

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

EIGHTEENTH DAY

March 07, 2000

The House of Representatives of the Twelfth Northern Marianas Commonwealth Legislature convened in its Eighteenth Day, First Regular Session, on Tuesday, March 07, 2000, at 10:39 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), sixteen members were present and Representative's Rosiky F. Camacho and Maria "Malua" T. Peter were excused.

Speaker Fitial: The two members absent are excused. A quorum is duly constituted for the Eighteenth 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 14th, 15th, and 16th Days, First Regular Session journals for adoption.

The motion was seconded.

14th, 15th and 16th Day, First Regular Session journals (3/2-4/00)

There was no discussion raised. The motion to adopt the 14th, 15th, and 16th Day, First Regular Session journals was carried by voice vote.

Speaker Fitial: The 14th, 15th, and 16th Day journals are hereby adopted.

INTRODUCTION OF BILLS

H. B. NO. 12-130: A Bill for an Act to amend Public Law 11-7, Section 2 (b)(1) to provide for more flexibility in the types of educational facilities that may be constructed and to provide that the Tatachog shall be the site of such educational facilities; and for other purposes.

Offered by: Rep. Alejo M. Mendiola, Jr.
Referred to: Committee on Education

H. B. NO. 12-131: A Bill for an Act to amend 4 CMC, § 1708 to ensure equitable treatment between landowners who receive public land from the government in exchange for the private land and those who receive cash compensation from the government in exchange of private land; and for other purposes.

Offered by: Rep. Heinz S. Hofschneider and three others
Referred to: Committee on Natural Resources

H. B. NO. 12-132: A Bill for an Act to establish a public corporation for the hospital services known as the Commonwealth Hospital Corporation; and for other purposes.

Offered by: Rep. Heinz S. Hofschneider and four others
Referred to: Committee on Health and Welfare

H. B. NO. 12-133: A Bill for an Act to establish the Office of Administrative Hearings and Appeals; and for other purposes.

Offered by: Rep. Benigno R. Fitial
Referred to: Committee on Judiciary and Governmental Operations

INTRODUCTION OF RESOLUTIONS

None

MESSAGES FROM THE GOVERNOR

None

SENATE COMMUNICATIONS

None

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

The Chair recognized the Floor Leader.

Floor Leader Babauta: Mr. Speaker, earlier before the session, I requested the members to include Standing Committee Report No. 12-37 on Item Number 12. And if everyone is ready, Mr. Speaker, I move to adopt Standing Committee Report No. 12-37.

The motion was seconded.

S. C. R. NO. 12-37: Reporting on House Bill No. 12-94, entitled, “A Bill for an Act to amend 1 CMC 8247(a); and for other purposes.” *Your Committee on Judiciary and Governmental Operations recommends passage without amendment.*

There was no discussion raised. The motion to adopt Standing Committee Report No. 12-37 was carried by voice vote.

Speaker Fitial: Standing Committee Report No. 12-37 is adopted.

Rep. Attao: Mr. Speaker?

Speaker Attao: Representative Attao?

Rep. Attao: On Standing Committee Report No. 12-37 that we have just adopted, I would like to find out, if whether or not the legal counsel review the Committee Report as called for in the House Rules, Rule VII, Section 9?

Speaker Fitial: I believe the concern of Representative Attao is valid. Since we need to suspend the Rules to consider this particular Committee Report in the Order of Business. But I thought it was unanimous consent passed by the Floor Leader for this particular Committee Report to be placed in today’s Order of Business.

Rep. Attao: No, I am not questioning the placement of the Bill. I am just echoing the Committee Report that the report has to be reviewed by our legal counsel as to the sufficiency of the Committee Report. I am just asking if the legal counsel review the Committee Report.

Speaker Fitial: Legal counsels, you can nod or shake your head. They didn’t.

Rep. Attao: Thank you.

Speaker Fitial: Both counsels did not review this Committee Report. Our Rules does require that the legal counsel be review the report before it can be submitted –

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

Speaker Fitial: State your point of order.

Rep. Hofschneider: The fact that no member object it disallow the Rule to be impose since no objection, which is essentially an acclamation of overriding the Rule.

Speaker Fitial: If that is what is allowed by the Rule because I didn't see any provision of the Rule saying that such Rule will be disallowed if – the requirement of the legal counsel reviewing the report could be disallowed by the unanimous consent by the members. Representative Jones, since you are the Chairman of this Committee responsible for this Committee Report, do you have anything to --?

Rep. Jones: I just want to share that this legislation was sufficiently review by the counsel as shown on the Bill it self, and based from that signature, and based from the consensus of the Committee members, we proceed with it and endorse it and recommend passage of the Bill. Thank you. Otherwise, if there is any question that Representative Attao would like to raise, certainly it is open.

