



# House Journal

## THIRD REGULAR SESSION, 2009

**Adopted:  
August 10, 2009**

2<sup>nd</sup> Day

Wednesday, January 14, 2009

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened its Second Day, Third Regular Session on Wednesday, January 14, 2009, at 1:26 p.m., in the House Chamber on Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

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

A moment of silence was observed.

The Clerk called the roll and eighteen members were present. Representative Stanley T. Torres came in late; Representative Edwin P. Aldan was absent and excused.

### ADOPTION OF JOURNALS

NONE

### INTRODUCTION OF BILLS

H. B. NO. 16-214: A Bill for an Act to provide for the regulation of automated teller machines by adding a new cChapter11 to Division 6, Title 4 of the Commonwealth Code; for other purposes.

Offered by: Rep. Joseph C. Reyes

Referred to:

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: I apologize, just a little bit of housekeeping here and a little bit of oversight from last session. There should be under the Reports and Standing Committee, S. C. R. No. 16-60 reporting on H. L. I. No. 16-8 in reference to Article XII. I apologize if does not reflect on the Agenda. I believed it was left on Calendar in our last session.

Speaker Arnold Palacios: If you may recall, I instructed that the S. C. R. No. 16-60 be retained on the Calendar while the Committee look into the issue of the questions that were raised in last session. So please be advised that the S. C. R. No. 16-60 should still be on the Calendar under Agenda Item 12. Ready.

Several members voiced “ready”.

### INTRODUCTION OF RESOLUTIONS

NONE

## MESSAGES FROM THE GOVERNOR

NONE

## SENATE COMMUNICATIONS

SEN. COMM. 16-113: (1/13/09) Returning H. C. R. NO. 16-3, entitled, "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," which was adopted by the Senate on January 13, 2009. [*For info*]

SEN. COMM. 16-114: (1/13/09) Informing the House that the Senate accepted the House amendments to S. B. NO. 16-34, HD1, entitled, "To amend 1 CMC § 6103(a) of the election law; and for other purposes," on January 13, 2009. [*For info*]

SEN. COMM. 16-115: (1/13/09) Returning H. B. NO. 16-135, HS1, the "Commonwealth Autism Commission Act of 2008," which was passed by the Senate without amendment on January 13, 2009. [*Will go to Governor*]

*There was no discussion under this item of the Agenda.*

## HOUSE COMMUNICATIONS

HSE. COMM. 16-95: (1/9/09) From Representative Aldan informing the Speaker that he will be off-island from January 12, 2009 thru January 18, 2009.

*There was no discussion under this item of the Agenda.*

## COMMUNICATIONS FROM THE JUDICIAL BRANCH

NONE

## COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

NONE

## COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

DEPT./AGCY. COMM. 16-63: (12/19/08) From MVA Acting Managing Director Judy C. Torres providing a copy of the MVA 2007 Annual Report. [Report posted on the Legislature Network]

DEPT./AGCY. COMM. 16-64: (12/31/08) From Public Auditor Michael Pai providing a copy of the Report on the CNMI Agencies' Implementation of Audit Recommendations as of June 30, 2008. [Report posted on the Legislature Network]

DEPT./AGCY. COMM. 16-65: (12/31/08) From Regent Chair Charles Cepeda and NMC President Carmen Fernandez transmitting annual financial reports. [Report posted on the Legislature Network]

DEPT./AGCY. COMM. 16-66: (1/30/08) From the former Public Auditor providing a copy of the Office of the Public Auditor's 2007 Annual Report. [Report posted on the Legislature Network]

DEPT./AGCY. COMM. 16-67: (1/5/09) From Redie Aldan, MPLT Office Manager providing a copy of MPLT's 2007 Annual Report. [Report posted on the Legislature Network]

DEPT./AGCY. COMM. 16-68: (Undated) From the Honorable Miguel S. Demapan presenting the 2007 CIPA Annual Report. [Report posted on the Legislature Network]

Speaker Arnold Palacios: Please take note that some of these annual reports have been posted on the legislative network and can access through there.

*There was no discussion under this item of the Agenda.*

### **OTHER COMMUNICATIONS**

MISC. COMM. 16-58: (1/9/09) From Youth Congress Speaker Alana Leon Guerrero informing the House that the Youth Congress will be meeting in the House Chamber on January 15, 2009 and January 17, 2009.

*There was no discussion under this item of the Agenda.*

### **REPORTS OF STANDING COMMITTEES**

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.*

S. C. R. NO. 16-70: Reporting on **S. B. NO. 16-22, SS1, SD1**, entitled, "To amend parts of 1 CMC 6101 et seq., the Northern Mariana Islands Election Law; and for other purposes." *Your Committee on Judiciary and Governmental Operations recommends passage of the bill in the form of S. B. NO. 16-22, SS1, SD1, HS1.*

Speaker Arnold Palacios: Before we proceed to the next Item on the Agenda I would like to call for a short recess while we wait for the Legal Counsel to be presented.

*The House recessed at 1:30 p.m.*

### **RECESS**

*The House reconvened at 1:30 p.m.*

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you Mr. Speaker. I believe copies of S. C. R. No. 16-60 are still being made, but I can move on to make a motion to adopt S. C. R. NO. 16-69 reporting on S. L. I. NO. 16-10 recommendation for passage.

The motion was seconded.

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, HSI.*

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

Representative Hofschneider: Again, Mr. Speaker I caution that the Legislature should not move on this until we secure a form of repayment for the Pension Obligation Bond (“POB”) even though this is attempting to place it before the people first to ratify it. The purpose of ensuring lenders is first, you need to show that the form of payment is there, and second, that it is in fact protected by law. This initiative is only to allow to ratify it in the upcoming election this is a huge undertaking. We are talking about almost \$200 to \$250 million to borrow so that we can pay this Commonwealth of the Northern Mariana Islands (“CNMI”) government Retirement Fund so that we save the Retirement Fund from bankruptcy that is the purpose of the “POB”. But in today’s environment of borrowing the lending institutions themselves are strapped. They are being rescued and subsidized by the Federal Government to shore up their ability to stay in business---from the biggest banking institutions to the Stock Market itself. So I think, Mr. Speaker that we need to make sure that there is a legislation before this in placed so that if we have to put it on the ballot and let me just qualify that, I am not opposing it I am supporting it because I even introduced an initiative for it, but both have to be passed at the same or secure the form of payment. This government today we are considering a lower budget level because we do not have the ability to pay our cost or operating the government that is the reason why the Governor vetoed the first budget attempt. So we are going to take up a new version of the budget which is lower to conform to his message. Let alone to borrow \$200 million would require a minimum of \$5 million of repayment a year. So to ensure our credibility without even considering all the deficits we need to ensure that we emplaced legislatively---I am talking about being responsible here---feuding it out and placing it on the ballot for the people to ratify would potentially pose too many questions an ambiguity for people to say, how are we going to pay for it, how is going to get laid-off, how are we going to pay for \$5 million, where is the money coming from, are you going to raise taxes to pay for a mess with the Retirement Fund---inevitably these questions must be answered. So before pass this and place it on the upcoming election let us thoroughly discuss the merit of this and how to pay for it so people can get engaged and support a “POB” if we are serious about saving the Retirement Fund. Putting it on the ballot by passing both Houses of the Legislature is one thing. Getting it pass with articulation and forthright being honest to our people is another thing. So, Mr. Speaker I move that we continue to place it on the Calendar and come up with a legislation that would ensure that at minimum we find a way to segregate and secure by law at least \$5 million of repayment ability for the “POB” to ensure that when we pursue it upon ratification it goes smoothly rather than to wait until the next Administration comes in and try to find the way whether raising taxes or reducing government employees so that we come up with the \$5 million ability. Keep in mind this “POB” is not going to be borrowed by the Retirement Fund, we owe them. So the “POB” would be floated or borrowed by the “CNMI” Government and the only way we can do that is to expose the General Fund again. We do not have a dedicated revenue that we can pledge to payment on an annual basis. So what we are pledging is a grant pledge is a full faith and credit of the Commonwealth and how do we pay for that, with our existing bond obligation of close to \$100 million---\$60 million in Capitol Improvement Projects (“CIP”) and \$40 million in Land Compensation. So, Mr. Speaker with all consideration I ask the members to just hold for a while and let us come up with a legislature so that we can ensure that methodically we find a way to secure the repayment ability, whether attrition in government like the bill that I introduced earlier to entice government employees to retire and save that money and the payroll cost dedicated by law to save it and pledge it for repayment of the general obligation bond. Thank you.

Speaker Arnold Palacios: Let me recognize Representative Deleon Guerrero.

Representative Deleon Guerrero: Thank you, Mr. Speaker. Respectfully to my good colleague Representative Hofschneider who did introduce an initiative in addition to the one that I introduced for Pension Obligation Bond, I have to respectfully disagree. Please, when we introduced that initiative it was understood that we need to find the funding source for repayment of this bond. But I do not see any need to hold back the initiative. It is going to take some time it is going to take some time to allow for the Election Commission to be able to conduct the public education needed before this initiative is placed on the ballot. So timing is critical. We all understand the seriousness of the Retirement situation. I think we probably all agree that the Pension Obligation Bond is the means to restore financial solvency to the Retirement Fund---legislation is all that is needed. Now there are different ways we can look at whether we consider the current remittance to the Retirement Fund at 11% that comes out to roughly \$11-\$12 million it is in the budget. We can use a portion of that or other---that is up to us and nothing prevents us from identifying revenue and introducing it tomorrow or next or when, but the important thing I think is for us to pass this. It still has to overcome the hurdle at the Senate and who knows what may happen over there. So please, I have to respectfully disagree and ask the members that let us pass this initiative so that the ball can start rolling and restore some sense of confidence also. Retirees are very concern about the solvency of the Retirement Fund and I think all this would do if anything at the moment would be to restore some sense of confidence that we are not just going to wait for something to happen. That we are going to make something happen, so that is all Mr. Speaker. Thank you.

Speaker Arnold Palacios: Representative Benavente, recognized.

