



House Journal

THIRD REGULAR SESSION, 2009

**Adopted:
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3rd Day

Wednesday, January 21, 2009

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened its Second Day, Third Regular Session on Wednesday, at 1:35 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 twelve members were present. Representatives Yumul, Benavente, and Reyes will be coming in shortly the other members was absent and excused.

ADOPTION OF JOURNALS

NONE

INTRODUCTION OF BILLS

H. B. NO. 16-215: A Bill for an Act to appropriate \$40,000.00 of the available and unencumbered money remaining from Public Law 15-104, earned under the \$60 million CIP Bond (Public Law 11-102) for the Anyuta Island revetment repair project; and for other purposes.

Offered by: Representative Victor B. Hocog

Referred to: None

Representative Hocog: If I may, Mr. Speaker, have this placed on today's calendar for discussion and probably for passage. I would appreciate it.

Speaker Arnold I. Palacios: We will discuss the placement issue when we get to the Bill Calendar, but first let the Clerk give it a number and produce the copies for the members. Are there any other bills? Ready.

Several members voiced ready.

INTRODUCTION OF RESOLUTIONS

NONE

MESSAGES FROM THE GOVERNOR

Gov. COMM. 16-311: (1/13/09) Certification for vacant position at the Superior Court.

GOV. COMM. 16-312: (1/13/09) Certification for vacant positions at the Department of Public Lands.

GOV. COMM. 16-313: (1/13/09) Certification for vacant positions at the Department of Public Lands.

GOV. COMM. 16-314: (1/13/09) From the Governor appointing Assistant Attorney General Thomas J. Schweiger to be Acting Attorney General until Deputy Attorney General, Mr. Gregory Baka's return.

Speaker Arnold I. Palacios: Representative Santos, recognized.

Representative Santos: Mr. Speaker, on GOV. COMM. 16-314 in light of the letter that I have sent the Governor. Does this have any legal bearing whatsoever?

Speaker Arnold I. Palacios: Well, I remembered a couple of sessions ago we were supposed to look into this issue with the legal counsel to give us a legal opinion on it whether indeed Mr. Baka is appointed the Acting Attorney General ("AG"). We have not heard back from the Legal Counsel on the particular issue.

Representative Santos: Well, that is fine, but with regards to my letter I have not heard back from the Governor and it seems to me he is disregarding or in defiant of our concerns. Thank you.

Speaker Arnold I. Palacios: Yes, so in light of the lack of response I think we need to get our legal counsel to get us an answer to your query, so that we can get clarity on it. Okay, Legal counsel. Representative Stanley Torres, recognized.

Representative Stanley Torres: Mr. Speaker, I believe Representative Santos' letter was answered by the Governor's Public Information Officer (PIO) through the media.

Speaker Arnold I. Palacios: I do not think that we should consider that as an official response to an official request for clarification.

Representative Yumul: Privilege, Mr. Speaker.

Speaker Arnold I. Palacios: State your, privilege Representative Yumul.

Representative Yumul: Thank you. I just wanted to state that I am present and ready to conduct.

Speaker Arnold I. Palacios: Clerk, mark Representative Yumul as present. Ready

Several members voice ready.

SENATE COMMUNICATIONS

SEN. COMM. 16-116: (1/21/09) Returning H. B. NO. 16-213, HD5, "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,” which was passed by the Senate without amendment on January 20, 2009. [*Will go to Governor*]

Sen. Comm. 16-117: (1/21/09) Returning H. B. NO. 16-206, “To authorize the Department of Public Lands to pay for land compensation judgments using its operations fund bank accounts by amending 1 CMC § 2803(c)(3); and for other purposes,” which was passed by the Senate without amendment on January 20, 2009. [*Will go to Governor*]

SEN. COMM. 16-118: (1/21/09) Returning H. J. NO. 16-21, HD1, “To request that the U.S. Department of Homeland Security ensure that priority hiring consideration be given to Commonwealth of the Northern Mariana Islands immigration employees and United States citizen and national applicants residing in the CNMI consistent with the mandate of PL 110-229,” which was adopted by the Senate on January 20, 2009. [*For info*]

SEN. COMM. 16-119: (1/21/09) Transmitting for House action S. B. NO. 16-47, entitled, “To establish an aquaculture park on the island of Tinian; and for other purposes,” which was passed by the Senate on January 20, 2009. [*For action*]

SEN. COMM. 16-120: (1/21/09) Transmitting for House action S. B. NO. 16-49, entitled, “To amend 1 CMC, Division 8, § 8245(c); and for other purposes,” which was passed by the Senate on January 20, 2009. [*For action*]

Speaker Arnold I. Palacios: Representative Babauta, recognized.

Representative Babauta: Thank you. In the indulgence of the members and with the approval of the Floor Leader, can we probably entertain SEN. COMM. 16-120 and maybe recommend placing it on the Calendar?

Speaker Arnold I. Palacios: Short recess.

The House recessed at 1:45 p.m.

RECESS

The House reconvened at 1:46 p.m.

Speaker Arnold I. Palacios: We are back to plenary session and let me recognize Representative Hocog.

Representative Hocog: First of all, I would like to yield to Representative Babauta.

Speaker Arnold I. Palacios: Representative Babauta, would you elaborate why you would like to see this be place on the Calendar?

Representative Babauta: Mr. Speaker, as a result of the recent House action and that of the Senate on the Fiscal Year 2009 Budget (FY 09) several provisions were inserted in both of the first budget that was vetoed and the now H. B. No. 16-213. On the last budget action of the House and the Senate that particular provision was not inserted in the budget bill. So I only recommend to the House if we find it in our heart to accept this communication and place it on today’s Calendar and I am not

compelling each member to take action on it today but if it need be I am ready to support such measure.

Speaker Arnold I. Palacios: Representative Hocog, recognized.

Representative Hocog: Thank you, Mr. Speaker. I just want to clarify this bill that has been transmitted down by the Senate as a result of non-inclusive on the appropriation bill. I discussed this lengthy with the Planning and Budget Office regarding the incident on Tinian where the Resident Directors have not been paid \$45,000 as provided by law and at that time the Resident Director for the Municipality of Rota continue to receive \$45,000 while Tinian Resident Director were receiving \$36,000. I understood that the Secretary of Finance and the Planning and Budget Office went down to Rota and provide another personnel action reflecting the salary for the Resident Director at \$36,000 due to funding problems. Even if we proceed with this I will like to give the Resident Director their previous pay scale, but passing this bill today, Mr. Speaker, that does not reflect in the budget bill again will have no bearing to pass this in the absence of funding to provide the pay scale of the Resident Director. I am just concern whether the personnel action that was signed by the Resident Director will be amended by a result if we are to pass this legislation. I just wanted to clarify that to the members so that they know what had transpired then. Thank you.

Speaker Arnold I. Palacios: The recommendation by Representative Babauta is to place this on the Bill Calendar for action and we could further discuss the merits of the Senate Bill. Maybe that is where we are and we could discuss this at length when we get to the Bill Calendar if we decide to place it. Representative Hofschneider, recognized.

