



# House Journal

## FOURTH SPECIAL SESSION, 2009

1<sup>st</sup> Day

May 19, 2009

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened its First Day, Fourth Special Session on May 19, 2009, at 9:39 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 Edward Salas, Victor B. Hocog, was absent and excused. Representative Joseph Reyes will be coming in shortly.

Speaker Arnold I. Palacios: Floor Leader, recognized.

Floor Leader Camacho: Mr. Speaker, I apologize it is not on the Agenda, but it is being passed out and with the indulgence of the members I would like to add a set of documents in reference to the Retirement lawsuit to the Central Government under Other Communications and I will discuss it further when we get there. Thank you.

Speaker Arnold I. Palacios: Okay, you are announcing that it is being passed out.

### ADOPTION OF JOURNALS

NONE

### INTRODUCTION OF BILLS

NONE

### INTRODUCTION OF RESOLUTIONS

NONE

### MESSAGES FROM THE GOVERNOR

GOV. COMM. 16-380: (5/12/09) Informing the House that he signed into law S. B. NO. 16-52 (Corporal Joe G. Charfauros, Jr. Rota Veteran Memorial Park.) [Became Public Law 16-40]

*There were no discussions under this item of the Agenda.*

## SENATE COMMUNICATIONS

SEN. COMM. 16-148: (4/16/09) Returning H. B. NO. 16-47, HD2 (Smoke-free Air Act of 2008) which was passed by the Senate with amendments on April 15, 2009, in the form of H. B. NO. 16-47, HD2, SD1. [*For action on Senate Amendments*]

Speaker Arnold I. Palacios: Floor Leader, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. In reference to SEN. COMM. 16-148 a motion to place H. B. NO. 16-47, HD2, SD1 on the Bill Calendar for further action.

The motion was seconded.

H. B. NO. 16-47, HD2, SD1 referencing SEN. COMM. 16-148 (4/16/09) Returning H. B. NO. 16-47, HD2 (Smoke-free Air Act of 2008) which was passed by the Senate with amendments on April 15, 2009.

Speaker Arnold I. Palacios: The motion is to place H. B. NO. 16-47, HD2, SD1 referencing SEN. COMM. 16-148 on today's Bill Calendar and has been seconded, discussion on the motion, I recognized, Representative Sablan.

Representative Sablan: Thank you. I just wanted to inquire, is it necessary to place this on the Calendar in order to also reject the Senate amendments?

Speaker Arnold I. Palacios: Not necessarily.

Representative Sablan: Alright, thank you.

Speaker Arnold I. Palacios: I recognized the Vice Speaker.

Representative Deleon Guerrero: Mr. Speaker, I understand that there is a motion on the floor, am I in order under discussion to make a motion to reject this Senate Communication and call for a Conference Committee?

Speaker Arnold I. Palacios: Let me recognize the Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. The Vice Speaker is correct. If he is going to make a motion for a Conference Committee, that is one option – placing it on to the Bill Calendar is also a different option - where the same Senate amendments can be rejected and the House version can be adopted. Either way it would get us to the same place.

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

Representative Deleon Guerrero: Thank you, Mr. Speaker. I wanted to make the motion.

Representative Hofschneider: Point of clarification, Mr. Speaker.

Speaker Arnold I. Palacios: State your point, Representative Hofschneider.

Representative Hofschneider: Mr. Speaker, there is a purpose for the Calendar having Senate Communications and this is the appropriate place whether we accept or reject Senate amendments. Therefore, the Vice Speaker is in line to recommend a motion to reject the Senate amendments at this section of the Calendar.

Speaker Arnold I. Palacios: Correct that is – State your point, Representative Benavente.

Representative Benavente: To clarify comments made by Representative Hofschneider. If the motion is offered to reject the communication, would that be to reject the bill as amended?

Speaker Arnold I. Palacios: Yes.

Representative Benavente: And so Mr. Speaker, my concern is that for discussing a legislation it should be on the Bill Calendar. So I think the more proper action for the Floor Leader's motion to place it onto the Bill Calendar where members can then discuss in support or in opposition of the amendments offered by the Senate then. I do not think it is proper that we discuss legislation under the Senate Communications order of the business.

Speaker Arnold I. Palacios: The Chair will take a short recess.

*The House recessed at 9:46 a.m.*

*RECESS*

*The House reconvened at 9:50 a.m.*

Speaker Arnold I. Palacios: I recognized the Legal Counsel, please clear the air.

Legal Counsel Antonette Villagomez: *I believe if you would like to place the bill as amended by the Senate on to the Bill Calendar for action then you have to accept the Senate Communication. Once you accept it then you move to put it onto the Bill Calendar and then you vote whether to accept or to pass it as amended or not to pass or you can just - in the past what we have done if you reject to the communication all together we can move to go into Conference. So we do not even entertain the merits of the amendments we just go into Conference and let the conferees figure out what to do with the bill and how to come up with a language which both sides are happy with. So those are the two options.*

Speaker Arnold I. Palacios: Floor Leader, why do we just expedite the process and just accept the communication and then move to place it on the Calendar we will just take one more step.

Floor Leader Camacho: Okay.

Speaker Arnold I. Palacios: Hold on, let us clarify this thing. Vice Speaker, recognized.

Representative Deleon Guerrero: Thank you. I would like to move for a subsidiary motion to reject the Senate Communication with amendments and request a Conference Committee. Thank you.

The motion was seconded.

Speaker Arnold I. Palacios: There is a subsidiary motion on the floor offered by the Vice Speaker to reject the H. B. NO. 16-47, HD2, SD1 referencing SEN. COMM. 16-148 (4/16/09) Returning H. B. NO. 16-47, HD2 (Smoke-free Air Act of 2008) which was passed by the Senate with

amendments on April 15, 2009, and has been seconded, discussion on the motion. I recognize Representative Benavente.

Representative Benavente: Mr. Speaker, can we then get a clarification – let us go ahead and discuss the bill and clarify why we are proposing to reject the Senate amendments?

Speaker Arnold I. Palacios: I think we can go right to that issue of the amendment then. So the discussion now should be, not procedural, the discussion should be on the amendments itself and why the Vice Speaker and other members want to reject the amendments, with that, I recognize Representative Ralph Torres.

Representative Ralph Torres: Thank you. Mr. Speaker. Overall we have approximately twenty-seven individuals and organizations that have written against the specifics of the amendments made by the Senate. As far as the Marshalls, Belau, Guam, Yap, and Hawaii had made comments on it opposing the amendments by the Senate. In the gallery here, we also have the Diabetic Coalition and other members that have also written testimonies against the amendments by the Senate and I myself is in support of the Diabetic Coalition and the rest of the testimonies that are against the amendments by the Senate. I will also vote against the amendments by the Senate. Thank you.

Speaker Arnold I. Palacios: Vice Speaker, recognized.

Representative Deleon Guerrero: I yield.

Speaker Arnold I. Palacios: Representative Ralph Torres, recognized.

Representative Ralph Torres: Thank you. The reason why I also support the rejection of the amendments is the amendments made will significantly hamper the intention of the bill as to the protection of the Smoke-Free Act for the children, the safety of the young children and family members who are in the affected party. Thank you.

Speaker Arnold I. Palacios: Thank you. Representative Hofschneider, you now have the floor.

Representative Hofschneider: I think, Mr. Speaker and members, we have in the past, I recall ten – twelve years running the debate of second-hand smoke and on health issues. If you look at some of the amendments here, for instance on page 12, line 3, “Full Exemption”, it is proposing to have a full exemption under this Act, \$10,000. Now, a person may be so vulnerable to second-hand smoke as a consequence health wise and succumb to Chronic Obstructive Pulmonary Disease (COPD), Cancer, or what ever second-hand consequence they may have and may undergo treatment in excess of \$100,000. I think we are sending a terrible message that the cost of second-hand inhalation for instance for a newborn is for this establishment is, \$10,000. Putting a price tag on something that has far more damaging consequence, particularly those who do not know the difference in being in a room fifteen feet away from a smoker and to say for the sake of revenue, we are going to collect \$10,000 from this establishment – it is okay to patronize an establishment or be in a facility that is permitted under this proposed Act and suffer the consequences. We are sending a very bad message that for the sake of economic consideration it is okay to subject ourselves to second-hand consequences as a result of smoking. I think, Mr. Speaker and members, that for the first time we ought to really look at ourselves and do the right thing – I mean open space outside that disbursts smoke much better than an enclosed room or facility and I think that you get to taste the food in restaurants much better than your old factory and your taste buds are all confused. Joking aside – I

think that the amendments are just laden with special interest consideration to put it at best – I mean if a restaurant puts it and says that this is a restaurant 100% smoker, welcome and you walk in and you take the risk – it is like a poker establishment. Earlier we had an argument – the machine does not call you, it does not hold you by the hand and say come play me – it is the same, but there is in fact real consequence to being in a room filled with smoke and all we need to do is really take a look at the public health statistics those who are smokers and for some reason we cannot seem to believe that second-hand inhalation does cause problems health wise. I hate to put a spell or jinx anyone of us in the community especially those newborns. Thank you.

Speaker Arnold I. Palacios: Thank you. Representative Quitugua, you now have the floor.

