



House Journal

THIRD REGULAR SESSION, 2009

Adopted:
August 10, 2009

6th Day

Thursday, February 5, 2009

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened its Sixth Day, Third Regular Session on Thursday, February 5, 2009, at 9:40 a.m., in the House Chamber on Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

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

A moment of silence was observed.

The Clerk called the roll and seventeen members were present. Representatives Victor B. Hocog and Stanley T. Torres are coming in late; and, Representative Edward T. Salas was absent and excused for the day's session.

ADOPTION OF JOURNALS

NONE

INTRODUCTION OF BILLS

H. B. NO. 16-221: A Bill for an Act to repeal and reenact 4 CMC § 1503(a)(2); and for other purposes.

Offered by: Representative Justo S. Quitugua

Referred to: Committee on Commerce and Tourism

INTRODUCTION OF RESOLUTIONS

H. J. R. NO. 16-25: A House Joint Resolution to request the Secretary of Homeland Security in accordance with Congressman Gregorio Kilili Sablan to delay implementation of the effective date of the transition period applying the Immigration and Nationality Act to the Commonwealth of the Northern Mariana Islands under U.S. Public Law 110-229.

Offered by: Rep. Diego T. Benavente and fourteen others

MESSAGES FROM THE GOVERNOR

GOV. COMM. 16-320: (1/30/09) State of Emergency Declaration Extension for the Island of Anatahan.

Speaker Arnold Palacios: I believe we have discussed this communication already. We will move down to item 10.

SENATE COMMUNICATIONS

NONE

HOUSE COMMUNICATIONS

NONE

COMMUNICATIONS FROM THE JUDICIAL BRANCH

NONE

COMMUNICATIONS FROM THE NMI DELEGATE

None

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

DEPT./AGCY. COMM. 16-76: (1/30/09) From Public Auditor Michael Pai in reference to H. R. NO. 16-64, requesting for a close-out audit of the Washington Representative's Office.

Speaker Arnold I. Palacios: Representative Yumul, do you have any comment?

Representative Yumul: Mr. Speaker, not at this time. We will just let the members review the Public Auditors statement on the audit. I will have follow on questions to the Auditor and also to the Secretary of Finance as to the current disposition of the building whether it is currently occupied or whether it is secured and vacant at this time. Thank you.

Speaker Arnold I. Palacios: Please do that. Representative Reyes.

Representative Reyes: Mr. Speaker, I am just kind of curious because the Office of the Washington Representative had already closed. Out of curiosity, maybe the Chairman of Ways and Means – the balance of the budget that was allocated for the office, has it ever been reverted back to the general fund for appropriation?

Speaker Arnold I. Palacios: That is a good question, perhaps, the Chair of Ways and Means could...

Representative Reyes: Or has it been exhausted?

Speaker Arnold I. Palacios: Well, it is a budget authorization. It may be reprogrammed. Maybe the Chair of Ways and Means can clarify that at a later time.

Representative Reyes: Just for the Chair to be aware, it is already February, and chances are that we might have to pay taxes on the property. I do not know.

OTHER COMMUNICATIONS

MISC. COMM. 16-60: 2/2/09) From Mr. Robert J. O'Connor commenting on H. B. NO. 16-170 re 2009 Tax Relief Suspension for CY 2009.

Speaker Arnold I. Palacios: Representative Apatang.

Representative Apatang: Thank you, Mr. Speaker. I received a letter from the Office of Robert J. O'Connor in regards to his proposal of the elimination of tax rebates. Mr. Speaker, we will be working on this particular bill. We are going to adjust some of the language on that particular bill. Of course, everybody opposes the elimination of tax rebates whose got shares or interest – same with the Chamber of Commerce. Any corporate here in the Commonwealth have a lot of interests in the rebate tax. Every time this issue comes up, they stop crying about it. I think that it is about time that we look into the rebate issue. This is only place I believe in the United States that gives rebates. We are not saying that we are going to cut the tax refund. That we cannot do. The tax rebate itself, we can do away with. This is a free-bee for some of these corporations, more or less. So, we are going to be getting a lot of concerns from all these Chamber of Commerce people and like the one that we receive from Mr. Bob O'Connor. They are trying to protect their own interest. We will be working on this bill, and I hope that my Chair on Ways and Means will look at it and try to expedite this bill out of the Committee. Thank you.

Speaker Arnold I. Palacios: I trust that you would also be working with him to make those necessary adjustments as necessary. Okay. Representative Yumul, please take note of that. Let us make sure that we move on this legislation. Before we move on, I would like to have the Clerk note that Representative Stanley Torres is present. Let us move down to Resolution Calendar.

REPORTS OF STANDING COMMITTEES

NONE

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

Speaker Arnold I. Palacios: Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. I believe we left off with both Resolutions that were on the table, and I would make a motion on H. R. NO. 16-73, to take it on the table and continue discussing.

The motion was seconded.

H. R. NO. 16-73: A House Resolution requesting Governor Benigno R. Fitial to reconsider his decision and award the Public School System with the grant for the renovation of dilapidated buildings at the Gregorio T. Camacho Elementary School.

Speaker Arnold Palacios: The motion is to take it off the table so we can go into discussion. The motion has been seconded. Discussion.

There being no objection, the motion was carried by voice vote.

Speaker Arnold I. Palacios: The motion is carried. We are now under discussion for the adoption of H. R. NO. 16-73, and I recognize Representative Torres.

Representative Torres: Mr. Speaker, on the last session, you told me to pick up this issue and talk to the MIHA regarding the CDBG Grant that was for this Resolution. I just spoke to the Director of CDBG Grant and this issue with the grant for GTC has been closed since November. The grant itself has been approved by the HUD, the Urban Housing Development. This issue here with GTC has been closed and has been approved by HUD since November. So going back and requesting the Governor or MIHA, there is nothing that can be done. The grant is already there and has been approved.

Vice Speaker Deleon Guerrero: Point of clarification, Mr. Speaker.

Speaker Arnold I. Palacios: State your point.

Vice Speaker Deleon Guerrero: I just want some clarification, Mr. Speaker. According to the news, it was approved, one report says that it was rescinded by the Board of NMHC, and another report says that the Governor did not approve that grant award. So when you say that it has been approved by HUD, does that mean that the reallocation of those funds to the Soccer Field has been approved or that the GTC award has been approved? Before it could be approved, it has to be signed by the Governor. So which is it?

Representative Torres: GTC grant was approved by the Board. However, on the finalization of the paper, it never got to the Governor to sign to further the finalization of HUD. The Board came back and reissued their own vote to give the Football Association the grant instead of giving it to GTC.

Vice Speaker Deleon Guerrero: And that has been approved...

Representative Torres: That has been approved by the Board since October. So GTC grant was approved by the Board, but the finalization of the document never came to the Governor to sign requesting the funds.

Speaker Arnold I. Palacios: Let me clarify. Basically, the money is not there for GTC?

Representative Torres: Zero.

