

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

TWENTY-THIRD DAY

October 24, 2000

The House of Representatives of the Twelfth Northern Marianas Commonwealth Legislature convened in its Twenty-Third Day, Second Regular Session, on Tuesday, October 24, 2000, at 11:20 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. Representatives Martin B. Ada and Antonio M. Camacho were excused.

Speaker Fitial: A quorum is duly constituted for the Twenty-Third Day of our Second Regular Session. All members absent are excused.

ADOPTION OF JOURNALS

The Chair recognized the Floor Leader.

Floor Leader Babauta: Thank you, Mr. Speaker. Mr. Speaker, I move for the adoption of the 21st and 22nd Day journals.

The motion was seconded.

21st (10/5/00) & 22nd Day (10/13/00), Second Regular Session

Speaker Fitial: Discussion?

Several members voiced, "ready".

The motion to adopt the 21st Day (10/5/00) and 22nd Day (10/13/00), Second Regular Session journals was carried by voice vote.

Speaker Fitial: The Twenty-First Day and Twenty-Second Day journals are hereby adopted.

INTRODUCTION OF BILLS

H. B. NO. 12-286: A Bill for an Act to amend Public Law 12-24 to designate the Executive Director of the Commonwealth Utilities Corporation as the expenditure authority; and for other purposes.

Offered by: Rep. David M. Apatang
Referred to: Committee on Public Utilities, Transportations and Communications

H. B. NO. 12-287: A Bill for an Act to establish a CNMI U.S. Child Tax Credit Program for U.S. families with two (2) children or less, not older than (seventeen) 17 years of age; and for other purposes.

Offered by: Rep. Florencio T. Deleon Guerrero and four others
Referred to: Committee on Ways and Means

H. B. NO. 12-288: A Bill for an Act to appropriate funds for the design and construction of a visitor center, memorial garden and track and field facilities at American Memorial Park and an Outer Cove Marina Breakwater; and for other purposes.

Offered by: Rep. Benigno R. Fitial and three others
Referred to: Committees on Ways and Means and Commerce and Tourism

H. L. B. NO. 12-18: A House Local Bill for an Act to appropriate the \$152,688.66 from Developer Infrastructure Tax for Gualo Rai, China Town and Chalan Kiya road paving and drainage; and for other purposes.

Offered by: Rep. Jesus T. Attao

H. L. I. NO. 12-7: A House Legislative Initiative to amend Article II, Sections 3 (a) and (b) and Section 10 of the Constitution of the Commonwealth of the Northern Mariana Islands.

Offered by: Rep. Thomas B. Pangelinan and three others
Referred to: Committee on Judiciary and Governmental Operations

Rep. Hofschneider came in at 11:24 a.m.

INTRODUCTION OF RESOLUTIONS

H. R. NO. 12- 89: A House Resolution recognizing the contributions made by Mr. Kiyoshi Aikawa in promoting the Commonwealth as a major tourist destination in Japan and his participation and valuable contribution as a board member of the Marinas Visitors Authority.

Offered by: Rep. Florencio T. Deleon Guerrero and seventeen others

H. R. NO. 12-90: A House Resolution relative to requesting the Mayor of Saipan to maintain in good condition all secondary roads pursuant to 1 CMC, 5, Section 5107 (g).

Offered by: Rep. Florencio T. Deleon Guerrero and four others
Referred to: Committee on Judiciary and Governmental Operations

H. R. NO. 12-91: A House Resolution recognizing the achievement of Mary Ann Sabino, DDS, in being awarded the prestigious ITI Straumann Resident Scientific Presentation Award for science and in having her scientific research project “*Reduction of Metastatic Cancer-Induced Skeletal Fractures with Osteoprotegerin Treatment*” recognized and published.

Offered by: Rep. Brigida DLG. Ichihara and seventeen others

Speaker Fitial: I would like to take a moment of your time to formally introduce two interim legal counsels, Ms. Lecia Eason and Ms. Patricia Halsell. They are very fortunate that they accepted to help the House with its legal duties and responsibilities. That is why I say, “interim” because they will be here for sixty working days. But hopefully, before the thirty days period might extend for two years. We would like to welcome both of you, Lecia and Pat, and all the members do have the liberty to access their e-mail.

