

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By Senator Eleanor Vaughn, on March 2, 1993, at  
10:00 a.m.

**ROLL CALL**

**Members Present:**

Sen. Eleanor Vaughn, Chair (D)  
Sen. Jeff Weldon, Vice Chair (D)  
Sen. Jim Burnett (R)  
Sen. Harry Fritz (D)  
Sen. John Hertel (R)  
Sen. Bob Hockett (D)  
Sen. Bob Pipinich (D)  
Sen. Bernie Swift (R)  
Sen. Henry McClernan (D)  
Sen. Larry Tveit (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** David Niss, Legislative Council  
Deborah Stanton, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: HB 188, HJR 12  
Executive Action: HJR 12

**HEARING ON HB 188**

**Opening Statement by Sponsor:**

Rep. Johnson, House District #88, presented HB 188. "HB 188 provides that the members of the Board of Housing serve at the pleasure of the Governor and was a result of the problems created between the Board of Housing, the Senate Finance and Claims, and the Appropriations Committee over the sum of a half million dollars that they refused to transfer. This bill made the members of the board of Housing subject to the will of the Governor. It is currently created as a quasi-judicial board. What was happening in this situation was the Board of Housing defiantly said they were going to do what they wanted to do.

Four members of the seven member Board of Housing terms expire this year so there was going to be a big change anyway. In December there was some refinancing and there was a rumor going around that they were going to do some other things (involving the contracts with the underwriters) that would prevent the Legislature or anyone else from interfering in what they were doing for a four-year period. The Finance and Claims and the Appropriations Committees, in their meeting in November before the session started, suggested the Legislative Auditor ought to bring before them their recommendations on how the bonding could be handled. At that committee hearing I came over and testified and part of my testimony was that I do not think we should destroy the Board of Housing. The Board of Housing has extremely important functions in this state, but the Board of Housing has to understand that they are created by this Legislature, they operate under the guise of the Legislature and the only reason they have the ability to make the kind of money that they do is that they sell bonds at one price and they sell mortgages at another. The purpose of this bill is to hone in a coasting position until such a time as the bill could be put together in the bill drafting area to take care of how (1) we would handle the Board of Housing and their functions and (2) how we would handle the financing of Board of Housing situations. That bill is HB 425 and this committee will be hearing it. I would like to speak to that bill as we go along because there are some things in that bill that went through the House and I hope will be straightened out in the Senate and hopefully will come through this committee. HB 425 will create a revenue bonding board which will hopefully address the Department of Health and the Board of Housing. Someday I hope we will have a revenue bonding authority under the Board of Investments that will have the expertise to handle all revenue bonds in the State of Montana. For instance, the Vo-Tech school in Butte is financed through a school district #2 obligation because they started that when vo-techs were under K-12 rather than under the higher education system. \$2 million of those bonds is still outstanding and frankly they ought to be refinanced. One day in Appropriations, there was someone from the department of Administration that said we were going to refinance these funds. Someone asked if they had checked with the Board of Investments about this and they found that they don't check with anyone. They just go ahead and decide. I've been an underwriter for a lot of years and the way you make money in the underwriting business is to suggest people to move stock and bonds or change them. That's the way you make money. I'm not sure it is a very good idea to do that, but it seems to me that we should not have 24 different agencies in the State of Montana who have the privilege and the authority to do it. That's what a revenue bonding authority would do. In HB 425 that authority is set up. It also cuts out the Board of Housing. We put it in originally and they cut out the Board in section 2. We should not do that. The Board of Housing ought to identify the needs of housing in the State of Montana. They should tell us how to address those needs and they should say to the bonding authority, we need this kind of money and how do we get it.