Representative Benavente: Thank you, Mr. Speaker. Tonight, I understand there will be a public presentation that will be made on the status of the Retirement Fund where I believe we will be formally informed as to how long the solvency will last at what point how many years from now we are going to see the Retirement fail if it continues on. But we also heard from the Chairman himself and from others that because of the fact that we continue to liquidate each time we issue the pensions to retirees that we are seeing the life of our system is reducing and reducing fast. Given the fact that we have not been making the payments and that of the world economy has effected our investments. That is so critical that I have heard and we are talking about two or even three years. So we do not have the luxury of time to delay further these steps that we are taking. As the Representative Deleon Guerrero had pointed out the referendum for this would be on the November of this year which is ten months away. The uncertainty of how long the Senate will act on this initiative and then the certification and then of course the public education that would be necessary prior to the people coming together on November to decide on this issue is also important. So we need to act as quickly as possible so we give time to our people to make the right decision. I would agree with Representative Hofschneider this cannot go alone and I think in order for us to see this pass in November people are going to have to understand and see where the revenue is going to come from and that is something that we need to start today as well. We need to do that now. But we have a very serious situation and I have not heard of any other options from anyone else on how to save our Retirement System. This seems to be the only one everyone is looking at. So we have to act today. We really need to pass this. Thank you.

Speaker Arnold Palacios: Before I recognize anybody else let us just go into a short recess.

*The House recessed at 1:44 p.m.*

*RECESS*

*The House reconvened at 1:49 p.m.*

Speaker Arnold Palacios: Before I recognize Representative Sablan let me first recognize, Representative Reyes on the report itself.

Representative Reyes: Thank you, Mr. Speaker. Again I understand that this is only a report of the Committee and I am part of that Committee but notice that my signature is not there because I was not there. This is a piece of legislation and to pass a committee report I have no problems with that but just as a reminder I agree with Representative Hofschneider as well that the actuarial report presented tonight and that is only for 2007 and 2008 could be worse. Passing this having the initiative before the people is a good intent but we must do something else given that we have yet to know also and it is not in the committee report as to what the "CNMI" government's financial rating is. In addition to that members, bear in mind that there was a lawsuit that was filed which there is a judgment already and the question is the \$200 million would that be enough to settle with the Retirement Fund. The thing is really, \$200 million \$300 million \$100 million things got to change here because for as long as the government does not remit even the current deductions we are to continue having problems with this. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. I will keep this brief. I also recognize as all of do I think the seriousness of the Retirement Fund situation. This pension obligation bond is as, Representative Hofschneider has pointed out a tremendous undertaking. I would like to note that there are two major provisions, one of which is of course the authorization for the pension obligation bond which is actually more than just \$200 million. It is not to exceed the actuarially determined unfunded liability which is now at over half a billion dollars. Then there is also a requirement which I think implies how we are going to pay for this about a requirement that says that the Legislature shall reduce the size of government by two and a half percent each fiscal year. I think that is also necessary but one thing about the committee report that I think is missing that I would like to ask if we are going to pass this committee report today there should be public hearings. If we want the public's confidence in this initiative itself then we want the authorization of the taxpayers to take out this bond. We should at least give the opportunity before we pass this initiative in the Legislature for public comment. So again, just to reiterate if we are going to adopt this committee report today that is fine but I would really like to ask that the committee hold formal public hearings on all three islands because this is a major undertaking and there should be that opportunity for the public. Thank you.

Speaker Arnold Palacios: Let us take a short recess and confer with the Legal Counsel.

*The House recessed at 1:53 p.m.*

*RECESS*

*The House reconvened at 1:59 p.m.*

Speaker Arnold Palacios: We are back to plenary session. Before I called for a recess I noticed that we have some technicalities on the report itself and I know that this is an oversight most committees have only seven members. The Ways and Means Committee is the only committee with eleven

members and there are signatures lacking on this committee report. Some of the members of that committee have since signed the committee report. Let me ask for the indulgence of the members in the consideration of time and the pressing issues and schedules that we have this afternoon we will leave this committee report on the Calendar until our next session tomorrow or Friday. Floor Leader Camacho, could you restate and withdraw the motion please.

Floor Leader Camacho: Thank you, Mr. Speaker. So that the record is clear and regards to the twenty-four hour Rule and if there is no objection from the members I withdraw my motion to adopt S. C. R. No. 16-69.

There being no objections on the floor and the motion to adopt S. C. R. No. 16-69 was withdrawn was carried by voice vote.

Speaker Arnold Palacios: We will leave S. C. R. No. 16-69 on the Calendar. Representative Hofschneider, recognized.

Representative Hofschneider: May I then request the Chairman that this committee report came out of a simple---I am not going to be a rattle snake but this is a very critical legislation. So we need to show cost benefit impact analysis scenario---different scenario. If we are going to borrow \$200 million, what would be the current market be in terms of our obligation on an annual basis and how much of it would impact the Retirement Fund in improving and what effect would it do to the actuarial? So at a minimum, Mr. Speaker I would like to request that the Chairman of Ways and Means, Representative Yumul submits by next session a minimum cost benefit analysis so that we can tell the people and they can take this report and say, hey we need \$5 million to pay this every year and we need to dedicate it, how are we going to find this money.

Speaker Arnold Palacios: Okay, the Chairman will note that. Representative Reyes, on the issue for the last time.

Representative Reyes: Mr. Speaker, just to satisfy Representative Hofschneider's concerns and I agree that we should---the difficulty about this, Mr. Speaker is as I said there is a presentation tonight on the actuarial study and that is for 2007 and to get a better picture you should have an 2008. Now, the question is, are we going to be able to float this bond or not is very unlikely at the present time given the situation of the market is on the bond and much more to that. We need to get down to finding out really what is our financial rating of the "CNMI" government. Because that will determine the repayment amount so to speak. Otherwise, it is going to be hard, but we will do the best we can in the committee I assure you that. Thank you.

Speaker Arnold Palacios: Okay, so that motion has been withdrawn. Floor Leader Camacho what is your next motion.

Floor Leader Camacho: I believe we are pressed for time and if there is no objections from any of the members if we can move to the Bill Calendar.

There was no "objections" on the floor.

Speaker Arnold Palacios: We will leave all the other reports on the Calendar.

S. C. R. No. 16-60, Subst. 1: 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.

**REPORTS OF SPECIAL AND CONFERENCE COMMITTEES**

NONE

**UNFINISHED BUSINESS**

NONE

**RESOLUTION CALENDAR**

NONE

**BILL CALENDAR**

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to pass H. B. No. 16-213 in reference to the Budget 2009 on First and Final Reading.

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.

The motion was seconded.

Speaker Arnold Palacios: Before I recognize that motion let us go into a short recess.

*The House recessed at 2:04 p.m.*

*RECESS*

*The House reconvened at 2:04 p.m.*

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

Floor Leader Camacho: Thank you again, Mr. Speaker. Just so that the record is very clear on this I believe a motion to suspend the Rules in reference to First Reading and also committee report is in order I would like to make that motion before making the motion for passage.

The motion was seconded.

Speaker Arnold Palacios: Discussion on the motion.

Several members voiced “ready”.

The motion was carried by voice vote.

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to place H. B. NO. 16-213 on the Bill Calendar.

The motion was seconded.

Speaker Arnold Palacios: Discussion on the motion.

Several members voiced “ready”.

The motion was carried by voice vote.

Speaker Arnold Palacios: H. B. NO. 16-213 is hereby placed on today’s Calendar. Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to pass on First and Final H. B. No. 16-213 in reference to the Budget fiscal year 2009.

The motion was seconded.

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

Representative Hofschneider: Is there a substitute?

Speaker Arnold Palacios: Short recess.

*The House recessed at 2:05 p.m.*

*RECESS*

*The House reconvened at 2:05 p.m.*

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

Floor Leader Camacho: Mr. Speaker, I believe copies are still being made on the substitute. If there is no objection I would like to make a motion to lay my motion for passage on H. B. NO. 16-213 on the table for a few minutes and I would like to tail dove on making a motion for passage on First and Final Reading H. B. No. 16-194 in reference to the Trade School.

The motion was seconded.

Speaker Arnold Palacios: Let us deal with one motion. Discussion on the motion.

The motion to lay on the table was carried by voice vote.

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. I would like to make a motion for passage on First and Final Reading H. B. No. 16-194 in reference to the Trade School Institute and SHEFA.

The motion was seconded.

H. B. NO. 16-194: A Bill for an Act to amend 4 CMC § 1205(c) to add the Marianas Trade institute as a qualified educational institution for purposes of the education tax credit; and for other purposes.

Speaker Arnold Palacios: Let us take a short recess.

*The House recessed at 2:07p.m.*

*RECESS*

*The House reconvened at 2:19.m.*

Speaker Arnold Palacios: We are back to plenary session. Before we went on recess there was a motion on the floor to pass H. B. No. 16-194, was seconded. Let me call on for discussion. Representative Reyes, recognized.

Representative Reyes: Mr. Speaker just to correct a typo on line 10 it should read “education tax credit” instead on “ax”.

The motion was seconded.

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

Representative Salas: Mr. Speaker, I would like to offer a floor amendment.

Speaker Arnold Palacios: Please proceed.

Representative Salas: On page two, right after line 1, right after the number 6 “Marianas Trade Institute insert the word (“and”) and then add a number (“7”) and put “other license post secondary and vocational and trade institutes”.

The motion was seconded.

Speaker Arnold Palacios: Is everybody clear on the amendment motion offered. It has been seconded, discussion the motion. Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. During the recess I was conferring with Mr. Pelligrino who is the President of the Marianas Trades Institutes and I learned that actually the Trades Institute is already a non-profit corporation. They already have their papers from the Division of Revenue and Taxation and so under the existing language of the law they should already qualify for the educational tax credit. On page one, lines 15-18 it does say currently that any educational institutional located in the Commonwealth that has been issued a letter of determination granting tax exempt status under Section 501 (c) 3 can avail themselves now of the Educational Tax Credit. So I would like to suggest perhaps as a subsidiary motion just so that we make it clear that vocational and trades institutes shall qualify under that provision of existing law that we just amend that subsection 3 to make it clear rather than adding a new subsection and also what I would worry about is that we would sort of set the precedence for naming private schools by line every time a new school opens up.

