

**SENATE JOURNAL
TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
THIRD REGULAR SESSION, 2001**

Third Day

Monday, February 5, 2001

The Senate of the Twelfth Northern Marianas Commonwealth Legislature, Third Day, Third Regular Session, 2001, was called to order at 3:40 p.m. at the Tinian Dynasty Hotel, Tinian, Commonwealth of the Northern Mariana Islands.

The Honorable Paul A. Manglona, President of the Senate, presided.

A moment of silence was observed.

The Senate Clerk called the roll and seven (7) members were present. Senators Ramon S. Guerrero and Thomas P. Villagomez were absent.

READING AND APPROVAL OF THE JOURNAL

None

MESSAGES FROM THE GOVERNOR

Gov. Mesg. No. 12-515: January 24, 2001 – PL 11-6 Exemption for Java Imports Ltd.

Gov. Mesg. No. 12-516: January 24, 2001 – PL 11-6 Exemption for Ace Tomato, Inc.

Gov. Mesg. No. 12-517: January 24, 2001 – PL 11-6 Exemption for Hotel Nikko Saipan.

Gov. Mesg. No. 12-518: January 24, 2001 – PL 11-6 Exemption for Mabu Corporation.

Gov. Mesg. No. 12-519: January 24, 2001 – PL 11-6 Exemption for Pacific Development, Inc. (PDI).

Gov. Mesg. No. 12-520: January 24, 2001 – PL 11-6 Exemption for Micronesia Power Systems, Inc.

Gov. Mesg. No. 12-521: January 26, 2001 – PL 11-6 Exemption for Saipan Marine Corporation.

Gov. Mesg. No. 12-522: January 26, 2001 – PL 11-6 Exemption for Younis Art Studio, Inc.

Gov. Mesg. No. 12-523: January 26, 2001 - PL 11-6 Exemption for Kimco Enterprises, Inc.

Gov. Mesg. No. 12-524: January 26, 2001 – PL 11-6 Exemption for Christian Dior Couture.

Gov. Mesg. No. 12-525: January 26, 2001 – Submitting comments regarding SB 12-83 (bidding preference) and suggesting a recall of the bill (currently on the Governor's desk).

Gov. Mesg. No. 12-526: January 26, 2001 – From SAPLR acknowledging receipt of SR 12-26 and 12-27.

Gov. Mesg. No. 12-527: January 31, 2001 – Certification for a vacant position of Project Development Worker within the Office of the Mayor of Rota that is vacant and must be filled during the period of continuing resolution.

Gov. Mesg. No. 12-528: January 31, 2001 – Certification that the positions of Surveying Technician I and Administrative Specialist II within the Rota Division of Land Registration and Survey are vacant and must be filled during the period of continuing resolution.

Gov. Mesg. No. 12-529: February 3, 2001 – Informing the Senate that he had disapproved SB 12-26, entitled, “To reserve areas of public lands on the island of Rota that are suitable for village homesteads, specifically the Dugi, Finafa, Chudang, and Ginalangan areas; and for other purposes.” **(DISAPPROVED ON 2/3/01)**

Gov. Mesg. No. 12-530: February 3, 2001 – Informing the Senate that he had disapproved SB 12-60, entitled, “To amend 2 CMC Div. 4, § 4382; and for other purposes.” **(DISAPPROVED ON 2/3/01)**

Gov. Mesg. No. 12-531: February 3, 2001 – Informing the Senate that he had disapproved SB 12-83, entitled, “To amend 1 CMC § 7404 (c) and (d) (see Public Law 11-87); and for other purposes.” **(DISAPPROVED ON 2/3/01)**

Gov. Mesg. No. 12-532: February 3, 2001 – Informing the Senate that he had disapproved HB 12-109, CS1, entitled, “To amend 1 CMC Division 8, by adding a new section 8335; and for other purposes.” **(DISAPPROVED ON 2/3/01)**

Gov. Mesg. No. 12-533: February 3, 2001 – Informing the Senate that he had disapproved HB 12-158, CD1, HD2, re amendment to the Education Act.” **(DISAPPROVED ON 2/3/01)**

Gov. Mesg. No. 12-534: February 3, 2001 – Informing the Senate that he had disapproved HB 12-277, entitled, “To ensure students of the Commonwealth receive quality school services, to approve the amendments of the Board of Education and the Public School System policies and regulations reclassifying counselors as certified employees and changing counselors salaries; and for other purposes.” **(DISAPPROVED ON 2/3/01)**

Gov. Mesg. No. 12-535: February 3, 2001 – Informing the Senate that he had disapproved HB 12-293, CD1, the “Toxic Substances Exposure Compensation Act.” **(DISAPPROVED ON 2/3/01)**

The Chair recognized Floor Leader Reyes.

Floor Leader Reyes: This is regarding Governor’s Communication Nos. 12-529 and 12-530. I think that Senator Atalig will be introducing similar bills taking into account the Governor’s concerns. I just want to say, Mr. President, that lately, we have been receiving a series of vetoes from the Governor. I wonder if we need to be communicating with the Governor. This is about the highest number I have ever seen of any governor rejecting bills from the Legislature. We need to find out what the problem is and maybe communicate with the Governor. I know that he is interested in working with us and working with the Legislature with respect to the FY 2001 Budget. I think that this will be an opportunity to also raise the concerns of all these veto messages. I don’t know if he just does not like the Legislature.

Senator Cing: I would like to know the reason why the Governor rejected these bills.

The Chair recognized Senator Atalig.

Senator Atalig: I would like to respond to that and in reference to Governor’s Message Nos. 12-529 and 12-530. Basically, the real reason why the Governor disapproved these is because of the newly enacted Public Law 12-33 which amended Public Law 10-57 regarding public lands. It is a minor correction. Public Law 12-33 changes the name from “Marianas Public Land Corporation” to “Board of Public Lands”. That is a minor correction. So, the Governor wants us to change “Marianas Public Land Corporation” to “Board of Public Lands”.