MESSAGES FROM THE GOVERNOR

Gov. Comm. 12-86 – October 19, 2000 – Informing the Legislature that he signed Senate Bill No. 12-2, (Permanently Ban Re-entry into the Commonwealth), into **Public Law 12-25**.

Gov. Comm. 12-87 – October 19, 2000 – Informing the Legislature that he signed Senate Bill No. 12-4, (Uniform Comparative Fault Act) into **Public Law 12-26**.

Gov. Comm. 12-88 – October 19, 2000 – Informing the Legislature that he signed House Bill No. 12-171, CS1, (Refinance Act of MPLT/NMHC Loan Arrangement), into **Public Law 12-27**.

There was no discussion raised.

SENATE COMMUNICATIONS

Sen. Comm. 12-81: Return of House Bill No. 12-279, CS1 (China Town & Chalan Kiya Sewerage System Appropriation of \$1,720,000), which the Senate passed without amendment on October 19, 2000. [Will go to Governor]

Sen. Comm. 12-82: Return of House Bill No. 12-257, CD1, HD1 (Board of Public Lands Act of 2000), which the Senate passed without amendment on October 19, 2000. [Will go to Governor]

Sen. Comm. 12-83: Return of House Bill No. 12-22, CS1 (Appropriation for FDA approved sidewalks at Garapan and Oleai Elementary Schools), which the Senate passed on October 19, 2000 in the form of H.B. No. 12-22, CS1, SD1. [For action on Senate amendment] **[Referred to: Committee on Ways and Means]**

Sen. Comm. 12-84: Return of House Bill No. 12-231, CD1 (Re. Retirees Re-employment), which the Senate passed on October 19, 2000, in the form of H.B. No. 12-231, CD1, SD1. [For action on Senate amendment]

Sen. Comm. 12-85: Transmittal of Senate Bill No. 12-80, entitled, “To amend certain provisions of PL No. 12-19, known as the Domestic and Family Violence Prevention Act of 2000; and for other purposes,” which the Senate passed on October 19, 2000. [For action]

Sen. Comm. 12-86: Transmittal of Senate Joint Resolution No. 12-2, entitled, “A Senate Joint Resolution respectfully requesting the United States Congress to authorize the appropriation of funding necessary to reconstruct, rehabilitate and repair the Breakwater protecting San Jose Harbor at Tinian, Northern Mariana Islands,” which the Senate adopted on October 19, 2000. [For action]

Sen. Comm. 12-87: Informing the House that the Senate accepted the House amendments to Senate Bill No. 12-36, entitled, “Diabetes Health Maintenance Act of 2000,” on October 19, 2000.

The Chair recognized the Floor Leader.

Floor Leader Babauta: Thank you, Mr. Speaker. I move to accept the communications from the Senate as it appears on today’s Calendar.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries.

REPORTS OF STANDING COMMITTEES

The Chair recognized the Floor Leader.

Floor Leader Babauta: Thank you, Mr. Speaker. Earlier the Clerk passed out copies of Standing Committee Report No. 12-180 and with that, Mr. Speaker, I move for the adoption of Standing Committee Report No. 12-179, reference to House Bill No. 12-259 and Standing Committee Report No. 12-180, reference to House Bill No. 12-147, Committee Draft 1.

The motion was seconded.

S. C. R. NO. 12-179: Reporting on House Bill No. 12-259, entitled, “To amend 1 CMC Division 6, by adding a new section 6433; and for other purposes.” *Your Committee on Judiciary and Governmental Operations recommends that the House pass the bill.*

S. C. R. NO. 12-180: Reporting on House Bill No. 12-147, entitled, “To amend 1 CMC Section 8273; and for other purposes.” *Your Committee on Judiciary and Governmental Operations recommends passage in the form of HB 12-147, CDI.*

Speaker Fitial: Discussion?

Several members voiced, “ready”.

The motion to adopt Standing Committee Report Nos. 12-179 and 12-180 was carried by voice vote.

Speaker Fitial: The motion carries.

RESOLUTION CALENDAR

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Can we take a two minutes recess?

Speaker Fitial: Short recess.

The House recessed at 11:33 a.m.

RECESS

The House reconvened at 11:47 a.m.