Speaker Arnold Palacios: Short recess.

*The House recessed at 2:24 p.m.*

**RECESS**

*The House reconvened at 2:29 p.m.*

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

Representative Salas: Mr. Speaker, after listening to various sides' arguments and so forth I think I would like to withdraw my motion and leave this as it is. I do however, want change one word I believe it is the "Northern Marianas Trade Institute" not just Marianas Trade Institute. It is a technical.

Representative Salas withdraw his motion and there was no objection on the floor.

Speaker Arnold Palacios: Are we ready for the question. Clerk, please call the roll.

The Clerk called the roll on the motion to H. B. NO. 16-194 on First and Final Reading.

Representative Edwin P. Aldan	absent (excused)
Representative David M. Apatang	yes
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	yes
Representative Joseph N. Camacho	yes
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	yes
Representative Heinz S. Hofschneider	yes
Representative Raymond D. Palacios	yes
Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	yes

Representative Sablan: May I.

Speaker Arnold Palacios: Proceed for just a few minutes.

Representative Sablan: Of course, I understand we need to get to the budget. I do not think that there is any reason for us to rush through this. I do think it is worth considering the policy precedent that we are setting in specifically naming trades institutes when they could arguably already be included in existing law. I think that this bears more thought. Particularly in terms of the impact that this has on future trades institutes that might open up in the Commonwealth and whether or not now we saying that we have to amend the law every time a new opens up and we decide we want to give them the tax credit they might already qualify for it now and I think this raises confusion about whether or not they do. So I have to vote no.

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

Speaker Arnold Palacios: By a vote of eighteen "yes", hereby passes the House on First and Final Reading. I would ask some of our more esteemed members like the author to next time take the time to talk to some of the other members to clarify some of this because this was supposed to be a

straight forward bill. There is no such thing as a straight forward bill. Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. I would like to make motion to take from the table H. B. No. 16-213 the Budget reference to fiscal year 2009 so that we can proceed on the discussion.

The motion was seconded.

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.

Speaker Arnold Palacios: The motion is to take up discussion on H. B. No. 16-213 has been seconded. Discussion on the motion. Representative Babauta, recognized.

Representative Babauta: May I request a few minutes break since we just received the draft substitute.

Speaker Arnold Palacios: Short recess.

*The House recessed at 2:31 p.m.*

*RECESS*

*The House reconvened at 2:44 p.m.*

Speaker Arnold Palacios: We went on recess at the request of the Chairman of Ways and Means Representative Yumul. Representative Yumul, you offered a substitute?

Representative Yumul: I am about to...

Speaker Arnold Palacios: Could you please go down in sequence to at least give us a review of the changes that were made from the original legislation that you introduced?

Representative Yumul: Mr. Speaker, starting on page eleven, line 12 Section 203 cover over proceeds was amended from H. B. No. 16-213 I will be introducing House Draft 1 (HD) which basically expands the cover over and how it is to be annotated and reported. On line 19 applying the \$17.2 million as reported by the Secretary of Finance in his communication towards the retirement fiscal 2008 operating deficit only and it will not be used for any other purposes.

Representative Babauta: Point of clarification, Mr. Speaker.

Speaker Arnold Palacios: Can we just allow him to give us a summary of the changes so that at least we can mark up where the changes are made and we can then proceed to take our concerns on the individual changes. Proceed, Representative Yumul.

Representative Yumul: Thank you, Mr. Speaker. Just one second I am pulling out the comparative here so that I do not confuse anyone. Moving on to---

Speaker Arnold Palacios: Short recess.

*The House recessed at 2:47 p.m.*

*RECESS*

*The House reconvened at 2:47 p.m.*

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

Representative Yumul: On page sixteen, line 27, we removed the---

Speaker Arnold Palacios: Let us have some order here. Representative Yumul, we need to---

Representative Yumul: Yes, I am going to the specific page numbers where there were---we are jumping to page sixteen. Between page eleven and page sixteen there is no change. On page sixteen, line 27 which had originally required the House Standing Committee on Ways and Means and the Senate Standing Committee on Fiscal Affairs through joint resolution to certify upon approval by the expenditure authority. We removed that and instead just put it in its place the House and Senate Presiding Officers upon certification from the approved expenditure authority to make---

Speaker Arnold Palacios: That is beginning on line 15?

Representative Yumul: It is the paragraph starting on line 26 on page 16.

Speaker Arnold Palacios: What?

Representative Yumul: I am sorry on line 15.

Speaker Arnold Palacios: Representative Yumul, you need to go to your HD1.

Representative Yumul: I will mention it by Section number and subsection because the report that I have is inclusive of all the languages with the strike through. On the same Section 604 subsection (d) there was provision that would allow annual compensation for Resident Department heads to not exceed \$45,000.00. We have removed that in its entirety. So there is no more mention of the annual compensation for Resident Department heads. On page seventeen the "Define Benefit" under Section 608 mentions (the Public School System ("PSS") and all government employees including autonomous agencies and corporations to remit retirement contribution of 11%). Moving down to "Section 703(b)(2) Legislative Branch", (the expenditure of the appropriate amount shall be the Secretary of Finance) that was a mistake that we corrected. It talks about the amount of \$372,977.00 appropriated under this section to the Senate. Under the same Section 703 (3) expenditure authority for the amounts appropriated pursuant to 703 (b)(1) and 703 (b)(2) shall be the Secretary of Finance. That is for the employer contribution I believe. Under "Section 706 the Office of the Attorney General", (b) the Division of Immigration. It shall now read ("any "CNMI" Division of Immigration employees that cannot be transferred or reassigned within the "CNMI" government that is a member of the Define Benefit plan and serving in business units and so forth...") that is unchanged but original language that read "in the event that reassignment" we changed that. There was a change on the judgments against the government under "Section 720 (d)" an amendment that ("payments made under this subsection shall be first applied towards the principal amount of the outstanding

judgments and then the interest amount of the same once the principal amount has been satisfied”). On Section “721 under (c)” “Marianas Visitors Authority” (\$236,250.00 of the non-personnel appropriation is hereby specifically appropriated in non-personnel cost to support the marketing of tourist from---originally it was Korea we had changed it to “Korea and or Japan to Rota” and may not be used for any other purpose). Lastly, there was a minor technical on the Full Time Employees (“FTE’s”) on page four of six of the appendix under “Business Unit 1272” for the First Senatorial District under Community and Cultural Affairs Sports and Recreation Rota (“CCA”) was corrected to (“12”) originally it was (“10”) there was no changes of personnel or non-personnel cost. Then on page six of six the addition of the two additional “FTE’s” was adjusted upwards to reflect it. That is pretty much is the amendments and changes.

Speaker Arnold Palacios: Okay. Are you ready to discuss those if members ask questions? Okay.

Representative Yumul: Okay.

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

Representative Quitugua: On “HD1” page twenty-two line 20 under 706(b) on the withdrawal of the retirement contributions. Mr. Speaker, there is already an existing statute that allows members of the Retirement Fund who have actual service up to fifteen years to withdraw. Having this provision here will exempt this group of people to withdraw their contributions beyond fifteen years. For sure Mr. Speaker, this budget is going to end up with some layoffs in the government. There are also employees whose contract were not renewed that have more than fifteen years of government services but could not withdraw their contributions because of the fifteen year limit. Now, here we are giving a specific group of people a special opportunity. Mr. Speaker, I think if we are going to give this to one group of people it should be accorded to all employees because their choice of being laid off is not actually their choice they were forced, their contracts were not renewed same as this group of people. They are going to be forced out because of the change of law. So my motion is to delete “Section 706 (b) (1)” starting on “line 20 through page twenty-three line 2” and renumber the sections.

The motion was seconded.

*(b) Division of Immigration.*

~~— (1) In the event that reassignment or transfer to another position in CNMI government departments, agencies or corporations cannot be accomplished, an Any CNMI Division of Immigration employee that is a member of the Defined Benefit Plan, and serving in business units 1276, 1290, 1291, or 1292 on May 31, 2009, regardless of his or her vesting status and upon complete termination of service from government employment only and exclusively due to the transfer of immigration control to the federal government under US Public Law 110 229, shall be given the option to withdraw his/her accruals from the Defined Benefit Plan. Employees exercising this option shall be subject to prevailing law at the time of any subsequent reemployment with the government and enrollment in the Defined Contribution Plan. This option expires on September 30, 2009.~~

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

Representative Yumul: Thank you, Mr. Speaker. Just to state and reiterate what Representative Quitugua had mention. The choice of not renewing the example he gave, was not by an outside action meaning Federal Law this was done by I would assume, from within the government the Governor’s Office. To start with I do not know where this example that he used had his or hers employment but the expenditure authority there is locally controlled. The reason for this is because

it was Federal Law that forced this group of employees may soon be displaced. But if that is the wishes of the members, then I will not argue against that.

Speaker Arnold Palacios: Representative Benavente, recognized.

Representative Benavente: Mr. Speaker, we made a policy decision in allowing these individuals to withdraw up to fifteen years because of all the reasons and we do not need to repeat any of that. Apparently, we are reconsidering that policy decision knowing the uncertainty of each of these individuals situation when they lose their jobs and granting them the opportunity to withdraw the entire amount however long they have contributed. Let us put ourselves in their shoes for example knowing that we have reduced the budget that there is almost no chance at all that they are going to be able stay in the government and that they have two or three years left to be able to benefit in the system they would have to stay away and not be able to benefit from these contributions they had made. I think it is because as the Chairman of Ways and Means pointed out what happened to them is an action that was out of their hands. It was a situation that we as a government kind of imposed on them and I think it is only fair and because they are different from the others that have contributed more than fifteen years. I beg to differ with the mover of the motion. I would like to allow these members if they are not given the guarantee to be hired back by the government to be able to fulfill this twenty year commitment and contribution to the system that they at least be allowed to take their money that they have contributed. Thank you.