Speaker Arnold I. Palacios: What happens is, the Board of NMHC will approve certain projects and then once the board makes that decision, the documentation is prepared and sent to the Governor for his signature. He would be the applicant for this branch, and so, if the Governor decides not to sign that and take it back to the board to reconsider the projects that are in the grant, the previous approval by the NMHC Board is useless, right? So in essence, GTC does not have the money.

Representative Torres: And it never came to the Governor. Basically, what happened is, the board changed their decision right away after approving GTC, it came back again and instead of giving GTC, and they gave it back to the Football Association, and this has been closed since November.

Speaker Arnold I. Palacios: Representative Apatang.

Representative Apatang: Thank you, Mr. Speaker. There is a lot of confusion on this issue. I think that it is best that we officially write to the Chairman of the Board of CDA and the Director of MIHA, and request for a better clarification in writing so we can all sit and read it once and for all and understand what is really happening. A lot of these are hearsay. The newspaper says one thing and MCV is another issue. That is why we are all confused. Instead of a Resolution, Mr. Speaker, I think this is mood already. Everything is done and all we need now is something in writing to clarify how things went around on this issue. Thank you.

Speaker Arnold I. Palacios: Representative Dela Cruz.

Representative Dela Cruz: Thank you, Mr. Speaker. May I also suggest that you and the Senate President as the presiding officers of the two Houses write directly to the Governor? I understand that the Governor had a telephone conversation with the Principal of GTC, and find out exactly where the funds will come from. I understand that it is a capital improvement project funding to be given to GTC. I do not believe that is too much to ask where and when the funds are going to be available. That is the request, Mr. Speaker.

Speaker Arnold I. Palacios: Representative Reyes.

Representative Reyes: Mr. Speaker, if the board really makes the final decision on this, I think that it is the board that we should bring this up to instead of the Governor.

Speaker Arnold I. Palacios: Representative Reyes, the decision to fund the different projects come from the community is to be taken up by the board; the final decision rests with the Governor because he is the signatory to that grant application. Unless the Governor signs the grant application, the decision of the board is almost useless. Representative Babauta recognized.

Representative Babauta: Mr. Speaker, to cut the conversation short on this matter, I move that this Resolution be referred to Health, Education and Welfare to further clarify the cloudy issue surrounding this because by adopting this Resolution, we are in fact implicating the Governor's name as he is the final say so. Now, we heard from Chairman Torres that the original application never got to his desk for his signature.

Vice Speaker Deleon Guerrero: Point of clarification, Mr. Speaker.

Speaker Arnold I. Palacios: Hold on.

Representative Babauta: Hold on, I have the floor.

Speaker Arnold I. Palacios: He wants to clarify.

Representative Babauta: *Estague nai Speaker, esti na kustombreta nai, para tafan na'mancha na'an. Maila ya ta na para esti.* Let us get the issue straight up, whether or not the NMHC is at fault or the Governor himself, once and for all, let us rectify this. We have given this opportunity to our Chairman Torres to look into it, and we asked him to report back to the House. I understand this morning that this is the initial search of the House's desire to rectify this problem. So let us give him the opportunity to finish this instead of...

Speaker Arnold I. Palacios: Mr. Babauta, let me take up this issue and recognize Representative Guerrero.

Vice Speaker Deleon Guerrero: Mr. Speaker, there is no way that this thing could not have reached the Governor because the award would not have been approved by HUD had the Governor not signed that grant application. As you mentioned, Mr. Speaker, he is the applicant on behalf of the CNMI. So it would have gotten to him, but I agree to Representative Babauta where he says that the Resolution is really not in order – for the mere fact that the grant application has been awarded, it is over. This Resolution is really mood. If you want to investigate how or why the board rescinded its action and decided to award that grant to another project, that is a different issue. Perhaps, it could better achieve through a letter in writing, but not through this Resolution.

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

The House recessed at 9:59 a.m.

RECESS

The House recessed at 10:03 a.m.

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

Floor Leader Camacho: Mr. Speaker, per the discussion during recess, motion to refer this Resolution back to the Committee on Health, Education and Welfare.

The motion to refer H. R. NO. 16-73 was seconded and carried by voice vote.

Speaker Arnold I. Palacios: The motion is carried. I will volunteer my time to get together to see what we can do to clarify this issue. Floor Leader recognized.

Floor Leader Camacho: I would like to make a motion to take H. R. NO. 16-74 from the table and continue our discussion.

There being no objection, the motion was carried by voice vote.

H. R. NO. 16-74: A House Resolution to create a Special Investigative Committee for the purpose of investigating allegations against Lieutenant Governor Timothy P. Villagomez and presenting a report of findings and recommendations to the House of Representatives as to whether cause exists for impeachment.

Speaker Arnold I. Palacios: The motion is carried. We are now under discussion of H. R. NO. 16-74. Is there any discussion? I recognize Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. Just to follow up on the concerns that was raised by some of the members at the last session. I wanted to touch on them briefly and perhaps we could go from there with our discussion. But one of the questions dealt with the standard of proof that should guide any formal legislative investigation and recommendation about whether or not to impeach. I have some information that comes from the 9th Circuit as to – and also precedence that have been set by the U. S. Congress and other State Legislatures – there are different standards of

proof as we discussed at our last session or burdens of proof. It seems that there is precedent for this Legislature to use the standard of proof of clearing convincing evidence. So there is beyond a reasonable doubt, which is used for criminal proceedings, and that is the highest burden of proof – I stand to be corrected here by our legal counsel – and it should be that way because there is the potential of sending somebody to jail. So that is always taken very seriously. But in the case of any potential impeachment trial, because it is a political process, but there is not the consequence of sending somebody to prison – then the lower standard of proof is acceptable and appropriate, and it means that you must be persuaded by the evidence that the claim or defense is highly probable. So it is higher than the preponderance of evidence which says that you must be persuaded that it is more probably true than not true, but it is less than the burden of proof beyond a reasonable doubt, which is that you must prove guilt beyond all possible doubt. So that should clarify some of the concerns that some members had raised about that. Ultimately, because the impeachment is more comparable to the indictment, it would really be the Senate that I think would make the cause to what burden of proof – because they would be acting like a jury, and would decide whether or not to convict and to remove at the end of the day, if this body decides to move forward with impeachment proceedings. There are also concerns about the possibility of any formal legislative investigation interfering with the ongoing criminal trial, and I have talked to our legal counsels and outside legal counsels that have dealt with criminal investigations and with Federal Court, and they say that it is highly unlikely, and that the special investigative committee if there will be one will always have the discretion to decide whether or not to go into closed session. If it seems that there is highly sensitive and new information that would be taken up over the course of an investigation that a closed session is perfectly within the discretion of the Committee, and that could be something that we could consider in this Resolution. I know that the original proposal is to make all hearings open to the public, but if there is reasonable belief that perhaps it could compromise any ongoing investigation, then the investigative committee could exercise that discretion. The third concern that came up at our last session was that this would be a waste of time, and I would like to appeal to the member to reconsider that notion and to consider that there might not be anything more important than exercising our constitutional powers to ensure that government is functioning properly, and that public officials are held accountable and that we take our duties seriously as legislators. Another concern was that the ninety (90) day period that would be granted to the special investigative committee is too long. That was just a suggestion. It was based on a standard that exist now in our Rules, but of course, on the one hand, the Committee if given ninety (90) days, does not have to wait ninety (90) days. This body could decide if we can move forward with this special investigative committee to shorten the period that the committee would be granted to do its investigation. The fifth concern is whether or not we have the resources to conduct this investigation, and I would like to submit that of course we do. There is information that is out there as matters of public records. It does not cost a lot to go online and access the documents that have already been filed in Federal Court. It does not cost a lot for us to read the evidence, to read what is on record already, and then call people in if we have further questions. I do not think that we should use that as an excuse to do nothing. And at the end of the day, Mr. Speaker and members, I think that anyway that we look at it, we should consider the consequences of doing nothing, and the message or signal that it sends to the community that we do not care, that we are not concern, that we cannot be bothered to do the work of at least looking into the matter, that we are afraid to act, that we are complicit in misconduct, and that we put personal interest before the public good. I think that we should really weigh the consequences of not acting against the consequences of at least looking into the matter. At this point, that is all this Resolution proposes to do. Thank you.