Representative Hofschneider: I think that Representative Hocog raised an issue that is the prerogative of the Legislature to question and that is, if a salary cap is being exceeded under the law of pegging it at \$36,000 for Resident Directors and those that are on Rota are receiving beyond the cap then this is an dispensation law that would authorize an increase for Tinian to be at par with Rota which is, currently without this bill, is receiving an illegal salary cap. If that is the case, Mr. Speaker, then I think there is more to the concerns raised by Representative Hocog, that instead of raising it to equal that of an illegal salary being received by Resident Directors of Rota and in the midst of a financial difficulty then we ought to take heat to that caution. We will like to see that if government employees are to receive an increase then it is also our responsibility to consider as a whole those that have not been raised for the last fifteen years because of frozen steps or even under the law that every year they are entitled to subject to availability of funding for 5% within grade increase. So these are the real issues before us instead of raising this to bring the Resident Director of Tinian up to par with those in Rota simply because he is raising an issue that whether this has been going on illegally with a blind eye.

Speaker Arnold I. Palacios: I think that those points are very relevant and significant that we can raise when we discuss the legislation itself on the Bill Calendar. But at this point in time I think we can heed to the recommendation by Representative Babauta and place this on the Calendar. Floor Leader, can you effectuate a motion?

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to place SEN. COMM. 16-120, on the Calendar.

The motion was seconded.

SEN. COMM. 16-120: (1/21/09) Transmitting for House action S. B. NO. 16-49, entitled, “To amend 1 CMC, Division 8, § 8245(c); and for other purposes,” which was passed by the Senate on January 20, 2009. [For action]

Speaker Arnold I. Palacios: Discussion on the motion.

There being no discussion the motion to place SEN. COMM. 16-120 on the Calendar was carried by voice vote.

Speaker Arnold I. Palacios: Are there any more comments under Senate Communications? Ready.

Several members voice ready.

HOUSE COMMUNICATIONS

HSE. COMM. 16-96: (1/13/09) From Representative Sablan informing the Speaker that she will be off-island from January 15 through January 30, 2009.

HSE. COMM. 16-97: (1/16/09) From Representative Salas informing the Speaker that he will be off-island beginning January 20, 2009.

There was no discussion under this Item on the Agenda.

COMMUNICATIONS FROM THE JUDICIAL BRANCH

NONE

COMMUNICATIONS FROM THE NMI DELEGATE

NONE

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

DEPT./AGCY. COMM. 16-69: (1/19/09) From Mayor Juan B. Tudela providing a copy of his budget submission for FY 2010.

DEPT./AGCY. COMM. 16-70: (1/8/09) From Michael J. Ada, Department of Commerce Secretary providing a copy of Department of Commerce’s 2007 Annual Report. [Report posted on the Legislature Network]

DEPT./AGCY. COMM. 16-71: (1/16/09) From the Commissioner of Education, Ms. Rita A. Sablan, Ed. D. regarding H. B. 16-213, HD5.

Speaker Arnold I. Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: Thank you, Mr. Speaker. Relative to DEPT./AGCY. COMM. 16-70 from the Department of Commerce Secretary. Has anyone look into this because I have not - it is on the network?

Speaker Arnold I. Palacios: We had just received it.

Representative Hofschneider: Has anyone looked at it and see - does it contain the attrition of business activity in the report since this is an annual report? I hope Mr. Speaker, in context of the annual report that they are also charge of the census and I hope that they are also making reference to undertaking of the census.

Speaker Arnold I. Palacios: The Chairman the Vice Chairman of Commerce and Tourism Committee and are not here but those members on the Committee please relay the message to the Chairman. But I believe that the Chairman will be in session in a little while so we will get back to the issue. Representative Apatang, recognized.

Representative Apatang: Thank you. On DEPT./AGCY. COMM. 16-71 from the Commissioner of Education regarding the budget for personnel. I wonder Mr. Speaker if we should be concern about this since I believe the budget that we had passed is below the requirement of the Public School System (“PSS”). Is there something that we need to look at before – because I think we got this communication late before we passed the budget? I am not sure if the Chairman of Ways and Means received the letter prior to passing the budget or not, but this is the first time I have seen this letter. And this is something that we need to be concerned about because what she is saying is correct then we have a problem with “PSS”.

Speaker Arnold I. Palacios: I just saw that communication. I talked to Mr. Ed Tenorio who now works as a consultant for “PSS” before the session and we will be getting together to find out what remedy we can do to accommodate “PSS”. But let that concern by noted by the Chairman of Ways and Means. I think you need to get together with Mr. Tenorio and perhaps set up a meeting with your Committee and “PSS”. Representative Hocog, recognized.

Representative Hocog: If the Chair would have a problem identifying the additional resources to just check his Vice Chairman because I think he got the access of one. Thank you.

Speaker Arnold I. Palacios: Thank you. Chairman Yumul, please take that note. Ready.

Several members voice ready.

OTHER COMMUNICATIONS

NONE

REPORTS OF STANDING COMMITTEES

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.

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.*

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, HSI.*

Speaker Arnold I. Palacios: Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. No. 16-60, Subst. 1: Reporting on H. L. I. NO. 16-8.

The motion was seconded.

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

Speaker Arnold I. Palacios: The motion for the adoption of S. C. R. No. 16-60, Subst. 1 has been seconded, discussion on the motion. Representative Babauta, recognized.

Representative Babauta: Just so that we are clarified I understand there is a substitute committee report. Do we need to offer that now as an official act of the Committee substituting the original report?

Speaker Arnold I. Palacios: Short recess.

The House recessed at 1:55 p.m.

RECESS

The House reconvened at 1:56 p.m.

Speaker Arnold I. Palacios: We are back to plenary session. Clerk, please have the record reflect that Representative Benavente is present. Representative Tebuteb, recognized.

Representative Tebuteb: Thank you, Mr. Speaker. I believe everybody has a copy of the committee report substitute which is S. C. R. No. 16-60, Subst. 1.

Speaker Arnold I. Palacios: You are offering that as the---

Representative Tebuteb: I am offering that.

The motion was seconded.

Speaker Arnold I. Palacios: Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. Just so the record is clear. I believe the Chairman has offered S. C. R. No. 16-60, Subst. 1, can I clarify my motion for adoption so that the record is clear?

Speaker Arnold I. Palacios: Yes, please.

Floor Leader Camacho: So that the record is clear a motion to adopt S. C. R. No. 16-60, Subst. 1 reporting on H. L. I. No. 16-8.

The motion was seconded.

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.

Speaker Arnold I. Palacios: The motion has been seconded, discussion on the motion. Representative Santos, recognized.

Representative Santos: I have not seen the substitute form or draft and is this committee report referring to H. L. I. No. 16-8 referencing the Agenda or H. L. I. No. 16-4 if you look at the attachment, committee draft 1 to the previous committee prior to the substitute.

Speaker Arnold I. Palacios: Short recess.

The House recessed at 2:00 p.m.

RECESS

The House reconvened at 2:03 p.m.

Speaker Arnold I. Palacios: We are back to plenary session. Your concerns have been addressed. Are there any further discussion on the motion to adopt S. C. R. No. 16-60, Subst. 1. Ready.

Several members voice ready and the motion to adopt S. C. R. No. 16-60, Subst. 1 was carried by voice vote.

Speaker Arnold I. Palacios: Floor Leader, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. 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 I. Palacios: Discussion on the motion. Representative Hofschneider.