Rep. Attao: No, I am just pointing this thing out so that --

Speaker Fitial: Let us take one-minute recess.

The House recessed at 10:48 a.m.

RECESS

The House reconvened at 10:50 a.m.

Speaker Fitial: We are back to the plenary session. Floor Leader?

Floor Leader: Mr. Speaker, I so move to reconsider our actions regarding the adoption of Standing Committee Report No. 12-37.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. Now, we are back to the Standing Committee Report No. 12-37. Floor Leader suspension on the motion.

Floor Leader Babauta: Mr. Speaker, I so move for the suspension of Rule VII, Section 9 so that the body can adopt Standing Committee Report No. 12-37.

The motion was seconded and carried by voice vote.

Speaker Fitial: Floor Leader, adoption of the Standing Committee Report.

Floor Leader Babauta: Mr. Speaker, I move for the adoption of Standing Committee Report No. 12-37.

The motion to adopt Standing Committee Report No. 12-37 was carried by voice vote.

Speaker Fitial: Standing Committee Report No. 12-37 is adopted legally.

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

None

BILL CALENDAR

The Chair recognized the Floor Leader.

Floor Leader Babauta: I move for the suspension of Rule IX, Sections 9 and 10 to place House Bill No. 12-94 on today's Bill Calendar.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. Floor Leader?

Floor Leader Babauta: Thank you, Mr. Speaker. Mr. Speaker, I now move for the suspension of Rule IX, Sections 9 and 10 for the passage of House Bill No. 12-94 on First and Final Reading.

The motion was seconded.

Speaker Fitial: I think we just finished disposing of that motion.

Floor Leader Babauta: Clarification, Mr. Speaker, placement. The second motion, Mr. Speaker, is for the suspension on First and Final.

Speaker Fitial: Right. Your motion now should be for passage because we just disposed of the suspension motion placing it on First and Final.

Floor Leader Babauta: If I may, Mr. Speaker, the first motion was for placement on the Bill Calendar. And the second motion, Mr. Speaker, is for the passage on First and Final.

Rep. Benavente: Can we call for a short recess, Mr. Speaker?

Speaker Fitial: Do you have any point of clarification?

Rep. Benavente: I am not sure that it is necessary to suspend – there is a provision in the Rules that restricts us from placing Bills on the Calendar. Once adopted –

Speaker Fitial: Automatically places it on the Calendar.

Rep. Benavente: Right. Once the Committee Report is adopted the reference Bill automatically appears on the Calendar.

Speaker Fitial: That is the Rule right now. So, the first suspension motion was to be passed on First and Final which we just finished disposing. So, the appropriate motion at this time is for the passage on First and Final.

Floor Leader Babauta: So clarified, Mr. Speaker.

Speaker Fitial: So, can you effectuate a motion for the passage of the Bill, Floor Leader?

Floor Leader Babauta: Thank you, Mr. Speaker. I move now for the passage of House Bill No. 12-94 on First and Final Reading.

The motion was seconded.

H. B. NO. 12-94: A BILL FOR AN ACT TO AMEND 1 CMC 8247 (A); AND FOR OTHER PURPOSES.

There was no discussion raised. The Clerk called the roll on the motion to pass House Bill No. 12-94, on First and Final Reading 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	excused
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	yes
Rep. Maria “Malua” T. Peter	excused
Rep. Stanley T. Torres	yes
Rep. William S. Torres	yes

Speaker Benigno R. Fitial

yes

Speaker Fitial: House Bill No. 12-94 is passed on First and Final Reading. Floor Leader?

Floor Leader Babauta: Mr. Speaker, Miscellaneous?

Speaker Fitial: Well, this Bill that is for Second Reading is not for Miscellaneous.

Floor Leader Babauta: Mr. Speaker, at the request of HANMI and the contractors association permanently, HANMI, that we had agreed to incorporate their concern on House Bill No. 12-39 with our recent meetings with them. I would like to request the body to suspend discussion on House Bill No. 12-39 and we wait for their proposal to arrive sometimes today, Mr. Speaker, or tomorrow morning.

Rep. Hofschneider: Clarification.

Speaker Fitial: Let him finish.

Floor Leader Babauta: Aside from that, I understand that the contractors association will be meeting on Saturday morning to also submit their proposal regarding House Bill No. 12-39 provisions.

Speaker Fitial: Okay, clarification, Representative Benavente.

Rep. Benavente: Thank you, Mr. Speaker. I would like to suggest that we further discuss this in today's session and then, if we wish, we may defer action further after discussing, hoping that we are allowed to provide some amendments to the Bill, bring up some concerns that maybe the body can further consider before the next action on the Bill. So, I would like to ask the Floor Leader, for the purpose of discussion, make a motion to pass on Second and Final Reading and then defer action after we incorporated or allow the discussions with possible amendments.