Speaker Arnold I. Palacios: Representative Apatang.

Representative Apatang: Thank you, Mr. Speaker. It is not that I am afraid to act on anything. I am not scared of anybody. Like I said at the last session, it is in the court system already. Let it be. Let the court run its course. None of us here are investigators anyway. I have no business investigating anybody. I do not have that background in the first place. What I am interested in is to find ways how to raise revenue. We cannot even afford to hire investigators right now. We just got through fighting over a Resolution for the school. We should be concentrating on how to come up with revenues instead of doing this. It is in the process and let the court do its course. You got attorneys, you FBI's, and everybody looking at this issue. Why should we duplicate that? If you are only elected to look into this issue, then you are in the wrong place. I think that we should concentrate on other matters for our people. They are more priority. People are being laid-off and businesses are closing down. There are more priorities than this Resolution. His days are coming in court. Let it rest and let the court system do its work. By the time you are finish with this investigation, it is time for us to get out of here. Who knows, we might not be coming back because I am not coming back for sure. I do not know about you guys, but if you are spending your time on other matters, I am going to make sure that it is known out there in public. I am going to make sure that you do not come back next time. Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: Representative Yumul.

Representative Yumul: Thank you, Mr. Speaker. Again, the biggest paramount concern here is that it is already with the Federal magistrate. The Resolution here aims to duplicate what is already currently in the court system...[End of Tape 1, Side A]...[Beginning of Tape 1, Side B]...this issue has not even gone through a jury selection yet. We are going to taint our jury pool, we are going to cause the defendant in this case more in terms of trying to find an impartial juror. Nobody wants to go to court because it costs money. Only the attorneys will win. Even if we were to conduct this issue here, you think that he is going to come here by himself? No, he will come with his attorneys. Have you really looked at the indictment itself? Like you said yourself, it is online, it is available. I read it. It is always in the news. So I am in terms of information is concern, I am thoroughly informed individually. At this point, why do we need to duplicate a process that is already ongoing? I am ready to vote on this issue, and I would not take up anymore of our time on this because again, the more we deal into this issue, the more it is detrimental in both sides. I am curious as to how we can get Federal Officials in here. They do not come here. There is that right to – your 5th amendment concerns to not incriminate you. We are not going anywhere. Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: Representative Stanley Torres.

Representative Stanley T. McGinnis Torres: Thank you, Mr. Speaker. I too, I am not afraid of anybody. I submitted a copy of the first superseding indictment – this is a public record from the U.S. Court filed on January 15th. The evidences are all in here so why do we have to spent time again. Let us use these documents and let us vote for impeachment now. Let us do it today whether we kill it or go with it.

Speaker Arnold I. Palacios: Representative Benavente.

Representative Benavente: Mr. Speaker, I want to go back to the statement made by Representative Yumul. What he had to say, we need to consider greatly because the trial is scheduled for next month, and I think that given that, it is that close, and we should allow the criminal proceeding that is going on right now to continue without harming it in anyway. I say harming it because we will

somehow if we were to do this. If we were to adopt this Resolution and move forward with this investigation, we will taint what will be a jury trial, and that is something that we do not want to do. I think that at this time, it is the better course of action, and allow that proceeding to continue. Do not do anything regardless whether you are afraid of someone or you have personal interest, let us not do anything that would jeopardize or harm that proceeding that is going on right now. It is too close to the trial. I would think that after the result of the proceeding, then we can act on that as there will be a decision then, but acting on it at this time is irresponsible for us given that the trial is just next month. Thank you.

Speaker Arnold I. Palacios: Representative Hocog.

Representative Hocog: Mr. Speaker, I guess the word “impeachment” contains some heavy weight definition, and probably we cannot find a better way or better usage of word to – rather than the word “impeachment” is that if the author is amendable to substitute the word “investigation” and rather direct the Resolution as an approach requesting the honorable Lieutenant Governor to consider his resignation on the post as Lieutenant Governor and see whether this would be amendable to the members. Mr. Speaker, in any civilize country, leaders that fail to themselves – their action that is not in the right direction to the contrary have given up themselves to resign on their position. That is the image of any country, any territory, that if your name is tainted in your official capacity whether you are convicted or not, allegation is very strong meaning, that implicates you as public official in the name of the community. Right now the Commonwealth is moving forward on a tilted direction. The Commonwealth has been looked into as an island particularly Saipan, Rota and Tinian are islands with no good direction that warns potential investors of retracting their intentions to come in and invest. The confident of the leadership is fading and I believe that a good leadership will demonstrate an action to submit themselves when his name is tainted to probably resigning or to be impeached. I guess not to put the case in jeopardy, I believe the Resolution directed requesting the Lieutenant Governor to consider the option of resigning from his position will not in any way taint his case as if there is no crucial findings will be unearthed by supposedly forming a committee to investigate. Having that, we would like to also see how our leadership will stand on a pressure like this. So the Resolution might probably contain some strong languages here that will jeopardize the ongoing case, but assuming that the Resolution is redirected to requesting the Lieutenant Governor to consider resigning from his post probably can still – proper direction today and in the future of his term in office. By this, I do not know if the members will be amendable for that. I for one is very scared and am very afraid to hurt a cultural inherited tradition to hurt a friend, but if it calls for the right direction and doing the right thing, and doing the right way, this is the way, Mr. Speaker. Thank you.

Speaker Arnold I. Palacios: Representative Palacios.