Speaker Arnold Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: Mr. Speaker, both sides merit the human side of I guess the predicament that these employees potentially face, but we are not certain if that is the case that they will not be hired---one. Two, whether in fact they would be willing to withdraw assuming that they go beyond the existing law which permits them to withdraw up to the fifteenth year of membership. Like I said earlier there is a bill that I introduced that would accommodate this group of people too. Not only that this Federal Immigration impacted a group of employees but as well as the rest. The point that we need to emphasize is the bleeding of the withdrawal as a result of that increasing it from ten years to fifteen years that was done in the Fifteenth Legislature and that aggravated the cash flow situation. From an individual standpoint it is the human thing to do to allow them to withdraw and good riddance they go back. The fact of the matter is, that they are coming through the backdoor and now they are being employed under the Define Contribution Plan (“DC”) that is double jeopardy on the Retirement Fund. You aggravated by bleeding it with cash flow on a monthly basis over a half of a million dollars---two million now as a result of increasing from ten years to fifteen years. Now, maybe perhaps the argument here if it is limited only as the language provides limiting it only to a number of a handful of employees that have exceeded the fifteen years. Maybe the impact is not significant and allowing these people to withdraw their property rights. But I am concern about the entire effect of it and that is what we are trying to prevent. So I think that we need to allow them to retire so that they benefit longer rather than to withdraw this immediately. Because the two reasons why they would insist upon this language. One, they are not certain to be reemployed there is no assurance from the Administration that comes June, what is their outcome, what is their status? Nobody is making a move to ascertain to make them feel confident that they will be picked out. We have not heard anything to that effect. Number two, I am pretty sure that they will leave their money in if we provide an opportunity for them to retire reaching the service age of eighteen years, but they are still short. So when you look at the human side and you just limit it to the number of people, one person’s plight is enough for us to consider that for us to support this amendment. But our job here is to look at the entire system itself the effect of withdrawing a significant amount of money on a cash flow basis. I think that fifteen year really did the Retirement

Fund in more than the tenth year. It allowed for excessive withdrawal and number of people and has impacted cash wise. So I think that we need to support the amendment but on one hand we need to come together and provide an alternative plan for them and I think that bill that I introduced should be seriously looked at and give it to the Governor to consider.

Speaker Arnold Palacios: Thank you. If you also recall that there is a legislation regarding the lateral transfer issue that Representative Apatang introduced and has been passed by the House and it is in the Senate. Let me recognize Representative Reyes and then Representative Hocog.

Representative Reyes: Thank you, Mr. Speaker. It is a good argument but echoing Representative Hofschneider's concern. Let us not forget that under the Define Benefit Program there are two types. There is Class I and Class II. I believe that there is local statutes now allows withdrawals up to fifteen years. Now, the time of service for Class I to retire if I am not mistaken and I stand to be correct is that you can retire but to withdraw pension you would have to wait for age---no age on Class I---twenty years okay. The bleeding right now several years ago the Retirement Fund's monthly average on withdrawals was about \$300,000.00 and just considering there is about thirty six or thirty nine of these employees to allow them all to withdraw at one time---I am sorry---sixty---well no the number of employees that we allow them to withdraw believe me I have seen people withdraw their contributions after about nineteen years of service because they are tired of the government. This will further add up by another half a million dollars and again let us bear in mind that and assist to the Secretary of Finance the other day that they are in arrears in remitting the cash to the Retirement Fund for two quarters of fiscal year 2008 the last third and forth quarters. So there is no cash coming in to withdraw this money again plus the continuing withdrawals from resignation or unemployment from government service could create a huge impact on the cash flow also the Retirement Fund. I think for consideration I think those who may have fifteen years of service may have a prorated pension if that would work out with them. Instead of having to out rightly withdraw it. Again, I worry about these people because I have seen this happen whereby they would be disabled thereafter and they do not have Social Security pension and then they may not have a job and they take their money out and there goes a so called pension plan that was designed to help them from the very beginning. So we have to be mindful also that we got to help them instead drawing nothing because they finished up the \$50,000.00---\$600.00 a month is a lot of money and it could help them stretch it out for the time of being out of government service so to speak on a prorated retirement I do not know. Thank you.

Representative Benavente: Point of information, Mr. Speaker.

Speaker Arnold Palacios: State your point, Representative Benavente.

Representative Benavente: I stand to be corrected, Mr. Speaker but what we are talking about here is the Immigration employees who have contributed for more than fifteen years and I wonder if any one of us has that when we had asked that question---we were talking about maybe three or five individuals---no? I yield at this time.

Speaker Arnold Palacios: Please proceed, Representative Sablan to answer that.

Representative Sablan: Sure, thank you. I am looking at a spreadsheet that I received from the Director of Immigration, Mr. Mel Grey. Right now in the Division there are approximately twenty-five employees that I have been able to count on this spreadsheet who have served in the government for more than fifteen years and of that twenty-five, five are eligible for retirement now--so twenty years or more. So we are looking at an additional benefit that is being granted now to

about twenty people in Immigration with fifteen years or more who are not yet eligible for retirement.

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

Representative Hocog: Nonetheless, Mr. Speaker I believe the amendment that the Chairman of Ways and Means inserted in section (b) on 706 is emplaced for the benefit of those employees that would be out a job not because of their choice. Besides that, Mr. Speaker the section of this bill is authorizing only these personnel that would be affected and it is a one time budget deal with these employees. The other law that granted withdrawal of up to fifteen years is a law that has been made perpetually for those that decide to withdraw. So I believe that the section here is well emplaced as these people will be affected by June 1<sup>st</sup> if it ever comes true. So they have a couple of months before they decide to withdraw their contributions and if we are so generous to consider the bill that Representative Hofschneider introduced to provide early benefits to those people granting them additional bonuses to retire earlier this also will be of great assistance to those employees that opt not to withdraw. So there is a variation of timetable here that an employee can decide to withdraw or not to withdraw before the end of the fiscal year. Thank you.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you. I would like to express my support for Representative Quitugua's proposed amendment for the reason that as he has pointed out the anxiety that the employees of Immigration are feeling right now for their jobs and their livelihoods is the same anxiety that all government employees are feeling right now. Under existing law any government employee with fifteen years or less of government services is allowed right now to withdraw their retirements. While this law obviously had an impact on the Retirement Fund in terms of fairness if we are going to weigh policies at least it was an option that was available to all government employees. Under this provision it would really only be the Division of Immigration employees and we looking at twenty people really, who would have this option, twenty people with more than fifteen years of service who are not yet eligible to retire at this moment who only work for the Division of Immigration. We are guaranteed to have other employees throughout the government with more than fifteen years but less than twenty also facing the same anxiety and this is not a benefit that we are willing nor we can afford to extend to all government employees and so I completely agree with Representative Quitugua. It is unfair and we cannot afford and the Retirement Fund has come out with a statement to that effect, saying that this will impact the Fund negatively and considering the state of the Fund we should be refraining from any more measures that will deteriorate our assets even further.

Speaker Arnold Palacios: Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. Several months ago we have passed a bill. Some people call it a controversial bill, the "Lateral Transfer" which is sitting in the Senate if that bill passes the Senate and becomes law that will eliminate some of the problems that we are discussing right now. Some of those people have taken the Federal Immigration test and I understand that some of those passed the test so we are looking at some of those leaving the government service. Now, if that bill becomes law the Civil Service personnel will start doing their job and instead of hiring new employees we can help those individuals transfer to where they are qualified. Because the bill says the Civil Service will have to review them to make sure they are qualified for that particular job so that will eliminate the situation. Now, the law that says fifteen years now some of those who are leaving the government service who have passed the US Federal

Immigration will probably withdraw their contributions anyway since they are moving to a federal job. So I think we are looking at two situations here. If we all work together and ask the Senate to work on that bill I am sure that we would not have a problem like this. Because I am sure that the Office of Personnel Management (“OPM”) will be working on finding these people a job to transfer to where they are qualified.

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

Representative Benavente: Mr. Speaker, I would agree with Representative Apatang if we were not passing a \$148 million budget not just \$8 million but previous continuing resolution was a \$163 million so much more than the \$8 million that we are just reducing from a couple of months ago when we were considering the previous level. My point is that we not really guaranteeing even if we pass a law that says transfer all sixty employees to other agencies. If we are taking away “FTE’s” like we are doing in this budget if we are reducing the agencies budget we are already asking them to do austerity, to layoff people basically by passing this budget. First, I doubt that there really is an opportunity for these employees to be transferred. Second, I understand that the concerns raised with regards to how it further impacts the Retirement Fund and I feel the same way except that I would disagree that the employees in Immigration has the same situation with other government employees presently. If it was not for the federalization law these employees would continue to have jobs within the government and continue with their contribution and hopefully someday benefit from this contribution in the Retirement System, but that is not the case. I think that if in fact because this only allows up to September 30, 2009 after June when they lose their jobs they have July, August, September two to three months to try to transfer into the government and other agencies and hopefully would not and of course if I were in their shoes I would not want to withdraw when I only have two or three or four years left to benefit from this system and continue to work for the government. But I think what we are saying here is that if these employees only have up to September 30, 2009 they cannot find a government and the economy continues to be bad and they just basically have to move somewhere to be able to provide a living for themselves and their families, then they need to get back what belongs to them and that is, their contribution their money that they contributed. This is a little different. When we talk about the twenty employees that would be eligible if we were to grant this it does not necessarily mean that there will be twenty people marching into the Retirement Fund saying give me my contribution especially when we are in fact offering that they will be transferred to other agencies. It is not a clear cut impact at this point whether they will be marching in. Thank you.

Speaker Arnold Palacios: Thank you. We have dealt with this one amendment I think there is enough reason on both sides that has been articulated well. I think I am ready to call for a vote. Representative Sablan, recognized.

Representative Sablan: Thank you. We are not just looking at twenty employees who might be marching in to take out their retirement. Right now we are already looking at about forty eight employees who are eligible now. So we are looking to add to that another twenty and there will be a major impact on the Fund as a result if all of them avail themselves with this position.