The Chair recognized Floor Leader Reyes.

Floor Leader Reyes: With all due respect to Senator Atalig, this is a minor technical amendment. We all know that the Board of Public Lands used to be Marianas Public Land Corporation. Even though the names are different, the functions are the same. That is why I am asking the members to try to find a way to communicate with the Governor because this is a minor technical problem. And since this is a minor problem, it could have been approved and a simple amendment can be made later clarifying what is necessary to be included in the law. It is just a matter of a technical amendment.

The Chair recognized Senator Dela Cruz.

Senator Dela Cruz: I share the same sentiment. I think, Mr. President, that you should write a letter to the Governor letting him know to at least extend the same courtesy to the Senate as he did to the House requesting a recall of the bill. This is very alarming. If you look at the Governor's messages, there are about six vetoed bills. I believe that sometimes in the past, there would be communication from the Governor requesting us to pull back a bill to make changes that are not that critical. I share the same concern with Floor Leader Reyes. It is very frustrating to see this many bills being disapproved by the Executive Branch. I do believe, though, that it is his prerogative, but at the same time, we should try to have communication between the Executive Branch and the Legislative Branch.

President Manglona: In all fairness to the Governor, the Governor would inform us every once in a while on the need to recall bills. I guess it depends on the reasons for the veto or recall. Some members in the past would rather leave it up to the Governor so he could put in black and white the problems of the bill. In that way, if he vetoes a bill and we are to re-introduce it, we can address the concerns. But for minor corrections, I think that no member here would object to a recall. The advantage in the past is that the members would not recall a bill so that the Governor can put in black and white the reasons for the veto. But if the understanding here is that it is a minor correction and we need to recall it, then the Chair would make sure that it is on that concern that we recall it assuming of course that the House would agree to the recall.

Floor Leader Reyes: All that I am saying here is that I believe there are some problems communicating with the Administration. I am sure that if the working relationship between the Legislature and the Governor is good, minor, technical errors can go through. That is all I am saying. Apparently, it is not going through, so we need to do something to repair that relationship. We have to send this all over again—to the House and you know the obstacles involved in passing legislation. A lot of times, in the first time around, it would go by. But the second time around, there would be a problem.

President Manglona declared a recess.

RECESS

The Senate reconvened.

The Chair recognized Floor Leader Reyes.

Floor Leader Reyes: Mr. President, on the technical error, if this becomes law, it goes to the Law Revision Commission. When this is codified into the code and they find out that there is a technical error, then they have the authority to correct it. It is just a representation of what the Board of Public Lands used to be called. So they can correct that if it is a minor technical correction. But again, this goes back to the kind of relationship we have with the Governor.

President Manglona: Thank you, Floor Leader. Is there any more discussion on the Governor's messages?

There was no further discussion.

COMMUNICATIONS FROM THE JUDICIARY

None

COMMUNICATIONS FROM HEADS OF EXECUTIVE DEPARTMENTS

None

HOUSE COMMUNICATIONS

Hse. Comm. No. 12-189: Informing the Senate that the House had accepted the Senate amendments to HB 12-301, entitled, "To authorize the appropriation of \$2,420,000 for the NMHC."

Hse. Comm. No. 12-190: Informing the Senate that the House had recalled from the Governor HB 12-277.

Hse. Comm. No. 12-191: Informing the Senate that the House had recalled from the Governor SB 12-26.

Hse. Comm. No. 12-192: Informing the Senate that the House had recalled from the Governor SB 12-60.

WASHINGTON REPRESENTATIVE'S COMMUNICATIONS

None

STANDING COMMITTEE REPORTS

None

SPECIAL/CONFERENCE COMMITTEE REPORTS

None

UNFINISHED BUSINESS

None

PREFILED BILLS AND RESOLUTIONS

Sen. Local Bill No. 12-7: A Local Bill for an act to appropriate \$28,000.00 from the Developer Infrastructure Tax under the Second Senatorial District Trust Account for the construction and installation of centerline roadway reflectors (Primary roadway in San Jose Village, Marpo heights Sub-Division and Carolinas Heights; and for other purposes.
(SEN. JOAQUIN G. ADRIANO – 01/30/01)

Sen. Bill No. 12-97: A Bill for an act to allow for the public audit of companies providing telephone services to the Commonwealth. (SEN. RAMON S. GUERRERO – 01/30/01)

Sen. Bill No. 12-98: A Bill for an Act to eliminate competitive sealed proposals and require competitive sealed bidding on Commonwealth procurement contacts in the amount of \$50,000.00 and above; and for other purposes. (SEN. RAMON S. GUERRERO – 01/30/01)

Sen. Bill No. 12-99: A Bill for an Act to repeal certain provisions of the Nonresident Workers Act that unfairly shift the burden of medical expenses from employee to employer and provide payment protection to commonwealth medical service providers.
(SEN. RAMON S. GUERRERO – 01/30/01)

Sen. Bill No. 12-100: A Bill for an Act to amend 2 CMC, Div. 4, § 4382; and for other purposes. (SEN. RICARDO S. ATALIG – 02/05/01)

Sen. Bill No. 12-101: A Bill for an Act to reserve areas of public lands on the island of Rota that are suitable for village homesteads, specifically the Dugi, Finafa, Chudang, and Ginalangan areas; and for other purposes. (SEN. RICARDO S. ATALIG – 02/05/01)

Sen. Legislative Initiative 12-5: A Legislative Initiative to propose a constitutional amendment to explicitly state that qualified retirees may be reemployed as classroom teachers, doctors, nurses, and other medical professionals without loss of retirement benefits, regardless of the individual's occupation prior to retirement, to eliminate the time limitation on such reemployment, and to clarify that the term "medical professionals" includes dentists, dental technicians, medical technicians, therapists, and the like. (SEN. PETE PE. REYES – 01/31/01)