Representative Palacios: In fact, it was just yesterday when someone approached me regarding this issue with the Resolution. Mr. Speaker and members, the point here is not to take action on the Lieutenant Governor’s alleged wrongdoing. My concern here is, this is a very small island and information that leaks out compromising a person’s clear conscience in making a prudent and sound decision and then referring to the jurors. I believe that in all fairness, like I said, I am not against this Resolution, but I strongly believe that we will allow the court and let the criminal proceeding takes its course first, and then we can take it from there. We all know that any information that reaches a jury will really affect his or her decision. It is not fair for the person that is on trial. We are jeopardizing this case. People out there are very much concern, and it is just not right to get involve at this point of time. Like I said, I am not against this Resolution, but in order to assure that

this trial goes smoothly and fair, that we just have to wait and then we can take action after that. Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: Representative Hofschneider.

Representative Hofschneider: Thank you, Mr. Speaker. Impeachment is the highest offense that is provided in the Constitution, and we all know – we have taken the time to go through the Constitution, and we also have sought definitions, we talk about what the qualifications that are provided in the Constitution for impeachment. Having first hand experience sixteen (16) years ago on what appeared to be an impeachment proceedings in the 8th Legislature on a seating Governor back then, a committee was hastily put together. Now the history itself looking back and reading the Journal, it was an improper action back then, but nonetheless, the committee proceeded. In the midst of it all, it is different of what is transpiring now with the Lieutenant Governor, and that incident or case which impeachment was for the first time again brought up by this august body. In the end, it was for political reason that impeachment was brought up on this floor. What I gathered over the time was, the closely knitted aspect of this community, family, blood, you can dispense with political consideration, and in the midst of selecting a jury, it is difficult in itself to find appropriate balance, unbiased jury in it and of itself to begin with. Maybe the time is of the essence with this Resolution coming into the trial date is a consideration, but to look at that by itself and say; this body should dispense with its constitutional authority making that argument, each one of use must conclude that. Would you be interfering, if you sit in that special committee? Would you be honestly looking at the evidence or the documents before you and be able to disallow yourself or distant yourself on the emotions of what I just said? Somehow, you are interrelated. That is the reality that had gone through in the 8th Legislature in impeachment proceedings. I think everyone was or is jolted by the word “impeachment”. Perhaps, we all believe that we should not be judging our fellow person, but in government trust, the integrity, honor, and abiding to the Laws and the Constitutions of the Commonwealth rises above all others. Mr. Speaker and members, perhaps this body can consider seeking a resignation instead of an impeachment as Representative Hocog proposes in his statement. But what if exoneration is handed down after a jury trial? That is always in one side of our mind. The possibility of 50/50, but the overwhelming evidence nonetheless, you cannot look the other way. Let the jury deliberate on that, but what if exoneration does not come, and this Resolution is put on the waste side? The fact that it came to the floor causes each member to be responsible individually and collectively. What if exoneration does not come and we look the other way? Now, we have a brilliant excuse to move on an impeachment or if he does not resign after not being exonerated, what do you do? You have a brilliant excuse before the public. Let the jury and justice prevail, and therefore, we all stood erect, and can face anyone criticizing us. We have a brilliant excuse. Mr. Speaker, maybe the author of the Resolution perhaps reaching out and seeking consideration for a resignation rather than an impeachment. Thank you.

Speaker Arnold I. Palacios: Representative Stanley Torres.

Representative Stanley T. McGinnis Torres: Just to clarify the statement made by Representative Hofschneider, may I?

Speaker Arnold I. Palacios: Proceed.

Representative Stanley T. McGinnis Torres: Just to complete the statement he made about the impeachment in the 8th Congress. The event took place on September 27th and we were acknowledged on the morning of 28th of 1992.

Speaker Arnold I. Palacios: Representative Babauta.

Representative Babauta: If anything, Mr. Speaker, I have expressed my views during the last session with respect to this Resolution, and I share the sentiments of the other members, but once again, Mr. Speaker, let us make use of this legislative body by addressing the over \$300 Million dollars of uncollectible as recommended by our right arm in gearing up this Commonwealth in its financial crisis. This is what we need to do. We should put our energy in investigating when are these folks going to pay the Commonwealth? Live up the issue of H. R. NO. 16-74 as Chairman Yumul eloquently articulate to the Federal magistrate. The wheels are already rolling. Let us give this opportunity to those people that have worked so hard to conclude in bringing our second top official of the Commonwealth to that particular stage. So Mr. Speaker, cut off by saying that I for one would be objecting to this Resolution, and I will be voting against it. Thank you.

Speaker Arnold I. Palacios: I think that we had dwelled so much on this Resolution already, and the Chair asks that you guys consider looking at this Resolution and seek your own conscience. So I am going to ask that we go once around only rather than continue deliberating whether we are going to do this. Representative Ralph Torres recognized.

Representative Torres: Mr. Speaker and members, there is a reason why you are innocent before you are proven guilty, and there is a reason why we have a system, there is a reason why we have a branch of government. Let us respect the Judicial Branch and let us respect what is going on in terms of the case with our Lieutenant Governor. To act before the jury may not be the best idea. If we act now and he is acquitted, then what? It is not a matter of turning away, hiding, or scared about respecting the system, and I for one would appreciate that I am innocent until I am proven guilty. And to ask me resign or even to start impeachment without giving me an opportunity, I think that is unfair, and to treat the Lieutenant Governor this way to automatically do a resignation letter or an impeachment process – all I ask is that you are innocent until you are proven guilty. Thank you.

Speaker Arnold I. Palacios: Representative Reyes.

Representative Reyes: Thank you, Mr. Speaker. I want to vote on this, and I am ready to vote “no”. So can I move to end debate because I need the bathroom?

Representative Sablan: Objection.

Speaker Arnold I. Palacios: Let me recognize those members who have not given the opportunity to say something. Ready to vote? Let me recognize Representative Guerrero.

Vice Speaker Deleon Guerrero: Mr. Speaker, if you are going to recognize Representative Sablan then I would like to be recognize after also.

Speaker Arnold I. Palacios: I am going to ask that we move on and take a vote. I think that we all have ample time to review the Resolution. In our last session, we had more ample time to even discuss some of this. We should be able to make a decision. Let me recognize Representative Quitugua.

Representative Quitugua: Mr. Speaker, few of the members have raised a recommendation to the author of the Resolution, and before I make my decision, I would like to hear from her as to her take of the recommendation that was mentioned earlier by few of the members.

Speaker Arnold I. Palacios: Before I do that, let me recognize the Vice Speaker.

Vice Speaker Deleon Guerrero: Mr. Speaker, if you are going to allow her to respond to those questions, I will yield to her for now and then I will respond.

Speaker Arnold I. Palacios: Did you make a statement already?

Vice Speaker Deleon Guerrero: No, Mr. Speaker.

Speaker Arnold I. Palacios: Proceed.