Representative Hofschneider: Yes, Mr. Speaker on the last session I impressed upon the Chairman particularly, to do a cost benefit analysis and let us review to the people of what we are engaging and what the alternatives are if we do not pursue this. I think we are all going support and pass this initiative, but I think it will facilitate information dissemination to the public and the tax payers because if this does not go through the alternative is for someone to walk into the federal court or the CNMI court and insist upon more damaging remedies and that would include one, selling of assets the CNMI holds in its on behalf of the public an extensive real estate property. Two, the court may just incline to insist and impose and then mandate that the CNMI government raise taxes across the board to pay for such an undertaking. It is the responsibility of the government and I think that the cost benefit analysis is important to tell the people that the alternative is even worse than what we are trying to embark on. At a minimum we should put the correct figures as to date. What is the difference between the real debt that we owe in terms of employer contribution owed to the Retirement Fund and how much is the unfunded liability and is this POB intended to pay for some portion or all of the unfunded liability as oppose to just strictly confining it to what we owe as employer contribution plus interest? So that the people know what is the whole technicality about. They are left in the dark particularly those that do not have any meaningful or gainful employment in the government and they are not members of the Retirement Fund they are working in the private sector and being asked to fork out this responsibility for having looked the other way for many years. So it is only fair that we do a more expanded or extensive cost benefit analysis to include in a standing committee report. For all intent and purposes it could possibly go also to court that one can in fact put an injunction for such an undertaking – we are talking about \$200 to \$250 million and tax payers out there are not so inclined to shoulder the cost of paying for \$200 million for someone’s mess.

Speaker Arnold I. Palacios: Representative Yumul.

Representative Yumul: Thank you, Mr. Speaker. I think the initiative is just proposing to make amendments to the constitution. Representative Hofschneider has brought up some points but the points are still a working in progress – day to day the liabilities of the Retirement Fund changes depending on the markets fluctuation. Today the Marianas Variety reported on that the Retirement Fund’s accrued actuarial liabilities increased from \$1 billion from October 2005 to \$879 million in October 2007. Part of that was attributed to Public Law 15-70 which prevented any new Defined Benefit (DB) plan members from going into the system and instead placing them under the Defined Contribution (DC) Plan. The point I am getting here is that we can on a separate strongly worded request from either me or the Speaker. We could even do a resolution to the Retirement Fund to have this information readily available when this piece of legislative initiative makes its way to the ballots because between now and the election the figures will change.

Representative Hofschneider: Mr. Speaker, point of clarification.

Speaker Arnold I. Palacios: Before I recognize that---

Representative Hofschneider: It is just a clarification.

Speaker Arnold I. Palacios: Okay.

Representative Hofschneider: It is a moving target that is the whole point. It goes up and it goes down based on market conditions, but you have to have a ballpark figure – what do we honestly owe Retirement Fund in terms of employer contributions and what is the interest that we – so at the moment of passage is more important to take that because it is monumental as we speak. It could be disastrous by the time election comes around. My point is, as we speak there is \$200 million easy that we owe then including interest or it could be more. So only on that basis at a minimum we need to point out that we owe this and to shore up the whole reason of borrowing placing this initiative is to authorize the borrowing this is the instrument that will make it happen because there is prohibition in the constitution. So it is the responsibility of this House to well inform the public. Do not wait until the authorization is down.

Speaker Arnold I. Palacios: I think that point is driving home. Let me recognize Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. I know that in the previous session there was some discussion on the same committee report and I do not want to repeat myself or that argument. But I do want to also argue another point and that is, in between the arguments of Representative Hofschneider and the Chairman I think that everyone agrees that there is this uncertainty as to what exactly is the amount but more importantly despite that amount the more concern would be how much exactly can we borrow if allow the government to borrow for this. Even if we cannot pay whether it is the \$250 million or the \$300 million to fully catch up our obligations to the Retirement Fund borrowing a \$100 million dollars so that it provides for a longer life span of the Retirement Fund so that the people's benefits could still be received by those individuals whose deserving of those benefits is extended. So I think the first question is the constitution does not allow us and as I argued in the past session no one has actually brought up other options to resolve this issue --- (*End of Tape 1, side A*) (*Start of Tape 1, side B*) of the bond and that is not going to be allowed unless we change the constitution. All these arguments of how much I believe would be moot if in fact we can only \$50 million based on the revenue that we are generating at that time when we are deciding to borrow the money - once we are allowed if we should amend the constitution to be allowed to borrow this money. So I think the priority is let us make sure that this gets to the ballot this November that is ten months away and my understanding for certification it is about a six months period so when you take away six months that is four months for us. This cost analysis is – when is that going to be done to where we can meet this November's election and have the people make this decision I think that is important.

Speaker Arnold I. Palacios: Let us take a short recess.

The House recessed at 2:12 p.m.

RECESS

The House reconvened at 2:25 p.m.

Speaker Arnold I. Palacios: We are back to plenary session. Are there any further discussion on the motion to adopt this committee report? Representative Hofschneider.

Representative Hofschneider: Again, with all due respect, Mr. Speaker I am asking to hold it so that we allow the changes to be included in the committee report. I am not asking for any changes in the initiative. I would rather vote for the initiative than to vote for this standing committee report. It is crucial that it backs up the initiative.

Speaker Arnold I. Palacios: Representative Yumul, you are the Chairman what is your – would you be amendable to do that?

Representative Yumul: Mr. Speaker, the information is academic it is there if that is what the member want an inclusive into the committee report then I will – today is Wednesday I will get it done late tomorrow afternoon assuming the Retirement Fund is forthright in providing the information.

Speaker Arnold I. Palacios: Can we get it done before the next session I am planning on calling a session next week.

Representative Benavente: Point of information, Mr. Speaker.

Speaker Arnold I. Palacios: State your point.

Representative Benavente: Mr. Speaker, the committee report's last when we adopt it. How does this information get the public? This is a committee report which once adopted will be part of the records in the bureau – changing the committee report is not the same as providing for public education in another statute or providing when you arguing or asking for the amount that we would need to borrow. I just do not see where the public will see that information in a committee report.

Speaker Arnold I. Palacios: Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. I do not think it will hurt if we delay this until we get the actual report. The committee report is actually a history of our action here that has been discussed in regards to the initiative. So we want to make sure that we are very clear on our position as to what actually we want to do our intent. If there is anything – a court issue then they go back to the legislative history and that is why it is important that we make sure that a committee report is accurate. Thank you.

Speaker Arnold I. Palacios: Representative Yumul, you are amendable to holding this?

Representative Yumul: I have no objections, Mr. Speaker.

Speaker Arnold I. Palacios: Floor Leader, can you effectuate a withdrawal motion please.

Floor Leader Camacho: Mr. Speaker, through discussion and debate on the floor I would like to withdraw a leave the standing committee on the Agenda if there is no objections from the members.

There was no objection on the floor S. C. R. NO. 16-69 will remain on the Agenda.

Speaker Arnold I. Palacios: Floor Leader.

Floor Leader Camacho: Mr. Speaker, a motion to adopt S. C. R. NO. 16-70 reporting on S. B. No. 16-22, SS1, SD1, HS1 recommendation for passage.

The motion was seconded.

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 I. Palacios: The motion has been seconded discussion on the motion. Representative Babauta, recognized.