Speaker Arnold Palacios: Ready.

Several members voiced “ready”.

The motion to adopt the floor amendment offered by Representative Quitugua was carried by voice vote.

Speaker Arnold Palacios: This issue of withdrawal from a pension system is really one of the worse things that this government has had policy. You cannot and not allowed to withdraw from the Social Security System. Which is actually what we have is a safety net of a pension program when we opted to get out of the Social Security System. So we are doing ourselves a disservice to our own government employees by doing this. Are there any further discussions on the legislation itself? Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. I have a very short amendment. On page sixteen, line 14 after the word “instructors” add (“and staff related to institutional priorities”). This is for the college. Thank you.

The motion was seconded.

*Page 16, Line 14:  
(C) classroom teachers, teacher aides, and college instructors and staff related to institutional priorities.*

Speaker Arnold Palacios: Discussion on the motion.

Representative Deleon Guerrero: Point of clarification.

Speaker Arnold Palacios: State your point, Representative Deleon Guerrero.

Representative Deleon Guerrero: Can the good Representative Apatang to please clarify what “staff related to institutional priorities” means?

Speaker Arnold Palacios: Representative Apatang, recognized.

Representative Apatang: Mr. Speaker, the College is a very unique organization. They do not just hire instructors. They hire other staff to support the mission of the College and that is why we need this amendment inserted in there. Because if we just put down “instructors” then if some of the staff retires they would not be able to hire a replacement for that particular staff. Any organization should have a supporting unit and if you do not have the support to go behind the main mission of that College then you might as well close it down. Thank you.

Speaker Arnold Palacios: Those are the support staff that is required to maintain accreditation---effectiveness and what not. So, yes I think those are. Ready for the question.

Several member voiced “ready”

The motion to adopt the floor amendment offered by Representative Apatang was carried by voice vote.

Speaker Arnold Palacios: Are there any further discussions on the legislation? Representative Hofschneider, recognized.

Representative Hofschneider: Yes, Mr. Speaker this question is going to the Chairman of Ways and Means, Representative Yumul. I heard him said that the cap was removed for Resident Directors, can you please elaborate and justify why that cap needed to be lifted on Resident Directors?

Speaker Arnold Palacios: I think the previous draft lifted the cap from \$36,000.00 to \$45,000.00. This one actually deleted that and just left it at \$36,000.00. It actually puts back the cap. Representative Hofschneider, recognized.

Representative Hofschneider: Mr. Speaker, may I get an answer from the Chairman, Representative Yumul?

Speaker Arnold Palacios: Representative Yumul, recognized

Representative Yumul: Thank you, Mr. Speaker. We left it untouched. Whatever is in the existing statute and in prior practice remains at \$36,000.00.

Representative Hofschneider: Okay, thank you.

Speaker Arnold Palacios: If we remove that cap it will move it up to \$45,000.00. That is one of the insistence of the Second Senatorial District. Representative Quitugua, recognized.

Representative Quitugua: Further, Mr. Speaker, that provision (lifting it up to from \$36,000.00 to \$45,000.00) is one of the reasons why the previous budget bill was vetoed. It is in the Governor's message, as one of the items.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Are there existing contracts for any Resident Directors that have been signed as of this new fiscal year that exceeds \$45,000.00?

Speaker Arnold Palacios: No. Representative Babauta, recognized.

Representative Babauta: Mr. Speaker, I wish to offer a written floor amendment already copies have been distributed, with that I so move.

The motion was seconded.

Speaker Arnold Palacios: Short recess.

*The House recessed at 3:26 p.m.*

*RECESS*

*The House reconvened at 3:35 p.m.*

Speaker Arnold Palacios: Before we went on recess, Representative Babauta offered an amendment motion and has been seconded. Discussion on the motion. Representative Hofschneider, recognized.

Representative Hofschneider: Mr. Speaker, I know that every time you look at me your tired. You tired out just looking at me down here. (Laughter) But nonetheless, I cannot help Mr. Speaker, having so much respect for my Minority Leader, and former Speaker and an esteemed very senior

member of the Legislature I cannot believe that he would provide this language for us to consider, the entire amendment.

Speaker Arnold Palacios: Before you proceed, short recess.

*The House recessed at 3:36 p.m.*

*RECESS*

*The House reconvened at 3:36 p.m.*

Speaker Arnold Palacios: Please, proceed Representative Hofschneider.

Representative Hofschneider: I cannot believe, Mr. Speaker my colleague would introduce this floor amendment because essentially if you read this amendment and understand the implication of this amendment it renders the appropriation act useless. It takes away the controls by giving the Governor asking under this unimpeded 100% reprogramming authority. The current law as it stands the Governor has 25% reprogramming on the entire appropriated amount. Then you have every sector, department and program manager under the existing law has 10% reprogramming authority. So in essence is this allowing if in analytical terms we failed to override the veto because there is a downturn in the resources. So we further reduced the appropriation amount and conforming to the veto message of the Governor. That means additional \$8 million was shaved off---operation wise, unfilled positions and so forth. So logically thinking if a department is given ten dollars and right now under this proposed budget their total expenditure is appropriated ten dollars but the total expenditure by the end of the year is nine dollars and eighty nine cents. You have eleven cents to reprogram. Now the first rule in Executive function is the Governor has the first crack at reprogramming to attend to much needed program like, Medical Referral, the Hospital, Public Safety and ensuring that we pay our utilities so we get our power. So what is left after the 25% that the Governor has under existing law, nothing. It leaves nothing and the rule of thumb is the Secretary of Finance under the Constitution has the authority to withhold funds and essentially create lapses. That has been the practice for the last four Administrations that I have been here. So you can artificially create a lapse by withholding what is dully appropriate to a department even to Rota and Tinian hold it off create a lapse at the end of the quarter or at the end of the fiscal and use this instrument. Honestly, with all due respect this is a clever way of pulling the rug underneath the real purpose of passing a budget. In times of good economic activity and resources is plentiful in the "CNMI" coffer this may work because you can move money that departments and agencies may excessively be using and inappropriately applying it to delivery of public service, but when the government is operating on fumes alone or skin and bones, why are you giving this language? What is more disturbing is Section 2, is authorized to transfer qualified funds from the outside General Fund's sources including but not limited to funding employer contributions to retirees not receiving pension benefits. Why is it so unique that this language is consistent with the recent adoption of a new policy by the Retirement Fund Board? That on a case by case basis people who apply and are qualified to retire may be considered. This language furthers the objective of politicizing who is going to be included on a case by cases---on a case by case retirement. *Dante* remember the poet speaks about the seven evils and this is number eight (Laughter). Be careful this is uncalled for and I move to end debate. I withdraw my motion.

Speaker Arnold Palacios: Let me recognize Representative Benavente, under privilege.

Representative Benavente: Representative Babauta's amendment is referring to House Bill No. 16-213, and that needs to be changed to House Bill No. 16-213, HD1 because it proposes to delete line 11 of page fourteen which is not consistent so I think that should be actually line 15 rather than line 11. Just make sure that we all know. Thank you.

Speaker Arnold Palacios: Okay. Representative Babauta, recognized.

Representative Babauta: So noted, Mr. Speaker I said that when we took a break.

Speaker Arnold Palacios: Okay. Let me now recognize Representative Reyes.

Representative Reyes: Thank you, Mr. Speaker. This is short. I do not see the necessity for this amendment. First of, Mr. Speaker we are operating on a budget level of about \$148 million. I do not know if there is any lapse funds that would be available unless somebody is doing a creative accounting and I think Representative Hofschneider is right. We can do some creative accounting to show lapses of funds and then reprogram it close to the end of the quarter. I for one, Mr. Speaker although the intention may be good I am leaning towards voting no to the amendment. Thank you.

Speaker Arnold Palacios: Are there any further discussions? Ready.

Several members voiced "ready".

There being no further discussion the floor amendment offered by Representative Babauta was defeated was carried by voice vote.

Speaker Arnold Palacios: Are there any further discussion on the bill?

Representative Babauta: Clarification, Mr. Speaker.

Speaker Arnold Palacios: Representative Babauta, recognized.

Representative Babauta: May I hear the Chair's ruling?

Speaker Arnold Palacios: The motion is defeated. Representative Quitugua, recognized.

Representative Quitugua: Thank you, Mr. Speaker. On page sixteen, line 15, this is a caution, Mr. Speaker, we had this similar provision in the previous budget and it was really a bad policy. We had agencies that were coming in here to ask us to approve through a joint resolution the replacements that they need because some people had retired or had resigned. There was even one incident where one of our colleagues in the House needed to replace two employees and was disapproved. It might be a good safeguard measure, Mr. Speaker, but we have to be very cautious on this one because this is an election year, and if I do not follow the Speaker for another yes vote and one of my staff resigned, I might not get a replacement. *Gaigi ha si Speaker, (Laughter)*. So just to caution and this might be a veto item that I am seeing on the budget. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Representative Salas, recognized.

Representative Salas: You said joint resolution? Because I believe this is only asking for the House and Senate Presiding Officers to certify.

Speaker Arnold Palacios: Representative Quitugua, recognized.

Representative Quitugua: It is the same thing. We need their approval in order to replace.

Speaker Arnold Palacios: Okay. Representative Hofschneider, recognized.

Representative Hofschneider: Yes, Mr. Speaker, this may be viewed as one foot in Executive function and one foot over in Executive function. It may be viewed as trying to usurp Executive function, but there is a higher calling of public interest and public good. How many of us have repeatedly made comments on the floor about certifications of vacancies. In fact I recall in the Senate and I think it was Representative Sablan who said that it is about two inches thick of vacant position certifications. In just the last month I was told there were thirty two new hires non-essential hires strung out amongst Department of Public Works, Fish and Wildlife, and other departments, “CCA” for instance. These are non-essential at the time of resources crisis we are asking potentially in the forthcoming three months and I anticipate it to be another request once forwarded this appropriation bill to the Governor and I expect that the eleventh hour magical maneuver would be austerity Friday’s is forthcoming anticipate that. So what is the right means to ensure there is controls put in placed? I think that inspite of the appearance that the Senate President and the House Speaker inching up to the role of Executive function in approving vacant positions, I think it is called for. For the sake of what is going on today. We are asking people to sacrifice, yet they still play the game of continually hiring non-essential personnel then we are not privy or privy but have not done anything because certification of vacant position is all for information purposes and this language now rises above to control it. Thank you.

