

HOUSE OF REPRESENTATIVES
TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FIRST REGULAR SESSION, 2000

FOURTH DAY

February 17, 2000

The House of Representatives of the Twelfth Northern Marianas Commonwealth Legislature convened in its Fourth Day, First Regular Session, 2000, on Thursday, February 17, 2000, at 10:30 a.m. in the House Chamber, Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Benigno R. Fitial, Speaker of the House, presided.

A moment of silence was observed.

In accordance with Rule XIII, § 2(a) seventeen members were present and Representative Thomas B. Pangelinan was absent.

Speaker Fitial: Quorum is duly constituted for the Fourth Day of our First Regular Session. Let the record show that Representative Pangelinan is excused.

ADOPTION OF JOURNALS

None

PREFILED AND INTRODUCTION OF BILLS

H. B. NO. 11-69: A Bill for an Act to amend Section 514 of Public Law 11-41; and for other purposes.

Offered by: Rep. Jesus T. Attao and one other
Referred to: Committee on Ways and Means

H. B. NO. 12-70: A Bill for an Act to amend 1 CMC, Division 8, Section 8374 by adding a new subsection (j) to authorize a member of the Retirement Fund to borrow from the Retirement Fund for emergency purposes; and for other purposes.

Offered by: Rep. David M. Apatang
Referred to: Committees on Judiciary and Governmental Operations & Ways and Means

H. B. NO. 12-71: A Bill for an Act to establish a more reliable and exact system for collecting revenue from businesses; and for other purposes.

Offered by: Rep. David M. Apatang and one other
Referred to: Committee on Ways and Means

H. B. NO. 12-72: A Bill for an Act to establish the Commonwealth Automobile Warranty Act; and for other purposes.

Offered by: Rep. David M. Apatang and one other
Referred to: Committee on Health and Welfare

H. B. NO. 12-73: A Bill for an Act to make technical amendments in sections 1, 2, and 3, of Public Law 10-88; and 1 CMC 8341(d) and 1 CMC 8344(f); and for other proposes.

Offered by: Rep. Norman S. Palacios and two others
Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 12-74: A Bill for an Act to amend Section 4201, 6 CMC, Division 4, Chapter 2; and for other purposes.

Offered by: Rep. Oscar M. Babauta (*By request*)
Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 12-75: A Bill for an Act enact a new Section 1609 of Title 6 of the Commonwealth Code; and for other purposes.

Offered by: Rep. Oscar M. Babauta
Referred to: Committee on Health and Welfare

H. B. NO. 12-76: A Bill for an Act to ban the importation and sell of toys which in size, shape, or overall appearance resembles a real handgun; and for other purposes.

Offered by: Rep. Brigida DLG. Ichihara and four others
Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 12-77: A Bill for an Act to amend Title 6, Division 1 by adding a new subsections 1205 through 1207.

Offered by: Rep. Dino M. Jones
Referred to: Committee on Health and Welfare

PREFILED AND INTRODUCTION OF RESOLUTIONS

None

MESSAGES FROM THE GOVERNOR

None

SENATE COMMUNICATIONS

None

HOUSE COMMUNICATIONS

Hse. Comm. 12-1: From Rep. Ada informing the Speaker that he will be off-island from February 18-21, 2000 for official business.

There was no discussion raised.

COMMUNICATIONS FROM THE JUDICIAL BRANCH

None

COMMUNICATION FROM THE RESIDENT REPRESENTATIVE

None

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

None

OTHER COMMUNICATIONS

None

REPORTS OF STANDING COMMITTEES

The Chair recognized the Floor Leader.

Floor Leader Babauta: Thank you, Mr. Speaker. Mr. Speaker, I move for the adoption of the following Standing Committee Reports as appeared on today's Calendar.

The motion was seconded.