Speaker Fitial: The House shall reconvene. We are under Resolution Calendar, Floor Leader.

Floor Leader Babauta: Mr. Speaker, because there are some actions needed, with that, I move to suspend Rule VII, Section 9 and Rule IX, Sections 9 and 10 for the adoption of House Resolution Nos. 12-89 and 12-91; and Senate Joint Resolution No. 12-2.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. Adoption motion?

Floor Leader Babauta: So move, Mr. Speaker, for the adoption of House Resolution Nos. 12-89 and 12-91.

The motion was seconded.

H. R. NO. 12- 89: A HOUSE RESOLUTION RECOGNIZING THE CONTRIBUTIONS MADE BY MR. KIYOSHI AIKAWA IN PROMOTING THE COMMONWEALTH AS A MAJOR TOURIST DESTINATION IN JAPAN AND HIS PARTICIPATION AND VALUABLE CONTRIBUTION AS A BOARD MEMBER OF THE MARINAS VISITORS AUTHORITY.

H. R. NO. 12-91: A HOUSE RESOLUTION RECOGNIZING THE ACHIEVEMENT OF MARY ANN SABINO, DDS, IN BEING AWARDED THE PRESTIGIOUS ITI STRAUMANN RESIDENT SCIENTIFIC PRESENTATION AWARD FOR SCIENCE AND IN HAVING HER SCIENTIFIC RESEARCH PROJECT “**REDUCTION OF METASTATIC CANCER-INDUCED SKELETAL FRACTURES WITH OSTEOPROTEGERIN TREATMENT**” RECOGNIZED AND PUBLISHED.

Speaker Fitial: Discussion? Representative Peter?

Rep. Peter: Thank you, Mr. Speaker. I would like to ask the indulgence of the author of House Resolution No. 12-89, if this can be introduced by the Committee of the Whole?

Rep. Deleon Guerrero: No objection.

Speaker Fitial: Any objection?

There was no objection raised.

Speaker Fitial: Further discussion?

Several members voiced, “ready”.

Rep. Peter: Mr. Speaker?

Speaker Fitial: Representative Peter?

Rep. Peter: My motion was to introduce by the Committee of the Whole House Resolution No. 12-89 or 12-91? -- It was for both though I just mentioned one. So, it is House Resolution Nos. 12-89 and 12-91 to be introduced by the Committee of the Whole. Thank you.

Speaker Fitial: Ready for the question?

The motion to adopt House Resolution Nos. 12-89 and 12-91 was carried by voice vote.

Speaker Fitial: The motion carries. There is one Senate Joint Resolution.

Floor Leader Babauta: So move, Mr. Speaker, for the adoption of Senate Joint Resolution No. 12-2.

The motion was seconded.

S. J. R. NO. 12-2: A SENATE JOINT RESOLUTION RESPECTFULLY REQUESTING THE UNITED STATES CONGRESS TO AUTHORIZE THE APPROPRIATION OF FUNDING NECESSARY TO RECONSTRUCT, REHABILITATE AND REPAIR THE BREAKWATER PROTECTING SAN JOSE HARBOR AT TINIAN, NORTHERN MARIANA ISLANDS.

Speaker Fitial: Discussion?

Several members voice, “ready”.

The motion to adopt Senate Joint Resolution No. 12-2 was carried by voice vote.

Speaker Fitial: The motion carries.

BILL CALENDAR

The Chair recognized the Floor Leader.

Floor Leader Babauta: Mr. Speaker, I move for the suspension of Rule VII, Section 9 and Rule IX, Sections 9 and 10 so that we may place the following bills on today’s Calendar for action: H. B. No. 12-231, under Senate Communication 12-84 and Senate Bill No. 12-80 under Senate Communication 12-85.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. I would like to refer Senate Communication 12-83 to the Committee on Ways and Means. Passage motion?

Floor Leader Babauta: So move, Mr. Speaker, for the suspension of Rule IX, Sections 9 and 10 again for the placement and passage of House Bill No. 12-147, CD1, on today's Calendar for First and Final Reading.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. Floor Leader?

Floor Leader Babauta: So move, Mr. Speaker, for the acceptance of Senate Amendment to House Bill No. 12-231, Committee Draft 1.

The motion was seconded.

