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

#### TWENTY-SIXTH DAY

#### March 16, 2000

The House of Representatives of the Twelfth Northern Marianas Commonwealth Legislature convened in its Twenty-Sixth Day, First Regular Session, on Thursday, March 16, 2000, at 1:35 p.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,  $\ni$  2(a), seventeen members were present; Representative William S. Torres came in late and Representative Diego T. Benavente was absent.

<u>Speaker Fitial</u>: A quorum is duly constituted for the Twenty-Sixth Day of our First Regular Session. Representative Benavente is excused, I was told his father is very ill.

### **ADOPTION OF JOURNALS**

The Chair recognized the Floor Leader.

<u>Floor Leader Babauta</u>: Mr. Speaker, thank you. I move for the adoption of the 23<sup>rd</sup> and 24<sup>th</sup> Day, First Regular Session journals.

The motion was seconded.

# 23<sup>rd</sup> and 24<sup>th</sup> Day, First Regular Session (3/13-14/00)

There was no discussion raised. The motion to adopt the 23<sup>rd</sup> and 24<sup>th</sup> Day, First Regular Session journals was carried by voice vote.

Speaker Fitial: The 23<sup>rd</sup> and 24<sup>th</sup> Day journals are adopted.

#### PREFILED AND INTRODUCTION OF BILLS

H. B. NO. 12-146: A Bill for an Act to extend retirement benefits to certain former government employees who retired prior to enactment of Retirement Fund Act; and to allow a reasonable time period for Class II members returning to government service to elect to receive prior service credit; to provide a one-time opportunity for person who were government employees but not Fund members on the effective date of Public Law 6-17 to convert to Class II membership; and for other purposes.

Offered by: Rep. Oscar M. Babauta [By request] Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 12-147: A Bill for an Act to amend 1 CMC, Section 8273; and for other purposes.

Offered by: Rep. Maria "Malua" T. Peter Referred to: Committee on Judiciary and Governmental Operations

### PREFILED AND INTRODUCTION OF RESOLUTIONS

H. R. NO. 12-36: A House Resolution to request voluntary contributions to assist the youths of the Commonwealth to participate in the XIII World Youth Day Jubilee 2000 to be held in Rome beginning August 15 to August 20, 2000.

Offered by: Rep. Martin B. Ada Referred to: Committee on Health and Welfare

#### **MESSAGES FROM THE GOVERNOR**

None

#### SENATES COMMUNICATIONS

Sen. Comm. 12-19: Returning House Joint Resolution No. 12-1 (PCB Task Force) which was adopted by the Senate on March 15, 2000. [For inf.]

Sen. Comm. 12-20: Returning House Joint Resolution No. 12-4 (Japan/NMI League of Friendship) which was adopted by the Senate on March 15, 2000. [For inf.]

Sen. Comm. 12-21: Returning House Joint Resolution No. 12-5 (Unkai Distillery) which was adopted by the Senate on March 15, 2000. [For inf.]

Sen. Comm. 12-22: Transmittal of Senate Bill No. 12-59, entitled, "A Bill for an Act to transfer the indebtedness of the Commonwealth Utilities Corporation from the Commonwealth Development Authority to the Department of Finance or successor department; to establish a Capital Improvement Projects Local Match Fund; and for other purposes," which was passed by the Senate on March 15, 2000. [For action]

<u>Speaker Fitial</u>: For information, we have three Senate Communications 12-19, 12-20 and 12-21. For information Senate Communication 12-22 is assigned to Ways and Means for proper disposition before action by the House.

### HOUSE COMMUNICATIONS

None

# COMMUNICATIONS FROM THE JUDICIAL BRANCH

None

# COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

None

# **COMMUNICATIONS FROM THE DEPARTMENTS & AGENCIES**

None

# **OTHERS COMMUNICATIONS**

None

### **REPORTS OF STANDING COMMITTEES**

The Chair recognized the Floor Leader.

<u>Floor Leader Babauta</u>: Mr. Speaker, if there is no objection from the members, I wish to defer action on Standing Committee Report No. 12-57 relative to House Bill No. 12-86 back to the Committee on Natural Resources.

There was no objection raised.

Speaker Fitial: So ordered. Floor Leader, recognized.

<u>Floor Leader Babauta</u>: Mr. Speaker, I now move for the adoption of Standing Committee Report No. 12-53, reference to House Resolution No. 12-31; Standing Committee Report No. 12-54, reference to House Bill No. 12-92; Standing Committee Report No. 12-55, reference to House Resolution No. 12-28; Standing Committee Report No. 12-58, reference to House Bill No. 12-67; Standing Committee Report No. 12-59, reference to Senate Bill No. 12-51; Standing Committee Report No. 12-60, reference to House Bill No. 12-12 – I'm sorry, Mr. Speaker, I will take that back, I would stop at Standing Committee Report No. 12-59.

