

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

NINTH DAY

February 24, 2000

The House of Representatives of the Twelfth Northern Marianas Commonwealth Legislature convened in its Ninth Day, First Regular Session on Thursday, February 24, 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), all eighteen members were present.

Speaker Fitial: A quorum is duly constituted for the Ninth Day of our First Regular Session.

ADOPTION OF JOURNALS

The Chair recognized the Floor Leader.

Floor Leader Babauta: Mr. Speaker, thank you. I move for the adoption of the Seventh Day, First Regular Session journal.

The motion was seconded.

Eighth Day, First Regular Session (2/24/00)

Speaker Fitial: Discussion? Representative Rosiky Camacho?

Rep. R. Camacho: Mr. Speaker, just for clarity regarding to the journal, I want a little change, there are two Camacho's here and probably like former colleague "Timmo", can I be allowed that my first name be written accordingly?

There was no objection raised.

Speaker Fitial: So ordered.

Rep. Rosiky Camacho: Thank you, Mr. Speaker.

The motion to adopt the Eighth Day, First Regular Session journal was carried by voice vote.

Speaker Fitial: The motion carries.

INTRODUCTION OF BILLS

H. B. NO. 12-95: A Bill for an Act to establish and implement Water System Development Charges to customers who are, for the first time, connecting to the public water and waste water systems; and to establish a CNMI Water and Wastewater Infrastructure Development Fund; and for other purposes.

Offered by: Rep. Jesus T. Attao and two others
Referred to: Committee on Public Utilities, Transportation and Communications

H. B. NO. 12-96: A Bill for an Act to rename the Admiral Herbert G. Hopwood, Jr., High School to Janet S. Tenorio Jr., High School; and for other purposes.

Offered by: Rep. Thomas B. Pangelinan and one other
Referred to: Committees on Health and Welfare and Education

H. B. NO. 12-97: A Bill for an Act to establish a Tax Fairness and Review Commission; and for other purposes.

Offered by: Rep. Benigno R. Fitial
Referred to: Committee on Ways and Means

INTRODUCTION OF RESOLUTIONS

H. R. NO. 12-15: A House Resolution to request the Department of Public Safety to seek additional funding from the Federal Office of Highway Safety in order for the Department to complete the construction of new crosswalks identified in their survey.

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

H. R. NO. 12-16: A House Resolution requesting the Governor and the Secretary of Public Works to construct an “overpath walkway” between Mary’s Bakery and Hopwood Jr. High School in Chalan Piao.

Offered by: Rep. Thomas B. Pangelinan and one other
Referred to: Committees on Ways and Means and Education

H. R. NO. 12-17: A House Resolution requesting the assistance of the United States Department of Transportation to urge the appropriate authorities of the Government of Japan to permit international flights to and from Haneda Airport in Tokyo; and for other purposes.

Offered by: Rep. Norman S. Palacios
Referred to: Committee on Federal and Foreign Relations

H. J. R. NO. 12-4: A House Joint Resolution to officially endorse and activate the formation of the Japan/Northern Mariana Islands Parliamentary League of Friendship, a league to promote the long-standing goodwill, friendship, social, economic, and cultural bonds between the people of Japan and the people of the Northern Mariana Islands.

Offered by: Rep. Norman S. Palacios
Referred to: Committee on Federal and Foreign Relations

MESSAGES FROM THE GOVERNOR

None

SENATE COMMUNICATIONS

Sen. Comm. 12-4: Informing the House that the Senate overrode the Governor's veto of House Bill No. 11-221, SD1 (Environmental impact study of motorized watercrafts) on February 23, 2000.

Sen. Comm. 12-5: Informing the House that the Senate overrode the Governor's veto of House Bill No. 11-389, HCS1, SD1 (NMI Free Trade Zone Act) on February 23, 2000.

Sen. Comm. 12-6: Informing the House that the Senate overrode the Governor's veto of House Bill No. 11-464, SD1 (Youth and Man Amko Program Act) on February 23, 2000.

Sen. Comm. 12-7: Informing the House that the Senate overrode the Governor's veto of House Bill No. 11-493, HD1 (Tax Abatement Act) on February 23, 2000.

Sen. Comm. 12-8: Informing the House that the Senate overrode the Governor's veto of House Bill No. 11-500, HCS1, HD1 (Managaha Marine Conservation Act) on February 23, 2000.

Sen. Comm. 12-9: Informing the House that the Senate overrode the Governor's veto of House Local Bill No. 11-26, D2 (Saipan and Northern Islands Resident Identification Card Act) on February 23, 2000.

Sen. Comm. 12-10: Informing the House that the Senate overrode the Governor's veto of Senate Bill No. 11-148 (To exempt the CNMI Government from certain provisions of 3 CMC § 4437(c)) on February 23, 2000.