S. C. R. NO. 12-7: Reporting on Senate Bill No. 12-20, entitled, “A Bill for an Act to amend Public Law 11-84; and for other purposes.” *Your Committee on Judiciary and Governmental Operations recommends passage of the bill in the form of House Draft 1.*

S. C. R. NO. 12-8: Reporting on T.L.D.R. No. 12-2, entitled, “To request the Chairperson and Board members of the Commonwealth Utilities Corporation to establish a Bulk Commercial User rate within the Commonwealth.” *Your Committee on Public Utilities, Transportation and Communications recommends that the resolution be endorsed and fully supported by the House.*

S. C. R. NO. 12-9: Reporting on T.L.D.R. No. 12-3, entitled, “To support and concur with CUC’s proposal to advertise an invitation to open public bid (ITOPB) the old Tinian power plant generators and other inventories on the premises; and for the proceeds to be reinvested into Tinian’s power, water and sewer infrastructure.” *Your Committee on Public Utilities, Transportation and Communications recommends that the resolution be endorsed and fully supported by the House.*

S. C. R. NO. 12-10: Reporting on House Resolution No. 12-13, entitled, “To amend House Rule VII, Section 9 ‘House Rules’ of the Twelfth Commonwealth Legislature.” *Your Committee on Official Conduct and Ethics recommends that the Resolution be passed in the form of House Draft 1.*

Speaker Fitial: Discussion? Representative Attao?

Rep. Attao: May I ask the Floor leader to make a motion for the suspension of Rule VII, Section 9 for the adoption of the Standing Committee Reports?

Speaker Fitial: Rule VII, Section 9 has to do with placing of Committee Report on the Calendar. Floor Leader?

Floor Leader Babauta: Mr. Speaker, I wasn’t finish when the motion was seconded.

Speaker Fitial: So, *arikais*, Floor Leader?

Floor Leader Babauta: Mr. Speaker, I move for the suspension of Rule VII, Section 9 for the placement of the following Standing Committee Report Nos. 12-7, 12-8, 12-9, and 12-10.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. Floor Leader?

Floor Leader Babauta: Thank you, Mr. Speaker. I now move for the adoption of Standing Committee Report Nos. 12-7, 12-8, 12-9, and 12-10.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. We move down to Resolution Calendar.

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

RESOLUTION CALENDAR

The Chair recognized the Floor Leader

Floor Leader Babauta: Thank you, Mr. Speaker. Mr. Speaker, I move for the adoption of House Resolution Nos. 12-13, House Draft 1.

The motion was seconded.

H. R. NO. 12-13, H.D.1: To amend House Rule VII, Section 9 ‘House Rules’ of the Twelfth Commonwealth Legislature.

Speaker Fitial: Discussion? Representative Hofschneider?

Rep. Hofschneider: Mr. Speaker, can i have a clarification on line 21, on page 1, and lines 1-8 on page 2?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: May I ask my colleague to repeat it again?

Rep. Hofschneider: Clarification on purchases and payments made by the House, “on the honest made available to the House” does that entails the individuals accounts as specifically state out in the Constitutional Amendment recently passed?

Floor Leader Babauta: Are you on page 2?

Rep. Hofschneider: Page 1, line 21 and page 2, lines 1 through 8.

Floor Leader Babauta: And what was the question colleague?

Rep. Hofschneider: Clarification on purchase and payments made by the House. Does the definition of “house” means individual accounts allotted to individual members as spelled out in the Constitutional Amendments?

Floor Leader Babauta: Yes, in Appendix. We refer the detail in the attached Appendix.

Rep. Hofschneider: In the Appendix? Does each member have a to submit telephone bills, *tento* bills to the Speaker for approval under the definition of “House” in general? Is the language on page 1, beginning lines 21 to 23, “purchases and payments made by the House includes individual accounts to be certify by the Speaker for payment”?

Floor Leader Babauta: Yes. Not certification by the Speaker, certification by the members themselves.

Speaker Fitial: Representative Hofschneider, I think your answer can be found on page 2, line 6, that sentence “For purposes of this Section, “authorized designee” shall include individual members who have expenditure authority over their individual allotment accounts.”

Rep. Benavente: Further clarification, Mr. Speaker.

Speaker Fitial: Representative Benavente?

Rep. Benavente: But the designee you are referring to is one person designated by the Speaker, is that correct?

Rep. Hofschneider: That generality is specified in the resolution. I am just sort of confused on the generality of the House being used in this context would that be an expenditure on behalf of the House?

Speaker Fitial: That generality is specified under lines 6 through 8, the authorized designee will then be each individual member.

Rep. Hofschneider; May I continue?

Speaker Fitial: Representative Hofschneider?