Representative Justo S. Quitugua: Thank you, Mr. Speaker. It took me a while, and I had to go through a lot of websites if you look at the bill. It is full of websites for anybody who is interested in the effects of smoking or second-hand smoke, and see the statistics and the harmful effects of either being a smoker or a standby person affected by second-hand smoke. Mr. Speaker, before I introduced this legislation, I went to several establishments. I think I mentioned this earlier that I also went to Tony Roma's and spoke to the Japanese manager. He stopped the smoking in the restaurant. I asked him whether the ban in smoking affect the economy of the establishment. The manager told me that since they stopped smoking in Tony Roma's restaurant, they have seen better business results, more of our local people come in and they come back. In the past they would come in and then they would never come back. He said that non-smoking in Tony Roma's is really a win – win situation. It creates more revenue for that business and creates a healthy environment for that business. Mr. Speaker, I was really touched when I visited one of our fellow female citizens last week, who is now being treated for lung cancer, yet she does not smoke. She works in an environment where there are smokers. She was surprised that she has lung cancer. That is the effect of the second-hand smoke. And if we are going to look at the revenues side, I have attended a presentation from I believe Medicare/Medicaid about two years ago when they presented the statistics on revenues versus cost that the government will incur in treating patients that are ill because of being a smoker or are affected by second-hand smoke. And there are several places that completely banned smoking in public places. For example, Hawaii, they have done a study after banning smoking from public places and found out that it did not affect their revenue. If you look at all the Airlines, you cannot smoke in any of the Airlines, but you still see people travelling and sometimes the Airlines are full of passengers. So it does not affect the revenue of businesses. When the Senate made the amendment, I received and was visited by a few people to get my opinion and they have expressed their opinions to me on the Senate amendment. I am glad that the House members are seeing this as very important issue in terms of the health of our people and I am happy that we have come to the conclusion that the Senate amendment neutralizes the intent of H. B. No. 16-47, HD2. Also I am glad to see that the House members are willing to reject the Senate amendments and call for a Committee Conference so we can discuss more with the Senate counterparts on how we can best pass this legislation so it will have the effect of what it is intended to have on the health of our citizens. I thank the members for giving me the opportunity to say my peace on this legislation. Thank you.

Speaker Arnold I. Palacios: I am going to tell you a story when we are all done with this. That is what I wanted to do I knew you worked hard on this piece of legislation and that the recommendations and the amendments made by the Senate were very significant and I wanted to make sure that you were present when we discuss the amendments. Representative Dela Cruz, recognized.

Representative Dela Cruz: Thank you, Mr. Speaker. I also want to voice my concerns on the Senate amendments that were made, most specifically, Section 3172 on page 8 starting on line 13 and I want to read this particular section out. “§ 3172. *Prohibition of smoking in government facilities. Smoking is prohibited in all enclosed areas and outdoor areas within 15 feet of any doorway entrance or exit to a government facility that is owned, leased or operated by the Government of the Commonwealth of the Northern Mariana Islands or any instrumentality thereof, including but not limited to schools, college campuses, office buildings, warehouses and vehicles owned or leased by the same.*” I am greatly concerned about this Section, Mr. Speaker and that can you imagine somebody lighting up 15 feet away from a school office? I cannot even imagine that, but there is another deeper and graver picture to this section. It does not indicate that a person can also light up 15 feet away from this entrance and exits while the school is on recess, when the students are out and about the campus right next to a smoker. That is the picture that we can see happening and just the amendment in itself does not make any sense at all. Mr. Speaker, I ask that we end debate and send this to a Conference Committee. Thank you.

Speaker Arnold Palacios: Thank you. I think this piece of legislation is very important and I think that all members would have their opportunity to say a few on this. In regards to your concerns, Representative Dela Cruz, on the schools I think that would have been addressed in the next page, which is page 10 and if you look what the Senate had done is they have stricken out the prohibition on smoking on properties of Public Schools. So you have reason to be concerned about the amendments that were further made.

Representative Dela Cruz: I truly understand that Mr. Speaker, but the Section is still intact and it still includes schools, college campuses.

Speaker Arnold Palacios: Right, so we need to consider the recommendation that you are making. Vice Speaker, you are now recognized.

Representative Deleon Guerrero: Thank you, Mr. Speaker and thank you, Representative Dela Cruz, for allowing a little bit more discussion before we end debate. I want to also thank the author and the members for passing this bill when it first was before us. I do not think that anybody here will dispute the findings about smoking, whether it is direct or second-hand. The issue at hand right now is the Senate amendments and I agree with the author that the Senate amendments basically render the bill ineffective and whether by intent or coincidence that happened is irrelevant. What is relevant is for the sake of revenues exemptions are being posed which will allow smoking in enclosed areas and there are flaws with the amendments on page 11, line 26, it included establishments that allows families and children to come in such as, restaurants or resorts to have 10% of their area set aside for a mere \$2,000. Now, the flaw with that is that it does not specify where in their establishments smoking can be allowed. So technically you can have smoking in an area of a restaurant where families including children are eating and so for \$2,000 to subject children or non-smokers to second-hand smoke was not the intent of this bill. Further, to grant full exemption for \$10,000 for any establishments will in no way mitigate the expenses that our government have and will shoulder in terms of treating people for the effects of smoking, whether it is cancer or other types of diseases. Mr. Speaker, Representative Hofschneider pointed out that we should once and for all stop giving conflicting policies. We have approved a bill which just became law to grant funding to agencies, and organizations for tobacco control prevention cessation and on the other hand we are granting exemptions to allow smoking to further have people become subjected to these diseases. So that is the problem I see is let us for once be committed to the policies that we are setting forth. We want to treat and we want to give prevention programs the

opportunity to reduce the cost of treating these diseases and so let us stick with that and let us not allow these exemptions to happen. Thank you.

*(End of Tape 1, Side A)*

*(Start of Tape 1, Side B)*

Speaker Arnold Palacios: Representative Benavente, recognized.

Representative Benavente: I am in full support of the motion to reject the Senate amendments. I ask the question in the beginning primarily to make sure that the integrity of the legislation is protected and to make sure that members are allowed to discuss the proposed amendment and to make sure that we can convince everyone of us. I doubt that the motion itself would be rejected not on this particular legislation anyways. I was concerned that if the motion to reject the Senate amendments were to fail, would that mean that the bill as amended by the Senate passes and it goes to the Governor and we have a problem with that. So that is why I question the procedure from the very beginning and mainly to protect once again the integrity of the legislation. I think in this case there is enough argument and history if you will is put forth in deliberating on this legislation and then making the final vote and I know guaranteeing that the vote will be in support of the rejection of the Senate amendments, that is not an issue. But I hope that we can reconsider our action in the future and discuss legislations in the Bill Calendar so that there is a legislative history so that procedures are followed and the integrity of the legislation is protected. With that Mr. Speaker, I move to end debate.

The motion to end debate was seconded.

Speaker Arnold Palacios: I am going to ask everybody speaking from here to refrain from asking to end debate.

Representative Benavente: Can I withdraw my motion then?

Speaker Arnold Palacios: Please withdraw your motion, respectfully. I ask because this is a very important legislation believe it or not and I think we should give everyone that wanted to share their thoughts on this particular issue. Representative Santos, recognized.

Representative Santos: Thank you, Mr. Speaker. I just wanted to say two things on this particular issue. The proposed amendments by the Senate talks about flexibility of the economic environment of the CNMI or whatever to that effect, however the economic benefits are clearly outweighed by the ill effects of smoking be it by the primary user or by those receiving the effects of second-hand smoke. I believe the original version of the bill has already provided for enough room of flexibility to accommodate smokers and non-smokers. I myself am a smoker and I have lived in cities and States where smoking is prohibited and it is not a big deal for smokers. We all understand that the health effects are much more important to consider than our selfish interest as smokers. Thank you.

Speaker Arnold Palacios: Thank you. Floor Leader, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. Because we are still under Senate Communications and I believe and I echo Representative Benavente that the proper discussion that some of us are getting into the merits of the bill should really be on the Bill Calendar---

Speaker Arnold Palacios: I understand that but, I think that being where we are we decided that we are going to do it so let us and I want you to share your thoughts on the legislation.

Floor Leader Camacho: Thank you, Mr. Speaker. I understand that the Speaker made a motion to send this legislation to Conference Committee and we have to be cognizant on that on what we are asking when we send it to Conference Committee is in effect asking for a compromise somewhere otherwise, the Senate will outright this and say no we do not want to play and we do not want to sign off on the Conference Committee report. So I argue again, Mr. Speaker to send this to the Bill Calendar where we can reject all the Senate amendments and vote on the legislation in support of Representative Quitugua's original intent of the bill.

Speaker Arnold Palacios: Well, in essence it is the same thing because with a conference committee at least you have established a line of communication. If we have gone to the Bill Calendar and we completely reject the Senate amendments it goes back to the Senate again. So it goes back and forth.

Floor Leader Camacho: I understand that Mr. Speaker, but in effect if we vote on it as a body in the Bill Calendar and reject the Senate amendments what we are telegraphing to the Senate is that we are not willing to accept any compromise, but I leave that up to the body.

Speaker Arnold Palacios: Alright. Representative Raymond Palacios, recognized.

Representative Raymond Palacios: Thank you, Mr. Speaker. I myself would like to share my perspective as a smoker. I will not support the Senate's argument that will really hamper the business establishments for like I myself if there is an establishment that adopts a no smoking policy I will still visit that establishment. I for one, feel so awkward to smoke in front of people especially when there are kids around. The argument I am not really convinced of putting this full exemption. I do not think it is right like Representative Ralph Torres said earlier, it will defeat the purpose and the intent of the bill. Like I said, as a smoker I think the original resisted with all the provisions and what was contained in the bill. I am just convince that we should allow full exemption by paying the annual fee and for them to say that it will hamper revenues, I am not really in support of that argument. I am just sharing this as a smoker, like I said I will still visit the establishments and I prefer going outside to smoke than smoking inside the establishment especially for those non-smokers.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. I just wanted to express my agreement with the motion to send this bill to a conference committee. I do think it would be fruitful to consider the concerns that the Senate was trying to address in the amendments that they proposed and see if there might be in fact some way to work out the differences between the two.

Speaker Arnold Palacios: Representative Sablan, the three of you are still stuck on the process---

Representative Sablan: I am going to the substance now.

Speaker Arnold Palacios: Please, I want to hear your substance.

Representative Sablan: Parts of the bill that I would like the conference committee to deliberate on.