Sen. Comm. 12-11: Informing the House that the Senate accepted the House amendments to Senate Bill No. 12-20 (Public Purpose) on February 23, 2000.

Sen. Comm. 12-12: Transmittal of Senate Bill No. 12-24, SS1, entitled, “A Bill for an Act to amend 1 CMC § 2152, concerning qualifications of the Attorney General, to conform with Article III, Section 11 of the Commonwealth Constitution; and for other purposes,” which was passed by the Senate on February 23, 2000. [For action]

Sen. Comm. 12-13: Transmittal of Senate Bill No. 12-40, entitled, “A Bill for an Act to provide one year vested service credit in the Retirement Fund for every two years of service on Commonwealth government boards and commissions,” which was passed by the Senate on February 23, 2000. [For action]

Sen. Comm. 12-14: Transmittal of Senate Bill No. 12-42, entitled, “A Bill for an Act to clarify the duties and limits of liability of the Director of Public Lands; and for other purposes,” which was passed by the Senate on February 23, 2000. [For action]

Sen. Comm. 12-15: Transmittal of Senate Bill No. 12-51, entitled, “A Bill for an Act to allow a government employee to convert P.L. 7-31 retroactive salary adjustment to vesting credit service; and for other purposes,” which was passed by the Senate on February 23, 2000. [For action]

Sen. Comm. 12- 16: Transmittal of Senate Bill No. 12-52, SD1, entitled, “A Bill for an Act to create a Bureau of Alcohol, Tobacco, and Firearms in the Department of Public Safety; and for other purposes,” which was passed by the Senate on February 23, 2000. [For action]

Sen. Comm. 12-17: Transmittal of Senate Bill No. 12-53, entitled, “A Bill for an Act to abolish the Department of Finance and transfer its functions; to create a Department of Administration; and for other purposes,” which was passed by the Senate on February 23, 2000. [For action]

The Chair recognized the Floor Leader.

Floor Leader Babauta: Thank you. Mr. Speaker, because of the lengthy number of Senate Communications, if there is no objection I would like to move and num the entire Senate Communications as it appears on today’s Order of Business for the acceptance of all the Senate Communications as it appears. So move, Mr. Speaker.

There was no objection raised.

Speaker Fitial: If no objection, so ordered. Floor Leader?

Floor Leader Babauta: Mr. Speaker, I move for the acceptance of all the Senate Communications, from Senate Communication Nos. 12-4 through 12-17.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries.

HOUSE COMMUNICATIONS

None

COMMUNICATIONS FROM THE JUDICIAL BRANCH

None

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

None

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

None

OTHER COMMUNICATIONS

None

REPORTS OF STANDING COMMITTEES

S. C. R. NO. 12-14: Reporting on: Reporting on House Resolution No. 12-006, entitled, “To request the Secretary of the Department of Commerce to conduct a feasibility study on the production of salt using the solar evaporation of seawater method.” *Your Committee on Commerce and Tourism recommends its adoption.*

S. C. R. NO. 12-16: Reporting on House Resolution No. 12-008 entitled, “Requesting the Secretary of the Department of Commerce to study the potential of establishing a fishing co-op program in the Commonwealth of the Northern Mariana Islands.” *Your Committee on Commerce and Tourism recommends its adoption in the form of H.R. 12-008, H.D.1.*

S. C. R. NO. 12-17: Reporting on House Joint Resolution No. 12-002, entitled, “Respectfully requesting the United States Department of Transportation to grant a Foreign Aircraft Permit under Part 375.42 to Armenian Airlines to operate charter flights between, Saipan, Commonwealth of the Northern Mariana Islands, and Clark Field in Pampanga, Republic of the Philippines.” *Your Committee on Commerce and Tourism recommends its adoption.*

The Chair recognized the Floor Leader.

Floor Leader Babauta: Thank you. If there is no objection, Mr. Speaker, from the members, I would like to include -- I believe the Committee Reports has been passed out -- Standing Committee Report 12-14, reference to Senate Bill No. 12-19 and Standing Committee Report No. 12-18, reference to House Bill No. 12-14 on today’s Order of Business.

The motion was seconded and carried by voice vote.

S. C. R. NO. 12-14: Reporting on Senate Bill No. 12-19, entitled, “To state as public policy that construction of an 80 megawatt power plant facility by phases, beginning with

immediate installation of 60 megawatts of generating capacity, is in the best interest of the Commonwealth; to find and declare that phased construction of 80 megawatts of generating capacity is consistent with the Request for Proposals (RFP) under which proposers recently competed for a contract for a new power plant on Saipan; to provide a time period during which proposers may stand by their existing proposals for purposes of project award; to expressly authorized project award and negotiation of a contract based on existing proposals; and for other purposes.” *Your Committee on Public Utilities, Transportation and Communications recommends its passage.*

S. C. R. NO. 12-18: Reporting on House Bill No. 12-14, entitled, “To provide law enforcement powers to investigators of the Public Auditor be adding a new section 7841 to 1 CMC, Division 7, Chapter 4; and for other purposes.” *Your Committee on Judicial and Governmental Operations recommends passage in the form of H. B. No. 12-14, C. S. 1.*

Speaker Fitial: The motion carries. Floor Leader?