Speaker Fitial: Representative Antonio Camacho?

Rep. A. Camacho: I think it is more advisable to wait for the reports from the HANMI and the contractors so we can incorporate maybe possible amendments to improve further the Bill. So, I would suggest for a deferment until –

Rep. Benavente: Further clarification.

Speaker Fitial: Further clarification, Representative Benavente.

Rep. Benavente: I totally agree that we should allow discussion, but I think at the same time, there are several amendments that might be address if we were to incorporate these amendments further by this association. So, I think that we will be doing us a favor by considering some of these ideas before we even bring it to the association or the public for that matter. So, I really think that we should consider –

Speaker Fitial: Let me just give everybody a point of information. Like I said from the very start, I don't want this Bill to be railroad by the House. I want as much discussion, deliberation on this particular Bill as possible. So, we did met (the Leadership) with HANMI and I met personally with Richard Zumele, who set up a meeting for the contractors association to discuss this Bill. They will be (HANMI) definitely submit their proposal so as the contractors association after their meeting this Saturday. So, we don't want to consider this particular Bill on its Final Reading before these two proposals arrive.

Rep. Benavente: Under clarification, Mr. Speaker.

Speaker Fitial: Go ahead.

Rep. Benavente: We would not necessarily be considering this on its final version, I am only asking that we be allowed to discuss it and then at the end of the discussion make a motion to defer action further on it until we hear the testimony. I'm merely suggesting to allowing us to bring up further concerns so that this body may consider those concerns by that time.

Speaker Fitial: Do we need to make a motion to allow further discussion by the members?

Rep. Benavente: To stay in order, yes, Mr. Speaker.

Speaker Fitial: To stay in order. We can also resolve into the Committee of the Whole to accomplish your concerns and I think that would be the appropriate venue, to resolve into the Committee of the Whole so that we can deliberate on this particular Bill and for you to point out your amendments.

Rep. Attao: Mr. Speaker?

Speaker Fitial: Representative Attao?

Rep. Attao: When we go into the Committee of the Whole, I am certain that the amendment that will be offering by Representative Benavente will not be entertained. So, I will strongly recommend that we wait for the reports from the contractor association, the HANMI, so that we can discuss the Bill once and for all and put the necessary amendments and pass the Bill.

Speaker Fitial: For your information, when we met with HANMI, they specifically requested that the Bill will also incorporate their concern to be allowed flexibility to pull resources so that when a hotel would need additional manpower, they don't need to go out and recruit from outside. They could just pull the resources and they could just borrow. I like to use that word "borrow manpower" within the industry.

Rep. Benavente: May I provide some information, Mr. Speaker, under point of information?

Speaker Fitial: Go ahead.

Rep. Benavente: That is one of my amendments. I brought this up during the First Reading of this Bill, and I am offering an amendment to allow the hotel associations as well as the construction association the same opportunity that is incorporated in this Bill for the garment

industry to use or transfer temporarily their people and that is my amendment. What I was suggesting was that we provide this amendment in the Bill and offer it to the hotel association and the construction association and see if this is acceptable to them and if not, they can further propose their idea. But this is my intention, to allow us to incorporate some of these ideas further for them to consider. But, I guess we can do either way. It is up to you and the leadership.

Speaker Fitial: Definitely, the leadership favors such amendment because that was a request specifically made by the hotel association.

Rep. Hofschneider: Mr. Speaker?

Speaker Fitial: Go ahead.

Rep. Hofschneider: Essentially it is just creating the same pooling mechanism created under the garment section so it did apply for the hotel industry if that is workable and acceptable

Speaker Fitial: I would prefer that if the members wish to deliberate further on this particular Bill, let us do it in the Committee of the Whole so that we don't have to effectuate a motion for passage on Second Reading because we would like to wait for the proposal from both associations.

Rep. Hofschneider: I think that is the best.

Speaker Fitial: Representative Apatang?

Rep. Apatang: Mr. Speaker, is the Committee going to be reviewing this bill again, once they receive the proposal from the HANMI and the contractors association?

Speaker Fitial: Definitely.

Rep. Apatang: I would like to recommend that we provide the Committee a copy of the recommendations that Representative Benavente has so they can take a look at it and maybe incorporate that into the Bill so when it is ready for Committee Substitute 2, we can entertain that on the floor?

Speaker Fitial: By all means. If the members wish to resolve into the Committee of the Whole, I would like to entertain that motion.

Rep. Benavente: So move, Mr. Speaker.

The motion was seconded and carried by voice vote.