Representative Babauta: Thank you, Mr. Speaker. Mr. Speaker, I do not know what to say about this bill. But reading the – and I applaud the Chair and the committee members of JGO reading the recommendations of the Election Commission a lot of it were sidetrack and were not incorporated. One question that I would like to clarify in the committee report that cites section 6211 of the Election code is, if we are to pass this bill what constitutes an “absentee”? Two, whether or not eligible voters who cannot avail themselves in a polling place because other than what the bill states being absent from a senatorial district where its voting or any precinct in any senatorial district that he or she is registered to vote, are those presently considered under the bill as an “absentee” request to vote. Now, the general practice pursuant to the present prior law, individuals who are qualified to vote in any senatorial district and are registered that includes people with disabilities that cannot mobilize themselves to the polling and those falls under the definition of “confined voting”, are those people to be considered absentee if I may ask, Mr. Speaker.

Speaker Arnold I. Palacios: Committee Chair, Representative Santos.

Representative Santos: Can you repeat the question again please – sorry?

Representative Babauta: Under the absentee provision that the Senate Bill 16-22 purports to change is, that includes counting of all absentee ballots on Election Day, correct?

Representative Santos: It does but not for the islands of Tinian and Rota. It would only allow for unofficial counting, which means that they could count it over there and come over here and then the ballots come here it gets certified here then that is where the official numbers come out. I think there is a lot of unfairness that they feel on those islands through the years. They do not understand why they need to wait the following morning because our cable station usually just stops counting our precincts and then sometimes their ballots come in late and they are as anxious as we are here in Saipan to find out who is up. But again that is something that we need to be worked out with the Election Commission.

Speaker Arnold I. Palacios: Representative Babauta, recognized.

Representative Babauta: I will yield for now to Representative Hofschneider.

Representative Hofschneider: I believe that the current law requires the presence of Election Commission members to count so that would constitute that they go to Tinian and Rota on Election night?

Representative Santos: Right. I mean they are always present anyway. There is always a member of the Election Commission and also an Assistant Attorney General.

Representative Hofschneider: But I think the law states a quorum for the counting.

Representative Santos: That is only for conflicts. That is why it states unofficial.

Representative Hofschneider: Not for tabulation?

Representative Santos: Right.

Speaker Arnold I. Palacios: Short recess.

The House recessed at 2:30 p.m.

RECESS

The House reconvened at 2:45 p.m.

Speaker Arnold I. Palacios: The motion is for the adoption of the committee report and it will place the legislation on the Bill Calendar. Ready.

Several members voice ready and the motion to adopt S. C. R. NO. 16-70 was carried by voice vote.

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

NONE

UNFINISHED BUSINESS

NONE

RESOLUTION CALENDAR

NONE

BILL CALENDAR

Speaker Arnold I. Palacios: Floor Leader, there is a committee request for placement of a bill.

Floor Leader Camacho: Thank you, Mr. Speaker. If there is no objection I would like to recall S. B. No. 16-44 CS1 in reference to Nurse Practitioner and place it onto the Bill Calendar.

The motion was seconded.

S. B. NO. 16-44, CS1: A Bill for an Act to amend Public Law 14-62; and for other purposes.

Speaker Arnold I. Palacios: The motion is to recall S. B. No. 16-44, CS1 and at the same time place it on the Calendar, it has been seconded. Discussion on the motion. Ready.

Several members voiced ready and the motion to recall and place S. B. No. 16-44, CS1 on the Bill Calendar was carried by voice vote.

Speaker Arnold I. Palacios: Clerk, could you have the record reflect that Representative Reyes is present.

Representative Babauta: Mr. Speaker, point of clarification.

Speaker Arnold I. Palacios: State your point.

Representative Babauta: On the recent passage of the Senate Bill the CS1, is this a Committee Substitute from the Senate or Committee Substitute from the House?

Speaker Arnold I. Palacios: This is a Senate Committee Substitute.

Representative Babauta: Thank you.

Speaker Arnold I. Palacios: Are we ready Floor Leader? Please proceed with the first legislation.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to pass on First and Final Reading H. L. I. NO. 16-2, HS1 in reference to the Attorney General election.

The motion was seconded.

H. L. I. NO. 16-2, HS1: A Bill for an Act to amend Article III, Section 11 of the Constitution of the Commonwealth of the Northern Mariana Islands to authorize the election of an Attorney General (“AG”); and for other purposes. [*See S. C. R. No. 16-68*]

Speaker Arnold I. Palacios: The motion for passage has been seconded. Discussion. Representative Hofschneider, recognized.

Representative Hofschneider: For passage right?

Speaker Arnold I. Palacios: Passage.

Representative Hofschneider: I think, Mr. Speaker that in the last session we had a session using the Senate Chamber I recalled that we had the opportunity to air our concerns on the committee report itself and again because we are voting for this initiative I would like to share my concerns. This is one of those double-edged objectives that, I still firmly believe that the bottom-line with the Attorney General is really obviously the qualification of the person, number one to be considered and appointed. But the most important component to how the Attorney General’s Office functions is really the appointing authority. In the past, we had several Attorney Generals that have performed and nothing was wrong with the way the constitution was set up and how the office functioned. I think the prescription for the Attorney General is quite clear and I believe that instead of the elected position, that perhaps an alternative would be to for the both Houses of the Legislature to remove a non-functioning or an improperly sitting Attorney General. But we have other jurisdictions that have both sides of the argument for us to look at given that our community is such a small community and highly politicized community and even looking at the Board of Election the judges’ retention process whenever a judge is up for retention his or her name is placed on the ballot. And

there is obvious inclination for all of them to lean on or to tailcoat on a candidate during an election that has the momentum building up and seeking support all throughout. So politicizing the Office of the Attorney General like Guam is a good example, I think that would be not in our best interest if an elected Attorney General wants to make a name for herself or himself and from the get go on the first day being installed gives the Administration or the whole government problems after problems because they are trying to set themselves on a pedestal so to speak. On the other hand having that office the Attorney General's Office be elected would ensure that the voters out there, the taxpayers, the citizens themselves have the opportunity to remove a person or to put them back into office based on performance. So this is one of those things that just fall right in the middle and we can all get cut both ways. Because like I said, this community is very small, familial in orientation, and highly charge during a political process which is an election year and we have seen it with the retention of judges, Board of Education which they are not suppose to be citing any political leaning. Nonetheless, Mr. Speaker, I think that I believe in my heart that the buck stops with the appointing authority. If a sitting Governor politicize the appointment of an Attorney General to suit his or her purpose from the very beginning, then the office is underserved or not served well and the people loses out in the end. So it is the Governor in essence that is at fault for picking someone or appointing an Attorney General that he or she can as a sitting Governor manipulate to his discretion and I point the finger on the appointing process and the appointing entity not the constitutional set up. There is in fact, and it is in fact a sound system were emplaced in the constitution and if it does not work then we are going to back and say, well we tried let us return back to the old system of allowing the Governor to pick the best qualified person, rather than to look at it in a political perspective. There was a case in fact that, because a sitting judge did not in fact favor a politically inclined defendant that sitting judge was not retained, but it was a qualified individual would have serve the Judicial System more appropriately but nonetheless the people opine and the emotional side rather than looking at it from a perspective of the law and the constitution and that is what I am afraid of Mr. Speaker. Thank you.