Floor Leader Babauta: Mr. Speaker, if there is no objection again, I so move for the adoption of Standing Committee Report No. 12-14, reference to Senate Bill No. 12-19; Standing Committee Report No. 12-15, reference to House Resolution No. 12-6; Standing Committee Report No. 12-16, reference to House Resolution No. 12-8; Standing Committee Report No. 12-17, reference to House Joint Resolution No. 12-2; and Standing Committee Report No. 12-18, reference to House Bill No. 12-14.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries.

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

The Chair recognized the Floor Leader.

Floor Leader Babauta: Mr. Speaker, I move for the adoption of House Resolution No. 12-6, Standing Committee Report No. 12-15 and House Resolution No. 12-8, Standing Committee Report No. 12-15.

The motion was seconded.

H. R. NO. 12-6: TO REQUEST THE SECRETARY OF THE DEPARTMENT OF COMMERCE TO CONDUCT A FEASIBILITY STUDY ON THE PRODUCTION OF SALT USING THE SOLAR EVAPORATION OF SEAWATER METHOD.

H. R. NO. 12-8, HD1: REQUESTING THE SECRETARY OF THE DEPARTMENT OF COMMERCE TO STUDY THE POTENTIAL OF ESTABLISHING A FISHING AND FARMING CO-OP PROGRAM IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

There was no discussion raised. The motion to adopt House Resolution Nos. 12-6 and 12-8, H. D. 1, was carried by voice vote.

Speaker Fitial: House Resolution Nos. 12-6 and 12-8 are hereby adopted. Floor Leader?

Floor Leader Babauta: Thank you. I move to adopt House Joint Resolution No. 12-2.

The motion was seconded.

H. J. R. NO. 12-2: RESPECTFULLY REQUESTING THE UNITED STATES DEPARTMENT OF TRANSPORTATION TO GRANT A FOREIGN AIRCRAFT PERMIT UNDER PART 375.42 TO ARMENIAN AIRLINES TO OPERATE CHARTER FLIGHTS BETWEEN, SAIPAN, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND CLARK FIELD IN PAMPANGA, REPUBLIC OF THE PHILIPPINES

There was no discussion raised. The motion to adopt House Joint Resolution No. 12-2 was carried by voice vote.

Speaker Fitial: The motion carries.

BILL CALENDAR

Speaker Fitial: We don't have any bill on the Calendar.

Floor Leader Babauta: Mr. Speaker, clarification.

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Just to make the proper motion to place Senate Bill No. 12-19 and House Bill 12-14 on today's Calendar for Second and Final Reading.

The motion was seconded.

Floor Leader Babauta: Mr. Speaker, clarification.

Speaker Fitial: You may state your clarification.

Floor Leader Babauta: I was just making a clarification for Item 16, Mr. Speaker. If there is no objection, I so move to suspend Rule VII, Section 9 for the placement of Senate Bill No. 12-19 and House Bill No. 12-14 on today's Calendar.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. We now have two bills on today's Calendar. Floor Leader, recognized.

Floor Leader Babauta: Thank you, Mr. Speaker. Mr. Speaker, if there is no objection, I move for the suspension of Rule IX, Sections 9 and 10 for the passage on Second and Final Reading Senate Bill No. 12-19.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. Senate Bill No. 12-19 is hereby placed on today's Bill Calendar for Second and Final Reading. Floor Leader?

Floor Leader Babauta: I so move now for the passage on Second and Final Reading Senate Bill No. 12-19.

The motion was seconded.

S. B. NO. 12-19: TO STATE AS PUBLIC POLICY THAT CONSTRUCTION OF AN 80 MEGAWATT POWER PLANT FACILITY BY PHASES, BEGINNING WITH IMMEDIATE INSTALLATION OF 60 MEGAWATTS OF GENERATING CAPACITY, IS IN THE BEST INTEREST OF THE COMMONWEALTH; TO FIND AND DECLARE THAT PHASED CONSTRUCTION OF 80 MEGAWATTS OF GENERATING CAPACITY IS CONSISTENT WITH THE REQUEST FOR PROPOSALS (RFP) UNDER WHICH PROPOSERS RECENTLY COMPETED FOR A CONTRACT FOR A NEW POWER PLANT ON SAIPAN; TO PROVIDE A TIME PERIOD DURING WHICH PROPOSERS MAY STAND BY THEIR EXISTING PROPOSALS FOR PURPOSES OF PROJECT AWARD; TO EXPRESSLY AUTHORIZED PROJECT AWARD AND NEGOTIATION OF A CONTRACT BASED ON EXISTING PROPOSALS; AND FOR OTHER PURPOSES.