That's how they should work together. I urge your close attention to that bill when it comes through. I stand here with some humiliation because it got through Appropriations Committee, I voted for the amendments and to send it through and I should not have done that. I didn't look closely enough at it. This committee should table HB 188 and keep it open in case we need it because HB 425 is coming right along behind it. HB 425 addresses all the issues that should be dealt with. This is from the Board of Housing minutes of their meeting from January 29. They have started finally to recognize that there is a Legislature and they have a legislative update in their minutes. This is the Legislative update from the Board of Housing minutes: "HB 188 provides the board members should serve at the pleasure of the Governor, HB 188 has passed the third reading and should go to the Senate State Administration Committee the first week of February. It was suggested that one board member should be present at the Committee hearing and advise the committee that the Board of Housing supports this bill and the members feel that they serve at the pleasure of the Governor." They do but the Board is created as a quasi-judicial board. They also, in these minutes, move that they would not do anything in the way of permanent action until such a time as HB 425 came out of the Legislature and they see what happens with that bill. The proper thing to do is to table HB 188 and if we need it later we can come back to it."

**Proponents' Testimony:**

None.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Sen. Hockett asked Rep. Johnson if this bill is a result of the independence of the Board of Housing as far as providing money to help balance the budget. Rep. Johnson stated there was \$670,000 available in funds that could be transferred to help balance the budget if the Legislature decided. The motion was to take one half million dollars of those funds and have them transferred over. The way they got around transferring is that they have an account that those funds should have been in. Instead of putting all of those funds in that account they put them in reserve accounts and their explanations of why they didn't transfer the funds is that they didn't have any money in that account. That's an answer for some people but that is not the way it should be because that's not the way the law says they should handle their money.

Sen Tveit said the Governor appoints the committee and this says they will serve at the pleasure of the Governor. He asked David Niss what the difference was between the appointees serving at

the pleasure of the Governor and the Board of Housing serving at the pleasure of the Governor. David Niss said the current law says that the members serve for a period of time coterminous with the gubernatorial term so they serve by appointment of the Governor but the law is not at all clear that that means they can be dismissed by the Governor for any reason that the Governor chooses short of fulfilling that term coterminous with the Governor's term. Sen. Tveit asked if that was the law on the books at this time. David Niss said the law that is on the books now does not state that the Governor can dismiss for any reason that the Governor chooses short of that term. It does not say that. This bill does. Sen. Tveit asked David if the Governor had total control of them at all times and if he could remove them. David Niss said that was correct.

Sen. Vaughn asked Rep. Johnson if this was applicable to the board members that are now appointed as well as those appointed in the future. Rep. Johnson said that was correct, if this bill passes, but this bill should be tabled. HB 425 should be looked at before this bill is considered.

**Closing by Sponsor:**

Rep. Johnson said he has closed.

**HEARING ON HJR 12**

**Opening Statement by Sponsor:**

Rep. Wallin, House District #78, stated there was a bill in Congress now that would grant commonwealth status to Guam and they are very anxious for that status. Rep. Wallin said, "I went to Guam on my own expense last fall for a conference. At the conference were members of the thirteen states and territories making up the council to endorse this and to ask their state representatives to send a resolution such as I am proposing this morning to our delegates in Washington, D.C. to help Guam along with this process. I'd like to read why they feel that they would be so much better off and why it would be fair to have this upgraded to commonwealth status. (EXHIBIT #1) The Senators don't have much more authority than the members of the city commission and the Governor doesn't have much more authority than a mayor. There are 21 people in their council and 145,000 people in Guam. The people in Guam are a very dynamic group. The island can be compared to Flathead Lake and much of the land is owned by the federal government. The people that constitute about 40% of the population are the Samoan people. The rest of Vietnamese, Philippians and South East Asians. They are coming in under the rules of the United States government and Washington D.C. decides issues for them, which is one of the gripes of the people. Another one is there is tremendous development going on in Guam and the government is sitting on all the desirable land which could be put to use to help the people there. Nobody knows

what to do with Guam. Guam is a competitor to Hawaii for tourist business. The Japanese can fly over from Japan in three hours and play golf for a weekend and their green fees and hotels would be less than what they have to pay in Japan. It's remarkable to see what they have done in the way of high-rise hotels. I think they deserve a break and there are no taxes or appropriations involved in this bill. I hope the committee will endorse this bill."

