

**HOUSE OF REPRESENTATIVES**  
**Thirteenth Northern Marianas Commonwealth Legislature**  
First Day, Third Special Session  
• May 7, 2002 •

**House Journal**

The House of Representatives of the Thirteenth Northern Marianas Commonwealth Legislature convened in its First Day, Third Special Session, on Tuesday, May 7, 2002, at 11:12 a.m., in the House Chamber, Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Heinz S. Hofschneider, Speaker of the House, presided.

A moment of silence was observed.

The Clerk called the roll. All eighteen members were present.

**ADOPTION OF JOURNALS**

Floor Leader Attao moved for the adoption of the journals for the Third and Fourth Days, First Regular Session, 2002.

The motion was seconded by several others and carried by voice vote.

Speaker Hofschneider: The journals are adopted.

**INTRODUCTION OF BILLS**

H. B. NO. 13-131: A Bill for an Act to approve salaries of executive branch employees exceeding the salary ceilings and which took effect on or before January 13, 2002, and for other purposes.

Offered by: Rep. Heinz S. Hofschneider and four others

H. B. NO. 13-132: A Bill for an Act to add a new Chapter 3 to Title 4, Division 5 relative to the operation of retail service stations by producers, refiners or management firms and the uniform treatment of retail service station dealers in the CNMI; and for other purposes. This Act may be cited as the Fairness in Gasoline Prices Act of 2002; and for other purposes.

Offered by: Rep. Andrew S. Salas and twelve others  
Referred to: Committee on Commerce

H. L. B. NO. 13-30: A Local Appropriation Bill for an Act to appropriate \$325,000.00 from the fees collected under Saipan Local Law 11-2; and for other purposes.

Offered by: Rep. Jesus T. Attao  
[First Appearance]

Floor Leader Attao: Mr. Speaker, H. L. B. NO. 13-030 is to address the line item veto of H. L. B. NO. 13-004 that is now before the Governor. It is an appropriation for the Mayor of Saipan to cover the shortfall for FY'02, to include \$250,000 for the 2002 Liberation Day festivities.

Speaker Hofschneider: Floor Leader, you mentioned a line item veto. Have we received any communication of such?

Floor Leader Attao: Not yet, Mr. Speaker. The Chair of the Saipan and Northern Islands Legislative Delegation may call for a session today or tomorrow specifically for the bill now before the Governor to avoid a veto. I strongly recommend that we recall the bill to address the concern of the Governor and that is regarding exempting the Mayor of Saipan from the process of procuring professional services. That is the provision that the Governor may item veto the bill. I ask the indulgence of the SNILD to support the recall so that we can amend the bill and the Governor may sign it into law.

Speaker Hofschneider: Have you made arrangements with the Chairman of the Saipan and Northern Islands Legislative Delegation?

Floor Leader Attao: I called him earlier this morning and informed him that the Governor may line item veto H. L. B. NO. 13-004. I asked him to call the SNILD into session so that we can recall the bill and make the necessary amendment to avoid a line item veto. The Mayor of Saipan is expecting that. For your information, there are fifteen contracts pending before the Secretary of Finance because that funding of \$250,000 has not been approved.

Speaker Hofschneider: Thank you.

## INTRODUCTION OF RESOLUTIONS

H. R. NO. 13-050: A House Resolution to pay tribute to the late Honorable Luis Marciano Limes upon his passing, to express our deepest condolence to his family, and to commemorate his life long contribution to his family, friends and the Commonwealth.

Offered by: Rep. Oscar M. Babauta and seventeen others

H. R. NO. 13-051: A House Resolution to support the application of the special industry committee system of the Federal Fair Labor Standards Act to determine a fair and appropriate minimum wage in the Northern Mariana Islands; and for other purposes.

Offered by: Rep. Manuel A. Tenorio and one other  
Referred to: Committee on Ways and Means

H. J. R. NO. 13-009: A House Joint Resolution authorizing reprogramming authority for the Office of the Public Auditor in excess of the limits of 1 CMC §§ 7401 and 7402; and for other purposes.

Offered by: Rep. Stanley T. Torres and fourteen others

**MESSAGES FROM THE GOVERNOR**

Gov. Comm. 13-121 – April 6, 2002 – From Governor Babauta to Attorney General Torres requesting for a legal opinion with regard to reduction of quarterly allotments. [\*AG LO #02-003]

Gov. Comm. 13-122 – April 23, 2002 – Acknowledging the letter of the House Chair of Ways and Means regarding the salary certifications.

Gov. Comm. 13-123 – April 24, 2002 – Certification for vacation position at the Department of Commerce.

Gov. Comm. 13-124 – April 24, 2002 – Federal Grant Application Review re Senior Community Service Employment Program Application.

Gov. Comm. 13-125 – April 25, 2002 – P. L. 11-6 exemption for Pacific Micronesia Tours, Inc.

Gov. Comm. 13-126 – April 25, 2002 – P. L. 11-6 exemption for Saipan Seventh Day Adventist School.

Gov. Comm. 13-127 – April 25, 2002 – P. L. 11-6 exemption for Agua De Vie.

Gov. Comm. 13-128 – April 25, 2002 – P. L. 11-6 exemption for Saipan Employment Agencies & Services, Inc.

Gov. Comm. 13-129 – April 25, 2002 – P. L. 11-6 exemption for C-Quest.

Gov. Comm. 13-130 – April 28 2002 – Certification for vacant position at the Tinian Health Center.

Gov. Comm. 13-131 – April 29, 2002 – Informing the Legislature that he signed H. B. NO. 13-067, SD1 (re Street Naming & Property Number Project Appropriation) into **Public Law 13-4**.

Gov. Comm. 13-132 – April 29, 2002 – P. L. 11-6 exemption for Saipan Shalom Corporation dba Jireh Auto Parts.

Gov. Comm. 13-133 – April 29, 2002 – From the Governor to Rep. William Torres regarding federal financial support to the CNMI.\*

Gov. Comm. 13-134 – May 1, 2002 – Fiscal Year 2003 Budget Submission.

Gov. Comm. 13-135 – May 2, 2002 – Certification of vacant positions at the Department of Public Works.

Gov. Comm. 13-136 – May 2, 2002 – Certification of vacant positions at the Office of the Attorney General.

Gov. Comm. 13-137 – May 2, 2002 – P. L. 11-6 exemption for V.B. Manglona Enterprises.

Gov. Comm. 13-138 – May 3, 2002 – Informing the Legislature that he signed H. B. NO. 13-079, HD4 (re MVA – Hiring of Nonresident Workers) into **Public Law 13-5**.

Speaker Hofschneider: Governor's Communication 13-134 is the official submittal of the 2003 Budget. I believe each member has a copy. Please familiarize yourself with the budget. Ways and Means Committee, please take appropriate action.

Floor Leader Attao: Mr. Speaker, I would like to find out whether you received a proposed legislation relative to the Beautification Tax with reference to Governor's Communication 13-134.

Speaker Hofschneider: Are you referring to the additional revenue identified in the budget submission?

Floor Leader Attao: Yes. The Beautification Tax is included in the budget submission and I am wondering whether you received a proposed legislation to address the beautification tax.

Speaker Hofschneider: I am not aware of any legislation accompanying the projected revenue identified as income for FY 2003. I have not received any.

Rep. Babauta: Mr. Speaker, I don't want to debate on the issue, but I want to clarify whether that is allowable by virtue of submitting a budget to the legislature, be it an old program or a new program. I share the Floor Leader's comment with respect to those vital programs. In my opinion, an enabling legislation should be in place before we even adopt that.

Speaker Hofschneider: For the benefit of the members, what Representative Babauta and the Floor Leader are alluding to is upon submission of identified revenues for appropriation, if an anticipated revenue is included in the projection that is not revenue generated in existing laws, then it must be accompanied by a proposed legislation. In the absence of a proposed legislation, the legislature is mandated not to take that identified revenue in the submission. It should be removed from the submission of the total revenues identified. Otherwise, the Administration has submitted an imbalanced budget. They still have as a last option for submission up to July. The fact remains that when revenues have been identified upon official submission to the legislature for consideration, that anticipated revenue should be accompanied with a proposed legislation if the statute not already in place.

Floor Leader Attao: Mr. Speaker, the Administration is also recommending that certain statutes that earmark certain funds be suspended. Mr. Speaker, I have reviewed the recommended laws and I find it very difficult to suspend those laws because it will greatly impact the retirees' pension. On both laws, P.L. 8-31 and P.L. 5-3, amended by P.L. 9-22 and P.L. 11-27, the funds are earmarked to pay for retirement pensions. By suspending these, I am certain that those people currently receiving pension will not receive any should this materialize. I am pointing this out to the Chairman of Ways and Means to make certain that these two laws recommended for suspension by the Administration not be entertained to avoid payless paydays for the retirees.

Speaker Hofschneider: I am sure that the Committee on Ways and Means will look into those dedicated revenues emplace, particularly those that are to fund for the unfunded liability of the NMI Retirement Fund, specifically on the Hotel Occupancy Tax and the Container Tax, those have been earmarked to liquidate the unfunded liability that has ballooned to over \$300,000,000.00 so far. If you undo those restricted revenues, then one, you are aggravating the situation of unfunded liability, and two, the current liability of the government on employer contribution that continue to increase as we speak. We now owe the Retirement Fund over \$55,000,000 of employer's contribution. Those are considerations as the Committee on Ways and Means deliberates on the proposed budget.

Floor Leader Attao: Mr. Speaker, the reason I am raising this is because the funds have already been distributed to the outlays.

Speaker Hofschneider: Chairman, please note that.

Rep. Ada: Mr. Speaker, I would like to know about the governor's authority on budget allotment reduction?

Speaker Hofschneider: For your benefit, we received an opinion from the Attorney General's Office that the Governor has the authority to control the expenditure of the government under the law. That includes the Legislative and Judicial Branches and other instrumentalities of the CNMI Government as a whole. The Secretary of Finance under the CNMI Constitution and by law – the governor is authorized to reduce allotment for the purpose of preventing deficit spending. The answer is, "of the opinion", the governor has the authority. In the absence of Representative Ada, we went through a scenario with all the staffs of the House and the Legislative Bureau delineating the impact of the cut. As you know every member's account and the Speaker's discretionary account have been impacted by 16%, not 8% as they have noted in their letter submitted to the Office of the Speaker. So 16% has been cut for the current quarter. Therefore, it leaves no room for the Office of the Speaker but to reduce expenditure to meet the September 30 allotment. That entails cutting hours of employees under the Speaker's Office and the Leadership. So for your information, the Office of the Speaker is open from 7:30 in the morning to 2:30 in the afternoon. The advise goes to all members – to look at your impact and do whatever is necessary to meet your allotted amount so that come September 30, no one is expected to accrue deficit.

Rep. Stanley Torres: Mr. Speaker, may we go back to Item 3, Prefiled and Introduction of Bills?

There was no objection raised.

The House went back to Item 3 and Rep. Stanley Torres introduced a bill.

### **PREFILED AND INTRODUCTION OF BILLS**

H. B. NO. 13-133: A Bill for an Act to repeal and reenact 4 CMC § 9221 Public Law No. 10-13, the Minimum Wage and Hour Act, to increase the minimum wage; and encourage

indigenous people toward private sector employment; and for other purposes; and for other purposes.

Offered by: Rep. Stanley T. Torres and ten others  
 Referred to: Committee on Ways and Means

There being no further introduction, the House continued with the next order of business.

### SENATE COMMUNICATIONS

Sen. Comm. 13-34: From Senate President Manglona to Governor Babauta regarding the board membership confirmations of Mr. Francisco DLG. Camacho, CSC, Mr. Francisco Q. DLGuerrero, CUC, Mr. James Lin, MVA.

### HOUSE COMMUNICATIONS

Hse. Comm. 13-2 – April 24, 2002 – From Rep. Stanley T. Torres to Mr. David J. Blake, CDA, regarding public funds deposits.

Hse. Comm. 13-3 – April 26, 2002 – From Rep. Frank DLG. Aldan transmitting a copy of a Reapportionment and Redistricting Plan to the Speaker.\*

Speaker Hofschneider: On House Communication No. 13-3, Representative Frank Aldan has provided a copy of the publicized Census. As required under law, we have any 120 days to act on any reapportionment or redistricting if need be, or not do anything and go on status quo. But we must take action otherwise after 120 days, the Governor has the right to do what the Administration thinks is appropriate. We are required revisit the Census as it impacts the demographics of people. The Legislature is entrusted with that obligation to appropriately draw the line if need be.

Rep. William Torres: Mr. Speaker, I believe we have approximately 47 days left of that 120. With everything that is going on, I think it will be wise to assign this to the appropriate committee so that we can take action instead of leaving to the next line of authority, which is the Governor. I think the legislature should take action.

Speaker Hofschneider: I then would like to appoint the Committees on Judiciary and Governmental Operations and Natural Resources to work together and come up with a recommendation at the earliest possible time, since we only have 47 days left.

Rep. Cabrera: It is my understanding that the official census statistics are not available. Has that changed?

Rep. Aldan: It was officially published on February 2, 2002.

Speaker Hofschneider: The US Bureau of Census has published the results. One may take the argument that it is not locally publicized. Nonetheless, the US Bureau of Census has published it so it is an official publication. We take that date of publication as a conservative measure rather than to argue on the basis whether it was published locally.

Rep. Babauta: I was reading the communication and this has an attachment. How can I avail myself a copy of the plan?

Speaker Hofschneider: It is not attached?

Rep. Babauta: It is noted that a copy will be furnished upon request, so I am making a request, Mr. Speaker. Thank you.

### COMMUNICATIONS FROM THE JUDICIAL BRANCH

Jud. Br. Comm. 13-6 – April 24, 2002 – From Chief Justice Demapan with regards to the AG's Legal Opinion on the reduction of quarterly allotments.

Speaker Hofschneider: Representative Ada, by way of Judicial Branch Communication No. 13-6, it is obvious that the Chief Justice of the Supreme Court has taken a different position from the Attorney General's opinion with respect to the allotment.

Rep. William Torres: Mr. Speaker, reading rather quickly the letter from the Chief Justice, I feel that the procedure for which you have undertaken this morning in sanctioning the salaries perhaps in principle may apply to the reduction in allotments that we were given a notice through a special message. The Legislature must act on that special message. I stand to be corrected on that understanding.

Speaker Hofschneider: Off the cough, I can't answer that without referring to the legal counsel for an appropriate research on the virtue of "special message" as it relates to legislative action. We may request the House counsels to look into that issue. Nonetheless, the special message is required to be sent. By way of the Acting Governor, then the Honorable Diego Benavente, he has fulfilled that requirement by sending to the Office of the Speaker for the members' notification that due to decline in revenue collection, they are anticipating further controls on allotments for the entire CNMI Government.

Rep. William Torres: Mr. Speaker, I guess the key phrase there is *special message is not self-implementing*, and I would like to be clear on this issue just as the sanctioning of excess salary. [Emphasis added]

Speaker Hofschneider: I would like to request the legal counsels to work on whether that "special message" is self-executing or not and requires the legislature's action. If it is self-executing, then they have fulfilled that requirement. Otherwise, we will look into the opinion of the Chief Justice.

Vice Speaker Tenorio: Mr. Speaker, can we go back to House Communications.

Speaker Hofschneider: If there is no objection, we go back to Item 7.

There was no objection.

## HOUSE COMMUNICATIONS

Vice Speaker Tenorio: Mr. Speaker, I only have a single page. I would like to request for a copy of the attachment.

Speaker Hofschneider: If you don't have to duplicate a hundred pages, then share. Representative Torres?

Rep. Stanley Torres: Mr. Speaker, are we under House Communications?

Speaker Hofschneider: Yes.

Rep. Stanley Torres: Mr. Speaker, with reference to House Communication 13-2 regarding public funds deposited in non-FDIC banks, I would like to make an official statement calling on the Mr. Fennell, Receiver on the Bank of Saipan and the Executive Branch, and the Attorney General to go after the top shareholders of Bank of Saipan, and if needed, to be prosecuted and force the return of moneys they gained by selling their shares in Bank of Saipan. Whoever they are, whoever sold their shares – I understand that two of the top shareholders have gainfully or successfully sold their shares – be forced to return that money to the bank because they are the cause of the scandal and they are part of the conspiracy to the silent deal and to create the fiasco at the Bank of Saipan. Thank you very much.

### COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

Wash Rep. Comm. 13-4 – April 25, 2002 – From Ms. Melinda S. Matson, WRO Sr. Leg. Asst., enclosing a copy of the Fiscal Year 2003 Defense Department Appropriation Bill.

Wash. Rep. Comm. 13-5 – May 1, 2002 – Informing the Speaker of US Senator Kennedy's intention to reintroduce the "Fair Minimum Wage Act."

The Chair recognized Rep. William Torres.

Rep. William Torres: Mr. Speaker, it appears that the Federal Minimum Wage is again before us. I just signed a local version of increase in the minimum wage introduced by Representative Stanley Torres. I wonder what this federal initiative would do to our local situation now that the House has taken it upon itself to provide remedy as called for in the Wage Review Board recommendation submitted to the legislature last year.

Speaker Hofschneider: For that the appropriate committee, Ways and Means, should take a lead on both, the issue of the bill introduced and the resolution for the US Congress.

### COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

Dept. & Agency Comm. 13-26 – April 23, 2002 – From Mr. Nace Soalablai, SAPLR, acknowledging receipt of H. R. NO. 13-007, H. R. NO. 13-042, and H. R. NO. 13-043.

Dept. & Agency Comm. 13-27 – April 23, 2002 – From Chief Parole Officer Vincent Attao, submitting the Board's Annual Report for Calendar Year 2001. \*

Dept. & Agency Comm. 13-28 – April 25, 2002 – Public Auditor Michael Sablan regarding Personnel Salaries in Excess of the Statutory Salary Caps.

Dept. & Agency Comm. 13-29 – April 26, 2002 – From Acting Executive Director Bernard Villagomez, CUC, regarding P. L. 12-32 Report.\*

Dept. & Agency Comm. 13-30 – April 26, 2002 – From Mr. Nace Soalablai, SAPLR, acknowledging receipt of H. R. NO. 13-044 and H. R. NO. 13-045

Dept. & Agency Comm. 13-31 – April 26, 2002 – From Chairwoman Elizabeth Salas – Balajadia, Board of Professional Licensing, re Section 513 of P.L. 11-41.

Dept. & Agency Comm. 13-32 – April 26, 2002 - From Interim President Barbara G. Moir, NMC, enclosing a copy of NMC's 2001 Annual Report.\*

Dept. & Agency Comm. 13-33 – May 3, 2002 – From Executive Director Carlos Salas, CPA, with regard to the naming of the airport (ref. H. L. B. NO. 13-024).

There was no discussion under this item.

#### **OTHER COMMUNICATIONS**

Misc. Comm. 13-32 – April 19, 2002 – From Administrative Officer Frances C. Muna, 7<sup>th</sup> SMC, transmitting certified copies of the Council's resolutions: 7SMC-24S-02 thru 7SMC-2RS-19.

Misc. Comm. 13-33 – April 30, 2002 – From the Chairmen of the Rota and Tinian Legislative Delegations regarding H. L. B. NO. 13-025, Garment User Fee.

Speaker Hofschneider: In reference to Miscellaneous Communication 13-33, the House is open for discussion.

Rep. Babauta: Has this bill been transmitted to the senatorial delegation?

Speaker Hofschneider: Yes. Per statute, a 30-day comment period from the two respective mayors is required.

Rep. Babauta: I recommend that this matter be dealt by the respective delegation. There is a legality issue in terms of the implication of the tax issue on garment user fee that should be dealt with by the counsels.

Speaker Hofschneider: The enabling legislation creating the local delegation authority to impose certain taxes is delineated under the CNMI Code. The user fee is not a tax as identified in the local enabling legislation. But then again, opinions are bountiful.

**REPORTS OF STANDING COMMITTEES**

Speaker Hofschneider: Under Reports of Standing Committees, I recognize the Floor Leader.

Floor Leader Attao: I move for the adoption of S. C. R. NO. 13-22, reference to H. B. NO. 13-039 and S. C. R. NO. 13-23, reference to H. B. NO. 13-033.

The motion was seconded.

**S. C. R. NO. 13-022**: Reporting on H. B. NO. 13-039, entitled, “To amend 6 CMC § 2150 to exempt from forfeiture, property used in the commission of criminal act by someone other than the owner without the knowledge, consent or willful blindness of the owner.” *Your Committee on Judiciary and Governmental Operations recommends that the House pass the bill as substituted.*

**S. C. R. NO. 13-023**: Reporting on H. B. NO. 13-033, CS1, entitled, “To amend 4 CMC section 8327(b), created by Public Law 12-39, to correct the Local Exchange Carrier Contribution to the Commonwealth Telecommunications Commission; and for other purposes.” *Your Committee on Public Utilities, Transportation and Communications recommends that the House pass the bill as substituted.*

Speaker Hofschneider: The floor is open for discussion on the two reports.

Floor Leader Attao: Mr. Speaker, on page 5 of S. C. R. NO. 13-023, I would like for the Chair of the Committee to enlighten us on the impact of the funding for the Telecommunications Commission by imposing the 2.5%.

Rep. Deleon Guerrero: Mr. Floor Leader, can you repeat your question so that I may understand it.

Floor Leader Attao: On the cost benefit analysis, the Committee concluded that the bill, as proposed by the Committee, would provide adequate funding for the Commonwealth Telecommunications Commission, and thereby serve the public interest. I would like to find out as to the impact. How much?

Rep. Deleon Guerrero: Mr. Floor Leader, I don't have the figures in front of me right now. If I am not mistaken, the current amount that the CNMI receives based on the .5% is roughly \$40,000 versus if we were to get 2.5% it would be roughly five times that figure ... about a quarter of a million dollars.

Floor Leader Attao: About \$250,000?

Rep. Deleon Guerrero: Mr. Speaker, if you will allow me, it's best that I get the records so I can provide accurate figures.

Speaker Hofschneider: Short recess.

The House recessed at 11:50 a.m.

## RECESS

The House reconvened at 12:06 p.m.

Speaker Hofschneider: We are back in session. The Floor Leader posed a question to the Chairman. I recognize the Chairman on PUTC.

Rep. Deleon Guerrero: Mr. Floor Leader, in response to your question, using the year 2000 figure – at .5% the revenue would have been \$97,356 versus if we apply the 2.5% the gross revenue would come up to \$486,780.

Rep. Babauta: Five – zero?

Rep. Deleon Guerrero: At .5% it is \$97,356; at 2.5% it is \$486,780.

Floor Leader Attao: Is that based on Fiscal Year 2000?

Rep. Deleon Guerrero: I am just using 2000 as the fiscal year.

Floor Leader Attao: So under FY 2000, at .5% it will generate about \$97,000?

Rep. Deleon Guerrero: Correct.

Floor Leader Attao: At the same fiscal year using the 2.5% it will generate about \$468,000? Is that correct?

Rep. Deleon Guerrero: That is the figure I have, Mr. Floor Leader.

Floor Leader Attao: What about for fiscal years 2001 and 2002?

Rep. Deleon Guerrero: I don't have it in front of me. I believe P.L. 12-39 was enacted in 2001 and the gross revenue for 2001 would have been based on .5% and not 2.5%. The Commonwealth Telecommunications Commission (CTC) has this information. Unfortunately, they are not here for us to ask the exact amount for the year 2001. The records I have where provided by Verizon goes out to the year 2000.

Floor Leader Attao: What is the proposed budget of the commission for 2000, 2001, and 2002.

Rep. Deleon Guerrero: *Komu humalom i iyon-niha* gross revenue, then it will be based on 2.5 of that if approved. Otherwise, it will be based on .5%, the existing rate.

Floor Leader Attao: So you don't have the figure for Fiscal Year 2001 based on .5%?

Rep. Deleon Guerrero: I was not provided the gross revenue for Verizon for 2001 in their submittal.

Speaker Hofschneider: Mr. Chairman, who is the receiver of the .5%?

Rep. Deleon Guerrero: CTC in accordance with P.L. 12-39. This bill does not intend to amend where the 2.5% will go, whether to the General Fund ...

Speaker Hofschneider: Do you have records from the Commission whether they have received any money from the user fee at .5%?

Rep. Deleon Guerrero: Mr. Adam Turner, the Acting Special Assistant, has not provided us with written figures. He has expressed it to us verbally though, Mr. Speaker.

Speaker Hofschneider: With no objection, I would like to follow the line of questioning.

There was no objection raised.

Speaker Hofschneider: Mr. Chairman, what was the agreement between the Commission and Verizon in doing away with the franchise agreement? We have documents with the Commission on record that the creation of the Commonwealth Telecommunications Commission stipulated in doing away with the franchise agreement.

Rep. Deleon Guerrero: Mr. Speaker, P.L. 12-39 created CTC. Based on previous committee reports, based on my understanding of this issue and the various letters that were written in support or against this bill, the original intention was to maintain the figure of 2.5%.

Speaker Hofschneider: Mr. Chairman, with all due respect, both houses went through the bill. Both houses scrutinized it. It wasn't a mistake; it wasn't an oversight. The record with the clerk on the journals on the passage of the bill will show that there was no intension or omission when the .5% was inserted in the bill. Both houses scrutinized the figures. As a matter of principle here in the House, we should refrain from inferring as to mistakes or omission simply because it raises a question of "what comes first, the chicken or the egg" on this issue. There is an existing franchise before the creation of the Commission. Upon the creation of the Commission, I believe both the Commission and Verizon agreed to do away with the franchise. What this is attempting and the existing law is to replace the franchise fee. One, we have to be very careful of reinstating it. Two, there was no omission in the Twelfth Legislature when the CTC Act was passed and reinstating 2.5% would inevitably have an impact on consumer rates. Mr. Chairman, you may answer that since the cost benefit analysis falls short of extrapolating the impact of increasing .5% to 2.5% removing the argument whether it is an omission or mistake, intentional or unintentional. The issue on hand is, when you raise the fee, what would this translate to consumers? What do we expect?

Rep. Deleon Guerrero: Mr. Speaker, you are right, I shouldn't second guess the intentions of the Twelfth Legislature, whether it was intentional or a clerical error as was reported by the media, as was indicated by individuals where were privy to the events that led up to the passage of P.L. 13-39. I will not get into that. Our attempt is to rectify the .5% to 2.5%. In terms of impact to our consumers, we felt that because the 2.5% was in effect ever since Micronesian Telecommunications (MTC) came into existence back in 1978, if I am not mistaken, with the franchise fee up until the year 2000. For 20 years this fee was paid by MTC and subsequently by Verizon. It may be logical, I may be assuming, that this cost would have been built in. If the

consumers have been paying for 20 years, they would have been paying for it since then ... that's the only justification I can provide, Mr. Speaker.

Speaker Hofschneider: Mr. Chairman, the company has been operating for almost two years with .5%. Now, from a business perspective, they must have adjusted and projected their operations on the basis of operating on a franchise fee of .5%. Reinstating it to 2.5%, what are we looking at in terms of the impact of enforcing 2.5% on Verizon today when they are operating on .5%? We have to state as to whether Verizon is going to take it out of their net profit or not raise rates in existence and still assume the 2% increase. What certainty do we anticipate that the consumers themselves would not pay for the additional 2%?

Rep. Deleon Guerrero: Mr. Speaker, unless we find out from Verizon whether it was built in up until 2002, whether they did reduce it correspondingly when they were to pay .5%, that's the only way we can find out, Mr. Speaker.

Speaker Hofschneider: So the Committee is not ready to answer that? Last question to the Chairman – how much budgetary need is the Commission requesting?

Rep. Deleon Guerrero: Mr. Speaker, I haven't seen a budget request from CTC, but I have documents that with the current rate of .5% they are unable to meet the demands, the needs of their mandates. They are currently in a position to take on a tremendous responsibility of reviewing the sale of Verizon at any time. What they have expressed is that they do not have the funding, the resources to take on this challenge. And in effect, Mr. Speaker, it may compromise our ability to thoroughly and adequately review the pending sale.

Speaker Hofschneider: I assume that the Committee explored other needs of recovering the cost to investigate the sale itself, such as reinstating the gross sale provision that was taken out in the last amendment to the Commonwealth Telecommunications Act. As you recall, the 5% gross on sale has been zeroed out. That could be an instrument for recovery of the Commission's cost to investigate the sale itself. Has that been explored?

Rep. Deleon Guerrero: Yes, Mr. Speaker. However, that 5% would amount to a fixed figure, a one-time figure of approximately \$1.5 Million.

Speaker Hofschneider: Assuming .5% is sufficient to man the office of the Commission and whatever specific needs to hire a specialist in telecommunications. That would be reimbursed upon the sale of Verizon. Thereafter is the oversight obligation of the Commission. Now, how much money is enough for the Commission to function?

Rep. Deleon Guerrero: Mr. Speaker, it being that this is their first year, we don't have previous years' figures to find out what their operational costs are. I can not venture to speculate on what should their need be. I am assuming that their needs this year would initially be high, primarily of the cost of conducting investigations, doing research, hiring consultants to evaluate the Verizon sale, but until such time that they have operated for a year or two, Mr. Speaker, I don't think any of us can tell what their operational cost is.

The Chair recognized Rep. Herman Palacios.

Rep. Herman Palacios: Mr. Speaker, there seems to be a confusion here between the .5% and the 2.5%. I am not sure which to follow. I, therefore, move to recommit this.

Rep. Deleon Guerrero: Can I ask what the confusion is, Mr. Speaker?

Rep. Herman Palacios: Which figure are we taking .5% or 2.5%? There is a big difference between the two.

Rep. Deleon Guerrero: May I respond, Mr. Speaker?

Speaker Hofschneider: Yes, you may.

Rep. Deleon Guerrero: The bill, which we have entertained through the PUTC Committee not once, not twice but three times now is still the same. It intends to amend P.L. 13-39 to increase the user fee from .5% to 2.5%. Nothing has changed.

The Chair recognized Rep. Arnold Palacios.

Rep. Arnold Palacios: As a member of this Committee, some of the questions asked of the Committee Chairman versus whether we considered the possibility of Verizon passing on the additional increase in franchise fee from .5% to 2.5%. That question was asked in the Committee's deliberation. The answer that we dwelled on was that Verizon was paying 2.5% prior to P.L. 12-39. So in effect, when P.L. 12-39 kicked-in what happened to the franchise fee was that Verizon ended up paying less than 2.5%. They are now paying .5%. In essence, there was a windfall because it changed.

Speaker Hofschneider: You assumed that – that is a windfall and not a reinvestment into the system?

Rep. Arnold Palacios: I would call it a windfall, whether I assume it or not, I will call it a windfall because they were paying a fee and at one point it went down. What was interesting also is that initially when they were going to change the franchise fee it was pegged at 5%. When we were looking at the committee reports for P.L. 13-39 it was actually at 5%. But like you said, when it was voted on the floor of the House, it was .5% and went to the Senate as .5%. In that regard, we did not question whether it was a clerical mistake because I looked at it also. I looked at the previous committee reports, I couldn't buy the fact that it was a clerical or typographical mistake, it couldn't have been. The lettering and the numbers were consistent. If it was just a number and you have a dot misplaced, you could make a case that it is clerical or typographical. But when you have a number and it is spelled out, then you can't say that it was a typo. It was a fairly deliberate act for the Twelfth Legislature to put that at .5%. One reason we were looking at 2.5% is that all along the 2.5% was the franchise fee. That was acceptable to Verizon. The Committee also deliberated on a couple of proposals submitted by Verizon. One is to insert in the bill a language to say that Verizon may pass on the additional 2% increase in franchise fee to the consumer. The second is to have Verizon use the nonrefundable credit on the CNMI NMTIT for purpose of rebate. Those proposals were taken into consideration on the deliberation of the legislation. The first one, of course, is that a business entity may pass on the cost.

Speaker Hofschneider: Representative Palacios, have you also considered that maybe Verizon may not raise but reduce its overhead, layoff some employees.

Rep. Arnold Palacios: We had a public hearing, which was requested by many employees of Verizon and from Verizon itself. I personally don't believe that that will be the case because like I said, they were at the level of 2.5% prior to P.L. 12-39. So when P.L. 12-39 kicked in, there was a windfall. Why would they get rid of employees now?—They were paying this franchise fee. One issue is the tax credit. The Committee looked at that and kind of set it aside, thinking of coming back and looking at it to see what we can do in regards to Verizon's request. I just wanted to add on. I don't want to make my Chairman feel that we are leaving him up to dry here.

The Chair recognized Rep. William Torres.

Rep. William Torres: Thank you, Mr. Speaker. I would like to ask the Chairman and ask whether the reason for the change other than the speculative reason is to appropriately fund and at a certain level of desired funding by the CTC members – is that the reason for the change?

Rep. Deleon Guerrero: I thought I already answered that question. The reason for the change is to rectify .5% to the 2.5% level as was the traditional rate that was being paid by Verizon for the funding of the Commonwealth Telecommunications Commission.

Speaker Hofschneider: So the answer is, yes.

Rep. William Torres: Is that the level of funding that this Commission is asking for that you are changing the percentage?

Rep. Deleon Guerrero: I would rather say that we are reinstating the amount.

Rep. William Torres: So that is not the motivation for the change?

Rep. Deleon Guerrero: No.

Rep. William Torres: So looking back when the Commonwealth Utilities Corporation (CUC) was overseeing telecommunications, did you get the operational cost of this operation, this oversight as the Speaker was asking? It could probably be used as a proxy for the new CTC.

Rep. Deleon Guerrero: I think you have to understand that when P.L. 12-39 was created CUC was responsible for overseeing the telecommunication industry. If you look at the responsibilities of CUC and compare it to the responsibilities that P.L. 12-39 imposed on the CTC, there is a significant additional responsibility that was never a part of CUC's mandate.

Rep. William Torres: True enough, but did the Committee care to research the operational cost when this operation was under CUC in order for us to best judge what would really be an adequate level of support that we should give CTC?

Rep. Deleon Guerrero: The truth is, Representative Torres, rather than looking back at CUC, we took a look at P.L. 12-39 and the responsibilities entailed. If you have a chance to take a look at it, it is very extensive, very technical, requiring staff and perhaps consultants as well not only in

the telecommunication industry but the business industry as well. I guess my answer, to keep it simple, is we wanted to reinstated the traditional figure back not necessarily looking at what it would cost to run the CTC because there is no precedent set with the responsibilities outlined in P.L. 12-39.

Rep. William Torres: You alluded to the need for expertise for the new Commission. Isn't it that P.L. 12-39 mandated certain qualification requirements of commission members?

Rep. Deleon Guerrero: Yes.

Rep. William Torres: So given that, would you still say that there is a need to hire this extensive number of people when we have expertise in that area of specialty.

Rep. Deleon Guerrero: In terms of the employees that are actually going to be doing the work on behalf of the Commissioner, yes, definitely they would need to have qualified people there to advise the Commissioners.

Rep. William Torres: So at the moment, how many franchise is the Commission responsible for in its oversight responsibility.

Rep. Deleon Guerrero: How many franchise? What industry? Basically, the telecommunications industry.

Rep. William Torres: But how many do we have out there that this Commission is responsible for doing this research that you alluded to?

Speaker Hofschneider: For clarity, how many LAN systems do we have versus wireless?

Rep. Deleon Guerrero: We only have one local exchange carrier, Mr. Speaker – Verizon.

Rep. William Torres: So it is for this that you are asking to restore that ... hopefully to appropriately fund the activities of this Commission?

Rep. Deleon Guerrero: Yes.

Rep. Stanley Torres: Mr. Speaker, before I make a decision for or against this bill, I would like to see actual figures. How much is Verizon paying for the franchise for instance, three years ago before P.L. 12-39? Can we see receipts from Verizon or CUC?

Speaker Hofschneider: What needs to be clarified in line with the question is, is the franchise only attached to the local exchange unit, and is the franchise fee also attached to wireless systems? If we are going to impose a fee on the LAN base, why not extend it to the cellular system? The franchise is only attributed to the disfranchisement under the federal telecommunication for local exchange service. It has deregulated the long distance carrier and that is why you see flourishing long distance carriers such as, IT&E, Sprint, AT&T and others coming in and providing those services. Prior to 1994, 1996 the franchise was respected. Both systems were included in the franchise agreement that is why you see a bigger amount of money remitted to the CNMI Government under the 2.5% franchise. Because of the deregulation, the

attachment to the franchise fee, whatever the percentage is, it is only on local exchange. Some may argue and Representative Torres is correct, we would like to see if it is appropriate for us to also consider on what factual basis we are operating on.

Rep. Stanley Torres: That is my question and I hope we are provided with that information.

Speaker Hofschneider: What I am worried about is the unresolved issue of Rota and Tinian as a long distance. If this franchise fee increases the operational cost, then it bears fruit to the argument that they have to recover the services provided to local services. However we consider Rota and Tinian as a local entity, the market in Rota Tinian is not there, therefore, subsidy has to be increased for local calls and providing services on the LAN base in Rota and Tinian. That has to be considered in the factor of increasing the 2% on top of the .5% would do. The cost of doing business is a huge consideration on that and that is my concern on the cost benefit section. We need to be as factual and forthright as possible in extending the ramification or implication of increasing the 2%.

Rep. Deleon Guerrero: Mr. Speaker, I will not deny that there are many issues to be considered regarding P.L. 12-39. You raised one issue. There is an issue whether in raising the funds to 2.5%, should the funds go directly to CTC, or should it go to the General Fund. There are other concerns on P.L. 12-39 that needs to be revisited. I will not challenge that. That is correct. However, for clarity the intent of this bill is for one purpose – and one purpose only – and that is to reinstate the traditional amount of 2.5% that MTC/Verizon has been paying through the franchise fee for the past 20 years when P.L. 12-39 for whatever reason, intentional or not, reduced it to .5%. I think it has been established that the government will lose out on revenues. I think, Mr. Speaker, it is important to note that this a time when the government does not have much revenues. I think it is also important to restate that we are at a critical juncture right now with the sale of Verizon, and the fact is that CTC is rendered almost useless to conduct its mandate of reviewing the sale. It is for this reason that the Committee recommends the passage of H. B. NO. 13-033. Thank you.

Speaker Hofschneider: Mr. Chairman, we are not in disagreement with the intent of the bill. But since you touched the issue on the shortfall of revenue, I recommend that the House recommit the bill and look into the section of P.L. 12-39 that took out the gross receipt tax on the sale itself. Since we are touching this bill, it is fitting that we reinstate the gross sale tax. If Verizon is sold, zero tax on the sale. Let's be consistent. Let's do it at one time. If that is the consensus of the members that we want to reinstate the 2.5%, take a look at the gross receipt tax because it was deleted. That is a business transaction. This is a usury transaction as opposed to a sale, which is a business transaction that the government has the right to impose tax on. So I recommend to the members to recommit this bill to the Committee. I recognize Representative Stanley Torres.

Rep. Stanley Torres: I so move, Mr. Speaker, to recommit this to the Committee until such time we clarify all these concerns.

The motion was seconded.

The Chair recognized Rep. Quitugua.

Rep. Quitugua: Mr. Speaker, the intent of the bill is just to reinstate what has been practiced before. I don't see a major disagreement on that issue. If the concern as you have stated with respect to the gross receipt tax is to be included in the subject bill, then I will go along with the motion to recommit. But if the bill is specifically dedicated towards rectifying the .5% versus 2.5%, I see no controversy on that issue, Mr. Speaker.

Speaker Hofschneider: I agree. If that is the consensus of the House to increase it to 2.5%, let's depart from the argument of rectifying. When you use the word rectifying, it means that you have made a mistake. There was no mistake in P.L. 12-39. That was intentional that they reduce the burden of the franchise from 2.5% to .5%. If the desire of the Thirteenth House is to increase it to its normal franchise amount, then state so. Let's not mislead or mince words. I think that is what the Chairman is trying to state – that we are reinstating 2.5%. What needs to be reinstated in the Committee's report is the obvious. What are the scenarios that we are looking into? On the cost benefit for funding for the Commission, what are the anticipated budgetary needs of the Commission that would prompt the House to consider increasing the franchise from .5% to 2.5%, and have they submitted a budget? What does investigating the sale itself entail? How much money are we talking about? I would rather see that the franchise fee go into the General Fund and the governor shall appropriately request for an appropriation specifically for the Commission's purpose. But to just hand it out, you are also delegating your responsibility in appropriation. The House has to be protective of that nature. Lastly, what does this all mean to the consumer? We are going to vote on this, but you need to be reminded that in business nothing comes for free. Someone has to pay for it. Let's be honest. Put it out. Talk to Verizon as to what are the anticipated moves that Verizon has to recover the 2% in going back to the original level. Are they going to furlough people? Are they going to reduce the level of services? Are they going to increase information charge from 25 cents a call to 50 cents? Are they going to increase service calls when you have a problem with your telephone? These are all consumer issues and I want to see that stated in the cost benefit analysis. The issue about funding the Commission is finished. We need to fund the Commission. But I would rather be accountable in that the fee reverts to the General Fund and let the governor make the decision in budgeting for the Commission appropriately based on needs. Four Hundred Thousand Dollars (\$400,000.00) is a lot of money. It can be expended as we have traditionally seen with other boards and commissions on unnecessary travels and not effectively serving the public. Let's do a better job on the cost benefit section. Let the people be made aware that we are making a decision to increase it to 2.5% if that is the consensus of the House. I recognize Representative Cabrera on the motion to recommit.

Rep. Cabrera: I agree with the motion to recommit. However, for the record, I would like to point out that the Committee has made a couple of requests to CTC to provide documents supporting the financial requirements or needs of CTC inclusive of the potential sale. To date, we have not received anything other than verbal information that Mr. Turner has provided us. We have made some effort in that respect, and it has not been satisfied.

Speaker Hofschneider: At a minimum, the Commission has to submit, via the Governor, a budget for its operations. Mr. Chairman, thank you.

There being no further discussion, the subsidiary motion to recommit S. C. R. NO. 13-023 (re. H. B. NO. 13-039, CS2), to the Committee on PUTC was carried by voice vote.

There being no further discussion on S. C. R. NO. 12-022 (re. H. B. NO. 13-039, CS1,) the motion to adopt was carried by voice vote.

Speaker Hofschneider: Representative Stanley Torres, recognized.

Rep. Stanley Torres: Are we taking action on the salary sanction legislation?

Speaker Hofschneider: Yes.

Rep. Stanley Torres: Not today?

Floor Leader Attao: Mr. Speaker, may we take an hour recess for lunch?

Speaker Hofschneider: Shall we return tomorrow at nine o'clock?

Floor Leader Attao: There is a presentation scheduled for tomorrow.

Speaker Hofschneider: Floor Leader, motion for a recess to Thursday at 9:30 a.m.

Rep. Cabrera: Mr. Speaker, I believe there is a request by NMC students that is separate from tomorrow's scholarship program presentation for Thursday at 9:30. That is a request for the House of Representatives audience for about 30 minutes.

The Chair declared a short recess at 12:50 p.m.

#### RECESS

The House reconvened at 12:51 p.m.

Speaker Hofschneider: We are back in session. I recognize the Floor Leader.

Floor Leader Attao: Mr. Speaker, if there is no objection can we go down to Bill Calendar.

No one objected.

#### BILL CALENDAR

Speaker Hofschneider: Floor Leader?

Floor Leader Attao: Mr. Speaker I move for the suspension of Rule VII, Section 10, Rule IX, Sections 9, 10, and 11 for the passage of H. B. NO. 13-131 on First and Final Reading.

The motion to suspend Rule VII, §10 and Rule IX, §§ 9, 10, and 11 for the passage of H. B. NO. 13-131 was seconded and carried by voice vote.

Speaker Hofschneider: Floor Leader?

Floor Leader Attao: Thank you, Mr. Speaker. I now move for the passage of H. B. NO. 13-131 on First and Final Reading.

Seconded by two others.

H. B. NO. 13-131: A BILL FOR AN ACT TO APPROVE SALARIES OF EXECUTIVE BRANCH EMPLOYEES EXCEEDING THE SALARY CEILINGS AND WHICH TOOK EFFECT ON OR BEFORE JANUARY 13, 2002, AND FOR OTHER PURPOSES.

The Chair recognized Rep. Babauta.

Rep. Babauta: Mr. Speaker, there was a copy distributed earlier and prior to that there was a one page copy, I am not sure which is which.

Speaker Hofschneider: The numbered version.

Rep. Babauta: I withdraw my comment, Mr. Speaker.

Speaker Hofschneider: If there is no objection, I would like to give a backdrop of this bill for the record. As we all know, the issue of salary exemptions in excess of the cap provided in numerous laws, particularly P.L. 11-41, P.L. 8-6 and other laws in the books, has prompted the House to revisit the Governor's action since January 14<sup>th</sup> of this year. As a result, it generated enough interest that the Committee on Ways and Means issued a report to the effect that some of the salary caps have been exceeded. In particular, those salary caps that have been exceeded that needed the sanction of the Legislature and have not been obtained as we speak. As a result, the Office of the Public Auditor has issued a preliminary or cursory review of existing contracts and have found in the report provided to all members showing that there are not only contracts executed in excess of the cap beginning January 14, 2002, but also extends back to contracts in existence on or before January 14, 2002, before the installation of the current legislature and the current administration. That means that a substantial number of employees in the prior administrations were identified as having exceeded the cap provided by law and have not secured legislative sanction. We are making a distinction of the two lots in that this bill, H. B. NO. 13-131, extends a sanction for those meeting certifications of contracts on or before January 13, 2002. H. B. NO. 13-131 does not include contracts needing sanction that are in existence on or after January 14. That has to be made very clear. None of the contract on or after January 14, 2002 is included in H. B. NO. 13-131. The purpose of this legislation is from a practical point. The current governor should not be made accountable for those contracts in existence on or before January 13. It was the previous administration and therefore because the legislature did not sanction those in the past, we are proposing to sanction those contracts on or before January 13, 2002, through H. B. NO. 13-131. The rationale in not including contracts needing legislative sanction executed by the current administration is that simply, there has not been a request by the administration for those contracts in excess of the salary caps provided by law. We are making a distinction to provide the Executive Branch with the responsibility to appropriately remedy those that are in excess of the caps. One remedy that the administration may take is to rescind the contracts in existence that are in excess of the caps, or submit to the legislature for consideration. Be it as it may, this bill intends to settle the issue of salary disputes. A lot of these people have since retired. It is also provided in H. B. NO. 13-131 that no one is absolved if, in fact, knowingly or willfully violates the law. What we are essentially doing is taking the issue one at a

time. For those employed on or before January 13, 2002, House has extended its sanction and the Senate will consider their option under H. B. NO. 13-131. The Governor has the authority to reduce or to submit to the legislature for sanctioning of salaries in excess of the caps those that were executed on and after January 14, 2002. I recognize Representative Quitugua.

Rep. Quitugua: Thank you, Mr. Speaker. I am a little bit leery, Mr. Speaker, of sanctioning the act of the Twelfth Legislature because I feel that they have the capacity ...

Speaker Hofschneider: By no means are we sanctioning the act of the previous legislature. It is not the intension of H. B. NO. 13-131 to extend the responsibility of the Twelfth Legislature. The Twelfth Legislature has come to a close on January 13, 2002. This issue is before the Thirteenth Legislature. It is for us to provide for remedy or not. H. B. NO. 13-131 is a remedy.

Rep. Quitugua: I fully understand that, Mr. Speaker. May I just express my opinion on the bill?

Speaker Hofschneider: Yes, you may.

Rep. Quitugua: Mr. Speaker, I would like to say for the record that the situation in remedying in this bill perhaps maybe legally acceptable as it seems by the language of the bill. I am, however, Mr. Speaker, concern of the fact that we may be setting a precedent here. There might have been cases in the past whereby previous legislatures were not able to rectify a situation of their predecessors. I don't know that, but since I am a member of the Thirteenth Legislature, *I want to be certain that we aren't legalizing something that may be construed as an illegal act. If that is the intent and the overwhelming support of the majority of the members of this Thirteenth Legislature, then that is fine.* I am not sure whether this is the most appropriate way of dealing with this situation, Mr. Speaker. I thought that there is another remedy and that is through the legal process. But if the consensus of this group is this is the most expedient and most appropriate way of dealing with this situation ... I don't know ... I am relatively new here, and I want to be certain that whatever act I do, it would be within the authority that we have. Since you have made the assurance that the Thirteenth Legislature has the authority to rectify this situation, I will go along with that.

Speaker Hofschneider: On line 3 of the bill, Representative Quitugua, it states very clearly: "Approval under this Act shall constitute compliance with the sanction provision...". That is all it is attempting to do – it is to rectify. The option of the Governor is to veto this bill and consider taking charge of those in excess of the cap that H. B. NO. 13-131 is trying to sanction by reducing all those identified in the Public Auditor's report to meet the cap of the law, \$50,000. If that is the consensus of the House, I am willing to go along with what the House is willing to consider as an option. This is one option. The other option that we are talking about is to allow the law to be followed by recalling those contracts in excess of the salary cap that were not sanction on or before January 13 and likewise January 14 and after so that the contracts can be reduced to the maximum allowable under the law, which is \$50,000 for some. If that is the consensus, we should refer this to the committee or hold it. The fact remains that we are talking about 175 individuals, I believe, versus the 18 identified in the Public Auditor's report attributed to the actions of the current administration. For all practical consideration, it is easier to deal with 18 than 175. What do you do with some of the people under contract from the previous administration and have since retired? How do you mitigate those that were not sanctioned by the legislature who received salaries in excess of the caps and have since retired? How do you

proposed to remedy that? It is a complex issue that I am sure the Attorney General would be limited in its parameters in considering recovery of those funds, and the Governor's compounded problem of considering what to do with 175 individuals as opposed to the practical remedy of 18 individuals. This is why the floor is open for discussion. If the consensus of the members is to hold off this bill, that is open. I recognize Representative William Torres.

Rep. William Torres: Mr. Speaker, I would like to clarify whether H. B. NO. 13-131 will preempt the Public Auditor from going ahead and looking into those 178 that have been committed by the previous administration that did not secure the sanction of the previous legislature. Will this bill preempt such action or request from the legislature?

Speaker Hofschneider: As far as the compliance of the legislature's sanction, this bill would meet that. It is a different issue if amongst the 170 odd individuals identified in the Public Auditor's report that still require sanctioning but nonetheless are illegal, defective in certification, that is a whole different issue and should be segregated and dealt with appropriately. For those that met certification but lack the sanction, H. B. NO. 13-131 will in fact legitimize that status.

Rep. William Torres: So the Public Auditor can enlighten us on the scope or the number of individuals that went through that process?

Speaker Hofschneider: The answer is, yes. I recognize Representative Quitugua.

Rep. Quitugua: Mr. Speaker, the bill intends to sanction the excess salary, not the act of awarding or granting that salary?

Speaker Hofschneider: The act itself is provided under specific laws, including P.L. 11-41 whereby the governor is given the authority to exceed the cap, provided, however, that sanction is secured. What the governor in the past did, was availed himself with those authorities under the P.L. 11-41, which is the Continuing Resolution. But absent of the sanction, we are assisting those individuals identified in the Public Auditor's report. If the members are not completely satisfied, let's hold it off. If you are satisfied, let's go for it. Representative Tebuteb, recognized.

Rep. Tebuteb: I am not really satisfied, Mr. Speaker. I am uncomfortable to forgive issues, concerns, challenges or problems not of my doing. P.L. 11-41 is very specific. It is the law. Everybody should comply with it. The present administration must be responsible. Somebody is responsible. Even the unofficial report during the Education Committee public hearing with regard to the government's loss of \$2 Million of scholarship fund should be evaluated, should be considered. I am obligated with my responsibility of what I think is right versus the cost or expenses incurred of recovery of public funds.

Speaker Hofschneider: I hear you that for those contracts that were in existence prior to this administration should be treated the same way as the current contracts?

Rep. Tebuteb: I am saying maybe we should refer this to the committee.

Speaker Hofschneider: Any motion to that?

The Chair recognized Rep. Babauta.

Rep. Babauta: Mr. Speaker, each member has his own view and prerogative with respect to issues confronting the House. In general, I believe that most of the members of the Thirteenth House have felt the impact of the administration's austerity program. I have contributed to your call effective yesterday reducing the hours of my staff, but to continue to let the process of be it the past two administrations or the next two administrations, I think you are absolutely right on your call that this issue must rest – not to mention the word rectify, but to take corrective action – to avoid further financial dilemma that the entire Commonwealth is facing, not just the House of Representatives, it is the people. I support the intent of H. B. NO. 13-131, Mr. Speaker, because as you eloquently mentioned, the subject 18 positions to be sanctioned should be officially requested. As a member of this House, I have not seen any request. The only communications that I happen to read this morning is a proposal that the governor would like to sit down with respective individuals to iron out corrective measures. I guess this is the initiative of the House in tackling the problem. With that, Mr. Speaker, I move to end debate and vote on the issue.

Speaker Hofschneider: Before I recognize that, what Representative Tebuteb is merely stating that in considering extending a sanction to those individuals hired on or before January 13, 2002, we must consider equity. He has a point. If we are forcing the governor, as we have made a position in our letter to the governor, that the House would not consider any sanction in excess of the cap, then we should be cognizant of the fact that when he does request for an extension for those contracts dated January 14, 2002, and after, then we have pretty much stated our position not to. What this is purporting to do is remove those issues that are of the same situations and circumstances on his plate by extending a sanction to those that he was not responsible for. The moral of Representative Tebuteb's statement is if we are going to sanction, sanction everyone; if we are not going to sanction, then let's not sanction any one. That is the moral of his statement. If the desire of the House is to refer this to the Committee and take a look further into that rationale, let's do it.

Rep. Herman Palacios: I so move.

The motion was seconded.

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

Speaker Hofschneider: State your point.

Rep. Cabrera: Going back to our previous discussion, our holding this or referring this to the committee *does not* prevent the Attorney General's Office from taking any action? [emphasis added]

Speaker Hofschneider: We have no authority to intercede in what action the Attorney General is going to take. It is clear from the Public Auditor's report of what he has to do. Passing or referring this would not in any way affect the ability of the Attorney General to enforce the law. There is a motion to refer the bill to the committee, and it has been seconded. Any discussion?

Floor Leader Attao: Mr. Speaker, did the motion to refer to committee come before the motion to end debate?

Speaker Hofschneider: I did not recognize the motion to end debate.

The motion to refer H. B. NO. 13-131 to the committee was defeated by voice vote.

Speaker Hofschneider: The bill is still on the floor. I recognize Representative Castro under discussion.

Rep. Castro: Mr. Speaker, is it then appropriate for the House to recommend to the governor to inform us as to what option he is taking in regards to the 18 individuals who exceed the salary caps?

Speaker Hofschneider: I think line 8 of the bill will send a clear message, “Provided further, that nothing in this Act shall be construed as approving salaries in excess of salary ceilings effective on or after January 14, 2002.” It leaves the full latitude of his options open. Those options, at a minimum, present itself as: one, executing a new contract and staying below the cap; two, sending over a request for consideration by the House and Senate for those in excess of the caps. So we are not **diminishing or adding** options for the Governor to consider.

There was no further discussion.

The roll call vote on the motion to pass H. B. NO. 13-131 on First and Final Reading follows:

Rep. Martin B. Ada	yes
Rep. Francisco LG. Aldan	yes
Rep. Jesus T. Attao	yes
Rep. Oscar M. Babauta	yes
Rep. Gloria DLC. Cabrera	yes
Rep. Pedro P. Castro	yes
Rep. Joseph P. Deleon Guerrero	yes
Rep. Arnold I. Palacios	yes
Rep. Herman T. Palacios	yes
Rep. Norman S. Palacios	yes
Rep. Daniel O. Quitugua	yes
Rep. Andrew S. Salas	yes
Rep. Benjamin B. Seman	yes
Rep. Ramon A. Tebuteb	no
Rep. Manuel A. Tenorio	yes
Rep. Stanley T. Torres	yes
Rep. William S. Torres	yes
Speaker Heinz S. Hofschneider	yes

Speaker Hofschneider: H. B. NO. 13-131 hereby passes the House. Floor Leader?

Floor Leader Attao: Mr. Speaker, before we recess, can we act on H. B . N O.13-039 and the three resolutions introduced this morning?

Speaker Hofschneider: Can we recess to Friday morning?

Floor Leader Attao: Simple resolutions, Mr. Speaker, and on the report that we just adopted with regard to forfeiture. It may take only five minutes.

Speaker Hofschneider: With the exception of H. R. NO. 13-051. I would like to refer that to the Committee.

Floor Leader Attao: Mr. Speaker, this should be introduced as a joint resolution. We need the concurrence of the Senate because this is a joint venture.

Speaker Hofschneider: Recognized for the motion, Floor Leader.

Floor Leader Attao: Mr. Speaker, I move for the suspension of Rule IX, Section 9, 10, and 11 for the passage of H. B. NO. 13-039 as substituted.

The motion was seconded and carried by voice vote.

Floor Leader Attao moved for the passage of H. B. NO. 13-039, HS1 on First and Final Reading, seconded by Rep. Babauta.

H. B. NO. 13-039, HS1: A BILL FOR AN ACT TO AMEND 6 CMC § 2150 TO EXEMPT FROM FORFEITURE, PROPERTY USED IN THE COMMISSION OF A CRIMINAL ACT BY SOMEONE OTHER THAN THE OWNER WITHOUT THE KNOWLEDGE, CONSENT OR WILLFUL BLINDNESS OF THE OWNER.

There was no discussion on the bill.

The roll call vote on the motion to pass H. B. NO. 13-039, HS1 on First and Final Reading follows:

Rep. Martin B. Ada	yes
Rep. Francisco LG. Aldan	yes
Rep. Jesus T. Attao	yes
Rep. Oscar M. Babauta	yes
Rep. Gloria DLC. Cabrera	yes
Rep. Pedro P. Castro	yes
Rep. Joseph P. Deleon Guerrero	yes
Rep. Arnold I. Palacios	yes
Rep. Herman T. Palacios	yes
Rep. Norman S. Palacios	yes
Rep. Daniel O. Quitugua	yes
Rep. Andrew S. Salas	yes
Rep. Benjamin B. Seman	yes
Rep. Ramon A. Tebuteb	yes
Rep. Manuel A. Tenorio	yes
Rep. Stanley T. Torres	yes
Rep. William S. Torres	yes
Speaker Heinz S. Hofschneider	yes

Speaker Hofschneider: By a vote of 18-0, H. B. NO. 13-039, HS1 is passed by the House. I recognize the Floor Leader under Resolution Calendar.

## RESOLUTION CALENDAR

Floor Leader Attao: Under Resolution Calendar, Mr. Speaker, I move for the suspension of Rule VII, Section 10, Rule IX, Section 9, 10 and 11 for the adoption of H. J. R. NO. 13-009 and H. R. NO. 13-050.

The motion was seconded.

Speaker Hofschneider: Short recess.

The House recessed at 1:30 p.m.

### RECESS

The House reconvened at 1:30 p.m.

Speaker Hofschneider: We are back in session. A suspension motion was on the floor. Discussion on the motion?

There was no discussion. The motion to suspend certain rules of the House for the adoption of H. J. R. NO. 13-009 and H. R. NO. 13-050 was carried by voice vote.

The Chair recognized the Floor Leader.

Floor Leader Attao: Thank you, Mr. Speaker. I now move for the adoption H. R. NO. 13-050.

The motion was seconded.

H. R. NO. 13-050: A HOUSE RESOLUTION TO PAY TRIBUTE TO THE LATE HONORABLE LUIS MARCIANO LIMES UPON HIS PASSING, TO EXPRESS OUR DEEPEST CONDOLENCE TO HIS FAMILY, AND TO COMMEMORATE HIS LIFE LONG CONTRIBUTION TO HIS FAMILY, FRIENDS AND THE COMMONWEALTH.

The Chair recognized Rep. Tebuteb.

Rep. Tebuteb: Thank you, Mr. Speaker. On page 1, line 8, change “education” to “educated”.

Speaker Hofschneider: That’s just a typo.

The motion to adopt H. R. NO. 13-050 was carried by voice vote.

Speaker Hofschneider: H. R. NO. 13-050 is adopted. Floor Leader?

Floor Leader Attao: I move for the adoption of H. J. R. NO. 13-009.

Seconded by several others.

H. J. R. NO. 13-009: A HOUSE JOINT RESOLUTION AUTHORIZING REPROGRAMMING AUTHORITY FOR THE OFFICE OF THE PUBLIC AUDITOR IN EXCESS OF THE LIMITS OF 1 CMC §§ 7401 AND 7402; AND FOR OTHER PURPOSES.

Speaker Hofschneider: Discussion on the motion for adoption.

There was no discussion. The motion to adopt H. J. R. NO. 13-009 was carried by voice vote.

Speaker Hofschneider: H. J. R. NO. 13-009 is adopted. Vice Speaker?

Vice Speaker Tenorio: Mr. Speaker, I know that H.R. NO. 13-051 will not be entertained, but will go to a committee. I would like to request the Speaker to refer this to the committee for action. I would also like to comment that I disagree with the statement made by the Floor Leader that we have to have a joint resolution to this effect. The Senate is an independent house and they can do what they want and we can do what we want. I just wanted to say that for the record in case a similar resolution comes out. If the intent of the Floor Leader is to block this resolution, I would like to know why.

Floor Leader Attao: Mr. Speaker, let me correct that. I am not trying to block the resolution. We have a House and Senate, Mr. Speaker. This is addressing the Fair Labor Standards Act that is pending the US Congress. I don't think it is fair for us to make a decision and the Senate will part from this resolution. That's how I view this resolution, Mr. Speaker. We just can't take one position here and the Senate will take another position. I hope that answers the Vice Speaker's question.

Vice Speaker Tenorio: No, it doesn't. I think this is preposterous. You can't say that the action of this House must always coincide with the action of the Senate. The Senate doesn't need to take action if they don't want to.

Floor Leader Attao: Let me make my point clear. A House resolution is not as strong as a House joint resolution. That is the bottom line.

Speaker Hofschneider: Both opinions are well taken by the Chair. I will refer this to the Committee on Ways and Means.

Floor Leader Attao: Mr. Speaker, may I request the Chair of Ways and Means to expedite this resolution. It is important, but I still recommend that it be introduced as a joint resolution for action by both houses.

Speaker Hofschneider: Representative Ada?

Rep. Ada: With no sides taken, coming up with a joint resolution signifies a unified stand on this issue. This issue has been and still is a very sensitive issue in the eyes of the Federal Government. Thank you.

Speaker Hofschneider: Vice Speaker, for the last time.

Vice Speaker Tenorio: Again, I disagree with the suggestion that this should be a House joint resolution. Because both houses have been assessed with what is happening on this particular issue of the Fair Labor Standards Act or the Kennedy Bill, it behooves both houses to act. I know it is late and we won't act on this because of the constraint on time, but I would like to see that the committee act on it. I don't want it to be construed that we have to ask the Senate to join us on this even though it will strengthen the resolution, or has more force and effect if it was adopted also in the Senate. For this particular one, Mr. Speaker, I don't think there is a need.

Speaker Hofschneider: Floor Leader, motion for a recess.

Floor Leader Attao move to recess subject to the Call of the Chair, was seconded by several others and carried by voice vote.

The House recessed at 1:39 p.m.

Respectfully submitted,

Lavida S. Palacios, Acting Journal Clerk  
House of Representatives

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#### APPEARANCE OF LOCAL BILLS

**H. L. B. NO. 13-026**: To designate that the Kagman Community (Kagman I, Kagman II, Kagman III) is a residential community only in accordance with the Village Homesteading act of 1979 and the village homestead rules and regulations; and for other purposes. [3<sup>rd</sup> Appearance]

**H. L. B. NO. 13-027**: To repeal Rota Local Law No. 13-1 in its entirety. [3<sup>rd</sup> Appearance]

**H. L. B. NO. 13-028**: To appropriate \$142,000.00 from the local license fees for pachinko slot machines and poker machines in the First Senatorial District; and for other purposes. [3<sup>rd</sup> Appearance]