Speaker Fitial: Discussion? Representative Hofschneider?

Rep. Hofschneider: Thank you, Mr. Speaker. Just a clarification, the report that was retrieved yesterday is somewhat different from the Standing Committee Report submitted this morning for the passage of the same bill, Senate Bill No. 12-19. And, I believe that the Standing Committee Report amended the bill yesterday to clarify Section 6 of the same bill and that have been replaced back to its original contents? Meaning to say, 12-19 before us now, is without an amendment from the House. And, yesterday's Committee Report, my own purposes in arriving in support of the bill was more palatable than this particular bill that submitted by the Committee to the floor. The reason for that, Mr. Speaker is, first of all, we are still bound by Partnership Agreement funds submitted during the Froilan's Administration and CUC. And in the Partnership Agreement, one is that CUC should not be interfered in its affairs in its legislative affairs. However, we can argue that we created 4-47 and we can amend, we can suspend, we can

do whatever we want, but the fact remains the same that originally in the history of CUC, it is the very action that we're taking today that have let CUC to begin with. And in recognizing adherents to that commitment there were several stipulations to be adhered to and to accomplish prior to this body taking action, if we are taking action, and even the Board of CUC taking action, and that is the implementation of several recommendations by the Office of the Insular Affairs agreed by the CNMI Government than in 1993, if I'm not mistaken. Nevertheless, one of the recommendations was the feasibility of privatization of certain elements within CUC subscription. Power is one of those elements that was cited. Metzler and Associates produce the privatization feasibility study, which CUC now is acting on that particular recommendation as agreed upon by the CNMI government and the Insular Affairs Office. Preempting the created Board in mandating certain conditions is an interference in itself. I think that, Mr. Speaker and members, we can all agree that to preempt the Board of CUC is counter productive. We all agree that for power, we need to replace our existing power generation. We all agree that it should be done expediently. We all agree that cost is critical whether the consumers out there are able to afford whatever contract is being considered. Preempting a condition, such as Section 7 of the bill on page 5, low speed generators required. The only assumption that low speed generators are for two reasons. One is low cost maintenance overall in the long run. Two is that, it uses heavy oil which is far cheaper than refined oil in number 2 diesel. Those are the only two considerations. Preempting CUC with this legislation would absolve or prevent other companies from offering other alternative generations, such as medium speed or high speed. If it is economically sensible and economically within the reach of CUC and the consumers of the Commonwealth, why are we requiring a low speed generator? Two, inconsistent with the intention of this legislation and I don't think that it is in the best interest of the government to purposely provide for some mechanism or language in Section 5 as to no contest of any misdirected decisions of the Board. P. L. 4-47, states specifically that CUC shall sue or be able to sue and be sued. The Board of Directors of CUC are responsible for their decisions if they fail then they should be committed to their actions. We should not in the position to be absolving any wrongdoing in the Board of CUC. The Burns and McDonnell's specifically states that CUC shall explore the option of reducing from 80 megawatt to 60 megawatt. Mandating that an expandable production capability up to 80 megawatts is an insistence in itself to make sure that when you sign a contract it is up to 80 megawatt. Nowhere in the report of the Burns and McDonnell did they specifically address what are we to do with the capability of our existing plant? When refurbish, we are capable of producing 70 megawatts with our existing facility. If the new power plant is issued and constructed and in operation, it will give CUC the time to refurbish our own antiquated machines. But once it is overhauled, what are we to do with that? The legislation committing up to 80 megawatt in essence, obligates the government and the consumers to pay a rate that is prorated for 80 megawatt consumption whether they are consuming or not. We have not seen any form of contract that stipulates who is to pay for fuel? It is understood in the RFP that they issued that the government, the people of the Commonwealth, on behalf of the people, CUC is to pay for fuel and oil and property, make available of the land at no cost. These are the trade offs, Mr. Speaker, that obligating such language. I would have voted with the legislation that was proposed yesterday, and for some unforeseen reason, or unexplained reason we retracted that yesterday and now being presented with this legislation, which is not really the best interest of the consumers nor the proposers. We all know, there are three companies that are short listed. Whoever gets it, we all assumed that CUC Board would do their dandiest best, fiduciary best to ensure that low cost, affordable, and protection of the consumers. Because if CUC defunct, we open up the liability on the general fund to commit to payment of the generated megawatts per day. No one has seen, Mr. Speaker, the proposed contract and we are committing ourselves to 80

megawatt or 60 megawatt. It is premature, it is irresponsible, and I think we all agree that we should send a strong message to the Board of CUC -- Be consistent, be firm and move on on the award of the 80 megawatt or the 60 megawatt that is supported with facts, such as the Burns and McDonnell. We do not have the claim that we understand every intercrosses of that contract that is to be signed if and when the CUC Boards awards the contract. We are preempting it by putting Section 7. We are preempting it by putting Section 5. What if two of the three companies that have been short listed disagrees with the award and it was in the best interest of the Commonwealth people, do we absolve them from going to court? Mr. Speaker and members, yesterday's bill was better and I think we all agree. It is bad precedent. However, Mr. Speaker, CUC Board really should take the ball and don't drop it this time. It is putting the burden on the Legislature in the interference level and we shouldn't be interfering. We are violating those agreements that we have committed ourselves. And no wonder, no wonder, the people do not have the sense of confidence in the electorates. Thank you.