The House resolved into the Committee of the Whole at 11:05 a.m.

COMMITTEE OF THE WHOLE

Speaker Fitial: For this purpose, I would like to ask the Chairman of the Committee on Commerce and Tourism to Chair the Committee of the Whole because I would like to deliberate myself.

Rep. Hofschneider: Mr. Speaker, there is no need to descent. We will allow you to deliberate.

Floor Leader Babauta: No objection, Mr. Speaker.

Speaker Fitial: You know, to tell you the truth, I don't feel that I'm 50 above you when I'm deliberating.

Chairman DLGuerrero: We may proceed with the Committee on Commerce and Tourism to deliberate on House Bill No. 12-39, C. S. 1. Representative Benavente?

Rep. Benavente: Thank you, Mr. Chairman. Yesterday, during the discussion on First Reading, I brought up the concern of the repeal of Public Law 10-44, which is the minimum investment requirement for foreign investors to receive the foreign investment certificate. In meeting with the Secretary of Commerce yesterday, and I hope that we can get the concurrence of our legal counsel that it is in their opinion and even if House Bill No. 12-39, proposes to repeal Section 7 of Public Law 10-44, which is the Section that allowed the promulgation of regulation to establish a \$50,000 minimum investment. That particular regulation is still in place and House Bill No. 12-39 will not repeal the \$50,000 minimum investment as promulgated by this regulation at this time that is the concurrence by the legal counsel -- if we may get a concurrence from the legal counsel.

Legal counsel: (microphone off)

Rep. Benavente: So, that eliminated one of my concerns yesterday. I think that as far as other members concern, to increase that, we may do that at a later date and maybe not necessarily in this Bill. But at least for the record, for fact that we did not just leave everything open that there is still a threshold of \$50,000 minimum investment in order for the foreigners to receive their foreign investment certificate. The other concern I have is on the repeal of the Fair Compensation Act. Mr. Chairman and members, I know for a fact because I worked and co-sponsored the Bill that created the Fair Compensation Act, that it is almost impossible at the last time we met anyways with those that are involved with the Chamber of Commerce, and the industries that are involved to implement this. But there is still a very big concern that we need to consider as elected officials here, as a representative of our people, and that is the unfairness that continues out there in this community by the businesses in this community, that our own local people are doing the same job for less money, and that needs to be consider. I agree that if we can't implement the Fair Compensation Act that we should remove it, but we should not forget those people that are still being mistreated out there our own local people that are not receiving this Fair Compensation. One of the ideas that I hope that this body will consider is, the increase of minimum wage

because with out that, our own local people are not going to see any kind of increase in benefits, let us all face it. That is necessary right now. We recently saw the increase of gas price here on our island. We need to consider increasing the income of the people here to assist them in the increase cost of living here in the Commonwealth. So, I hope that the body considers that if we are serious in removing the Fair Compensation Act. The other concern I have is on the repeal of the Moratorium Law. Members, the situation before we enacted the Moratorium Law, one of the situations that we were faced with was a lot of nonresident workers that were leaving their employers that are going illegal was a result of these employees not wanting to leave the Commonwealth or the employers also the same time were not going to renew them. We provided a mechanism in the Moratorium Law that would require that employers if they are going to get replacement for these individuals the employers would have to be account for those employees so that those employees would have to either leave the Commonwealth or is accounted for to be transferred to other employers. We can't just leave that, because I am seeing a scenario now where one garment factory for example, would not renew 20 of their workers. They want to replace those 20 workers, these 20 workers find out that they are not going to be renewed so they run away and they hide. If we are going to allow Labor and Immigration to replace those 20 people, we will have started 20 illegal. The next garment factory that comes in and wants to replace 30 people, those 30 people will run away and hide, and we've got to account for that. I think we should continue to make the employers, whether it is the garments, or constructions, or hotels, or Mom and Pop store, make the employers be accountable for those individuals. I don't think that we should go back to the point of where we had couple of thousands of illegal on the island. That was one of the mechanisms that I felt was necessary to prevent the increase of illegal in the Commonwealth. I hope that we reconsider that particular provision and continue that because I think that is going to be necessary. I yield at this time, Mr. Chairman, I do have several other concerns, but I yield at this time. And also – or before I yield, I would like to inform the members that the amendment which is passed out, the propose amendment is granting the construction industry and the hotel industry the same privilege that we provided under this proposal to use workers on a temporary basis within the industry. We can either consider that later on or consider it after the discussion with the hotel and the construction association. Thank you.

Speaker Fitial: Mr. Chairman?

Chairman DLGuerrero: Mr. Speaker, go ahead.