Speaker Arnold Palacios: Let me recognize the Floor Leader he has not spoken.

Floor Leader Camacho: Thank you, Mr. Speaker. I am not using up my time to get something also to make motion. We have to be very careful because it really is an election year and something like this you have to think that what if we have gubernatorial aspirants and you are sitting as the Governor and this provision continues to carry over because the House does not pass a budget at the end of this fiscal year and come 2010 and 2011 and this continues for the next four years for whatever reason. This is a provision that if you do not like the person sitting the Governor’s office this kind of provision can carry over and be very detrimental to another person entering into that office. You have to come back consistently into play how can you assure that the Seventeenth and the Eighteenth Legislature are not going to play games also. That if you are an incoming Governor, you say, well never mind you are going to hire people but I have Johnny and Freddy and Mike and Steve that I also want to be hired. So be forewarned that this can come back and bite us again here at the Legislature.

Speaker Arnold Palacios: Let me just explain. This has to do with continuing resolution issue. So in effect what it does is it also certainly imposes almost a requirement on the Legislature to work hard to pass a budget so that we do not continue this. I have seen it I have been here long enough to have remembered complaining about the useless certification that comes before us struggling to try to divide dwindling resources between priorities and then you see this just flying by on our Calendar every session we see it. So somewhere along the line we need to institutionalize some rules to stop these unimpeded hiring during a continuing resolution where this body does not even have any say so whatsoever. Regardless, of which Administration is sitting whether it is a Democrat, Republican, or Independent or Covenant Governor, I have seen this on different continuing resolution regardless. So it really is something that this body must address. With that I recognize Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. First of all, I did want to clarify that one point that you have just clarified. Yes, 1 CMC section 8135 does refer to a provision on the continuing resolution. So we really do not need to worry about this issue if we do have a budget. But let us face it, we have a situation where as they say, been there done that, where we passed the budget the Governor vetoes it and we can override it. So the Governor, because of this factor continues operation under continuing resolution and thereby getting away on election year by uncontrolled hiring which is what is going on right now. So I would like to think that in our efforts to pass a budget we will not have to worry about that, but what happens when we failed an override where ten members voted yes and eight members voted no a majority of the members of the House still wishing to override but it just did not happened. How then do we provide that control that we see as a necessity? I understand what has been said already about a possibly infringing upon an Executive Branch function, but we have a situation currently that we are faced with that we also need to somehow consider and fix. Thank you.

Speaker Arnold Palacios: I recognize Representative Deleon Guerrero.

Representative Deleon Guerrero: Thank you, Mr. Speaker. Never mind the political implications or the upcoming election. There are two major factors here that we should be concerned about. The first is the fact that the trend is the continuing resolution is the trend rather is the rule rather than the exception. That is a glaring fact. The second point here is that the resources have gone down continually and it is continually going down. Another fact is hiring continues and all we get are these informational certifications and I think that despite the possibility that we may be overstepping our authority and stepping into an Executive function this is the one way that the provisions will comply with the budget. Mr. Speaker, we need some form of restraint, if anything this will prompt a department head to think twice about sending over certification to fill a vacancy if it is not that critical because they know that you are going to review it and more than likely deny it. So if anything it is a tool to put some controls on what is really being to me, abused uncontrolled hiring. I think if we are considering and weighing this policy decision those two factors should be our overriding concern. Thank you.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker I will keep this brief. I would have personally preferred keeping the joint resolution requirement that was in the earlier provision of this bill. Because it is a more stringent control. But this is something that I can live with I think that it is a fair and reasonable compromise between having no control and having perhaps what some would consider too stringent or too restrictive control. At least in this case with the House and the Senate presiding officers also being responsible for certifying vacant provisions those presiding officers would be subject to scrutiny of the members and just as I have been keeping a file of certified vacancies coming down from the Governor's Office I will start a new file for certified vacancies that come out of this Legislature. I hope that we all do that. Thank you.

Speaker Arnold Palacios: Let me recognize Representative Quitugua.

Representative Quitugua: This is the last, Mr. Speaker and then I will vote on the budget. Mr. Speaker, if this section is because of the continuing resolution then this is the wrong bill to include it in. We should have a stand alone bill to amend the existing law that will cause the certification and change it to the approval of the presiding officers. It is a useless provision in the bill because this is a budget bill and if this budget expires the provision expires to. So it is a useless provision.

Speaker Arnold Palacios: Let me clarify that. We need to have this so that we can curb the immediate bleeding. If you recall Representative Yumul has already introduced that piece of legislation that you are talking about on Monday. So that bill has already been introduced to amend the Budgeting Act on hiring during a continuing resolution so we already have that legislation and I thank you for making that recommendation. Representative Yumul, you have introduced that legislation on Monday did you not?

Representative Yumul: Yes, Mr. Speaker.

Speaker Arnold Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: Mr. Speaker for the last time and I will keep it short. On the point raised by Representative Quitugua and consistent with the Floor Leader's take on cautioning that the Gubernatorial aspirants in this room would heed to the difficulties that if potentially one of the two aspirants or both aspirants will become the next Chief Executive. See, the difference in that view is in his eloquent words up in the Senate, fitting a fifteen pound dirt in a ten pound bag is just contrary to his belief. The true mark of making this language work is truly you as a Chief Executive not abusing the law especially during a continuing resolution. I want to thank him for pointing out the discrepancy between the logic applied in this and the political sensibility that the Floor Leader has eloquently warned the two aspirants on the floor. Thank you.

Speaker Arnold Palacios: Representative Babauta, recognized.

Representative Babauta: May I ask the author, what constitutes an approve by the presiding officers? Is it when a certification comes to your desk acknowledging it as an approved thing or do we need a joint resolution for that matter?

Speaker Arnold Palacios: I would think because if I was going to approve something I would write back basically set up a form letter saying to all department who is making a request and to the Governor because this is going to be certified by the Governor writing a letter of approval and sign my name with the presiding officer of the Senate that would be the approval saying I hereby approve...certification number...Governor's Communication. That is what I would think. Please proceed, Representative Babauta.

Representative Babauta: Furthermore, you and I and many others have been in this Chamber for many years I would like to question our own awareness, why do we have to wait for the eleventh hour to insert such a provision? Can I be enlighten why now this?

Speaker Arnold Palacios: Actually, this really was not---

Representative Babauta: I could probably agree with the Floor Leader the implication of this sentence. You and I have been through other Administrations and why would we care to insert such a language here, Mr. Speaker and I question the integrity of this provision. Are we really going to control?

Speaker Arnold Palacios: I think every---

Representative Babauta: Of course this is the prerogative of some of the members here as we call it a policy call but since January of last year we perpetuate the discussion on certifications as many

times raised by Representative Sablan and yet today is January 2009 and nothing has been done. Why bring this up? You are the author Representative Yumul may I kindly ask why?

Speaker Arnold Palacios: Let me recognize him first. Representative Yumul, would you like to answer or you do not have to.

Representative Yumul: It was by request, Mr. Speaker.

Speaker Arnold Palacios: Representative Benavente, go ahead with the policy clarification.

Representative Benavente: Thank you. I am not going to respond to the question, Mr. Speaker, but I would like to point out that Representative Quitugua is correct. If we do not provide for a provision that says that this particular subsection is without fiscal year limitation or there is that language so that it allows to continue on during the continuing resolution, this provision would actually die with the budget when it dies out. So it would not be effective at all. I would like to just call for a short recess and draft that provision that requires that this section to be without fiscal year limitation.

Speaker Arnold Palacios: I understand that but if I may answer your question, Representative Babauta, the reason why we inserted this into the budget also so that we hope that this budget will pass and become law and it dies when the fiscal year lapses. But there is a legislation that would fix this problem wherein, during a continuing resolution it actually proposes to amend the Budgeting Act that the hiring certified by the---let us take a short recess (*End of Tape 2, Side A*)

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

*RECESS*

*The House reconvened at 4:19 p.m.*

*(Start of Tape 2, Side B)*

Speaker Arnold Palacios: Continue, Representative Benavente.

Representative Benavente: Again, 1 CMC Section 8135 talks about a continuing resolution. This provision refers to the continuing resolution. So if we do pass a budget there will not be a need for certification the Governor basically hires for vacant positions that are available under the budget. There is no certification process when there is a budget. The certification requirement only is applicable during a continuing resolution. So that is what I am referring to. Again---

Speaker Arnold Palacios: Let take a short recess.

*The House recessed at 4:29 p.m.*

*RECESS*

*The House reconvened at 4:40 p.m.*

Speaker Arnold Palacios: We are back to plenary session. Representative Benavente, you have some concerns.

Representative Benavente: Yes, Mr. Speaker. Once again I believe that (“subsection (b)”) on page sixteen, line 15 would be useless if we do not provide for additional language and so at this time without objection I would like to offer an oral floor amendment.

Speaker Arnold Palacios: Proceed, Representative Benavente.

Representative Benavente: My floor amendment would be, Mr. Speaker that on page sixteen, line 18 after the word (*services.*) insert (“*This subsection will continue without fiscal year limitation.*”)

The motion was seconded.

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

Representative Sablan: Thank you, Mr. Speaker. My understanding of the intent of this provision was to recognize that there might be positions that the Governor will have to replace in this fiscal year. I understand Representative Benavente’s point that this provision will only take effect if we do not pass a budget for the next fiscal year 2010, then the requirement for certifications would kick in. But I think the intent, my understanding anyway of the intent of this provision was because we impose an employment moratorium for this fiscal year after we enact this budget that we will allow for a replacement only upon approval of the presiding officers for this fiscal year.