INTRODUCTION OF BILLS AND RESOLUTIONS

Sen. Bill No. 12-102: A Bill for an Act to amend 6 CMC § 4201, 4202, 4203, 4206, 4251 and 4252 relating to the Board of Parole; and for other purposes. (SEN. JOSE M. DELA CRUZ)

Sen. Bill No. 12-103: A Bill for an Act to improve reporting and other requirements relating to Child Abuse or Neglect; and for other purposes. (SEN. JOSE M. DELA CRUZ)

Sen. Res. No. 12-30: A Senate Resolution expressing appreciation to Dr. Sayed Mansoor Abidi for his care and commitment to Commonwealth patients from November 1998 to February 2001. (SEN. JOSE M. DELA CRUZ)

Sen. Res. No. 12-31: A Senate Resolution honoring and commending Marian Aldan-Pierce on the conferring upon her of the award of "Guam Executive of the Year" for the Year 2000. (SEN. PETE P. REYES)

Floor Leader Reyes: I would like to request that we place this on today's calendar.

President Manglona: Floor Leader Reyes, do you have any objection to have the entire membership as sponsors of that resolution?

Floor Leader Reyes: No objection.

BILL CALENDAR

The Chair recognized Floor Leader Reyes.

Floor Leader Reyes moved to suspend pertinent rules to pass all the bills listed under the Final Reading Calendar. Several members seconded and the motion carried by voice vote.

HOUSE BILL NO. 12-006, COMMITTEE SUBSTITUTE 1: A BILL FOR AN ACT TO CREATE THE COMMONWEALTH TELECOMMUNICATIONS COMMISSION BY AMENDING 4 CMC, DIV. 8, TO ADD A NEW CHAPTER 3, SECTION 8301, ET. SEQ., THE "COMMONWEALTH TELECOMMUNICATIONS ACT" AND FOR OTHER PURPOSES.

Floor Leader Reyes moved to recall the bill, and Senator Adriano seconded.

President Manglona: It has been moved and seconded. Is there any discussion on the recall motion offered by Floor Leader Reyes? Floor Leader Reyes.

Floor Leader Reyes: Mr. President, the reason why I am asking my colleagues to support the recall is because there is a communication from the CUC, specifically from the attorneys hired at the CUC who has recently return from a telecommunication conference in Honolulu--from that conference, many people have worked intensively in correcting, massaging, the telecommunications act and changes were being processed and formulated--my understanding is that there is already a bill offering amendments--amendments are in final draft form which Vice President Villagomez has. This addresses the concerns of the CUC. In addition to that, I know that we have already received comments from Verizon. But that is fine because we already received that. But we have not received yet the technical concerns of the CUC. Because the CUC is in a very critical situation now, financially and

operationally, it makes it even more important for us to work with them to assist them in making this a workable and enforceable piece of legislation. It is of course the reason for the very strong recommendation request by the CUC to reconsider this. And I am soliciting the support of the members for a recall.

The Chair recognized Senator Adriano.

Senator Adriano: Thank you, Mr. President. That bill which we entertained in our Rota session sat in the Senate for quite some time—about a year. The benefit that it would provide Tinian and Rota is the creation of a Board that would serve and take a look at the overseas—we're suppose to include that in the fiber optic formulation. From that point, about 3 years ago, we went and negotiate the overseas from Tinian and Rota. Up to now, we never have that. If you go back to the Attorney General—there is a case between MTC and the Attorney General to try to resolve this. With that, I say not to go with the recall until we have a new bill to substitute that bill. Thank you.

The Chair recognized Senator Cing.

Senator Cing: In line with what Senator Adriano had just stated, I also want to ask the Floor Leader if the Chairman who is Vice President Villagomez has plans to conduct a public hearing on this bill. I am hesitant to vote for the recall at this time because of what Senator Adriano had just stated. I believe—this is way back even before we passed that bill that would install the fiber optic. You and I argued aggressively for the convenience of the customers on Rota and Tinian. There were promises made at that time that were supposed to be enjoyed by the people of the Commonwealth today including Rota and Tinian. Up until now, we still have to dial one to call our families in Saipan, we still have to pay a certain percentage after several calls to the information, and we were promised by the high officials of MTC at that time that the fiber optic would cover all these costs. It did not materialize. So, I am also hesitant to put my vote for the recall. It is very unfortunate that Senator Villagomez is not here because I would like to urge him to put this particular bill out for a public hearing at least for Tinian and Rota.

The Chair recognized Senator Dela Cruz.

Senator Dela Cruz: Thank you, Mr. President. I was not a member of the Legislature when this particular discussion and negotiation took place on the provider of telecommunication for the Commonwealth. I agree with both of my colleagues from Tinian, Senator Adriano and Senator Cing. There is something, Mr. President that we can agree on that during the discussion on the fiber optic—general discussion on this telecommunication issue, there was an offer made for inter-island communication like what Senator Adriano had said. I would also like to request if Floor Leader Reyes could withdraw his motion. If not, then I am not, for the record, going to support the recall until such time that we have a prepared bill to counter this dilemma that we are facing in these two islands. This is not only on inter-island communication. This is also something where we should have a review body to look into this telecommunication business in the Commonwealth. *Si Yu'us Ma'ase*, Mr. President.

The Chair recognized Senator Cing.

Senator Cing: Mr. President, let me just ask what would happen if we recall this bill. If we recall this bill, then the CUC Board will continue to be the one to determine all about communication. These people were the same people that have been issuing out responses in the form that became the language of that particular bill and that particular law is full of ambiguity and confusion. And all of these—they don't want to act or take action against the telephone company. So this bill will correct that because this bill will create a Board that would be tasked on the future rates of telephone company.