Speaker Fitial: I think that it is healthy to provide deliberation on issues concerning this legislation. I would like to point out to all the members that the Fair Labor Compensation Act, the intent is good, but it cannot be enforce. Why? Because the agency charged with the enforcement said that this particular statute couldn't be enforce. So, tomorrow, I will be introducing the Fair Labor Standard Act for the Commonwealth. And under that Act, there will be no differentiation between nonresident and resident. All the resident employees will also have a contract for them to be employed and the contract will be the governing document

describing the terms and conditions of employment. So, we don't need to raise minimum wage to make sure that our resident workers get what they deserve.

Rep. Hofschneider: Mr. Chairman, can we allow a dialog?

Speaker Fitial: Yes, but let me finish first.

Chairman DLGuerrero: Let him finish with his presentation first.

Speaker Fitial: I don't want to loose my line of thought. On the other issue raised by Representative Benavente regarding the repeal of Moratorium Law, there was a mechanism indeed to require employers to account for their run away employees. But, when employees are become masters of how to hide, it is very difficult for the employers to find them. And, not only that, there is danger to require the employers to account for their employees because at time, employees complaint because their employers beat them up when they find them, especially when they have been looking for them for more than one year. So, the Fair Labor Standard Act will also cure this particular problem and I don't think that we should require employers to always hunt for their employees. I think we need the enforcement because there is danger like I pointed out. We are not hoping that this might happen, but when employers are angry, we cannot control their emotions when they find their employees who have run away for long time. We need to place enforcement of these laws in the hands of our Law Enforcement Officers. We cannot jeopardize the employers to go look for these employees because something might happen to these employees when they are found. The bottom line is, we are trying to stimulate economic growth and if we are going to restrict commerce, if we are to restrict businesses doing their own business without any interference from government. I think this environment would be more conducive. The minimum investment requirement, this is good when the business climate is conducive, but after 2000 is close down and we continue to require restriction on minimum investment, I think it will not serve its purpose. I am not saying that we should always be lenient, but when we know for a fact, that business is not good then we should provide for a conducive environment for business to survive. I like the proposed amendment offered by Representative Benavente, I think this is in line with the leaderships position to allow both the hotel and construction industries to pull resources within their industry to accommodate their needs. I am done for now.

Rep. Hofschneider: Mr. Chairman?

Chairman DLGuerrero: Representative Hofschneider?

Rep. Hofschneider: As I stated earlier, I think a healthy way of discussing this is to allow a dialog for instance with the Speaker. Can I yield for one minute or thirty seconds?

Rep. Benavente: Mr. Chairman and members, I ask that we continue the recording on this discussion so that when we do go back to discussing the Bill, I

would ask that the discussions during the Committee of the Whole be incorporated in the Bill so that we don't have to repeat ourselves during the discussion of the Bill, without objection from the members.

There was no objection raised.

Chairman DLGuerrero: No objection. Representative Hofschneider?

Rep. Hofschneider: Thank you, Mr. Chairman. I agree with what the Speaker is trying to get across in providing a conducive environment and that is the key. If it is the conduciveness of investing when we spend millions of dollars in MVA, spend millions of dollars on trade missions, and so forth, and then we come back and bring these guys in and says, "come and invest in the Commonwealth and look at all the restrictions." Anyone who employs nonresident in the Commonwealth can attest to the cost of doing business in the Commonwealth, talk about economics then I'll talk about social responsibility. The key to it all is not necessarily relieving those specific conditions set in either the Moratorium Act or whatever public law that is cited in House Bill No. 12-39, the key to it all is this business of allowing the government under Public Law 5-32, the conditions or mandates certain benefits, it is in the Public Law 5-32, which states that if you employ a nonresident, it doesn't talk about resident employees, this is where inequity begins under Public Law 5-32, the Speaker is correct in the approach – is that even in the U. S. Labor Act of 1934 and hardly change, you only mandate that the employer live up to the wage and hour act and the health and safety of that individual, that is it! You don't allow that government to dictate what kind of employee to employ? What kind of conditions you should be setting? I think that when an employer announce to the public and says, "I need an employee" whether it be nonresident or resident that wants to apply is irrelevant so long as the employer really fulfills the mandates for that specific commerce activity that he is in the business in conducting a business. The government steps under P. L. 5-32, and states, "you shall provide for repatriation – you shall provide for housing – you shall provide for medical care – it is silent" there is no legislation in the Commonwealth that does the same for a resident employee. By introducing the Fair Labor Standard Act, it will balance the field for residents and nonresidents. Having said that, if it is the intention of the leadership and this body to adopt a Fair Labor Standard Act, then there are some conditions that we must revisit in H. B. No. 12-39. For instance, under P. L. 5-32, 3 CMC 4434 of page 3, starting line 28, for intents and purposes these are job categories of minimal skill requirement. We are talking about taxi drivers, we are talking about bus drivers, we are talking about tour operators, we are talking about telephone switch board operators, let us not open this up, why? Because logically, of all the graduates that we produce in our public school and private school system here, a very small percentage pursue postsecondary education, what do we have for those greater lot that graduate and do not see the need nor are interested in pursuing postsecondary education? Bookkeeping and accounting, yes, I understand the difficulty of businesses trying to tap into those human resources that can accommodate their needs. But the Northern Marianas College has an on-going program with the University of Guam, a four-year bachelor degree program for accounting there's a lot of

