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UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF TERRITORIES
WASHINGTON

May 29, 1968

Assistant Secretary Anderson

The attached memorandum and proposed order need very early consideration. If possible, it would be very desirable if the order could be signed by Monday, June 3, in order to permit the High Commissioner to tell the UN Trusteeship Council of the action. It would be well received in New York.

I am prepared to sign the memorandum, explaining the order, now. I thought, however, that you might want to discuss it informally before you're confronted by it officially.

The memorandum and the order are the product of extensive discussion, both here and in Saipan, involving Mr. Norwood, Mr. Craley, various members of the Congress of Micronesia, and our Solicitor's Office. Mr. Norwood and Mr. Craley concur as to the policy. The Solicitor's Office concurs as to legal aspects.

I will be glad to talk with you about this at any time.

Ruth G. Van Cleve

Attachment



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF TERRITORIES
WASHINGTON, D.C. 20240

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Memorandum

To: Secretary of the Interior (Through Assistant Secretary, PLM)

From: Director, Office of Territories

Subject: Proposed amendment to Secretarial Order No. 2882, concerning the Congress of Micronesia

In September of 1964, by Secretarial Order, you created the Congress of Micronesia. The Order in question, No. 2882, has since been amended three times, largely in relatively minor particulars. There is attached a recommended Amendment No. 4.

The modifications which this amendment would effect are explained seriatim below. I should like to draw your attention, however, to the particular problem which precipitates this amendment at this time. The first paragraph of Section 11 of the original order, not since amended, provides as follows:

"No person holding a position as a Department Head or Assistant Department Head in the Headquarters of the Trust Territory Government, as a Department Head or Assistant Department Head in a District Administration, as a District Administrator or Assistant District Administrator, or as a Judge, and no person serving as a member of a District Legislature, shall be eligible to serve as a member of the Congress while holding said position; Provided, that this disqualification shall not become effective until the third general election to the Congress."

The third general election will be held in November of this year. It is important that consideration be given now to the problem to which section 11 was addressed, and that the issue be resolved well in advance of November, so that candidates and possible candidates will make the arrangements which the decision, however it goes, requires.

When the original order was drafted, we recognized that (1) there was a dearth of trained people in the Trust Territory, and thus the best interests of both the Executive and Legislative branches of government there seemed to require that such trained people as did exist be permitted to serve both branches; and (2) traditionally members of territorial legislatures, and indeed, many State legislatures as well, have

been compensated on almost a de minimis basis, being paid at the level of, for example, \$200 a year, \$6 a day, etc. We found it relatively easy, therefore, to arrange for payment at \$16 per day.

Both considerations have been changed somewhat by the passage of time. As to (1), there certainly are many more potential legislators and potential executive branch employees, with the requisite skills, than there were four years ago. As to (2), the trend of higher compensation for State legislators continues, and legislators in Guam and the Virgin Islands are now paid at an annual rate of \$6000 and \$9000. Further, however, we continue to be impressed with the impossibility of Trust Territory legislators doing, as States (and to some extent, territorial) legislators are able to do; i.e., to regard their legislative responsibilities and their legislative salaries as supplemental to their other employment. As a practical matter, there are so few economic opportunities in the Trust Territory, and there are so few potential employers other than the Government, that Trust Territory legislators must in most cases work for the Government, or they have no substantial wage employment. They cannot live on their \$16 per day salaries, for sessions now limited to 30 days per year. They must supplement their income. If they cannot do so by Government employment, most of them cannot do so at all. If forced to choose, in the manner contemplated by section 11 as it now stands, they will, therefore, in most instances choose to retain their Government jobs, thereby allowing to serve as legislators only those relatively few in the Trust Territory who have some kind of private or other cash income. That such legislators would not be representative of the people of the Trust Territory generally is obvious.

The solution which we now recommend is an annual salary, carrying with it a total bar to other governmental employment. We do this with some reluctance, recognizing that it permits far more generous treatment of Trust Territory legislators than of Samoa legislators, for example, or of legislators in other territories at a comparable stage of development. But we believe there is no feasible alternative. We understand that many of the U. S. Congressional visitors to the Trust Territory in January shared this view.

With respect to other provisions of the proposed amendment:

1. The second paragraph of Section 4 contains the authority by which the High Commissioner may himself promulgate legislation. This legislative authority in the chief executive is unusual. We are aware of only one precedent, the 1960 Samoa Constitution. The power contained in the 1960 Samoa Constitution was never used by

the Governor, nor has the High Commissioner used the power conferred upon him by section 4. The Congress of Micronesia finds the power abrasive. Because you, as Secretary of the Interior, would continue to have plenary legislative power over the Trust Territory, we believe the provision can safely be removed.