**Proponents' Testimony:**

None.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Sen. Tveit asked Rep. Wallin if Guam is a U.S. Territory and who controls Guam. Rep. Wallin stated that was correct and Guam is controlled by Washington, D.C. They also have a Governor and Senators. They are also permitted to have one person sit in the House of Representatives in Washington, D.C. They can be part of the debate but they cannot vote. Sen. Tveit asked if this bill will give them government status. Rep. Wallin said that was correct. Sen. Tveit asked if they would still be under the U.S. as an umbrella but it will give them a local government to run their little country. Rep. Wallin said it would be something like the State of Montana except that they wouldn't be a state and have as much jurisdiction.

Sen. Swift asked Rep. Wallin if this would give them voting privileges at the federal level. Rep. Wallin said no but they would keep the same representative in Congress.

Sen. Hockett asked Rep. Wallin if they would pay federal taxes. Rep. Wallin stated the income tax is generated there and they keep those taxes there. This would give them the chance to extend their sources of revenue.

Sen. Tveit asked Rep. Wallin about the tax structure. Rep. Wallin said they have income tax and they keep it there. Sen. Tveit asked if this would give them a taxing jurisdiction to run their own country. Rep. Wallin stated it would be much like a state.

Sen. Tveit asked Rep. Wallin where Guam was. Rep. Wallin said it is between Hawaii and the Philippines.

Closing by Sponsor:

Rep. Wallin thanked the committee for the hearing. He stated Sen. Gage would carry the bill.

EXECUTIVE ACTION ON HJR 12

Motion/Vote: Sen. Tveit moved HJR 12 BE CONCURRED IN. The motion HJR 12 BE CONCURRED IN CARRIED. Sen. Gage will carry the bill.

EXECUTIVE ACTION ON HB 188

Motion/Vote: Sen. Tveit moved HB 188 BE TABLED. The motion HB 188 BE TABLED CARRIED.

ADJOURNMENT

Adjournment: 10:30 a.m.

  
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SENATOR ELEANOR VAUGHN, Chair

  
\_\_\_\_\_  
DEBORAH STANTON, Secretary

EV/ds

# ROLL CALL

SENATE COMMITTEE

STATE ADMINISTRATION

DATE 3-2-43

NAME	PRESENT	ABSENT	EXCUSED
Sen. Eleanor Vaughn	✓		
Sen. Jeff Weldon	✓		
Sen. Jim Burnett	✓		
Sen. Harry Fritz	✓		
Sen. John Hertel	✓		
Sen. Bob Hockett	✓		
Sen. Henry McClernan	✓		
Sen. Bob Pipinich	✓		
Sen. Bernie Swift	✓		
Sen. Larry Tveit	✓		
David Niss	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 2, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Joint Resolution No. 12 (first reading copy - blue), respectfully report that House Joint Resolution No. 12 be concurred in.

Signed: Senator Eleanor Vaughn  
Senator Eleanor Vaughn, Chair



STATE ADMIN.  
OFFICE NO. 1  
DATE 3-2-93  
BILL NO. HJR12



# HOW COMMONWEALTH WILL AFFECT YOU

Commonwealth Now! *by Joseph F. Ada*  
*Governor of Guam*

To properly answer the question of how Commonwealth will affect each of us, we need to consider where we are today- and how we got to this point.

Guam is, first and foremost, our home. Most of us were born here. We grew up here. We are working and raising our children here. And Guam is a good place to do all of these things. Our island home has become a leader in the western Pacific. We have the ability to meet the needs of our people of Guam while not spending more than we take in. Our standard of living is higher than it has ever been. Improvements in infrastructure are being made to better our living.

We are also taking steps to ensure that our island's natural beauty is preserved-that growth is for the benefit of our people-that Guam remain an island paradise. And we are succeeding. Guam is truly the pearl of the Pacific. But as good as Guam is today, as fortunate as we have been, things could be better. Guam faces many obstacles that have no good reason to exist; difficulties which can be overcome through the protective umbrella of Commonwealth .