Speaker Arnold I. Palacios: Thank you. Are there any further discussion? Representative Camacho, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker and I will say it from the least concern to the highest concern. The least concern is, if we are pushing for a independent "AG" we need to embed into this legislation that there has to be a guaranteed amount or at least a floor for their budget, otherwise, they would also have to come in before the Legislature and also lobby and what not and obviously your are injecting politics in that. That is a policy call if whether we should do that or not and obviously have some measure or some control over an elected Attorney General that may decide to run wild. The Second concern, which is more pressing to me, is the one that I have mentioned from our last session Mr. Speaker, in regards to the salary. I know that \$100,000 seems like a lot, but if you are trying to recruit like the old saying, you want high caliber people you got to pay them high salary. So at a \$150,000 that might be just roughly what a person would give up private practice to go into public service, granted that they can make a lot more then that but at \$100,000 that is still very far below what an average person would make in private practice as an attorney and that is again somewhat of a policy call. Asking that people are going into public service obviously they take a pay in cut but if you want high caliber people to do a good job you got to fork over some money especially with attorneys that is not the kind of people you want to go for discount. Then the third one, Mr. Speaker is, on page two, line 17, where it says, "the Attorney General shall be an active member and in good standing..." I believe I have mentioned this from our last session that the Attorney General should be "in active practice". An "active member" and "an active practice" are two different things. You can be a legal counsel up here at the Legislature for twenty odd years and

be considered “an active member” of the Bar, but you are not considered “in active practice”. The Attorney General Office’s handles many types of legislation and prosecution of crime. You need somebody where the troops can look to him or her and say, what is the call boss, do we prosecute the case or dismiss the case, plea bargain it, and you need somebody who can make those calls as suppose to just being a member of the bar. And maybe to further I like to and hopefully the members can accommodate me on this and we can make an amendment. Mr. Speaker, I would like to make a motion to amend on page two, on line 17, where it says, “The Attorney General shall be (an active member) strike that out, and insert, “The Attorney General shall be in active and in good standing....”. That is my motion.

The motion was seconded.

Speaker Arnold I. Palacios: Discussion on the motion. Floor Leader, can you restate it?

Floor Leader Camacho: Okay. On page two, line 17, where it starts out with subsection “(b) The Attorney General shall be an active member strikeout “an active member” and insert the words “in active practice....”.

Speaker Arnold I. Palacios: Discussion. Representative Santos, recognized.

Representative Santos: Mr. Speaker, the problem that I see with that amendment is it limits qualifications of attorneys to litigating attorneys only, which means, that it excludes in-house legal counsels because they do not necessarily appear in court. I think in the practice of law any limitations as to how far you can spread your wings is prohibited by, I am not sure if it is our, Canon Code of Law or whatever it is that it is called I forget, there is so many rules and regulations and laws governing attorneys or is it under the professional ethics code is what it is called right now, or the ABA Model Rules of Behavior, you see what I am saying here, there just too many rules out there and I just see that – that is a problem for attorneys at large who seek to serve in this capacity. And what is important I think in seeking this seat is, managerial skills on top of everything else, it does require some experience in litigating, but I cannot agree that it should be limited to litigating attorneys only.

Speaker Arnold I. Palacios: Representative Dela Cruz, recognized.

Representative Dela Cruz: Thank you, Mr. Speaker. May I also add, by putting in this language this will basically restrict other attorneys, either they be retired from practice such as, retired judges and justices or retired attorneys that may want to vie for the elected Attorney General’s position so just to add onto Representative Santos’ comments on the issue. Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: Representative Babauta, recognized.

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

Speaker Arnold I. Palacios: Let me recognize Representative Babauta. Do you want to yield?

Representative Babauta: I think point of clarification takes precedent.

Speaker Arnold I. Palacios: Okay. State your point, Floor Leader.

Floor Leader Camacho: Just for clarification on the author. “Active practice” is a term of art. I understand various judges are now retired and practicing. The point what where we are trying to get is, somebody who has been in court and knows which side of the isle they are supposed to sit on as oppose to someone and no disrespect to many members of the Bar because they are good attorneys and good legal counsels and what not, but what you are looking for is somebody that has real experience who is going to do this on a day to day job. Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: So clarified? Representative Babauta.

Representative Babauta: Just to clarify the Floor Leader’s amendment, Mr. Speaker. What constitutes “in active practice” meaning, strictly for going to court or shall we consider our Legal Counsel here, Mr. Taijeron as “active practice” practicing?

Speaker Arnold I. Palacios: Proceed, Floor Leader.

Floor Leader Camacho: I believe, Mr. Taijeron “in active practice” as a prosecutor up until he joined the Bureau. He is still an “active member” of the CNMI Bar as the legal counsel up here. I believe he has more than seven or eight years now. As a ten year experienced as an “active practicing” attorney, I think that should qualify him for the position, but a person who has never had at least five years of “active practice” in a very...*(End of Tape 1, side B)*

(Start of Tap 2, side A).

Speaker Arnold I. Palacios: Representative Babauta, recognized.

Representative Babauta: Let me see if I can debate my lawyer friend (Laughter). I am kind of hesitant on the language, Mr. Speaker, because if we are saying that the Attorney General shall as the Floor Leader puts it, at least five years “in active practice” while the example of our legal counsel active practice for five years and then he decided to change job category and not prosecute or otherwise defend someone for that matter and instead get down to the business of writing up legal work for us, you say, he is still eligible to be considered for or rather be considered by the people to be a candidate for Attorney General, Floor Leader?

Speaker Arnold I. Palacios: Proceed, Floor Leader.

Floor Leader Camacho: If I read and obviously you can correct me, the Attorney General shall be in active practice in good standing of the Commonwealth Bar Association for at least five years preceding the date. I believe Mr. Taijeron fits the bill, he has been in active practice for ten years prior to the date of taking the office.

Speaker Arnold I. Palacios: Representative Babauta, you still have the floor.

Representative Babauta: Thank you. Provided that you are with the “CNMI Bar”.

Floor Leader Camacho: That is actually a separate part there that you have to be a good standing.

Representative Babauta: Now I got it. Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: Representative Santos, recognized.

Representative Santos: Mr. Speaker, the difference between “active” and “in active” is although like take for me as an example, I am still “an active member” of the Bar Association which means that I still pay the higher fee which means that I am also subjected to the continuing legal education of twenty credits reportable every two years, does that mean I cannot appear in court, no. The only reason that holds me back from appearing in is our laws as a member of this body. Also in Joe Taijeron’s position he is still on “active” member of the Bar I am not sure if Representative Camacho signed up for “inactive” after he got elected, but you do have that choice. An “in active” member of the BAR is, you still have your license but you do not or I may be wrong on that and I stand to be corrected on that you are in essence still licensed which you cannot practice because you are not paying your higher dues, and you are not subjected to the continuing legal education which is important in the practice of law whether or not you are corporate attorney, prosecutor, a defense attorney, or in-house counsel, if you are an “active member” you are an active. How you practice your field of law is up to you and that should not be limited to litigators.

Speaker Arnold I. Palacios: Representative Hocog, let me recognize you.

Representative Hocog: Mr. Speaker, it is always interesting to hear our colleagues that possess the Doctorate of Law also it is always nice to hear former Speakers argue on a basis and this is very educating. But one thing, Mr. Speaker we have to teach ourselves whether a copy write of outside influence to do this in our own turf, is conducive to the well-being of the island and our people. We have seen the impact of an elected Attorney General on Guam when he can mandate and be the judge, jury, and a prosecutor at the same time. We look back again our land alienation, where we copy some of the ideas from the Hawaiian people and we still have questions with all this influence that we try to implement in our own soil. And I do not know whether it will be best, Mr. Speaker that this should be left alone and let the Chief Executive hire his own. I do not know how if an elected Attorney General for instance like Guam, when he is not doing the right thing the right way how can he be terminated from his job.