Speaker Fitial: Further deliberation? Representative Jones, recognized.

Rep. Jones: If colleague Hofschneider remark that we are interfering with the authority of the CUC Board and consider that that is in fact as legal basis, taking that into consideration and proceed and pass this bill as is, would this bind CUC Board to comply with or should CUC? I should mention earlier, CUC has that fiduciary responsibility to either ignore or accept? So that means, that the passage of this bill, enacted into law, CUC Board can take any position they want to irrespective the outcome of this bill?

Rep. Hofschneider: Mr. Speaker, may I answer that?

Speaker Fitial: Proceed.

Rep. Hofschneider: Mr. Speaker, there is a case precedent set, when in the midst of an empowered agency such as CUC, or the Board of Education, an empowered body given by statute, in the midst of decision process there is court precedence on the federal level that applies to state level. A classic case example is a citation in the Federal Code that specifically allowed CUC's and the Legislature's interference. We cannot interfere in the midst of a decision process, that, has been set by court precedence. So, we are in fact mandating CUC to adhere to some directions of decision process outside the scope of a true, uninterfered, unadulterated decision process by the Board. So, this bill would influence how they will decide.

Speaker Fitial: Proceed, Representative Jones, you still have the floor.

Rep. Jones: So, you are saying that it will influence the Board but not necessarily for the Board to comply with?

Rep. Hofschneider: Mr. Speaker?

Speaker Fitial: Proceed.

Rep. Hofschneider: Mr. Speaker, there are statements in this legislation that specifically states, "CUC shall" and I believe everyone read the bill. I do not specifically have the time to point, but on the last page for instance, on Section 6, line 9, "CUC shall make an award under RFP

97-0025” which is consistent with what they are doing. There is nothing wrong with that. The problem is when you combine the insistence of other sections, low speed generation, for instance. Maybe the Chairman, Mr. Speaker and members, can answer -- did the other two submitted low speed generation as an option? By Section 7, you are diverting the diligent decision process making to low speed generations. So, you are in fact influencing the Board to consider that. And, I don’t know, Mr. Speaker, if all three submitted low speed generation.

Speaker Fitial: Chairman Jones, would you yield to Chairman Rosiky Camacho?

Rep. Jones: Just one last and then I’ll just yield.

Speaker Fitial: Okay.

Rep. Jones: You mentioned earlier that CUC Board has fiduciary responsibility, at the same time the Legislature provide funding to CUC using taxpayers money. While they have that fiduciary responsibility to ensure that the operation and management of CUC is complied with; on the other side, we as members of the Legislature have to ensure too that the expenditure of public funds is done at the most prudent decision we should think of or we should arrive. And, I believe that the Committee found that our part in assuring that public funds is expended in the most prudent manner. We proceed with this recommendation. Thank you.

Rep. Hofschneider: Clarification, Mr. Speaker.

Speaker Fitial: State your clarification.

Rep. Hofschneider: For the record, public funds with this particular proposal is new, zero. The contractor will pay, finance the construction and operate it for twenty-five years according to the RFP issue to a tune of over \$1.2 billion over the life of twenty-five years commitment. The consumers are the ones to pay for that, zero appropriation from our side.

Speaker Fitial: Chairman Rosiky Camacho?

Rep. Rosiky Camacho: Thank you, Mr. Speaker. There is one that I always question in terms of interference. I think what happened to this particular Senate Bill is that when the Board decided to collapse that RFP which is specifically for an 80 megawatt that, in mere fact policy decision from Board of CUC have stopped in terms of 80 megawatt. Mr. Speaker, after thorough discussion with our colleague in the Senate, we so decide that it is the best interest of the CNMI people and this body to look at the further delay as stipulated in the findings of this bill, is no way that we prolong this process. Second, it is the intent of this body, this particular bill, who base their findings base on Burns and McDonnell recommendations. It is from that basis that it is the both House that decided that it is that recommendation it is truly right not instated correctly, stated firmly that such description is stated that it implied. It is up to us to make that decision that it is, us, the Committee and this body to look at that recommendation. Mr. Speaker and fellow colleagues, it is been three years been dragged and it is been three years that this situation with the Board is in the process of making decision. To make it very clear, it is like saying, they have decided but now they don’t know where to go. Simply, Mr. Speaker, I think I would like to ask our fellow colleagues to look at Burns and McDonnell, there are creditable findings from an independent evaluated, if you have time you can read it. I think we have also here what we called

time line thing, we could find out that the Governor have stated, Senate Vice President have stated, it is all in here in this findings of all the meter assured that we need that power generation. Simply, this proposed Bill is not in a sense completely killing out the 80 but facing in the 60 to 80 megawatt. For that, Mr. Speaker, I ask that we move to the previous question.