All that we have today can be lost tomorrow. Our people, for example, have no input in trading decisions which have time and again killed any real attempts to establish light industries such as garment or watch manufacturing. We have no input on shipping decisions which have time and again increased the cost of goods being shipped to Guam. We are paying more for food, medical supplies, construction materials, cars, and household goods because of decisions made outside of Guam!

Our people have no input on political decisions made in Washington -decisions in which Guam's needs never even come up in conversation-but decisions which prove to be to the detriment of our people. The Immigration Act of 1990 is an example of an Act designed to serve the needs of the U.S. but which could seriously jeopardize our island's ability to bring in the necessary temporary labor to continue construction for housing and development. Also, shipping rates have been raised without justification despite business increase in the shipping lines.

Guam is good now. But we want to ensure that it stays good for generations to come. We need the protective umbrella of Commonwealth. We need the stability of Commonwealth.

We need a stable trading relationship with the United States, one which recognizes our island's need for a diversified economy. We need the return of federal land in Guam which now lies idle-which the federal government cannot justify holding onto. We need to plan properly for adequate housing, schools, and infrastructure for both those who regard Guam as home and those who immigrated ; in order to do so, we need to control immigration. Most of all, we need mutual consent-the assurance that decisions made in Washington which affect our people are made with the full input and approval of our people.

These things and the many more contained in Commonwealth will ensure the stability of our island home for generations to come. And that is how Commonwealth will affect you-by giving you the assurance that all you are working for today will not be lost; that the goodness and richness we enjoy today will be here for .your children and your children's children.

# COMPARISON BETWEEN GUAM AS A U.S. POSSESSION AND GUAM AS A COMMONWEALTH.

## POLITICAL RELATIONSHIP

### Possession:

- Federal government has control over the property and people.
- Federal government sets rules and can change them as they wish.
- Local government created by and exists at the wishes of the U.S. government.

### Commonwealth:

- Partnership with U.S. government through mutual consent.
- Guam would be self-governing by limiting federal action and through the creation of a constitutional government by the people of Guam.
- Recognition of the Chamorro people to make a determination on Guam's ultimate political status.

## APPLICATION OF FEDERAL LAWS

### Possession:

- U.S. government can apply any law to Guam without Guam's representation or consent.
- American citizenship is unprotected by U.S. Constitution.

### Commonwealth:

- U.S. laws would not apply without Guam's consent.
- Constitutionally guaranteed American citizenship.
- Federal laws extended to Guam would have to meet local needs.

## IMMIGRATION

### Possession:

- U.S. immigration laws apply to Guam as they do to the entire U.S. mainland.
- Strain on Guam's infrastructure, public services, and limited property due to the increased, unregulated population rate.
- Guam's native people are becoming a minority in their own island.

### Commonwealth:

- Immigration policies would fit the conditions of our small island.
- Labor needs would be met by the creation of a new class of non-immigrant alien workers.
- The migration of aliens to Guam for U.S. citizenship would be limited, and the sponsorship "chain" of continuing migration for citizenship would be broken.

## LAND

### Possession:

- Federal government has the power to take and hold Guam land without justifying its use.
- Loss of available land suitable for housing or economic development.
- Federal government decides what lands to return to Guam and the conditions of land return.
- No consultations on land usage.

### Commonwealth:

- Federal government must return land that it does not use.
- Federal government must return Guam property at no cost or conditions on land use.
- Access to private property, recreational, historical, and archaeological sites held by the military.
- Federal government could not take Guam lands except in times of war.
- Federal government would have to pay Guam for loss of economic potential as a result of federal land use.

## TRADE

### Possession:

- Inconsistent changes in federal trade guidelines have killed Guam's efforts to diversify its economy.
- No local input allowed on international agreements affecting Guam.

### Commonwealth:

- Free trade between the U.S. and Guam which includes freedom from duties, tariffs, and quotas.
- Guam could enter into agreements with foreign countries to advance its trade and commerce interests.