Vice Speaker Deleon Guerrero: Mr. Speaker, first of all, I want to applaud you for the wise decision to allow this issue to be tabled and not to be acted upon in the last session. I think that the request of the mover was to allow all of us ample time to consider this thoroughly, to search our souls, and to ask questions, and to find out really the merits to either support or not to support this Resolution. Mr. Speaker, I too like the author have consulted with our legal counsels and other counsels to give me guidance. Mr. Speaker, there are several questions I raised earlier in my statements that have led me to two conclusions. First, Mr. Speaker, the legal counsels has affirmed my question that by this action it may have the potential to affect not only the conduct of the trial, but potentially the outcome of the trial, and I share the same views as some of the members who do respect the Judicial process and have grave reservations that our actions may affect that process provided for in the Constitution. Second is the fact that this may potentially affect how jurors would cast their vote. As one counsel stated, would likely end up in either the prosecutor, the prosecution or the defense request that the trial be held elsewhere. Now that in itself again could affect the outcome of the trial. Third is the timing. Had this process been requested six or seven months ago, perhaps there would be some validity to this, but because we are so close, the timing is not right. Lastly, Mr. Speaker, I am glad. Had this happen in the States, there would be no question that more than likely the Legislature would precede with impeachment proceedings. I am glad that we here, the people of the Commonwealth and its leaders still consider cultural sensitivities important as the former Speaker said; it is not our culture to beat somebody who is already down. That is not part of us. We have consideration and while we do not condone those types of actions, we do respect the authority that is granted to a branch of government to take up this issue. And I think that for those issues, Mr. Speaker, I did search my soul, and I am still convince that my actions to vote “no” on this Resolution. Thank you.

Speaker Arnold I. Palacios: Representative Aldan.

Representative Aldan: Thank you, Mr. Speaker. I apologize because when I got in this morning, I met with one of the legal counsel and he was asking whether we are going to act on the impeachment, and I did not know that this was going to be on the Agenda today. Anyway...[End of Tape 1, Side B]...suppose to undertake which is the Judicial System. We should allow them to go through the process and let their findings be the merit. I do not believe that we should punish someone when they are going through the Judicial System. It should be left alone and let the Judicial System go its path and let the findings be whatever it is. Mr. Speaker and members, if it would have been the Governor of Chicago, then of course, it is our duty to take it upon and do an

impeachment proceeding, but for now, the Lieutenant Governor has been indicted and it is going through the Judicial System, and I will wait until the verdict is out. I am not supporting this.

Speaker Arnold I. Palacios: Representative Dela Cruz.

Representative Dela Cruz: Thank you, Mr. Speaker. I too had to search my soul on this issue, and the issue at hand, the Resolution itself does not speak about impeachment at this time. The issue is about creating a special investigative body or committee to look into the allegations. I think that at the moment, proceedings are ongoing at the Federal Judiciary System, and I am afraid that we might be in impeding on the investigation and the proceedings. Timing was mentioned earlier – and like Representative Hofschneider had said, what if the Lieutenant Governor was exonerated? Do we continue on with the investigation or with the impeachment process? None of us will ever know what the outcome will be, but the fact of the matter is, it is ongoing at this time and are we to continue to begin the process of investigation while an investigation is ongoing? At this point in time, I would say that we must let the judicial process take its course as some have mentioned. At this point in time, I do not believe that we should be Judge and Jury in this case. Do I believe in the Judicial System? Of course I do. I believe in the separation of powers. They are empowered to look at this. And the other question is, are we empowered? Of course, we are empowered. But do we want to emulate what is ongoing right now with the Judicial System? At this point in time, I am not ready to do that as I believe that we could be impeding in the judicial process at this time. That is all, Mr. Speaker.

Speaker Arnold I. Palacios: Floor Leader.

Floor Leader Camacho: Mr. Speaker, actually I have more legal questions directed to the legal counsel. I keep hearing the words will impede the judicial system or interfere with the jury selection, and on page 2, line 20 where it starts out, “to compel the attendance and testimonial of persons by subpoena”. My question is, what happens if you compel somebody to show up and they refuse to answer? What is the mechanism on doing that? Is this body ready to rule contempt and imprison people, the secretaries, the mechanics who refuse to answer questions because they do not want to be...

Speaker Arnold I. Palacios: House Legal Counsel Jeff Warfield.

House Legal Counsel Jeff Warfield: Mr. Speaker, I am somewhat unclear on the question.

Floor Leader Camacho: My question is, where it says in the Resolution, “to compel the attendance and testimonial of persons by subpoena.” So you bring any number of employees from the Lieutenant Governor’s Office, CUC, Finance, or anybody that is remotely aware of what is the transactions in this case, and if they refuse to answer, what do you do then?

House Legal Counsel Jeff Warfield: Certainly, the House would be well in its right to exercise whatever contempt powers it had for none response to the subpoena. I am not sure that – that relates directly to the criminal process itself, but the House would not lose any authority it has related to its own subpoena power.

Floor Leader Camacho: So my question is, once you find these people in contempt, what do you do? Do you say, Sergeant-at-Arms, I authorize you to lock the person in the closet over there, or you send them down to DOC until they decide to talk and answer the questions of the investigative body? What is the mechanism?

House Legal Counsel Jeff Warfield: *If I can have a moment please.*

Speaker Arnold I. Palacios: Short recess.

The House recessed at 10:53 a.m.

RECESS

The House reconvened at 10:58 a.m.

Speaker Arnold I. Palacios: We are back to our plenary session. Before we went on recess, we were discussing some legal questions, and I recognize the legal counsel.

House Legal Counsel Jeff Warfield: *Thank you, Mr. Speaker. In reference to the question by the Floor Leader, 1 CMC § 1307 (a) provides any person guilty of contempt under the proceedings, and could be fined up to \$1,000.00 or in prison not more than one year or both.*

Speaker Arnold I. Palacios: Floor Leader.

Floor Leader Camacho: This investigative group that is being mentioned in the Resolution, Mr. Speaker, if we were to pass this Resolution, I would recommend that in naming those persons or members who are to be members of this Committee, that in the interest of transparency that they would be person who have no relations or dealings, or whatnot with the Lieutenant Governor so that the appearance of impropriety is avoided, and persons who have no conflict or vested interest is not put on this so that the procedure itself is...Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: Are their any more members that have not spoken?

Several members voiced, "ready."

Speaker Arnold I. Palacios: Representative Sablan, the Chair had asked that we go on round one and we are already on the third. I think that there is enough information, discussion and deliberation.

Representative Sablan: Mr. Speaker, if I may, I think that several members had asked me questions, and I appreciate the opportunity with the members' indulgence to at least answer?

There was no objection.

Representative Sablan: Mr. Speaker and members, I think that it should be said first of all that, in our quest to rationalize our decisions to do nothing that we should not use as a reason to do nothing. Any fear about duplicating a process that is ongoing with the Federal Judiciary System because that would really not be the case. There is a difference between the political process of legislative investigation and potentially impeachment, and the criminal process that is going on right now. The Constitution gives us these powers for a reason. But if we are content to let the Feds do our work for us in terms of holding public officials accountable, and if we are truly reluctant to act because we are concern about tainting the jury trials...

