees presently employed beyond the requirement of the law.

Representative Sablan: Okay.

Speaker Arnold Palacios: I believe that is the intent of Representative Benavente's joint resolution. Representative Hofschneider.

Representative Hofschneider: If you read page 2, line 17 beginning with Public Law 110-229 and the sentence says, as they do not give any priority consideration to local immigration employees – and then you jump over to page 3 – what it is asking is the factors to be considered shall include but not limited to waiver of the 37-year old rule limitation; two, recognition of CNMI immigration employees in meeting GS-7 experience; and three, removal of the physical testing and training requirements for current CNMI Immigration employees as to be consistent with federal employees. So that is clear, Mr. Speaker, that the intent is to seek waiver, at a minimum, since they do not give any priority consideration under PL 110-229.

Representative Sablan: I guess it would be inaccurate for us say that the requirements and procedures are inconsistent with the mandate of Public Law 110-229, because Public Law 110-229 does not say specifically that CNMI Immigration employees should be given consideration. Just so that is clear, that we are asking for Homeland Security to go beyond that I would like to ask that we delete that that "Whereas" clause on line 16 through 18.

Speaker Arnold Palacios: Do you want to make the proper motion?

Representative Sablan: Sure, I move to delete lines 16 through 18 on page 2.

The motion was seconded.

Speaker Arnold Palacios: The motion has been seconded. I recognize Representative Hofschneider under discussion.

Representative Hofschneider: I think, Mr. Speaker, that it is not inconsistent with the request on page 3. In fact, PL 110-229 is an afterthought of the National Immigration Act. And everyone that we have met and gave us briefings in this Chamber considers it to be an extension, but not necessarily a template of the current Immigration Act. And for that reason that the afterthought of now some of the obvious that it did not give consideration when you have a jurisdiction like the Commonwealth for the longest time controlling its own immigration affairs and the application of the US Immigration Act, should at a minimum, Mr. Speaker, consider the existing institution emplace to be affected by PL 110-229. But to find the answer to that, I think we heard it too from the federal officials that when they were in the US Senate committee seeking assistance from representatives from the Commonwealth to work on appropriate language and concerns, nobody came. So it is not consistent partly because of our fault as leaders of the Commonwealth not being able to present ourselves to work on that PL 110-229 when it was in the US Senate. The fact of the reality is and even with this legislature, there is a rule in the Constitution that you cannot legislate for a few. It has to benefit a majority. Unfortunately, all we are seeking is consideration for employees that are impacted, realistically and factually, by PL 110-229. I think that there is no argument to be made that it is not consistent with the intent of PL 110-229 that it did not give priority, because it did not give priority, and this joint resolution is asking for consideration as a result of the uniqueness of this jurisdiction managing its immigration affairs for over 20 years at a minimum. Today, if you look at FOX News and CNN they are bailing out the three large car manufacturers. The point is they are bailing out for benefit packages of employees not the ability to survive manufacturing. Here is a spec of sand argument and we cannot articulate what we need in consideration of the human side of the impact of PL 110-229.

The Chair recognized Representative Apatang.

Representative Sablan: Mr. Speaker, I believe I still have the floor. Just to respond.

Representative Apatang: I believe I have the floor. Thank you, Mr. Speaker. The title of this joint resolution is to request that the priority of hiring should be considered to CNMI Immigration employees. So we are actually requesting. We are not trying to tell these people that we are mandating them to do this. We are asking them for a waiver, to reconsider that decision. In the Federal Government, regardless of what department, they have waiver provisions. Even if you are going to join the military, there are provisions of waiver. If you have some kind of case, you have more dependents or something, you can always request for a waiver. So that is what we are doing for our people here. We are asking for reconsideration. There is nothing wrong with that. If they reconsider their position, fine. If they do not, there is nothing we can do, but let us try it. We have been waiting for this and we keep sitting here arguing about it. Let us get something going. Like I said, when the bill was on the floor, some disagree because we do not want to retain them, that it is too costly, and that there is no money. So let us fight for these people and for the Federal government to help us. Thank you.

Speaker Arnold Palacios: Representative Santos, recognized.