2. In each amendment to Order No. 2882, we have tried to deal effectively with the question of what revenues are available to the Congress of Micronesia to appropriate, and what revenues should accrue directly to Trust Territory programs as reimbursements. We have not yet succeeded in clarifying this matter, and the Congress of Micronesia quite rightly objects to our refusal to permit it to appropriate certain funds which, under the current language, it regards as available for its appropriation.

We now recommend a new solution, and one which we believe will be effective and successful. We recommend the adoption of very general language, based upon that used in the new Samoa Constitution, with the expectation that you would, from time to time, deal with particular questions as to what revenue is available to whom, by letters of clarification. Our past efforts to state explicitly what forms of revenue fall into which category have been unsuccessful because it is apparently impossible to know with certainty the numerous kinds of revenue that will arise.

Accordingly, if this amendment is adopted, we will present to you a letter which will state that, effective July 1, 1968, the following revenues will be available to the Congress of Micronesia for appropriations: copra export taxes; scrap metal export taxes; import duties and fees; motor vehicle fuel taxes; license fees for ships, boats, and businesses; marriage license fees; penalties and interest on delinquent taxes; court fines; court fees; penalties for seizures; and proceeds from the Mobil Oil contract. Most, and possibly all, other categories of income to the Trust Territory Government are in the category of "reimbursements". Such reimbursements are being returned and have in the past been returned directly to the Trust Territory Government in order to reduce the level of Federal grants required. I refer to categories of income which relate to income-producing activities which are subsidized by Federal grants, such as utilities (water, power, and telephones), equipment rental, cable fees, and, until recently, air passenger and air cargo fares and fees.

There remain a number of categories of income which may or may not be in the category of "reimbursements", and we intend to learn from the Trust Territory more details than we now have concerning the source

of this income and the manner of accounting for it. If such categories of income are not, in the words of the proposed amendment, "attributable to user charges or service related reimbursements", we would expect that effective July 1, 1969, by letter to be signed by you well in advance of that date, you would make known that additional categories of income are also available for appropriation by the Congress of Micronesia.

This amendment would be effective July 1, 1968. The letter described above coincides with the representations we have made to both the Budget Bureau and the Congress as to the level of income available to reduce Federal grants for the fiscal year beginning July 1, 1968.

3. The third section of the amendment would modify the existing section 11, discussed at length above, so as to impose a complete bar to other governmental employment, whatever the branch, whatever the political subdivision, by members of the Congress of Micronesia.

4. This section would extend the 30 day session each year to 45 days. Experience has proved that 30 days is too short a period, and all sessions to date have been extended for some brief period. It would also introduce a new, 15 day session at the commencement of each Congress, so as to permit the members to meet, organize, and determine their legislative business. If they are to be annually compensated, it would be unwise to delay the first session until July, following a November election.

5. The existing section 15 provides for publication within 30 days of the close of a session. Often bills are not transmitted to the High Commissioner for approval until after that date. The time limit contained in the new language is 30 days after approval, in the case of bills, and 30 days after receipt, in the case of resolutions which do not require the High Commissioner's signature.

6. The particular annual salary which we recommend, as a result of the considerations stated above, is \$4500. The average Governmental Salary for House members is now \$3200, for Senate members, \$4250. A middle-level Micronesian employee of the Trust Territory Government earns about \$4480 per year, this being the compensation of a C4 on the Micronesian pay scale. We think legislators ought to be equated with at least middle level, if not high level, executive branch employees, and for that reason have chosen \$4500. The annual salaries, which are predictable, would be budgeted for and paid by the United States, as has been the custom with respect to legislative salaries throughout our territorial experience (until two years ago, when the Congress agreed to permit the Virgin Islands and Guam to establish and pay their own). All other legislative expenses would be paid by the Congress of Micronesia from their own funds.

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7. Because we have not budgeted for annual salaries for the fiscal year 1969, we cannot pay them starting January 1, 1969. But we believe the higher level of salary should be paid, commencing with the next Congress of Micronesia. Accordingly, this provision would permit the Congress, using its own funds, to pay such annual salaries for the last six months of the next fiscal year. The estimated amount is \$75,000, and we are informed that this sum is within the capacity of the Congress of Micronesia to pay.

8. There seems no longer a compelling reason to insist that the High Commissioner approve the Legislative Counsel, inasmuch as he is wholly the subordinate of the legislative branch. Similarly, we see no reason why the Legislative Counsel should not be paid at such level as the Congress of Micronesia chooses, rather than at a fixed GS-12 rate, as the Order now requires. He may be worth more, or less, and this judgment can properly be made by his employers.