Rep. Hofschneider: “For purposes of the Section, “authorized designee” shall include individual members who have expenditure authority over their individual allotment accounts”, so I am the authorized designee from the Speaker to get approval for payments submitted to the Finance that is what it means.

Speaker Fitial: That is how I read it unless somebody has a different interpretation.

Rep. Hofschneider: So, for all practical purposes, Mr. Speaker, if I am to submit a telephone bill or *tento* bill or whatever, that I had encumbered, I will first get an authorization as a designee, spelled-out in line 6, before I submitted to Finance from you?

Speaker Fitial: I don’t read it that way.

Rep. Benavente: May we go into a Committee of the Whole or maybe recess so that we can ask the legal counsel --?

Speaker Fitial: Let us just go into the Committee of the Whole if there is no objection.

There was no objection raised.

The House resolved into the Committee of the Whole at 10:45 a.m.

COMMITTEE OF THE WHOLE

The House dissolved back to plenary session at 11:00 a.m.

Speaker Fitial: We are now back into plenary session. Floor Leader?

Floor Leader Babauta: Mr. Speaker, we are on the main motion.

Speaker Fitial: We are on the main motion. Representative Hofschneider you still have the floor.

Rep. Hofschneider: I know, Mr. Speaker, the Rules calls for written amendments, can we be excused on that one?

Speaker Fitial: That is why I recognized the Floor Leader to effectuate such amendment. Floor Leader?

Floor Leader Babauta: Mr. Speaker, clarification, the intended oral amendment to be offered by Representative Hofschneider –

Rep. Hofschneider: It is not permissible and it is under the Rules.

Floor Leader Babauta: So move, Mr. Speaker, for the suspension of pertinent Rule to further amend House Resolution No. 12-13, H.D.1.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. We are now voting on the proposed Amendment offered by Representative Hofschneider. Representative Tony Camacho?

Rep. A. Camacho: For clarification, what is the oral amendment?

Speaker Fitial: Representative Hofschneider you may respond?

Rep. Hofschneider: On page 2, line 7, delete “include” and insert “be the”, that is a motion.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. We are now back to the main motion to adopt House Resolution No. 12-13, H. D. 1, as amended.

Rep. Jones: Clarification, Mr. Speaker.

Speaker Fitial: Representative Jones, state your point of clarification.

Rep. Jones: So, this will make it very clear to the Finance Secretary that on the enactment or passage of this amendment will have no authority over individual account of this Legislature and as far as payment for the expenses that we incurred?

Speaker Fitial: Representative Hofschneider you may respond.

Rep. Hofschneider: It provides for clarity but I guess, Mr. Speaker, the fundamental argument with the Department of Finance and us is the fiduciary responsibility under the Constitution. She continues to call the shots in anything in her view gray area in terms of public purpose from individual member of the House. I don't think that we have clarified the original argument with the Finance Secretary because that has to take an initiative or constitutional amendment to clarify what is "public purpose" provided by the provision of the House Rules. So, she continues to hold the upper hand.

Speaker Fitial: Representative Jones you may continue.

Rep. Jones: I thought that this would clarify once and for all the authority of the Finance to approve or disapprove expenditure under the individual members account because I believe that the intent of making such amendment is to ensure that such question of who is authorize, whether or not the Finance has that authority to approve or disapprove any expenses by the individual members vested in the Finance Secretary.

Rep. Benavente: Point of clarification.

Speaker Fitial: State your point of clarification.

Rep. Benavente: I believe that Representative Jones might be referring to the Senate Bill that will be entertained later. This resolution merely provides for this section to define public purpose and defines the authority of the Speaker, but I think the question that he is raising is relevant to the Senate Bill, which is in the Bill Calendar. Thank you.

Rep. Jones: Thank you, Mr. Speaker.

Speaker Fitial: Any further deliberation? We are voting on the main motion, is that correct?

The motion to adopt House Resolution Nos. 12-13, H. D. 1, as amended, was carried by voice vote.

Speaker Fitial: The motion carries.

BILL CALENDAR

The Chair recognized the Floor Leader.

Floor Leader Babauta: Thank you, Mr. Speaker. Mr. Speaker, I now move for the passage on First and Final Reading Senate Bill No. 12-20, House Draft 1.

The motion was seconded.