Representative Santos: Thank you, Mr. Speaker. The “Whereas” clause that Representative Sablan pointed out on page 2 does point to the fact that the hiring process contradicts the findings in PL 110-229 as far as the hiring process. There is a priority of people to be hired, and if we could just look at that which is also reiterated in the GAO Report on the particular findings and the implementation of PL 110-229. I think it is correct and that paragraph should stand. That is where this joint resolution comes in. I forgot the priority listing, but there is a list of US citizens, qualified immigration personnel, and the list goes on. I think it also goes on to permanent residents and local folks within the CNMI. But, for purposes of clarification, I would suggest that we go back to the law itself, including the GAO Report. This particular paragraph is still consistent with what is going on right now.

Speaker Arnold Palacios: Let us take a short recess and allow our legal counsel to make that clarification.

Representative Aldan: Before you do that, Mr. Speaker, can I be recognized that I am present.

Speaker Arnold Palacios: You are recognized and the Clerk has noted it down. Representative Sablan, I am going to give you a last crack before we get clarification.

Representative Sablan: Thank you. I am not saying there is anything wrong with asking for Homeland Security to give consideration to Immigration employees that are presently employed in the CNMI. That is fine. I am just saying that we need to be clear in this resolution what we are asking for. So I would like to suggest rather than deleting that “Whereas” clause on page 2, we amend it so that we are not inconsistent with what is actually said in PL 110-229. So it should read, “Whereas, the requirements and procedures in place for hiring under this job announcement” cross out “appear to be inconsistent with the mandate of Public Law 110-229 as they” and just say “under this job announcement do not give priority consideration to local CNMI Immigration employees” and then the rest of that should remain.

Speaker Arnold Palacios: Short recess.

The House recessed at 10:05 a.m.

RECESS

The House reconvened at 10:10 a.m.

Speaker Arnold Palacios: We are back in session. Representative Sablan, can you restate your motion to amend?

Representative Sablan: Thank you. Could I also include in my motion some minor technical amendments?

Speaker Arnold Palacios: Sure.

Representative Sablan: So I move to amend this joint resolution on the first page, line 5 cross out “now” and insert between “full” and “union” the word “political”. So it should read: “WHEREAS, the CNMI is a permanent part of and in full political union with the United States; and.” On line 7, insert the word “political” before the word “union”, and then on page 2, line 17, cross out “appear to

be inconsistent with the mandate of Public Law 110-229”, and on page 3 line 19, strikeout the “s” after “citizens” and “nationals” so it should read, “United States citizen and national applicants for jobs...”. That is all.

The motion was seconded.

Speaker Arnold Palacios: Is everybody clear with the amendments by Representative Sablan? I recognize Representative Deleon Guerrero for further discussion.

Vice Speaker Deleon Guerrero: On page 2, “appear to be inconsistent with the mandate of Public Law 110-229” is stricken out. If you reread that, it does not quite come back and marry successfully.

Representative Sablan: Oh, I am sorry. It should read, “Whereas, the requirements and procedures in place for hiring under these job announcement do not give any priority consideration to...”.

Vice Speaker Deleon Guerrero: That is much better.

Representative Sablan: Alright, so it should go on for the rest of that sentence.

Speaker Arnold Palacios: So it is just the rest of that sentence.

Representative Sablan: I stand corrected. Yes.

Speaker Arnold Palacios: Clarified? Are you ready for the question?

There was no further discussion, the motion to amend as offered by Representative Sablan was carried by voice vote.

Speaker Arnold Palacios: The motion carries. We are back to the main question. Are you ready?

There was no further discussion and the motion to adopt H. J. R. NO. 16-21, House Draft 1 was carried by voice vote.

Speaker Arnold Palacios: The motion is carried and H. J. R. NO. 16-21, HD1 is hereby adopted by the House. Representative Deleon Guerrero.

Vice Speaker Deleon Guerrero: Thank you, Mr. Speaker. Mr. Speaker, I would like to ask the indulgence of the Speaker and the members if I can be allowed introduce a bill and that we go back to Item 3 on the Agenda.

There was no objection from the Floor.

Speaker Arnold Palacios: There being no objection, we go back to Item 3.

INTRODUCTION OF BILLS

Speaker Arnold Palacios: Please proceed.

Vice Speaker Deleon Guerrero: Thank you.

H. B. NO. 16-207: A Bill for an Act to amend 3 CMC 4340 by adding subsections (m) and (n) to allow the civil deportation of aliens charged with unlawful trafficking or possession of controlled substances.