Speaker Fitial: Representative Apatang?

Rep. Apatang: Thank you, Mr. Speaker. Just for may be a decision question or a clarification, I just wonder, if this bill passes today and just so happens it becomes law, signed into law, I wonder if CUC Board have the authority to challenge this bill if it becomes law. I wonder if they do have that authority. How long will it take again to settle this issue? Whether it is going to take three years again, or so just to settle between the issue about this particular bill if signed into law? Where is the authority of the CUC Board? I wonder also if it be more appropriate if we just do a resolution to request the Board to consider their decision on the 80 megawatt and let them decide since they have that responsibility to the general public? I wonder if somebody can answer that. Thank you.

Rep. Hofschneider: May I append that, Mr. Speaker?

Speaker Fitial: Representative Pangelinan?

Rep. Pangelinan: I am bothered by the attitude of some of my colleagues to end this debate. Debate in my definition is a friendly discussion for acquisition of knowledge and this is sharing ideas for the best interest of obtaining knowledge and once we terminate this is in this floor then knowledge will not be well distributed to all of us. And, I encourage my colleague to continue to allow us to debate this issue in a friendly approach. I feel that the passage of this bill will set a very dangerous precedent to other Boards. I was a Board member for the Board of Education for four years and I recent deeply a mandate from anywhere above that Board instead of other diplomatic approaches such as what Representative Apatang recommended. Maybe a good simple resolution obtaining our concern what we want CUC to hopefully comply will resolve this. What bothers me also is the way we resolved things on this 49 square mile island, Saipan, this is our home. At any time there is a major issue the first thing we come across is to disassociate ourselves from the major issue, go external of the issue and bombard people who are responsible with very destructive criticism. That is not what our ancestors thought us to be. That is not the best method to resolve our own internal concern. Upon this, we don't have to legislate to mandate CUC what to do. A simple approach that unified us together, a family approach will resolve this. CUC is what, about ten minutes ride. We can call them to come in, "hey, this is a family matter, this is our island's concern, how do we best collectively, collaboratively, togetherness, the oneness approach..." The more we embark in this kind of direction the more we become fragmented at it. The more we look at things differently, the more we become isolated, the more we become disunited. Once people become disunited, you place yourself in very vulnerable places. You've become vulnerable for influences, external of what you believe deeply. And my colleagues maybe one day you will become a board member or a council member of the many boards we have, and all you wish is to be given that trustworthy, be in dependability to make that sound decision because these people are human beings too. The Board of Directors of CUC, they know that they have made the wrong judgment and we don't have to mandate them to do what is right. There are certain developmental stages now. I talked to some of them and they realize that they are in the process of resolving it themselves. All we need is to give them that supporting arm to do whatever they decide it will affect us. Thank you.

Speaker Fitiaf: I would like to ask the Vice Speaker to assume the Chair because I would like to participate in the deliberation.

Rep. Hofschneider: You can deliberate up there.

There was no objection.