S. B. NO. 12-20: A Bill for an Act to amend Public Law 11-84; and for other purposes.

Speaker Fitial: Discussion? Representative Attao?

Rep. Attao: Mr. Speaker, if I may be allowed to amend suspension of Rule IX, Section 11, on oral amendment that I will be offering with respect to Senate Bill No. 12-20.

The motion was seconded and carried by voice vote.

Speaker Fitial: You may offer your Floor Amendment.

Rep. Attao: Thank you for giving me that opportunity to offer my Floor Amendment on Senate Bill No. 12-20, House Draft 1. On page 1, line items 15 and 16, strike-out “~~prior to December 20, 1999~~”, that is my oral Floor Amendment, Mr. Speaker.

Speaker Fitial: Does everybody understand the Floor Amendment offered by Representative Attao?

Vice Speaker Mendiola: Can you repeat, please?

Rep. Attao: My oral Floor Amendment is on page 1, line item 15, after “Finance” delete “prior to” and on line item 16, delete December 22, 1999”.

The motion was seconded.

Floor Leader Babauta: Clarification, Mr. Speaker.

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Because he mentioned, delete “prior to” –

Rep. Attao: Yes, “prior to” and continued on line item 16, “December 22, 1999”.

Floor Leader Babauta: So, it is period (.) after “Finance”?

Rep. Attao: Yes, period after “Finance.” you are correct.

Rep. Jones: Point of information, Mr. Speaker.

Speaker Fitial: State your point of information, Representative Jones.

Rep. Jones: May I ask my colleague Attao to share with us what is the intent behind that amendment?

Speaker Fitial: You may proceed, Representative Attao.

Rep. Attao: Thank you. ON line item 14, it is very clear that “all expenses incurred by members of the Eleventh Congress”, I want the Eleventh Congress to be entertain all the way up to January 9, the day prior to the Inauguration, because anything beyond December will be difficult by Finance. So, to make it consistent, we make it up to the Department of Finance that is my point.

Rep. A. Camacho: Mr. Speaker?

Speaker Fitial: Representative Tony Camacho?

Rep. A. Camacho: Mr. Speaker, I seem to disagree with that recommendation because who know, the previous members have overrun their allocations than the members now that are in the Twelfth Congress, will be shouldering all those costs.

Rep. Benavente: Point of clarification.

Speaker Fitial: Representative Benavente?

Rep. Benavente: I want to clarify that on line item 14, it still says, “incurred by members of the 11th Legislature, so actually, we are just moving the “December 22, 1999” date to “January 9th” date. We can either put “January 9” or put “during the term of the Eleventh Legislature” which end their any way so, it will still be for members of the Eleventh Legislature.

Speaker Fitial: Representative Tony Camacho you still have the floor.

Rep. A. Camacho: Okay, but I still disagree.

Speaker Fitial: Let me just share this with you, this will relief the Twelfth Legislature from any obligations from the prior Legislature and this is what we want. Floor Leader can we dispose of the Amendment?

Floor Leader Babauta: We are ready to vote on the Amendment, Mr. Speaker.

The motion to adopt the oral Floor Amendment offered by Representative Attao was carried by voice vote.

Speaker Fitial: The motion carries. Any further deliberation on the main motion to pass the bill on its First and Final Reading? Representative Benavente?

Rep. Benavente: Mr. Speaker, again, this might require for us to go into the Committee of the Whole so that the legal counsel may respond. I have a question with regards to the first page, line item 24, where we basically authorizing the Senate and the House separately to further defined “public purpose”. I believe this body, the Legislature, is not authorize to give away his authority to another body and because the Constitution is clear that it grants the Legislature the authority to define “public purpose” even though we have Public Law 11-84 this particular bill further defines it. We are providing a provision in there that basically grants the Senate and the House separately to further define “public purpose” which under the Constitution calls for the Legislature to do. Can we get a respond from the legal counsel?

Speaker Fitial: If there is no objection.

There was no objection raised.

The House resolved into the Committee of the Whole at 11:15 a.m.

COMMITTEE OF THE WHOLE

The House dissolved back to plenary session at 11:20 a.m.

Speaker Fitial: We are still discussing the main motion to pass Senate Bill No. 12-20, House Draft 1, on First and Final Reading. Further discussion?

Rep. Hofschneider: Can I just have one second?

Speaker Fitial: Okay. I will give you two.

Rep. Hofschneider: On the last page there, “July 21, 1999” there’s a –

Rep. Attao: The Effective Date of the bill, “this Act shall take effect July 21, 1999”, can we ask the legal counsel why we have retroactive, or what is the rationale putting July 21, 1999? Is that where Finance stop paying --?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Mr. Speaker, I didn’t quite catch this, I was too concentrated on the provisions its self. The purpose of this date, to me personally, I do not know. In fact December 22, is the only date I know, with respect to the provision of this bill December 22, which the Senators have agreed with the Administration to cap it at that date, however, July 21, 1999, I am not too sure, Mr. Speaker.

Rep. Benavente: Can I offer an explanation if it is possible?

Speaker Fitial: Go ahead.

Rep. Benavente: What happen was during our negotiation with the Secretary of Finance to pay some of these bills that she refused to pay, she basically set a July 21, dateline, I believe that was the enactment of Public Law 11-84, that was the date. So, she is willing to pay all of the bills that did not show personal or political game up until July 21, 1999. But after that, she basically refuse paying those that was not described under Public Law 11-84, but, because she already agreed to allow the payment of everything in the Eleventh Legislature, I think we don't have to worry about that dateline any more you may remove if you wish. May be the legal counsel's recommendation of whether we should strike that out or live it in, which appropriates.

Rep. Jones: Mr. Speaker?

Speaker Fitial: Representative Jones?

Rep. Jones: If there is a memorandum to effectuate such decision made by the Finance to make that effective from that date on, I believe that we should live that on to ensure that there is a document.

Rep. Benavente: Can I clarify further, Mr. Speaker?

Speaker Fitial: Do you yield, Representative Jones?

Rep. Jones: I yield.

Rep. Benavente: Actually, it is on the first page of this same bill where it ratifies all the payments up to January 9 or through the Eleventh Legislature, so, we won't even need that memorandum.

Speaker Fitial: So, if no objection, with unanimous consent, can we just strike-out the date?

There was no objection raised.

Speaker Fitial: So ordered. We are voting on the main motion now, roll call.

The Clerk called the roll on the motion to pass Senate Bill No. 12-20, House Draft 2, as follows:

| | |
|-----------------------|-----|
| Rep. Martin B. Ada | yes |
| Rep. David M. Apatang | yes |
| Rep. Jesus T. Attao | yes |
| Rep. Oscar M. Babauta | yes |

| | |
|-----------------------------------|-------------------|
| Rep. Diego T. Benavente | yes w/reservation |
| Rep. Antonio M. Camacho | yes |
| Rep. Rosiky F. Camacho | yes |
| Rep. Florencio T. Deleon Guerrero | yes |
| Rep. Heinz S. Hofschneider | yes |
| Rep. Brigida DLG. Ichihara | yes |
| Rep. Dino M. Jones | yes |
| Rep. Alejo M. Mendiola, Jr. | yes |
| Rep. Norman S. Palacios | yes |
| Rep. Thomas B. Pangelinan | excused |
| Rep. Maria “Malua” T. Peter | yes |
| Rep. Stanley T. Torres | no |
| Rep. William S. Torres | yes |
| Speaker Benigno R. Fitial | yes |

Speaker Fitial: Senate Bill No. 12-20, House Draft 1, passes the House with few amendments.

MISCELLANEOUS BUSINESS

None

ANNOUNCEMENT

The Chair recognized Rep. Jones.

Chairman Jones: Just to remind again the members of Natural Resources Committee to be prompt at 1:30 for our meeting. Thank you.

Speaker Fitial: Further announcements? Floor Leader?

Floor Leader Babauta: Mr. Speaker, I move to recess until tomorrow morning at ten.

The motion was seconded and carried by voice vote.

The House recessed at 11:25 a.m.

Respectfully submitted,

Joan P. Kaipat, Journal Clerk
House of Representatives

SECOND APPEARANCE OF LOCAL BILLS

H. L. B. No. 12-005: To establish local license fees for pachinko slot machines and poker machines in the Second Senatorial District; and for other purposes. (REP. NORMAN S. PALACIOS +2)