Representative Benavente: Privilege, Mr. Speaker.

Representative Sablan:...we should also ask the Feds not to...

Speaker Arnold I. Palacios: Representative Sablan, let us have some order. State your privilege, Representative Benavente.

Representative Benavente: Mr. Speaker, I had a reason objection if we were to allow Representative Sablan to respond to the specific questions...

Representative Sablan: I am getting to that.

Speaker Arnold I. Palacios: Thank you. Representative Sablan, please get to the meat to some of the questions.

Representative Sablan: Thank you. As I was saying, if we are truly concern about tainting the jury trial, maybe we should also ask the Feds not to have the jury trial until after the Election because that might taint the Election. Having said that, it seems pretty obvious at this point that the members are by in large reluctant to embark on any formal legislative investigation, and so the question had been raised as to whether or not I would be amendable to simply asking the Lieutenant Governor for a resignation. And the answer is, yes. If there is a commitment from the members and genuine concern about the integrity and the honor of the Office of the Lieutenant Governor, and a consideration for allowing the Lieutenant Governor to devote his time, energy and resources to defending his case while we allow the judicial process to continue and while we withhold from moving on our own power to embark on the political process to investigation, then yes, I would be amendable to that. And if the members would rather not vote on this particular Resolution and allow me the opportunity to work with other members who would be supportive of an amended Resolution that simply ask for resignation, I would be open to that as well, but I leave that to the will of this body to decide.

Speaker Arnold I. Palacios: Thank you. Are we ready to vote?

The motion to adopt H. R. NO. 16-74 was defeated through a voice vote.

Speaker Arnold I. Palacios: The motion is defeated. Representative Sablan, you can certainly look into the others. Floor Leader, recognized.

Floor Leader Camacho: Mr. Speaker, motion to adopt H. J. R. NO. 16-23 in referenced to Public Law 110-229 and the extension of 180 days.

The motion was seconded.

H. J. R. NO. 16-23: A House Joint Resolution to request the Secretary of Homeland Security in accordance with Congressman Gregorio Kilili Camacho Sablan to delay implementation of the effective date of the transition period applying the Immigration and Nationality Act to the Commonwealth of the Northern Mariana Islands under U.S. Public Law 110-229.

Speaker Arnold I. Palacios: Discussion. Representative Quitugua recognized.

Representative Quitugua: Mr. Speaker, this is just a minor amendment. On page 3, line 17, after the word, "Sablan", I am just wondering, Mr. Speaker, because all the other individuals' title are

indicated except for Homeland Security. So I recommend that perhaps we can insert the Secretary of the United States Department of Homeland Security. Thank you.

Speaker Arnold I. Palacios: Would the author be amendable to that?

Representative Babauta: I totally agree with that, Mr. Speaker. May I ask the will of the body as to how we want to treat this? We can offer it as an amendment or just have the counsel correct it.

Speaker Arnold I. Palacios: We will just have the legal counsel correct it. So ordered. Short recess.

The House recessed at 11:07 a.m.

RECESS

The House reconvened at 11:08 a.m.

Speaker Arnold I. Palacios: We are back to our plenary session, and I recognize Representative Benavente.

Representative Benavente: Mr. Speaker with that technical change that you have ordered. I wish at this time to comment that during the last visit of Mr. Hartman from Homeland Security, there were some of us who saw that the CNMI would greatly benefit from the delay. I think that until now the issue of the Visa Waiver for example with China and Russia that the need for this market to continue for several more months and give a longer opportunity for Homeland Security to consider allowing the Visa Waiver for China and Russia, and the fact that if we were to move the implementation forward that the 180 days would give us another six months basically to continue with this market. That is one of the key reasons why I feel that this is necessary. The other of course is that with the new administration and the decision that any and all promulgate rules that is being promulgated from the previous administration, I believe that they were ordered to stop until the new team comes in and reviews them. They are again would provide some delay, and this delay would continue to have this uncertainty as to what exactly is going to be in this regulation once it is implemented given that June 1st is just a few months away. The other thing that I thought that this would benefit the CNMI – even with this lawsuit going on, we should resolve this lawsuit sometime even by June – the delay of implementation would allow the CNMI to then officially communicate with Homeland Security on some of these needs that we are asking to be incorporated in this transition period regulation. I know that we discussed another course of action with you and the President of the Senate, and that course of action is to officially write a letter to Chairwoman Bordallo of the Subcommittee on Insular Affairs to ask for her support in the efforts of Congressman Sablan. I think that would be an excellent idea that we raise every opportunity to support this effort that is being initiated by our Congressman. Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: Representative Hocog.

Representative Hocog: I would like to ask the author, Mr. Speaker, why the 180 day delay only, and why not indefinite delay in the implementation of 110-229? Can I make that as a motion to strike out “180 day” and replace it with “indefinite delay”?

Representative Benavente: Clarification, Mr. Speaker.

Speaker Arnold I. Palacios: I do not want to leave this place dying out under Resolution Calendar again. Let me call for short recess.

The House recessed at 11:12 a.m.

RECESS

The House reconvened at 11:12 a.m.

Speaker Arnold I. Palacios: We are back to our plenary session. Representative Benavente, please clarify.

Representative Benavente: Mr. Speaker, U.S. Public Law 110-229 has a provision in it that allows for a delay of up to 180 days. That is the maximum allowed by law at this point and we are asking for that maximum allowable date of 180 days. So, asking for more would not be allowed by law. It would have to be an amendment of this existing law and that is not what we are asking for. Thank you.

Speaker Arnold I. Palacios: Representative Hocog.

Representative Hocog: Thank you, Mr. Speaker. I would like to be a high risk taker, Mr. Speaker, in making this and 180 day delay is stipulated in Public Law 229 – is already in place whether or not this Resolution will prevail requesting 180 day – is not up to us. What I am saying is that, I would like to take a high risk approach of putting in “indefinite” delay in the implementation of Public Law 110-229. I guess there is nothing to loose there. It is all up to them whether they will give us the 180 day delay or not. It is a matter of the new approach, and maybe put another whereas clause to further request Congressman Sablan to seek the repealer of such Federalization.

Speaker Arnold I. Palacios: Representative Benavente.

Representative Benavente: The Resolution is to support Congressman Sablan in his request that under the existing Law there is a provision that would allow Homeland Security to extend the implementation up another 180 days. Right now, the intent is still to implement it on June 1st. The Law allows for up to 180 days. We cannot ask Homeland Security to ask for two (2) years because the Law only allows for 180 days. To do what Representative Hocog is asking would be to request Congress to amend the existing Law to extend the allowable period for the suspension longer than 180 days. That would be a different Resolution or a different request to Congress. Homeland Security is limited to only another 180 days of extension, and that is why we have to limit it to this period.

Speaker Arnold I. Palacios: Representative Hocog.