The Chair recognized Floor Leader Reyes.

Floor Leader Reyes: Thank you, Mr. President. First of all, I would like to express that I am in full support of the inter-island rate for Tinian and Rota to be honored by MTC, which is subject to the agreement of the Telecommunication Act of 1996 when we were reviewing the fiber optic issue. There were discussions.... Even if we recall this, it is totally under our control to include or not to include languages that address the inter-island rates. Even if MTC were to recommend not to include that, it is our prerogative to leave it—the same language as it appears in the current House bill. My concern is, now they have hired a very competent lawyer and this is very recent and they are deeply involved in reviewing, dissecting, and trying to make this telecommunication act something that is workable. In view of their financial mess, this piece of legislation is very critical to the operation

of CUC. Finally, I want to say that the timing of this is--that once the House transmits this to the Governor, then we would have the problem of having both houses recall the bill and that is even more difficult to achieve.

President Manglona: This is just a point of clarification. Even if the Senate recalls it, the House still has to approve the recall. The same thing if it has gone to the Governor.

Floor Leader Reyes: But with the House, it only would vote to approve the recall if our action to recall goes through. If not, then the action of the House would be to recall the bill from the Governor and then it goes back to the House. The Senate would have to do the same thing. So there is more complication in doing it that way than to just approve the recommendation of the Senate to recall. Again, this is the prerogative of the members. If we don't have the vote to recall, then I would just withdraw my motion.

The Chair recognized Senator Maratita.

Senator Maratita: Thank you, Mr. President. I am sure that the House had conducted a public hearing on this. I am also sure that all the CUC Board members were present and have aired their concerns on this bill. If Senator Villagomez is concerned about the recall of this bill, he knew a head of time that we are having a session today. At least he could have given us a courtesy copy of the amendments to House Bill 12-006. Now, if we are to recall this bill, I would rather that the House transmits the bill to the Governor and let the Governor decide. If he wants to veto the bill, let him veto the bill. At least we would know what to address—what are the concerns of the administration.

Senator Cing: I would like to know if Senator Villagomez wants to recall this because he was not present in the session on Rota or probably he has another reason. That one, we have yet to know. Or, is this just simply because we did not provide him the courtesy as Chairman of PUTC Committee. If that is the case, Mr. President, then I believe that for the sake of harmony, we can delay this and sit down with Senator Villagomez. But he has to have a good reason why, because recalling this important bill especially for the Senatorial Districts of Tinian and Rota, just because he was not there, is not reasonable for me. If the members can provide this chance so that Senator Villagomez, Chairman of PUTC Committee, can give us his answer, then I would appreciate it.

President Manglona: Well, the Vice Chairman of the Committee is Senator Maratita and he is here. Maybe that is something that we can do. We can withdraw the motion and for the next session, we would support a recall if they have a substitute legislation addressing this very important concern.

The Chair recognized Senator Atalig.

Senator Atalig: I had a chance to talk to Senator Villagomez this morning, and we discussed the recall of the telecommunication bill. He mentioned that there is a recommendation that is already with him with regards to this telecommunication bill. But like what Senator Cing had said, I think he is waiting for the recommendation to be shared in the Committee as well as the bill itself. He told me that he is making copies for the committee. Unfortunately, he is not here.

The Chair recognized Floor Leader Reyes.

Floor Leader Reyes: Mr. President, I am withdrawing the motion.

President Manglona: Without objection, we shall proceed to the next item on the Bill Calendar.

SEN. BILL NO. 12-95: A BILL FOR AN ACT TO AMEND THE WEAPONS CONTROL ACT TO PROMOTE AND ALLOW RESORT DEVELOPMENTS OFFERING TARGET RANGES FOR COMPETITIVE RIFLE COMPETITION, AND SKEET SHOOTING; AND FOR OTHER PURPOSES.

Floor Leader Reyes moved for its passage on Final Reading and Senator Adriano seconded.

President Manglona: Is there any discussion? Senator Dela Cruz.

Senator Dela Cruz: I just want to find out if the author of the bill took into consideration the Governor's veto message of the first bill.

Senator Maratita: Yes. The concern of the Governor is with respect to the island of Saipan. The community opposes the gun resort. The first and second senatorial districts are supporting this kind of investment.

The Chair recognized Senator Atalig.

Senator Atalig: Thank you, Mr. President. I would like to make an oral amendment. On page 2, letter (c), after the words “investment of”, delete “twenty-five million dollars (\$25,000,000.00)” and insert “twelve million dollars (\$12,000,000.) in the First and Second Senatorial Districts”, instead of “in the Commonwealth”.

Senator Adriano: Mr. President, how did the good Senator from Rota come up with the magic number of twelve million?

Senator Maratita: I was informed by the investors that the \$25,000,000.00, \$12.5 each for Rota and Tinian, is a big amount. They are willing to settle with \$6 million for each island.

Senator Adriano: In other words, Tinian and Rota getting \$25 million is a large amount and has to come down to \$12 million?

Senator Maratita: That is the concern of the investors.

Senator Cing: In line with what Senator Adriano has just said, it should be the opposite. The fact that we are knocking out Saipan—this \$25 million is actually for three senatorial districts. If you divide \$25 million by three, you get \$8 million for each senatorial district. So, we take the \$8 million that is supposedly for Saipan and divide it into two. You take \$4 million plus the 8 million for Rota and you get \$12 million. That is supposed to be the right formula.

Senator Maratita: But if you look at the bill that was vetoed by the Governor, the investment each for Rota and Tinian is \$4 million and the rest was to go to Saipan. Actually, when I was talking to these investors—they want to first set foot on Saipan and then to Tinian and Rota.

Senator Cing: But, Mr. President, it is already understood that they cannot invest this in Saipan.