students that are taking these courses. The protectionist, however protectionist this particular section of the existing law, I think that fundamentally, it is a sound policy to ensure that these minimal skills occupations be reserved because we can find those. It is a matter compensating that employee appropriately to stay on the job, whether that an increase in minimum wage, let the market dictate, let the employer dictate. If by comparison, and it is impractical to enforce the fair wage compensation act, how do you adjust for housing? How do you prorate food over the year? How do you prorate health cost over the year? Unless you have a small number of employees that you can reasonably buy them an insurance policy. But for large employers, it is typical and it is convention to self ensure themselves. On the other hand, we have a developing small economy in farming industry, by reducing \$2,000,000 to \$200,000 – if you are trying to invite in people than reducing it down to \$200,000 is the appropriate way. But as a matter of looking at it from the other prospective and that is the end product is the same in hydroponics for instance, if a person comes in and develops a hydroponics system of producing lettuce, or cabbage, or string beans, what is in the store under this legislation for those people that are farming or renting government plots or – if the intention is to provide competition for them than this is the right way. If it is the intention to keep the \$2,000,000 so that anything below that is reserve for locals as the farm plots in Kagman is intended, then we are going the other way. I would like to see that before we repeal the three-year limit, that we see a definitive legislation, Mr. Speaker and members. Appropriately, if you apply a three-year or a five-year, the purpose of insisting on a definitive number of years that you can employ a nonresident is for one purpose, and that is to ensure that you force the employers to start developing or having a program to replace nonresidents because that is after or the intention of controlling locally immigration under the Covenant. Is that, in the future when you develop the skills and the human resources, you take out the need of nonresident. Repealing it in it self and not ensuring that there is that insistence in the employers to develop or have a program that would train the locals and uplift the skills and entice them to stay on the job. I think the criticism on our local labor resources here is that, one, they are non-reliant, non-compliant, and the turnover rate is so short that it is in practical economically speaking to hire resident employees. Something is not consistent with our intension and what in reality is going on. We have almost over a thousand unemployed individuals in the Commonwealth. And every year we graduate roughly 400 to 500 students. We need to develop a sense of pride in the job forces, in the kind of occupation that is being offered by the industries. For instance, why is it so unpalatable for young kids to take job in Hyatt Hotel as waitress and waiters – maybe to supplement their income while going to school – or generally speaking, why is it that we put a stigma on certain occupations that it is better left for nonresident workers? These are the realities, changing the law without looking at the social responsibility, no matter what omnibus legislation we come up with. It will not do any good if we don't address that particular element. We need to start advocating a change in prospective, maybe shifting of abrader, Mr. Speaker, is what we need. I think that from first grade, there is a stigma already in place about domestic workers, about farmers, about construction employment or occupations, about automotive repairs, about barber shops, about waiter and waitresses in hotels and descent establishments, why is it that we have failed in that respect? Why is it that

we continue to wrangle ourselves to death about changing the laws and yet it seems that the bait were throwing out? Because for all intense and purposes, this is directed towards developing the economy and providing for opportunities for our people, primarily. Secondly, is that if we don't find the human resources in the Commonwealth then we bring in the supplement human resources, but it seems that it is not working because there is that social mentality. For instance, how many times have you visited PTA's and hear the teachers complaint, now, once they turn around and look at the Filipino and says, "hay, I am not going to listen to you" no wonder there's disruption and disrespect in authority. I think it is good that we are addressing this issue, but we failed on the other component of economic development, and that is the social quality of our people's life. Improvement in empowerment of the income of the individual translates to: pride, confidence and better well-being. The argument whether this legislation is intended to catapult the economy is good. But let us not forget we don't control the yen, we don't control the won, we control the US dollar by the kinds of legislations that we are imposing on those investors. So, when the economy in the region is stagnant no matter what we do even if we have an open door policy, this is the time to look at shifting of abrader, Mr. Speaker, and say, "hay, let us do something" this is needed -- don't get me wrong -- this is need. But look at the disgust the level of consciousness of our people saying, "politicians are misrepresenting our people because they talk about opportunities and they can't find jobs." We continue to approve land leases and yet they fulfill that particular portion of the mandate, the local employees should be treated first, and then, after couple of years they find reasons to let go of local residents -- case in point of the golf courses, Mr. Speaker, and you know the person that I'm talking about. It just strikes you deep in your heart to look carefully. I think that by instituting Fair Labor Standard Act and relieve the mandates or conditions set forth in P. L. 5-32 is a tremendous strike in the right direction. But we must not compromise, we must not comprise in looking and developing towards giving accessibility to economic opportunities for our people first. If you translate \$600,000,000 or \$3,000,000,000 of gross island product of activity and what percentage is derive from the participation of local, entrepreneurs or local opportunity in terms of jobs –

