

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

THIRTIETH DAY

November 27, 2000

The House of Representatives of the Twelfth Northern Marianas Commonwealth Legislature convened in its Thirtieth Day, Second Regular Session, on Monday, November 27, 2000, at 10:50 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 Diego T. Benavente and Maria “Malua” T. Peter were excused.

Speaker Fitial: A quorum is present for our Thirtieth Day of our Second Regular Session. Members absent are excused.

ADOPTION OF JOURNALS

None

INTRODUCTION OF BILLS

H. B. NO. 12-294: A Bill for an Act to re-appropriate \$100,000.00 of unexpended fund balances from Public Law 12-13 for roads, road improvement at Wireless and north of Wireless; and for other purposes.

Offered by: Rep. Thomas B. Pangelinan and two others
Referred to: Committee on Ways and Means

INTRODUCTION OF RESOLUTIONS

H. R. NO. 12-99: A House Resolution requesting the Commonwealth Secretary of Finance, Procurement Chief, and the Public Auditor to coordinate with and provide

assistance to all departments, agencies and instrumentality of the Northern Marianas Government in developing a Northern Marianas Government Uniform Schedule of User Fees for the use of government facilities and provision of government services; and for other purposes.

Offered by: Rep. William S. Torres and ten others

Rep. W. Torres: If there is no objection, I would like to place this on today's Calendar.

Speaker Fitial: Any objection?

There was no objection raised.

Speaker Fitial: So ordered.

H. R. NO. 12-100: A House Resolution to respectfully requesting the Honorable Pedro P. Tenorio, Governor, Commonwealth of the Northern Mariana Islands, to petition the United States Army Corps of Engineers to include Northern Saipan in the Saipan Drainage Master Plan and Lagoon Habitat Restoration Project.

Offered by: Rep. Dino M. Jones and one other

Rep. Jones: Without objection, Mr. Speaker, I kindly request that this be place on today's Resolution Calendar.

Speaker Fitial: If there is no objection.

There was no objection raised.

Speaker Fitial: So ordered.

Rep. Jones: Thank you.

SENATE COMMUNICATIONS

Sen. Comm. 12-95: Return of House Bill No. 12-199, CD1, the "Tourism and Technology Development Incentive Act of 2000," which the Senate passed on November 22, 2000 in the form of H.B. No. 12-199, CD1, SS1, SD2. [For action on Senate amendments]

Sen. Comm. 12-96: Return of House Bill No. 12-246, CS1, the "Appropriations and Budget Authority Act of 2001," which the Senate passed on November 22, 2000 in the form of H.B. No. 12-246, CD1, SS1, SD4. [For action on Senate amendments]

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Thank you, Mr. Speaker. I move to accept Senate Communication 12-95, reference to House Bill No. 12-199, CD1, SS1, SD2.

The motion was seconded.

Speaker Fitial: Discussion on the acceptance motion?

Several members voiced, “ready”.

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Mr. Speaker, I move again, pursuant to Rule IX, Section 15 that we place Senate Communication 12-95 on today’s Calendar for action.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. Any --

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Under Senate Communications?

Speaker Fitial: Senate Communications.

Floor Leader Babauta: So move, Mr. Speaker, to reject amendments under Senate Communication 12-96, pertinent to House Bill No. 12-246, CD1, SS1, SD4.

The motion was seconded.

Speaker Fitial: Discussion?

Several members voiced, “ready”.

Speaker Fitial: Roll call.

The Clerk called the roll on the motion to reject the Senate Amendments to House Bill No. 12-246, CD1, SS1, 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	excused
Rep. Antonio M. Camacho	yes
Rep. Rosiky F. Camacho	yes
Rep. Florencio T. Deleon Guerrero	yes
Rep. Heinz S. Hofschneider	yes
Rep. Brigida DLG. Ichihara	yes
Rep. Dino M. Jones	yes
Rep. Alejo M. Mendiola, Jr.	yes
Rep. Norman S. Palacios	abstained
Rep. Thomas B. Pangelinan	yes
Rep. Maria “Malua” T. Peter	excused
Rep. Stanley T. Torres	no
Rep. William S. Torres	yes
Speaker Benigno R. Fitial	yes

Speaker Fitial: The changes made by the Senate on the Budget Act of Fiscal Year 2001 are hereby rejected by the House. I would like at this time to appoint a conference committee, House conferees to confer with the Senate on this Budget Act are; Chairman Tony Camacho, Floor Leader Babauta and Representative Malua Peter. Reports of Standing Committees.

REPORTS OF STANDING COMMITTEES

The Chair recognized the Floor Leader.

Floor Leader Babauta: Mr. Speaker, thank you. Mr. Speaker, although only one Standing Committee Report appeared on today’s Order of Business there are copies of further reports being distributed which would include 12-186, 12-187, 12-188 and 12-189, with that, Mr. Speaker, I move for the adoption of those Standing Committee Reports as it appears on today’s Order of Business.

The motion was seconded.

S. C. R. NO. 12-185: Reporting on House Bill No. 12-286, entitled, “To amend Public Law 12-24 to designate the Executive Director of the Commonwealth Utilities Corporation as the expenditure authority; and for other purposes.” *Your Committee on*

Public Utilities, Communications and Transportation recommends passage of the bill in the form of H.B. No. 12-286, CDI.

S. C. R. NO. 12-186: Reporting on House Bill No. 12-289, entitled, “To authorize the appropriation of \$2,420,000.00 for the Northern Marianas Housing Corporation.” *Your Committee on Ways and Means recommends passage of the bill in the form of H.B. No. 12-289, CDI.*

S. C. R. NO. 12-187: Reporting on House Bill No. 12-105, entitled, “To require the Division of Public Lands to identify all public lands which are being encroached upon by private interests, and to establish appropriate encroachment.” *Your Committee on Natural Resources recommends that the House pass the bill.*

S. C. R. NO. 12-188: Reporting on House Bill No. 12-168, entitled, “To require the Division of Public Lands to establish reasonable requirements for maintenance and upkeep of leased public properties, and lands adjacent thereto; and for other purposes.” *Your Committee on Natural Resources recommends passage of the bill in the form of H.B. No. 12-168, CSI.*

S. C. R. NO. 12-189: Reporting on House Bill No. 12-250, entitled, “To regulate commercial tour boat traffic within Saipan’s western lagoon; and for other purposes.” *Your Committee on Public Utilities, Communications and Transportation recommends passage of the bill in the form of H.B. No. 12-250, CSI.*

Speaker Fitial: Discussion?

Several members voiced, “ready”.

The motion to adopt Standing Committee Report Nos. 12-185, 12-186, 12-187, 12-188 and 12-189 was carried by voice vote.

Speaker Fitial: The motion carries. Resolution Calendar.

RESOLUTION CALENDAR

Floor Leader Babauta: Mr. Speaker, can we have one-minute recess so we may have the number?

Speaker Fitial: Short recess.

The House recessed at 11:00 a.m.

RECESSED

The House reconvened at 11:03 a.m.

Speaker Fitial: The House shall reconvene. We are under Item 15, Resolution Calendar.

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Mr. Speaker, so move for the suspension of Rule VII, Section 9 so we may adopt House Resolution Nos. 12-99 and 12-100L.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries.

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Floor Leader Babauta?

Floor Leader Babauta: So move now for the adoption of House Resolution Nos. 12-99 and 12-100.

The motion was seconded.