Speaker Fitiaf: First of all, I do agree with Representative Pangelinan. I don't think it is our culture to be mandating the Board what to do. But when we realize and recognize the need of additional power generation and that this need was suppose to have been accommodated three years ago by this Board, then I think it is imperative that this Legislature charged with the authority to legislate -- and like Representative Hofschneider had pointed out -- by law, we are responsible. The Legislature is responsible to ensure that CUC is on track with its fiduciary responsibility. This is a long history of negotiation, meetings, and decisions that have lapsed for the past three years and the need for additional power generation has yet to be met or satisfied. On top of that, when this project will finally be awarded it will take additional two to three years to construct this project and complete this project. The CUC, as I see it, made a mistake by not securing advise, expert advise how to proceed with this project. They finally realized that they made a mistake by meeting all the projects without securing expert advise how to proceeds with this project. Later on when the Public Auditor came into the picture and recommended for the right thing for CUC to do then that is the time they are calling expert advise. So, when the expert advise gave out their recommendations, they were caught with their pants down because the bidders already submitted their proposals. So, their expert advise recommended that for economic purposes, this project should be downsized from 80 to 60. The CUC Board was advised legally that under the present procurement regulation under the present RFP, under the existing RFP at that time, the procurement regulation to downsize the project from 80 to 60. So, they collapse the RFP because they believe according to their legal experts, their RFP was improper. They cannot downsize the project under the present RFP because of their procurement regulations. Their procurement regulations only says that when you are going to award the project, 80 megawatt is 80 megawatt, it cannot be downsized. So, yesterday's amendment was suppose to accommodate that concern by the Committee that CUC should have gotten expert advise before they allow the project to be bidded out. But, because in the interest of time, the Committee is now recommending that we will proceed with the legislation proposed by the Senate which was intended to give CUC the authority to downsize the project from 80 to 60 using the same RFP. This Senate Bill will allow CUC to use the same RFP and downsize the project as recommended by the experts, Burns and McDonnell. The Legislature is not restricting CUC to use slow RPM generators. This is only a memorialization of the recommendations by Burns and McDonnell -- clearly pointed out the advantages of such generator. Nothing in this Bill is telling CUC what to do that the experts, Burns and McDonnell is not telling them. CUC is concern about the potential liability that they may incur if they do not follow recommendations of experts, Burns and McDonnell. This legislation, Senate Bill No. 12-19 is only trying to resurrect the RFP that CUC has collapsed so that CUC can move on and not having to invite new bidders because that would take additional time. Right now, there are no bidders in town because CUC is telling them that they are reissuing a new RFP for a 60 megawatt. So, there are no bidders aside from those that Representative Hofschneider have mentioned that they have already short-listed this project. I think fairness, only those who have participated in the first RFP should be allowed to continue to participate in this project. To allow another new RFP would only delay the construction and availability of additional power generation that is badly needed here in the Commonwealth, especially Saipan.

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

Speaker Fitiaf: I would just like to make one last point. This legislation will not absolve any wrongdoing of CUC prior to the enactment of this legislation. If CUC had any prior wrongdoing

then they will be answerable to those wrongdoings. This legislation does not condone, or excuse, or pardon CUC for any wrongdoing that they may have committed prior to the enactment of this legislation. I want that point to be very clear because we are not going to absolve any wrongdoing prior to the enactment of this legislation.

Rep. Hofschneider: Point of information.

Speaker Fitial: Can I recognize any other members who have not spoken for the first time before I recognize Representative Hofschneider for the second time? Vice Speaker?

Vice Speaker Mendiola: Thank you, Mr. Speaker. Going back to one of my colleagues requesting if we can put this in a resolution. Mr. Speaker, I experienced myself in the Eleventh Legislature, we passed one resolution for the CUC Board to make a decision as far as to reduce the water rate for the farmers and up to this time CUC Board did not come with any such report or any such consideration in regards to that resolution. This bill, and if somebody is suggesting to put out into a resolution, Mr. Speaker, I don't think I can abide with that recommendation. I have experienced it. And up to now I want to see the Board of CUC to take action on that resolution that we passed in the Eleventh Legislature for these farmers to be considered at a lower rate on that resolution. So, I don't think I'll recommend for any such resolution since I did not see it materialize on my resolution that we passed in the Eleventh Legislature. Thank you.

Speaker Fitial: Further deliberation for the first time?

Vice Speaker Mendiola: Move to end debate, Mr. Speaker.

Speaker Fitial: I will allow Representative Hofschneider for the second time and then we can move to end debate. Recognized.

Rep. Hofschneider: Thank you, Mr. Speaker, for allowing me to come back for the second time. Again, Mr. Speaker and members, we do not quarrel or have disagreement as to the need but we need to have this power, this size, and the timing is of essence. But would it really matters that Chairperson Elameto has given all members of the Legislature, including the House and the Senate have stated very clearly that they are going to award by May a contract. Again, Mr. Speaker, yesterday's amendment, however only a minor sentence makes a whole lot of difference in respecting the authority of the Board and conforming to what we want them to take action immediately. I would prefer, Mr. Speaker, that an approach be taken by the Committee. A legislation coming up by the leadership or the Committee specifically giving them a thirty-day notice by law, to consider the three that have been short-listed and make a decision and award a contract with no conditions set similarly to Senate Bill No. 12-19. That would have been a proper approach because all we are concern about is time, and forcing CUC to negotiate for the best interest of the people and the consumers is the most effective way to do it. I suspect, Mr. Speaker, with good certainty after having talked to the Chairperson of CUC Board this morning that this legislation when enacted into law would derail because it is going to court and it is going to hold back any decision. There is a good certainty, I may be wrong, but that is what I gathered, Mr. Speaker. My suggestion is to put a legislation out and let us pass it giving them thirty days notice. What is so difficult to convince the Board for thirty consecutive days to make a decision and award a contract, they have all the expertise like we've said. Burns and McDonnell has given the recommendations, they have the expertise on Board, now it is only a matter for them to do what is required without intervening and setting mandate or conditions and the Legislature will accomplish what we set out to do. That is my recommendation, Mr. Speaker, and I think both the Senate and the House would be agreeable to setting a time table. That is the main objective. But don't set conditions that has something to do with the decision process because like I've said, it is not going to hold up in court. Thirty days, Mr. Speaker, is reasonable for them to convene and

take action and award a contract whoever that contract could be. What is important is that they consider the people first. This way is not the most appropriate way to do it. Thank you.