Representative Dela Cruz: Point of clarification, Mr. Speaker.

Speaker Arnold I. Palacios: State your point.

Representative Dela Cruz: Mr. Speaker, I just like to ask if my good colleague I do not know but I believe the former elected Attorney General Mr. Moylan he is no longer in office. At that time there was big arguments between the Executive and Mr. Moylan. As it stands right now the new Attorney General is, Ms. Alicia Limitiaco and she has been performing to high standards that the job requires. There has been really no commotion between the present elected “AG” and the Governor, to our neighbor in the South. I just wanted to point that out and hope that we do not mislead the present and the past “AG” in as far as their performance had been to the Government of Guam. Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: You still have the floor, Representative Hocog.

Representative Hocog: Thank you, for the point of information, Mr. Speaker. My concern here is, if an elected Attorney General is pursued and let us say that we do have a law and we do not feel that his service to the community in his first three months in office is rendering what he is supposedly should be doing, how can he be immediately removed from such office? Do we need an election to remove him do we need to impeach him or what? The question here, Mr. Speaker, whenever things

go a little wrong in our municipality we dream ideas from other islands and territories that perhaps are not suitable to the applicability and practicability of such, thereby, providing us obstacles on our road path to what the needs of this municipality. Governor Fitial just terminated Mr. Matthew Gregory because of non-performance, what is wrong with that? I would like to give the opportunity, Mr. Speaker to the Commander in Chief to select who he can work with, who he can get legal advice and it is always correct that finding the right person to do the right job, and we will not have a problem. In a political arena a dumb person can be an Attorney General not necessarily that he can possess the real job of an Attorney General. It is politics no matter how you look at it. You want to get elected you go out and you find yourself a vote. Are you going to do a good job being an elected Attorney General? I think the opportunity, Mr. Speaker, is far better off leaving it to whomever the Commander in Chief is to select a legal counsel that will advise his Administration. After all he is there for the Administration. Many of us never fails taking an idea from bigger developed countries sometimes just turn our livelihood upside down. Because we cannot compare the magnitude of why they do that versus a small population where politics is so immune here in the Marianas, Mr. Speaker that even the Chief Justice in the Philippines now is expelled because of such. So that does not mean that bringing an elected Attorney General will provide us the best service that the people expect. It is a matter of personality and intelligence and who is the appointing authority that will provide this service to the community. Thank you.

Speaker Arnold I. Palacios: We are still on the amendment motion. I hope and appreciate the insights and the thoughts that some of the Representatives but we on this active practicing amendment. Representative Hocog.

Representative Hocog: Last one, Mr. Speaker and I know that we are discussing the bill and the amendment but this is related on how you are going to put your vote on the amendment. Would I vote yes on an amendment and vote no on the main bill? Hell no.

Speaker Arnold I. Palacios: Some do. Are there any more discussion on the amendment? Ready to vote on the amendment?

The Clerk called the roll on the floor amendment motion offered by Representative Camacho to H. L. I. NO. 16-2, HS1.

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

Speaker Arnold I. Palacios

no

Speaker Arnold I. Palacios: By a vote of eight “yes” and five “no” the floor amendment motion is hereby adopted. We are back to our main motion. Short recess.

The House recessed at 3:20 p.m.

RECESS

The House reconvened at 3:30 p.m.

Speaker Arnold I. Palacios: Are we ready for the question? Are there any further discussion? Representative Santos.

Representative Santos: Mr. Speaker, I just wanted to state for the record that these types of initiatives in my opinion are a breathe of fresh air and I what I mean by that is, it is high-time that we look at our constituents and ourselves as a new breed of decision makers be it as a voter, a professional, or just a citizen. We are not the “CNMI” that we were thirty or twenty-five years ago, I would like to think that we have elevated our minds and our spirits to become more independent thinkers, more open-minded when it comes to dealing with issues and I do agree that this is a double-edged sword initiative but nevertheless its intent is to depoliticize the position from what it currently is and we can only do that when we put in place certain factors that our constituents can consider such as the qualification of what an elected “AG” can be and let them decide what that should be and should not be. I cannot emphasize enough how much more comforting it is to know that a person could take such a position that is hired by a majority of the people as opposed to be appointed by one person that in a sense in my eyes is depoliticizing the position instead of serving at the pleasure of the Governor the appointing body to such a powerful position that should serve the “CNMI” as whole, independently, unbiased, and professionally governed by already almost convoluted rules of ethics and law governing all attorneys. I have heard some things about how to attract a more qualified you need to raise the salary which I do agree I mean I do not mind a higher salary if I should seek the position which would then lead to an ethical question at the end of my comment. Government service is not about making money. Government service is about heart. When you want to help the people you do not come here to make money and I can personally attest to that. I believe that a person hired by the people should work with the Commander in Chief because this is a person chosen by the people. And with that Mr. Speaker, my ethical question is, can members of the BAR vote on this initiative as members of the House of Representatives?

Speaker Arnold I. Palacios: That is a very good question. Should I ask the legal counsel to answer that? Are you a member of the BAR too? (Laughter) That is a very good question and I will allow the members of the BAR to ask themselves that. Representative Hofschneider.

Representative Hofschneider: Mr. Speaker, I think that is easily answered. The qualification, first of all is not general. It does not apply to just about every member here. It only resides itself in the license. You have to be educated, gone to law school, passed the BAR and, is practicing. Not all of us has that. So there is an obvious conflict of interest, potentially you may benefit.

Speaker Arnold I. Palacios: Let me recognize Representative Hocog.

Representative Hocog: Mr. Speaker, if these members, I ask them to step out when the vote is going to be called.

Speaker Arnold I. Palacios: Let me recognize Representative Apatang and then Representative Benavente.

Representative Apatang: Thank you, Mr. Speaker. Actually I was going to raise that issue up in regards to the conflict of interest issue. If you are an Attorney and an active member of the Bar and if you are planning to take advantage of this particular initiative then you should declare yourself as conflict of interest. Thank you.

Speaker Arnold I. Palacios: Thank you. Representative Benavente.

Representative Benavente: Thank you, Mr. Speaker. I tend to disagree. I think the process itself and my opinion anyway I would disagree that there is that conflict but I would like to comment lastly on the initiative and just to clarify that in fact the appointment of the Attorney General is not limited to the Governor's appointment. The process is that there is a legislative approval via the Senate confirmation process and so there is that other checks and balance. I understand that it is not the same as an elected Attorney General, but for the record and for information it is not limited to a Governor's appointment. Thank you.

Speaker Arnold I. Palacios: Let me recognize Representative Yumul.

Representative Yumul: Thank you, Mr. Speaker. I echo the sentiments of Representative Benavente that even when this body itself many years ago made an amendment to allow for the next set of Legislators to receive higher office budget not to exceed \$150,000 the minute the members did return and received that benefit so I would argue that again it is not an issue if the whole body agrees in general. Of course if the Representatives here that feels they are in conflict they could always abstain the vote and it is on their conscience. I think this issue is something that is a worthy cause that needs to be brought to the people. Thank you.

Speaker Arnold I. Palacios: Representative Santos, recognized.

Representative Santos: Mr. Speaker, I just wanted some sort of clarification and if maybe we could get a written legal opinion from Legal Counsel because on the flip side of the question is the argument that this is only placing the initiative on the ballot for the people to vote on it or not, but nevertheless it does not eliminate the potential that members of the Bar also members of this House may benefit from this if it should go through. I think that is a legitimate concern.