H. B. NO. 12-231, CD1, SD1: A BILL FOR AN ACT TO AMEND TITLE 1, DIV. 8, PART 3, CHAPTER 7 § 8402 OF THE COMMONWEALTH CODE; AND FOR OTHER PURPOSES.

Speaker Fitial: Discussion?

Several members voiced, "ready".

Speaker Fitial: Roll call.

The Clerk called the roll on the motion to accept the Senate Amendment to House Bill No. 12-231, CD1, is as follows:

| | |
|-----------------------------------|---------|
| Rep. Martin B. Ada | excused |
| Rep. David M. Apatang | yes |
| Rep. Jesus T. Attao | yes |
| Rep. Oscar M. Babauta | yes |
| Rep. Diego T. Benavente | yes |
| Rep. Antonio M. Camacho | excused |
| Rep. Rosiky F. Camacho | yes |
| Rep. Florencio T. Deleon Guerrero | yes |
| Rep. Heinz S. Hofschneider | yes |
| Rep. Brigida DLG. Ichihara | yes |
| Rep. Dino M. Jones | yes |
| Rep. Alejo M. Mendiola, Jr. | yes |
| Rep. Norman S. Palacios | yes |
| Rep. Thomas B. Pangelinan | yes |
| Rep. Maria "Malua" T. Peter | yes |
| Rep. Stanley T. Torres | yes |

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| Rep. William S. Torres | yes |
| Speaker Benigno R. Fitial | yes |

Speaker Fitial: The Amendment by the Senate to House Bill No. 12-231, Committee Draft 1, is hereby accepted. Floor Leader?

Floor Leader Babauta: Mr. Speaker, so move for the passage on First and Final Reading Senate Bill No. 12-80 under Senate Communication 12-85.

The motion was seconded.

S. B. NO. 12-80: A BILL FOR AN ACT TO AMEND CERTAIN PROVISIONS OF PL NO. 12-19, KNOWN AS “THE DOMESTIC AND FAMILY VIOLENCE PREVENTION ACT OF 2000”; AND FOR OTHER PURPOSES.

Speaker Fitial: Discussion?

Several members voice, “ready”.

Speaker Fitial: Roll call.

The Clerk called the roll on the motion to pass Senate Bill No. 12-80 on First and Final Reading as follows:

| | |
|-----------------------------------|---------|
| Rep. Martin B. Ada | excused |
| Rep. David M. Apatang | yes |
| Rep. Jesus T. Attao | yes |
| Rep. Oscar M. Babauta | yes |
| Rep. Diego T. Benavente | yes |
| Rep. Antonio M. Camacho | excused |
| Rep. Rosiky F. Camacho | yes |
| Rep. Florencio T. Deleon Guerrero | yes |
| Rep. Heinz S. Hofschneider | yes |
| Rep. Brigida DLG. Ichihara | yes |
| Rep. Dino M. Jones | yes |
| Rep. Alejo M. Mendiola, Jr. | yes |
| Rep. Norman S. Palacios | yes |
| Rep. Thomas B. Pangelinan | yes |
| Rep. Maria “Malua” T. Peter | yes |
| Rep. Stanley T. Torres | yes |
| Rep. William S. Torres | yes |
| Speaker Benigno R. Fitial | yes |

Speaker Fitial: Senate Bill No. 12-80 passes the House on First and Final Reading. Floor Leader?

Floor Leader Babauta: Thank you, Mr. Speaker. I so move for the passage on First and Final Reading House Bill No. 12-259, under Standing Committee Report No. 12-179.

The motion was seconded.

H. B. NO. 12-259: A BILL FOR AN ACT TO AMEND 1 CMC DIVISION 6, BY ADDING A NEW SECTION 6433; AND FOR OTHER PURPOSES. **[Deferred]**

Speaker Fitial: Discussion? Representative Benavente?

Rep. Benavente: Mr. Speaker, House Bill No. 12-259 to me seems very unclear as to what it intends to do. It says under Section 1 under Findings and Purposes, that basically it is just to show how the Commonwealth really feels on the important issues of the day. But in the Referendum provision it seems like it is proposing to allow the people to vote on an issue probably with the force and effect of law. I just wonder if the intent of the author or the intent of this legislation is basically for people to air their concerns or is the intent of the bill to allow the people to vote on issues with the enforcement type of law, can I ask that question to the author at this time?