H. R. NO. 12-99: A HOUSE RESOLUTION REQUESTING THE COMMONWEALTH SECRETARY OF FINANCE, PROCUREMENT CHIEF, AND THE PUBLIC AUDITOR TO COORDINATE WITH AND PROVIDE ASSISTANCE TO ALL DEPARTMENTS, AGENCIES AND INSTRUMENTALITY OF THE NORTHERN MARIANAS GOVERNMENT IN DEVELOPING A NORTHERN MARIANAS GOVERNMENT UNIFORM SCHEDULE OF USER FEES FOR THE USE OF GOVERNMENT FACILITIES AND PROVISION OF GOVERNMENT SERVICES; AND FOR OTHER PURPOSES.

H. R. NO. 12-100: A HOUSE RESOLUTION TO RESPECTFULLY REQUESTING THE HONORABLE PEDRO P. TENORIO, GOVERNOR, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, TO PETITION THE UNITED STATES ARMY CORPS OF ENGINEERS TO INCLUDE NORTHERN SAIPAN IN THE SAIPAN DRAINAGE MASTER PLAN AND LAGOON HABITAT RESTORATION PROJECT.

Speaker Fitial: Discussion?

Several members voiced, “ready”.

The motion to adopt House Resolution Nos. 12-99 and 12-100 was carried by voice vote.

Speaker Fitial: House Resolution Nos. 12-99 and 12-100 are hereby adopted. Bill Calendar.

BILL CALENDAR

Speaker Fitial: We have House Bill 12-199 on the Calendar.

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Motion to accept.

Floor Leader Babauta: So move, Mr. Speaker, for the suspension of Rule IX, Sections 9 and 10 so that we may place on today's Calendar for First and Final Reading the following bills: House Bill No. 12-289 under Standing Committee Report 12-186; House Bill No. 12-105 under Standing Committee Report No. 12-187; House Bill No. 12-168 under Standing Committee Report 12-188; and House Bill No. 12-250 under Standing Committee Report No. 12-189.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. Passage motion?

Floor Leader Babauta: So move, Mr. Speaker, for the passage on Second and Final Reading on House Bill No. 12-199, Committee Draft 1, Senate Substitute 1, Senate Draft 2.

The motion was seconded.

H. B. NO. 12-199, CD1, SS1, SD2: A BILL FOR AN ACT TO ADD A NEW CHAPTER TO TITLE 4, DIVISION 2 OF THE COMMONWEALTH CODE TO PROMOTE ECONOMIC DEVELOPMENT IN THE COMMONWEALTH BY OFFERING TAX ABATEMENT AND/OR REBATE INCENTIVES IN EXCHANGE FOR THE DEVELOPMENT OF DESIRABLE FACILITIES OR ACTIVITIES.

Speaker Fitial: I believe the appropriate motion would be just to accept because we have already passed this bill and it has gone up to the Senate. So, now we're only acting on the Senate amendments and the appropriate motion would be a motion to accept or reject the Senate amendments.

Floor Leader Babauta: Thank you. With that, Mr. Speaker, I withdraw my original motion and reinstate my motion. I so move to accept the Senate amendments to House Bill No. 12-199, Committee Draft 1, Senate Substitute 1.

The motion was seconded.

Speaker Fitial: Discussion?

Several members voiced, “ready”.

Speaker Fitial: Roll call.

The Clerk called the roll on the motion to accept the Senate amendments to House Bill No. 12-199, CD1, SS1, 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	excused
Rep. Antonio M. Camacho	yes
Rep. Rosiky F. Camacho	yes
Rep. Florencio T. Deleon Guerrero	yes
Rep. Heinz S. Hofschneider	yes
Rep. Brigida DLG. Ichihara	yes
Rep. Dino M. Jones	yes
Rep. Alejo M. Mendiola, Jr.	yes
Rep. Norman S. Palacios	yes
Rep. Thomas B. Pangelinan	yes
Rep. Maria “Malua” T. Peter	excused

Rep. S. Torres: Mr. Speaker, can I be enlightened what amendment the Senate made?

Speaker Fitial: Anybody wants to respond to that question? – Basically, the original bill that was introduced and passed by the House was only for hospitality industry. The major, significant change that the Senate had made on that particular bill, House Bill No. 12-199, was to expand the coverage or the application of the intent of this bill and that is to provide incentives for not only new investments but also for on-going businesses who plan to expand their on-going businesses to qualify for the incentives. We are talking incentives here. We are talking up to twenty-five years of tax exemption. So, the basic difference between the House version and Senate version of House Bill No. 12-199 is, under the Senate version, the bill is now expanded to cover other industries other than the hospitality industries. Representative Hofschneider, do you wish to elaborate?

Rep. Hofschneider: Thank you, Mr. Speaker. The other addition that the Senate made is the language provided on page 4, line 25. In fact it improves the legislation by now making a distinction and clearly defining what is permitted in terms of the credit to be applied for

instance on that line. Rota and Tinian, however, they want to develop their senatorial districts. Over the years the history of investment is tilting towards Saipan, Third Senatorial District in most cases. And in order for senatorial districts of Rota and Tinian to take advantage, they have to be realistic and practical and reduce the floor of investment the minimum amount and which they did by including such language on page 4, line 25, “Provided for the islands of Rota and Tinian, the minimum capital investment, including public benefit contributions, shall be sixty percent (60%)” that is a language that would be different in terms of the differences between the House version and the Senate amendments. That particular language is absent in the House version, which improves the legislation. In fact, we have to be realistic about the ability of investors to look favorably towards Tinian and Rota. I don’t have a problem with that, Mr. Speaker and members. I think that it improves the legislation on practical level. The infrastructure is absent in most cases in Rota and Tinian, so therefore, investors would be more incline to look at Saipan because they don’t have to fork out the additional cost to build a resort for instance, absent basic infrastructure, water, power, sewer. That other distinguishable difference is on the same page, they somewhat amended the categorization. I believe, Mr. Speaker, they remove nightclubs which we included in the House version which improves the legislation. For us, I think we have enough nightclubs on island.

Floor Leader Babauta: Clarification, Mr. Speaker, the House removed the nightclubs.

Rep. Hofschneider: Okay. I stand corrected. That is not necessarily the kind of investment we would like to see. The quality investments are those delineated on page 4 and they’ve improved somewhat. Other than that, I think it is just a matter of providing suitable language that would suit the specific senatorial districts in terms of attractive specific investors into their senatorial districts. It is a better legislation and just goes to proof, Mr. Speaker, that if we really want to do something with the economy this is an example of working together with the Senate. And I urge everyone really to support this legislation.

Speaker Fitial: We are voting on the motion to accept the Senate amendments and I believe, Representative Stanley Torres, the Clerk has called for your vote.

Rep. S. Torres: Thank you for clarifying. First time I see a bill –

Rep. Hofschneider: Colleague, you know that is a procedural judo so –

Rep. S. Torres: My vote is, “yes”.

Rep. Stanley T. Torres	yes
Rep. William S. Torres	yes
Speaker Benigno R. Fitial	yes

Speaker Fitial: The Senate amendments to House Bill No. 12-199, CD1, SS1, are hereby accepted by the House. Floor Leader?

Floor Leader Babauta: Thank you, Mr. Speaker. By request, Mr. Speaker, I move for the passage on First Reading House Bill No. 12-286, Committee Draft 1.

The motion was seconded.

H. B. NO. 12-286, CD1: 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.

Speaker Fitial: Discussion?

Rep. Attao: Is this for First Reading, Mr. Speaker?

Speaker Fitial: First Reading.

Rep. Attao: Why are we passing it on First Reading?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Mr. Speaker, I would probably yield to the author and the Chair of the Committee.

Speaker Fitial: Representative Rosiky Camacho?