The motion was seconded.

S. C. R. NO. 12-53: Reporting on House Resolution No. 12-31, entitled, "A House Resolution to request the Governor and the Secretary of Public Works to reconstruct and resurface the road from Bank of Hawaii, Puerto Rico to Shell Station, Puerto Rico for the purpose of limiting exit and entry on the ocean side part of the road." *Your Committee on Judiciary and Governmental Operations recommends its adoption.* 

S. C. R. NO. 12-54: Reporting on House Bill No. 12-92, entitled, "A Bill for an Act to amend 6 CMC § 2301(a)(2) increasing the amount of currency brought into the Commonwealth; and for other purposes." *Your Committee on Judiciary and Governmental Operations recommends its passage*.

S. C. R. NO. 12-55: Reporting on House Resolution No. 12-28, entitled, "A House Resolution relative to petitioning the Board of Public Lands to issue permits for village homestead lots in the Northern Islands pursuant to Public Law 1-42, and for other purposes." *Your Committee on Natural Resources recommends its adoption.* 

S. C. R. NO. 12-57: Reporting on House Bill No. 12-86, entitled, "A Bill for an Act to amend 2 CMC 1413 by adding a new subsection (c); and for other purposes." *Your Committee on Natural Resources recommends its passage in the form of H.B. No.* 12-86, C.S.1.

S. C. R. NO. 12-58: Reporting on House Bill No. 12-67, entitled, "A Bill for an Act to amend the Commonwealth Code regarding usury; and for other purposes. *Your Committee on Commerce and Tourism recommends its passage in the form of House Bill No. 12-67, C.S.1.* 

S. C. R. NO. 12-59: Reporting on 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." Your Committee on Judiciary and Governmental Operations recommends its passage in the form of S. B. No. 12-51, H.D.1

<u>Speaker Fitial</u>: Well, you've reached the dead end anyway. Discussion on the acceptance motion? None?

There was no discussion raised. The motion to adopt all the Standing Committee Report Nos. 12-53, 12-54, 12-55, 12-58, and 12-59 was carried by voice vote.

Speaker Fitial: Standing Committee Report Nos. 12-53, 12-54, 12-55, 12-58, and 12-59 are adopted. Representative Attao?

<u>Rep. Attao</u>: On Standing Committee Report No. 12-59, on the conclusion part, Mr. Speaker, I ask the Chair to at least correct the "forgotten promises" because we were never promised the retroactive payment, Mr. Speaker. We are trying our very best to come up with the fund. During the last Administration, Mr. Speaker, it was publicly announced that the retroactive on the salary adjustment will be pay prior to the election -- when the election was over that thing went in to put -- So, I just want to make sure that the Committee Report does not reflect the "forgotten promises" on the retroactive adjustment. I don't think it is proper to put something that is not a true promise and we only deal with funds availability. So, I ask the Chair to make further amendment on Standing Committee Report No. 12-59 to correct the conclusions on P. L. 7-31 on the retroactive Salary Adjustment Compensation Act. Thank you.

<u>Speaker Fitial</u>: I take it that you are discussing the motion to adopt the Standing Committee Report.

<u>Rep. Attao</u>: I just want to make a note after the adoption, Mr. Speaker. It is already adopted so I am just airing the concern on the conclusion on Standing Committee Report No. 12-59, to make it consistent with what was the intent of the adjustment compensation. It was never forgotten and never funded, but all we were waiting is the availability of funds, Mr. Speaker. Thank you.

Floor Leader Babauta: No objection, Mr. Speaker.

<u>Speaker Fitial</u>: Well, the qualifying phrase there is "seemingly" in other words, it could go both ways. "Seemingly" means that it could be forgotten or could not be forgotten.

<u>Rep. Attao</u>: Yes, but the promise there, Mr. Speaker, is a detrimental word. We never promise and this is only upon availability of funds, but we never promise that we are going to pay this.

Speaker Fitial: Okay, so noted.

Rep. Attao: Thank you.

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Floor Leader?

<u>Floor Leader Babauta</u>: Mr. Speaker, because three Standing Committee Reports did not appear on the Order of Business and if there is no objection, I wish to include, Mr. Speaker, the following: Standing Committee Report No. 12-60, relative to House Bill No. 12-12; Standing Committee Report No. 12-61, relative to House Bill No. 12-30; and Standing Committee Report No. 12-62, reference to House Bill No. 12-62. Ready for the adoption, Mr. Speaker.