President Manglona declared a short recess.

RECESS

The Senate reconvened.

President Manglona: We are back to our regular session. We were discussing Senate Bill 12-95. Senator Atalig.

Senator Atalig: Mr. President, the oral amendments I offered to page 2, line 7, I am withdrawing my motion on that, and on page 7, letter (h), I move to delete the entire sentence and re-letter the subsections accordingly.

Senator Maratita seconded, and there being no discussion, the motion carried.

President Manglona: There being no further discussion, we are back to Senate Bill No. 12-95 as amended. Senate Clerk, call the roll, please.

The Senate Clerk called the roll with the following result:

Senator Joaquin G. Adriano	Yes
Senator Ricardo S. Atalig	Yes
Senator David M. Cing	Yes
Senator Jose M. Dela Cruz	Yes
Senator Ramon S. Guerrero	Absent
Senator Edward U. Maratita	Yes

Senator Pete P. Reyes	Yes
Senator Thomas P. Villagomez	Absent
President Paul A. Manglona	Yes

Seven (7) members voted yes.

President Manglona: By a vote of seven (7) to zero, Senate Bill No. 12-95, as amended, passes the Senate on Final Reading.

SEN. BILL NO. 12-81: A BILL FOR AN ACT GOVERNING THE MAINTENANCE AND RELEASE OF PATIENT HEALTH CARE INFORMATION; AND FOR OTHER PURPOSES.

Floor Leader Reyes moved for its passage on Final Reading, and several members seconded.

President Manglona: It has been seconded. Is there any discussion? Senate Clerk, call the roll please.

The Senate Clerk called the roll with the following result:

Senator Joaquin G. Adriano	Yes
Senator Ricardo S. Atalig	Yes
Senator David M. Cing	Yes
Senator Jose M. Dela Cruz	Yes
Senator Ramon S. Guerrero	Absent
Senator Edward U. Maratita	Yes
Senator Pete P. Reyes	Yes
Senator Thomas P. Villagomez	Absent
President Paul A. Manglona	Yes

Seven (7) members voted yes.

President Manglona: By a vote of seven (7) to zero, Senate Bill No. 12-81 passes the Senate on Final Reading.

HOUSE BILL NO. 12-295, HOUSE DRAFT ONE, SENATE SUBSTITUTE ONE: A BILL FOR AN ACT TO AMEND 4 CMC § 1803 BY ADDING A NEW SUBSECTION (e) AND TO PROVIDE FOR A DEPUTY MANAGING DIRECTOR FOR MVA FOR THE FIRST SENATORIAL DISTRICT AND THE SECOND SENATORIAL DISTRICT; AND FOR OTHER PURPOSES.

Floor Leader Reyes moved for its passage on Final Reading, and several members seconded.

President Manglona: Is there any discussion? Senate Clerk, call the roll please.

The Senate Clerk called the roll with the following result:

Senator Joaquin G. Adriano	Yes
Senator Ricardo S. Atalig	Yes
Senator David M. Cing	Yes
Senator Jose M. Dela Cruz	Yes
Senator Ramon S. Guerrero	Absent
Senator Edward U. Maratita	Yes
Senator Pete P. Reyes	Yes
Senator Thomas P. Villagomez	Absent
President Paul A. Manglona	Yes

Seven (7) members voted yes.

President Manglona: By a vote of seven (7) to zero, House Bill No. 12-295, HD1, SS1, passes the Senate on Final Reading.

SEN. LEGISLATIVE INITIATIVE 12-5: A LEGISLATIVE INITIATIVE TO PROPOSE A CONSTITUTIONAL AMENDMENT TO EXPLICITLY STATE THAT QUALIFIED RETIREES MAY BE REEMPLOYED AS CLASSROOM TEACHERS, DOCTORS, NURSES, AND OTHER MEDICAL PROFESSIONALS WITHOUT LOSS OF RETIREMENT BENEFITS, REGARDLESS OF THE INDIVIDUAL'S OCCUPATION PRIOR TO RETIREMENT, TO ELIMINATE THE TIME LIMITATION ON SUCH REEMPLOYMENT, AND TO CLARIFY THAT THE TERM "MEDICAL PROFESSIONALS" INCLUDES DENTISTS, DENTAL TECHNICIANS, MEDICAL TECHNICIANS, THERAPISTS, AND THE LIKE.

Floor Leader Reyes moved for its passage on Final Reading, and several members seconded.

The Chair recognized Floor Leader Reyes.

Floor Leader Reyes: I have a very short oral amendment to make. On the title, second to the last line where it says, "dental technicians" add "dental assistants". Then after "medical technicians" add "medical assistants". On page 2, line 4, again apply the same thing.

Senator Adriano: I would like to second that, but does this bill include veterinarians?

Floor Leader Reyes: No. On the first page, under the title, after the word, "therapists", add "veterinarian". Also, on page 2, line 4, after "therapists" add "veterinarians". Also on the same page, line 21, add "dental assistants, medical assistants, and veterinarians. Include that for clarifications.

Senator Adriano seconded the motion, and the amendments offered by Floor Leader Reyes carried by voice vote.

President Manglona: We are back to discussing Senate Legislative Initiative 12-5. Is there any discussion? Senate Clerk, call the roll, please.

The Senate Clerk called the roll with the following result:

Senator Joaquin G. Adriano	Yes
Senator Ricardo S. Atalig	Yes
Senator David M. Cing	Yes
Senator Jose M. Dela Cruz	Yes
Senator Ramon S. Guerrero	Absent
Senator Edward U. Maratita	Yes
Senator Pete P. Reyes	Yes
Senator Thomas P. Villagomez	Absent
President Paul A. Manglona	Yes

Seven (7) members voted yes.