Rep. Rosiky Camacho: Thank you, Mr. Speaker. The author actually inform me to have it pass on First Reading, but since I intent to hear it in this body, the underlined reasoning why he insisted to have it on First Reading based on the Committee Report. I would like the author to enlighten the body why he insists to pass it on First Reading.

Speaker Fitial: Thank you, Mr. Speaker. That is my bill and the reason why I asked that it be placed on First Reading is that I am working with the legal counsel. There are some questions there that I asked her to see if we can correct and return it back to the original form. I believe that once she is finished with that we will put that back on the Calendar for Final Reading. Thank you.

Rep. Attao: Mr. Speaker?

Speaker Fitial: Go ahead.

Rep. Attao: This is for the legal counsel, maybe she can take this recommendation and incorporate in the Committee Report. Under Public Law 11-67, Mr. Speaker, this particular law appropriates Seven Hundred sum thousand dollars from Public Law 9-24. House Bill 12-286, Committee Draft 1, stipulates that the bill is to reappropriate Public Law 12-24,

however, under this particular bill it was stricken-out and put “11-67”. Under Public Law 12-24, there is a balance of \$131,000 and that is the only amount we reappropriate rather than re-appropriating Public Law 11-67, which is very inconsistent because Public Law 12-24 is specific as to how much we reappropriate.

Speaker Fitial: 9-24?

Rep. Attao: No, 12-24. Public Law 11-67 appropriates Seven Hundred sum thousands from Public Law 9-24, Public Law 12-24 reappropriate \$131,000 from Public Law 11-67. The committee recommended an amendment to change Public Law 12-24 and include Public Law 11-67. If we are to pass this particular bill as amended by the committee, it would not effect Public Law 12-24. It will not effect Public Law 12-24, because Public Law 12-24 is now the law that governs the usage of \$131,000. The only concern here, Mr. Speaker, is the expenditure authority and I totally agree with House Bill No. 12-286 that includes the expenditure authority to be given to the Executive Director of Commonwealth Utilities Corporation. My recommendation to the committee is to follow this bill and pass it as is on a Second Reading without changing “Public Law 11-67” to “Public law 12-24”. “\$131,000.00” would not be realized.

Speaker Fitial: Representative Rosiky Camacho?

Rep. Rosiky Camacho: The understanding, Mr. Speaker -- forgive me for questioning on the budget – but the amended portion the unexpended re-appropriation fund is consistent with the language of the budget if we allow waterline project, I foresee that waterline if you go back to Public Law 11-67 or you go back either to Public Law 12-24 that waterline project in itself will not include the electrical parts that is as for the completion of the project. That is why the committee so decide that it will be put it in general form so that all other activities of the project will be done and will not be hold back because one of the category cannot be spend for that particular project, that is the way the committee have seen it.

Rep. Attao: Mr. Speaker?

Speaker Fitial: Proceed.

Rep. Attao: What I am pointing out, Mr. Speaker, is to correct this issue because Public Law 11-67 is re-appropriating 9-24, Public Law 12-24 appropriates \$131,000.00. So if you strike-out “Public Law 12-24” and put in “Public Law 11-67” that doesn’t mean anything. You are not re-appropriating \$131,000.00 because there is a law that governs \$131,000.00. So the bill itself is correct.

Rep. Rosiky Camacho: No, I am not arguing if the bill is wrong. I am just arguing for consistency purposes the original amendment of Public Law 12-24 is from Public Law 11-67 and whatever the unfunded balance on Public Law 11-67 is consistent with Public Law 12-24, is the reason that that is a draft amended of House Bill No. 12-286, is to be consistent

because all the spending authority on Public Law 11-67 is under Commonwealth Utilities Corporation and that is basically to be consistent with that particular public law. We manage to accept this particular language rather than to specifically mention waterline project. Might as well, since we are amending appropriation authority, we manage put it in general that the unexpended re-appropriate fund balance to be the proper wording for the –

Speaker Fitial: Let me ask Representative Apatang, what is your intent actually?

Rep. Apatang: Thank you, Mr. Speaker. The intent actually is to just clarify the expenditure authority on Public Law 12-24. Public Law 11-67 has been introduced and it is no longer the concern. We are just trying to clarify or to make sure that the expenditure authority is in fact recognize in Public Law 12-24. So, there's no problem.

Speaker Fitial: Right now, under Public Law 12-24 who has the authority?

Rep. Apatang: That is missing. That is the reason why I introduced that particular bill so we can clarify, to show that the Executive Director of Commonwealth Utilities Corporations will be the expenditure authority. Back in the previous legislation, Public Law 9-24 the expenditure authority was the Secretary of Public Works.

Speaker Fitial: So the concern really is on Public Law 12-24, because the expenditure authority is not CUC.

Rep. Apatang: That is what we are trying to clarify. I'm working with the legal counsel. I am sure that she will get with the Chairman and we will clarify that and take it out on our next session.

Speaker Fitial: So, while you are clarifying that, legal counsel, can you also clarify the concern of Representative Attao? The First Reading will not do anything. Before the Final Reading everything should be clarified.

Rep. Attao: Mr. Speaker, I think it is simple.

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Since we are only considering this on First Reading.

Rep. Attao: I see it very simple, just change "Public Law 11-67" and reinstate "Public Law 12-24", because we are only talking about expenditure authority. Now, if we are to take the money from here then it is going to be a question.

Speaker Fitial: That is my point. Clarify so we will only address Public Law 12-24. Let us not even bring in another number. Floor Leader?

Floor Leader Babauta: Just a minor concern with respect to Sections 2 and 3 of the bill, House Bill No. 12-286, Committee Draft 1, and I guess Representative Attao, by enacting such legislation would evidently granting the Executive Director should House Bill No. 12-286 passes it would definitely grants the Executive Director a blanket authority over unexpended appropriations funds base on line appropriations under Public Law 11-67. So, I guess if we manifest Public Law 12-24, it will limit its ability directly only to the \$131,000 and that is it, no more no less. So, I guess First Reading is in line.

Speaker Fitial: Even if you mention Public Law 11-67 here, there is no effect on Public Law 11-67 because the intent of this House Bill is to designate the expenditure authority and not to expend Public Law 11-67.

Floor Leader Babauta: Yes, Mr. Speaker. But there are several line-item appropriations under Public Law 11-67 that probably has minor sums that left out so the Director can easily by granting such authority under this current version would allow him to expend.

Speaker Fitial: Okay. The legal counsel is fully apprise and aware of what the real intent of House Bill No. 12-286 is. So, why don't we proceed and pass it on First Reading then let the legal counsel fix it up before Second Reading.

Floor Leader Babauta: So move, Mr. Speaker, for First Reading.

The motion was seconded.

Speaker Fitial: Further discussion?

Several members voiced, "ready".

The motion to pass House Bill No. 12-286, Committee Draft 1, on First Reading was 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 passage of House Bill No. 12-289, Committee Draft 1.

The motion was seconded.

H. B. NO. 12-289, CD1: A BILL FOR AN ACT TO AUTHORIZE THE APPROPRIATION OF \$2,420,000.00 FOR THE NORTHERN MARIANAS HOUSING CORPORATION.

Speaker Fitial: Discussion?

Several members voiced, "ready".

Speaker Fitial: Roll call.

Rep. Attao: Hold, hold –

Rep. Hofschneider: Hold, House Bill No. 12-289?

Speaker Fitial: House Bill No. 12-289, Committee Draft 1. Recognized.

Rep. Hofschneider: Thank you, Mr. Speaker. I have a Floor Amendment to offer.

Speaker Fitial: Floor Leader?