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

Chairman DLGuerrero: Representative Jones, go ahead.

Rep. Jones: Yesterday, we agreed to have the session at ten o'clock so that we can be able to attend the funeral. And I also would like to say a piece of the subject matter. Thank you.

Chairman DLGuerrero: Representative Hofschneider –

Rep. Hofschneider: I am closing up. So, I guess, you know – to say it simply puts –

Speaker Fitial: Can I give your closing remarks because I follow you and I am in full agreement with your line of thinking?

Rep. Hofschneider: I'll allow you to close my remarks, but I must say though, I would like to support the Bill, Mr. Speaker, this is a good Bill, and we can make it better, if we reconsider taking out P. L. 11-69, repealing it in its entirety and addressing it on a separate legislation because I have an idea how to make it work, and I briefly discussed it with you. We can increase that from three years to five years and impose that condition with criteria for that imposition of the five years limit. If an employer does not take it into their own hands to develop a job training without us mandating what kind. I don't believe in mandating, infringement on a particular employer but for the essence of why we instill developing our human resources here for the greater lot of people who wants to access economic opportunity in the private sector. We can increase it from three years to five years and set conditions that within this period of time, you are allowed to bring in nonresident, but you must take the initiative to start developing the local human resources, by training as you have stated, instill and straighten that particular element in employment and relieve those mandates that translates to cost and let them be the one to invest in training. \$230 per nonresident, Mr. Speaker, is a lot, it is a lot of money and we are misusing it over the years.

Speaker Fitial: Can I close his remarks because I only have one minute?

Rep. Hofschneider: Yes, Mr. Speaker.

Chairman DLGuerrero: You may, Mr. Speaker.

Speaker Fitial: In closing Representative Heinz Hofschneider's remarks, I would like to say that this bill is only one of the major components of the economic agenda that we have to stimulate economic growth and create opportunities for our local people to work in the private sector. Aside from the business reform legislation, H. B. No. 12-39, we have the Fair Labor Standard Act that would do away with a lot of unnecessary government bureaucracies in the labor sector. You don't even have to go to the newspaper anymore. We will treat the employment office down at the labor as the personnel office for people seeking government employment, they go to personnel office, for people seeking private employment, they will go to the employment office that would be the personnel office for private employees. So, no more of this requirement for announcing in the newspaper, you want to look for private job, you go down to the employment office and they will have a list, and then we will require the employment office to maintain a log of all the one thousand people that you said are not employed locally. So, every time there is a position opening in the private sector then the employment office will have to go knock on the door of these one thousand people to get them out and apply for job, that is another component. The other component is the flat tax. And the most important component that we will be deliberating long time will be the tax rates. The HANMI, hotel association and all the other associations for that matter, are in agreement with your concern. The reason why our people are not permanent in their employment is because they lack

the skill, they lack the training. All of these put together, will require the employer to initiate, institute training programs in their businesses for our locals to be trained and placed in responsible positions. Like the hotel association, they would like to conduct training for their own workers, locals, but they need incentives from the government.

Rep. Hofschneider: Return the \$230.

Speaker Fitial: That is exactly what I mean. Tax incentives will be given to these employers who take the initiative to train local people.

Rep. Hofschneider: We have the same dream, last night.

Speaker Fitial: So, the flat tax, we don't need anymore revenues for the government, we need revenues for the people out there in the private sector who are suppose to be more productive than the nonessential government workers we have today. So, these are the components of this master plan. So, bear with us, that is my closing remarks on you.

Chairman DLGuerrero: Representative Jones?