I recommend that you approve the attached proposed Amendment No. 4 to Secretarial Order No. 2882.

Mrs. Ruth G. Van Cleve

Enclosure

UNITED STATES
DEPARTMENT OF THE INTERIOR
Office of the Secretary
Washington, D. C. 20240

ORDER NO. 2882, Amendment No. 4

Subject: Legislative Authority for the Congress of Micronesia,
Trust Territory of the Pacific Islands

WHEREAS, on September 29, 1964, the Secretary of the Interior promulgated Secretarial Order No. 2882 creating the Congress of Micronesia and granting legislative authority thereto; and

WHEREAS, such Order has been from time to time amended, in part in response to requests from the Congress of Micronesia, and in part to clarify certain of its provisions; and

WHEREAS, requests for further modifications have been received from the Congress of Micronesia, and additional areas requiring modification have since appeared;

NOW, THEREFORE, Secretarial Order No. 2882, as amended, is further amended in the following particulars:

1. Effective January 1, 1969, Section 4 of the said Order No. 2882, as amended, is amended by deleting therefrom the second paragraph.

2. Effective July 1, 1968, the proviso in the first sentence of Section 5 of the said Order No. 2882, as amended, is amended to read as follows:

Provided, That the Secretary of the Interior shall, from time to time, define the term 'revenue' as used herein, so as generally to

exclude therefrom all sums attributable to user charges or service related reimbursements to the Government of the Trust Territory."

3. Effective January 1, 1969, Section 11 of the said Order No. 2882, as amended, is amended to read as follows:

"Section 11. Disqualification of government officers and employees. Any person employed by any branch of the Government of the Trust Territory, or any political subdivision thereof, shall be accorded leave without pay, for a period not to exceed 30 days prior to and including the day of the election, for the purpose of seeking election to the Congress. If any such person is elected, he shall resign from his employment with the Government of the Trust Territory, or any political subdivision thereof, prior to the date upon which his term of office commences.

"No person serving as a member of a legislative body of any political subdivision of the Government of the Trust Territory shall be eligible, while so serving, to serve as a member of the Congress of Micronesia.

"No member of the Congress shall receive any compensation, other than that provided for in this Order, from the Government of the Trust Territory or any political subdivision thereof."

4. Effective January 1, 1969, the first paragraph of Section 12 of the said Order No. 2882, as amended, is amended to read as follows:

"There shall be a regular session of the Congress held in each year beginning on the second Monday of July and continuing for not to exceed 15 consecutive calendar days. In each odd numbered year there shall also be a regular session of the Congress beginning on the second Monday in January and continuing for not to exceed 15 consecutive calendar days."

5. Effective July 1, 1968, Section 16 of the said Order No. 2882, as amended, is amended to read as follows:

"Section 16. Publication of Laws. The High Commissioner shall cause the resolutions and laws to be published within thirty days after they become law, and shall make provision for their distribution to public officials and sale to the public."

6. Effective July 1, 1969, Section 19 of the said Order No. 2882, as amended, is amended to read as follows:

"Section 19. Compensation. Each member of the Congress shall be entitled to receive an annual salary of \$4500, and the President of the Senate and the Speaker of the House of Representatives shall each be entitled to receive an additional \$500, all of which amounts shall be payable from funds appropriated by the Congress of the United States, when such funds are appropriated pursuant to estimates submitted by the Secretary of the Interior. Each member shall also be entitled to receive, from funds available to and appropriated by the Congress of Micronesia, travel expenses and per diem at the standard Trust Territory Government rates for each day the member

is in a travel status to and from sessions of the Congress or while on other official legislative business away from the seat of the Government of the Trust Territory. Travel shall be performed by the most expeditious and direct means: Provided, That compensation, travel, and per diem shall not be allowed in excess of such amounts as may be budgeted therefor."

7. Effective for the period beginning January 1, 1969, and ending June 30, 1969, members and officers of the Congress of Micronesia shall be entitled to compensation, travel, and per diem at the rates prescribed in section 5 of this Order, but all such compensation, travel, and per diem shall be paid from funds available to and appropriated by the Congress of Micronesia.

8. Effective July 1, 1969, Section 23 of the said Order No. 2882, as amended, is amended to read as follows:

"Section 23. Legislative Counsel. The Congress of Micronesia may by joint resolution nominate a legislative counsel of its own choosing. The salary and other benefits available to such legislative counsel shall be established and paid by the Congress of Micronesia. The Congress of Micronesia may make budgetary provision for such supporting staff for the legislative counsel and the legislature as it may deem necessary."

Secretary of the Interior

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