President Manglona: By a vote of seven (7) to zero, Senate Legislative Initiative 12-5, as amended, passes the Senate on Final Reading.

SEN. BILL NO. 12-100: A BILL FOR AN ACT TO AMEND 2 CMC, DIV. 4, § 4382; AND FOR OTHER PURPOSES.

Floor Leader Reyes moved for its passage on Final Reading, and several members seconded.

President Manglona: Is there any discussion? Senate Clerk, call the roll, please.

The Senate Clerk called the roll with the following result:

Senator Joaquin G. Adriano	Yes
Senator Ricardo S. Atalig	Yes

Senator David M. Cing	Yes
Senator Jose M. Dela Cruz	Yes
Senator Ramon S. Guerrero	Absent
Senator Edward U. Maratita	Yes
Senator Pete P. Reyes	Yes
Senator Thomas P. Villagomez	Absent
President Paul A. Manglona	Yes

Seven (7) members voted yes.

President Manglona: By a vote of seven (7) to zero, Senate Bill No. 12-100 passes the Senate on Final Reading.

SEN. BILL NO. 12-101: A BILL FOR AN ACT TO RESERVE AREAS OF PUBLIC LANDS ON THE ISLAND OF ROTA THAT ARE SUITABLE FOR VILLAGE HOMESTEADS, SPECIFICALLY THE DUGI, FINAFA, CHUDANG, AND GINALANGAN AREAS; AND FOR OTHER PURPOSES.

Floor Leader Reyes moved for its passage on Final Reading, and Senator Dela Cruz seconded.

President Manglona: Is there any discussion? Senate Clerk, call the roll please.

The Senate Clerk called the roll with the following result:

Senator Joaquin G. Adriano	Yes
Senator Ricardo S. Atalig	Yes
Senator David M. Cing	Yes
Senator Jose M. Dela Cruz	Yes
Senator Ramon S. Guerrero	Absent
Senator Edward U. Maratita	Yes
Senator Pete P. Reyes	Yes
Senator Thomas P. Villagomez	Absent
President Paul A. Manglona	Yes

Seven (7) members voted yes.

President Manglona: By a vote of seven (7) to zero, Senate Bill No. 12-101 passes the Senate on Final Reading.

HOUSE BILL NO. 12-301, SENATE DRAFT ONE: A BILL FOR AN ACT TO AUTHORIZE THE APPROPRIATION OF \$2,420,000.00 FOR THE NORTHERN MARIANAS HOUSING CORPORATION; AND FOR OTHER PURPOSES.

Floor Leader Reyes moved to recall House Bill No. 12-301, and Senator Dela Cruz seconded.

President Manglona: Is there any discussion? Senate Clerk, call the roll please.

The Senate Clerk called the roll with the following result:

Senator Joaquin G. Adriano	Yes
Senator Ricardo S. Atalig	Yes
Senator David M. Cing	Yes
Senator Jose M. Dela Cruz	Yes
Senator Ramon S. Guerrero	Absent
Senator Edward U. Maratita	Yes
Senator Pete P. Reyes	Yes
Senator Thomas P. Villagomez	Absent
President Paul A. Manglona	Yes

Seven (7) members voted yes.

President Manglona: By a vote of seven (7) to zero, House Bill No. 12-301, SD1, is hereby recalled.

Floor Leader Reyes: I move to place it on today's calendar.

President Manglona: Is there any objection to place it on today's calendar?

There was no objection and House Bill 12-301, SD1, was so placed.

Floor Leader Reyes: I move that the Senate reconsider its action on House Bill 12-301, SD1.

Senator Adriano seconded, and the motion carried by voice vote.

Floor Leader Reyes: I move for the passage of House Bill 12-301, SD1, on Final Reading.

Senator Adriano seconded the motion.

Floor Leader Reyes: Mr. President, I move to make a floor amendment. Anywhere in the bill where "authorized to appropriate" appears, to substitute that with "appropriate".

President Manglona: I want to clarify that the wordings also to the effect of the \$1 million future interest for Rota and Tinian should be likewise worded, "appropriate". For the record, the amendment offered by Floor Leader Reyes, should include such language for the future interest. Is there any further discussion?

There being no discussion, the motion on the amendment offered by Floor Leader Reyes, carried by voice vote.

President Manglona: Is there any further discussion on House Bill No. 12-301, SD1, as amended? Senate Clerk, call the roll.

The Senate Clerk called the roll with the following result:

Senator Joaquin G. Adriano	Yes
Senator Ricardo S. Atalig	Yes
Senator David M. Cing	Yes
Senator Jose M. Dela Cruz	Yes
Senator Ramon S. Guerrero	Absent
Senator Edward U. Maratita	Yes
Senator Pete P. Reyes	Yes
Senator Thomas P. Villagomez	Absent
President Paul A. Manglona	Yes

Seven (7) members voted yes.

President Manglona: By a vote of seven (7) to zero, House Bill No. 12-301, SD1, as amended, passes the Senate on Final Reading.

SEN. BILL NO. 12-92: A BILL FOR AN ACT TO PROVIDE COMPREHENSIVE LEGISLATION REGARDING THE LEGISLATIVE BUREAU; AND FOR OTHER PURPOSES.

Floor Leader Reyes moved for its passage on Final Reading, and Senator Dela Cruz seconded.

President Manglona: Is there any discussion?

Floor Leader Reyes: Mr. President, I just want to ask the author to highlight what this bill is. I know that this has to do with the Legislative Bureau.

The Chair recognized Senator Adriano.

Senator Adriano: Thank you, Mr. President. This is about the certification question before the Superior Court regarding legislative spending. This bill would have the Bureau responsible for disbursing funds of each member. As you can see, I don't have the bill before me also. I hope that the President can help me out on this.

President Manglona: This bill was drafted by our Legal Counsel, Tony Cabrera, but he is not here. Basically, what this bill would do is move the responsibility that the Department of Finance has now with regards to Senate and House funds to the Legislative Bureau. We will have our own finance section within the legislature. Congresswoman Malua Peters introduced a similar legislation, but it is very general in terms. It only would take the responsibility away from Finance and give it to the LB. What Senator Adriano has introduced is more detailed and we have passed that on First Reading at our last session. I think that we really need this. The set up would be similar to what the Judiciary has right now. The Judiciary has its own checking account. Over the last three years, we have seen how the Executive Branch has interfered with the operation of the Legislature. We are not independent in that we have to rely on Finance to cut our checks even if we are just going to Tinian. There are a lot expenditures of the Legislature that they are interfering with. They are interfering in a way. That is the reason why we have asked our Legal Counsel to bring before the Supreme Court a certified question and have the court decide, once and for all, how independent the Senate can be as far as the usage of funds is concern. This is just another route that we are taking. The other one is for our Legal Counsel to go to court. I hope that the members see the need to pass the legislation.

The Chair recognized Floor Leader Reyes.

Floor Leader Reyes: Mr. President, I like the bill. I have no objection to the bill. I am just wondering whether there is any language in the bill that would provide the Bureau.... Is that an additional responsibility that we are giving to the Bureau. If that is something that the Bureau can handle with the funds allocated for its operation, then I have no objection.

The Chair recognized Senator Cing.

Senator Cing: I believe that this is a good bill. This will expedite the operation of the Legislature. My only concern is if we pass this today, would it stop our attempt to have clarification by the Supreme Court?

President Manglona: As I mentioned earlier, this is another way to clarify how the Legislature should be operating. I believe that Joey Arriola has already received the direction from the Senate Leadership to proceed. It is my understanding that by this week, we will have a copy from the Attorney General of the agreement on the certified question. If we do not get it by this week, then we will proceed with a lawsuit at the Superior Court.

Senator Cing: Can we hear from our Legal Counsel when this would happen?

President Manglona: May be we should resolve into the Committee of the Whole.

Floor Leader Reyes moved that the Senate resolve into the Committee of the Whole. Several members seconded and the motion carried.

COMMITTEE OF THE WHOLE

(Joey Arriola was the Senate Legal Counsel)

President Manglona: Joey, can you please respond to Senator Cing?

Senator Cing: Let me just add this. All the members are currently accumulating interest on what we are owing. For example, I have this obligation to pay \$1000, but as of today, I have to pay \$2000 because of the delay. So the difference is a useless expenditure I would say. Thank you.

Counsel Arriola: Senator, I sympathize with your problem. I know that it is been very frustrating for the members to deal with Finance. Of course the critical question is when and where that the Department of Finance can determine

whether or not the expenses incurred are for public purpose. Every time you ask for reimbursement for expenses incurred you believe is for public purpose, Finance would reject it. So, we need clarification from the Court. Again, as I stated earlier, a certified question is an original action directly to the Commonwealth Supreme Court. In order to get up to the Supreme Court, we need the Attorney General and the counsels of the legislature to agree on the facts of the case. The legal question is simple and that is whether or not the determination of whether the expense is a public purpose, we believe, is an exclusive province of the Senate. But we believe also that the Finance Secretary has been encroaching in the powers of the Senate to determine what is public purpose. We need the court to clarify that. I think that one of the problems is that the Secretary of Finance also has its own rules and regulations and part of that is the justification for expenses. When you justify it, you have to prove that it is in fact public purpose. But you know, it is a gray area and that is why we need the court to clarify it. I am not guaranteeing anything, but the hang-up will be on the agreement of what the facts will be in the certified question.

Floor Leader Reyes: Absent any statute which allows the Secretary of Finance to make decisions on whether expenditures of members of the legislature is in fact public purpose, there is a regulation that the Secretary of Finance promulgated and in that regulation she states inferior language that even lawyers can not even re-interpret that members of the legislature are responsible for their account and that they are responsible for defining what public purpose means. If that regulation stands, then the question is under what authority does the Secretary of Finance exercises the authority to determine or to negate actions by members of the legislature in establishing public purpose.

Counsel Arriola: Floor Leader, that is exactly the problem because it is a constitutional mandate that the Secretary of Finance be the holder of the purse or the trustee of the purse. But how far does the authority go as far as the constitutional mandate is concern is unclear.

Floor Leader Reyes: In addition to that, I think that the certified question should also ask whether or not the extent of the authority of the Secretary of Finance is limited to certification of funds because of the question of deciding what public purpose is which is based on the Legislature to define it. May be one of the things that need to be clarified by the court is to what extent can she exercise that authority, whatever authority she has, to go beyond certifying because the Finance's responsibility is to make sure that no one pays obligations beyond what is authorized by law. So if it is in her authority, the certification of funds, then I would agree. But I don't think that authority authorizes her to go beyond that and redefine what the Legislature has already defined as public purpose.

Senator Dela Cruz: I agree also. I think that the authority is limited to accountability of funds per se—making sure that the money is there and not necessarily dictating every agency on how to use their money or defining public purpose. We have rules and that should supersede that actually. With respect to what Floor Leader Reyes is saying, may be we should include that in the....

Counsel Arriola: I agree.

Senator Dela Cruz: If we pass this bill today and it becomes law, will it cover previous questions that have been raised? I think that it will not because this is not retroactive unless we make it retroactive to cover all the way back.

Counsel Arriola: The question is whether or not it comes through, I don't think so. We are talking about now.

Senator Dela Cruz: I think that we still have to go and pursue fighting for all those liabilities that the Legislature has incurred because of this technicality of what is public purpose and what is not.

Senator Cing: This is the problem and it goes to everyone also. Every end of the fiscal year, I tend to lose within the range of \$1,000 to \$20,000 in my account because Finance would hold up all my POs until we exceed the deadline of the fiscal year and then they would return them to me and saying, "I am sorry we cannot process this because of this reason." Then we have to correct it by sending them back saying that we don't have the....

President Manglona: The advantage of this bill is that we will have our own Finance. All monies will not go back to the General Fund.

Senator Cing: So I ask you to fight for that amount that I tend to lose because of the failure of Finance to process my POs on time. Number 2, who will pay for the interest for those vendors. Number 3, my reputation out there is

already ruined. For example, how can Budget-Rent-Car rent a car to my constituents--how can I re-establish or renew my reputation to that vendor. This is crucial for me and I believe that everyone here shares the same sentiment. Thank you.

Floor Leader Reyes: Also, Mr. President, on the question of liability, the Secretary of Finance maintains inconsistently that she is liable in the disbursement of funds even if there are funds available. So we need to resolve the question of whether or not the expenditure authority which is the members of the legislature-- whether they are also subject to liability based on their actions to expend funds. If they are the authorized expenditure authority then it goes hand in hand with the liability that goes with it. I wonder if that can also be included in the certified question so that we, once and for all, clear that she has no business claiming liability. When something goes wrong and an audit is performed, no results of the audit would be given to Finance because of the disbursement of funds. It goes to the members as was done with the last audit report that we received.

Senator Cing: I have a strong feeling that the Secretary of Finance is operating inconsistently. I have seen the Governor and Lt. Governor treating people in Tinian and Rota. And they would process their requests. But me, Finance always questions and returns my POs for having lunch with my constituents at Canton or Dynasty, for example.

Senator Dela Cruz: (Inaudible)

Counsel Arriola: (Inaudible)

Senator Dela Cruz: We should be mindful that all of us here are elected members of the community and we should be given that prerogative to determine what public purpose is. I don't think that I would go out there and expend public funds knowing that it is against....

Floor Leader Reyes: I just have one question on the bill. I understand the intent from the explanations that we just had. My concern is whenever we add responsibility to the Bureau, manpower also need to expand. Because the Legislature Bureau is capped, constitutionally, with a certain expenditure, I just need to find out if by passing this, we are not appropriating additional funds to the Bureau, and that the Bureau have the necessary manpower to enforce the finance responsibility.

President Manglona: (Inaudible)

Senator Dela Cruz: (Inaudible)

Senator Adriano: (Inaudible)

The Senate reconvened its plenary session.

The Chair recognized Floor Leader Reyes.

President Manglona: We are still discussing Senate Bill No. 12-92. Floor Leader Reyes.

Floor Leader Reyes: I have expressed, for the record, my concerns on the additional responsibility to the Bureau. I know that there is a motion for the passage on Final Reading. I move for the previous question.

President Manglona: Senate Clerk, call the roll please.

The Senate Clerk called the roll with the following result:

Senator Joaquin G. Adriano	Yes
Senator Ricardo S. Atalig	Yes
Senator David M. Cing	Yes
Senator Jose M. Dela Cruz	Yes
Senator Ramon S. Guerrero	Absent
Senator Edward U. Maratita	Yes

Senator Pete P. Reyes	Yes
Senator Thomas P. Villagomez	Absent
President Paul A. Manglona	Yes

Seven (7) members voted yes.

President Manglona: By a vote of seven (7) to zero, Senate Bill No. 12-92 passes the Senate on Final Reading.

The Senate returns to the First Reading Calendar to act on Senate Bill Nos. 12-102 and 12-103.

SENATE BILL NO. 12-102: A BILL FOR AN ACT TO AMEND 6 CMC § 4201, 4202, 4203, 4206, 4251 AND 4252 RELATING TO THE BOARD OF PAROLE; AND FOR OTHER PURPOSES.

Floor Leader Reyes moved for its passage on First Reading, and Senator Dela Cruz seconded.

There being no discussion, the motion carried by voice vote.

SENATE BILL NO. 12-103: A BILL FOR AN ACT TO IMPROVE REPORTING AND OTHER REQUIREMENTS RELATING TO CHILD ABUSE OR NEGLECT; AND FOR OTHER PURPOSES.

Floor Leader Reyes moved for its passage on First Reading, and Senator Dela Cruz seconded.

There being no discussion, the motion carried by voice vote.

RESOLUTION CALENDAR

SENATE RESOLUTION NO. 12-30: A SENATE RESOLUTION EXPRESSING APPRECIATION TO DR. SAYED MANSOOR ABIDI FOR HIS CARE AND COMMITMENT TO COMMONWEALTH PATIENTS FROM NOVEMBER 1998 TO FEBRUARY 2001.

SENATE RESOLUTION NO. 12-31: A SENATE RESOLUTION HONORING AND COMMENDING MARIAN ALDAN-PIERCE ON THE CONFERRING UPON HER OF THE AWARD OF “GUAM EXECUTIVE OF THE YEAR” FOR THE YEAR 2000.

Floor Leader Reyes moved for the adoption of the above resolutions, and several members seconded. There being no discussion, the motion carried by voice vote.

PETITIONS, MEMORIALS AND MISCELLANEOUS COMMUNICATIONS

None

MISCELLANEOUS BUSINESS

None

ANNOUNCEMENT

Chairman Dela Cruz announced he will be scheduling a JGL committee meeting during the week of February 12 to discuss SB 12-102 and SB 12-103. Both bills are part of the criminal code.


Chairman Reyes announced also that he would be calling a RED&P committee meeting during the week of February 12.

There being no further announcements, Floor Leader Reyes moved that the Senate stands in recess subject to the call of the Chair. Several members seconded and the motion carried by voice vote.

President Manglona declared the Senate in recess subject to the call of the Chair at 5:35 p.m.

Respectfully submitted,

Adopted: July 25, 2001


Ramona Kapileo
Senate Journal Clerk