## FOREIGN AFFAIRS AND DEFENSE

### Possession:

- Complete federal authority over land use in relation to military and foreign affairs activities.
- U.S. enters into treaties and agreements that affect Guam without Guam's knowledge or consent.

### Commonwealth:

- U.S. continues defense and foreign affairs authority.
- U.S. military must consult with Guam before establishing new bases and prior to increasing or decreasing military operations on Guam.

## OCEAN RESOURCES

### Possession:

- No revenue or benefits gained from Guam's ocean resources.
- U.S. and foreign vessels take economic advantage of our waters.
- U.S. claim to our 200 mile Exclusive Economic Zone (EEZ) is not consistent with international standards.

### Commonwealth:

- Income gained from licensing and other charges obtained from foreign and domestic vessels allowed to fish in Guam waters.
- Control over the management, exploration, and exploitation of all ocean resources and the prevention of pollution. Guam's legitimate claim to its 200 mile Exclusive Economic Zone (EEZ) would be recognized.

# AIRLINES

## Possession:

- Limitation on potential economic expansion by restrictions on foreign airline service to Guam.
- U.S. government uses Guam as a bargaining chip in negotiations with foreign governments over airline routes.

## Commonwealth:

- Guam may sponsor foreign airline services to the island.
- Maintenance of standard passenger and cargo service between Guam and the U.S.
- U.S. must consult Guam when adding or changing existing routes.

# TAXATION

## Possession:

- Guam is allowed to adopt its own tax code, but the Department of Treasury or Department of Interior could change or cancel Guam's tax system.
- Stateside tax laws which are not necessarily suitable to our island nor attracting different types of investment are applicable to Guam.

## Commonwealth:

- Ability to construct our tax system to attract more business investors and to adjust it according to our needs.
- Non-requirement of federal approval of our tax system, and tax right would be covered by mutual consent.

# SHIPPING

## Possession:

- Jones Act applies which requires that only U.S. vessels are used to bring U.S. goods to Guam.
- High shipping rates as a result of U.S. carriers overcharging Guam clients.
- Most vessels in Guam's waters must be U.S. built—a cost factor that is passed on to consumers.

## Commonwealth:

- Lower priced goods due to foreign vessels being allowed to bring U.S. goods to Guam.
- Local residents would be allowed to buy, register, and use foreign built boats in Guam.
- Removal of costly restrictions, allowing easier and cheaper methods of sending fish and fish products off island.

# LABOR

EXHIBIT 1  
DATE 3/2/93  
88 HJR 12

## Possession:

- No authority over local employment regulations.
- Preference for stateside hire for top level federal civil service jobs.

## Commonwealth:

- Ability to adjust local employment regulations to fit our needs.
- Priority for qualified local residents in federal civil service jobs.

# COURTS

## Possession:

- Local laws are given interpretation by U.S. judges who are unfamiliar with Guam and its people.
- Unnecessary oversight of Guam's forty-year experience in court operations by the U.S. District and Circuit courts.

## Commonwealth:

- Guam would create its own courts under the Constitution of Guam.
- State-like relationship between Guam and U.S. courts; local laws would be appealed to the U.S. Supreme Court rather than lower federal courts.

# FINANCIAL ASSISTANCE

## Possession:

- Prime land used by the federal government, unavailable for economic development, is non-taxable.
- Restricted number of federal programs available to local residents.

## Commonwealth:

- Yearly compensation for the vast federal use of Guam's land and public infrastructure.
- Wider availability of federal benefits and assistance.
- Financial assistance for the cost of changing our political status and for the transition to Commonwealth.

# OUR COMMONWEALTH DESTINY

“Commonwealth” is a status that is vaguely defined in American law. Some States are “commonwealths,” and both the Northern Mariana Islands and Puerto Rico are “Commonwealths.” Our Commonwealth Act is like the CNMI’s and Puerto Rico’s, but it more clearly sets out the rights of Guam citizens to self- government by limiting the powers of the federal government to interfere with our internal affairs.

Commonwealth was selected because it best suited Guam’s needs and was most likely to receive federal support. Commonwealth would continue Guam’s long relationship with the United States while giving us a full measure of local self-government leaving defense and national security matters in the hands of the U.S. government.