Speaker Fitial: Can the author please direct graciously in respond?

Rep. Jones: Mr. Speaker, before I answer that question, let me just give a background on what prompted me or urge me to come up with this bill. We all know that we have been faced with critical issues ever since the Northern Mariana Islands became the part of the American Political Family. We have seen elected leaders voicing concerns on some of the issues contained in the Covenant. One that continues to be heard and to be expressed by the elected leaders is the 2000 miles economic zone. We take the stand that when we voted for the Covenant, when I say, “we”, the elected leaders, that we did not give the United States Government the economic resource of our sea resources. On the other side, the United States Government through the Commerce Department maintain the position that we did in fact give that right to the United States Government. Another issue is the U.S.-Japan Commerce and Friendship Treaty. There was a case already where a Japanese national was hired in a private sector on the management position and the local applicant was denied although that he met the management qualification requirements. Another issue that I can think of is the Federal Takeover. We continue to say that we are not in agreement with any legislation that calls for Federal Takeover in the CNMI? Now, my discussion with the previous counsel on how we can bring about this if not uniformly then at least united that will put together the views and position of the people and the elected leaders on the critical issues that faced us namely, those that I mentioned earlier. And maybe there are other issues that we may find later on that need attention internationally and the United States Government. And through his research of the Constitution and the Covenant, he found out that there is no vehicle, there

is no mechanism where our people can be heard on their stand because the Constitution does not provide such a mechanism. So, therefore, he recommend it to me, that this referendum that I am proposing through this legislation is one possibility that would make it possible for our people to come out and express their opinion or their stand on these critical issues. And this is why I introduce this bill for the House consideration and if it is proper and if it is needed then I would appreciate their endorsement. However, on the other side, if there is no other mechanism that can substitute or replace a way that would permit the people to come out and express their views on public issues and public concerns that is affecting our relationship with the United States Government or for that matter, any other nations, then this is an avenue that will permit that. I hope that I answer Representative Benavente's concern.

Speaker Fitial: Proceed, Representative Benavente.

Rep. Benavente: Thank you, Mr. Speaker. I gather from the remarks that the intent is just clearly to allow the people as defined under Findings and Purposes on Section 1, to show or see how the Commonwealth really feels on the important issues of the day. I guess as a record under this discussion also, I declare that I don't believe that this legislation has the authority anyway to grant the authority to even back the people to enact legislations or take actions that would have force and effect of the law. So, it is pretty clear that it is just a way of which people may express their positions on the issues facing the Commonwealth. I must disagree on the statement that we do not have that avenue. I believe that the Constitution provides for representation in which we here as members of the Legislature does provide the avenue on which these people are represented and in fact are represented the views of our people. The problem that I think we might be face with is, one in which would cost the Commonwealth Government quite a bit of money if every time we get a five hundred voters to sign a petition that the Board of Election will then be require to hold a referendum of the Commonwealth wide and we know that expenses that that would incur, what kind of problems that we would have in having to come up with a cost of every time five hundred people that signs a petition. Once again, the representation is there, that is what we here as members of this Legislature are doing. We are supposed to be representing the people on what their positions on the issues that are facing the Commonwealth. Thank you, Mr. Speaker.

Speaker Fitial: Representative Hofschneider?

Rep. Hofschneider: Thank you, Mr. Speaker. I would like to suggest that we define what is a referendum? The first sentence attempted to define what is a referendum, it felt short of providing the definition of what is a referendum and to the extend, what sort of force and effect the previous speaker alluded to. Second of all, I think that the threshold of five hundred voters represented the registered voters and that is for each senatorial district is quite low. For instance, if we have an obligation to pay a bond and whether the general public is articulated enough to understand that we need to reserve certain funds of the general fund to pay for such an undertaking. If we raise, let us say, five cents, and this is in effect and everyone objects to raising five cents, and if it goes to the extend of using the referendum to

voice their opinion as to five cents increase in the tax, what does that tell us and where does it lead us to in terms of the next step? Do we retroact the five cents? Is this just a level where people exercise their democratic right to voice their opinion and leave it there? I mean it is an instrument potentially to be used and be abused. I care to hear what the result would be in terms of the next step? What is the next logical step when people overwhelmingly agree or fifty percent plus one vote agrees to the five cents increase fuel tax for instance and an example? He is uncalled for irrespective of what that general bond or that proceeds from the bond is given to public school for instance. What will be the next logical step? What force and effect would people have in terms of expressing their opinion or dismay on action we have taken here in the Legislature or for that matter outside this Chamber? What would get them? Mr. Speaker, I guess the author is looking at me and he has an answer.

Speaker Fitial: Representative Jones?

Rep. Jones: I thought that he is only sharing that opinion rather than question. Mr. Speaker, this bill does not look at issues that does not appear to consider issues and concerns that are of CNMI that has to do with between the public and the private sector. I agree with the previous speaker Benavente that –

Rep. Hofschneider: Point of order, Mr. Speaker. Can he articulate that in more simplified manners?

Speaker Fitial: He is trying to.

Rep. Jones: Be patient because I am trying to use the best language I can be understood. That it targets issues and concerns that is beyond our control and it does not necessarily be on issue that can be resolved through public opinion on bills and resolutions. A good example is, if gasoline price increase, that to me, we can take care through legislation or through resolution and have a public hearing. But on issues and concerns that finds us outside the CNMI or beyond our jurisdiction or authority to make a decision and that decision is the official position of the CNMI, we don't have that at this time.

Rep. Hofschneider: I am sorry. Mr. Speaker, let me rephrase the example then to something more germane to his complaint. Let us take abortion for instance, it clearly fits your parameters of what you intend to use the referendum for. As it stands by one vote if there is or should there be a change in the Supreme Court justices that would sway in recalling Roe versus Wade and the position of the people of the Commonwealth on abortion is none other than to prohibit it, where would this referendum take us on the issue of abortion when it conflicts with Federal law on what we do here? How would this take the referendum in allowing the people to voice their opinion to fit the parameter set by Federal law?

Rep. Jones: Again, Mr. Speaker, this referendum will try to make it known to outside the CNMI government and people that we agree on what we stand for on those issues. Again, I am going back to those issues that I mentioned, we disagree with your stand on this. What I

am alluding to is that the Covenant is an instrument that binds us with the United States Government. I may put it this way that perhaps very possible that Covenant issue is the one that this bill intends to provide a mechanism where we disagree on the conditions.

Rep. Benavente: Point of clarification, Mr. Speaker.

Speaker Fitial: State your point of clarification.

Rep. Benavente: Thank you. I guess that is the problem, what we are saying and what the author is saying cannot jive because it doesn't say that in the proposed bill. This proposed bill the way it is written out, would allow the people once they got the five hundred voters to require referendum basically on any issues at this time. It doesn't say here that this will be limited to issues affecting the Covenant. And if that is what you are saying then that means it be written in here so that –

Speaker Fitial: I think that is the authors intend.

Rep. Benavente: So we need to provide that in the language if that is the intent?

Speaker Fitial: In other words, on the issues that are not within our purview that is the best description, we cannot legislate locally.

Rep. Hofschneider: Such as harvesting fruit bats, which is cultural and in our Constitution it states that –

Speaker Fitial: But we cannot legislate – any issues that affect our Covenant and also other issues that cannot be legislated locally.

Rep. Hofschneider: May we then refer this bill to the Committee to rephrase it or expand the limitations or the parameters as to the usage of this instrument in facing a question before the people? Because potentially it can be abused, the first hold of five hundred voting bid is so low that even a political question lodged against the body unnecessarily. This referendum can be use as an instrument.

Speaker Fitial: I think we need to find the parameter, the boundaries, or limitations to this legislation because we could have a potential abuse.

Rep. Hofschneider: Issues that affects the very culture, the very people, the very essence of what Commonwealth as we define.

Speaker Fitial: Like five hundred voters would just sign a petition questioning whether it is right for legislators to take secretaries to conferences.

Floor Leader Babauta: Mr. Speaker?

Rep. Jones: Mr. Speaker, that example is a good example that I should take this bill back and make it clear.

Speaker Fitial: You have a very good intention.

Rep. Jones: Thank you.

Speaker Fitial: Because we don't have a mechanism now to gage what the people out there really want us to do as far as defending the Covenant. In a way, it is like a survey, a pole, but this is more then a survey or poll, because this is getting into the stomach of our people. I agree with you, Chairman Jones, I think we should clearly define the boundaries of this legislation.

Rep. Jones: Yes, Mr. Speaker, and for that reason, I move that we defer action on this and refer it back to the Committee for more findings.

The motion was seconded and carried by voice vote.

Speaker Fitial: House Bill No. 12-259 is hereby deferred and referred. One more, Floor Leader?

Floor Leader Babauta: So move, Mr. Speaker, for the passage on First and Final Reading House Bill no. 12-147, Committee Draft 1.

The motion was seconded.

H. B. NO. 12-147, CD1: A BILL FOR AN ACT TO AMEND 1 CMC SECTION 8273; AND FOR OTHER PURPOSES. [Passed on First Reading]

Speaker Fitial: Discussion? Representative Hofschneider?

Rep. Hofschneider: In previous sessions, Mr. Speaker, I raised the issue that some of us, or all of us have received complaints about the Sick Leave Bank. One of the issues that I would like to clarify is that, some of the people have availed themselves of the Sick Leave Bank are now being forced to repay that number of hours that they have taken. Now, section (c) on page 2, and section (f) on page 3, now unless I am reading it wrong, it appears that they are in conflict. For instance on page 2, line 9, particularly line 12, where it states, "... may voluntarily choose to repay the number of donated hours used," as oppose to page 3, line 4, "(f) An employee shall repay any sick leave hours withdrawn from the general account of the sick leave bank at the rate established..." Now, if a person is looking at a friend or seeking to avail themselves of some sick leave hours from a friend and they mutually agree that you don't have to pay me back -- according to page 3, that is a forceful language shall we say, unless I am reading it wrong, Mr. Speaker and members, then I stand corrected. But

I would like to see that we strike out section (f) completely. So any repayment shall be on a voluntarily basis as stipulated in section (c) on page 2.

Speaker Fitial: So why don't we just change "shall" to "may"?

Rep. Hofschneider: It will still conflict because then on the outside, Mr. Speaker. Jess here volunteers to give me from the goodness from his heart one hundred hours, and he says, "Heinz, because I know you, you are hurting and you are sick, you don't have to repay that I have excess." Then if we change to "may" it is permissive in nature for Civil Service Commission to promulgate regulations otherwise as agreed upon by myself and Representative Attao, which still have the force and effect of having to repay that.

Speaker Fitial: So we change "shall" to "may voluntarily".

Rep. Hofschneider: Let us just strike out section (f) because it is about repayment of borrowed leaves.

Rep. Deleon Guerrero: Mr. Speaker?

Floor Leader Babauta: Point of order here, Mr. Speaker.

Speaker Fitial: Representative Deleon Guerrero? -- I'm sorry, state your point of order?

Floor Leader Babauta: It looks like we are going into proposing an amendment, so move for the suspension of Rule IX, Section 11.

The motion was seconded and carried by voice vote.

Speaker Fitial: We are in order to propose amendments. Representative Deleon Guerrero?

Rep. Rosiky Camacho: Clarification, Mr. Speaker.

Speaker Fitial: Representative Rosiky Camacho?

Rep. Rosiky Camacho: I think one of the underlining differences between page 2, section (c) and page 3, section (f), is the one who receive donated sick leave hours and the other one if from the general account sick leave. For example, if I allow an individual... let's say, I am donating, that means you might wish to give me the sick leave on your behalf. On the other hand, be the sick person taking from the general sick leave bank...

Speaker Fitial: Then they had to pay.

Rep. Rosiky Camacho: They have to pay. Meaning, it is fair enough in a sense that it doesn't drain off his sick leave bank. So it gives an option making the option that we need to

be careful is to use up the sick leave bank when people take against what they have. So, I think that donated portion is allowable at this time.

Rep. Hofschneider: No, Mr. Speaker, I differ with that interpretation. May I?

Speaker Fitial: Yes, you may.

Rep. Hofschneider: Mr. Speaker, he is mixing apples and oranges here. There is no other mechanism under the current law that avails a person to tap into the sick leave whether it be individual wishing to donate, there is no mechanism for one employee of government to directly transfer that or donate that sick leave hour to a recipient. The only mechanism in place is to deposit it into the Sick Leave Bank account and that is the only mechanism that one can actually go to. Now, logic dictates that if Representative Attao is depositing hundred hours for me, then it goes into the Sick Leave Bank, now, I avail myself because of Representative Attao, not because of the general account that is in place. I can only use one hundred hours from Representative Attao. Now, if someone wants to deposit into the general account then that is fine. But it should be that in the end, when I come back I have to repay that when Representative Attao and I have agreed not to repay it. With that permissive language potentially and technically, Mr. Speaker, it allows Civil Service to promulgate regulations that forces me to repay it contrary to our agreement together. That is the point there, Mr. Speaker.

Rep. Peter: Mr. Speaker?

Speaker Fitial: Representative Peter?

Rep. Peter: Thank you, Mr. Speaker. I was just going to ask for a short recess so we can clarify the current law on the Sick Leave Bank, how many do we have on the general account and if there's more...?

Speaker Fitial: Representative Ichihara?

Rep. Ichihara: There's a situation when I was a principal, I did help one of my staff on this issue. What had happened is that family members donated sick leave and specifying who they were helping and the people at Personnel make sure that she got that amount from her family members. I believe that in section (a) on page 2, it says here, "(a) Any employee who is employed by the CNMI government, its agencies or instrumentalities, may apply for sick leave hours from the sick leave bank, provided that a certified medical statement from the attending physician support such request." I believe that all those leftover that were donated becomes part of the general sick leave bank. But this one if I donate to a specific person then that person will automatically receive that and if there's left over maybe it can come back. I think that is the intent to make sure that it is protected and there shouldn't limitation on this because I know that if you borrow from the general Sick Leave Bank, you

will have to repay in terms of hours that you obtained and of course if the person does not make it at the end of the fiscal year.

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

Speaker Fitial: Proceed.

Rep. Hofschneider: Then a clarification on section (f) would survive in terms of this particular section only applies for uncommitted sick leave hours withdrawn from the general account not mutually agreed upon by the person donating it. If you have excess and you want to donate it to the well deserving employee in the government who wants to avail themselves from the Sick Leave Bank then that is fine. But it shouldn't be in conflict in section (c) when two persons agreed to help each other out and in the end you're forced to repay it especially when you are hundred hours away from your retirement.

Speaker Fitial: We don't have any problem with subsection (c). It is subsection (f) that we have a problem any magic word that could be used to remedy this problem?

Rep. Peter: Short recess, Mr. Speaker.

Speaker Fitial: One minute recess.

The House recessed at 12:30 p.m.

RECESS

The House reconvened at 12:55 p.m.

Speaker Fitial: The House shall reconvene.

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Mr. Speaker, because the author requested that potential amendments would be added, I wish to withdraw my original motion and restate my motion for passage on First Reading only.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries.

MISCELLANEOUS BUSINESS

None

ANNOUNCEMENTS

The Chair recognized Rep. Rosiky Camacho.

Chairman Rosiky Camacho: Reminder, today is our PUTC meeting with CUC Board members, Mr. Speaker, at 1:30 p.m.

Vice Speaker Mendiola: At what time?

Chairman Rosiky Camacho: At 1:30 p.m., Vice Speaker.

Speaker Fitial: Chairwoman Ichihara?

Chairwoman Ichihara: The Committee on Education will be meeting with the Governor at two o'clock this afternoon. Thank you.

Speaker Fitial: Floor Leader?

Floor Leader Babauta: I move to recess subject to the call of the Chair.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries.

The House recessed at 12:57 p.m.

Respectfully submitted,

Joan P. Kaipat, Journal Clerk
House of Representatives

LOCAL BILLS APPEARANCE

H. L. B. NO. 12-17: A Local Bill for an Act to appropriate \$276,000 on the fees collected on Saipan Local Law 11-2; and for other purposes. (REP. JESUS T. ATTAO 10/13/00) **2nd Appearance**

H. L. B. NO. 12-16: A Local Appropriation Bill for an Act to appropriate \$30,000 from the local license fees for pachinko slot machines and poker machines in the First Senatorial District; and for other purposes. (REP. ALEJO M. MENDIOLA, JR. 10/5/00) **3rd Appearance**