Offered by: Representative Joseph P. Deleon Guerrero and one other

Referred to: Committee on Judiciary and Governmental Operations

Vice Speaker Deleon Guerrero: This does not have to act on today, and I welcome any co-author. Thank you.

Speaker Arnold Palacios: Thank you. We move down to Bill Calendar.

BILL CALENDAR

Speaker Arnold Palacios: Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to pass on Final Reading H. B. NO. 16-135, House Substitute 1 in reference the autism commission.

The motion was seconded by several others.

H. B. NO. 16-135, HS1: A BILL FOR AN ACT TO ESTABLISH A COMMONWEALTH AUTISM COMMISSION TO DEVELOP A STATE PLAN TO GUIDE SERVICES FOR INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS; AND FOR OTHER PURPOSES.

Speaker Arnold Palacios: The motion is for the passage of H. B. NO. 16-135, HS1 and it has been seconded. Discussion on the motion. Representative Hofschneider, recognized.

Representative Hofschneider: Mr. Speaker, I would like to submit a letter that was furnished to me and Representative Sablan, but the letter is address to the Senate President from the Board of Education opposing the Autism Bill. For the record, I would like to submit this to be part of this journal and part of this legislation. Let me first, Mr. Speaker, state for the record the intent of this autism bill. It is merely to create a commission like any other state or jurisdiction that has engaged on autism, whether it is the state of Washington, Oregon, California and the rest of the nation. The first rule is the commission is charged with ascertaining, assessing the population and the degree of programs in existence and absent to deal with autistic kids and report recommendations to the legislature for consideration and adoption of the state plan in how to deal with autistic kids. As a backdrop I dispense with the pathological causes of autism potentially or possible. Scientists are beginning to just uncover it. Early childhood vaccinations, immunizations are one cause that they stipulate. There are pathological scientific proofs but not conclusive. Nonetheless, Mr. Speaker, local expertise, even national expertise, have concluded that autism is like a rainbow. It is a spectrum. You have visible light that you can see in the middle of the spectrum, physical impairment, physical characteristics and behavior are visible, but you cannot really see it, feel it, and on the other extreme, the infrared light, ultraviolet light in the rainbow spectrum that you cannot see. Microwave is one on the extreme end. You feel the heat, but you do not see it. In autism, the mild autistic kids go unchecked, undiagnosed and all the expertise that I have talked to and researched

agreed that if not diagnosed between the ages of two, three to four years maximum, management of these kids are daunting, huge. I am talking about the mild ones. On the other extreme of the rainbow, those that are obviously pronounced autistic impairment are significant burden not only to parents and families, but to the system emplace. For instance, if teachers are not trained properly and they only see the most obvious handicap or physical and mental impairment, they are only trained to look at that. I am talking about mental retardation. Special education is there. Down syndrome which is from birth and you look at the facial expression, you know immediately that that child is afflicted by Down syndrome. It is a chromosomal aberration that comes with physical or mental retardation or impairment. Schools, systems in place are readily available and capable of dealing with those impairments. Teachers are trained today. ADD now the public education and expertise are beginning to launch programs to deal with ADD. Frankly speaking, some of us exhibit it. My point, Mr. Speaker, is there are incidences on record that autistic kids sometimes behave belligerent and police officers misidentify as being intoxicated or under the influence of drugs and arrest them and do not know how to deal with them appropriately. In the court, a sitting judge if not engaged in this commission may not be appropriately educated to deal with autistic kids and their needs. Why is a kid misbehaving in classrooms for instance, gets kicked out of school. My point with the PSS's opposition or objection to this legislation confines itself to that section in their remarks stating that it is the domain of the Public School System, the Board of Education when it comes to education policy as written in the Constitution that the legislature is preempted from passing legislations, policy issues. This is a CNMI concern. This is not territorial dispute. They pointed out the lack of expertise, the lack of money – hello. That is why we are engaging in this commission so that we can bring it to a national level, perhaps then, the Federal Government through assistance may pass legislation that mandates insurance companies to also include autistic kids and parents. The cost benefit far outweighs the territorial disagreement of the Board of Education. This is why education in the Commonwealth cannot get itself out of darkness. Institutional policies on public school education has to be revisited because it is either we are moving backwards or arrested to confined policies when the obvious is there, to confine arguments about territorial dispute on policymaking and the obvious is there. Fifty-eight in their opinion have been diagnosed with autism. I say, that is only the tip of the iceberg. All you need to do, members, is to sit for an hour with a parent and a child with autism and you will get to feel it in your heart, unless you are as cold as steel that you do not have that sensitivity, compassion, and care. Who are the best stakeholders? We, the institution that we call government? Are we the best stakeholders, or the parents themselves that are in that predicament. The preamble of the constitution is, We the people...for the people. And if we fail to see the greater picture of that definition of governance for the people, then it is quite obvious the argument about constitutionality of the territorial dispute and objection to policies being implied on the autism bill imposing membership on the commission of PSS. I say come join us for the greater good of parents and kids who are afflicted by autism. Do not oppose progress, and do not oppose care and compassion. Thank you.

Speaker Arnold Palacios: Representative Santos, recognized.

Representative Santos: Mr. Speaker, I will make this real quick. I have not seen the letter from the Board of Education, but I am looking at the bill right now and PSS is part of the membership. They are part of the interagency cooperation of this commission, and the commission has great intent. We do have a parent and folks from NMPASI (Northern Marianas Protection and Advocacy Systems, Inc). in the Gallery. This is a real issue in the CNMI. These kids need special help and I urge all the members to vote yes on this Bill. Thank you.

Speaker Arnold Palacios: Representative Torres, recognized.

Representative Ralph Torres: I will also make it quick. I would just like to echo that these kids are the kids that really do need special attention. I do know that every kid needs attention, but these kids have special needs. I know how it feels to have a family member that really does need special attention. I commend the parents who are here, and those who are not present in the Gallery during this session. And I also urge the members to support this bill. Thank you.

Speaker Arnold Palacios: Representative Palacios, recognized.

Representative Raymond Palacios: Thank you, Mr. Speaker. I have experience this at NMPASI. I have a family member and have dealt with other individuals with mental illness and believe me, it is very hard to deal with these individuals. I have dealt with individuals with other disabilities, but none so alarming and very difficult to deal with the needed immediate attention and I believe this bill is the answer. Those of who oppose or leaning to opposing this bill, believe me, I have no experience whatsoever dealing with this type of disability, but parents are really striving, struggling caring for individuals with this type of disability, it is unlike caring for any other disability. Like I said, I worked for NMPASI, I have dealt with other disabilities, and I have seen families, these individuals with autism. I believe the only reason why PSS probably is opposing this is because they know that to deal with these individuals is very difficult. And I guess, they probably do not want to go through that experience. But, I am encouraging and urging the members to please support this bill.

Speaker Arnold Palacios: One last remark by Representative Salas.

Representative Salas: Mr. Speaker, I just want to concur with everything that has been said and move to end debate.

Several members voiced, “Ready.”

Speaker Arnold Palacios: Okay.

Representative Babauta: Mr. Speaker – that is okay, next time.

Speaker Arnold Palacios: With all due respect, I will give Representative Babauta a minute.

Representative Babauta: I am in full support of this legislation, so let us move on.

Speaker Arnold Palacios: Representative Tebuteb, are you going to say the same thing.

Representative Tebuteb: Yes. I have not read the letter by the Public School System, but I am more curious of any resolution that they submitted in that letter if they had any other than what is constitutionally unbinding as they seem to suggest. I would like to see more of the letter. Thank you. Let us move on.

Speaker Arnold Palacios: Thank you. Clerk, please call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 16-135, HS1 on Final Reading which resulted as follows.

Representative Edwin P. Aldan	yes
Representative David M. Apatang	yes
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	absent (during voting)
Representative Joseph N. Camacho	yes
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	absent (excused)
Representative Heinz S. Hofschneider	yes
Representative Raymond D. Palacios	yes
Representative Justo S. Quitugua	absent (excused)
Representative Joseph C. Reyes	absent (excused)
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: By a vote of sixteen “yes,” H. B. NO. 16-135, House Substitute 1 hereby passes the House on Final Reading. Floor Leader, would like to suspend rules so that we can place bills on the Calendar.

Floor Leader Camacho: Mr. Speaker, perhaps if we are not going to act on them we can place them for the next session.

Speaker Arnold Palacios: Can we do that.

Floor Leader Camacho: We can do that between sessions, if that is more amenable. I believe certain members are showing me there is a time – thank you, Mr. Speaker. First I would like to move to suspend the rules so that we can place several on the Bill Calendar. That is a motion.

The motion was seconded and carried by voice vote.

Speaker Arnold Palacios: Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. Maybe it is easier to make a string of a laundry list here on the bills. I would like to make a motion to place H. B. NO. 16-199, H. B. NO. 16-205, and H. B. NO. 16-206 in reference to DPL. I hope I listed them out, but I will do it again: H. B. NO. 16-199 in reference to AAFES, H. B. NO. 16-205 in reference to PL 16-17 and H. B. NO. 16-206 in reference land compensation. Representative Yumul keeps kicking me under the table to include H. B. NO. 16-204. I guess we can entertain him.

Speaker Arnold Palacios: What is H. B. NO. 16-204?

Floor Leader Camacho: H. B. NO. 16-203, I apologize, the flat tax bill.

Speaker Arnold Palacios: Can we please refer that to the committee. What is H. B. NO. 16-205?

Floor Leader Camacho: That is in reference to Public Law 16-17, the CUC Privatization.

Speaker Arnold Palacios: Let us take a two-minute recess.

The House recessed at 10:34 a.m.

RECESS

The House reconvened at 10:35 a.m.

Speaker Arnold Palacios: We are back in session. Floor Leader.

Floor Leader Camacho: Mr. Speaker, I apologize, some of the bills are introduced unnumbered and since clarified. Let me renew my motion. I move to place on the Bill Calendar H. B. NO. 16-199, H. B. NO. 16-201, H. B. NO. 16-202, and H. B. NO. 16-206.

The motion was seconded and carried by voice vote.

Speaker Arnold Palacios: The motion carries and the four bills are now placed on the Calendar. The House has an engagement at eleven o'clock, so I am ready to wrap it up for the day.

ANNOUNCEMENT

Speaker Arnold Palacios: We will have a luncheon party for the Legislature and the Legislative Bureau on Monday. So make sure that we are here on Monday for lunch. Any other announcement? Representative Santos.

Representative Santos: Mr. Speaker, I had the privilege and the honor to accompany the Vice Speaker to the 49th Board of Directors APIL Meeting in Majuro. I was able to sit in as a director because Senator Maria Pangelinan was not able to make it. She wrote a letter for me to sit in as her proxy and the Rules of APIL do allow that. In any event, I introduced a resolution on the use of plastic bags in the CNMI and I was pleasantly surprised that because the word “ban” was not included in the resolution that the FSM States of Kosrae, Palau and the Marshall Islands asked to amend my resolution to include banning. And they are moving in that direction. So I think it is appropriate at this time to ask the Chair on Natural Resources to report out on H. B. NO. 16-166 for the environmental benefits of the CNMI. Thank you. And before I forget, I would like to thank Barbara Sasamoto from Senator Inouye’s office in Hawaii. She facilitated my meeting with David Gullick at Homeland Security. Thank you.

Speaker Arnold Palacios: I made a point when I appointed members to APIL to make sure that the 16th Legislature gets from our APIL Delegates. I know that Representative Babauta, our former Speaker is still for his representatives’ report. But, I am confident that you will be submitting a report from the APIL meetings.

Vice Speaker Deleon Guerrero: Yes, Mr. Speaker, I will submit it next year.

ADJOURNMENT

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

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adjourn subject to your call, and Merry Christmas, if we do not see the members prior.

Speaker Arnold Palacios: I hope to see you all on Monday.

The motion to adjourn subject to the call of the Chair was seconded and carried by voice vote.

The House adjourned at 10:40 a.m., subject to the Call of the Chair

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:

THIRD APPEARANCE:

APPENDAGE TO THE JOURNAL
Submitted By Representative Hofschneider
A Letter to Senate President Pete P. Reyes from the Public School System
With Regards To H. B. NO. 16-135.

December 10, 2008

Honorable Pete P. Reyes
President
The Senate
16th Northern Marianas Commonwealth Legislature
Saipan, MP 96950

Subject: BOE Comments on HB No. 16-135

Dear Mr. President:

The CNMI State Board of Education has established the BOE Standing Committee on Legislative and Intergovernmental Affairs ("the Committee") to review proposed bills and recommend to the Board appropriate comments and action regarding that legislation. The Committee met on December 10, 2008 and offered the following comments on **H. B. NO.** No. 16-135. The comments will be presented to the full Board of Education at their upcoming Board meeting. The comments of the Committee are as follows:

INTRODUCTION

H. B. NO. 14-135: To establish a Commonwealth Autism Commission to develop a state plan to guide services for individuals with Autism spectrum disorders; and for other purposes.

First and foremost, the Committee commends the efforts of the parent advocate group that has brought this matter to the attention of the legislature. Parent advocates are an important resource in the overall business of educating and nurturing the children of the Commonwealth. The Committee also commends the legislature for taking a step in the right direction in proposing a bill to create a Commonwealth Autism Commission ("CAC"). However, several aspects of the bill are troublesome for the Committee. In its current incarnation, the Committee cannot recommend that the Board of Education support this bill.

COMMITTEE FINDINGS

A. Non-Inclusive

As in the other recent bills regarding autism, PSS must encourage a commission that addresses the needs of **all** special needs children and not just one group. The findings of the bill indicate that 58 students enrolled in the Public School System have autism. This number must be balanced with the

approximately 500 other special needs children that are also enrolled in our Public Schools.

B. Local and Federal Regulations

This bill seems to circumvent certain local and federal regulations of both education and governmental entities. For example, section 106 of the Bill proposes that CAC would not have to follow the administrative procedures act. The Committee is unsure as to why CAC would be able to exist outside channels of government that provide for checks and balances.

Additionally, the Committee cautions that CAC would still have to go through proper channels when requesting information from PSS regarding students. PSS must adhere to the Family Educational Rights and Privacy Act (FERPA) regardless of CAC's mandate to collect information. The Committee is concerned that this proposed bill does not safeguard local and federal laws.

C. Conflicts

The CAC does not and cannot dictate to PSS. Conflicts could arise because PSS already has policies and procedures in place regarding special needs children. Section 106 authorizes CAC to oversee and develop "a comprehensive plan for services for individuals". A conflict might arise here that the CAC work takes precedence over PSS and the work of special education department. With respect to its students, PSS must have control over the comprehensive plan for individual students as developed in a student's Individual Education Plan (IEP). The language of this section is a bit unclear as to whether the "comprehensive plan" should be for the plan of autism and not for individual IEPs.

In Section 107 it states that PSS "shall be required to participate in the development of a comprehensive plan and to comply with the interagency agreement". Based on the language of the bill, PSS is required to participate and comply with an unknown agreement. Here it is unclear as to what the "plan" and the "agreement" mean exactly. Again, the Committee questions whether this section conflicts with the autonomous mandate for PSS and the Board of Education.

The Committee also foresees conflicts between CAC and other agencies and committees within the Commonwealth that are dedicated to the advancement and welfare of autistic children. The concern here is that CAC would be duplicitous and, therefore, not a wise use of public funds. The Committee questions, "Why is this Commission different than already existing organizations?"

D. Composition of the Panel

The Committee questions the selection of the chairperson allowing only those who are "a representative from a non-profit Autism society" or the "three individual stakeholders." In addition, the chair is elected by a "majority of the commission members present and voting" and does not follow regulations regarding quorum in section 103. Those members present and

voting can then be only two people who are allowed to choose the chair. Furthermore, although the composition of the panel is at the discretion of the legislators, the Committee notes that the size of the panel is quite large. Frustration might occur in attempting for the panel to meet.

With regards to an appointee from PSS, whoever that PSS employee is, they will have additional work and responsibilities to create this plan and agreement in the next year in addition to their normal duties. The Committee's concern here is that many departments within PSS are already burdened with a heavy work load and are short staffed.

CONCLUSION

As stated above the intent to create a Commission to develop a state plan for Autistic individuals is commendable; however the CNMI Public School System cannot support these bills in the current form for the reasons stated.

Thank you for giving us the opportunity to comment on matters relating to the Public School System. If you should have any questions, please do not hesitate to contact us.

Sincerely,

(signed)
Lucia L. Blanco-Maratita
Chairperson, Committee on
Legislative Intergovernmental Affairs

(signed for)
Rita A. Sablan, Ed. D.
Commissioner of Education

cc: Representative Heinz Hofschneider
Representative Tina Sablan
BOE, Members