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DEPARTMENT OF STATE A/ODD/HR

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REVIEWED BY A. Geber DATE 1/3/85

RES. OF YEAR EXT. DATE _____

REVISION OF THE DRAFT ORGANIC ACT PROVIDED CHAIRMAN ASPINALL REASON(S) _____

Changes - Both Plus and Minus

PA or FOI EXEMPTIONS _____

Note: Although, as set forth below, the revision of the draft Organic Act provided to Chairman Aspinall has resulted in major improvements, the most obvious problem in the original draft in terms of self-government -- the absence of an elected chief executive -- remains. It is for this reason that the Department of State continues to reserve its position on the entire Executive Section.

1. The title has been changed from "Organic Act of Micronesia" to "Micronesian Political Status Act" -- a cosmetic improvement.
2. Section 101(a) describing the new status has been changed to read "shall hereafter be associated with the US as a self-governing unincorporated territory of the US, to be known as 'Micronesia'" -- a cosmetic improvement, except the words "self-government" will appear hypocritical if the appointed governor provisions remain unchanged.
3. Throughout the act, references to the role to be played by the Secretary of the Interior in the future have been dropped -- either by referring to "the President or his delegate" or by just leaving it unstated -- a cosmetic and, in some cases, a substantive improvement.
4. The Executive (on the whole of which State has reserved its position) has been changed to provide that the appointed governor will have a four-year term (although the President can in fact remove him at any time he desires) which will at least provide a partial commitment toward continuity -- a substantive improvement.
5. The provision for a three-year Micronesian residency for the governor-to-be has been removed -- because there is allegedly no Micronesian qualified to hold the office. This is a substantive and cosmetic step backwards.

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6. The provisions of an elected governor bill, identical to that to take effect in Guam next year, have been added to take effect in 1981. This is a substantive improvement; however, it only serves to highlight the fact that the Micronesians are not being provided self-government at this time -- that they will only achieve that status in 1981.

7. The supremacy clause of the US Constitution has been inserted in Section 108 in lieu of the more explicit restrictions on the Legislature -- this is a cosmetic improvement and, by providing implicit restraints, allows substantive improvements elsewhere.

8. The Congress of Micronesia has been given the absolute and final right to override the veto of the governor on all bills except for the special exception on portions of bills dealing with fiscal matters. The President has no power to review the overriding action -- an important substantive improvement, made possible by the implicit controls elsewhere in the act.

9. Most of the excessive detail on the rules and procedures for the Congress of Micronesia contained in the legislative section have been dropped and the establishment of the salaries of the Congress of Micronesia has been left to local law. This is largely a cosmetic change, but it does give the Micronesians more of the nuts and bolts controls over their own affairs.

10. An impeachment provision has been added which at the moment only applies to judges of the local court, but, should an elected governor be provided, it could also apply to him -- a positive increase in self-government.

11. A provision has been added to provide for the election of a non-voting delegate to the US Congress -- a positive substantive change.

12. A local court system has been spelled out with both island courts and a Supreme Court of Micronesia. The relationship between this court system and the federal district court (also to be created) and the existing circuit court is roughly analogous to that existing between state courts and federal

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courts. The judges of the Supreme Court are to be appointed by the Governor with the advice and consent of the Senate of Micronesia and, although qualifications are described for appointment to the Court, they are only intended to insure adequate experience prior to appointment. A number of Micronesians should be qualified before too long and presumably will be filling places on the Court. This is a positive substantive change.

13. The provision to match locally raised revenues (which include US income tax collections returned to the Territory) with funds from the US Treasury has been modified to remove the control by the Secretary of the Interior on the expenditure of this matching fund -- it will be provided without explicit strings, although the US Congress can obviously make its views known in appropriating funds the following year. Although Congress will still control appropriations for a high percentage of the budget on an item-by-item basis, this is, nevertheless, a positive improvement.

14. Provisions dealing with the question of military land use have been added to the act. DOD will be able to retain its current military retention lands and its use agreements will remain in effect. Although the retention lands only amount to a little over 3 percent of the total land area, they are often in choice areas. A specific provision for a review of the need to retain all of this land would have been preferable.

15. Provision for the exercise of eminent domain proceedings has been provided in accordance with US federal laws and through the federal court system as in the United States. Moreover, such land takings shall be subject to review by a commission established by the Congress of Micronesia. In the event the Congress does not agree, the final decision shall be made by the President, who shall have before him the views of the Micronesian commission. While this does not entirely satisfy Micronesian wishes, and although there is an escape clause in case of urgency, it does at least provide for a formal hearing of Micronesian views. Thus it is a definite substantive improvement.

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16. Provision has been made that no land shall be sold to a non-resident or to corporations owned or controlled by non-residents without the approval of a commission established by Micronesian law for this purpose. The commission would also have to approve any leases for more than ten years by non-residents or outside corporations. Since Micronesia will be able to define its own requirements for residency, this is a significant step in meeting the Micronesian concern regarding alienation of land.

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