Speaker Arnold I. Palacios: Yes, indeed. Representative Hofschneider, we are running out of time.

Representative Hofschneider: I believe that the concern is legitimate and well justified that there is two members that may in fact influence the outcome of the vote of the initiative by disallowing or allowing them to vote. So there is in fact an appearance that they will benefit. They do not hold the future. It opens the door of opportunity for them to be able to be appointed in the future if considered. So therefore, it does not apply the majority of the members here, but the reverse applies to them. So the ethics is very clear.

Speaker Arnold I. Palacios: Thank you, for that. I am going to begin to wind down discussions on this I think we have already have discussed this almost at length. Go ahead Representative Dela Cruz you are the author and I will give you the benefit.

Representative Dela Cruz: I bring back the members attention now to the standing committee report of which the Chair has signed off on. The question now is, should she have recued herself from signing off on the standing committee report recommending passage of this initiative. That is the question that I pose now to the counsel.

Representative Hofschneider: Point of clarification, Mr. Speaker.

Speaker Arnold I. Palacios: State your point.

Representative Hofschneider: This is the highest standard of ethics to the Chairperson because she realized and that now on the floor for the record she is revealing it.

Speaker Arnold I. Palacios: Okay. Representative Dela Cruz, would you still like to ask the Legal Counsel?

Representative Dela Cruz: Yes, I do Mr. Speaker.

Speaker Arnold I. Palacios: Short recess.

The House recessed at 3:40 p.m.

RECESS

The House reconvened at 3:45 p.m.

Speaker Arnold I. Palacios: We are back to plenary session. Are there any further discussion? Ready. Clerk, please call the roll.

The Clerk called the roll on the motion to H. L. I. NO. 2, HS1, HD1 on First and Final Reading.

Representative Edwin P. Aldan	yes
Representative David M. Apatang	no
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	no
<i>Representative Camacho: Mr. Speaker.</i>	
<i>Speaker Arnold I. Palacios: I will give you one minute.</i>	
<i>Representative Camacho: Not even one minute, just a few lines. Discussions with the Legal Counsel in regards whether I actually have a conflict or not. I feel I do not have a conflict, but to avoid any appearance of impropriety I respectfully, abstained.</i>	
Representative Joseph N. Camacho	abstain
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	absent (excused)
Representative Victor B. Hocog	no
Representative Heinz S. Hofschneider	no
Representative Raymond D. Palacios	absent (excused)
Representative Justo S. Quitugua	absent (excused)
Representative Joseph C. Reyes	yes
Representative Christina M. Sablan	absent (excused)

Representative Edward T. Salas	absent (excused)
Representative Rosemond B. Santos	absent (During voting)
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 I. Palacios: By a vote of eight “yes” five “no” and one abstention H. L. I. NO. 2, HS1, HD1, hereby fail to pass the House. Short recess.

The House recessed at 3:50 p.m.

RECESS

The House reconvened at 3:51 p.m.

Speaker Arnold I. Palacios: We are back to plenary session. Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. I would like to make a motion for passage on First and Final Reading S. B. No. 16-44, CS1 in reference to the Nurse Practitioners.

The motion was seconded.

S. B. NO. 16-44, CS1: A Bill for an Act to amend Public Law 14-62; and for other purposes.

Speaker Arnold I. Palacios: The motion is to pass on First and Final Reading S. B. NO. 16-44, CS1 and was seconded, discussion. I believe the copies have been distributed. Representative Hofschneider, recognized.

Representative Hofschneider: Mr. Speaker, since we have established the Board of Nursing Licensure I was looking through the attention on the committee report and I did not see any comments in support of the legislation or concerns relating to the Board of Nursing Examiners and I think it is appropriate that we allow them to look at the bill and comment on it whether we need to support it or not. It is only fair because we have established that Board for purposes of not only licensure but the total affairs of the nursing needs in the Commonwealth. Thank you.

Speaker Arnold I. Palacios: Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. It is fortunate that we have met this morning with the Board from Tinian on Saipan actually they we here.

Speaker Arnold I. Palacios: Excuse me, I am sorry, you met with the Board of Licensing?

Representative Apatang: Nurses. This morning with the Chairman. The purpose that they were requesting assistance that we entertain this particular bill because they need to get on track as far as the nursing board’s concern. They are willing to come in to testify but we told them that is we were going to entertain this bill on another session we will call them up here in case if there are any questions. Since we are entertaining it and we promised that we are going to Calendar this today because it is an urgent bill that we need to address because of the physicians situation and I think

Tinian also is having problems. Ms. Long was here this morning asking for assistance from Tinian and so as Ms. Camacho from the Southern Precinct, and Ms. Perry was also here. So that is why we asked that we Calendar this because of its urgency. Thank you.

Speaker Arnold I. Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: I want to make sure that the Board of Nursing Examiners or the Licensing Board in fact has a delineated understanding between a Nursing Practitioner and License Nurses and Registered Nurse versus a Physician Assistant (PA). A “PA” is right below an “M.D.”. And a Physician Assistant can do pretty much a supervised medical role with the exception that they cannot issue prescriptions. They have to have a counter-sign by a board certified and licensed physician. And there is an overlapping of jurisdictions right now and we do not want to delegate that between the “PA” and a nurse that has gone through proper education because it requires and x level of education in order for them to be able to really have what they call cursory examination and diagnosis and that is counter productive. It is inviting malpractice lawsuit in fact and we have to be very careful and we want to hear the Licensing Examiners or the Board of Nursing to articulate to us that they completely understand that there are incidents going on right now of that and it was brought to my attention.

Speaker Arnold I. Palacios: Representative Santos, recognized.

Representative Santos: Mr. Speaker, I just wanted to know if this proposed legislation sets out to expand their scope or limit it or add to the work of the Board and if so what are those and as Representative Hofschneider has stated, prescription and dispensing of drugs by such individuals should be closely guarded and or regulated. I am not sure how much of this is accepted in other healthcare facilities throughout the US or the World and I just want to caution on the side of air before moving forward.

Speaker Arnold I. Palacios: You mean you want to air the side of caution. Representative Apatang.

Representative Apatang: We pretty much discussed the bill because they brought the bill to us this morning and the questions that we asked were liabilities, their position as far as issuing prescription and all that. I think that the nurse practitioners have the same role as a physician pretty much. They can issue prescriptions – you sure they went through the course. Some of them said they can issue prescriptions – is that right Chairman?

Speaker Arnold I. Palacios: Let me recognize, Representative Ralph Torres.

Representative Ralph Torres: For clarification also Mr. Speaker, during the meeting we had this morning Congressman Apatang and I made sure and clearly asked if they are able to prescribe prescription and their answer was, yes. I even asked even for valium and they said, yes. But in certain instances that if it is not within their scope of education and they are certified they have license for that. And if it is not within their scope they have to refer that to a physician who is specialized with that issue. So according to them that they are licensed to give prescription.

Representative Hofschneider: Point of clarification, Mr. Speaker.

Speaker Arnold I. Palacios: State your point.

Representative Hofschneider: For a prescription to be generated a diagnosis has to be ascertained or emplaced. You need to be diagnosed what is your problem in order for a prescription to really be generated or issued. So a physician would look at a patient first and in this case – wait, Mr. Speaker there are two routes that a prescription---

Speaker Arnold I. Palacios: Hold on, this is point of clarification. Go ahead, Representative Hofschneider.

Representative Hofschneider: So that is the typical medical procedure. When a diagnosis is done and a prescription is to be refilled, there an attending medic for instance, that we have several medics all throughout the islands they are authorized to issue refills, but if you do not have the medical qualification diagnosis and generate a prescription you are inviting problems. This is where the difference and the Board of Licensure should make a distinction of the prescription to be generated. For instance, most general concept, Mr. Speaker believe that a common flu that is induced by virus, everybody believes that antibiotics can cure a virus invoke flu symptoms, that is not the case, antibiotics is not used to treat a viral infection. There is only a handful authorized by Food and Drug Administration (“FDA”) to deal with viral infections. So if you are curing the symptoms and a nurse in this case misdiagnose a patient and gives them antibiotic to cure maladies generated by a viral infection that is, malpractice.

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

Representative Ralph Torres: Again, Mr. Speaker, just to make sure and Congressman Hofschneider is correct, but at the same time if that is not your specified field you are not going to delve into that problem you stay away because you are also can be charged for malpractice. In fact, a few months ago over the summer, Arlene Long was working at Marianas Medical Center, and when I brought in my daughter she was the Nurse Practitioner (“NP”) that handled that. I never saw a doctor and she gave me a prescription. As far as I know, my daughter is doing well. So in terms of the same thing and I do not think that they the Nurse Practitioners will go in and make decisions that will go against their medical malpractice. I mean that will be the same thing with a doctor. Thank you.

Speaker Arnold I. Palacios: Let us take a short break.

The House recessed at 4:04 p.m.

RECESS

The House reconvened at 4:09 p.m.

Speaker Arnold I. Palacios: We are back to plenary session. We decided that we will hold this on Calendar and invite the Board to testify or give their inputs officially. Floor Leader.

Floor Leader Camacho: Mr. Speaker, just so the record is clear and if there is no objections from the members I am withdrawing my motion for the passage and we will keep it on the Calendar.

There was no objection.

Speaker Arnold I. Palacios: So stated, the S. B. No. 16-44, CS1 will remain on the Calendar and the Chairman of HEW (Health, Education and Welfare) will invite the Board to give us their written comments or official testimony on this particular legislation.

Representative Ralph Torres: Yes, Sir Mr. Speaker.

Speaker Arnold I. Palacios: Representative Hocog.

Representative Hocog: I wanted to ask the Speaker if we could entertain H. B. No. 16-215 because it is very urgent.

Speaker Arnold I. Palacios: Floor Leader, could make a motion to place it first.

Floor Leader Camacho: I need to suspend the Rules, Mr. Speaker.

Speaker Arnold I. Palacios: Okay, make that motion.

Floor Leader Camacho: A motion to suspend the Rules in order to place H. B. No. 16-215 on the Bill Calendar, Mr. Speaker.

The motion was seconded.

Speaker Arnold I. Palacios: The motion is to suspend Rules for placement of H. B. No. 16-215 on the Calendar, it has been seconded, discussion. Ready.

There being no discussion the motion suspend Rules for placement H. B. No. 16-215 on the Calendar was carried by voice vote.

Speaker Arnold I. Palacios: Floor Leader.

Floor Leader Camacho: Thank you again, Mr. Speaker. A motion to place H. B. No. 16-215 on the Bill Calendar.

The motion was seconded.

Speaker Arnold I. Palacios: The placement motion has been seconded. Discussion.

The motion for placement was carried by voice vote.

Speaker Arnold I. Palacios: Floor Leader Camacho.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to pass H. B. No. 16-215 on First and Final Reading.

The motion was seconded.

H. B. NO. 16-215: A Bill for an Act to appropriate \$40,000.00 of the available and unencumbered money remaining from Public Law 15-104, earned under the \$60 million CIP Bond (Public Law 11-102) for the Anyuta Island revetment repair project; and for other purposes.

Speaker Arnold I. Palacios: The motion is for passage of H. B. NO. 16-215, it has been seconded. Discussion on the motion. Representative Hocog.

Representative Hocog: Mr. Speaker, this amount is actually already available and this is the money that is left from Public Law 15-104 where they give the Commonwealth Ports Authority (“CPA”) \$800,000.00 for collateral equipment. The fund balance there that the Governor’s representative for the CIP is requesting if we can reprogram that to provide the 10% matching from the FEMA (Federal Emergency Management Agency) Project that is lacking thirty-six sum thousand dollars for the construction for the West Harbor Revetment and she has requested us to see if we can get and reprogram the amount of \$40,000.00 to augment the matching for that FEMA grant.

Speaker Arnold I. Palacios: So this is a reappropriation actually of unencumbered funds from the \$800,000.00. Are there any further discussion? Ready. Representative Yumul.

Representative Yumul: Thank you, Mr. Speaker. Did we get confirmation from the Chairman or the Director of “CPA” that this fund is not to be used by them? Because under Public Law 15-104 the funds is also to be used for renovation and installation of certain fixtures at the Airport Terminal. So that is an open-ended issue.

Speaker Arnold I. Palacios: Representative Hocog.

Representative Hocog: Mr. Speaker, I just explained that to the Chair. I do not whether the Chairman is listening or what, I said the unencumbered balance of that project.

Speaker Arnold I. Palacios: Proceed, Representative Yumul.

Representative Yumul: *Iyoko* question is not about unencumbered the question is whether “CPA” has given their blessing that is it. That is the only question I am asking.

Speaker Arnold I. Palacios: Representative Hocog, do you want to answer that?

Representative Hocog: I do not think, Mr. Speaker, “CPA” has to give us the blessing for such. The Legislature appropriated that and the “CPA” is satisfied with what they got and this is the balance that is reported by Vicky that can be appropriated for such projects.

Speaker Arnold I. Palacios: In fact, if I am not mistaken the funds that we are appropriating the project that we are appropriating to is also a Commonwealth Ports Authority repair project. Representative Yumul.

Representative Yumul: That was a simple question, Mr. Speaker.

Speaker Arnold I. Palacios: Okay. Alright we are at the end of the day. So Clerk, please call the roll.

The Clerk called the roll on the motion to H. B. NO. 16-215 on First and Final Reading.

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

Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	yes
Representative Joseph N. Camacho	yes
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	absent (excused)
Representative Victor B. Hocog	yes
Representative Heinz S. Hofschneider	yes
Representative Raymond D. Palacios	absent (excused)
Representative Justo S. Quitugua	absent (excused)
Representative Joseph C. Reyes	yes
Representative Christina M. Sablan	absent (excused)
Representative Edward T. Salas	absent (excused)
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 I. Palacios: By a vote of fifteen “yes”, H. B. NO. 16-215 hereby passes the House on First and Final Reading.

MISCELLANEOUS BUSINESS

NONE

ANNOUNCEMENT

NONE

ADJOURNMENT

Speaker Arnold I. Palacios: Floor Leader, adjournment motion.

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 4:15 p.m., subject to the Call of the Chair.

Respectfully submitted,

Linda B. Muña
Journal Clerk
House of Representatives

APPEARANCE OF LOCAL BILLS

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

SECOND APPEARANCE: NONE

THIRD APPEARANCE:

H. L. B. NO. 16-27: A Local Appropriation Bill for an Act for the Second Senatorial District to appropriate \$84,500.00 from the local license fees collected for pachinko slot machines and poker machines in the Second Senatorial District; and for other purposes. (Rep. Edwin P. Aldan)