Floor Leader Babauta: So move, Mr. Speaker, for the suspension of the Rules so that we may allow Representative Hofschneider to offer his amendments.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. Representative Hofschneider, recognized.

Rep. Hofschneider: Thank you. On page 1 of the bill, Section 2. Authorization for Appropriation, Line 20 after Project, insert “Provided Further that \$420,000.00 out of \$2,420,000.00 shall be reserved for the Chalan Kiya and Gualo Rai sewer distribution under the expenditure authority of the CUC Executive Director.”

Rep. Attao: Second.

Rep. A. Camacho: Objection.

Speaker Fitial: Discussion on the amendment? Representative Jones?

Rep. Jones: Mr. Speaker, I think it is only fair that all the precincts in Saipan should benefit from any funds that may be available from this bill rather than just a particular precinct. I kindly ask that Representative Hofschneider will consider this strongly and amend the motion and include all the precincts rather than me doing it. Thank you, Mr. Speaker.

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

Floor Leader Babauta: Privilege, Mr. Speaker.

Speaker Fitial: Representative Hofschneider?

Rep. Hofschneider: Exactly as he paraphrased it, can we all share. And if you look at the original bill, it is benefiting Precinct I, the current forty-five units and that is for the cost

recovery of the infrastructure that is currently constructed and I believe that also because of what we gave up tremendously in Precinct III where the upper-MIHA have been issued out without a penny benefiting the precinct when we funded for the infrastructure for that area, Northern Marianas Housing agree that at some point down the line that particular precinct should be afforded or accorded the opportunity to recover the impact of the precinct. And as far as the \$420,000 being taken out it will not jeopardize the funding or the endeavor of NMHC to complete its forty-five units in Koblerville. That is essentially what we are doing and we had cleared this NMHC and CDA and they said that they agreed, this is sometimes six years ago. We are taking the opportunity now to recover that cost so that those homestead areas and villages that are void of sewer system be accorded those infrastructure means.

Rep. A. Camacho: Mr. Speaker?

Rep. Jones: May I continue, Mr. Speaker?

Speaker Fitial: Yes, continue.

Rep. Jones: It is very unfortunate that Precinct IV has to go to Marianas Public Land Trust Fund to request for money because infrastructure in Precinct IV has never been addressed when it comes to big amount of money. I ask myself, why do I have to go to Public Land Trust Fund to ask when there is money available from the taxpayers and the federal government. I am not asking more than what the entitlement per precinct will receive. I am only asking for consideration that -- spread out the wealth. If it is only \$.10 let us spread it out because we are all CNMI people. We are all contributing one way or the other. But that was then, Mr. Speaker, but from here on, I am asking that when we have money like this that will benefit the precincts especially the infrastructures, let us consider everybody, let us consider all the precincts. Thank you, Mr. Speaker.

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

Speaker Fitial: State your point of clarification, Representative Attao.

Rep. Attao: Mr. Speaker, just recently we passed Two Million Dollars for Precinct IV. I just want to clarify this, just four months ago, Precinct IV receives Two Million Dollars for Infrastructure Funds and this is big money. Thank you.

Speaker Fitial: Representative Tony Camacho?

Rep. A. Camacho: Thank you, Mr. Speaker. I don't know why we are segregating Saipan as Precincts I, II, III and IV. This money is available to finish that infrastructure there and it is the interest that we are taking. I don't know why we have to say upper-MIHA is old, but it is already finished. Please let us finish these houses and give the people their choice to buy or not to buy. We are only fighting among ourselves, we are not heading towards an achiever,

which the people will be achieving the project, it is not us. We are only helping. I don't know why we have to go by precinct, let us do it for our people. This is what we have available from the interest and this is what, Mr. Speaker, MaryLou the Director of the Housing Corporation wrote to you on November 15, that we have to expedite so that they can start helping out delivering of these houses for those who are eligible to purchase, and this is the only thing that is waiting for the completion of the infrastructure.

Speaker Fitial: Representative Apatang?

Rep. Apatang: Thank you, Mr. Speaker. This money here is actually long overdue for the Koblerville housing unit. The Two Million Four Hundred and Twenty Thousand Dollars actually was just reappropriate for Koblerville homestead area for water, power and sewer. Actually what we are doing here is just re-appropriating it back so we can finish the power, water and sewer infrastructure project the forty-five unit housing area in Koblerville. The Two Million Dollars share that Precinct IV, As Matuis appropriated four months ago is the share out of this, so we split the Four Million sum. So this money actually belongs to that project up there in Koblerville housing homestead area. We need to support this. Let us not take money away from this because they need this money up there to finish those forty-five units and they need more than this. They need more then Two Million Four Hundred Twenty Thousand Dollars and we have verified this with CDA. That is the reason why Representatives Camacho and Ada decided to do this. We need to support it. We need to finish that housing up there for our children those who are waiting for that housing the forty-five units we owe it to them. So I ask your support, let us not make any amendments on this.

Rep. Hofschneider: Point of clarification.

Speaker Fitial: Go ahead.

Rep. Hofschneider: I am willing to withdraw this on two premises: No. 1, can anybody tell me the actual fund balances in the interest account in Bank of Guam?

Rep. A. Camacho: This is the amount.

Rep. Hofschneider: You are wrong. No. 2, we put it as a new item inclusive and not touch the \$2.42 we just add a new section.

Rep. A. Camacho: What section?

Rep. Hofschneider: The interest is accruing so what gives you the confidence to say that there is only \$2.42?

Rep. A. Camacho: This is what I received from CDA. That is why we are appropriating this much.

Rep. Hofschneider: No. If you read --

Rep. A. Camacho: If there is an accrued that time then it is good that we have more money to look into in the near future.

Rep. Hofschneider: That is why, Mr. Chairman, I am willing to withdraw this on the premise the we include it as a new project if and when there is fund balance let it be attended to by that particular account, are you willing to do that?

Rep. A. Camacho: Sure.

Rep. Hofschneider: Okay.

Rep. Jones: Mr. Speaker?

Acting Speaker Mendiola: Representative Rosiky Camacho?

Rep. Rosiky Camacho: I have a question from the intent of the sewer. I want to find out if this sewer line is the main trunk distribution line or is this sewer distribution line is the lateral?

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

Acting Speaker Mendiola: Go ahead.

Rep. Hofschneider: It is the main trunk that will provide for the laterals into those areas. I will invite you after this session to just go down and visit Mr. Eddie Concepcion and see what is going through in the golf course region. The only sewer line main trunk that is now presently in place is the one that attains to the need of Saipan Health Clinic beyond that it is absolutely void of sewer trunk. In China Town for instance and Gualo Rai there is no main trunk. There is a current project been undertaken by CUC and they've ran out of money and therefore, the Gualo Rai sewer is not operable, it only takes a few thousands of dollars to finish it. China Town on the other hand is a homestead that for years we have not been able to provide a sewer system. We don't have to go into the specifics of the cost per household to rent one of those honey-wagons they call on a weekly basis, come on. I am willing to withdraw this on a basis that we include it as a line item.

Rep. A. Camacho: Mr. Speaker?

Rep. Rosiky Camacho: Mr. Speaker, I still have the floor.

Acting Speaker Mendiola: You may proceed.

Rep. Rosiky Camacho: Mr. Speaker, if you notice priorities – the problem at this present stage the main trunk that carry out all the load within the villages is too small, there is more sewer floating into the main trunk than going to the main treatment plant. Now, as we continue to add on lateral into the villages and we don't improve the present existing that continue to have overflow and there is a big problem. It is a problem that prioritizing is our problem not only from this body but the administrative, which is CUC and this is one --

Rep. Hofschneider: Clarification, Mr. Speaker.

Rep. Rosiky Camacho: Let me finish.

Rep. Hofschneider: No. You are misleading the public.

Rep. Rosiky Camacho: Let me finish. And there is this money, Mr. Speaker –

Rep. Hofschneider: Mr. Speaker, point of clarification.

Acting Speaker Mendiola: State your point of clarification.

Rep. Hofschneider: Representative Camacho, please tell the public –

Rep. A. Camacho: Which Camacho?

Rep. Rosiky Camacho: Which Camacho?

Rep. Hofschneider: Representative Rosiky Camacho. There are two sewer treatment plants system on the island: one on the southern, Agingan Point, and one in Sadog Tasi. Now, the apex is properly situated at East-West Rental on W-2, to the north it goes to the Sadog Tasi sewer treatment plant that has a capacity of three million gallons per day. The system now is accommodating two point four million gallons. The Agingan is a five million gallons sewer treatment plant, it is only processing Three point Five Eight Million Gallons so don't say that is been subjected to overload. It is not. It is the system in place that is inadequate to pump the sewer into those processing plants and as a matter of point the new subdivision in Koblerville is a new subdivision. Have we taken care of those subdivisions that have been in existence for more then fifteen years or twenty years and now you are saying that that is not fair. The peroration when NMHC decided to construct that is on the premise that it can recover the entire infrastructure cost... interest rate don't get the messages wrong.

Rep. Rosiky Camacho: Mr. Speaker, I still have the floor. Let me clarify that statement. There are things that we need to prioritize and having the sewer within the villages will now resolve our problems on the floor and the problem of overflow is not the two treatment plants. It is the load that is carrying that process to the treatment plant that is my argument to clarify the issue on the sewer system is that we continue to add on into the main trunk that carries these two systems is my argument. Where is our priority to fulfill this overflow in the

main trunk? I am not arguing in terms of other issue pertaining to the bill. I am just arguing to the issue that this particular intent money is for the villages. I have no objection of that it is just we need to resolve where is the sewer going through and we need that trunk to improve and there is a problem and as you see the triangle down there in Chalan Kiya going down from NMC shows you that there is about one thousand tanks that is asbestos that is why you have this pipe been over packed simply because that one needs some money and that is not included in the Chalan Kiya project, that is my own discussion here is to clarify that we are not prioritize where is the needed project more important to foresee. That is my main issue, Mr. Speaker. Thank you.

Rep. Attao: Mr. Speaker, point of information.

Acting Speaker Mendiola: State your point of information.

Rep. Attao: Under Public Law 9-24, there is \$6.5 Million appropriated to upgrade the sewer system from Agingan Point to Sadog Tasi, this is the main trunk. I think CUC is working on that now, but there is money available for that particular special project. Thank you.

Rep. A. Camacho: Mr. Speaker?

Acting Speaker Mendiola: Representative Tony Camacho?

Rep. A. Camacho: Thank you, Mr. Speaker. The Koblerville housing unit is not only for Koblerville people it is for everybody in Saipan. Anyone that can afford to buy those houses even though their from San Roque, As Matuis, or anywhere, or even from Rota. I've been here already and I'm catching gimmicks. I was at one time developing tracking Saipan Legislative Delegation for the developers tax, but Representative Attao gave me two weeks, I think it is Two Hundred sum Thousand Dollars for Chalan Kiya also on that bill. Please can you give us the opportunity to finish and you have that money already on Saipan Delegation appropriation and give us the money so we can finish this project instead of arguing here on the floor?

Rep. Attao: It is only \$151,000.00, Mr. Chairman.

Rep. A. Camacho: Please.

Rep. Attao: Not \$200,000.00.

Rep. A. Camacho: But those are the points I'm driving at. Let us finish this one and we can go to the other.

Rep. Attao: So, let us pass the amendment.

Rep. A. Camacho: No.

Rep. Jones: Mr. Speaker, you owe me the floor because this actually stimulated when I began to declare an accessibility of extending service to the northern part of Saipan. Just this morning I introduced a resolution calling for the Governor to include the northern part of Saipan in the Drainage Master Plan and Lagoon Habitat Restoration project because the concentration is in the center and southern part of Saipan what else are we trying to hide. Are we saying that only from the center part of Saipan to the southern part are people of the CNMI? I don't have to introduce this resolution, but the fact of the matter is that, it is not addressed. And every time it rains the northern part of Saipan from as Mahetog all the way to San Roque is flooded that is why the Federal Government came in patiently and supported the project there. Now take a look at Precinct IV, do you see MIHA projects? Where are the MIHA projects? Precincts I and III that I don't question, but I am trying to show reality. Where are the priorities? Where are the concerns? Are they being address equally? No, it is not. That is why every session of the Legislature since the Tenth Legislature up to now, I keep standing on my two feet to ask for consideration from this body. Why do I have to go to Public Land Trust Fund to ask for money and not the taxpayer's money when taxpayer's money can be utilize in Precincts I, II and III and not the northern part? The Two Million Dollars is the only money at this time that has been addressed but it is not enough. So, I am not arguing not to give Precinct III the money. My argument here is that when we have money that will serve the need of the people particularly in infrastructure and school, spread the money out. And that is why I am working also from a social funding to make sure that we have elementary school in As Matuis because San Roque School cannot accommodate that. These are reality of problems that Precinct IV has been experiencing and not much action has been taken by this body to accommodate us. Thank you, Mr. Speaker.

Speaker Fitial: We are very fortunate that George W. Bush has won the Presidency so there is relief on the way.

Floor Leader Babauta: Chalan Kiya will be finish with the inauguration of Mr. Bush.

Rep. Attao: Can we take two minutes recess, Mr. Speaker, so we can –

Speaker Fitial: Just one minute recess.

The House recessed at 1:50 p.m.

RECESS

The House reconvened at 2:24 p.m.

Speaker Fitial: The House shall reconvene. Before we went on the lengthy recess we were discussing the Floor Amendment offered by Representative Hofschneider reference to House Bill No. 12-289. At this time, I would like to recognize Representative Hofschneider for more palatable –

Rep. Hofschneider: Thank you, Mr. Speaker and members. In the spirit of cooperation, I am glad that we carried ourselves in proper decorum this morning and as a matter of compromise, I would like to offer an oral floor amendment if I may be authorize to --

Floor Leader Babauta: No objection, Mr. Speaker.

Speaker Fitial: No objection, proceed.

Rep. Hofschneider: An oral Floor Amendment on the written Floor Amendment that I offered this morning, after the word, “that” reading it, “Provided further that...” insert the following words “any future interest earn by CDA, \$420,000.00” then strike out the words “out of \$2,420,000.00” and the sentences shall continue.

Rep. Attao: Second.

Rep. A. Camacho: Could you rephrase now what you have?

Rep. Hofschneider: As amended, “Provided further that any future interest earn by CDA, \$420,000.00 shall be reserved for the Chalan Kiya and Gualo Rai sewer distribution...”

The motion was seconded.

Floor Leader Babauta: Ready for the question.

Rep. Jones: Mr. Speaker?

Speaker Fitial: Representative Jones?

Rep. Jones: Mr. Speaker, I know that this is a precinct battle and I know I would not be able to garner the necessary votes. Thank you.

Speaker Fitial: That was not very palatable.

Rep. Hofschneider: Not very palatable at least that I can do.

Speaker Fitial: So after that, any future interest earned?

Rep. Hofschneider: The whole idea, Mr. Speaker, is if the assumption is that the \$2,420,000.00 is from an earn income then the assumption is that they have other accounts that earn interest as an income.

Speaker Fitial: The effect of your proposed oral amendment does not change the original language of House Bill No. 12-289, in other words –

Rep. Hofschneider: It reserves the \$2,420,000.00.

Speaker Fitial: The \$2,420,000.00 remains intact.

Rep. Hofschneider: Just an assumption.

Several members voiced, “ready”.

Speaker Fitial: Let us call the roll so it will be more clear.

The Clerk called the roll on the motion to adopt the oral Floor Amendment offered by Representative Hofschneider is as follows.

Rep. Martin B. Ada	no
Rep. David M. Apatang	no
Rep. Jesus T. Attao	yes
Rep. Oscar M. Babauta	yes
Rep. Diego T. Benavente	excused
Rep. Antonio M. Camacho	yes
Rep. Rosiky F. Camacho	no
Rep. Florencio T. Deleon Guerrero	yes
Rep. Heinz S. Hofschneider	yes
Rep. Brigida DLG. Ichihara	yes
Rep. Dino M. Jones	no
Rep. Alejo M. Mendiola, Jr.	abstained
Rep. Norman S. Palacios	abstained
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: The oral Floor Amendment offered by Representative Hofschneider is hereby adopted.

Several members voiced, “ready”.

Floor Leader Babauta: Ready for the question, Mr. Speaker.

Speaker Fitial: Roll call.

The Clerk called the roll on the motion to pass House Bill No. 12-289, CD1, HD1, on First and Final Reading as follows:

Rep. Martin B. Ada	no
Rep. David M. Apatang	yes
Rep. Jesus T. Attao	yes
Rep. Oscar M. Babauta	yes
Rep. Diego T. Benavente	excused
Rep. Antonio M. Camacho	yes
Rep. Rosiky F. Camacho	yes
Rep. Florencio T. Deleon Guerrero	yes
Rep. Heinz S. Hofschneider	yes
Rep. Brigida DLG. Ichihara	yes
Rep. Dino M. Jones	no
Rep. Alejo M. Mendiola, Jr.	abstained
Rep. Norman S. Palacios	abstained
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. 12-289, Committee Draft 1, House Draft 1, passes the House. Floor Leader, next on the Bill Calendar?

Floor Leader Babauta: Thank you, Mr. Speaker. I move for the passage on First and Final Reading House Bill No. 12-105 under Standing Committee Report No. 12-187.

The motion was seconded.

H. B. NO. 12-105: A BILL FOR AN ACT TO REQUIRE THE DIVISION OF PUBLIC LANDS TO IDENTIFY ALL PUBLIC LANDS WHICH ARE BEING ENCROACHED UPON BY PRIVATE INTERESTS, AND TO ESTABLISH APPROPRIATE ENCROACHMENT.

Speaker Fitial: Discussion?

Several members voiced, “ready”.

Speaker Fitial: Roll call.

The Clerk called the roll on the motion to pass House Bill No. 12-150 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	excused
Rep. Antonio M. Camacho	yes
Rep. Rosiky F. Camacho	yes
Rep. Florencio T. Deleon Guerrero	yes
Rep. Heinz S. Hofschneider	yes
Rep. Brigida DLG. Ichihara	yes
Rep. Dino M. Jones	yes
Rep. Alejo M. Mendiola, Jr.	yes
Rep. Norman S. Palacios	yes
Rep. Thomas B. Pangelinan	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. 12-105 passes the House on First and Final Reading. Floor Leader?

Floor Leader Babauta: Thank you, Mr. Speaker. I now move for the passage on First and Final Reading House Bill No. 12-168, Committee Substitute 1.

The motion was seconded.

H. B. NO. 12-168, CS1: A BILL FOR AN ACT TO REQUIRE THE DIVISION OF PUBLIC LANDS TO ESTABLISH REASONABLE REQUIREMENTS FOR MAINTENANCE AND UPKEEP OF LEASED PUBLIC PROPERTIES, AND LANDS ADJACENT THERETO; AND FOR OTHER PURPOSES.

Speaker Fitial: Discussion?

Several members voiced, “ready”.

Speaker Fitial: Roll call.

The Clerk called the roll on the motion to pass House Bill No. 12-168, CS1, 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	excused
Rep. Antonio M. Camacho	yes

Rep. Rosiky F. Camacho	yes
Rep. Florencio T. Deleon Guerrero	yes
Rep. Heinz S. Hofschneider	yes
Rep. Brigida DLG. Ichihara	yes
Rep. Dino M. Jones	yes
Rep. Alejo M. Mendiola, Jr.	yes
Rep. Norman S. Palacios	yes
Rep. Thomas B. Pangelinan	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. 12-168, Committee Substitute 1, passes the House on First and Final Reading. Floor Leader?

Floor Leader Babauta: Thank you, Mr. Speaker. I now move for the passage on First and Final Reading House Bill No. 12-250, Committee Substitute 1.

The motion was seconded.

H. B. NO. 12-250, CS1: A BILL FOR AN ACT TO REGULATE COMMERCIAL TOUR BOAT TRAFFIC WITHIN SAIPAN’S WESTERN LAGOON; AND FOR OTHER PURPOSES.

Speaker Fitial: Discussion? Representative Hofschneider?

Rep. Hofschneider: Thank you, Mr. Speaker. I have two concerns on the bill and perhaps it requires the legal counsel’s response.

Speaker Fitial: Proceed.

Rep. Hofschneider: One is the section on the establishment of the Marina Fund. On Section 5, page 3, the bill is reporting to set aside \$2.50 for every arriving passenger in Managaha and put that in an escrow in essence to provide for death service for the execution. The question that I have is, this is one of the area that is gray in the Constitution and to prevent the possibility of the Governor, again, vetoing the bill, which is a very good bill, it is well-written. I guess the only problem here in this section is the source of funds. The mechanism is okay, in the sense that it would guarantee some funds to be earmarked or set aside. In the Constitution there is only one program that Public Lands is permitted and Article XI, based on the fundamental policies of the former MPLC, which again the House continues to hold the fundamental policies of the former Public Lands continues to exist. The only program that is permitted in the Constitution is Homesteading Program. Therefore, I raise the question whether the Legislature can in fact divert or make use of any income whether it be fees or leases generated from public lands and contrary to the stipulation under the Section of

MPLT, that the income generated from public lands after removing or setting aside the cost of administering the program which is basically and essentially Homesteading Program that any fund balances shall be remitted to MPLT. The question that I would like to raise is the diversion of this fund. The intention is to benefit the public, that is not my problem. My problem is the income that is constitutionally the property of the Division of Public Lands, are we overreaching into the constitutional prescriptions of what the intentions of the income to be used, are we going beyond the constitutional programs delineated in the Constitution and by law. And the only reason why I raised this is, when I introduced the Managaha Marine Sanctuary, in the original bill I included the usage of the landing fee since the sanctuary is contiguous with Managaha which is a fast land and the income generated in the fast land not on the submerged land. The Governor, by the advise of the Attorney General vetoed the bill on the basis of the Public Lands also objected towards using and diverting income from public land, essentially Managaha is under the administration of Public Lands, that is one question that I need to be answered. The second question is, in the prohibition of commercial tour boat operators to utilize Charlie Dock, Echo Dock and Seaplane Ramp, commercial boats 85 feet and below, as I recall the operators of the passenger ferrying the personnel to the three positioning ships continues to operate out of Charlie Dock and that is a contractual bases and commercial entity. I just wondered if the provided language would in anyway limit or prohibit that particular contract from continuing to serve the three positioning ships stationed in the waters of the Commonwealth. Perhaps a language that would clearly show the intention of the Legislature that nothing in this Act shall limit or prohibit the designated operator to continue ferrying personnel to and from the three positioning ships. So, first, Mr. Speaker, I would like an answer as to the Marina Funds. I would like to be provide a couple of ways to still accomplish the acquisition that is intended in the bill, but before I offer that, I would like to hear from the counsel if in fact we are staying within the constitutional boundaries of the powers of the Legislature to appropriate funds intended specifically for the benefit of the Public Lands Administration and any access thereby remit it to MPLT.

Speaker Fitial: If there is no objection, I would like to request for the unanimous consent to allow the counsels to respond.

There was no objection raised.

Speaker Fitial: Any of the two counsels may respond to the concerns raised by Representative Hofschneider? -- Proceed.

The counsels were recognized.

Speaker Fitial: Representative Rosiky Camacho?

Rep. Rosiky Camacho: Mr. Speaker, that is one of the earlier discussion with the Committee that is why we put such language as, "Notwithstanding any law or regulation..." that is the intent for that particular languages to secure that the \$2.50 from \$5.00 landing fee for Managaha will be sufficient to settle the matter. But other principal of law, like the

representative from Precinct III is alluding to, the committee didn't deliberate on that and didn't come up with resources. But if the good representative have other ways straighten the particular section the committee is well in order to accept that recommendation if the body so accept that particular recommendation –

Speaker Fitial: This brings out a very interesting observation because prior to enactment of the preference local contractors reference bill, Tasi Tour was collecting this landing fees, not only collecting, they are also using it. So if the Legislature is constitutionally barred from disposing of these fees...

Rep. Hofschneider: Which, Mr. Speaker, it brings me to the next logical question to ask our counsels. In the previous contract or the franchise agreement with Tasi Tour and Public Lands Corporation then, there is a section, which allows for holdover clause, and as I recall, the holdover clause is still in effect as of today, and it is being close to two years since that clause has been revoked. The Legislature I know, Mr. Speaker, cannot retroactively apply a law and taking away anything in a contract that is already agreed upon. But the question that I would like to pose is, can the Legislature feel to for set a time limitation as to the liability or the effectiveness of a holdover clause? Obviously Public Lands in essence if you look at the stipulated income lost because of the holdover clause monumental. As I recall, Two Thousand Five Hundred Dollars roughly per day is what the franchise amounts to when it was bid it out then. The holdover clause with Public Lands today cost for roughly the same amount of money per month, so that is one-thirtieth of the income potential. Now, fiduciary question comes into play. For the last two years fiducially speaking, is the Board of Public Lands adhering to prudent management of the franchise whether it be franchise for Managaha or the lease on Managaha and can the Legislature now step in and say, "heretofore, there is a limitation on any government contract that have holdover clause", can we set the limit as to the applicability of a holdover clause? And then maybe, Mr. Speaker, we have open a door towards the Legislature appropriating funds primarily on a fee basis and not on an income leases as stipulated in the Constitution.

Speaker Fitial: I was going to ask the Natural Resources Committee to zero in on the lack of concern on their fiduciary the Public Lands Board. As a matter of fact, the holdover is going on in its third year. So, \$900,000.00 a month, multiply that by twelve months, used only \$108,000.00 per the year, that is what Tasi Tour is paying versus \$4.1 Million when it used to have the franchise before the holdover. This is robbery to the max. Public Lands is responsible to see to it that we get our lands monies worth. But they seem to taking it very easy. Why? I think the Committee on Natural Resources is looking into this because there is something fishy going on.

Rep. Apatang: Mr. Speaker, can the legal counsel answer the question that, Representative Hofschneider is asking, whether can we se a limit on the holdover clause? Because I know there is a lot of money involve there.

Rep. Attao: Mr. Speaker?

Speaker Fitial: Tasi Tour is robbing us. Robbing the CNMI.

Rep. Hofschneider: Mr. Speaker, I can clarify. I think that any business having the opportunity to take advantage of the whole situation cannot be blamed for -- The blame should be on the representative of the public not adhering to the prudent management.

Speaker Fitial: Well, maybe the best statement I should make is, somebody is letting Tasi Tour to rob us, that way it is not intentional on the part of Tasi Tour.

Rep. Attao: Mr. Speaker?

Speaker Fitial: Representative Attao?

Rep. Attao: There is an existing statute that supercedes the holdover clause provision and that is PL 11-64 that will govern the collection of the Managaha Landing Fee, but yet, Tasi Tour is still collecting the landing fee. So, the question here is the holdover clause. There is an existing statute that governs those fees collected by the Tasi Tour and this bill addresses the \$2.50 arrival fee so I think the application is almost the same as the statute. The question is, whether or not public land has the authority to hold the money rather than distribute it to the general fund or some place else.

Speaker Fitial: The local contractors preference act, Public Lands is following the letter of that law. In other words, that law authorizes Public Lands to collect the landing fees and at the same time, that law requires Public Lands to set up a fund.

Rep. Hofschneider: There is a legal quandary, Mr. Speaker.

Speaker Fitial: My point is, if that law can work and it is working because they are following the letter of the law, I am sure that what we are trying to accomplish here under House Bill No. 12-250 is also workable.

Rep. Hofschneider: I would like to hear the counsels, Mr. Speaker, because if that is the case that with the greatest certainty of legal explanation or legal confidence on the intention of this section, then I would like to live it as it is and perhaps this is the vehicle to finally post the question to the courts as to the boundaries or authorities of the Legislature and also Public Lands when it comes to diversion of income from Public Lands. We went through this exercise when former Governor Froilan Tenorio was in office with the intention of using then public land income to pay for land acquisition, but then they revert that action or they stop and we have to appropriate funds to cover for those monies used when it was not intended to be use. The other parameter that I would like for the counsels to answer is, do we have chance with this language in the court? And if so, perhaps we should live it alone and bring it to court. But I would like to propose that another way of doing it, again, I need the help of the counsel is, nothing in the Constitution prevents the Legislature from borrowing income

from Public Lands. So, if the \$2.50 can be borrowed and return at a later date through appropriation then that is another vehicle to accomplish the same intention up to \$3.5 Million is originally intended in the bill that will not be a direct diversion of funds from public land.

Speaker Fitial: Another way and I think it is the best way is to get away from the landing fee concept and instead let us use surcharge or departure fee, in that way it will be away from Public Lands, Article XI restriction.

Rep. Hofschneider: Yes, but the question brings us back to the holdover clause, how long can this continue when you add on another surcharge on top of the landing fee? I think Public Lands can convene its Board immediately to do away with the landing fee upon the effective date of the law of imposing a surcharge replacing landing fee with a surcharge, the problem with it is, can we then step in at this stage and set the limit on the holdover clause? There is that legal quandary whether once we start using the income from landing fees as stipulated in the contract of Tasi Tour to operate and maintain the island of Managaha, then that fund is about \$900,000.00 today in the hands of Public Lands that has not been turn over to Tasi Tour, but if in fact we change the rule of the game would that \$900,000 be effectively return to Tasi Tour and what is the standing of Public Lands when it comes to changing the rule of the game?

Speaker Fitial: What is the recommendation from the legal counsel?

The legal counsels were recognized.

Speaker Fitial: How long would it take for the counsel to look into this?

The legal counsels were recognized.

Rep. Hofschneider: The only reason why I am raising this, Mr. Speaker is, Public Lands definitely cannot step in and operate Managaha, I would rather see that there is an extension with Tasi Tour and maintain that. The problem is that lack of resolution by the Boards of Public Lands on the issue of whether to give an extension to the concession rights to Tasi Tour. I believe that if we step in and change the rule of the game now, then it gives definitely Tasi Tour a greater position on the basis of the original contract agreement. We don't want to jeopardize that and have to see that it ends up in court and the public themselves have to prevent for something that we can't prevent right here and now.

Speaker Fitial: Chairman Rosiky Camacho, what is the major of the committee?

Rep. Rosiky Camacho: -- it is a policy decision that we in this body can foresee to test the Board of Public Lands. We can wait for tomorrow if it is acceptable, but if it would make no change from the legal counsels opinion, let us stand ready and support that bill as it stands.

Rep. Hofschneider: Mr. Speaker, may I?

Rep. Attao: Mr. Speaker, I think we need to clarify this because it is useless for us to pass this bill. There is one pending and that is my local bill appropriating the Managaha Landing Fee, it was vetoed by the Governor with the agreement that the Governor's legal counsel and the Attorney General get together with our legal counsel to sit down and iron out the problem here if the question is the landing fee. Anything under Public Lands money derive from that particular public land should be Public Lands money. And that is what happened to my bill, it was vetoed because of that question.

Rep. Hofschneider: So, Mr. Speaker, in terms of suggesting clarity from our counsels, one, to clarify when can the Legislature step in and appropriate any income if at all we can appropriate funds not necessarily consistent with the Constitution? But as far as the intention of this bill, I think that we need legal clarification as to when can the Legislature appropriate the landing fee and if at all, can we actually appropriate funds from Public Lands income? Two, if the legal standing is leaning towards the purview of the Legislature to appropriate then the next logical question is what would this do to an existing contract with Public Lands and Tasi Tour? We have to be mindful, Public Lands cannot operate Managaha so you don't want necessarily have to step in or have Public Lands step in and take over the role of commercial sector.

Rep. Rosiky Camacho: Mr. Speaker?

Speaker Fitial: Chairman Rosiky Camacho?

Rep. Rosiky Camacho: I can see it that it is not going to pass, but ten percent from the committee members that we will hold on until the opinion from the legal counsels to deliver tomorrow. The Committee stands ready to accept that legal opinion and I hope this body will accept that legal opinion. Thank you, Mr. Speaker.

Rep. Hofschneider: In the mean time, Mr. Speaker, I am working on an alternative social funding, as I mentioned earlier, Public Law 11-119, however, we are double-checking on the fund balance of that Public Law and if we can we could essentially appropriate fund balance for this endeavor. So by tomorrow by the end of the day I should call Representative Camacho, there is a sufficient funding for this bill.

Speaker Fitial: Okay. If there is no objection, we will defer action on this particular bill until tomorrow. I would like to respectfully request the legal counsels to come up with responses to Representative Hofschneider's concerns because I believe that would clarify the position that this body would be taking as far as passing this measure. So, let us defer action until tomorrow. So, tomorrow, the motion is still on the floor. The motion is still active and it is just that we defer action.

Rep. Hofschneider: So move, Mr. Speaker.

The motion to defer action on House Bill No. 12-250, CS1, was carried by voice vote.

Speaker Fitial: The motion carries. Last week when we met on the 29th day session, we discussed the investigative report submitted by the AG's Office to the Legislature regarding Tanapag PCB contamination. I understand that Representative Jones is meeting with the Department of Public Safety Commissioner at this moment. So, I would like the record to show that I am assigning this particular report to the Judiciary and Governmental Operations Committee to look into this report and then report back to the House as soon as possible. At the same time, I would like to reiterate my request to the Committee on Natural Resources to look into this holdover clause between Public Lands and Tasi Tours. I would like for the legal counsels to also help the committee to look into this matter carefully and report back to the House again, as soon as possible. There is no further Bills on today's Calendar. Miscellaneous.

MISCELLANEOUS BUSINESS

The Chair recognized, Rep. Hofschneider.

Rep. Hofschneider: Yes, Mr. Speaker. With deep respect for the good Ways and Means Chairman, I would like to request, Mr. Speaker, if the good Chairman can report out the Bill that you introduced for the American Memorial Park appropriation.

Speaker Fitial: The Chairman has already been advised on that particular issue and he will be reporting out that bill sooner than later.

Rep. Hofschneider: Thank you.

Speaker Fitial: Announcements.

ANNOUNCEMENTS

Speaker Fitial: I think the Chairman on Ways and Means Committee has a very important announcement to make.

Chairman A. Camacho: Mr. Speaker, the House Conferees on the Budget will meet at 8:30 a.m. tomorrow in my office, and that is the Floor Leader and Representative Malua Peter.

Speaker Fitial: I thought the understanding was for the Committee first to meet then –

Chairman A. Camacho: So ordered, the whole committee on Ways and Means at 8:30 a.m.

Speaker Fitial: Okay, that means we can reconvene tomorrow at 10:00 a.m. Any more announcement? Chairman Rosiky Camacho?

Chairman Rosiky Camacho: Mr. Speaker, as for this time, the PUTC and the leadership has their tentative scheduled meeting with CUC and CDA on the issue of equity conversation is still as it stands. Last week, Wednesday, I was called by the attorney from CUC that they will be delivering the letter of cancellation of the meeting. As of this afternoon, I haven't receive the cancellation so the meeting will still be on without that cancellation.

Speaker Fitial: Cancellation of the meeting or –

Chairman Rosiky Camacho: Cancellation of the meeting -- simply because, according to the attorney from CUC, they are going to do it themselves, meeting with CDA Board and CUC Board. But actually they initiated the idea that I have to call the meeting, so I did. But now they are saying they are going to cancel, but I haven't receive the letter. I just want to make that note. The other thing, Mr. Speaker, fruitfully today we met with stand good and the sanitation and other ways water, so we are meeting again on December 4th, at 3:00 p.m. here in the House. Then the PUTC committee will be meeting on the 30th of this month at 3:00 p.m. in regards to Price Cosco and other areas traffic situation and the Muña right of way road in As Lito. The Committee also will be meeting on December 6th, at 1:30 p.m. with the Geological Team from Hawaii to discuss about more of our situation on fresh water and that is my announcement for the committee. Thank you, Mr. Speaker.

Speaker Fitial: Any more committee announcements? Tomorrow we will be considering a propose legislation that will amend the law on liquid fuel tax. That will be earmarking for MVA promotional efforts.

Rep. Hofschneider: May I commend on that?

Speaker Fitial: Sure.

Rep. Hofschneider: Just an information. Previously, Mr. Speaker, we earmarked the fuel tax for the \$15, \$16 Million bond for PSS, so be careful on that.

Speaker Fitial: This is not fuel tax. This is the aviation fuel tax.

Rep. Hofschneider: I thought you say, "fuel tax". Aviation fuel tax.

Speaker Fitial: SCDC requested that we give relief to the airlines. So the airlines came back and said they will continue to pay the aviation fuel tax however, they would like to pay that directly to MVA so MVA can use it for promotion because they all feel that MVA is lacking in promotion. I think that is a good gesture part of the airlines. So we should be considering that tomorrow according to our legal counsels.

Chairman Rosiky Camacho: Ready.

Speaker Fitial: Anymore announcements? Chairwoman Brigid Ichihara?

Chairwoman Ichihara: For Education Committee, we have to cancel tomorrow's scheduled meeting because of Ways and Means and their urgencies. So, can I call at another time with the members? I will have to cancel tomorrow at 9:00 a.m. so that I can attend the Ways and Means Committee meeting.

Speaker Fitial: Okay. Floor Leader?

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

The motion was seconded and carried by voice vote.

Speaker Fitial: The House stands recess until tomorrow at 10:00 a.m.

The House recessed at 3:08 p.m.

Respectfully submitted,

Joan P. Kaipat, Journal Clerk
House of Representatives