Speaker Arnold Palacios: Continue Representative Benavente.

Representative Benavente: And I am not changing that. I am merely allowing it to continue beyond this budget year. So the present language does not necessarily change and as a matter fact the amendment proposes to continue it.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: So will there be certifications required then for this fiscal year in order to replace positions? That is what I wanted to clarify.

Speaker Arnold Palacios: Continue, Representative Benavente.

Representative Benavente: If that is the intent as you say then it still stays. I am not changing that all. My amendment merely allows it to continue after this fiscal year. I have not made any changes in the current language. I understand your point.

Speaker Arnold Palacios: Representative Apatang, recognized.

Representative Apatang: I just have a question Mr. Speaker, just to clear my mind. On a particular budget there is a certain limitation as to number of “FTE’s” the Governor is allowed it cannot exceed the number of “FTE’s” as per the budget. Correct?

Speaker Arnold Palacios: Yes.

Representative Apatang: Now, why are we putting additional restriction knowing for a fact that the Governor cannot hire beyond the budget limitation?

Speaker Arnold Palacios: Yes.

Representative Apatang: We are pretty much controlling saying, Governor you cannot hire people to whatever agency that needs replacement. I think we are micromanaging this particular thing.

Speaker Arnold Palacios: I think it has to do with the continuing resolution. Even if you have a budget and you have “FTE’s” that become vacant in the mist of a continuing resolution the Planning and Budgeting Act requires that the Governor certifies such intent to fill those vacant positions.

Representative Apatang: I understand, but here we are fixing to pass a budget and we are putting this restriction without fiscal year limitation.

Speaker Arnold Palacios: Let me recognize the mover of the amendment, Representative Benavente.

Representative Benavente: Mr. Speaker, Representative Apatang is correct. If we were to pass this budget then there is no need for certification. The Governor basically hires based on the “FTE’s” and the funding that we provide. This particular section will not be applicable during this budget year unless otherwise corrected by Representative Sablan’s comments. My proposal in supporting this amendment would create a rider if you will. This basically is a rider in this budget authority that would allow for this provision as intended to be effective because if we are talking about certification we are talking about certification during a continuing resolution period. So in fact this particular provision if once passed and becomes law and we have a budget would be in effect come October 1<sup>st</sup> the next fiscal year if we do not pass a budget in time. So it has no force and effect for this fiscal year if the budget is passed. As a matter of fact it does not have a force and effect if this budget is not passed because we do not have a budget. Then we would have to go to the bill that you have mentioned earlier. Representative Apatang is correct we are not imposing anything in this fiscal year if we pass this budget, but it will be effective in a continuing resolution for the next fiscal year.

Speaker Arnold Palacios: Continue, Representative Apatang.

Representative Apatang: Mr. Speaker, there is nothing in the language here that says that.

Speaker Arnold Palacios: It actually it refers to 1 CMC section 8135. That is the reference to that.

Representative Babauta: Point of information, Mr. Speaker.

Speaker Arnold Palacios: State your point, Representative Babauta.

Representative Babauta: I will like to yield my time because when we recess it was I that was holding the floor for now. But please recognize me at a later time. Thank you.

Speaker Arnold Palacios: You are so cool. So you yield to Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. My concern now is for what happens with this fiscal year if we do pass this budget and becomes law. Perhaps we can get some clarification from our Legal Counsels. If the intent of this particular provision is to allow for replacement hires as necessary and as approved by the Presiding Officers in this fiscal year with the budget then perhaps we can take out the reference to 8135. But the way I read it in the context of this whole section 604 if what Representative Benavente is saying is true that this allowance for replacement hires provided

that there is certification does not actually take effect until after the end of this fiscal year if we go on a continuing resolution then we would not be allowing any replacement hires in this fiscal year because of the employment moratorium on Section 604 (a).

Speaker Arnold Palacios: Your correct.

Representative Sablan: So there will be no replacements this year if we enact this budget if Representative Benavente's interpretation is correct.

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

Representative Hofschneider: Yes, 8135 is essentially that six months provision of "OPM" vacancy and then the certification requirement kicks in. That is the whole purpose of that. So what Representative Benavente is that in the case of exceeding 180 days or the six months then this provision stays. I think it is a good safeguard in the sense that if you really need that there is no rhyme or reason why the 180 days that position should be vacant. If it is a critical position and that position is vacated either by way of termination or retirement or expiration of a contract then you as an Executive Manager should really be on top of filling that position within six months after the six months of certification requirement kicks in. So that is what 8135 is talking about.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you. Mr. Speaker, I have heard three different interpretation of what this particular provision means including my own. We have different understandings of what it means and just in referring to the section in the law that already exist, 8135 it refers both to positions being eliminated if they are not filled within 180 days of being vacant and it offers refers to a continuing resolution if there is no budget. So how we interpret this provision I think is critical for in terms of replacement hires for this fiscal year. Are we going to allow them or not? Will we require certification or not? Really I think those are the two questions for this fiscal year.

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

Representative Hofschneider: I think if you read first 1 CMC 8135 there is that exception there that subject to this 8135 these are the conditions. First the vacancy is there then the language preceding that section in the law it says, now you just cannot throw in a certification for informational purposes to the Legislature. Now you are required to secure Presiding Officers approval. That is what it means.

Speaker Arnold Palacios: Short recess.

*The House recessed at 4:55 p.m.*

*RECESS*

*The House reconvened at 5:03 p.m.*

Speaker Arnold Palacios: We are back to plenary session. Under privilege I recognize Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. Without objection I would like to withdraw my oral floor amendment.

There was no objection on the floor.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: I have an amendment to offer and this is just to ensure that we can fill positions this fiscal year just to clarify that. On page sixteen, line 15 strikeout “other” and it should read (“any position not covered by section 604 (a) for which a replacement hire is needed shall require approval by the House and Senate Presiding Officers”) and the rest of that sentence remains the same.

The motion was seconded and carried by voice vote.

Speaker Arnold Palacios: Ready for the main question. Representative Babauta, recognized.

Representative Babauta: The Floor Leader has not spoken yet on the budget but as soon as he is finished may I be recognize, Mr. Speaker?

Speaker Arnold Palacios: Yes.

Representative Babauta: Thank you.

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. If I can direct the members to turn to page eighteen on “HD1” starting at line 1 where it says (*“The Secretary of Finance shall remit employer retirement contribution not later than the end of each quarter of the fiscal year this section shall be retroactive shall be retroactive to October 1, 2007 (b) the Northern Marianas Island Retirement Fund shall pull all employer contribution payments for the “CNMI” Government...”*) and that continues on to the very end of that paragraph where it ends with (*“fiscal year 2009”*). I would like to make a motion to strikeout those languages, Mr. Speaker.

The motion was seconded.

Speaker Arnold Palacios: Discussion on the motion. Floor Leader Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. There are two things here that are going on. One, is the employer contributions shall be remitted at the end of each quarter granted that I believe maybe Finance is trying to pull the money and then at the end of three months send the money over to Retirement, that just does not work very well. On the second paragraph on (b) where to pull all the employer contribution and then make that payment as a matter of bookkeeping that really does not work very well for Retirement. The employer contribution really has to be tracked to the specific employee. Because employees go from one position to another, they have overtime, night differential and what not and if you just pull the money together and then send it over and say, here is our employer contribution for this month---yes, who owns it. The problem is a nightmare as it is now, because the employer contribution can be track to individual employees, you know exactly down to the penny how much is owed. But doing it this way pulling it together and then sending it over without identifying who that employer contribution is owed to it is just impossible to identify.

You can see where employees come up and say I am ready to retire and then they say, well you are 80% paid off or 20% paid off it is impossible to understand that. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Let us deal with your first question first. Representative Hofschneider, recognized.

Representative Hofschneider: It is sad that I for the first time I agree with the Floor Leader (Laughter). But nonetheless if you follow that logic he is absolutely right. There is no way that pulling would satisfy the policy of the Retirement Fund which is independent of the responsibility under this law. The existing law states that every pay period the remittance shall be made. That is a faster tracking system rather than a quarterly basis and pulling it is to camouflage those that may be on a case by case basis be permitted to retire versus the people that have been on the block to retire may be in fact deprived. So therefore, Mr. Speaker I move for the previous question.

Speaker Arnold Palacios: On the first question, Floor Leader, let me ask why not amend this and say, instead of at the end of each quarter why not at the end of the each pay period. Is that already in the statute? Alright. If it is already in the statute then that is a requirement already then I do not have any problem. Proceed, Floor Leader Camacho.

Floor Leader Camacho: My motion was to strikeout the language starting on page eighteen, line 1, the words “*The Secretary of Finance...*” all the way down to line 8 where it ends with “*FY 2009*” strikeout that entire language.

Representative Sablan: You are amending existing law---

Speaker Arnold Palacios: No, actually this provision would amend existing law. So he is recommending that we take this out because the existing law actually has a provision. One, instead of the end of the quarter existing actually says, end of the pay period. And this is too long. The other one pulls everything so that individual employees cannot be calculated. Representative Deleon Guerrero.

Representative Deleon Guerrero: Thank you, Mr. Speaker. If I may I would like to shed some background here. Going back in time when the Speaker appointed a Special Committee to deal with the deficient employer contribution and you assigned yours truly, to find the solution. The solution we proposed was to add one additional percent to the proposed 11% employer contribution in our budget. I agree and I even argued---this is a Senate amendment by the way, so that it can address the issue of the deficient employer contribution. While I agree and argued exactly what the Floor Leader is saying that this is the alternative to allow for to settle and to address the problems so people who are waiting to retire and cannot retire. I am just a little bit concerned that if we take this out that there is no further mechanism to allow for it and we would be right back where we were a few months ago and trying to decide what are we going to do to address the deficient employer contribution. Unless we are going to maybe go back and reinstate the additional 1% which would again throw off the numbers and try to find additional \$1 million. I do not know how we are going to address that, Mr. Speaker. So *Ayu-gui nai gaddon esti pago na language* because it allows on line 6 of the same page, “*The employer contribution payments shall be used to pay up deficient employer’s contributions for any employee, regardless of his or her employer, who elected to retire prior to, and including, FY 2009.*” So I just thought I register that concern, Mr. Speaker.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. To address the first part of the Floor Leader's proposed amendment. The existing law actually does already mandate payments at the end of each quarter. It is exactly the same. The amendment that is being proposed that actually does not show up on this version of the bill is the inclusion of all government employees. So the change is in the 11% that is one. Then the inclusion of autonomous agencies and public corporations that is where the amendment is, I stand to be corrected, but this part about remittances at the end of each quarter that is already what happens now and changing that would not make payments at the end of each pay period because that is not in the law anyway.

Speaker Arnold Palacios: So this is consistent with existing law so we do not need to even worry about that. Right?

Representative Sablan: Right. It is the 11% that is the real amendment and then also the inclusion of autonomous agencies and public corporations and that does not show as an amendment in this budget bill version. So that is the only changes being made.

Speaker Arnold Palacios: It does not change anything does it?

Representative Sablan: Right, well not really. That is the only change but the Floor Leader I thought he was suggesting that this was a new thing to require remittances at the end of each quarter but in fact that is what should have been done anyway. So we take that out then there is no guidance in the law.

Speaker Arnold Palacios: No, the law still exist. What he is saying is that there is no need to repeat.

Representative Sablan: I see. Alright. But on the second part of the amendment. I would agree with the Vice Speaker, Representative Deleon Guerrero I think that and actually I would argue just the opposite of what the Floor Leader had said which is that if anything this should clear up the accounting nightmare at the Retirement Fund and take care of the problems of having to single out individuals according to and to determine whether or not they could retire depending on which individual agency they work for. What this proposal would do would be to consider the whole government as one employer which does not mean that we do not continue to track which agencies are deficient but on the Retirement Fund's end they do not have to single out and possibly be subject to politicizing who gets to retire and who does not, the whole government would be one employer. I think this should simplify things and not complicate them as some members has suggested.

Speaker Arnold Palacios: Floor Leader Camacho, you want to answer.

Floor Leader Camacho: Mr. Speaker, no disrespect to Representative Sablan. I was a police officer, a legislative aide, I worked at the Attorney General's office, the ability for Retirement Fund to track the person, the salary, the night differentials, and the overtime and all of those things are essential elements so that when a person shows up and said, here is my actual time in service, here is my overtime in service, this is what is owed to me based on my retirement contribution. And depending on your salary, depending on how much overtime you have worked all of that has to be tracked individually. So when you show up at Retirement and you talk to Mr. Angel Salas he sits there literally, he has a worksheet and then he adds the numbers up and said, twenty years plus fifteen days plus three hours of actually work. You do not show up and say, well you kind of worked for twenty sum years and it looks like you may be eligible to retire. So the ability to track on an individual basis on the employee is important. And lumping it all up to say here is a million dollars you kind of spread it out to see who gets it, that does not work because---anyway you get the idea.

Speaker Arnold Palacios: Representative Deleon Guerrero, recognized.

Representative Deleon Guerrero: Mr. Speaker, I wanted to throw out a possible compromise. I have no objection to most of the amendment provided, I want to toss this out if we can please leave the sentence on line 6 to line 8, basically which would allow the Retirement Fund to use the employer contributions to pay up deficient employer's contributions. If that can remain in placed then perhaps---

Speaker Arnold Palacios: Floor Leader Camacho, recognized.

Floor Leader Camacho: You cannot use your employer contribution to make me retire. You have to have your own employer contribution.

Speaker Arnold Palacios: Let us take a short recess.

*The House recessed at 5:05 p.m.*

*RECESS*

*The House reconvened at 5:09 p.m.*

Speaker Arnold Palacios: We are back to plenary session. I think we had enough arguments back and forth and the best thing to do is to do it the democratic way and that is to vote.

The motion offered by Floor Leader Camacho was carried by voice vote.

Representative Sablan: I asked if we could take up the amendment separately.

Speaker Arnold Palacios: I think the amendment motion is to delete from line 1 through 8 on page eighteen. Basically that is one amendment. The First part that he was referring to was the one that really does not need to be there. We do not even to have to have that is what he was saying and we already adopted it. Ready for the question.

Several members voiced ready.

Speaker Arnold Palacios: Representative Babauta, recognized.

Representative Babauta: Thank you, Mr. Speaker. May I seek clarification on page eleven lines 12, Section 203 (a) and (b).

Speaker Arnold Palacios: Let us go into recess so we can ask the Legal Counsel.

*The House recessed at 5:09 p.m.*

*RECESS*

*The House reconvened at 5:09 p.m.*

*(Discussions of the bill and the roll call was not recorded due to technical difficulties with audio.)*

Vice Speaker Deleon Guerrero: *We are back to session. There is a motion to end debate which is undebatable. Mr. Speaker, I now give it to you.*

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

*The Clerk called the roll on the motion to H. B. NO. 16-213, House Draft 5 on First and Final Reading.*

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

Speaker Arnold Palacios: *By a vote of seventeen “yes” H. B. NO. 16-213, House Draft 5, hereby passes the House on First and Final Reading. One more bill, Floor Leader Camacho, recognized.*

Floor Leader Camacho: *Thank you, Mr. Speaker. A motion for passage on First and Final Reading H. B. NO. 16-206.*

*The motion was seconded.*

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

*Discussions of the bill and the roll call was not recorded due to technical difficulties with audio.*

Speaker Arnold Palacios: *I will recognize the author, Representative Hofschneider to briefly explain.*

Representative Hofschneider: *Thank you. The process to find a way to settle land compensation....*

Speaker Arnold Palacios: *Clerk, please call the roll.*

*The Clerk called the roll on the motion to H. B. NO. 16-206 on First and Final Reading.*

<i>Representative Edwin P. Aldan</i>	<i>absent (excused)</i>
<i>Representative David M. Apatang</i>	<i>yes</i>
<i>Representative Oscar M. Babauta</i>	<i>yes</i>
<i>Representative Diego T. Benavente</i>	<i>yes</i>
<i>Representative Joseph N. Camacho</i>	<i>yes</i>
<i>Representative Francisco S. Dela Cruz</i>	<i>yes</i>
<i>Representative Joseph P. Deleon Guerrero</i>	<i>yes</i>
<i>Representative Victor B. Hocog</i>	<i>yes</i>
<i>Representative Heinz S. Hofschneider</i>	<i>yes</i>
<i>Representative Raymond D. Palacios</i>	<i>yes</i>
<i>Representative Justo S. Quitugua</i>	<i>yes</i>
<i>Representative Joseph C. Reyes</i>	<i>yes</i>
<i>Representative Christina M. Sablan</i>	<i>yes</i>
<i>Representative Edward T. Salas</i>	<i>yes</i>
<i>Representative Rosemond B. Santos</i>	<i>yes</i>
<i>Representative Ramon A. Tebuteb</i>	<i>yes</i>
<i>Representative Ralph DLG. Torres</i>	<i>yes</i>
<i>Representative Stanley T. McGinnis Torres</i>	<i>absent (during voting)</i>
<i>Representative Ray N. Yumul</i>	<i>yes</i>
<i>Speaker Arnold I. Palacios</i>	<i>yes</i>

Speaker Arnold Palacios: *By a vote of eighteen “yes”, H. B. NO. 16-206 hereby passes the House on First and Final Reading.* We have had two sessions this week. What is the ---I am ready to have another one tomorrow. On Thursday and Friday, but what is the---

### MISCELLANEOUS BUSINESS

Speaker Arnold Palacios: Representative Quitugua, recognized.

Representative Quitugua: Mr. Speaker, just a heads up caution on H. B. No. 16-206 in case the bill gets to the Governor’s desk and gets vetoed. There is two kinds of lands, one is, government and one is public land. Once it is designated as right-of-way, it becomes a government and not a public land. So I do not know if we can force Department of Public Lands to pay for the right-of-way when it is no longer a public land, it is a government land. This is just a heads up.

### ANNOUNCEMENT

Speaker Arnold Palacios: I would like to remind members that we have this meeting with the Homeland Security on Friday at ten o’clock I think it is an important meeting. The Federal officials that are here are going to be briefing us on the latest regulations on the Visa Waiver only. There are also some folks from the “CIQ” which is the Customs Immigration and Quarantine Section. Mr. Gooly Cool is from the office in Hawaii will be here and I believe most likely we will be able to fill us in on the employment issues with local Immigration personnel, I am not sure but that is what they are here for. I would ask that you make every effort to be present in this Friday’s briefing and meeting at ten o’clock. Representative Deleon Guerrero, recognized.

Representative Deleon Guerrero: Mr. Speaker, I just wanted to clarify that there has been several mention about tonight’s meeting by the Retirement Fund. When, Where, and what time?

Representative Babauta: Six thirty at the Multi-Purpose.

Speaker Arnold Palacios: Thank you, Representative Babauta. I would like to ask you to do your best to be present in that meeting if you can tonight also. Representative Hofschneider, recognized.

Representative Hofschneider: I want my glasses back, Mr. Speaker. (Laughter)

Speaker Arnold Palacios: Representative Hocog, do you have anything?

Representative Hocog: I will save it for tomorrow's session Mr. Speaker for you. I need to get my heads together. But I am inviting everybody tonight to Galo's place for my announcement for the Gubernatorial candidate. (Laughter)

Speaker Arnold Palacios: Before I recognize the motion for adjournment I would like to thank you, Representative Yumul for putting all the effort despite all the flag that you got and next time you need to call in your members to get a consensus among your committee members also because a lot of the questions that came out that are from your committee members. I now recognize the Floor Leader.

### **ADJOURNMENT**

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

The House adjourned at 5:19 p.m., subject to the Call of the Chair.

Respectfully submitted,

Linda B. Muña Journal Clerk  
House of Representatives

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### **APPEARANCE OF LOCAL BILLS**

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

**SECOND APPEARANCE:** NONE

**THIRD APPEARANCE:** NONE