Speaker Fitial: The motion to end debate is on the floor.

The motion to end debate was carried by voice vote.

Speaker Fitial: We are now voting on the main motion to pass Senate Bill No. 12-19 on Second and Final Reading. Roll call.

The Clerk called the roll on the motion to pass Senate Bill No. 12-19 as follows:

Rep. Martin B. Ada	yes
Rep. David M. Apatang	no
Rep. Jesus T. Attao	no
Rep. Oscar M. Babauta	yes
Rep. Diego T. Benavente	no
Rep. Antonio M. Camacho	yes
Rep. Rosiky F. Camacho	yes
Rep. Florencio T. Deleon Guerrero	yes
Rep. Heinz S. Hofschneider	no
Rep. Brigade DLG. Ichihara	yes
Rep. Dino M. Jones	yes
Rep. Alejo M. Mendiola, Jr.	yes
Rep. Norman S. Palacios	yes
Rep. Thomas B. Pangelinan	no
Rep. Maria “Malua” T. Peter	yes
Rep. Stanley T. Torres	no
Rep. William S. Torres	no
Speaker Benigno R. Fitial	yes

Speaker Fitial: Senate Bill No. 12-19 passes the House on Second and Final Reading. Floor Leader?

Floor Leader Babauta: Mr. Speaker, I move for the passage of House Bill No. 12-14 on Second and Final Reading.

The motion was seconded.

H. B. NO. 12-14: TO PROVIDE LAW ENFORCEMENT POWERS TO INVESTIGATORS OF THE PUBLIC AUDITOR BE ADDING A NEW SECTION 7841 TO 1 CMC, DIVISION 7, CHAPTER 4; AND FOR OTHER PURPOSES.

There was no discussion raised.

The Clerk called the roll on the motion to pass House Bill No. 12-14 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
Rep. Antonio M. Camacho	yes
Rep. Rosiky F. Camacho	yes
Rep. Florencio T. Deleon Guerrero	yes
Rep. Heinz S. Hofschneider	yes
Rep. Brigade DLG. Ichihara	yes
Rep. Dino M. Jones	yes
Rep. Alejo M. Mendiola, Jr.	yes
Rep. Norman S. Palacios	yes
Rep. Thomas B. Pangelinan	yes
Rep. Maria “Malua” T. Peter	yes
Rep. Stanley T. Torres	yes
Rep. William S. Torres	yes
Speaker Benigno R. Fitial	yes

Speaker Fitial: House Bill No. 12-14 passes the House on Second and Final Reading.

MISCELLANEOUS BUSINESS

The Chair recognized Rep. Pangelinan.

Rep. Pangelinan: One simple comment, Mr. Speaker. I would like to say that the greatest mistake people make is undermining the credibility and intelligence of others. Thank you.

ANNOUNCEMENTS

The Chair recognized the Floor Leader.

Floor Leader Babauta: Mr. Speaker, the Committee on Commerce and Tourism will be meeting at 1:30 this afternoon to further deliberate on measures assigned to the Committee.

Speaker Fitial: Further announcements? None? I would like to announce yesterday’s miscellaneous, Representative Pangelinan requested the Speaker to look into three items of concerns that he has. The first concern he had was to hire additional legal counsel. I want to inform Representative Pangelinan that I will be meeting with the Director of our Legislative Bureau since legal counsels fall under him administratively and see if there are adequate or sufficient funds to hire another legal counsel. I believe the more legal counsels we have, the better. But we still have to live within our means so if there are funds available then we will hire additional legal counsel. Otherwise we just have to live with the two we have. Another concern is the appointment or creating another Standing Committee, Youth and Sports. I confirmed yesterday with Representative Peter and she advised me that this concern can be satisfied with

what Committee she is now Chairing. The Committee she is chairing, Health and Welfare handles youths and sports, unless Chairperson Peter would like to establish a subcommittee under her Standing Committee. So, I'll live that up to Chairperson Peter. The third concern was to consider putting together a local lobbying firm made up of the founding fathers of the Covenant. I did ask Representative Pangelinan to put this concern into a bill or a resolution, which ever is more appropriate so that we can consider it accordingly. Representative Pangelinan?

Representative Pangelinan: Thank you, Mr. Speaker. I applaud your effort for those requests. Of course, expenditures should never supersede income. Thank you.

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Mr. Speaker, I move to recess until tomorrow morning at 10:00.

The motion was seconded and carried by voice vote.

The House recessed at 11:45 a.m.

Respectfully submitted,

Joan P. Kaipat, Journal Clerk
House of Representatives