Following a 1982 vote which selected Commonwealth, the Commission on Self- Determination drafted a document which would give Guam the most amount of self-government while maintaining a partnership with the U.S. The document, which received a majority vote of the people of Guam in 1987 included many specific federal-Guam relations issues such as trade, land return, natural resource rights, transportation, continued federal funding and U.S. defense rights, under the umbrella of a new political status protected by mutual consent.

Since Guam’s voters selected Commonwealth, the Presidential vote or voting representation in Congress were not included in the draft Commonwealth Act; under the U.S. Constitution only States have these rights. A change in the U.S.. Constitution would be required for Guam to receive these state-like voting powers and would open up Guam being treated as a State for the purposes of federal taxation. Subsequently, Guam, which currently retains nearly half a million in taxes it collects, would have to turn over these taxes to the federal government, and also levy an equal amount of taxes from the people just to maintain an existing level of services provided. This would result in a minimum of over one billion dollars to Guam taxpayers if Guam citizens were to receive state-like voting powers. This unequal representation, with full taxation would not meet our needs.

An example of the Federal position on the issue of statehood is clearly seen in the case of Puerto Rico. Recent attempts by Puerto Rico to get U.S. support for the statehood option were killed by the U.S. Congress. Statehood, then, does not even appear to be acceptable to the U.S. for Puerto Rico and its 3.2 million citizens.

Instead of representation on the same basis as States, the Commonwealth Act would give Guam direct representation in the process of federal decision-making that affects us. Through our consent to federal law applications, the Commonwealth Act would give Guam a powerful stand in which to represent our interests.

Commonwealth would give Guam a period of maximum self-government while retaining our partnership with the United States. A final act of self- determination—which the Guam Constitution would establish—would establish Guam’s ultimate political status.

**Guam Commission on Self-Determination**  
**P.O. Box 2950**  
**Agana, Guam 96910**  
**Tel: (671) 472-2829/2804 Fax: (671) 477-4826**

Governor Joseph F. Ada, Chairman  
Senator Francisco R. Santos, Vice-Chair  
Presiding Judge Alberto C. Lamorena III  
Senator Marilyn D. Manibusan  
Senator Pilar C. Lujan

Mayor Francisco N. Lizama  
Attorney David Lujan, Public Member  
Pete Perez, Public Member

Mr. Leland R. Bettis, Executive Director

EXHIBIT 1  
3/2/93  
HSR 12

APPROVED RESOLUTION NO. 91-1

GUAM'S QUEST FOR COMMONWEALTH

(Relative to Expression of Support for Guam's Quest  
for Commonwealth Status)

(Introduced by the Executive Committee)

WHEREAS, the Western Legislative Conference is an organization made up of 13 Western States and 3 Pacific Island Governments and is dedicated to the promotion of the interests and rights of the member states and Pacific entities; and

WHEREAS, it is in the interests of the nation as a whole, that America's states, commonwealths and territories be able to determine the course of their own communities within the American system; and

WHEREAS, one expression of this principle is Guam's Quest for Commonwealth Status; and

WHEREAS, Guam seeks to provide for the rights of the People of Guam in areas of vital interest to them including land use, immigration, taxation and the applicability of federal laws constraining their development; and

WHEREAS, Guam seeks to provide the People of Guam with a greater say over their own destiny within the American Family through recognition of their human rights and the establishment of a just political relationship between the People of Guam and the United States Government;

NOW, THEREFORE, BE IT RESOLVED, that the Western Legislative Conference of the Council of State Governments does hereby express support for Guam's Quest for Commonwealth Status.

(RESOLUTION APPROVED BY THE CONFERENCE AT ITS  
1991 ANNUAL MEETING ON SEPTEMBER 25 IN CHEYENNE, WYOMING.)

DATE 3-2-93

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: HB 158, HB 12

Name	Representing	Bill No.	Check One Support Oppose	
Maureen Rude				

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY