



House Journal

THIRD REGULAR SESSION, 2009

**Adopted:
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1st Day

Monday, January 12, 2009

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened in its First Day, Third Regular Session on Monday, January 12, 2009, at 9:46 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.

Speaker Arnold Palacios: Before I ask for a roll call, due to some maintenance problems with the air conditioning system I would like to extend our appreciation to the Senate President for allowing us to hold our Session in the Senate Chamber this morning.

The Clerk called the roll and seventeen members were present. Representative Stanley T. Torres came in late; Representatives Edwin P. Aldan and Victor B. Hocog absent and excused for the day's session.

ADOPTION OF JOURNALS

3rd Day, Second Special (4/25/2008)
1st Day, Third Special (5/1/2008)
1st Day, Fourth Special (5/15/2008)
2nd Day, Fourth Special (5/23/2008)
1st Day, Fifth Special (5/29/2008)
1st Day, Sixth Special (6/17/2008)
2nd Day, Sixth Special (6/18/08)
3rd Day, Sixth Special (6/23/08)

INTRODUCTION OF BILLS

H. B. NO. 16-208: A Bill for an Act to amend 3 CMC § 4972(b)(2)(i) to waive the two-year work experience for non-resident nursing graduates of the Northern Mariana College who are seeking employment at private medical clinics; and for other purposes.

Offered by: Rep. Justo S. Quitugua and one other
Referred to: Committee on Health, Education, and Welfare

H. B. NO. 16-209: A Bill for an Act to require all public officials to complete a government ethics code training program annually by amending Title 1, Division 8, Part 4, Chapter 1 of the Commonwealth Code; and for other purposes.

Offered by: Rep. Joseph N. Camacho

Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 16-210: A Bill for an Act to restructure the qualifying certificate program by repealing and reenacting the investment incentive act; and for other purposes.

Offered by: Rep. Rosemond B. Santos

Referred to: Committee on Commerce and Tourism

H. B. NO. 16-211: A Bill for an Act to prohibit the operation of poker machines on Saipan, Tinian, and Rota except for poker machines located at licensed casinos on Tinian and Rota; to reduce the corporate tax rebates to cover the loss of revenue from the poker machine licenses, which fund the scholarship programs; and for other purposes.

Offered by: Rep. David M. Apatang

Referred to: Committee on Ways and Means

H. B. NO. 16-212: A Bill for an Act to amends Section 7204(d) to of Title 1 of the Commonwealth Code pertaining to the hiring of employees during a period of Continuing Appropriations; and for other purposes.

Offered by: Rep. Ray N. Yumul

Referred to: Committee on Ways and Means

H. L. B. NO. 16-27: A Local Appropriation Bill for an Act for the Second Senatorial District to appropriate \$84,500.00 from the local license fees collected for pachinko slot machines and poker machines in the Second Senatorial District; and for other purposes. [*First Appearance*]

Offered by: Rep. Edwin P. Aldan

Speaker Arnold Palacios: I would like to ask for the members' indulgence to go back to Agenda Item 2, Adoption of Journals.

ADOPTION OF JOURNALS

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. Unless there is any objection, I would like to make a motion so that we can adopt all the Journals at one time that are on today's Agenda.

Several members voiced "no objection".

Floor Leader Camacho: I would like to read them out for the record. A motion to adopt 3rd Day, Second Special Session (4/25/2008), 1st Day, Third Special Session (5/1/2008), 1st Day, Fourth Special Session (5/15/2008), 2nd Day, Fourth Special Session (5/23/2008), 1st Day, Fifth Special Session (5/29/2008), 1st Day, Sixth Special Session (6/17/2008), 2nd Day, Sixth Special Session (6/18/08), and 3rd Day, Sixth Special Session (6/23/08).

The motion was seconded.

3rd Day, Second Special Session (4/25/2008)

1st Day, Third Special Session (5/1/2008)

1st Day, Fourth Special Session (5/15/2008)

2nd Day, Fourth Special Session (5/23/2008)

1st Day, Fifth Special Session (5/29/2008)
1st Day, Sixth Special Session (6/17/2008)
2nd Day, Sixth Special Session (6/18/08)
3rd Day, Sixth Special Session (6/23/08)

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

Representative Reyes: Mr. Speaker, just for correction purposes the 1st Day, Fifth Special Session is on May 29, 2008. Thank you.

Speaker Arnold Palacios: Thank you. Are there any further discussions? Representative Salas, recognized.

Representative Salas: Mr. Speaker, I was going to bring that up also.

Speaker Arnold Palacios: Ready.

Several members voiced “ready”.

The motion to adopt 3rd Day, Second Special Session (4/25/2008), 1st Day, Third Special Session (5/1/2008), 1st Day, Fourth Special Session (5/15/2008), 2nd Day, Fourth Special Session (5/23/2008), 1st Day, Fifth Special Session (5/29/2008), 1st Day, Sixth Special Session (6/17/2008), 2nd Day, Sixth Special Session (6/18/08), and 3rd Day, Sixth Special Session (6/23/08), was carried by voice vote.

INTRODUCTION OF RESOLUTIONS

H. COMM. RES. 16-68: A House Commemorative Resolution to recognize and congratulate Emmanuel College on its initial graduating class from the 11-month vocational nursing program.

Offered by: Rep. Justo S. Quitugua and one other

Speaker Arnold Palacios: I now order that H. COMM. RES. 16-68 be placed on the Resolution Calendar for today’s action, if there is no objection.

Representative Sablan: Point of clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point.

Representative Sablan: I believe we adopted a resolution at our last session that also commends and congratulates the Emmanuel College graduates, that is H. R. No. 16-70.

Speaker Arnold Palacios: Representative Quitugua, do you want to clarify that.

Representative Quitugua: That specific resolution is congratulating the graduates. This resolution is recognizing and congratulating the institution, which is the Emmanuel College.

Speaker Arnold Palacios: Is it clarified, Representative Sablan?

Representative Sablan: Yes.

Speaker Arnold Palacios: Okay.

MESSAGES FROM THE GOVERNOR

GOV. COMM. 16-297: (12/24/08) Informing the House that he disapproved H. B. NO. 16-169, HD9, SS1, CC3 (FY 2009 Budget Act). [*Deadline 2/22/2009*]

GOV. COMM. 16-298: (12/24/08) Informing the House that he signed into law H. B. NO. 16-159, HD2 (PSS-DPH Hiring of Foreign National Workers). [Became Public Law 16-26]

GOV. COMM. 16-299: (12/31/08) Certification for vacant position at the CHC, Department of Public Health.

GOV. COMM. 16-300: (12/31/08) Informing the House regarding Special Budget Message on Decrease in Revenue Estimates.

GOV. COMM. 16-301: (12/31/08) Enclosing the annual report for Fiscal Year 2008.

GOV. COMM. 16-302: (12/31/08) Executive Order 2008-22 – Declaration of a State of Disaster Emergency: CUC's Imminent Generation and other failure and the need to provide immediate reliable power during repairs, Continuation #5.

GOV. COMM. 16-303: (12/30/08) State of Emergency extension for Anatahan.

GOV. COMM. 16-304: (1/2/09) Certification for vacant positions at the Department of Public Health.

GOV. COMM. 16-305: (1/2/09) Certification for an annual salary in excess of \$50,000 for Dr. Michael Koning.

GOV. COMM. 16-306: (1/2/09) Certification for an annual salary in excess of \$50,000 for Dr. Michael Hart.

GOV. COMM. 13-307: (1/2/09) Certification for vacant positions at the Office of the Mayor of Tinian.

GOV. COMM. 16-308: (1/2/09) Informing the House that he signed into law H. L. B. NO. 16-23, S1 (Appropriation of \$141,700.00 from pachinko slot and poker machines licensing fees for the First Senatorial District). Became *Rota Local Law 16-5*.

GOV. COMM. 16-309: (1/7/09) Informing the House that he signed into law H. B. NO. 16-92 (Alcoholic Beverage Sale at Commercial Airports of the Commonwealth of the Northern Mariana Islands). [Became Public Law 16-27].

GOV. COMM. 16-310: (1/7/09) Certification for vacant position at the Department of Public Health.

Speaker Arnold Palacios: Before I proceed, I will call for a short recess.

The House recessed at 9:54 a.m.

*RECESS**The House reconvened at 9:55 a.m.*

Speaker Arnold Palacios: We are back to plenary session. Representative Hofschneider, recognized.

Representative Hofschneider: Thank you, Mr. Speaker and members. Relating to GOV. COMM. 16-297, informing the House that the Governor disapproved H. B. NO. 16-169, HD9, SS1, CC3 (FY 2009 Budget Act) on December 24, 2008, there are a couple of things Mr. Speaker and members that needs to be pointed out for the record. All throughout the budget process as the bill itself states, H. B. No. 16-169, House Draft 9 (“HD9”), it was amended on the floor nine times is what it means. Then a Senate Substitute 1 (“SS1”) substituted by the Senate once. When it went into the Conference Committee and came out in three different forms three different times (Conference Committee 3 (“CC3”). I think that is necessary to point out that the House and the Senate inspite of individual and collective objections to some of the language proposed went through the length and stuck it out and got a committee report in a form of third draft all in agreement, and by the way the record reflected that date, it was an unanimous vote, meaning, no one objected to it. All throughout the nine drafts, the Senate Substitute, and three conference committee report, the Executive Branch was part of this endeavor to get a budget out. Meaning, the Secretary of Finance was on many occasions, called in to clarify to give further information and to agree on a product, and he did so, even though it was tasking to take him away from his daily functions, he did so. I think that everyone desires to see a budget pass. Now, if you read the Governor’s Communication on the veto message, he had minor concerns about some sections of the bill, but two very crucial or requiring a constitutional consideration that is, on the twenty-fourth day, the last day appropriation bill in the Constitution sits before the Governor for consideration...twenty days. On the twentieth day he vetoed the bill, with two very obvious objections and concerns. One of them is that the revenue had declined with the anticipated or non-anticipated departure or pullout of Northwest Airlines from Osaka to the Commonwealth of the Northern Mariana Islands (“CNMI”). Two, the remaining garment industry operators were leaving or are expected to leave within this fiscal year. Those two amounted to over \$8 million of revenue shortfall or decline as he stated in his veto message. So let us take a moment to reflect, Mr. Speaker, two issues. Does the Legislature have the constitutional right to override the veto? I think unequivocally clearly without the Legislature has the constitutional authority to override a veto, whether it be the budget or any other bill. That is the domain of the Legislature and given specifically in the Constitution. Now the second question is, if the Legislature has the authority to override the veto the consequences of our actions to override does it amount to violation of the constitutional language and that it states specifically, the Legislature may not increase revenue identified by the Governor, and the answer is, no. This is not a violation of the Constitution, why, on two fronts. We did not increase the revenue by way of his action, it decreased the revenue because of the two conditions or facts used to equal over \$8 million. So we did not exceed the revenue identified by the Governor. Having said that, in retrospect let us look at what we did provided in the Constitution. Every April of the year, the Governor is required to submit a balanced budget proposal to the Legislature, he did so. Then the Legislature takes that balanced budget submitted in April and considers that. Also, the Constitution gives the Governor the authority to come back in July and submit a revision of the identified resources for appropriation, this is very important. The Constitution gives him one more chance to redo or submit a revenue revision that is, if the revenue he anticipates originally submitted to the Legislature in April. In July, he is required or takes the opportunity under the Constitution to revise that budget submission, he

did so. Now, the next logical question is, did we pass a budget on time by October 1st the answer is no. Is there a constitutional penalty for it? Does it dilute the constitutional authority of the Legislature? The answer is, no.

Speaker Arnold Palacios: Representative Hofschneider, before you continue. If there is no objection, I will allow members to go over the five minute rule so that we can express our concerns. This is a very important issue that we discuss it this morning in the House of Representatives. Okay.

Representative Hofschneider: I am almost done Mr. Speaker.

Speaker Arnold Palacios: Okay. Within reason.

Representative Hofschneider: Within reason, thank you. So we ask ourselves, what is the whole argument about overriding this veto? Well, the Constitution is silent on one aspect of that fast maneuver in the veto message. Consider this, that if the Governor vetoes it on the eleventh hour on the basis of factual knowledge that the revenue is to decline in the anticipated year for one reason or another, then consider future Governors using this quiet, whether it be called, authority or not but if we do not override then were permissive in allowing and condoning a practice that is silent in the Constitution. That on the eleventh hour any sitting Governor in the future, if they do not like the budget can pull a fast one and say in the veto message accompanying an increase in revenue or a decline in revenue. The Constitution gives him the authority to submit and revise and then it stops there because it is in the domain of the Legislature. We followed the language of the Constitution and the process provided for it. The fact that the revenue went down is not to be disregarded and he did not disregard it, he used Public Law 3-68, which is the Planning and Budgeting Act. In the Planning and Budgeting Act, it directs the Governor, the Executive Branch and the Secretary of Finance that an appreciation or depreciation of revenue during a preceding quarter he has to report to the two presiding officers of the Legislature that the revenue collection has declined or appreciated to the amount of \$200,000.00 or 3% of the budget. By executing the reduction by 5.5% to equal the anticipated revenue laws as a result of the Osaka and the garment industry departure he complied with the law. So whether we override this budget that declaration and directive to reduce the revenue projection or expenditure for the "CNMI" for 2008-2009 fiscal years is in line with the law. What is due consideration for this body is to prevent, one, a constitutional thievery or theft, it goes beyond legislative usurpation. This cannot be permitted, why, for purposes of passing a budget you provide guidelines for expenditure for the year. If you do not, then the parameters are wider than we can imagine under the law and this is why we have accumulated over \$200 million of deficit as we speak today. The Retirement Fund is in the brink of bankruptcy, we owe vendors in the millions, and we continue to hire people when our revenue is declining. So what is the purpose of passing a budget is, to control it and to account for those expenditures for the public's sake. You turn your back on this measure your guilty of the highest disregard under the Constitution when you take that oath of office. This is probably the most serious violation of our responsibility here in the Legislature. With that Mr. Speaker, I rest for now, but to sum it up, in fact, the revenue decline as he stated in his veto message we have the constitutional right and authority to override this budget. It is not a perfect budget, but it is far better than deficit spending. We need to stop the bleeding. And it is a fact, Mr. Speaker, that inspite of the revenue decline that it exceeds when we override this it exceeds by 5.5% it still constitutional because Public Law 3-68 is emplaced for one reason to adjust it down and he did so. So the net public impact is zero if we override this. If we do not override it the public impact is phenomenal and do not lie to yourself this is election year.

Speaker Arnold Palacios: Thank you. Are there any more discussions on this particular issue? Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. We passed the budget several months ago. If you recall looking at the journal we passed it under voice vote. We did not get the opportunity to vote individually. But if I were to go back and vote again, I have several questions on this particular budget. Reading the Governor's message on this, it is a reduced budget, he told us that the budget went down, it is a great amount and it is still going down. Before we discuss any override, I asked the Chairman on Ways and Means to call in the Secretary of Finance so he could provide us with a true and accurate figure as to where we are at this point in time on our budget. We want to know the true figures. We cannot pass a budget that is beyond what is the Commonwealth's status at this time, but nobody wants to listen. We want to override this budget. I want to know from the Secretary of Finance himself. What is wrong with calling in the Secretary of Finance? We need to hear from him because he is the man taking care of the financial situation of the Commonwealth. We are not all budget experts here. I am not a budget expert nor an accountant myself. So I want to hear it from the man's mouth, to give us a true figure as to where we are right now. Because I know that if we override this budget some of the Departments are going to suffer and if we do not it is the same. So let us call in the Secretary of Finance and work together before we override. Let us work together with the Secretary of Finance so we can all come up with the same music. We have our own responsibilities. Yes, I am responsible for my constituents and the people of the Commonwealth since I have been here. But I do not want to vote on anything that I am not sure. I want to vote on something that I know for a fact that when I leave this office today, I know that I did something good in my heart. Mr. Speaker, I am not ready to override the Governor's veto on the budget. Give us the opportunity, let us call in the Secretary of Finance we still have time. Let us sit down with him and find out exactly where are we at this point in time as far as the budget is concern. As far as I am concern, I think it is way below \$148 million, do not be surprised. Thank you.

Speaker Arnold Palacios: Thank you. Representative Deleon Guerrero, recognized.

Representative Deleon Guerrero: Thank you. And thank you, Representative Apatang, I am glad that you brought up that point about the Secretary of Finance to provide clear information about where we are at in terms of revenue generation. I think it is that very point that I disagree with the Governor's veto message. The Secretary of Finance had given us and had made clear indications that the revenue projection would be lower. We knew that it was no secret. But I think the fact that he withheld despite repeated request from the Chairmen, Representatives Yumul and Hocog to get an official transmission to the Governor so we can get that message. That did not happen. They knew about it but they did not do it. I am particularly disturbed that despite knowing what they did that they held back that transmission and used it as Representative Hofschneider said, at the eleventh hour nothing less than trump card for the veto. I find that very disturbing. When they could of transmitted it and we could of adjusted we could of passed a second House Concurrent Resolution and make the budget reflect that amount. We at the Legislature worked with what we were given. I do not think that the Legislature tried to usurp or do anything other than what tools that it was provided by the Governor's office. But let us be more pragmatic and let us look at facts. What are the differences between passing this override and implementing this budget versus letting the continuing resolution, continue. Please, members look at the difference. Look at the agencies,--- Representative Hofschneider stated it very clearly that the major difference is that we are providing a spending plan that agencies can follow. Even with the new reduction of revenues and even if we do this override the Governor is still within his authority to reduce this budget that we may be overriding and make it consistent with the revenue projection. He can still do that. The only

difference between a continuing resolution and this budget if we override it is, that it will provide for a spending plan. Now, I do not blame the Governor for not liking this budget. It provides strict controls on his spending. It provides freeze on hiring. It provides payment to the Retirement Fund and everything that so far he has not been doing. We, by passing this override are requiring him to be accountable. (*End of Tape 1, side A*)

(*Start of Tape 1, side B*)

Speaker Arnold Palacios: Representative Yumul, recognized.

Representative Yumul: Thank you, Mr. Speaker. The process of going through the budget is a very unique one that even I, find a little bit complex, but still manageable just by looking at certain key features and points. I have told some of the members here that my college background is in business and I actually admit that I never took up public administration as an elective and now I am kicking myself for not doing that. But I did take all the other requisite courses and in doing so it has taught me to analyze the information based on its very fundamental aspects which are, the financial figures. In accounting they are all the same, numbers are numbers it is just a different point of view. Where in government it does an accrual base accounting where we forecast future collections and spend within those limits and in the private business, it is a little bit of the opposite where we spend what we make so we do not have to seek out and borrow and credit if we have shortcomings. Just to explain the few months that has gone by as many of you know and I will reiterate again. I was called to active duty and I had to leave for a few months to serve our country. In doing so, I had asked the Speaker to assign my committee Vice Chairman, Representative Victor Hocog as acting Chairman while I was away. He worked with all the members in putting together a budget and that when I had returned back it was the prudent thing to do I thought, was to allow him to finish the budget since he is more intimate with it. If I were to take over I would have spent a considerable amount of time trying to learn, what, where and how the budget changes took place and how the final product presented itself. But after the budget was passed in conference committee and ultimately vetoed, I took it upon myself to place some calls and to Representative Apatang and I wished Representative Hocog was here but last week I actually took him because I made some calls to well-placed sources within the Executive Branch and I asked what is our expenditure trend as of the first quarter. I was told it was heading \$47 million and I asked this person is that a very reliable figure that you have put together and that person said, yes. In fact,...

Speaker Arnold Palacios: Representative Yumul, let me just ask that you need to clarify that point. So what is the significance of the \$47 million spending on first quarter?

Representative Yumul: It is real simple. If you take \$47 million for the first quarter of this fiscal year 2009 and you multiply by four quarters you already know we are in excess of \$188 million in expenditure trend. That is what we anticipate on spending using the first quarter as the benchmark. This person even confirmed...

Speaker Arnold Palacios: So you mean we are already approximately \$10 million in deficit.

Representative Yumul: We are, Mr. Speaker at a minimum, \$10 million into deficit. That is why the Secretary of Finance had to make the drastic decision to cut and reduce to 5.5% which, I feel is not even near enough to cover the final figure come next September. The first month of the last quarter October, no adjustments were made. Then November and December, adjustments were made accordingly. I believe November was about 1.7% or so in reduction, and then another 2.1% in

that range for December, and then for this second quarter which we begun about a week ago, 5.5%. So there will be another drastic reduction if we stay with the course that some of the members have stated that not acting on any budget for that matter will be disastrous in the coming months we cannot even reel from. There is going to be drastic decisions to include massive layoffs, terminations, reducing government working hours and the like. Now, going back to my original statement, I took Representative Hocog because when I told him the numbers he, himself did not believe it. So I said, let us go and make some house calls. We literally walked from here to the Special Assistant for Administration (“SAA”) Mrs. Esther Fleming, and we sat down with her and I asked her where is the first quarter expenditure report because I know it has been generated and a copy has been sent to you, I would like a copy. That is what I said to Mrs. Fleming with Representative Hocog at my side. She said that the information she received she immediately passed on to the Secretary of Finance which he has, apparently, maybe it is the only copy in the world, I do not know, no one wants to give me a copy. Maybe it is me, maybe I need to step down as Chairman, even face to face meetings in private I cannot get a copy. But it is undeniable she did not even begin to down play the expenditure she indirectly agreed.

Representative Hofschneider: Point of clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point, Representative Hofschneider.

Representative Hofschneider: So simply put, Mr. Speaker is the Chairman of Ways and Means, Representative Yumul is saying that with \$47 million per quarter expenditure trend that is \$188 million expenditure for the entire year.

Representative Yumul: That is just the expenditure side.

Representative Hofschneider: And with the proposed revenue before us, \$148 million that is a \$48 million running deficit?

Representative Yumul: That seems to be the case.

Representative Hofschneider: Thank you.

Speaker Arnold Palacios: Continue, Representative Yumul.

Representative Yumul: This is not taking into consideration other sources such as, the Compact Impact and the like. This is just what we are spending. We are just concentrating on checks being paid, purchase orders being cut, request for payments being processed and the like.

Representative Babauta: Point of clarification, Mr. Speaker.

Speaker Arnold Palacios: State your point, Representative Babauta.

Representative Babauta: Representative Yumul is insinuating on getting a report by phone. How accurate is that report verbally that you received?

Speaker Arnold Palacios: Representative Yumul.

Representative Yumul: I made a call to a person within the Office of Management and Budget (“OMB”). They were in the midst of finalizing and actually printing out the expense report for first quarter.

Speaker Arnold Palacios: Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. That is why I was emphasizing that we call in the Secretary of Finance. If that is the trend that we are spending for first quarter then it is important that we find out exactly where we are in the government. If we were to override this veto today it could be a mistake. If we call in the Secretary of Finance to give us a figure we can probably adjust a new budget and then all of us could probably support it. Thank you.

Speaker Arnold Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: I want to propose an alternative, Mr. Speaker. We suspend voting on the override but we secure a subpoena for the Chairman of the Committee on Ways and Means, Representative Yumul, subpoena Bank of Guam, subpoena the Department of Finance and “OMB” and let us get to bottom of this. That is the only way that we can get to the bottom of this. The reason is, Department of Finance is, under the Constitution the fiduciary for expenditures of funds, “OMB” processes all personnel cost and in fact goes beyond that in budgeting for all others. Bank of Guam is our banking institution, the “CNMI” government deposits and banks so we can cross check what is the payroll cost, what is the running cost expenditure for the Commonwealth. That is the only way we are going to get to the bottom of this, Mr. Speaker. And I move that as a suggestion.

Speaker Arnold Palacios: Let us take a short recess.

The House recessed at 10:30 a.m.

RECESS

The House reconvened at 10:40 a.m.

Speaker Arnold Palacios: We are back to plenary session. We let off on a recommendation that was offered by Representative Hofschneider, but before he makes that into a motion I recognized Representative Benavente to share his thoughts on the issue.

Representative Benavente: Thank you, Mr. Speaker and yes, I would like to disagree with delaying it further, the budget. We are bringing up concerns about the Governor is possibly overspending in the tune of about \$10 million a quarter. If we are going to start pointing fingers as to who is at fault, I think we should be part of the blame. The Constitution requires that we have a budget before the beginning of the fiscal year and we did not have one. The two biggest consideration and most important reasons for having a budget before the beginning of the fiscal year is making sure that we live within our means and within the level of that projection the anticipated revenue. The other reason of course as mentioned by Representative Deleon Guerrero and others is that, we have a spending plan, which kind of disappears during a continuing resolution. In a budget year where there is no budget the Governor is authorized to follow the previous years’ level, if there is no changes in the projection, but with a bigger reprogramming authority that kind of just throws out the idea that there is in fact a budget plan that he is following and having budget would put that

spending plan or the restrictions back in place. So our consideration today should not be limited on this reduction in the projection that now we have received from Governor. The consideration should also be that because of all these things going on and that the fact that we are passing a budget late that we need to act quickly. Because of the fact that there are all these concerns about over expenditures, lack of controls and we need to act quickly. So I do not think we should delay this. I think that it is our responsibility as members of the Legislature to hurry up and pass this budget. I totally agree with Representative Hofschneider about the constitutional question that was placed before because in fact the Governor before he vetoed when he received the message from the Secretary of Finance he could of signed that into law and then make the necessary reduction based on that spending package. So the process is there. The fact is that if we are overriding the budget veto it would be based on the concurrent resolution that we have in front of us and it is the same level that we have with this budget. I really would agree with Representative Hofschneider that there is a constitutional violation on us overriding this budget. And I think the consideration for the others that have raised earlier should be more important and that is why I know that we are looking around and we are saying, well we do not have the numbers for the override but we have that responsibility as individual members to make this decision early today and not tomorrow. Let us make that decision and if we do not have the numbers, Mr. Speaker, then I suggest that our leadership and the Committee on Ways and Means both the House and Senate hurry up in passing another budget so that we can stop the bleeding as mentioned earlier. Thank you.

Speaker Arnold Palacios: Representative Reyes, recognized.

Representative Reyes: Thank you, Mr. Speaker. I totally agree with some of the comments that have been expressed. The bottom line is, that we do need to have a budget to guide us for the rest of the fiscal year. I stand to be corrected, but I think we are bleeding everyday that we do not have a budget. Given the uncontrolled expenses if indeed, the Chairman of Ways and Means is correct for having said that, our expenditure for the first quarter is \$47 million, we still got three quarters to go. I hate to see what would happen at the end of the second quarter, third quarter, and the fourth quarter. It would be more chaotic for us not to have this budget right now emplaced to discipline the Governor with his expenses. Otherwise, as said, your guess is as good as mine as to what will happen to the Commonwealth starting on the second quarter considering if indeed again the \$47 million expenses is correct. Again, without this budget spending plan all the agencies would be lost. It would be like a chicken without a head because they would be running around not knowing what to do and where to go and how much to spend. Given the fact that it is our job as a Legislature to enact a budget legislation and it is already there. Some of the reasons that the Governor has mentioned in his veto message about the two major things, the Northwest Airlines and the Garment Industry, well, it may be true in some ways, but I still have my doubts on the cost that he has indicated. The bottom line is, Mr. Speaker and colleagues it is our job to have a budget, we need to discipline the Governor with his expenses and if we think that it is bad right now, again given that he has spent \$47 million if it is true, I know we will be talking again in another month or from here on out as to what we are going to do for the rest of the fiscal year. Thank you.

Speaker Arnold Palacios: Are there any more discussions? Representative Quitugua, recognized.

Representative Quitugua: Thank you, Mr. Speaker. Mr. Speaker, Representative Apatang had mentioned that this budget which is the final version that came to the House was put on a voice vote. This is a legal interpretation that probably the Legal Counsel can answer. I think a voice vote on this important legislation is a violation of our own House Rules. Rule XI, Section V, states that all bills having the force and effect of law shall be voted upon by call of the roll and not a voice vote.

My other legal concern is, does the Governor's message officially advising the Legislature of a revise revenue ceiling? Is that an official communication that the Governor has revised the revenue projection for fiscal year 2009? If so, then Mr. Speaker, overriding a budget that exceeds the newly projected revenue is like authorizing the Governor to go on a deficit spending.

Speaker Arnold Palacios: Legal Counsel.

Legal Counsel Warfield: Can you repeat the first part of the second question?

Speaker Arnold Palacios: Representative Quitugua, proceed.

Representative Quitugua: The second question is the communication that accompanied the budget that was vetoed. The Governor indicated a revised in the revenue projection as one of the big issue that he vetoed the bill. Did that constitute a new and official projection of the revenue for 2009?

Legal Counsel Warfield: In my review of all the statutes, I have not seen any language that indicates his communication on December 30th would in effect be revised proposed budget. As indicated in his letter and he cites 1 CMC § 7604. The effect of that communication is to deal with the continuing appropriation and his mandatory 5.5% across the board reduction. However, that does not address the budget proposal that was originally submitted and the budget limit placed by the House Concurrent Resolution No. 16-2. In respect to your first question, I would agree that the House Rules requires a roll call for bills.

Speaker Arnold Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: Yes, Mr. Speaker, but since unanimous vote no body objected and Mason's also if in doubt, the House Rule's refers to Mason as the authoritative parliamentary procedure. That in absence of objection by anyone an unanimous vote is by the House is in fact consistent with adoption of legislation.

Speaker Arnold Palacios: Well, there was also a clarification on the floor, Representative Benavente.

Representative Benavente: Under point of information. This is actually a conference committee report so it is not really a bill that was placed before the House. Much like a committee report that would recommend filing for example. The House Rules does allow for the report to be adopted and thereby filing the bill basically rejecting the bill without a roll call. And so the conference committee report is a report that has the provision of legislation and certainly, but I still believe that we are voting on the conference committee report. Again, there is all that question and absent a question I guess as Representative Hofschneider points out you turn to other Rules.

Speaker Arnold Palacios: My recollection of that voice vote and in fact it was Representative Babauta that actually stood up and clarified that point that we are indeed approving the conference committee and indeed approving the passage of that legislation and he made that clear. That is my most accurate recollection and in fact I even thanked the veteran Speaker for making that point. So it should not be an issue. Representative Babauta, recognized.

Representative Babauta: Just to further clarify the issue at hand. Whether or not the committee report was voted by roll call or by voice vote, I do not know, none of us would probably recall

whether that particular voice is echoed in the system. It is just the matter of the “ayes” had it and practically I think there was no “nays”.

Speaker Arnold Palacios: I am going to instruct the Clerk to make sure that the tape for that session day is locked in a safe. (Laughter) Alright, Representative Yumul, for the last time.

Representative Yumul: Thank you, Mr. Speaker. Since we are still discussing this bill, I would like to get to the main points here. Under a continuing budget resolution because the FY 09 is following the last known which was under Public Law 15-28 as amended by Public Law 15-71. I must caution the members that the Office of the Resident Representative to the United States is still funded and as such there will be at least half a million dollars, about four hundred ninety seven thousand dollars that the Governor can migrate because the office has seized to exist as of the sixth of the month. And there is no provision in the Planning and Budgeting Act that would automatically close that account so he can migrate that amount. The whole reason why the budget override is of serious consideration is because as I am trying to ascertain the best course of action, of course the worse being is doing nothing, which is what we have done in the past where we did not act. We have pretty much given the Governor our silent approval into overspending. The Secretary of Finance reported that they have overspent to the tune of about seventeen million dollars and then quickly turned around during that same time period as he vetoed, and declared that the cover-over's that came in immediately covered that over expenditure thereby having a net effect of about a hundred and ten thousand dollars in deposits. But because of our continuing budget resolution limited the expenditure for FY 2008 the Secretary of Finance theoretically may have overspent government to a tune of about ten million dollars and that is another issue that still needs to be dealt with. But the whole of the matter is that we need to arrest the uncontrolled expenditures that is being allowed currently under the continuing budget. We are spending about seventy seven thousand dollars a day. The **Gov. Mesg. 16-43** back in September 10 had asked and this is the beauty of the whole thing that every time the Governor sends over a transmittal he outlines what he wants in terms of how to reduce cost. And I even put out a message to the members back in March of last year that based on my analysis that we needed to save fourteen million five hundred thousand dollars by reducing a whole bunch of expenses such as, austerity Friday's and the ramification of that seven million dollars in savings for Friday's and austerity holidays to even include the capping of government expenses on remaining budget authority. We took outside General Fund sources that is collected through “CNMI” law and applied it to the Governor and the Secretary of Finance...*(End of Tape 1, side B)*

(Start of Tape 2, side A)

Representative Yumul: And this memorandum that he (House Legal Counsel) issued is his opinion to us the members as clients I asked that the members keep this in confidence as if he was your personal attorney giving you advise that it is not to be put out to public. Now, so that I can wrap up Mr. Speaker, if we do override it will buy us some time so that the expense for second quarter will be inline with our legislative expenditure time. It will buy the Committee on Ways and Means enough time so that I can go in. Representative Hofschneider has recommended allowing the Committee to have subpoena powers so that we can audit on our own. I wish that we had the same resources like the US Congress where they have an General Accounting Office (“GAO”) to double check. Right now we do not have that our only means of double checking the Secretary of Finance and “OMB” is through the single audit which happens once a year and it will not be available just as yet. So I think Representatives Benavente and Hofschneider is correct that we do need to put this to

rest. If we fail to take action we are just allowing the Governor our silent approval of the way he is conducting government business on a day to day basis, and with that I rest, Mr. Speaker.

Speaker Arnold Palacios: Before I recognize Representative Hofschneider, and if there is no objections I would like to briefly share my thoughts on this issues of the budget.

There was no “objections” on the floor.

Speaker Arnold Palacios: One of the most priority items I gave when we were sworn in and I became Speaker for the Sixteenth Legislature in January, was to work despite the fact that we were three months over the fiscal year already. We immediately took it upon ourselves to consider a budget for 2008 because the Fifteenth Legislature sine die and was not able to pass a budget. We did come up with a budget proposal for 2008 Representative Babauta did a quarter and a half late. If you recall the 2008 budget was also vetoed. And so we were back to Public Law 15-28 as amended by Public Law 15-71 a continuing resolution budget. To put everything into general perspective what has happened with the continuing resolution and indeed I wrote back to then Acting Governor Villagomez expressing my concerns that a lot of the reasoning given for the veto were issues that could have been addressed if they are not substantial issues that warranted a veto of that budget. Be it as it may, this body failed to muster again enough support for a veto override of the 2008 budget proposal. Which we know today, resulted in at least \$18 million deficit. So let us ask ourselves and I believe that those of us that have been here at least for over a term could safely say, that experience of the past budgets when we are in continuing resolution we allow basically a deficit spending. We have gone through proposals for austerity holidays be it austerity Friday’s or unpaid holiday’s for personnel of this government to address the declining revenues, yet if you really look at the provisions of continuing resolutions there is absolutely nothing that would prevent this government from arresting the continuing and spiraling cost of personnel because hiring will continue without the checks of this body. The only thing that we see is a simple certification and the hiring continues. So I caution this body and if the members would like to call for a vote for an override consider that. It is not a matter of saying that the Governor is playing games with us. It really is about arresting the reality of the deficit spending that we are after. I agree, that revenue has declined, what this body does will really reflect its commitment also to stopping this some estimate \$77,000.00 a day overspending by our government. Representative Sablan, recognized.

Representative Sablan: I will yield.

Speaker Arnold Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: Thank you, Mr. Speaker for the last time. I want to emphasize that this is venturing into new constitutional authority and I want to impress upon the members, the gravity of not pursuing the override. Because any future Governor, can in fact, on the eleventh hour use this instrument that the Constitution is silent about, to reject a budget for what ever reasons whether it is factually a decrease or increase in revenue or just the appearance of the budget itself goes against his impression or his willingness to sign a budget. Let me point out that a budget is an accrual basis, meaning, you anticipate to collect it for the following year fiscal year expenditure. You do not have the money now, as in typical private business activity, the government accruals it anticipates to collect from taxes and fees and what ever provided under the law. So it may go up and it may go down, but in anticipated projection and let me again emphasize, the fact that the Osaka route is being closed or stopped is not new information. Under the law he is required to submit a revision three months before the fiscal year. So these information are not new. The World Trade

Organization (“WTO”) and the departure of the major Garment Association and operators in the Commonwealth have departed and that is a fact before us. So the remaining three that are closing up as a result of the argument that the revenue would decline is not a new information. Projections should have been included to accommodate or include those two specific arguments. We cannot revise or increase the revenue, only the Governor’s consent. So if he submits a budget we cannot exceed it without his concurrence that is clear in the Constitution. The Constitution also, did not speak of, you can consider a revision on the eleventh hour, that is a strong argument. And the fact that we did not exceed the Governor’s revenue identification the Concurrent Resolution is for a purpose he should of submitted a revision to reflect a decrease in the Concurrent Resolution, but they did not, only until the eleventh hour. So, Mr. Speaker there is no violation of the Constitution because the decline of the revenue he is required to reduce expenditure, none the less. But here is something for us all to think, if in fact the revenue went down by \$8 million and the budget that we passed did not include the cover-over of \$17 or \$18 million that perhaps is now in their hands. So how is that money being used? And that question goes back to that first instance where we received over \$22 million of cover-over. Did we appropriate that? Was that applied to any deficit? So in reality if they received and that they have not communicated to the Legislature that they are in receipt of a cover-over in the amount of \$17 or \$18 million. If that is the case, Mr. Speaker then that expenditure is far more than the anticipated reduction of \$8 million stated in the veto message. So how is that money being used? I therefore, Mr. Speaker---I rest for now.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker and members. I certainly sympathize with the sentiments that were expressed by Representative Apatang about the questions that he had about the budget the last that we voted on it. I also had questions and concerns and I am sure all of us had legitimate concerns about the budget that we ultimately ended up passing. But if I had to look back on that vote and search my own conscience I would still have voted the same way. Because three months into the fiscal year knowing the consequences of not passing a budget and also recognizing that a tremendous amount of work had gone into that budget bill in collaboration with the Secretary of Finance and other key Administration officials. So much work had gone into it out of a sincere interest in passing a balanced budget that properly prioritizes essential services, pays the Retirement Fund, pays utilities, and puts in place appropriate and much needed controls on spending. I think that your letter, Mr. Speaker with the Senate President to the Governor expressing your disappointment about his veto of that bill sums up quite well, the disappointment that we should all be feeling. I think that the Governor’s veto of the budget bill is a clear demonstration of bad faith and bad planning. Considering the repeated requests that our Ways and Means Committee submitted to the Secretary of the Finance asking for updates for expenditures, updates on resources, there were ample opportunities all throughout this process that Representative Hofschneider very nicely detailed from the very beginning to submit the revisions that we should of taken into consideration. But again, as you, yourself, Mr. Speaker have pointed out this is not about just pointing fingers and laying the blame at the Governor’s feet, certainly, we should take responsibility. I think that we can do both, and we should do both, we can override the veto and put in place immediately the controls on spending that need to be made and we should also call in the Secretary of Finance and begin immediately working on a new budget plan that reflects the \$148 million spending plan. So I have been thinking about the consequences of either option, to override or not to override, and I think that the grave consequences of not overriding and continuing on this continuing resolution are far more serious than the consequences of overriding his veto. Mr. Speaker and members, since the beginning of this term just this year alone every time we have received communications from the Governor I have set aside the communications that are specific to

vacancies that are being certified I have a file that is this thick (using hand gesture) of positions that have been certified as vacant just for this year alone beginning in January. And not including the positions for physicians and nurses and police officers and similar positions that we all would agree are essential and should be filled. I have counted nearly two hundred certified vacancies for positions like, community workers, community development specialists, outreach coordinators, public information officers (“PIO”). Nearly two hundred vacancies, an \$18 million deficit, uncontrolled hiring, uncontrolled spending---we know the consequences. I think the imperative to pass a budget that puts in place these controls and takes into consideration the Retirement Fund, utilities, and puts in place the same priorities that we agreed should be established for public education, public health and public safety, an override is essential. And after we override then the work for calling in the Secretary of Finance, let us go ahead and do the subpoena and bring in the information that we need because we should not be in the dark there is no excuse for that. We should not be in the dark about the state of the “CNMI’s” finances. And we cannot afford to continue on a continuing resolution. Thank you.

Speaker Arnold Palacios: I think we better vote on this. Representative Raymond Palacios, recognized.

Representative Raymond Palacios: Thank you, Mr. Speaker. I have heard consistency, continuing resolution mention, I, myself, is not an accountant and for the record math is my worst subject. But with or without a budget, Mr. Speaker I am definitely advocating for the later because we surely do need a budget. But I believe using our monthly allotment figure alone it is and was made to reflect revenue projection spending within our means of consistency is in placed. Regarding continuing resolution, I am totally confused Mr. Speaker and members, for if we are talking about continuing resolution should our appropriation reflect \$117,000.00 because right now the monthly allotment is around \$8,000.00. I am only using our figure because I truly do not know the figures for the Administration, but it went down so I believe that adjustments were surely made. It is only fair and appropriate that what was mentioned and we should all be provided with a copy so that we properly make a sound and just decision, we should not rely on verbal information alone. I have no information like I said, whatsoever regarding how much the Administration is spending, but it is like Representative Apatang had said that it is fair that we request this information and call in the experts. I am tired of continuing resolution being mentioned and yet it is reflecting on our appropriation, so I am confused. I agree with the request from Representative Apatang to call in the experts before really making such a decision. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Representative Apatang, for the last time.

Representative Apatang: Thank you, Mr. Speaker. Again, I am not saying that I am not supporting any budget at all. I will support a budget, but a budget that is true to the figure. I am asking that we call in the experts, call in the Secretary of Finance. Let us ask him, what is the actual budget of the “CNMI” government at this point in time. That is all I am asking. Now, if we cannot do that then, like I said, I will not support any override. Let us call in the expert and start from where we are now as far as the “CNMI” government’s concern. Now, as far as hiring and all that, it is partly our fault. Because every time we have a session we see all these certifications sent over here by the Governor. What do we do with it? We just look at it and throw it in the files. Now, whose responsibility is it to sanction the Governor’s Communications it is ours. We can always ask the Chairman of Ways and Means to look into it, but that is about it. Now, if we question all of these communications here regarding certifications of vacant position I am sure something can be done. So that is partly our fault because we are not doing it. We have to be consistent here too. Again, Mr. Speaker, I would

like to request an audience with the Secretary of Finance before we override this budget. Give us a chance to find out the true and actual figure on where the Commonwealth government is financially at this point in time so we can begin from there. We can control our expenditures let us get the actual figures. Thank you.

Speaker Arnold Palacios: Representative Hofschneider, for the last time.

Representative Hofschneider: Just a clarification. Whenever the Governor submits over to the Legislature the Presiding officers of both Houses certifications it is for informational purposes only. Now, that does not mean we cannot amend the law to state that the Legislature upon receiving that we can enplace a law that must be approved by the Legislature. But that was designed under the Public Law 3-68 the Planning and Budgeting Act to allow flexibility of the Executive Branch to fill critical positions, but it has gone beyond that so both parties are guilty of not acting on it. The most important thing is and really the answer to all this call it abuses if you want or excesses, passing a budget is the solution and the answer. Bet it as it may, I think that we are picking berries on this argument the reality is future generations our children and we however many years remaining on this earth will have to pay for the mess and we have, an accruing deficit of over \$200 million. If we have to do a good budget it does not stop at 5.5%. If you look at the budget that we passed and considering the override we pegged the contribution mandated under that proposal 11%. The actuarial required for us to fulfill our obligation as an employer is, 37%. So if we go back and do the budget the right way and the responsible way, we have to cut this “CNMI” budget just to meet Retirement actuarial of 37% an additional 26%, not 5.5%. And that is doing the right thing. With that, Mr. Speaker let us stop picking berries, the bears are out there. I move to override.

The motion was seconded.

GOV. COMM. 16-297: (12/24/08) Informing the House that he disapproved H. B. NO. 16-169, HD9, SS1, CC3 (FY 2009 Budget Act). [*Deadline 2/22/2009*]

Speaker Arnold Palacios: Discussion on the motion.

Several members voiced ready.

Speaker Arnold Palacios: Representative Salas, recognized.

Representative Salas: Just very short, Mr. Speaker before we vote on the motion. I am sitting here trying to figure out the facts that have been presented to us. The first fact is that we did not pass a budget for fiscal year 2008. Well, it was vetoed and we went into a continuing resolution, that is a fact. Then throughout the months for fiscal year 2008 we were told that there is going to be a revenue shortfall of about \$4.5 million and an over expenditure of about \$13.2 million and I guess based on the figures that we received we can say, that is a fact. Then we received something from the Governor saying that in reality we have a surplus of \$110,000.00 because the cover-over funds were used to basically retire the deficit. Now, we are hearing that first quarter the government is already spending about \$47 million and possibly a \$188 million if this trend continues. On a report that was given to us by the Governor, the Executive Branch expended for 2008 over \$10.22 million that is shown on the report and obviously that is a fact. So I guess my question is if we do not override this veto does that mean then that the \$47 million really becomes a reality and at the end of the fiscal year 2009 is \$188 million. Mr. Speaker, I believe that we should override his veto of the

budget so that then we can at least cap it and then move forward and introduce a new budget based on the new revenues that was given to us. That is all, Mr. Speaker.

Speaker Arnold Palacios: Representative Tebuteb, recognized and you will be the last.

Representative Tebuteb: Thank you, Mr. Speaker. I am just going to go down the list of dates that we have worked on when the budget was passed. The budget was passed by the Legislature on December 4, 2008 and we have letters and communications some dated December 19, 2008, then we got the veto message on December 24, 2008 and then we have a special revised message on December 30, 2008 and the latest one is the annual report December 31, 2008. That is a thirty day period that we had all these energies and activities that went on. I would like to point out also that I do agree with the recommendations that are being tossed. One is to override the veto and then pass a budget. I would like to consider that we reverse that. Let us pass a new budget based on the new revised projection and then probably if it does not work then we go for an override. We have about sixty days within this budget veto message. If we can do this communication and all this energies from December 4 to the 3, 2008 I am sure that we can act on a new budget. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Representative Yumul, we already have a motion on the floor I hope this is a short of point of information.

Representative Yumul: Thank you. This is in regards to Representative Tebuteb's plan of action that he wants us to in essence defer the override and work on \$148 million budget but our continuing budget resolution sets the limit at \$156 million. So if we are going to basically have an excess unappropriated amount of money because he wants to put \$148 million out on the table and if it gets vetoed then we come back and act on this override attempt. So I am trying to understand what he is attempting to do here. But just remember that the \$156 million to \$148 million the Governor is not including the \$3.5 million in outside General Fund but taxes from "CNMI" law he is not including the \$5.1 million in Compact Impact, it is very coincidental. I am even looking into this issue why those two amounts adds up to \$156 million from \$148 million. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Ready. I will give you thirty seconds, Floor Leader.

Floor Leader Camacho: I will not repeat the many discussions that were mentioned. But I struggle with this because we really do want some kind of mechanism to control expenditures but at the same time you cannot fit \$156 million in \$148 million. Over the weekend and the week preceding I thought about that, I said you cannot fit ten pounds of dirt into a five pound bag it is as simple as that. I thought I have seen a lot of smoke and mirrors and tricks done up here at the Legislature but this is new to me. When we say that we need a mechanism to control the Governor at the same time here we are setting precedent and take note my colleagues who will decide to run and hopefully get into the Seventeenth and the Eighteenth Legislature that no matter what the Secretary of Finance identifies we can still pass a budget that exceeds that. Think about that. This is a new trick for us here at the Legislature. It does not matter what the Secretary of Finance does, we will pass a budget because we can disregard that. I see the wheels turning and we say, how many projects do we have in Precinct I, how about Precinct II, Precinct IV, how about in Tinian and Rota, let us just pass of those budget because it does not matter what the resources are being told to us by the person who is most knowledgeable. An enormous credit to Representative Apatang for saying, let us do our homework and bring in the man here and ask him point blank, where are the resources so we can identify that. Thank you, Mr. Speaker.

Speaker Arnold Palacios: So much discussion on the experts and the timeline and stuff and yet here we are in January now asking to bring in the experts. After all the experts, meetings since July that I imposed a deadline of September 30, we are still going to bring back the same people to go through the same motion. Clerk, call the roll.

The Clerk called the roll on the motion to override the Governor’s veto of H. B. NO. 16-169, HD9, SS1, CC2.

Representative Edwin P. Aldan	absent (excused)
Representative David M. Apatang	no
Representative Oscar M. Babauta	no
Representative Diego T. Benavente	yes
Representative Joseph N. Camacho	no
Representative Francisco S. Dela Cruz	no
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	absent (excused)
Representative Heinz S. Hofschneider	yes
Representative Raymond D. Palacios	no
Representative Justo S. Quitugua	no
Representative Joseph C. Reyes	yes
Representative Christina M. Sablan	yes
Representative Edward T. Salas	yes
Representative Rosemond B. Santos	yes
Representative Ramon A. Tebuteb	no
Representative Ralph DLG. Torres	yes
Representative Stanley T. McGinnis Torres	no
Representative Ray N. Yumul	yes
Speaker Arnold I. Palacios	yes

Speaker Arnold Palacios: By a vote of ten “yes” and eight “no”, the motion to override the Governor’s veto of H. B. No. 16-169, HD9, SS1, CC2, hereby fails to pass the House. I hope all of you have received a copy of the Legal Counsel’s legal memo on the validity or the constitutionality the legality of taking this action attempt to override. I hope there is no question about the legality what we attempted to do. I also hope all of you take the time to read the letter from the Governor and the attachment of December 30, 2008, I believe that is reduction across the board requirement of the law to reduce all branches of government expenditure level take note of essential services particularly “PSS” because it is at \$30 million for this fiscal year. Representative Babauta, recognized.

Representative Babauta: Thank you, Mr. Speaker. I sincerely appreciate the Chair for sharing that legal memorandum to the other members. However, as I noted the Legal Counsel’s statement that this particular legal memorandum is solely for you and the Chairman of Ways and Means. So in essence we cannot rely on that specific memorandum. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Let me clarify that. I was the one who had asked for it and it was a caveat on his part. I asked the Legal Counsel whether I can share this with every member and he agreed to do that. I did not want to withhold very important information from any members and I do not want to be accused of doing so. Representative Hofschneider, motion to recess.

Representative Hofschneider: Mr. Speaker, I would like to comment before you call a recess. On GOV. COMM. 16-302, this is relating to another Executive Order 2008-22 Declaration of State of

Disaster Emergency. “The Commonwealth Utilities Corporation’s (“CUC”) imminent Generation and other failure and the need to provide immediate reliable power during repairs”. Mr. Speaker, if you read the declaration it attempts to completely suspend the Privatization Act and this is another, I guess, now is very clear misguided attempt to deal with the power situation. I mean, out of sight and out of mind just because we are not experiencing repeated or consistent power outages does not mean that we are out of the woods. The fact remains that since the Aggreko contract has been signed it is what, now nearing five months and we have seven more months. We have not received any communication from either “CUC” or the Executive Branch as to the progress of overhauling and repair of our existing facility, time is catching up. Now, it just boggles the mind to read in the declaration you would suspend completely the Public Law establishing the Rules and Guidelines for Privatization of our power plant generation. If we let this go, Mr. Speaker then the only thing that would come out of reading this is a sole sourced contract. When are we going to learn? There is a bill to accommodate their needs requesting for amendments on the Privatization Act it is before us and I am curious that in the beginning they were so eager to work with us and get an amendment going and now that the amendment is introduced and before us they stayed away. They are asking for a complete repealer of the Privatization Act. We need to modify the Executive Order, we have that authority. By modifying it we need to take out that reference to suspending completely the Privatization Act. Time is running out, Mr. Speaker we are going to find ourselves again considering whether Aggreko should be extended and nothing is moving down at the Power Plant. It is like Santa came this Christmas with an empty bag. Thank you.

Speaker Arnold Palacios: Thank you. It is nearing lunch time and if there is no objections I am going to call for a recess and come back at two o’clock.

There was no “objection” on the floor.

Speaker Arnold Palacios: We have a lot on our Calendar. Representative Yumul, recognized.

Representative Yumul: If we are going to return at two o’clock, that is fine, Mr. Speaker. I believe Representative Hofschneider has a motion also that he had deferred which is essential to Ways and Means which is the subpoena.

Speaker Arnold Palacios: Those are recommendations and we can come back to that if you would like to bring that up when we come back.

Representative Yumul: I think that is necessary because the members want solid factual data and not hearsays and I think it is imperative. Thank you.

Speaker Arnold Palacios: Okay. Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to recess until 2:00 p.m. later on today.

The motion was seconded and carried by voice vote. The House stands recessed until two o’clock.

The House recessed at 11:40 a.m.

RECESS

The House reconvened at 2:07 p.m.

This portion of the discussions were not recorded due to audio problems.

INTRODUCTION OF BILLS

H. B. NO. 16-213: A Bill for an Act to make appropriations for the operations and activities of the Government of the Commonwealth of the Northern Mariana Islands, its agencies, instrumentalities, and independent programs, and to provide budget authority for government corporations for Fiscal Year 2009; and for other purposes.

Offered by: Rep. Ray N. Yumul and one other

INTRODUCTION OF RESOLUTIONS

H. C. R. NO. 16-3: To make appropriations for the operations and activities of the Government of the Commonwealth of the Northern Mariana Islands, its agencies, instrumentalities, and independent programs, and to provide budget authority for government corporations for Fiscal Year 2009; and for other purposes. A House Concurrent Resolution to amend House Concurrent Resolution 16-2 to reduce the revenues and resources of the Commonwealth of the Northern Mariana Islands, as transmitted in the Governor's Special Budget Message on Decrease in Revenue Estimates for Fiscal Year 2009, beginning October 1, 2008, and ending on September 30, 2009.

Offered by: Rep. Ray N. Yumul and one other

SENATE COMMUNICATIONS

NONE

HOUSE COMMUNICATIONS

HSE. COMM. 16-91: (1/5/09) From the Speaker of the House and the President of the Senate to the Governor with regards to the veto of H. B. NO. 16-169, HD9, SS1, CC2, the FY'09 Budget Act.

HSE. COMM. 16-92: (1/8/09) From Representative Santos, submitting a Trip Report in regards to the 49th APIL Board of Directors' meeting held in Majuro on December 4-5, 2008.

HSE. COMM. 16-93: (1/8/09) From the House Standing Committee on Judiciary and Governmental Operations Chairperson, Representative Santos, submitting a Trip Report in regards to the Public Hearing on Rota (12/17/08) and Tinian (12/18/08) on House Bill Nos. 16-147; 16-157; 16-185; and 16-178.

HSE. COMM. 16-94: (1/12/09) From Representative Santos to the Governor regarding the acting capacity of the Acting Attorney General Gregory Baka.

This portion of the discussions were not recorded due to audio problems.

The House recessed at 2:19 p.m.

RECESS

The House reconvened at 2:22 p.m.

Speaker Arnold Palacios: We are back to our plenary session. Could you look into this particular issue and I am going to ask for a legal memo from you specifically on this particular issue (*End of Tape 2, side A*)

(Start of Tap 2, Side B)

Speaker Arnold Palacios: Issues that has been raised by Representative Santos. Okay.

Legal Counsel Warfield: Yes, Mr. Speaker.

Speaker Arnold Palacios: Thank you.

COMMUNICATIONS FROM THE JUDICIAL BRANCH

JUD. BR. COMM. 16-9: (12/18/08) From Chief Justice Miguel Demapan with regards to the impact of the FY'09 Budget Proposal on the Judiciary.

JUD. BR. COMM. 16-10: (1/5/09) From Presiding Judge Robert Naraja certifying that the position of Family Court Coordinator is vacant and must be filled.

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

NONE

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

DEPT./AGCY. COMM. 16-60: (12/19/08) From Secretary of Finance Eloy S. Inos to Representative Sablan regarding her Open Government Act request.

DEPT./AGCY. COMM. 16-61: (12/19/08) From Chairman Juan T. Guerrero, (NMIRF), providing a list of employees whose applications are pending because of deficient employer contributions.

DEPT./AGCY. COMM. 16-62: (12/19/08) From Chairman Juan T. Guerrero, (NMIRF), commenting on H. B. NO. 16-169, HD9, SS1, CC2.

Speaker Arnold Palacios: Representative Yumul, recognized.

Representative Yumul: Mr. Speaker, this is in regards to Representative Santos' communication if it could be provided to the Clerk so she can give you the communication number so I can refer to this.

Speaker Arnold Palacios: It is House Communication No. 16-94. Ready.

Several members voiced "ready".

OTHER COMMUNICATIONS

NONE

REPORTS OF STANDING COMMITTEES

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.

Speaker Arnold Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: Just being a little bit small minded, Mr. Speaker. The S. C. R. No. 16-60, I thought we dispensed of that.

Speaker Arnold Palacios: Will the Chairman of the Committee of Natural Resources, Representative Tebuteb elaborate on that?

Representative Tebuteb: No, this is a different one. This is Representative Hocog’s Senatorial decision for each respective Senatorial decision to decide to amend Article XII.

Speaker Arnold Palacios: Short recess.

The House recessed at 2:45 p.m.

RECESS

The House reconvened at 2: 48 p.m.

Speaker Arnold Palacios: In reference to S. C. R. No. 16-60, the Chair will refer it back to the Committee to fix the committee report so that the committee report is specific to the specific legislative initiatives that were offered. Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. No. 16-61, reporting on H. L. I. No. 16-6.

The motion was seconded.

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.*

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

Representative Hofschneider: Thank you, Mr. Speaker. I respect the committee members reporting out to file this legislative initiative, but I just want to point out back at the history of the Commonwealth. After twenty five years of self-governing and this morning was a very classic

example of what can happen on the legislative side to insist upon passing a budget timely. My initiative proposes that with the exception of the critical services spelled out in the Constitution, Public Health, Public Safety, “PSS” and the college they would be saved from a shutdown. Nobody gets paid the gamesmanship that we witnessed this morning to putting emplace a budget is the reason why this initiative however specific, and perhaps---

Representative Benavente: Point of information, Mr. Speaker.

Speaker Arnold Palacios: State your point, Representative Benavente.

Representative Benavente: If you remember also introduced a legislative and it should be...and that is the reason for the filing of this one. We did incorporate some of your provision in the one that I introduced.

Representative Hofschneider: I am not taking away anything, Mr. Speaker from the author. But just as a reference, this initiative was introduced in February 19, 2008. That initiative was introduced and passed in July. So there is a remarkable window of activity for debate but I am not going to get into that. I am articulating the reason why this initiative has merit and that if we really mean servicing people as a public servant, we ought not to get paid for not passing a budget on time. Other jurisdictions in the United States have done it so and it works. It gets both branches of government to sitting down and cranking out a compromise. Not on the eleventh hour you pull a fast one. And that is the reason why that it is quite, I guess earthshaking. But I supported Representative Benavente’s initiative that is probably more palatable and more open-minded than my, you know small minded initiative (Laughter) and for that Mr. Speaker, that is fine. Thank you.

Speaker Arnold Palacios: Short recess.

The House recessed at 2:52 p.m.

RECESS

The House reconvened at 2:52 p.m.

Speaker Arnold Palacios: We are back to our session. Representative Sablan, recognized.

Representative Sablan: This is just a question about the committee report. On page two, I am not sure if there were sentences that were accidentally deleted but on the second paragraph on page two does not really follow, it does not make sense. It says, “although the committee agrees with the intent of this legislation and finds that the continued practice of operating by a continuing resolution has proven to be problematic and not in the best interest of the Commonwealth.” So that is an incomplete sentence I am not sure if something was accidentally omitted there. And then it ends with, “therefore it does not support passage at this time” and jumps into the next paragraph which is about the other resolution that we did pass as a body in July. So can we get some clarification from the committee, are these typographical errors that could be correct so we are cleared about the intent of this report.

Speaker Arnold Palacios: Short recess.

The House recessed at 2:53 p.m.

RECESS

The House reconvened at 2:56 p.m.

Speaker Arnold Palacios: We are back to plenary session. Representative Santos, recognized.

Representative Santos: Mr. Speaker, on S. C. R. No. 16-61, although the committee recognized to file there are apparently is a need for clarification on paragraph two of page two. We can delete the last sentence and then after “Commonwealth” a period (.) change that to a comma (,).

Speaker Arnold Palacios: Okay, are we all cleared with that. Clerk.

The motion was seconded and was carried by voice vote.

Speaker Arnold Palacios: We are back to the main motion.

Several members voiced “ready”.

There being no further discussions, the motion to adopt S. C. R. No. 16-61 was carried by voice vote.

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. No. 16-62, reporting on H. B. No. 16-24 recommendation for filing.

The motion was seconded.

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.*

Speaker Arnold Palacios: Discussion on the motion.

Several members voiced “ready”.

There being no discussions, the motion to adopt S. C. R. NO. 16-62 was carried by voice vote.

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you again, Mr. Speaker. A motion to adopt S. C. R. No. 16-63, reporting on H. B. NO. 16-29 recommendation for filing.

The motion was seconded.

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.*

Speaker Arnold Palacios: Discussion on the motion.

Several member voiced “ready”.

There being no discussions, the motion to adopt S. C. R. No. 16-63 was carried by voice vote.

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you again, Mr. Speaker. A motion to adopt S. C. R. NO. 16-64, reporting on H. B. NO. 16-73 recommendation for filing.

The motion was seconded.

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.*

Speaker Arnold Palacios: Discussion on the motion.

Several members voiced “ready”.

There being no discussions, the motion to adopt S. C. R. No. 16-63 was carried by voice vote.

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. NO. 16-65, reporting H. B. NO. 16-74 recommendation for filing.

The motion was seconded.

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.*

Speaker Arnold Palacios: Discussion on the motion.

Several members voiced “ready”.

There being no discussions, the motion to adopt S. C. R. NO. 16-65 was carried by voice vote.

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. NO. 16-66, reporting on H. B. NO. 16-125 recommendation for filing.

The motion was seconded.

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.*

Speaker Arnold Palacios: Discussion on the motion.

Several members voiced “ready”.

There being no discussions, the motion to adopt S. C. R. NO. 16-66 was carried by voice vote.

Speaker Arnold Palacios: Floor Leader Camacho, recognized

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. NO. 16-67, reporting on S. B. NO. 16-26, SD1 recommendation for filing.

The motion was seconded.

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.*

Speaker Arnold Palacios: Discussion on the motion.

Several members voice “ready”.

There being no discussions, the motion to adopt S. C. R. NO. 16-67 was carried by voice vote.

Speaker Arnold Palacios: Representative Santos, recognized.

Representative Santos: I think we may have a problem with S. C. R. No. 16-67. We are probably lacking one more member. Apparently, Representative Stanley Torres changed his name to “reviewed”.

Speaker Arnold Palacios: Representative Stanley Torres, please clarify that.

Representative Stanley Torres: It means that I read the report and did not concur, so I put it as “reviewed” that I have seen the committee report.

Speaker Arnold Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: Reconsider it.

Speaker Arnold Palacios: A motion to reconsider. Representative Quitugua, recognized.

Representative Quitugua: I would like to ask the Legal Counsel for his interpretation on the House Rules. The House Rules says, that any Committee member can sign and put the words “I do not concur” next to his name and Representative Stanley Torres said that is what he meant when he put “reviewed” that “I do not concur”.

Speaker Arnold Palacios: Short recess.

The House recessed at 3:02 p.m.

RECESS

The House reconvened at 3:05 p.m.

Speaker Arnold Palacios: We are back to plenary session. Apparently this Committee Report did not have three signatures required. But one of the members has just now signed it, so we have to reconsider our previous action prior to the signature.

The motion was seconded.

Speaker Arnold Palacios: The motion is to reconsider our action on the adoption of S. C. R. No. 16-67, discussion on the motion.

Several members voiced “ready”.

Speaker Arnold Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: Mr. Speaker, there is merit to the proposed legislation. It is not reducing the salary while sitting but when they get reelected on the day that they take office that the reduction in the salary applies. I mean, we are asking everybody to tighten their belts, austerity Friday’s and so forth, I think that the proposed reduction has merit for us to reconsider and rationalize it.

Speaker Arnold Palacios: I fully understand that, but we are reconsidering our actions to file. So let us go back and vote to reconsider that motion and then we will put it back.

Several members voiced “ready”.

There being no further discussions, the motion to reconsider S. C. R. No. 16-67 was carried by voice vote.

Speaker Arnold Palacios: Now we are back. Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. Just so the record is clear, a motion to adopt S. C. R. No. 16-67, reporting on S. B. No. 16-26, SD1 recommendation for filing.

The motion was seconded.

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

Representative Benavente: For the record, this motion now should state that the original Report which we had questioned in the beginning does now have the three member signature so that is the copy that we will be considering under this new motion that the Floor Leader has offered. Thank you.

Speaker Arnold Palacios: Okay, thank you for that clarification. Discussion on the motion. Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. I would like to concur with the comments that were made by Representative Hofschneider earlier. In reviewing the Committee Report it seems that the justification for filing is that an Advisory Commission has not yet been formed, but I think it might be premature to just kill the bill before we have even explored that possibility. I would submit to the members that especially considering these austere times we have another budget bill that reflects the \$148 million expenditure for the rest of this year and it is predicted to go down. We need to start looking at ways to cut the fat and tighten our belts and this is one way to do it. I would like to ask that we consider even filing this and perhaps we can table this for now, explore the possibility of an Advisory Commission and look at ways to cut where ever we can. Not just for this year but for the long term and this is one very viable possibility.

Speaker Arnold Palacios: Representative Benavente, recognized.

Representative Benavente: Thank you, Mr. Speaker. First of all, I want to state for the record that I do not disagree at all by the statements made by Representative Sablan or Representative Hofschneider but the difference here, how little or how big, there is a difference between what we are doing and the process of the Advisory Board and why that it is required. We still need to always consider the important constitutional requirement of the separation of powers. What we are attempting to do here is almost overstepped that separation. We are now, basically through this unilateral decision of the Legislature, if the Governor should sign it into law is making a change in the Judicial Branch a separate power separate entity under the Constitution and that is one of the concerns raised during the Committee deliberation on this. I would just want to raise that as an issue before the body before it votes. Thank you.

Speaker Arnold Palacios: Before I recognize Representative Babauta, I would like to recognize the presence of the esteemed Secretary of Finance, Mr. Eloy Inos. Representative Yumul, did you issue out a subpoena already (Laughter). Representative Babauta, recognized.

Representative Babauta: Mr. Speaker, perhaps to arbitrate this between a filing and the suspension of the enactment or rather killing the bill itself, I would offer a subsidiary motion to lay it on the table indefinitely. That is a motion.

The motion was seconded.

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

Representative Hofschneider: There is no point in hanging this. It is either we allow the Legal Counsel to tell us if it is in fact the Judicial initiative calls for a commission that took away the

purview of the Legislature to reduce the judges' salary. I think this legislation is talking about the window when reelected or newly appointed that new salary will apply versus the Commission to adjust or like in the Legislature's context a commission shall be established to look at the compensation of the legislative..." if that is the case that it is a constitutional requirement, then maybe we are in fact infringing, but to dangle this on the Calendar Mr. Speaker, it is either we refer it back to Committee and allow the Committee to look at whether we are infringing on the constitutionality of compensation for Judges or let us just vote and file the bill. I mean, I do not like this idea of hanging it. The Committee has done its work and I believe that we should trust the Committee that they have looked at the fine line between the constitutionality of the Legislative authority to reduce salaries of Judges versus moving forward and just adopting the legislation as intended, but let us not hang it Mr. Speaker because that is not the way to do things.

Speaker Arnold Palacios: Representative Santos, recognized.

Representative Santos: Mr. Speaker, Representative Hofschneider is absolutely right when he said that the Committee did their work. We did look at all constitutional aspects of it, the encroachment of separation of power issues and how the salaries were established to begin with was also with an advisory commission on salaries elected officials from the Governor all the way down to the House and to Judges and Justices and we felt that the best approach if we were to change that. And it is high time to get another review from the same body if we need an upward adjustment or downward adjustment or status quo.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you. Again, on the subsidiary motion to lay this on the table. I think that the merit that I see in Representative Babauta's motion is that it would allow for the Committee and other members to examine the possibility establishing an advisory commission. The Analysis of the Constitution as the report indicates is that such a commission shall be established by law and that is absolutely the purview of this Legislature. We can establish an advisory commission by law that will examine this bill and perhaps other potential pieces of legislation that will reexamine the salaries of all elected officials including Judges and Justices. In the meantime, while the Committee looks at that possibility we could have this bill as one avenue towards adjusting salaries if necessary. So I would ask that we not kill this bill right away. Like I said earlier it would be premature.

Speaker Arnold Palacios: The standing motion is the subsidiary motion offered by Representative Babauta and that is to lay it on the table.

Several members voiced "ready".

There was a division on the floor and the Clerk called the roll.

The Clerk called the roll on the motion to lay on the table indefinitely S. C. R. NO. 16-67 reporting on S. B. NO. 16-26, SD1.

Representative Edwin P. Aldan	absent (excused)
Representative David M. Apatang	no
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	no
Representative Joseph N. Camacho	yes
Representative Francisco S. Dela Cruz	no
Representative Joseph P. Deleon Guerrero	yes

Representative Victor B. Hocog	absent (excused)
Representative Heinz S. Hofschneider	no
Representative Raymond D. Palacios	no
Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	no
Representative Christina M. Sablan	yes
Representative Edward T. Salas	yes
Representative Rosemond B. Santos	no
Representative Ramon A. Tebuteb	no
Representative Ralph DLG. Torres	no
Representative Stanley T. McGinnis Torres	yes
Representative Ray N. Yumul	yes
Speaker Arnold I. Palacios	no

Speaker Arnold Palacios: By a vote of ten “no” and eight “yes” the motion to lay on the table was defeated. We are back to the main motion and that is for the adoption of S. C. R. No. 16-67.

Several member voiced “ready”.

There being no discussions the motion to adopt S. C. R. No. 16-67 was carried by voice vote.

Speaker Arnold Palacios: One minute recess.

The House recessed at 3:18 p.m.

RECESS

The House reconvened at 3:32 p.m.

Speaker Arnold Palacios: We are back to plenary session. Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. No. 16-68 reporting on H. L. I. No. 16-2 recommendation for passage in the form of *H. L. I. NO. 16-2, HSI*.

The motion was seconded.

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, HSI.*

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

Representative Hofschneider: There is a beautiful old saying, “when it is not broken, don’t fix it.” The system emplaced in the Constitution today about the appointment process of an Attorney General versus the proposed Legislative Initiative to elect an Attorney General (“AG”) is not broken. It may sound corny, but it is not. It is usually and in retrospect it is the appointing entity or individual that fails the responsibility of appointing the Attorney General that appropriately functions and implements and enforce the laws and the Constitution’s of the Commonwealth. The process itself is not broken in other words. Why? Look at other jurisdictions it is politicized if it is elected. Guam is a good example, of when an Administration goes in with different political suit

political party that in itself begins the warfare of uncooperative gestures and uncooperative relationship. This Community is laden with blood relationships and it is enough that we cannot shed it off to be politically mature, we are getting there---maybe the next generation of kids can completely take off that political immaturity and begin to look at policies, accountability, and responsibility that is required of a developed and mature political community. I am afraid having known the political system and have seen many occasions where many instances where politics itself reins over common decency of doing the right thing. Look at the Board of Education, and you look at the process in which electorates get into office the criticism lodged against the Legislature is phenomenally embarrassing. Now, to have the Office of the Attorney General and in the Constitution is the person to enforce the laws and the Constitutions of the Commonwealth if politically motivated nothing will be accomplished. Now, maybe this is the solution that would get us in the right direction but it is not palliative medication where you have a stomach ache you take something and it is not going to injure you so maybe in the instance of getting us in the right direction of appointing the right Attorney General maybe it is required of us to let the people out there vote for an Attorney General, but what then after you cure that stomach ache and that person is elected empowered by the people by political inference. And let us not kid ourselves even Judges have to lean on some political momentum when they are up for reelection. I have seen this many times since the passage of that Initiative the Judges retention. They are supposed to be a political but you cannot afford in this small community to have some leaning and or identification for support of a growing momentum, otherwise, you are going to be left out. So if the enforcement of the Constitution and Laws of the Commonwealth is pretty supposed to political whim, what are we getting into? I think the onus is really on the appointing entity and person to ensure that there is extensive review and selection process in a consideration for the Office of the Attorney General. The prescription provided in the Constitution is sufficient it is not broken. It is the subjectivity of the appointing authority specifically the Governor himself is responsible for inadequate representation by the Attorney General. Look back and I have been here for sixteen years four Administrations. The process itself is not broken the subjectivity of who that sitting Governor wants to appoint is in question. We inject this by passing this Legislative Initiative we are encouraging this community to politicize the Office of the Attorney General too. And maybe the medicine will just kill the patient instead of curing it. I ask the members to really consider because the process is not broken it is the subjectivity of the appointing authority that is in question. If you appoint someone that is inadequate to fill the Office of the Attorney General then you get what you get, on the reverse too, what if someone who is politically popular, wins an election and there is less to be desired about the activity going on in the Office of the Attorney General, the reverse is also true. I think that the transparency is the key to the process of appointing an Attorney General, appropriately looking at the background, what are the beliefs of an Attorney General for instance. Do you believe in a stronger Executive Branch and the separation of Powers? How do you view Article XII? What is your stand on abortion? These are critical insights in considering an appointment. The Constitution is perfectly fine and functional. It is we the people that appoint the Attorney General that is at the root problem. But then again, you know I have a different look at responsibility, I have a different look at how this government should function maybe I am just one of those stars that just hit equinox and it does not influence one or the other but the reality is, are we getting ourselves into something that we may have to revisit after the first Attorney General is elected because he or she is popular by the electorates not necessarily an overtly qualified and may give more problems than cooperation. What does it take to enforce the laws in the Commonwealth? A well qualified compassionate about the people and public service Attorney General. Not because he or she supported you he or she gave \$50,000.00 in your campaign or amounts to a family with significant powerbase. These are all for us to consider that things can go the other way, like they say be careful what you wish for. I think we should give it a try by saying, that the next Governor of the

Commonwealth should really select the most qualified individual for the Office of the Attorney General. Thank you.

Speaker Arnold Palacios: Thank you. Representative Deleon Guerrero, recognized.

Representative Deleon Guerrero: Thank you, Mr. Speaker. And thank you, Representative Hofschneider for providing one side of the coin and one perspective. I have also debated myself there are pros and cons on going both ways either appointed or elected. There are benefits and we have seen examples where an appointed Attorney General, however qualified he is, is still beholden to the Governor who appointed him. We have seen examples of cases from the Public Auditors Office referred to the Attorney General which has never gone anywhere. Perhaps, the big difference Representative Hofschneider used the issue of the politics behind it. Maybe the issue that may actually make the elected Attorney General more accountable to the people because he will have to answer to the people he would not have to answer to any Governor. And if he makes and does not prosecute issues that the people fill very strongly about then he knows what could happen next. But what we do not have we have seen examples of appointed Attorney Generals and we have seen failures and I think in all fairness the Attorney Generals that were appointed I will not say they were not qualified I do not think they are not good people or do not have the sense of the people in their heart. It is just that they may be suppressed or strangled, perhaps is a better word, that we have seen a lot of examples of and I think it is time that this initiative is not a reaction but it is in response to the failures that we have seen. I think we should give it a shot. Like I said, whoever the Attorney General elected would have to answer to the people and if he is not doing what he is put in there to do then the people can get rid of him. If I can see one discrepancy with this initiative is that it only limits the term to only two and if we have a good Attorney General who is doing his job I do not know why we want to limit that person to only two terms that is the only shortcoming of this initiative that I can see. Otherwise, I think accountability is very important to the people of the Commonwealth right now and the only way we are going to get accountability in that office is to have one elected by the people. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Thank you. Let me remind members that we are only on the Committee Reports and that we will have ample time to really express our thoughts, beliefs, and opinions of the initiatives when get on the Bill Calendar. So I appreciate it if we try to tend to limit ourselves as much as possible on the generality because we are only dealing with the Committee Reports. Representative Dela Cruz, recognized.

Representative Dela Cruz: Thank you, Mr. Speaker. First of all I would like to extend my appreciation to the Judiciary and Governmental Operations Committee (“JGO”), after one year and ten days exactly, this initiative is now before us in a form of a Committee Report. I respect the opinions of the speakers here, Representatives’ Hofschneider, Deleon Guerrero. The question is, is the system broken? I tend to believe so in so many ways. Just last week myself and some other members of this House had a meeting with the Office of the Public Auditor and one of the biggest concerns they have is that they generate year after year of audit reports that has findings of presume wrongdoings. The Attorney General’s Office (“AGO”) has been there for the last three decades it is almost like a marriage, a honeymoon if you will between an Administration and its “AG’s” office. That is how I see it. *(End of Tape 2, Side B)*

(Start of Tape 3, Side A)

Representative Dela Cruz: The people can actually see a lot of things going on. And going back to the Public Auditor's, the biggest concern that they have is that once submitted to the "AG's" office is the purview of the "AG's" office to do the investigation. At this point in time cases are being either ignored or left on the shelf thereby exceeding its statute of limitation. That is what has been going on for the last three decades. We ask ourselves again, is the system broken? I definitely think it is broken. Do we want to continue on with the status quo having statutes of limitation exceed? If that is what we want then let us stick with the status quo. But I for one, would rather see that we go into this direction and just maybe good governance would begin to happen. This is for our people. Our people will be making this decision if it ever passes this House and the Senate. Let us give the people a chance a lot of them want change, but it is us that is putting a road block. I know that the actual Initiative will be deliberated on after the decision on this committee report but again I ask all of you colleagues to look back and see where we have been. We had some good attorneys but because of differences of policies with the Administration they had to quit. Because it was too political for them and this is an office that we do not want to see being politicized. This is all for now, Mr. Speaker until the Initiative.

Speaker Arnold Palacios: Thank you. Representative Apatang, you defer to Representative Hofschneider he has a very short question.

Representative Hofschneider: Maybe, Mr. Speaker, this is one of those things that both sides have merits. So I am going to suggest, Mr. Speaker and ask the question. I do not want to see this that there are multiple candidates being placed on the ballots and the Office of Attorney General wins by 29%. So fifty plus one is the Rule here?

Speaker Arnold Palacios: It applies that, yes.

Representative Hofschneider: Then, Mr. Speaker I rest.

Speaker Arnold Palacios: Representative Apatang, recognized. We are still on the Standing Committee Reports, please, I think we had...

Representative Apatang: Thank you, Mr. Speaker. I just have several questions here. I see a listing of all the States and Territories here of an elected "AGs" and some are appointed "AGs", but I am just curious if there is any listing as to the amount of salary per State compared to what is proposed here on this particular bill--from \$80,000.00 to \$100,000.00 annually. I wonder if this is too low or too high, if it is too low we can probably increase it to \$113,000.00. Mr. Speaker, I wonder also if there is in the statutes and the Constitution where if an Attorney General is not doing his job, be it negligence or whatever I am sure there is a provision that we can remove that "AG" if I am not mistaken. I do not see going through this elected "AG" again, we have the provision in the Constitution as is that we can remove an Attorney General that is not doing his job. Now, if the issue here is that they are not prosecuting what the Public Auditor's recommendation on issues on certain violations then we should get rid of the Attorney General we have that authority. Why, recreate another monstrous office. A classic example on Guam, Attorney General Moylan. I can guarantee you that they spent more money wasted time and funds on Guam trying to prosecute the Governor and some of the elected officials in the government and if we can obtain the records from Guam he did not accomplish anything. So these are the things that we need to be careful. Whether we actually want an elected "AG" or leave it as it is. We have the power to do what ever we want. So let us think about this before we act on it. Members, these are the things that we need to do. We do not just rush on things. I know that this bill was introduced way back and it was never acted on,

but let us be careful let us do some research before we act on it. If it merits after research and it merits that we pass it we will support it. But give us the report on the pros and cons. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Representative Reyes, recognized. This is only on the Standing Committee Reports. We do still have one more step.

Representative Reyes: It is a good thing to debate, I know we are referring to the Standing Committee although I am not a signatory to the Committee Report if I had been there I probably would of signed it, but just a quick thing here. The Office of the “AG” is political one way or the other if you look at it, whether it is elected or appointed. But I would like to point out and given that we have an appointed “AG” right now and the letter that was given to us by Representative Rosemond Santos the “AG” is supposed to enforce the law. Now, it appears that the “AG” himself is in violation of the law and that the Governor has been made aware of this, what is going on, what is happening. I think that the acting “AG” should be ashamed of himself and resign, if not the Governor should send him a letter of termination immediately because that office is supposed to enforce the law and not to break the law. That is all I have to say. Thank you.

Speaker Arnold Palacios: Representative Raymond Palacios, recognized.

Representative Raymond Palacios: Thank you, Mr. Speaker. This is probably the shortest one and I will get right down to the point. Just nine words to express my take on this initiative without prolonging the deliberation. Like the saying, It ain’t broke, don’t fix it, it ain’t working change it. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Representative Babauta, recognized.

Representative Babauta: As we deliberate on this committee report, Mr. Speaker I think the substance of the concerns of most of the members is within the legislative initiative itself. But as my fellow members deliberate and I looked up there, Mr. Speaker it seems like we are in the Supreme Court Chamber and we continue to argue on the merits of the policies that we are about to set forth. Mr. Speaker, I got comments but my comments will focus on the initiative itself so with that I move to end debate.

Speaker Arnold Palacios: Let me allow for few more future elected “AGs” (Laughter), Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. My comments go to the Committee Report hopefully I do not spill over. I was reading through it, and I have three basic questions. One is in regards to the salary. I know that it recommends from \$80,000.00 to \$100,000.00 and if it is not in here hopefully, it is oral commentary will help. Practicing in the private sector even a relatively competent attorney can clear an easy \$180,000.00 and if your objective is to have an independent “AG” even at a \$100,000.00 that is still far below what an average attorney will clear on a given year. Anyway, it is up to you to decide how you want to work with that information. Also, I did not see a recommendation of a mandatory budget. If your objective is to have an Attorney General that is not beholding to the Legislature or to the Administration it might be feasible to have at least a floor that you are entitled to an office and personnel and some fixed assets in regards to the way you prosecute certain cases. The third one is, in the bill, it references on page two of the amendment about how an Attorney General shall be an “active member”..., that is actually a very key word. If

you say “active member” or “actively practicing” that is two different things. Because you have members here for example are members of the “CNMI” Bar Association here at the Legislature or at “CUC” or the Commonwealth Health Center (“CHC”) or Legal Counsels. There is about two hundred “CNMI” Bar Association members, about seventy of them are actually considered “actively practicing” law that they normally and regularly go to the Court House. Even out of that seventy only a very few amount about thirty of them actually practice in Federal Court. So that is something to consider, do you want an Attorney General that has real active experience in the Court house or somebody who has been a member of the “CNMI” Bar for twenty years and was Legal Counsel to Hyatt or whatever. So anyway, those are my comments and I hope that you can take them at a positive matter. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Representative Apatang, recognized.

Representative Apatang: Just out of curiosity, Mr. Speaker. I wonder if there was a public hearing conducted on this particular initiative?

Speaker Arnold Palacios: Representative Santos, recognized.

Representative Santos: I cannot remember. But I do know there were some bills affecting the Judicial Branch which was up for public hearing in all the three islands I just cannot recall if this was one of them.

Speaker Arnold Palacios: Thank you. Before I call for the vote and recognize the Representative Babauta’s motion to end debate. We have a very active participation from one of our esteemed member who has been very quiet today. Representative Stanley Torres, you endorse this elected “AG”? You are the one who is always on the “AG’s” case.

Representative Stanley Torres: Thank you, Mr. Speaker. If my recollection serves me right I am the first one to introduce this legislation since the Ninth Legislature I think. I am praying that this body would pass this initiative. I am glad and happy that we have this before us deciding to vote on it. I am in favor of the elected “AG” and I thank you for passing this initiative. Thank you.

Speaker Arnold Palacios: Ready.
Several members voiced “ready”.

There being no further discussions the motion to adopt S. C. R. NO. 16-68 was carried by voice vote.

Speaker Arnold Palacios: Can I ask for a one minute recess.

The House recessed at 4:06 p.m.

RECESS

The House reconvened at 4:10 p.m.

Speaker Arnold Palacios: If there is no objections, we will go to the Resolution Calendar.

There was no “objections” on the floor.

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.*

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

NONE

UNFINISHED BUSINESS

NONE

RESOLUTION CALENDAR

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt H. COMM. RES. 16-68 in reference to the Emmanuel College.

The motion was seconded.

H. COMM. RES. 16-68: A HOUSE COMMEMORATIVE RESOLUTION TO RECOGNIZE AND CONGRATULATE EMMANUEL COLLEGE ON ITS INITIAL GRADUATING CLASS FROM THE 11-MONTH VOCATIONAL NURSING PROGRAM.

Speaker Arnold Palacios: Discussion on the motion.

Several members voiced “ready”.

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

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt H. C. R. NO. 16-3 in reference to identification on resources.

The motion was seconded.

H. C. R. No. 16-3: A HOUSE CONCURRENT RESOLUTION TO AMEND HOUSE CONCURRENT RESOLUTION 16-2 TO REDUCE THE REVENUES AND RESOURCES OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AS TRANSMITTED IN THE GOVERNOR’S SPECIAL BUDGET MESSAGE ON DECREASE IN REVENUE ESTIMATES FOR FISCAL YEAR 2009, BEGINNING OCTOBER 1, 2008, AND ENDING ON SEPTEMBER 30, 2009.

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

Representative Hofschneider: Because this is an opportunity for us to get a nod from the Secretary of Finance. Is that an accurate figure, may you ask him. Just to give us a nod.

Speaker Arnold Palacios: Short recess.

The House recessed at 4:11 p.m.

RECESS

The House reconvened at 4:11 p.m.

Speaker Arnold Palacios: We are back to our session. Representative Hofschneider, recognized.

Representative Hofschneider: For the record, Mr. Speaker the Secretary of Finance acknowledged that the \$148 million is the resources.

Speaker Arnold Palacios: Are there further discussions? Representative Quitugua, recognized.

Representative Quitugua: Mr. Speaker, prior to the arrival of the Secretary of Finance there were some concerns raised regarding the cover-over. I would like to ask the question whether we are anticipating any cover-over funds for fiscal year 2009.

Speaker Arnold Palacios: Representative Hofschneider, do you want to answer that question?

Representative Hofschneider: No, Mr. Speaker I am not the Secretary of Finance. (Laughter) I move, Mr. Speaker to convene into the Committee as a whole.

The motion was seconded.

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Mr. Speaker, with all due respect to Representative Hofschneider. Can I make the motion to convene into the committee of the whole? (Laughter)

Speaker Arnold Palacios: Okay, please make the motion.

Floor Leader Camacho: A motion to move to committee of the whole so we can receive comments and inputs from the Secretary of Finance.

The motion was seconded and carried by voice vote.

The House dissolved into the Committee of the Whole at 4:13 p.m.

COMMITTEE OF THE WHOLE

The House reconvened in plenary session at 5:01 p.m.

(Start of Tape 4 side A)

Speaker Arnold Palacios: We were entertaining the motion to adopt H. C. R. No. 16-3. Are there any further discussions?

Several members voiced “ready”.

There being no further discussions the motion to adopt H. C. R. No. 16-3 was carried by voice vote.

Speaker Arnold Palacios: Let us take a short recess.

The House recessed at 5:01 p.m.

RECESS

The House reconvened at 5:04 p.m.

BILL CALENDAR

ANNOUNCEMENT

ADJOURNMENT

Speaker Arnold Palacios: We are back to plenary session. We are going to address the budget on Wednesday. I know that there are so many scheduling conflicts but I believe that we really have to begin to set aside a lot of these scheduling conflicts so we can come in and address this issue. We cannot continue to set aside this budget issue. We have to one way or another set our priorities. I know that there are members that have conflicts. I am going to call for a session on Wednesday, at 1:00 p.m. I do not care whether there is going to be any presentation by anybody this House will meet at 1:00 p.m. so be here. Floor Leader Camacho, recognized.

Floor Leader Joseph N. Camacho moved to recess until Wednesday, January 14, 2008 at 1:00 p.m., it was seconded and carried by voice vote.

The House adjourned at 5:06 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:

THIRD APPEARANCE: