



## House Journal

### SECOND REGULAR SESSION, 2002

Third Day

September 3, 2002

The House of Representatives of the Thirteenth Northern Marianas Commonwealth Legislature convened in its **Third Day, Second Regular** Session, on **Tuesday, September 3, 2002**, at **11:03 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.

In accordance with Rule XIII, § 2(a), **seventeen** members were recorded present; Representative **Herman T. Palacios** was excused.

Speaker Hofschneider: With that we shall recess until two o'clock.

The Chair declared the House recessed at 11:05 a.m.

#### RECESS

The House reconvened at 2:54 p.m.

Speaker Hofschneider: We're back to our session.

#### ADOPTION OF JOURNALS

None

#### PREFILED AND INTRODUCTION OF BILLS

H. B. NO. 13-177: A Bill for an Act to reappropriate fund balances from Public Laws 10-15, 10-38, 11-11, 11-67, 11-79, 11-120, and 12-63 for various road projects within Precinct I; and for other purposes.

Offered by: Rep. Martin B. Ada  
Referred to: Committee on Ways and Means

H. B. NO. 13-178: A Bill for an Act to establish jurisdiction and provisions for the conservation and management of fisheries in the Commonwealth of the Northern Mariana Islands, and for other purposes.

Offered by: Rep. Arnold I. Palacios and nine others  
Referred to: Committee on Natural Resources

H. B. NO. 13-179: A Bill for an Act to extend the hours for on-sale and off-sale premises as defined in 4 CMC Division 5; to increase the fees related to the licensing of these premises to help defray the additional costs of administration and enforcement thereof.

Offered by: Rep. Jesus T. Attao and one other  
Referred to: Committee on Commerce and Committee on Ways and Means

H. B. NO. 13-180: A Bill for an Act to protect the fiscal integrity of the Commonwealth government by modifying the provision of the laws of the Commonwealth relating to amusement machines; and for other purposes.

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

H. L. B. NO. 13-033: A Local Bill for an Act to prohibit or restrict the use of self-contained underwater breathing apparatus (SCUBA) and other related devices on commercial and non-commercial fishermen when fishing for reef fish or other types of fish or harvesting other marine life within the lagoon and coastal waters of the municipality of Saipan and the Northern Islands; and for other purposes. [First Appearance]

Offered by: Rep. Pedro P. Castro

H. L. I. NO. 13-008: A House Legislative Initiative to amend Article II, § 6 of the Commonwealth Constitution so as to treat each chartered municipality form of local government within the Commonwealth on an equal basis and to further empower said municipal governments to pass local laws exclusively on local matters.

Offered by: Rep. Oscar M. Babauta  
Referred to: Committee on Judicial & Governmental Operations

### **PREFILED AND INTRODUCTION OF RESOLUTIONS**

H. R. NO. 13-071: A House Resolution to request the Commonwealth Ports Authority to immediately commence the formation of physical infrastructure and investment incentives to establish cruiser-liner and transshipping industries in the Commonwealth of the Northern Mariana Islands.

Offered by: Rep. Francisco DLG. Aldan

H. R. NO. 13-072: A House Resolution respectfully requesting Governor Juan N. Babauta and the Marianas Visitors Authority to create a task force to study the development and construction of an inside lagoon fishing sports complex at the northern side of Paupau Beach in San Roque.

Offered by: Rep. Pedro P. Castro

Speaker Hofschneider: Short recess.

The House recessed at 3:00 p.m.

### RECESS

The House reconvened at 3:01 p.m.

Speaker Hofschneider: We're back to our session and before we proceed with the resolutions, we go back to Prefiled and Introduction of Bills.

There being no objection, the House went back to Prefiled and Introduction of Bills.

### PREFILED AND INTRODUCTION OF BILLS

H. B. NO. 13-181: A Bill for an Act to amend 4 CMC § 5554 and § 5557 to allow the sale of alcoholic beverages by on-sale licensees operating within the sterile, passenger holding areas at Saipan International Airport, west Tinian Airport, and Rota International Airport, without restriction as to the hours or day of sale; and for other purposes.

Offered by: Rep. Andrew S. Salas

Referred to: Committee on Commerce and Committee on Ways and Means

### PREFILED AND INTRODUCTION OF RESOLUTIONS

H. R. NO. 13-073: A House Resolution to discipline Representative Norman S. Palacios under the authority of Article II, Section 14 of the NMI Constitution and Rule V, Section 11 of the Rules of the House of Representatives.

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

### MESSAGES FROM THE GOVERNOR

GOV. COMM. 13-283 – August 15, 2002 – Informing the Legislature that he signed H. B. NO. 13-156, Gaming Device Jackpot Tax, into **Public Law No. 13-19**.

GOV. COMM. 13-284 – August 15, 2002 – Informing the Legislature that he signed H. B. NO. 13-118, re. DPW Nonresident Workers Hiring Exemption, into **Public Law No. 13-20**.

GOV. COMM. 13-285 – August 15, 2002 – P.L. 11-6 notification of exemption for Interpacific Resorts, dba PIC.

GOV. COMM. 13-286 – August 15, 2002 – P.L. 11-6 notification of exemption for Pacific Eagle Enterprises, Inc.

GOV. COMM. 13-287 – August 15, 2002 – Budget Address to the Legislature on August 16, 2002.

GOV. COMM. 13-288 – August 19, 2002 – P.L. 11-6 notification of exemption for the Department of Public Health.

GOV. COMM. 13-289 – August 21, 2002 – Certification for a vacant position at the Department of Finance.

GOV. COMM. 13-290 – August 21, 2002 – Certification for vacant positions at the Department of Public Health.

GOV. COMM. 13-291 – August 21, 2002 – P.L. 11-6 notification of exemption for Calvo Enterprises, Inc. dba Mobil Mart dba Paradise Gagani Resort dba Sasanhaya Service Station.

GOV. COMM. 13-292 – August 21, 2002 – P.L. 11-6 notification of exemption for Ednaly A. Waldo dba Creative Garlik.

GOV. COMM. 13-293 – August 21, 2002 – P.L. 11-6 notification of exemption for Mugen Corp. dba Dive collection MUGEN.

GOV. COMM. 13-294 – August 21, 2002 – P.L. 11-6 notification of exemption for TDI Top Dev. Inc. dba Top Management Ent. dba Unicorn Trailways dba Regent Tour Express-Spn.

GOV. COMM. 13-295 – August 21, 2002 – Requesting the Legislature to sanction the salary of Mr. Juan I. Tenorio, Director of Personnel, by joint resolution.

GOV. COMM. 13-296 – August 21, 2002 – Informing the Legislature that he signed H. B. NO. 13-167, Reprogramming funds to the Typhoon Chata'an Emergency Fund, into **Public Law No. 13-21**.

GOV. COMM. 13-297 – August 26, 2002 – P.L. 11-6 notification of exemption for Teresa H. Lim dba J&T Dive Shop.

GOV. COMM. 13-298 – August 25, 2002 – P.L. 11-6 notification of exemption for Grace Christian Academy.

GOV. COMM. 13-299 – August 26, 2002 – P.L. 11-6 notification of exemption for Vincent/Benita Manglona dba V.B. Manglona Enterprises.

GOV. COMM. 13-300 – August 26, 2002 – Certification of vacant positions at the Office of the Attorney General.

GOV. COMM. 13-301 – August 28, 2002 – Certification for a vacant position at the Tinian Municipal Council.

GOV. COMM. 13-302 – August 29, 2002 – Certification of vacant positions at the Office of the Public Defender.

Speaker Hofschneider: Any comments on the Messages of the Governor?

Rep. S. Torres: Not today, Mr. Speaker.

Floor Leader Attao: Ready.

Speaker Hofschneider: If there's no objection, I'd like to make general comments on the Governor's Communications. If you look at the Governor's Communications, other than the first two relating to the signage of legislations into laws, more than two-thirds of Governor's Communications for today's session has to do with notification of exemptions under Public Law 11-6. And with that, it is very evident that Public Law 11-6 has accomplished its goal and missions in foretelling and making sure that proper accountability of nonresident employees in the Commonwealth are accounted for. We still have a few glitches here and there but nonetheless I think it is sufficient and time to revisit the issue on Public Law 11-6. It has generated enough concerns relating strictly to the economy and it is in our interest to revisit Public Law 11-6, which is the moratorium law on nonresident workers in the Commonwealth. Perhaps it's time to amend Public Law 11-6, see where the problem lies in accommodating the businesses when it comes to their request for nonresident employees. As we have discussed somewhat on numerous occasions, either related or not related to the user fee, it is time for this body or the Legislature to consider bringing up the virtues of Public Law 11-6 and see if we can be of assistance to the businesses in general. With that, I advise the Committee on Ways and Means to take up the action on Public Law 11-6.

### SENATE COMMUNICATIONS

The Chair recognized the Floor Leader.

Floor Leader Attao: Thank you, Mr. Speaker. Motion to accept SEN. COMM. 13-81, SEN. COMM. 13-82, SEN. COMM. 13-83, SEN. COMM. 13-84, SEN. COMM. 13-85, SEN. COMM. 13-86, SEN. COMM. 13-87, SEN. COMM. 13-88, SEN. COMM. 13-89 and SEN. COMM. 13-90.

The motion was seconded.

SEN. COMM. 13-81: Return of H. B. NO. 13-167, re Typhoon Chata'an Emergency Fund, which the Senate passed without amendments on August 16, 2002. [Became PL 13-021]

SEN. COMM. 13-82: Return of H. C. R. NO. 13-001, Approving FY 2003 Revenues and Resources, which the Senate adopted on August 16, 2002. [For inf.]

SEN. COMM. 13-83: Return of H. B. NO. 13-170, HD1, Appropriations and Budget Authority Act of 2003, which the Senate passed without amendment on August 16, 2002. [Before the Governor]

SEN. COMM. 13-84: Return of H. B. NO. 13-171, HD1, Environmental Beautification Tax Act of 2002, which the Senate passed without amendment on August 20, 2002. [Before the Governor]

SEN. COMM. 13-85: Transmittal of S. B. NO. 13-85, entitled, "A Bill for an Act to amend 2 CMC § 5107 and 2 CMC 5109(k) of P.L. 13-8; and for other purposes," which the Senate passed on August 20, 2002. [For action]

SEN. COMM. 13-86: Transmittal of S. B. NO. 13-90, entitled, "A Bill for an Act to amend 1 CMC § 8117(i) of the Commonwealth Civil Service Act to provide that the Civil Service Commission shall amend the Civil Service Rules and Regulations to remove any an all provisions

requiring that civil service positions must be filled by an individual with more than three (e) years residency within the Commonwealth; and for other purposes,” which the Senate passed on August 20, 2002. [For action]

SEN. COMM. 13-87: Transmittal of S. B. NO. 13-91, entitled, “A Bill for an Act to provide that current and former government employees shall have thirty (30) days from the date of enactment of this legislation to submit an application to the Retirement Fund Board of Trustees for prior service credit where such claims were previously barred as untimely under 1 CMC § 8324 and 1 CMC § 8325 or where such claims were previously rejected for lack of sufficient documentation; and for other purposes,” which the Senate passed on August 20, 2002. [For action]

SEN. COMM. 13-88: Transmittal of S. B. NO. 13-93, entitled, “A Bill for an Act to amend 1 CMC § 8117(i) of the Commonwealth Civil Service Act to provide that the Civil Service Commission shall amend the Civil Service Rules and Regulations to remove any and all provision requiring that persons seeking to be certified as eligible for a civil service position have prior work experience if such persons possess a Bachelor’s, Masters, or Doctoral degree, in a field of experience related to the civil service position for which the person has applied,” which the Senate passed on August 20, 2002. [For action]

SEN. COMM. 13-89: Transmittal S. B. NO. 13-94, entitled, “A Bill for an Act to domesticate or allow the raising of Sambar Deer in captivity; and for other purposes,” which the Senate passed on August 20, 2002. [For action]

SEN. COMM. 13-90: Transmittal of Senate Joint Resolution No. 13-19, entitled, “A Senate Joint Resolution to establish per diem travel allowance for travel to regularly traveled regions and to set the class of travel for air travel,” which was adopted by the Senate on August 16, 2002. [Certified copy for information]

The motion to accept SEN. COMM. 13-81, SEN. COMM. 13-82, SEN. COMM. 13-83, SEN. COMM. 13-84, SEN. COMM. 13-85, SEN. COMM. 13-86, SEN. COMM. 13-87, SEN. COMM. 13-88, SEN. COMM. 13-89 and SEN. COMM. 13-90 was seconded and carried by voice vote.

## HOUSE COMMUNICATIONS

HSE. COMM. 13-21: Representative Aldan’s trip report for the period of August 7-10, 2002.

Speaker Hofschneider: I’d like to take this opportunity to raise an issue with the House members, for the record. Last Friday, we met with the Acting Secretary of Finance. As you may recall it was clear that the Commonwealth ran out of money or have exhausted the \$193 million authorized to spend as of last Wednesday, August 28, 2002. It is questionable what happens on Thursday, Friday, Monday when people are paid on holidays and today. As you may recall that the House denied the Administration the waiver requested on the criminal penalty to exceed the authorized ceiling under the Planning and Budgeting Act. The Legislature, on record, is solvent that we have not exceeded the budgeted amount. However, because of serious invocations of impoundment authority and recession, the Legislature finds itself without funding for the rest of the month or up to September 30. It’s for that reason that I call every member and staff to meet immediately after the session to discuss possible closure of the Legislature, the House, beginning tomorrow morning until the

Attorney General for the Commonwealth and the Governor clearly defines the legal authority to exceed the expenditure ceiling above \$193 million, and if we have the money. Until such time, the House faces a potential closure until September 30.

### **COMMUNICATIONS FROM THE JUDICIAL BRANCH**

None

### **COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE**

None

### **COMMUNICATIONS FROM DEPARTMENTS & AGENCIES**

DEPT. & AGENCY COMM. 13-69 – August 27, 2002 – From Mr. Juan I. Tenorio, Director of Personnel, forwarding a summary listing of government staffing levels.

The Chair recognized Representative Babauta.

Rep. Babauta: Thank you, Mr. Speaker. With the indulgence of the members, can I follow up with your statement? Are there any news, as to the result of Friday's meeting and between Friday and early this afternoon with the respect to House matters or our predicament with our fourth quarter allotment?

Speaker Hofschneider: In Friday's meeting, the Acting Secretary of the Department of Finance made it very clear that they're not authorized to sign off on new expenditures outside the \$193 million, except for those that by way of the Governor's approval will be processed. One of the issues that complicates that process is the infringement on the separation of branches. The Governor has no authority to tell us how to spend the money, to tell us how much we can spend. They have no authority to dictate how we spend the money. Each member here under the Constitution is fiduciary held responsible for his/her expenditure. There are rules, regulations and laws governing expenditure of public funds, but to discreetly or selectively approve expenditure is unconstitutional.

The Chair recognized the Floor Leader.

Floor Leader Attao: Was there any official communication from the Executive Branch or the Department of Finance relative to the \$193 million?

Speaker Hofschneider: No, there was no official document, letter or advisory from the Governor to that effect. Representative Babauta?

Rep. Babauta: I understand, Mr. Speaker, what you're alluding to, but I just cannot understand as an elected member of this House, Mr. Speaker ... I mean, we have our Constitutional fiduciary responsibility to uphold to the best of our ability to the people of the CNMI. But, I cannot understand why the Executive Branch and other agencies under the Executive Branch would continue to receive monies from the taxpayers primarily from the general fund when, in essence, you're saying that if we are to exceed the \$193.4 we are, in essence, violating the budgetary law. It's just incomprehensible.

Speaker Hofschneider: Representative Babauta, under the continuing appropriation act, the Legislature is budgeted “x” amount of money and everyone lived within that boundary or limitation. What is problematic for the Legislature and the Judicial Branch is that in spite of the appropriation allowed for the Judicial and the Legislative Branches the Executive Branch has expended into the allotted amount for the Legislature and particularly the Judiciary. For that matter, the bottom line is what the Secretary of Finance has to adhere to, and the new approved authorization level is \$193 million. So even if we are legally and technically within our appropriation level and not have exhausted each individual member’s allotment, it is immaterial in this context because the \$193 million has been exhausted. Meaning even if you prove the Governor wrong in that the separation of branches should be adhered to or respected and returns the authorization, there is no cash that the Secretary of Finance can use to go beyond \$193 million. The capacity of the Commonwealth is a \$193 million. So even if it’s legal or illegal, as the case may be, it is immaterial on the context that Finance would not authorize any expenditure after August 28, 2002. That’s means that for every day that the Attorney General’s Office or the Governor’s Office does not clearly provide documentation as to the state of affairs of the government, then we are in fact complicit to the illegal expenditure in that we ask our people to come in to report to work and the following payroll they don’t receive their payroll because the Secretary of Finance cannot certify those funds, they have exhausted the \$193 million. So the liability is on every individual who continues to open office and incur expenses. I warn every member, you are personally liable for those expenditures. Vice Speaker?

Vice Speaker Tenorio: Thank you, Mr. Speaker. I believe we have discussed this issue with the members and before we subject our employees and close down the Legislature I believe the Governor has requested for us to sit down maybe one more time and see what remedies we can work with the Administration to address this problem. I understand that our situation here is critical but that the Legislature has not overspent its budget. So while we are clear as a branch of the government I think it behooves us to sit down with the Administration and see what plans we have. After all, I believe you also mentioned that we have to wait for the legal opinion of the Attorney General on this matter. So I join the rest of my colleagues in requesting your indulgence to please sit down with the Administration one more time and address this issue once and for all before we subject our employees and for that matter a lot of the employees of the government to payless paydays. Thank you.

The Chair recognized Representative Quitugua.

Rep. Quitugua: Thank you, Mr. Speaker. In reference in closing the Legislature, that doesn’t necessarily mean that elected representatives cannot carry on their elected duties. Is that correct, Mr. Speaker?

Speaker Hofschneider: By far. You can continue to represent the people and serve your elected capacity even without money. How you perform may be problematic but delivering your representation as an elected individual doesn’t warrant the need for appropriation. We will continue to serve the people. We just cannot obligate the staffs of each member to come in, in the hope that these expenditures or payroll to be compensated will be forthcoming. It will be misguided policy. I think that the liability should be very clear on every member that we do not have the Constitutional authority to incur deficit when in fact the Executive Branch had forewarned us in numerous memoranda, and the invoking of the impound authority is self-explanatory. Therefore, the Legislature, particularly the House – I cannot speak for the Senate – but the House is my concern as



an employer and every member here is an employer. You must be mindful that to ask people to come in to work on the basis of the knowledge that we have is illegal.

Rep. Quitugua: I think, Mr. Speaker, you have articulated the position of the House very clearly. However, as I have stated during the leadership meeting this afternoon, Mr. Speaker, to go this route at least for the next twenty-four hours. We have gone on for three days exceeding the cut-off day and I don't think one day will hurt to sit down with the Executive Branch. I join my colleague Tenorio in appealing to your leadership in resolving this issue. I think it is something that we can get ourselves into legally and I just feel very strongly that it needs sitting down and discussing the matter candidly and respectfully.

Speaker Hofschneider: Let's not get the messages crossed. As elected individuals and members we will continue to show up. You cannot attach your elected term with your compensation. You continue to serve the people until the end of the term. What I'm saying is you cannot ask the members' staff and your staff to come in and sign in because I will not certify the timesheet for payment – until there is clarity from the Attorney General's Office and until there's clarity on what policy direction the Governor is taking – I will not sign off on any timesheet. It's illegal. We don't have the money to do so. The Secretary of Finance has made it very clear that additional obligations, new expenses will not be certified. Armed with that knowledge from the Secretary of Finance, which under the Constitution we should listen to more than what the Governor is saying or doing because the fiduciary, the Secretary of Finance is person in charge of the expenditure of the Commonwealth. So I will not certify any timesheet. Is there any other comment?

Floor Leader Attao: Ready.

Speaker Hofschneider: As far as the request to meet with them, as always, this house is always open.

### OTHER COMMUNICATIONS

MISC. COMM. 13-65 – August 23, 2002 – From Mr. Brian Farley, Executive Director, Pacific Way Institute, regarding “Miles for Miracles”, relative to donating traveler miles to families going off-island for medical care.

MISC. COMM. 13-66 – August 26, 2002 – From Mayor Benjamin Mangloña concerning a provision in P.L. 13-21, Typhoon Chata'an Emergency Fund.

MISC. COMM. 13-67 – August 26, 2002 – From Ms. Naomi E. Lujan, LRC Executive Director, regarding government representation of legislators named in a lawsuit.

There was no discussion.

### REPORTS OF STANDING COMMITTEES

The Chair recognized the Floor Leader.

Floor Leader Attao: Thank you, Mr. Speaker. I move for the suspension of Rule VII, Section 10 for the placement of S. C. R. NO. 13-047 on today's calendar.

The motion was seconded.

Speaker Hofschneider: Suspension motion for the placement of S. C. R. NO. 13-047 on today's calendar has been seconded. The floor is open for discussion on the suspension motion?

Several members voiced, "ready."

There was no discussion; and the motion to place S. C. R. NO. 13-047 on the calendar was carried by voice vote.

Speaker Hofschneider: Motion carried.

**S. C. R. NO. 13-047:** Reporting on H. B. NO. 13-158, entitled, "To increase the use fee collected under 4 CMC § 1421 to 5% the gross value of merchandise which require the Department of Finance's certification for export from the Commonwealth." *Your Committee on Ways and Means recommends passage of the bill in the form of HD1.*

## REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

## UNFINISHED BUSINESS

None

## RESOLUTION CALENDAR

Speaker Hofschneider: Short recess.

The House recessed at 3:25 p.m.

## RECESS

The House reconvened at 3:48 p.m.

Speaker Hofschneider: We're back to our session. Floor Leader.

Floor Leader Attao: Thank you, Mr. Speaker. Mr. Speaker, if there's no objection from the members, I would like to withdraw S. J. R. NO. 13-6 from the Committee on Education.

Rep. Babauta: No objection.

Speaker Hofschneider: Any second?

The motion was seconded. The motion to withdraw S. J. R. NO. 13-6 from the Committee on Education was carried by voice vote.

Speaker Hofschneider: Motion carried. Floor Leader?

Floor Leader Attao: Thank you, Mr. Speaker. I now move for the suspension of Rule VII, Section 10, Rule IX, Sections 9, 10 and 11 for the adoption of S. J. R. 13-6, H. R. NO. 13-071, H. R. NO. 13-072 and H. R. NO. 13-073.

The motion was seconded and carried by voice vote

Speaker Hofschneider: Motion Carried. Floor Leader.

Floor Leader Attao: Thank you, Mr. Speaker. I now move for the adoption of S. J. R. 13-6, H. R. NO. 13-071, H. R. NO. 13-072 and H. R. NO. 13-073.

The motion was seconded.

S. J. R. NO. 13-6: A SENATE JOINT RESOLUTION REQUESTING THE THAT THE NORTHERN MARIANAS COLLEGE AND ITS BOARD OF REGENTS ACKNOWLEDGE AND IMPLEMENT THE MANDATE OF PUBLIC LAW 9-53, SECTION 4 PART 2, "...TO ESTABLISH A VOCATIONAL, OCCUPATIONAL AND TECHNICAL TRAINING CENTER AND PROFESSIONAL DEVELOPMENT INSTITUTE (HEREINAFTER REFERRED TO AS 'INSTITUTE') WITHIN THE NORTHERN MARIANAS COLLEGE"; AND FOR OTHER PURPOSES."

H. R. NO. 13-071: A HOUSE RESOLUTION TO REQUEST THE COMMONWEALTH PORTS AUTHORITY TO IMMEDIATELY COMMENCE THE FORMATION OF PHYSICAL INFRASTRUCTURE AND INVESTMENT INCENTIVES TO ESTABLISH CRUISER-LINER AND TRANSSHIPPING INDUSTRIES IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

H. R. NO. 13-072: A HOUSE RESOLUTION RESPECTFULLY REQUESTING GOVERNOR JUAN N. BABAUTA AND THE MARIANAS VISITORS AUTHORITY TO CREATE A TASK FORCE TO STUDY THE DEVELOPMENT AND CONSTRUCTION OF AN INSIDE LAGOON FISHING SPORTS COMPLEX AT THE NORTHERN SIDE OF PAUPAU BEACH IN SAN ROQUE.

H. R. NO. 13-073: A HOUSE RESOLUTION TO DISCIPLINE REPRESENTATIVE NORMAN S. PALACIOS UNDER THE AUTHORITY OF ARTICLE II, SECTION 14 OF THE NMI CONSTITUTION AND RULE V, SECTION 11 OF THE RULES OF THE HOUSE OF REPRESENTATIVES.

Speaker Hofschneider: Motion for the adoption of S. J. R. 13-6, H. R. NO. 13-071, H. R. NO. 13-072 and H. R. NO. 13-073 has been seconded. The floor is open for discussion on the resolutions?

Several members voiced, "ready."

There was no discussion, and the motion to adopt S. J. R. 13-6, H. R. NO. 13-071, H. R. NO. 13-072 and H. R. NO. 13-073 was carried by voice vote.

Speaker Hofschneider: Motion carried.

Rep. S. Torres: I ask for roll call on H. R. NO. 13-073.

Speaker Hofschneider: Representative Torres, put that into a motion please.

Rep. S. Torres: I so move.

The motion was seconded.

Speaker Hofschneider: Motion to call the roll on H. R. NO. 13-073 has been seconded. Discussion on the motion? Representative Babauta?

Rep. Babauta: Thank you, Mr. Speaker. Mr. Speaker, unless the Floor Leader wishes to reconsider his original motion to piecemeal the adoption of resolutions ... because we have already adopted all resolutions.

Floor Leader Attao: Mr. Speaker, it's still in order and I think the Chairman of the Committee on Ways and Means is correct for the amended motion.

Rep. Babauta: I mean disposal.

Floor Leader Attao: Ready.

Speaker Hofschneider: Clerk, roll call.

The roll called on the motion to adopt H. R. NO. 13-073 on First and Final Reading is as follows:

Rep. Martin B. Ada	yes
Rep. Francisco DLG. Aldan	absent
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	excused
Rep. Norman S. Palacios	absent
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
Rep. Heinz S. Hofschneider	yes

Speaker Hofschneider: With fifteen votes in affirmative, H. R. NO. 13-073 is hereby adopted by the House. Representative Torres?

Rep. S. Torres: Mr. Speaker, with the consent of the members can we go back to House Communications?

Rep. Ada: No objection.

Speaker Hofschneider: No objection?

Floor Leader Attao: Objection, Mr. Speaker.

Speaker Hofschneider: Can we keep it short and sassy? We need to meet with the staffs.

The House went back to House Communications.

### HOUSE COMMUNICATIONS

The Chair recognized Representative Torres.

Rep. S. Torres: Thank you. Mr. Speaker and members of the House, if anyone of you sat in the CNMI Supreme Court courtroom on July 30, 2002 as I did, couldn't have been surprised by Justice Pro Tempore Frances Tydingco Gatewood's decision not to grant recusal of Guam Justice Alberto Lamorena from the three-judge Bank of Saipan panel. What went on in the courtroom and in the decision that came was a scene of members of the Guam legal community taking care of each other, a sort of "you cover my rear end and I'll cover yours" between the judge and members of the Guam bar. What the judge couldn't explain away on Justice Lamorena's behalf, she just refused to consider. Justice Alex Castro wasn't so lucky. The spectacle of a sitting judge raising money for the Larry Lee Hillblom law library from the bench while seating on the Hillblom estate case was apparently too much for Justice Tydingco-Gatewood who found Justice Castro must be recused, especially since the man behind the fundraising and its biggest contributor was Guam Attorney David Lujan. David Lujan is the trustee of Junior Larry Hillblom Pacific Trust, a major shareholder, and also on the bank's board of directors. Long before the 6,000 regular depositors at the Bank of Saipan had any idea anything was wrong, David Lujan and Governor Paul Calvo with his two brothers, Thomas and Edward from Guam, were selling out their large holdings. Now, they claim there was a swindle and they are going to hold on to the millions of dollars that they got for their shares while insisting that they are still the majority shareholders. It is really that this scandal should be made clear to the public. Throughout the court documents and most of the media coverage, Lujan and the Calvo's referred to as *the* "Bank of Saipan." Fat checks for Lujan and Calvo's for their Bank of Saipan stock were issued to them when they sold their shares and the bank in turn issued new shares in the bank to the B.M.W. crooks. The legal system has started to sort out what happened in this scandal, but in the meantime, it's up to these so-called "major shareholders" to prove they actually have claims to make, just like the average guy with \$500 trapped in his account. We're hearing a lot of stories from those suffering depositors with their funds tied up, but meanwhile there's an army of Lujan and Calvo's attorneys who have tied our CNMI legal system in the knots as they are desperately trying to save their clients' skins. The Calvo's filed suit asking to be interveners in the Bank of Saipan matter. Why in the world any court allowed Lujan and the Calvo's to intervene in any matter affecting Bank of Saipan? What is great loss in this mess is that there are the

6,000 depositors at risk and that there is no relief in sight because the so-called majority shareholders of the Bank of Saipan are spending big bucks to file lawsuits to muddy the waters. As a result, depositors are not getting anywhere. The receiver is distracted by a multiplicity of lawsuits and valuable bank funds are being wasted to pay more lawyer fees defending these frivolous suits. At the same time, our judges who are supposed to have their *abunays* focus on straightening out this mess are playing off against each other, getting paid \$130,000 each year for not doing their fiduciary duties. I am not a lawyer but I cannot imagine how Judge Edward Manibusan's simple question could be construed as an "ex-parte" communication. What in the world is going on? What is the government's position in all of this? One thing we have learned from the receivership is that the Bank of Saipan was badly managed for many years. Therefore, we should remember that these major shareholders, Lujan and the Calvo brothers were among those who sat on its Board of Directors for a long, long time, until they let it went belly-up. They have a lot of explanation to do and I am sure that every depositor and resident of the CNMI are waiting hear from Lujan, Governor Paul Calvo and his brothers. Thank you for your attention.

Speaker Hofschneider: Floor Leader?

Floor Leader Attao: Thank you, Mr. Speaker. I move to recess subject to the call of the Chair.

The motion to recess subject to the call of the Chair was seconded and carried by voice vote.

The House recessed at 3:59 p.m.

Respectfully submitted,

Lavida S. Palacios, Journal Clerk  
House of Representatives

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#### APPEARANCE OF LOCAL BILLS

**H. L. B. NO. 13-032:** To increase the local license fees for pachinko slot machines and poker machines in the First Senatorial District for the payment of PL 7-31 salary adjustments of government employees of the First Senatorial District; and for other purposes. (REP. DANIEL O. QUITUGUA) [3<sup>RD</sup> APPEARANCE]