Representative Hocog: Under the assumption of the 180 days that will be granted to fit in the market of Russian and China – what if the market is really growing and the 180 day period is up, are we again to come back and ask for another extension because the market is going good, or that is the end of what we got?

Speaker Arnold I. Palacios: I think that is a general question that perhaps other members may weigh in. Let me recognize Representative Hofschneider.

Representative Hofschneider: Mr. Speaker, this is why I like my friend, Representative Hocog. He is a high stake guy, but I do not know how to play Russian roulette high stakes, and I think Representative Benavente makes a distinction between what is now in place in the U. S. Public Law that we are seeking to invoke that exemption or delay. It is a different matter to ask for a total amendment other than what is provided as an opportunity to delay it 180 days. To go beyond that would be a different, separate issue. I think that we should pass the Resolution as is simply because asking too much is like asking a father for two daughters to marry. You stick with one because that is all you get, and if you want to change it, that is your opportunity to come around. I do not know, you may have a different take on this, but I think that we should limit ourselves to seeking a delay as provided by the U.S. Public Law, and confine it to that if we are in pursuit of an amendment, an actual amendment to the U. S. Public Law – that should be a separate issue that we should put together a position paper for our Delegate to push it. Thank you.

Speaker Arnold I. Palacios: Representative Hocog.

Representative Hocog: Mr. Speaker, I am supporting the Resolution. I just threw that out just in case there is a fine...that the idea could fit in. I am not saying that I am not supporting, but if there is a hole that the proposed amendment that I would like to put in can fit, then by all means, let us go for it. If not, then let us stick with the Resolution. Thank you.

Speaker Arnold I. Palacios: Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. I just wanted to express my support for this Resolution, and of course, it is not a secret that I supported the passage of the Federal Law to begin with, but that Law does contemplate that potential glitches, problems, might arise in the transition period, and in the effective implementation of the Law. It seems that those problems in fact are arising now. So it does not hurt to allow both our government and the Federal government that extra time that is provided by Law to ensure that there is a smooth change over as possible. Now, having said that, I think that if there is in fact an extension in the implementation of this Law that we should be cognizant of how this would impact our budget. As I recall, the budget that we passed only provides for our local Immigration up until June 1st, so we would have to some point come back and make sure that the department is properly funded for the remainder of the year. Thank you.

Speaker Arnold I. Palacios: Did you sign the Resolution? Thank you. Ready. Let me recognize Representative Yumul.

Representative Yumul: Thank you, Mr. Speaker. The House Joint Resolution is within the context of the concern that the Federal government is not prepared. My only concern here is that, we are really just concentrating on that side of the issue, and it might spur them to move a little quicker. I would have like to see that this Resolution include – especially with our most recent information that has come to us via MVA that we are losing flights, and that the concerns of our economy is on a downward spiral because of the lack of information and direction. It is just a concern. I am in favor of this Resolution. I just do not want to have us keep pointing our fingers at them. Thank you, Mr. Speaker.

Speaker Arnold I. Palacios: Ready.

There being no further discussion, the motion to adopt H. J. R. NO. 16-23 was carried by voice vote.

Speaker Arnold I. Palacios: The motion is carried.

BILL CALENDAR

Floor Leader Camacho: Mr. Speaker, motion to pass on First and Final Reading, H. B. NO. 16-202 in referenced to inter-island travel and fire division.

The motion was seconded.

H. B. NO. 16-202: A BILL FOR AN ACT TO ESTABLISH A SPECIAL ACCOUNT TO ENSURE THAT ADEQUATE FUNDING IS READILY AVAILABLE FOR THE OPERATIONAL, INTER-ISLAND TRAVEL, AND TRAINING EXPENSES OF THE INSPECTION AND INVESTIGATION SECTION THE FIRE DIVISION; AND FOR OTHER PURPOSES.

Speaker Arnold I. Palacios: The motion has been seconded. Is there any discussion on the motion? Short recess.

The House recessed at 11:23 a.m.

RECESS

The House reconvened at 11:24 a.m.

Speaker Arnold I. Palacios: We are back to our plenary session. We are under discussion. I recognize the Vice Speaker.

Vice Speaker Deleon Guerrero: Mr. Speaker, while I do support our Law Enforcement officials. The intent of the bill to allow for these funds to be earmarked and expended for the reasons stated in the bill, I just wonder. It would seem like in a way we are circumventing the budgetary process. Our budget process allows us to appropriate funding for the various same reasons that is requested in the bill. I do not want to assume that the funds could be used for perhaps other purposes, abuse, but if we are appropriating funds for these purposes, why do we need to earmark it separately?

Speaker Arnold I. Palacios: Representative Babauta.

Representative Babauta: Thank you, Mr. Speaker...[End of Tape 2, Side A]...[Beginning of Tape 2, Side B]...Tobacco Control Fund programs and several others. These funds, if generated in the future, would allow that particular program to expediently service itself, and primarily the important part is the procurement of the vital necessary items that would deploy their equipments with expedient and with efficiency. So that is the whole purpose. Not to mention also the continuing trainings in further enhancing the capabilities and abilities of our Fire Division within the Department of Public Safety. If I may assure the Vice Speaker, we have guidelines that would curtail or otherwise alleviate the so-called desire – misappropriation in the future.

Speaker Arnold I. Palacios: Vice Speaker.

Vice Speaker Deleon Guerrero: Mr. Speaker, in other earmarking laws. Normally, a provision is included that would require or that they will be a reporting requirement, and it is absent in this bill. As the authority to appropriate funds, we would like to be cognizant of the entire funding level, expenditures and so forth. So I ask that author if he does not object to having a reporting requirement in the bill.

Speaker Arnold I. Palacios: Representative Babauta.

Representative Babauta: Thank you. For that, Mr. Speaker, I would like to offer a floor amendment on line 13. After the word “appropriation” remove the period “(.)” and insert, “and shall report all revenues and expenditure under this Section at the end of each Fiscal Year to the presiding officers of the Legislature.” I so moved.

The oral floor amendment was seconded.

Speaker Arnold I. Palacios: Discussion.

Representative Apatang: Point of clarification, Mr. Speaker.

Speaker Arnold I. Palacios: State your point.

Representative Apatang: Mr. Speaker, I wonder if that is necessarily because if the Secretary of Finance created a Special Account and all expenditure from this particular Special Account can be routed to the Secretary of Finance for approval, they should maintain a records as to their expenditure as to how the money is spent on this particular account. I think that we are just duplicating. This is just like a cash account subject for inspection. Thank you.

Speaker Arnold I. Palacios: Further discussion on the amendment? I recognize Representative Benavente.

Representative Benavente: I would agree with Representative Apatang, Mr. Speaker. That type of requirement starts stepping into the responsibilities of the executive branch. I understand that we are trying to ensure accountability, but that kind of assurance or that reporting should be towards the Secretary of Finance. Of course he oversees these accounts anyway, and I just do not think that we should require the government agencies to now be reporting regularly to the Presiding Officers of the Legislature. It is a form of micromanagement, and I do not think that it is necessary. I do not think that we should include that. Thank you.