Speaker Fitial: Okay. Can you effectuate that motion to adopt these three latecomers?

<u>Floor Leader Babauta</u>: Thank you, Mr. Speaker. Mr. Speaker, I move for the adoption of the following Standing Committee Report Nos. 12-60, reference to House Bill No. 12-12; Standing Committee Report No. 12-61, reference to House Bill No. 12-30; and Standing Committee Report No. 12-62, reference to House Bill No. 12-62.

The motion was seconded.

S. C. R. NO. 12-60: Reporting on House Bill No. 12-12, entitled, "A Bill for an Act to allow the Department of Lands to quite title to certain properties in the Chalan Kanoa area of Saipan; and for other purposes." *Your Committee on Natural Resources recommends passage*.

S. C. R. NO. 12-61: Reporting on House Bill No. 12-30, entitled, "A Bill for an Act to amend Public Law 3-71  $\Rightarrow$  1 ( $\Rightarrow$ 1117) as amended by Public Law 3-72,  $\Rightarrow$  2 ( $\Rightarrow$ 1102) to exempt from forfeiture, property used in the commission of a criminal act by someone other than the owner without the knowledge, consent or willful blindness of the owner." *Your Committee on Judiciary and Governmental Operations recommends its passage.* 

S. C. R. NO. 12-62: Reporting on House Bill No. 12-62, entitled, "A Bill for an Act to amend 3 CMC Section 4340(d) by adding new subsection (i) and (ii); and for other purposes." *Your Committee on Natural Resources recommends its passage*.

Speaker Fitial: Discussion on the adoption motion? Representative Attao?

<u>Rep. Attao</u>: On Standing Committee Report Nos. 12-60, 12-61, and 12-62, I did not see any legal sufficiency here on the Committee Report.

<u>Speaker Fitial</u>: Can the legal counsel just nod your head or shake your head when I ask you this question, did any of you feel that any of the three Standing Committee Reports

failed the legal sufficiency test? -- Thank you. So, we are discussing the adoption motion on these three Committee Reports.

The motion to adopt Standing Committee Report Nos. 12-60, 12-61, and 12-62 was carried by voice vote.

Speaker Fitial: Standing Committee Report Nos. 12-60, 12-61, and 12-62 are adopted.

# **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. 12-28 and 12-31.

The motion was seconded.

**H. R. NO. 12-28**: A HOUSE RESOLUTION RELATIVE TO PETITIONING THE BOARD OF PUBLIC LANDS TO ISSUE PERMITS FOR VILLAGE HOMESTEAD LOTS IN THE NORTHERN ISLANDS PURSUANT TO PUBLIC LAW 1-42, AND FOR OTHER PURPOSES

**H. R. NO. 12-31**: A HOUSE RESOLUTION TO REQUEST THE GOVERNOR AND THE SECRETARY OF PUBLIC WORKS TO RECONSTRUCT AND RESURFACE THE ROAD FROM BANK OF HAWAII, PUERTO RICO TO SHELL STATION, PUERTO RICO FOR THE PURPOSE OF LIMITING EXIT AND ENTRY ON THE OCEAN SIDE PART OF THE ROAD.

Speaker Fitial: Discussion? Representative Tom Pangelinan?

<u>Rep. Pangelinan</u>: I supported whole-heartedly the intent of House Resolution No. 12-28. Also, I am very proud to say that I am one of the surviving Northern Islanders from the north. I have several questions that maybe the author can help me. I read the Resolution with the intent to support but I need to clarify which island is affected, number one. Number two, we have to define what constitute residency in the Northern Islands in terms of some people were there before the war, way before the war, and some of them were there after the war and some of them are still residing down there. We need to clearly define what is residency? What constitute residency? Another question I have in mind is, if these lots are opened and which I hope they are open soon, sooner the better, what statutes or government regulations govern the development of these lots, such as clearing DEQ permits for instance, building permits, all these things?

Speaker Fitial: Does any member wish to respond?

<u>Rep. Pangelinan</u>: Please understand that, I am supporting this Resolution but my intent is to make it very clear so that the people will receive it with an open heart and an open mind. For example, Mr. Speaker, I have been a resident there for almost twenty years, does my residency constitute to this definition of residency in this Resolution?

Rep. Hofschneider: May I answer that?

Speaker Fitial: We understand. Do you have the answer?

Rep. Hofschneider: Yes.

Speaker Fitial: Proceed, recognize.

Rep. Hofschneider: Homesteading Act is the only public land prescription allowed in the Constitution currently and there are criteria for qualifying or to qualify rather for a homestead. Those also comes with a residency provisions in the statute and also there is a Board of Public Lands Rules and Regulations promulgated over the years as to one being the residency requirement. The answer to the second part of his question, Mr. Speaker, is that this is a long standing predicament of those people who wish to permanently establish a residence in the Northern Islands, particularly those who resides in the islands of Anatahan, Alamagan, and Agrigan. For purposes of restrictions in Pagan, we leave it out of the discussion. But for the three islands, specifically, the predicament is that so long as Public Lands did not grant them either an agricultural permit, or village homestead permit, they are still classified as illegally occupying those properties or islands. So, for the purposes of expediently moving ahead in granting those who wish to resides in the Northern Islands, the three respective islands, they may in fact establish themselves on the island of Anatahan, Agrigan and Alamagan, provided however, that they meet the qualifications already put in placed in the Homesteading Act, which stipulates at the minimum that you cannot hold two village homesteads, you can only qualify for one. Residency is also in place in the statute. The DEQ and the building permit, and so forth, that is the quandary of the government -- the chicken or the egg kind of a question, Mr. Speaker. I think that, in most cases, undeveloped properties where people have resided prior to the Governor's permit for instance, and building certifications, and so forth, I think it is very obvious that you first have to allow ownership, or the right to enter that particular property. Then the responsibility to ensure

that, when these people are qualify for a housing and that they built a standard housing, they all have to abide to the standards already in place on the islands of Saipan, Tinian and Rota. So, the answer is, initially we need to allow people to get a hold of the title or the legal granting of entry to those properties. At the present time, no one has been granted either an agricultural or village homestead and they resided in those islands for over thirty, forty, fifty years. Why is it taking so difficult for Public Lands to see the needs of these people in the Northern Islands to be given the permit or the legal holding of those title to those properties that their forefathers have cultivated and developed the islands? Logically, this Resolution is just requesting Public Lands to see the need to initiate legal permit or legal entries to those properties.

<u>Speaker Fitial</u>: In other words, eventually those who will be recipients of these homestead permits will then be considered residents of Northern Islands automatically.

Rep. Pangelinan: Ready.

Representative William S. Torres stepped in at 2:01 p.m.

Speaker Fitial: Please let the record show that Representative Lee Torres is physically present.

Rep. W. Torres: Mr. Speaker, just a short statement.

Speaker Fitial: Recognized.

<u>Rep. W. Torres</u>: In addition to what Representative Hofschneider had mentioned, I think by virtue – I hate to say by, virtue -- the illegal status of their occupancy, I think by definition, these people are considered as squatters because of that. I think we need to bring to the attention of the Board of Public Lands to realize this situation or predicament if you will. Secondly, the residents of the Northern Islands are unnecessarily being disenfranchise and I think this is the corner stone of this Resolution – although it doesn't say that – but we really need to legitimize the status of these poor residents have been denied benefits since 1979. Thank you.

<u>Speaker Fitial</u>: If these people are considered to be squatters then they are privileged squatters because they vote. I think everybody agrees that this is a very good Resolution.

Rep. Ada: Mr. Speaker?

Speaker Fitial: Representative Ada?

<u>Rep. Ada</u>: Let me share some in lieu of this Resolution. Way back in 1979 when I was teaching there, if I'm not mistaken, Jesus Takai and Associates, measured the house lots for these people until the eruption of Mount Pagan in May of the following year. I don't

know what happened. I am pretty sure Public Lands is aware of this project and I am strongly in support of this Resolution for the residents. Thank you.

Speaker Fitial: Ready? Okay.

The motion to adopt House Resolution Nos. 12-28 and 12-31 was carried by voice vote.

Speaker Fitial: House Resolution Nos. 12-28 and 12-31 are adopted. Floor Leader?

<u>Floor Leader Babauta</u>: Mr. Speaker, I understand that the Speaker would like to recess this session earlier, however, before we do that, Mr. Speaker, without objection from the members, on Item 16 on the Calendar, since we deferred action on Standing Committee Report No. 12-57, I wish to move and defer action on House Bill No. 12-86 under Standing Committee Report No. 12-57 and refer the same Bill back to the Committee and remove from the Calendar.

There was no objection raised.

Speaker Fitial: So ordered. Can we recess so we can greet our guests?

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Move to recess until two o'clock tomorrow.

The motion was seconded and carried by voice vote.

The House recessed at 2:17 p.m.

Respectfully submitted,

Joan P. Kaipat, Journal Clerk House of Representatives