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July 10, 1985

Mr. Lorenzo I. Guerrero  
Chairman, Committee on Governmental Finance  
Second NMI Constitutional Convention  
Saipan, CM 96950

Re: Delegate Proposals 268-85, 271-85, 277-85, 85-85 and 132-85

Dear Mr. Guerrero:

I support a constitutional mandate requiring the GNMI to be responsible in the management of its fiscal affairs. I offer the following comments on the above proposals.

## 268-85

This proposal is ambiguous as it uses various terms which are unclear as to their meaning making it difficult to comprehend the purpose or intent of this proposal. It is not clear to me what is meant by "public debt attributable to government operations". To my knowledge there has been no such public debt incurred. The Commonwealth has been incurring an operating deficit since its inception which has been rolled over into succeeding years. This deficit, which has been estimated at \$15 million, has not been budgeted for in the preparation of the budget for FY 86.

I believe your proposal wishes to identify the operating deficit incurred to date and require the Legislature to adopt a five year plan in which to liquidate it. This, of course, requires an immediate form of long-term borrowing to initially fund the deficit with the five year plan being the method to liquidate the debt. This process, as the Constitution currently reads and by this amendment, would be incompatible and unconstitutional. This problem must be addressed whereby the GNMI is given authority to incur a public debt for this onetime clearing up of the current deficit.

The last paragraph of the proposal is also unclear to me. I do not know what a "cash or contingent debt" is. Again, I believe the intent is to prohibit the GNMI from incurring an operating deficit for future years. I suggest that this be simply stated by instead of referring to debt, the reference should be deficit. This term has a clear meaning within accounting jargon.



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271-85

This proposal will aid in assuring that the Executive Branch, through its own mismanagement, will not be allowed to create its own state of emergency and thus be allowed to set aside the legislative appropriation process or use restricted funding, such as CIP and EDLF, to bail itself out. I am supportive of this proposal as it is worded.

277-85

This proposal undermines the ability of the Trust to preserve the net resources which have been made available through the rental of CNMI public lands. It has been the intention that such resources should be left in trust in order to benefit future generations. This amendment would severely undermine the Trustees' ability to ensure that the principal would not be invaded as a result of a default on bonds which have been guaranteed by the Trust assets. This proposal, if enacted, has the potential for abuse whereby the Trust assets could be diverted to other uses. If the original intent of the Trust is still valid, I recommend that this proposal be dropped.

85-85

This proposal appears to me to be well written clarifying the original language that balanced budgets are the intention of the budgeting process. I would add only that the balanced budget be a comprehensive one including all the agencies of the government. Also, I would suggest that a paragraph be added to clearly state that any departure from the budget without supplement appropriations will be deemed to be an act of malfeasance subjecting the Governor to suit from any person in the Commonwealth for breach of his fiduciary duty. Such malfeasance should also be an impeachable offense.

In addition, I would amend section 9(b) of Article III to state that the Governor's annual report be a financial one in accordance with generally accepted reporting standards for governmental entities as established by the American Institute of Certified Public Accountants. This financial reporting should be due within one hundred twenty (120) days from the close of the government's fiscal year. Failure to make a timely financial reporting within the required guidelines would subject the Governor to malfeasance of office.

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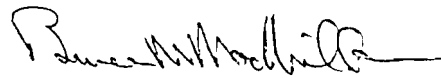
132-85

P.L. 3-68

This proposal strenghtens proposal 85-85 requiring a balanced budget. I would only suggest that the language be changed to state that the GNMI or its agencies shall not authorize, obligate or expend any funds resulting in a departure from its balanced budget as appropriated by the legislature.

I hope you find these suggestions helpful. If you have any questions or if I may be of help otherwise, please let me know.

Sincerely,



Bruce M. MacMillan, C.P.A.  
Vice President, Finance/  
Controller

BMM/nco