Speaker Arnold I. Palacios: Representative Stanley Torres.

Representative Stanley T. McGinnis Torres: Mr. Speaker, can you ask the legal counsel to explain what is 2 CMC § 7338(a) and (b), and § 7339(f)?

Vice Speaker Deleon Guerrero: Point of Order.

Speaker Arnold I. Palacios: Short recess.

The House recessed at 11:30 a.m.

RECESS

The House reconvened at 11:39 a.m.

Speaker Arnold I. Palacios: We are back to our plenary session. We are under discussion of the main motion. Let me recognize the Vice Speaker.

Vice Speaker Deleon Guerrero: Thank you, Mr. Speaker. With all respect to the two colleagues who argued against having the reporting requirement, I beg to differ, Mr. Speaker. The rationale behind not supporting the reporting requirement is that one, the Secretary of Finance would have information already about this and two, we are micromanaging, and I do not believe that is the case. This body which is charge with the Constitutional authority to appropriate funds will only see what the lump sum outside the general fund resource is. That is all you see. That is all we will see. The Secretary of Finance can report that to us, but we will not see is how those funds are expended. Mr. Speaker, I believe that we have and we should see how funds are not only appropriated, but expended in its totality, and it is for that reason that I think Representative Babauta's amendment should be included in this bill. Thank you.

Representative Benavente: Point of information, Mr. Speaker.

Speaker Arnold I. Palacios: State your point.

Representative Benavente: Mr. Speaker, I stand to be corrected, but I would disagree that there is certain expenditures and revenues that the CNMI government either receives or spends that the Legislature is not privy to see. I do not believe that there is such a thing. So I still disagree that this amendment is necessary. Thank you.

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

Speaker Arnold I. Palacios: The motion is carried. I recognize Representative Quitugua.

Representative Quitugua: Mr. Speaker, I just have a few questions. First, what impact does this have on the Fiscal Year 2009 Budget that we just appropriated? The other question that I have is, throughout my time here in the Legislature, I have heard legal concerns raised on these specific words, operational expenses. The concern that was raised on that issue in the past is that, since we appropriated funds for the department under operations, will this increase the ceiling of the 2009 Budget? If the counsel can answer to that?

House Legal Counsel Jeff Warfield: Again, I am unclear exactly if the question is, is it increasing the ceiling?

Representative Quitugua: Yes.

House Legal Counsel Jeff Warfield: I would say, no. It is not increasing the ceiling. To increase it, I believe in the context that you are talking about; you would have to have some specified amount that would be increased in. This legislation does not provide for any specified operational expenses.

Representative Quitugua: Mr. Speaker, my understanding for earmarking is for specific purpose, and what this legislation is proposing to use the money for operation expenses. Perhaps, these words

should be stricken out and the earmark funds should specifically be used on specific activities that might not be included under the Fire Department's operational funds that we just appropriated.

Speaker Arnold I. Palacios: Representative Hofschneider.

Representative Hofschneider: The only way that would increase the cap on budget ceiling is if you provide for additional revenue generating...what it would do effectively, is to reduce. This bill is to reduce the outlay – the portion appropriated to that department or division. All of these are operational matters. Unless you specify that for procurement of equipments – that is none operational, but all of these with the exception of those office equipment repairs, or maintenance of vehicles are operational matters. Capital Improvement will restrict itself to just non-operational, but I think it does not impact the existing budget because Finance will control and equate the outlay given already under the proposed budget that we sent to the Governor.

Speaker Arnold I. Palacios: Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. It is not clear to me why this bill was placed on the Calendar without undergoing any Committee review including and particularly Ways and Means review. Some members have already indicated their concerns about creating yet another earmark, and my question that is not answered because there is no Committee Report is, why is DPS Fire Division so different and so uniquely needy as to justify creating one more earmarked fund? The other question that I would have – that I think would warrant serious Committee review is would be to look at the impacts of creating an account that would receive all the civil penalties and criminal penalties, and permit fees that would be collected pursuant to 2 CMC § 7338 and § 7339. If we move forward with this legislation, we are creating an account, carving out funds that are presently being used for other services, and it is not clear what the impact of this action would be. So, lacking this information, it is really difficult for me to justify supporting this bill at this time. Thank you.

Speaker Arnold I. Palacios: Representative Apatang.

Representative Apatang: This is more like a Food Stamp. It is an additional funding to the Fire Department or Division. As you know, they are under budgeted, and this is the petty cash for them to be used on emergency situations and they need this. This is actually coming from the permit payments. So support the bill. It is good for the Firemen.

Speaker Arnold I. Palacios: Floor Leader.

Floor Leader Camacho: Just a point of clarification, Mr. Speaker raised by Representative Sablan. H. B. NO. 16-201 and H. B. NO. 16-202 were a group of bills that were introduced and were requested by the authors to be placed on the Calendar, and it was moved at that time. I believe Representative Sablan was off-island at that time when that happened.

Representative Sablan: If I could just clarify that it was all bundled up all together and everybody just voted without having had time to really look at what we are putting on the Calendar.

Speaker Arnold I. Palacios: It was the consensus of the members that were present on that day to go ahead and put it on the Calendar. Ready. Representative Sablan.

Representative Sablan: Since there has been such a push to place this on the Calendar and as the author of the bill, has Representative Babauta been able to ascertain just how much money roughly we are talking about on average in terms of civil penalties, criminal penalties, and permit fees collected annually?

Speaker Arnold I. Palacios: Representative Babauta.

Representative Babauta: I would say – discuss this with the Fire Personnel before I introduced this – averaged about \$5,000.00 a year. So that is enough to buy the Fire truck tires and lubrication, and fuel for that matter.

Representative Sablan: We do not appropriate \$5,000.00 for the Fire Division?

Representative Babauta: No, we do not.

Speaker Arnold I. Palacios: Ready for the question?

Several members voiced, “ready.”

Speaker Arnold I. Palacios: Clerk, call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 16-202 on First and Final Reading, with the following result:

Representative Edwin P. Aldan	yes
Representative David M. Apatang	yes
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	yes
<i>Yes, with reservation with regards to page 2, line 10 where it allows for hiring of personnel</i>	
Representative Joseph N. Camacho	yes
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	yes

May we go back and remove the hiring. Seriously, I think it goes against the grain of budgetary act is that a typo? Mr. Speaker, for the record, I am going to vote “yes” that the words “hiring of personnel” is a typo and it should be stricken out.

Representative Sablan: *Objection, Mr. Speaker. That is a substantial change. We should go back and amend it if we are not ready to vote on that.*

Speaker Arnold I. Palacios: *Point of Order. We are under roll call.*

Representative Heinz S. Hofschneider	yes no
Representative Raymond D. Palacios	yes
Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	yes
Representative Christina M. Sablan	no
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	abstained
Representative Ray N. Yumul	yes