Speaker Arnold Palacios: Okay.

Representative Sablan: According to the Senate's committee report their concerns seems to be primarily with accommodating businesses that cater to customers who smoke and I would like to point out that efforts were made by this body to accommodate businesses particularly in what was once, Section 3177, where we allowed for bars and attached bars to have an exemption after 10 p.m. or after the kitchen ceases to serve meals, that was a recommendation actually from the Saipan Chamber of Commerce. And also where we allowed hotel and motel rooms that are rented to guests to be designated for guests who smoke. So there was an effort to provide that flexibility for businesses that have clients who smoke. I think my primary objection is the parts of the bill that would allow for full exemptions to the prohibition on indoor smoking for a fee and I think that would dilute the intention which is to promote public health and essentially turn this bill if signed into law into a revenue generating bill. I do not think that was ever the intention of the author or the members and I would say perhaps not even the intention in the Senate amendments. What I would like to ask is that we consider that not all the Senate amendments are all that objectionable, it seems to me that the amendment that would create a duty to report while if there are violations that occur in certain establishments – there is a duty to report that was added by the Senate that would allow the Department of Public Health to track the implementation of this law and also improve enforcement efforts. I do not think that is so bad, perhaps it could use some clarification in terms of how this would be enforced and that is worth considering in the conference committee. I also think that there was a provision that we agreed to in the House that would allow smoking outdoors as long as they are within 25 feet. The Senate thought that might have been unreasonable apparently and reduced it to 15 feet, well maybe, that is something could be worked out reasonably in a conference committee and having said that I again I stand in support of rejecting the amendments for the purposes of going into conference committee.

Speaker Arnold Palacios: Thank you. Representative Babauta, would you like to share your thoughts?

Representative Babauta: Thank you, Mr. Speaker. Mr. Speaker, when we passed this bill in its original form I agree with the author and the author have shared this with me for quite a number of years going back to the Fourteenth and Fifteenth Legislature. He had introduced a similar bill that this present form that he did introduced out of the House in a form of House Draft II is more an enhanced bill than what he had originally introduced four years ago. I agree and I told the author that I thank you for enhancing my life. Although, I share with him almost on a daily basis in many outings during lunch I still manage to smoke away from him and he appreciates that. The only thing that he prohibits me from doing is smoking in his car I said okay, we will wait until we arrive at the restaurant or at the office. So Mr. Speaker, I guess, to facilitate the motion I think it warrants that a conference committee be appointed immediately so that this legislation can be picked up again the sooner the better. Thank you.

Speaker Arnold Palacios: Thank you. Very short addition, Representative Raymond Palacios.

Representative Raymond Palacios: Very short, just to add a little juice to my stance of the original language of the bill. There is an article in yesterday's Marianas Variety a bill that Representative Ralph Torres and myself had introduced which emphasizes the unfairness of subjecting a non-smoker to shoulder the expense of both the smokers and non-smokers like what the Vice Speaker

had said earlier, just to add a little juice it is in this article as to where I stand in terms of non-smoking. Thank you.

Speaker Arnold Palacios: Representative Tebuteb, do you want to add your thoughts.

Representative Tebuteb: I will make it very short, Mr. Speaker. There is a high level of potential for the Senate amendment to pass this body is if we fail in our attempt to reject so that it goes to the conference committee, it is high. So I agree with the Floor Leader's motion to place it on the Calendar so we can discuss this further and so I ask each one of us to reject the Senate amendments, otherwise, if we do not then it will pass and therefore the bill becomes something other than what we have passed previously. Thank you.

Speaker Arnold Palacios: Thank you and with that let me just share a very short part of my thoughts. First let me recognize Representative Aldan.

Representative Aldan: Thank you, Mr. Speaker. My only concern with this bill in regards to my Senatorial District is the Casino. As you know in the Casino we do cater a lot to Asian tourists and I have met with – when this was submitted in by the author in the first round the Tinian Dynasty was aware of such bill and they wanted to put their concerns into such bill, because as you know the floor of the Casino the Bar is together with open type. The bar is located in the middle of the casino where this bill limits the distance from the players and bar and there is also a restaurant within that area, it is not enclosed it is open. So I hope that the appointed committee please put in mind and I hope that they could come up with reasonable amendments that could also within our industry. Thank you.

Speaker Arnold Palacios: Without objection I would like to share some of my thoughts. Initially when I heard that there was significant amendment made by the Senate I was a bit taken aback by the amendments and again we were looking at using the power of the revenue versus the health issues that we are confronted with smoking. I knew that the House members would most likely reject it, I was not sure, but I am confident that today we are going to reject the Senate's amendments and hope to work hard with our Senate counterparts to retain the original intent of this legislation. I think the amendments had compromised it to almost make it useless in its original form. With that Clerk, please call the roll. Representative Hofschneider, please make it very short.

Representative Hofschneider: If we are moving to a conference, Mr. Speaker then because the conference is limited to the confines of both amendments they cannot go outside inserting new context to the original two bills from the House and the Senate. So may I then suggest that if the amendment is driven behind the motive for Rota and Tinian having their casino initiative then let us approach it from a local law let us start with Saipan. Let them deal with the legislation the way they want to, that is a compromise that is being offered to both conferees if that is an amendable compromise, but it should not be in the context of the confines of the two legislations that is coming out from the House originally and with the Senate amendments. I am saying that offer that thought, kill the bill, and come back with a local alternative. That is just an idea.

Representative Benavente: Point of information, Mr. Speaker.

Speaker Arnold Palacios: That is just an idea that could be triggered by the conference committee, but it is certainly not going to be the confines. State your point Representative Benavente.

Representative Benavente: There is another option. There is no limitation as to how many times legislation can be amended it can go back and forth. Right after I heard from Representative Aldan because I was concern about the fact that the conference committee has limitation and therefore would not be able to provide the language like that, but if we were to further discuss this make the amendments read basically remove all the Senate amendments and send it back up to the Senate for their consideration that also can be done---

Speaker Arnold Palacios: But that is potentially is where we can have the instruction to the conferees the House and the Senate.

Representative Benavente: Thank you.

Speaker Arnold Palacios: With that, Clerk please call the roll on the motion to reject and move to conference committee.

The Clerk called the roll on the motion to reject H. B. NO. 16-47, HD2, SD1 referencing SEN. COMM. 16-148 (4/16/09) Returning H. B. NO. 16-47, HD2 (Smoke-free Air Act of 2008) which was passed by the Senate with amendments on April 15, 2009:

Representative Edwin P. Aldan	yes
Representative David M. Apatang	absent during voting
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	yes
Representative Joseph N. Camacho	yes
Representative Francisco S. Dela Cruz	yes
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	absent excused
Representative Heinz S. Hofschneider	yes
Representative Raymond D. Palacios	yes
Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	abstain
Representative Christina M. Sablan	yes
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	absent during voting
Representative Ray N. Yumul	yes
Speaker Arnold I. Palacios	yes

Speaker Arnold Palacios: With fifteen members voting “yes”, the Senate amendments to H. B. NO. 16-47, HD2 is hereby rejected by House and so the Chair will appoint a conference committee to negotiate this issue with the Senate. Short recess.

*The House recessed at 10:35 a.m.  
(At this time, Representative Reyes took his seat in the Chamber.)*

**RECESS**

*The House reconvened at 10:45 a.m.*

## HOUSE COMMUNICATIONS

HSE. COMM. 16-109: (5/11/09) From Representative Santos to the Presiding Officers of the 16<sup>th</sup> Legislature attaching a speech by Tui Atua Tupua Tamasese Ta'isi'Efi, re Climate Change and the Perspective of Fish.

Speaker Arnold Palacios: We are back to plenary session, we are on House Communications. We have Hse. Comm. 16-109, Representative Santos urging us to read this speech on perspective of fish, perhaps we can go back to that when Representative Santos is in the Chamber.

## COMMUNICATIONS FROM THE JUDICIAL BRANCH

NONE

## COMMUNICATIONS FROM THE NMI DELEGATE

CNMI Delegate Comm. 16-2: (5/8/09) Responding the Senator Paul Manglona's letter regarding surface transportation and inter-island ferry service in the NMI.

Speaker Arnold Palacios: I now recognize, Representative Sablan.

Representative Sablan: Thank you. Congressman Sablan inquiries in his letter to Senator Manglona about the status of legislation that has been introduced in this House to set up an office of transportation and I just wanted to inquire and just clarify that – that bill has been referred to committee and if so if we can get an update from that committee. Because I believe that this legislation has been raised a number of times during sessions of the House.

Speaker Arnold Palacios: I will check with the Chairman of PUTC of the status with that and see if we can move that out. Ready.

## COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

NONE

## OTHER COMMUNICATIONS

MISC. COMM. 16-74: Civil Action No. 06-0367D First amended verified complaint for damages, declaratory and injunctive relief, and or for writ of mandamus. (*NMI Retirement Fund v. Commonwealth of the Northern Mariana Islands Government*)

Speaker Arnold Palacios: Floor Leader, recognized.

Floor Leader Camacho: Before we get to Reports of Standing Committee I believe earlier in the Session I asked that there was documents in reference to the Retirement Fund, Civil Action 06-03-67D, titled First amended verified complaint for damages declaratory an injunctive relief and for *writ of mandamus* demand for expedite trial, to be placed under Other Communications. I believe copies had been disseminated.

Speaker Arnold Palacios: Are there any objections?

There was no objections on the floor.