Rep. Jones: Thank you, Mr. Chairman. Sometimes, we forget or tend to take priority for our immediate need in the precinct and we failed to address what is needed for the CNMI. Sometimes, we forget to amend the necessary laws, or enact laws to correspond with circumstances in our living conditions. Way back in the Tenth Legislature, I introduced a Bill, H. B. No. 10-460, to provide that the Department of Labor and Immigration shall not review labor contracts, it never get anywhere. The labor problem that we are being faced with is exactly the content of this Bill, H. B. No. 10-460, to get rid of the government from its responsibility of agreement between employee and the employer in the private sector. I wrote to the Committee for consideration, but no response. When I returned back in the Eleventh Legislature, I introduced the same substance of legislation, H. B. No. 11-267, it is called "Nonresident Workers Contract Act of 1997" again, no action was taken by that Legislature, for what reason? I can only speculate. But in my deliberation when I introduce these Bills, or the same Bills, I emphasis that there is no need for us in the Legislature to be mandating or requiring the private sector what to do with their business in the market place. I believe that if this have been taken when I introduced the same Bills in the Tenth and Eleventh Legislature, I deeply feel that many of these problems that we continue to confront may have been resolved to a certain extend. Sometimes also, we failed to see whether or not the appropriate committees are working closely with the corresponding department in the government. Sometimes also, when we passed Bills mandating the departments and agencies what to do, we failed to forget to provide additional funding for enforcement. And I think enforcement is one of the key problems that we have been faced with. But there are some areas where we have to not provide because of the economic problem. The messages deliberated by colleague Hofschneider, I for one, take it as a very educational and enlightening and I can summarize it personally by saying that our government

failed to come up with a plan, a plan that we can take and year after year apply. The only plan that I have seen so far that we have been able to follow through is the CIP plan. But that CIP does not accommodate to the maximum the social impact that colleague Hofschneider stated in his remarks. Now, the other question is, if a plan is developed as was raised several times in the past Legislature's, how much development do we want? I think it is about time that this Legislature in addition to the reform in the legislation should address along with the counterparts in the private sector, the Chamber of Commerce and the Hotel Association, but I think this is very important. Because we have that commitment to attend the funeral, I would like to just end my remarks. Thank you, Mr. Chairman.

Chairman DLGuerrero: Thank you, Representative Jones. For your information, we are very limited on time, but I'll give you your time, Representative Pangelinan, you may.

Rep. Pangelinan: Thank you, Mr. Chairman. I know for a fact that some one once said, "say what you need to say, don't say what you want to say" the need is a very critical element. 80% of my body in terms of the proposed Bill, the Bill itself, is leaning toward supporting it, 20% is that reservation in my body chemistry. One reservation is on page 3 of 8, several of our local people are undertaking the aquaculture, if we can eliminate this and allow only mariculture for foreign investors. Hydroponics is highly been experimented at the land grant at NMC. This would set up a lot more competition to the local farmers if that is – I support the mariculture to be at least given to a foreign investors. The second reservation in my 20% is that on the second page, we can delete and maintain the law these are the job categories that our local people can perform. And, if the author and the leadership can reconsider it, some one ones said that, "if you have no hope to win, you lost already". Thank you.

Chairman DLGuerrero: Do we have any other further deliberation? The Committee on Commerce and Tourism ends the discussion and proceed with our session.

Speaker Fitial: Floor Leader?

Floor Leader Babauta: I rise to go back into plenary session.

The motion was seconded and carried by voice vote.

The House resolved to plenary session at 11:57 a.m.

Speaker Fitial: We are back to plenary session. We are still under Miscellaneous.

Rep. Hofschneider: Point of order. Under the Rule, Mr. Speaker, we need to suspend so that that particular Bill, H. B. No. 12-39, remains on the Calendar. Second and Final is an automatic second day adoption.

Speaker Fitial: Correct.

Floor Leader Babauta: Clarification, Mr. Speaker. We haven't actually acted on the main motion to move H. B. No. 12-39.

Rep. Hofschneider: That is essentially the problem. Under the Rule, we must act.

Speaker Fitial: Right. We must dispose of H. B. No. 12-39, in any form we want. Floor Leader?

Floor Leader Babauta: Mr. Speaker, so move to defer action and discussion on Second Reading.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. Miscellaneous – Announcements.

MISCELLANEOUS BUSINESS

None

ANNOUNCEMENTS

The Chair recognized the Floor Leader.

Chairman Babauta: Just to announce that the Chairman of Commerce and Tourism Committee initiated a meeting tomorrow morning at 9:00 for the purpose of reconsidering the Free Trade Zone Bill as originally passed by the House during the Eleventh Congress. So, in this meeting we invited the Director of Public Lands and hopefully several members can come from the Board of Public Lands and the members of the Free Trade Zone Committee under the Governor's Economic Revitalization Task Force. At nine o'clock in the morning at the Speaker's Conference Room, members. Mr. Speaker, I move to recess until 1:30 tomorrow afternoon.

The motion was seconded and carried by voice vote.

The House recessed at 11:59 a.m.

Respectfully Submitted,

Joan P. Kaipat, Journal Clerk
House of Representatives