Speaker Arnold Palacios: We will have this numbered and place this under Other Communications on the Agenda. It is Misc. Comm. 16-76. Proceed Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. The documents before you are all public documents and were filed at the Court House and I do not want to belabor this, but basically this is the complaint that was filed goodness – going on three years now in regards to the Retirement lawsuits and obviously it has been in the news lately. Members are welcome to take their time to read through it and I was the signatory of that lawsuit and I am welcome to answer any questions if there is any outside or during session, but the one I do want to point out Mr. Speaker, is an attachment that was filed along with this lawsuit, titled, Exhibit 1, the House of Representative Fourteenth Northern Marianas Commonwealth Legislature dated June 30, 2005 letter. At any rate the members are welcomed to read through that but basically it is a letter from then Speaker of the House Benigno Fitial to Karl Reyes who was the Administrator of the Retirement Fund basically informing the Retirement Fund that they must file a lawsuit to the Central Government and not filing the lawsuit is a breach of their fiduciary duty. This is in contrast of what the position of the present Governor is taking who then Speaker of the House and now Governor, saying that we must go to mediation in regards to the lawsuit. At any rate all the documents are before you and you can read through it and I will gladly answer any questions in or out of Session. Thank you very much, Mr. Speaker.

Speaker Arnold Palacios: Representative Santos, you are recognized.

Representative Santos: I am sorry I just wanted to know where we are in the Agenda?

Speaker Arnold Palacios: We are under Other Communications. We can go back to House Communications without objections.

There was no objections to revert back to House Communications.

### **HOUSE COMMUNICATIONS**

HSE. COMM. 16-109: (5/11/09) From Representative Santos to the Presiding Officers of the 16<sup>th</sup> Legislature attaching a speech by Tui Atua Tupua Tamasese Ta'isi'Efi, re Climate Change and the Perspective of Fish.

Speaker Arnold Palacios: We are back to House Communications, Representative Santos, you have given us the privilege of sharing this speech by Tui Atua Tupua Tamasese of Samoa. You want to share your thoughts on this?

Representative Santos: I am glad you pronounced that and not me, I think you did an excellent job. I just wanted to share with the members this speech that was delivered by the spouse of Independent Samoa they call Her Highness I do not know what her name is. However, the content of this speech talks about island nations and or states with regards to the climate change and it was quite profound the message and it talks about the life through the perspective of a fish and it is basically wanting to respect the environment and this goes to the effect of what the plastic bag bill intends to do for our environment here in the CNMI as well as other Department and Agencies and within the private sector as well to become a little bit more eco-friendly and environmentally friendly. So I encourage everyone to read the speech it is only four pages and it is quite eloquently written and thank you.

Speaker Arnold Palacios: Thank you. With that we move onto Agenda Item XII, Reports of Standing Committee.

### **REPORTS OF STANDING COMMITTEES**

S. C. R. NO. 16-89 Reporting on S B. NO. 16-45 entitled, “To amend 4 CMC § 5941 (a) to abolish the security deposit requirement for long term business certificate applicants; and for other purposes.” *Your Committee on Commerce and Tourism recommends passage of S. B. NO. 16-45 in the form of House Substitute 1.*

S. C. R. NO. 16-90: Reporting on H. B. NO. 16-241, entitled, “To amend Public Law 16-32 to clarify which outside general fund sources the Department of Public Health qualified operational expenses are to be transferred to; and for other purposes.” *Your Committee on Ways and Means recommends passage of the bill in the form of H. B. NO. 16-241, HSI.*

Speaker Arnold Palacios: Floor Leader, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. NO. 16-89 reporting on S B. NO. 16-45.

The motion to adopt S. C. R. NO. 16-89 was seconded.

S. C. R. NO. 16-89 Reporting on S B. NO. 16-45 entitled, “To amend 4 CMC § 5941 (a) to abolish the security deposit requirement for long term business certificate applicants; and for other purposes.” *Your Committee on Commerce and Tourism recommends passage of S. B. NO. 16-45 in the form of House Substitute 1.*

Speaker Arnold Palacios: The motion is for the adoption of S. C. R. NO. 16-89 and it has been seconded, discussion on the motion. Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. At our last session our the Chairman of Commerce and Tourism was absent but I did submit from the Department of Commerce that raised concerns about the substitute bill that is being recommended by the Committee and I just wanted to ask if the Chairman had a chance to read the communication that was just circulated last week and if he also had comments. I guess my position at this point is based on the comments that had been received that we not accept the House Substitute and act instead on the original Senate bill as it has been transmitted for the reasons that the Department of Commerce cited in their letter to us.

Speaker Arnold Palacios: Chairman Reyes, recognized.

Representative Reyes: Can Representative Sablan just tell me? I cannot remember everything that comes through my desk, can you just briefly tell me what that comment is. I have an idea what you are talking about but I just want some clarification.

Speaker Arnold Palacios: Short recess.

*The House recessed at 10:54 a.m.*

**RECESS**

*The House reconvened at 10:56 a.m.*

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

Floor Leader Camacho: Thank you, Mr. Speaker. During the discussions during recess I would like to withdraw the motion to adopt at this time and leave the Standing Committee Report on the Calendar.

The motion to adopt was withdrawn and was seconded.

Speaker Arnold Palacios: Without objection the motion to adopt S. C. R. NO. 16-89 has been withdrawn and the issues will be clarified between Representative Sablan and the members of the Commerce and Tourism Committee. If there is no objection Representative Reyes is requesting that we go back to the Introduction of Bills in our Agenda.

There was no objection to revert back to Introduction of Bill on the Agenda.

### **INTRODUCTION OF BILLS**

Speaker Arnold Palacios: We are back to Agenda Item III, Representative Reyes.

Representative Reyes: I have an unnumbered bill for an Act to repeal and reenact 4 CMC § 1301(a) and for other purposes. Thank you.

H. B. NO. 16-248: A Bill for an Act to repeal and reenact 4 CMC 1307 (a); and for other purposes.

Offered by: Representative Reyes

Referred to: Committee on Ways and Means

### **REPORTS OF STANDING COMMITTEES**

Speaker Arnold Palacios: Thank you. With that we are back to Agenda XII, Floor Leader recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adopt S. C. R. NO. 16-90 reporting on H. B. NO. 16-241.

The motion to adopt S. C. R. NO. 16-90 was seconded.

S. C. R. NO. 16-90: Reporting on H. B. NO. 16-241, entitled, “To amend Public Law 16-32 to clarify which outside general fund sources the Department of Public Health qualified operational expenses are to be transferred to; and for other purposes.” *Your Committee on Ways and Means recommends passage of the bill in the form of H. B. NO. 16-241, HS1.*

Speaker Arnold Palacios: The motion is to adopt S. C. R. NO. 16-90 reporting on H. B. NO. 16-241 has been seconded, discussion on the motion.

*(End of Tape 1, Side B)*

*(Start of Tape 2, Side A)*

Speaker Arnold Palacios: Short recess.

*The House recessed at 10:58 a.m.*

*RECESS*

*The House reconvened at 10:59 a.m.*

Speaker Arnold Palacios: We are back to plenary and I now recognize the Vice Speaker.

Representative Deleon Guerrero: Thank you, Mr. Speaker. I just wanted to ask the author for clarification. Where the \$400,000 for Immigration comes out of under which account under Exhibit A?

Speaker Arnold Palacios: Representative Yumul, recognized.

Representative Yumul: Thank you, Mr. Speaker. After discussing the legislation with Lieutenant Governor Inos, and also with the Acting Secretary Robert Schrack the amounts that is being identified would probably come from fund 1013, but the list here is a flexible list that is why all the other accounts have been listed to allow the flexibility to withdraw. The projected net available as written in Exhibit A for FY 2009, is the amount available if we do not pass any legislation into law to drain from the balance. The legislation that was signed into law, Public Law 16-39 is also identified which will not be a major hindrance or in other words it will not be impacted. Again, the flexibilities with the Department of Finance those programs will receive funding. There was also a subsequent legislation that was put forward by the Vice Speaker due to the comments made by the Governor we did entertain that. These are all taken into consideration. The purpose of H. B. No. 16-241 is to identify up to \$3.4 million that may be used for operational expenses of the Department of Public Health to supplement its budget operations. What that means really is that they can take qualified expenses and bill it to this account. So it is not going to be charged to the General Fund but instead it will be charged to the \$3.5 million. It is a similar amendment that we have done in the past to allow for the charging of expenses to accounts outside the General Fund.

Representative Deleon Guerrero: Mr. Speaker, if I still have the floor, just to clarify further what you mentioned?

Speaker Arnold Palacios: Proceed, Vice Speaker.

Representative Deleon Guerrero: Thank you, Chairman Yumul. Since the projected available balance for the non-General Fund revenue source is \$4.5 million and you are clarifying up to \$3.5 million may be used for Public Health. There is obviously an extra \$1 million that is unencumbered that perhaps from there the \$400,000 could come out. Is that what I understand?

Representative Yumul: Yes, that is also plausible if you will. The original H. B. No. 16-241 even attempted to fund for some other activities but because we are really cutting it thin and we do not have a big handle on the tobacco settlement fund in its entirety the air is on our side to be just cautious for now. If you do the rough math you would reasonably think that there is funds available but just to be on the side of caution this is the better approach and if after a report from the

Department of Finance make its way to my office I would gladly provide a copy of it to all the members so that you may see where we actually stand in terms of funds availability. Thank you.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you. Can I just clarify how this bill if enacted would affect the appropriations that were made under Public Law 16-39?

Speaker Arnold Palacios: Representative Yumul.

Representative Yumul: I do not have Public Law 16-39 with me at this very moment to tell you precisely how it interacts, but based on my communications directly with Lieutenant Governor Inos and Acting Secretary Robert Schrack the legislation actually is a prospective legislation if I am not mistaken. So this is really not going to be a big influence on it. Thank you.

Speaker Arnold Palacios: Continue, Representative Sablan.

Representative Sablan: Certainly, I understand that, we just passed at our last session a legislation clarifying that the appropriation was intended to be prospective, but what was not and is still is not clear to me is, exactly when that appropriation would take affect prospectively. We also clarified that the medical professional and teacher education scholarship would not be impacted, but I am not sure how the numbers add up in this case, but it seems to me if we are taking \$400,000 for Immigration and another \$3.5 million for the Department of Public Health and the Tobacco Control Fund is specifically listed as a fund source for these appropriations I guess I would like more clarification as to how this would affect our previous appropriation since we are talking about the exact same fund?

Speaker Arnold Palacios: Representative Yumul.

Representative Yumul: Right, and again to reiterate that is why I had direct communications not just with Acting Secretary Robert Schrack but also with the Lieutenant Governor, Eloy Inos as a way for me to feel comfortable also in moving this legislation forward. I would not have done so if I had received information to the contrary. Thank you.

Speaker Arnold Palacios: Representative Quitugua, recognized.

Representative Quitugua: I am kind of concerned with this legislation, Mr. Speaker. I think Public Law 16-39 appropriates most of the money out of the Tobacco Control Fund. Also, these are earmarked funds and I believe some of these funds are already being used and there might not have the same balance at this time because the earmarked were actually never suspended. So the Department of Finance continues to allocate by quarter to the Agencies.

Speaker Arnold Palacios: Let me ask Representative Yumul because he was working on this with the Acting Secretary of Finance and other members. Representative Yumul, recognized.

Representative Yumul: Thank you, Mr. Speaker. Again, the Representative is looking at one account. There are multiple accounts on attachment Exhibit A. The areas we actually looked at was of particular interest was fund 1013 as one and then in terms of Immigration and then the Solid Waste Revolving Fund was also looked at, but again my office is conducting not really an

investigation but we are working with the Department of Finance to get a global view of where we are at with all the appropriations to date. Until that is completed I cannot say for certain, but I do know and I am comfortable knowing that the assurances of both the Acting Secretary of the Department of Finance and the Lieutenant Governor who is Acting Governor whom I just spoken to late yesterday afternoon given reassurances again that these moneys that is going to be appropriated through H. B. No. 16-241 will not impact to a great extent these existing programs. Of course, if there is any information that a member has that I need to know about that can zero in on certain concerns I would like to know so that I can bring this matter up immediately. Thank you.

Speaker Arnold Palacios: Representative Yumul, perhaps you need to explain to the members the whole intent and the urgency of this legislation in terms of the Immigration personnel.

Representative Yumul: Thank you, Mr. Speaker. That is where I am actually trying not to over emphasize. The concern is immense with the Division of Immigration. The Governor even through this legislative body adopted a resolution requesting the Secretary of Interior of the United States to have a six month delay based on Public Law 16-32 the appendix both the FTE's and the personnel dollar amounts when I went back and I recalculated twelve months of pay for 113 employees they are shorted about \$400,000. It is imperative that at this time we pass this legislation so that we can continue to fund Immigration so that we also hold up to our end of this request that it was granted on the condition that we will fund it.

Speaker Arnold Palacios: Without objection, basically what Representative Yumul is saying is with the enactment of the FY 2009 Budget the Immigration was only funded up to June 1<sup>st</sup> and with the six month extension we have a \$400,000 shortfall for that office for personnel cost and that is what the \$400,000 is appropriating to because of the delay. Representative Babauta, recognized.

Representative Babauta: We are discussing the Committee Report, right?

Speaker Arnold Palacios: Yes.

Representative Babauta: I was wondering, Mr. Speaker in the event that the Legislature does not pass a workable budget prior to October 1<sup>st</sup>, how would this provision then react for a continuing resolution?

Speaker Arnold Palacios: Representative Yumul, please respond.

Representative Yumul: Thank you. Because Public Law 16-32 authorizes for the fiscal year beginning October 1<sup>st</sup> thru June 1<sup>st</sup> on a continuing budget resolution they would automatically be funded well passed November similar to the Washington Representative's Office if we had not passed a budget that account will still receive funds. Of course the Governor will have the authority to reprogram. So after September 30<sup>th</sup> they would receive funding should this legislative body fail to pass a FY 2010 budget. We do not need to address that at this time, but we still need the June 1<sup>st</sup> through September 30<sup>th</sup> and this is what this legislation intends to do.

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

Representative Babauta: Another concern that I did not see in the committee report is, there is a repealer in the bill but that does not reflect in the committee report, what is the rationale behind that?

Speaker Arnold Palacios: Representative Yumul, recognized.

Representative Yumul: The repealer was a request from the Youth Congress to restore back the authority of the Youth Congress Accounts to between the Speaker with the Advice and Consent of the Youth Congress Speaker. It just restores back the original law.

Representative Babauta: What is the original law?

Representative Yumul: This repealer will restore it back to the original law that the Speaker has the authority to manage the funds of Youth Congress.

Representative Babauta: I beg to differ to the Chairman, Mr. Speaker because in essence Public Law 16-32 reflects that provision and this bill actually removes that provision.

Representative Yumul: No, under the current Public Law 16-32 it is with the---

Speaker Arnold Palacios: Short recess.

*The House recessed at 11:15 a.m.*

*RECESS*

*The House reconvened at 11:19 a.m.*

Speaker Arnold Palacios: We are back to plenary session. The question that was raised by Representative Babauta has been clarified. I now recognized Representative Apatang.

Representative Apatang: Very well clarified. There was a reason why that repealer is there.

Speaker Arnold Palacios: Thank you. We need to move on. Representative Hofschneider, recognized.

Representative Hofschneider: I was going to move to end debate and let us reserve these comments for the bill.

The motion to end debate was seconded.

Speaker Arnold Palacios: Okay, are we ready for the question? Ready.

There being no further discussion the motion to adopt S. R. No. 16-90 was carried by voice vote.

## **REPORTS OF SPECIAL AND CONFERENCE COMMITTEES**

NONE

## **UNFINISHED BUSINESS**

NONE

## RESOLUTION CALENDAR

NONE

## BILL CALENDAR

Speaker Arnold Palacios: Floor Leader, recognized.

Floor Leader Camacho: Thank you, Mr. Speaker. I believe that is the last of the Standing Committee Reports we are under the Bill Calendar now. A motion to pass on First and Final Reading H. B. NO. 16-241, HS1.

The motion to pass H. B. NO. 16-241, HS1 on First and Final Reading was seconded.

H. B. NO. 16-241, HS1: To amend Public Law 16-32 to clarify which outside general fund sources the Department of Public Health qualified operational expenses are to be transferred to; and for other purposes.

Speaker Arnold Palacios: The motion to pass on First and Final Reading H. B. NO. 16-241, HS1 has been seconded. Discussion on the motion. Representative Hofschneider, recognized.

Representative Hofschneider: So that we clarify in spite of the fact that we previously passed a prospective application of the same funds be that as it may, I think that the discretion rests on the Secretary of Finance as to the competing priorities which in practice it has always been Public Health, especially Medical Referral, medical supplies, and books and materials for the Public School System (PSS) all the rest that have been enumerated will be coming in as a competing basis and if the total revenue available as identified by the bill is far less than the anticipated appropriation sections than the competing and it rest with the Secretary of Finance having the final discretion as to the application of those funds until exhausted and replenished.

Speaker Arnold Palacios: Representative Quitugua, recognized.

Representative Quitugua: Just to make it clear and for the record, Mr. Speaker in case there is a different interpretation by the Department of Finance on the total amount which indicates that \$50,000 was not considered for (PSS) because it has already been obligated. This \$50,000 was in Public Law 16-39 and I do not think that this has been allocated by the Department of Finance yet. I just want to make sure that we do not remove the \$50,000 for Teen Talk because it has just been appropriated and for the Department of Finance seeing this and they are going to juggle with which is priority, they might say let us remove Teen Talk because that is what the Legislature wants.

Speaker Arnold Palacios: For the record, Representative Yumul, you want to specify for the record that – that is a priority.

Representative Yumul: I agree with Representative Quitugua's comments.

Speaker Arnold Palacios: There you go. Representative Sablan, recognized.

Representative Sablan: Thank you. I just wanted further clarification as to what appropriations would take priority if this bill is signed into law. According to the projected available balances, perhaps, Representative Yumul could clarify this for – we are anticipating a little bit over \$4.5

million to be available, Public Law 16-39 appropriated a total of \$1.225 million, \$900,000 of which should go to the Department of Public Health and \$325,000 of which should go to PSS. We also included a provision that says that, “these funds shall not be reprogrammed for purposes other than what is set forth”. So if this bill now that we are deliberating on is signed into law the priorities in terms of expenditures will be given to the appropriations made in Public Law 16-39 as well as to the Medical Professional Scholarship that we said should be protected in the previous legislation that was passed recently, if that is also signed into law. Then after that deductions would be made \$400,000 for Immigration and what ever is left which should be under \$2.9 million I think if I am doing the math right, what ever is left would go towards operational expenses for Public Health. Am I reading this right?

Representative Yumul: Yes.

Representative Sablan: Okay, thank you.

Speaker Arnold Palacios: Representative Raymond Palacios, recognized.

Representative Raymond Palacios: I have a question regarding the \$400,000. When was this amount requested? Because as for my understanding there are some employees that have transferred and my other question is that those that did transfer does their salary come out from this projected that is listed here in this bill?

Speaker Arnold Palacios: Representative Yumul, proceed.

Representative Yumul: If they have transferred the gaining Business Unit will shoulder that. On page 1, line 17 it says, “up to \$400,000” so not necessarily \$400,000. So if there are employees that have transferred then the gaining Division or Agency will pay for them.

Speaker Arnold Palacios: Ready, Clerk call the roll.

The Clerk called the roll on the motion to H. B. NO. 16-241, HS1 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 Deleon Guerrero: Mr. Speaker, may I?

Speaker Arnold Palacios: Yes.

Representative Deleon Guerrero: I will support this bill I just want to point out for the record that the Senate is holding onto the amendment to Public Law 16-39, as I understand it, their primary concern is to fund the Immigration, which is one of the reasons why they are holding on to that amendment. If this bill proposes to address that problem and I hope that the Senate approve that amendment in their following subsequent session. Thank you. My vote is yes.

Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	absent excused
Representative Heinz S. Hofschneider	yes
Representative Raymond D. Palacios	yes
Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	yes
Representative Christina M. Sablan	yes

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 Palacios: By a vote of eighteen “yes”, H. B. No. 16-241, HS1 hereby passes the House on First and Final Reading. One more bill, Floor Leader.

Floor Leader Camacho: Mr. Speaker, a motion to pass on First and Final Reading H. B. NO. 16-236.

The motion to pass H. B. NO. 16-236 on First and Final Reading was seconded.

H. B. NO. 16-236: To amend 1 CMC § 8362 by adding a criminal penalty, notice requirement and cause of action; and for other purposes.

Speaker Arnold Palacios: The motion is to pass H. B. NO. 16-236 on First and Final has been seconded, discussion on the motion. Short recess.

*The House recessed at 11:27 a.m.*

*RECESS*

*The House reconvened at 11:38 a.m.*

Speaker Arnold Palacios: We are back to plenary session. Before we went on recess we are under discussion of H. B. NO. 16-236, Representative Benavente, recognized.

Representative Benavente: Thank you, Mr. Speaker. Under discussion I would disagree with the proposal because the finger cannot just point one way in our current economic situation. We have a budget process in which the Secretary of Finance is mandated to allocate based on that budget that the Legislature has proposed and yes, understandably they are not just to Retirement but other Agencies' allotment either has been delayed or not even granted at all because of shortage in the funds because of reprogram in needs and in most cases it is because of reprioritizing the money that the Legislature has allocated for this Government to function. Mr. Speaker, we all know that because of the requirement of the Constitution and the need to live within our own needs the Legislature follows a budget proposal that would meet the projected revenue for that fiscal year again as required by the Constitution. So for the last several years the Legislature has been actually under-funding the Government and its need to provide services for the community and so there has been this problem that we continue to face and once again I say not just to the Retirement Fund but in some cases even to us. We have had our allotments delayed, but again, it is because of reprioritizing. One example in this reprioritizing and it may not be the case here but what would happen, Mr. Speaker if the Secretary of Finance because of a life and death situation had to reprogram money to provide additional funds into the Medical Referral system who has run out of the money that we have under-funded in the first place and because there is only the funds available to be allotted to the Retirement Fund, does the Secretary of Finance then look the other way when we are talking about a life and death situation of our own patients that need to be referred who needs the referral money, who needs those funds to be reprogrammed? We cannot create that situation,

Mr. Speaker that is why we have the authority of the reprogramming in our own budget so that it allows the Administration to make and provide that change in prioritizing. I said in the beginning this cannot just be just a one way finger pointing because even though if we had known that we are under-funding the Administration and the function of this Government in the first place then it is the Legislature's responsibility also to create and provide for additional revenues to meet those funds that we are currently under-funded and if we do not, Mr. Speaker we should not be providing legislations that penalizes the Administration or in this case the Secretary of Finance personally for what I would say, doing their job. As governed by our own Constitution and Planning and Budgeting Act I really do not feel that this is proper to provide in a language because the finger pointing needs to go back to us and if we were to provide the penalty provisions for ourselves as well would we be doing it. So please I ask and I have asked the author of the legislation that I be allowed to be respectfully disagree and I am asking everyone to please let us not pass this legislation. Thank you.

Speaker Arnold Palacios: Thank you. Vice Speaker, recognized.

Representative Deleon Guerrero: Thank you, Mr. Speaker and with all due respect to my colleague I beg to differ. I myself have introduced a similar legislation although it did not provide for conviction or the type of fines that this bill proposes but the intent is the same. I think that all of us in this body is cognizant of the situation of the Retirement Fund. The working group that was created although the intent was good and what they propose to do was to plug up a lot of the loopholes that is hurting the Retirement Fund. We should understand that the problem with the Retirement Fund is that money, the employer contribution needs to be remitted, the employee contribution needs to be remitted and we are not asking the Government to remit anything more than what was budgeted---(End of Tape 2, Side A) (Start of Tape 2, Side B) of the contribution from what should be the actuarially determined rate of what, 36%-37% down to 18% and then down to 11%. We have made that decision to reduce the amount despite what should be remitted. Now all that we are asking is that – that amount be remitted and the problem that is facing the Retirement Fund right now is that it has to eat into its principal, into what is being invested and that should not be the case, if only the Government remits. So I do not think we are asking for the Secretary of Finance not to be able to reprogram funds that authority is still there. The Governor and the Department Heads still have the authority to reprogram up to 25% this budgeted amount of 11% should not have to be reprogrammed to any other emergency or anything else all that we are asking is that it goes there and if it does not then we are turning a blind eye to the crisis that is occurring at the Retirement Fund. We have to remit and all that this does is to make sure it holds someone liable and accountable for doing it otherwise they face the possibility of conviction or fine and I think that is what is needed. Thank you and I urge my colleagues to please support this bill.

Speaker Arnold Palacios: Representative Quitugua, recognized.

Representative Quitugua: Thank you, Mr. Speaker. *Esti gui, Mr. Speaker I maolek ña esti democratic form of government nai siña-ha man agree yan man disagree hit pues man achatgui hit talo. Nu Mr. Speaker, I will support this bill only if and only if ma na fan-halom I elected officials guini gi Legislature because we are a contributing factor to the shortfall of the Retirement Fund. If we look at the budget every budget year, the previous Legislatures had earmarked funding certain percentages from the Hotel Occupancy Tax, Container Tax and other taxes. Every time we prepare the budget we say, we are hereby suspending this and that so it would not go to the Retirement Fund. Pues ta reduce talo I contribution, pues man ma pass huyong gi egga'an esti Misc. Comm. pot i Retirement Fund and this is not asking for the 11% or 18% it is asking for the actuarial rate, iyo gui*

*ta di'dibi I Retirement Fund. So ti siña na ta blame ha nu i Secretary of Finance ta blame hit lakkue guini sa another example iyo - we just finished passing i outside source. That could have been going to the Retirement Fund instead because that is outside the General revenue we should be appropriating that to the Retirement Fund lao instead we decided that the Retirement Fund is not that important as the other Agencies. If we do this and pass this and gets signed into law, Mr. Speaker, ekua' hayi para u take care yangin ti humoyong i payroll if there is no payroll check is issued because the Secretary of Finance has to remit whatever cash to the Retirement Fund. Hafa para ta cho'gue talo ni eyo where are we going to find the money for the payroll. I am probably in conflict, Mr. Speaker, because I am a Retiree and I would like to see all the money that the Retirement Fund is owed to receive while I am also mindful our Government is experiencing a serious economic situation. So I will support the bill if we are included also and we want to make sure that we appropriate enough funding for the Retirement Fund. Thank you, Mr. Speaker.*

Speaker Arnold Palacios: Representative Babauta, recognized.

Representative Babauta: Thank you, Mr. Speaker. Mr. Speaker, we had created a taskforce for the members of the House to participate on the reformation and the rebirth of the Retirement system. Whether or not this is one of the proposal, I do not know. Personally I would say this bill H. B. NO. 16-236 is a lopsided bill in itself. *Munga hit man a'dagi gachong*. If we are to seriously look into fiduciary duties of every official in the government why not include the Trustees themselves for losing approximately \$80 million in the money market. Why do we have to question ourselves when Representative Benavente could not say it any better, that is a clear explanation that he have eloquently explained to us. Are we willing to sacrifice education, public health, and those important program of this government that this government created through the legislative policy many years ago so that we fund Retirement Fund? Let us be frank about this discussion. Many of us have been here over the years we do not question the losses of those funds in the many investments that the Retirement Fund made – I am sorry we had lost at Prize Pfizer, we lost our funds through MaDoff, Fanny Mae, Merrill Lynch, who is responsible for those funds? The Administration, the retirees or the potential retirees – So before we move on – on this issue Mr. Speaker I beg the members to seriously consider and reevaluate the fairness of this legislation given the severe implication of this provisions personally I say that this legislation is nothing more than a politically motivated provisions. Amen.

Speaker Arnold Palacios: Representative Apatang, recognized.

Representative Apatang: Thank you, Mr. Speaker. I myself is not going supporting this bill. Mr. Speaker, for the last several sessions I have been asking that we entertain H. L. I. No. 16-8, this is the kind of legislation that we need to move forward to help the Retirement Fund instead of putting somebody's head on the line. No matter how much legislation we pass to mandate somebody and there is no money there is no money period. So even if you are writing a check to the bank and if you do not have any money in the bank you will never get any money back, it is the same thing. Now, I think we should concentrate on the initiative itself so we can get something going. I do not know why we are so afraid to entertain this bill. Once it is on the Calendar and passes and is placed on the ballots for the people to ratified and goes through there is something that we can do. All these issues are in the Court right here, so there is no reason why we should continue to legislate anymore bills so that we can tie somebody's hands to mandate somebody to remit money to the Retirement Fund. We know that we have problems we are all aware of that and we have been talking about that since the beginning of this Sixteenth Legislature and we are almost finished with

this Legislature. So we need to act on this initiative so it could be on the ballot for this coming election and as well as for those who are coming back. Thank you.

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

Representative Yumul: Thank you, Mr. Speaker. To answer in part the concerns brought up by the good Representative Babauta is that the working group you had given Representative Ralph Torres and myself very strict instructions that our agenda was and is to look at ways to ensure that the Retirement Fund remain soluble and able to provide benefits to further their constitutional mandates. You did not ask Representative Ralph Torres nor myself to look into some of the concerns that were brought up by Representative Babauta with regards to certain investment practices and that is what we have done. This legislation came about because we have a very volatile especially with the Defined Contribution (DC) plan members. The (DC) plan members as you know rely on investments of their employee and employer contributions and if for example employer contribution does not make it to that person's account in a timely manner opportunities may be lost because of the markets way of movement it practicably moves on minute by minute basis, that is one concern. Of course the Retirement Fund itself has many concerns of which, the failure of the Department of Finance to remit on a timely manner the employer's contributions to it that was established by law through the budgeting process that is also part of the lawsuit that is before the courts. Whether this legislation is overly strict if you will or overreaching Representative Babauta is motioning me is up for debate the point right now is the Retirement Fund is in dire straits they need relief and this might be a way to provide that relief. The Governor has authority under the Planning and Budgeting Act 25% reprogramming authority the Departments have 10% so does the Agencies. So the flexibilities are there, why through the Department of Finance targeting employer's contribution to Retirement as a way to relieve some of the stresses of this very government. I just had given you a report about hiring. Earlier this morning salary adjustments upwards even after the implementation of Public Law 16-32 possibly violating Section 604. So it is very hard to put a thumb down on the issues when there is a whole slue of other issues manifesting itself this is one way to lead the government in the right direction and be responsible. If we cannot continue to hire let us not hire let us maintain the programs that we have now that are critically needed, let us maintain the Retirement Fund that is constitutionally mandated and look for ways to improve our economy. Thank you.

Speaker Arnold Palacios: Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. This bill, H. B. No. 16-236 is the result of CNMI law and contractual obligations to government retirees having been violated both presently and historically and the members who spoke earlier when they say that the Legislature bares some responsibility for that. We have for example, authorized employer contributions to be lower than the actuarial rate, CNMI law presently requires government contributions to be at the actuarial rate. The Legislature has also authorized two years of suspended payments to the Retirement Fund and we also just recently with the FY 2009 budget that we have passed suspended earmark funds that we are suppose to pay the Retirement Fund and we have done that historically as well. So we do share some a good deal of responsibility. To add to that, we have created and given very generous benefits that were never properly funded, we should acknowledge that as well. Members who spoke earlier are also correct when they say that the violation of the law when the Administration even after having been budgeted to pay employer contribution albeit at a rate lower than the actuarial rate has failed to pay thus far. The Retirement Fund Board has come back to us and reported that even at the 11% rate not a penny has been paid to date, even with the passage of a budget. There is a lawsuit that has yet to be resolved but it looks like we will be liable for over \$200 million. I am not sure that

the House Legislative Initiative that has been on our Calendar for several months now will necessarily be a feasible solution for taxpayers. Clearly at the end of the day let us all admit that a major reason for these unpaid contributions is because both Branches, the Legislature and the Executive and the Administration have not done nearly enough to cut the size of government so that we can afford to pay what we are constitutionally mandated to pay. Although I agree that we should hold expenditure authorities responsible, I am not sure that holding them criminally responsible will solve the enormous problem that we face today. I think that we really should take some time to carefully scrutinize the proposal that is on the floor right now and consider sending this back to the Committee. I am concerned that this was taken from the Committee there is no report and I would say that not enough research has been done. It is a worthwhile proposal but what we should look at is whether or not it really solves the problem and perhaps there are better ways to approach this problem and then we can all equally accept our share of responsibility for the Retirement Fund. One suggestion also in lieu of sending this to the (JGO) Committee is to send it to the Retirement Fund Task Force or the working group that has been created I would be amenable to that as well but what I think is important is that we take the time to carefully and thoroughly scrutinize this bill and if there are opportunities to improve it or better alternatives we should consider that in this body.

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

Representative Reyes: Thank you, Mr. Speaker. *Guahu lökkue lai ti para bai hu suppotta esti na bill sa* I do not see why some individual just because he holds that office should be held accountable for not having the money to make the remittance but at the same time we should be mindful of the retirees and the members. In an investment a second, a minute makes a lot of difference on my money and the government must do its best to pay the employer's contribution. *Parehu ha i Define Benefit Plan (DB) yan i (DC) lao yangin hu atan lökkue esti nai man namase' i tao'tao'ta fifteen – twenty years from today yangin para u fan retire yan taya salape sa empty i wallet yan esta man gai idát ti siña man – man empleya' yan i social security benefits taya. Pues debidi ta atan esti yan debidi ta tungo manu i chiña i working group lao guaha siha avenues debidi ma atan. Lao para bai fan bota ni esti para bai u endorse esti na bill nai hayi uma'kupa iyo na ofisina para ma presu pot taya salape gi government para hu alok para u ma apase' hafa ilekhu na lachi lai giya guahu pues Mr. Speaker, although I intention maolek lao ilek hu na lachi na logic ma presenta pues ti para bai hu suppotta i bill. Thank you.*

Speaker Arnold Palacios: Thank you. Without objection, I know Representative Santos you had your hands up, but we can all kind of skirt around the issue. We are not just talking about the present Administration the issue of the Retirement Fund not getting employer contribution goes back almost a decade and some of it is briefly mentioned in this communication that the Floor Leader had put on the Calendar. If we are going to do this whether it is criminally perhaps we should not make it criminally liable, but somebody has to be liable. We budget personnel costs inclusive of the Retirement contribution, sure, there are going to be times when the Secretary of Finance because of very critical and pressing compelling needs i.e. Representative Benavente alluded to the Medical Referral issues. There will be times when compelling situation where the need to reprogram funds but really should it be from the Retirement Fund contribution, could it be taken out of other not as pressing. I think that over the years that we played this delay game with the employer contribution Administration after Administration have over the past years I think contributed to the \$250 million deficit that this government is liable to pay the Retirement Fund in a form of employer contributions. Somewhere along the line this government really has to draw a boundary and say we are going to have to do this, we are going to have to pay. The actuarial rate is 37% going on 41% actually. We have taken the position that perhaps and because of a proposal by the Administration saying that we

cannot afford that right now. If we are going to do that we are going to have massive layoffs. So we accommodated that and lowered it down to 18% now we are down to 11%. If we cannot even pay the 11% we might as well not have a Retirement or pension plan. Somewhere along the line I share some of the concerns but we cannot really continue to say, well it is nobody's fault. This Legislature have budgeted the 11% I know that previous Legislature had budgeted it at 18% or what ever is actually it is in the budget. So it is I think the sense that Representative Yumul, the author saying that somewhere along the line somebody has to be liable and we all have to be liable. If this body has made that appropriation then at least for the Retirement Fund employer contribution has to be remitted everything else can be reprogrammed. Sure this is a very sensitive issue whether or not that we agree that it should be criminally liable but somewhere along the line we have to force ourselves to pay for the employer contribution we cannot continue to skirt it. That is just my thoughts. If it is the pleasure of this body to put this back to the Committee so we can take a look at it and perhaps out of sight out of mind and hope that the problem goes away by itself I of course even as the Chair would have to in a democratic process have to agree with that. Perhaps we can take a look at this and revisit some of the issues. Let me recognize, Representative Santos thank you for allowing your Speaker to speak before you.

Representative Santos: Anytime, Mr. Speaker. Thank you. Mr. Speaker, no one is disputing the fact that the circumstances issues livelihoods are very severe the concerns are very grave when it comes to the Retirement Fund and we have all said our peace. I just wanted to point out as Chair of JGO I noticed that the bill was refer to JGO and I just wanted to give a little history on the bill. It was introduced on April 1<sup>st</sup>, was referred to JGO on April 2<sup>nd</sup> and miraculously it appeared on the Bill Calendar on April 14<sup>th</sup>. The JGO Committee is overwhelmed with numerous bills and I am just asking my colleagues here to please talk to me or any one in the Committee so that whatever bill that has been referred to JGO when you want to recall it talk to me first. We need to keep track of these bills. The last time I check I do not have a memory card to keep all the numbers, the House Bills.

Speaker Arnold Palacios: You do not have a Vice Chair?

Representative Santos: Yes I do, but we are all busy folks but I asked that the Chair be contacted.

Speaker Arnold Palacios: You better check with your Vice Chair might have been the one – anyway point well taken and I certainly appreciate that comment.

Representative Babauta: Point of clarification, Mr. Speaker.

Speaker Arnold Palacios: Without objections with the other members who have their hands up.

There was no objection on the floor.

Speaker Arnold Palacios: Proceed, Representative Babauta.

Representative Babauta: I was going to clarify to the Chairwoman is she alluding to recommending that the bill goes back to the Committee so she will make a final determination with her committee members are you Chairwoman?

Speaker Arnold Palacios: Representative Santos.

Representative Santos: That is a good suggestion. I would like the committee to continue its work.

Representative Babauta: Thank you very much. I am in support of that idea.

Speaker Arnold Palacios: Thank you, Representative Babauta. Let me recognize the Vice Speaker.

Representative Deleon Guerrero: It is really a clarification, Mr. Speaker. If the majority of the members do not want to support the bill as written and I have heard different comments about why they are not supporting it and if the recommendation is to send it back to the Committee then please give some guidance as to what type of – is it because of the penalty is too harsh and there is an alternative bill right now that is not as harsh is that what the members are more inclined to support – is it they do not want to hold anybody liable or somebody else liable – the Legislature liable we need guidance, but I really hope Mr. Speaker that everybody understands the severity of the situation and I hope that everybody understands that we need to have the employer contributions remitted to the Retirement Fund. Now, how do we propose to do that if you do not wish to support the current legislation as written then please say it out so we can have some guidance?

Speaker Arnold Palacios: Thank you. Let me recognize, Representative Benavente.

Representative Benavente: I do not have an idea yet as to what options or alternative we may do in fulfilling the intent and that intent, Mr. Speaker is to solve the crisis situation with the Retirement Fund. I want to go on and say that requiring the Secretary of Finance to pay 11% when really it should be at 41% does not resolve the crisis and for us. The Legislature to say we appropriate only 11% even though it is supposed to be at 41% we will penalize you for not submitting the 11%, should we not penalize ourselves for not appropriating the 41%---(*End of Tape 2, Side B*) (*Start of Tape 3, Side A*) to work towards solving the crisis that the Retirement Funding issue and we need to be looking at the pension obligation bond, we need to be talking about – the one that I do not want to talk about and that is increasing taxes to be able to pay what needs to be paid to help and solve once and for all the problem, but the idea of penalizing the Secretary of Finance because he or she did not remit 11% is the same problem, the same situation with us appropriating only 11% rather than the 41% . So at this point until we are ready to say that certain programs are no longer a priority and it should be removed and the funds go directly to the Retirement Fund and again that is reprioritizing our Government, reducing the size of Government so we can solve the issue with the Retirement Fund or finding the additional resources, revenues necessary to catch up with the payment, this proposal does not. I say it because it is only 11% and it does not help with the crisis at the Retirement Fund. Thank you.

Vice Speaker Deleon Guerrero: Representative Sablan, I am going to ask the Floor Leader because he has not spoken yet to go ahead and have the floor.

Floor Leader Camacho: Thank you, Mr. Chairman. I understand that you mentioned earlier about guidance and several of the Representatives talked about where does the fault lie and obviously some of it fall on the Legislature both the House and the Senate. I do not know if the members will vote on this in a positive manner but I would like to make a motion and I ask at least one of the members to second the motion – is a motion to add on page 2, insert a new line 23, Subsection I., “The Legislature waives legislative immunity for failure to fully fund the employer contribution”, and that will trigger the discussion whether or not. This is an oral floor amendment. Thank you.

The motion was seconded.

Vice Speaker Deleon Guerrero: Before we go into discussion, Floor Leader can you at least enlighten the members the intent of that floor amendment?

Floor Leader Camacho: Thank you, Mr. Chairman. In effect the Legislature has a legislative immunity and what that means is you can pass legislation whether as a matter of policy whether it is a good legislation or not you are shielded from any negative consequences of those legislation. By waiving your legislative immunity you can be subjected to Subsection (f) for not fully funding and options to fund that employer contribution can be any where from – one of the things that was mentioned, raising taxes, cutting back salaries or what ever it is, but the object here is to be personally be on the hook for passing legislation or not passing legislation to assist in order for the employer contribution can be paid. In reality, Mr. Chairman if the – and you have the lawsuit that was filed – if the Central Government had continued to pay the employer contribution then we would not be in this situation \$213 million in the hole and granted resources were starting to dwindle but no real push was conducted in order to either through finding ways to generate additional revenue as the garment industry continued to dwindle or cutting back on personnel and operations and because of that fast forward since the last term of Governor Pete Tenorio was paying at that time – you can see the memorandum up to half a million dollars every pay period basically a million dollars which was far short of what was needed, and then Governor Babauta came into office and he did his share to try to continue to keep up and I think Representative Benavente can attest to that, but when the present Governor came into office three pay periods into his Administration he just on his own decided just to stop paying employer contribution which only accelerated the demise of the Retirement Fund. To answer some of the members – the market you lose money and you also gain money, but when you do not put money at all into the system then they have to liquidate investments. That is the problem we are having now is that no money is going into the Retirement Fund that is why they are liquidating their investments.

Vice Speaker Deleon Guerrero: Floor Leader, to clarify, is that prospective? Because you have a current lawsuit, are you saying with your floor amendment this body is subjecting itself to be part of that lawsuit?

Floor Leader Camacho: I think Mr. Chairman that there is a constitutional provision that says “prevents ex post facto laws”. So granted the lawsuit is in placed and maybe we should encourage them to get to the Judgment before we pass this legislation, but the real obligation comes on the Legislature. We should find ways to fully fund employer contribution or whether you cut back on manpower or find revenues to it, but there is a provision in the Constitution and we welcome the Legal Counsel in the Chamber that there is a prohibition against “ex post facto law”. Obviously once it is passed and it is still within the Sixteenth Legislature then we have move ourselves to pass it to fund it.

Speaker Arnold Palacios: I think---Floor Leader, could you rephrase your amendment?

Floor Leader Camacho: For the benefit of the Speaker. Mr. Speaker, on page 2, I guess we can insert it on line 23, to add a subsection “The Legislature waives legislative immunity for failure to fully fund the employer contribution”.

Speaker Arnold Palacios: Discussion on the amendment? Representative Babauta, recognized.

Representative Babauta: Mr. Speaker, I would support the intent of that amendment provided that each and every member of this House is willing to cut off government services the year 2010

Budget. I mean let us cut schools in half, the hospitals, all government programs so that we can meet the so-called \$213 million arrears of contribution. I mean, if we are going to allow ourselves to be subjected to criminal penalty at the same time we are deliberating on policies on which to finance, come on – which is which. Of course I am willing to go to jail to pacify Retirement Fund at the expense of the health and welfare of the Commonwealth people. So we will pay the Retirement Fund – we close the schools, the hospitals, public safety, the judicial branch and definitely the Legislature. I am not retiring I am coming back in a different manner. I continue to indulge the members to bring this back to the committee so that we can fairly and squarely weigh the impact and the implication of this legislation if we are going to criminalize ourselves as members of this Body then also let us impose this on the Trustees themselves. Thank you.

Speaker Arnold Palacios: The first thing that came into mind is the immunity of the legislators is in the Constitution. I wonder if that proposed amendment is constitutional – we might impose it on ourselves the members of this body if we agreed to it, but in the next Legislature a newly elected legislator in the Seventeenth Legislature says, “hello – no way” and so it becomes – I am wondering if our legal counsel could provide us some legal guidance on whether we can impose and waive immunity by the Sixteenth Legislature onto the members of the Seventeenth Legislature. Perhaps, the legal counsel can look into that later on. I thought I just bring that point up. Representative Quitugua, recognized.

Representative Quitugua: On the amendment, Mr. Speaker. I was just going to raise the issue that the legal counsel should look into the Constitution on the immunity, and at the same time there was a recommendation on the floor to send the bill back to the committee. The committee that originally received this legislation is willing to take it back, reexamine it, and meet with legal counsel and take into consideration the amendment that was offered and seconded. And on the other hand, it was raised earlier that we should look at some of the proposed solutions to the issues of the Retirement Fund. One of the factors that contributed to the government not meeting the Retirement contribution is the federal employees. We reduce the employer contribution, yet at the end, the Central Government is responsible for the difference of the federal funded employees short of the actuarial rate. That is one of the issues that the committee should look into. What are we going to do with the federal employees or CNMI employees that are funded by the Federal Government and not contributing even if they are funded to contribute at the actuarial rate. We do not by law require them. So at the end the Central Government has to foot the difference to the Retirement Fund. My recommendation, the committee should take under advisement the amendment and other issues at present for a reform legislations.

Speaker Arnold Palacios: The time is running away and we have staff that are still here. What is the sentiment of the members, will the members be amendable to coming back about 2:30 p.m. to just discuss this. Floor Leader, can you please effectuate all necessary motion to send this back to the committee.

Floor Leader Camacho: Since there was a motion that was made by myself and was seconded by several members, I have no objections so that we can send this very timely legislation back to committee. If there is no objection I would like to withdraw my motion and make a motion to refer this back to the back, I believe it is JGO.

There was no objection to withdrawal Floor Leader Camacho’s floor amendment and the motion to recommit the bill to JGO and being no further discussions on the motions it was carried by voice vote.

Speaker Arnold Palacios: There is no objections on the floor. Would the Chair of the JGO Committee be willing to take on this critical piece of legislation?

Representative Santos: Absolutely.

Speaker Arnold Palacios: Absolutely. Representative Sablan, recognized.

Representative Sablan: Thank you, Mr. Speaker. Earlier the Vice Speaker asked for recommendation and guidance from the members for the Committee to consider. Now that we have agreed to send this back to the JGO Committee I would like to ask that the Committee to consider at least the substance of the proposal I believe was introduced by the Vice Speaker to impose a personal liability but not a criminal liability on expenditure authority who fails to remit, particularly, if there has already been an appropriation made by law. Also, to examine subsection (g) of this bill and it is not clear to me that it would be necessary to explicitly state in the law that government employees have a cause of action once we agree by law that – that expenditure authorities are personally liable one way or the other for failure to remit. So that is what I would ask the Committee to consider.

Speaker Arnold Palacios: Thank you. Vice Speaker, are you a member of the JGO Committee?

Representative Deleon Guerrero: No.

Speaker Arnold Palacios: Could you ask the Chair of JGO if you can join them on this particular issue so that you could share your thoughts on this? Representative Santos, recognized.

Representative Santos: The Committee welcomes recommendations, suggestions, any amendments to the Committee in writing.

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

Representative Babauta: May I request the Chairwoman Santos to initiate a short memo to all the members who wish to submit in a written recommendation, because I for one have ---

Speaker Arnold Palacios: You need those written reminders.

Representative Babauta: Not necessarily, but we do not know when the legislation would be taken up so that we can get prepared.

Speaker Arnold Palacios: Okay. Thank you. I think with the time it just went away from us and we have some staff that has not have a break for lunch. Floor Leader, a motion to adjourn.

## **ANNOUNCEMENT**

NONE

## **ADJOURNMENT**

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

The House adjourned at 12:33 p.m., subject to the Call of the Chair.

Respectfully submitted,

Linda B. Muña Journal Clerk  
House of Representatives

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**APPEARANCE OF LOCAL BILLS**

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

SECOND APPEARANCE: NONE

THIRD APPEARANCE:

H. L. B. NO. 16-33: To re-appropriate the sum of \$54,000.00 from Tinian Local Law 15-9; and for other purposes. (Rep. Edwin P. Aldan)

H. L. B. NO. 16-34: To re-appropriate lapsed funds under Saipan Local Law 16-1, Section 3(1); and for other purposes. (Rep. Ray N. Yumul)

H. L. B. NO. 16-35: To appropriate \$3,650,000 from the revenues collected pursuant to Saipan Local Law 11-2 as amended for Fiscal Year 2010; and for other purposes.