

CONSTITUTION OF THE NORTHERN MARIANA ISLANDS

1995 VERSION

(WORKING DRAFT)

July 16, 1995

Note: This version of the Constitution is prepared for the convenience of the delegates. It has no official standing. No article of the Constitution is adopted until the second and final reading. Errors and omissions should be brought to the attention of Grace Suarez.

July 16, 1995 Draft

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PREAMBLE

We, the people of the Northern Marianas Islands, grateful to Almighty God for our freedom, ordain and establish this Constitution as the embodiment of our traditions and hopes for our Commonwealth in Political Union with the United States of America. Our rights, secured and defined with respect for our own island ways, impose on each of us responsibilities and obligations which we acknowledge and accept. We govern our islands for the security and well-being of all our people and for the unity of our Commonwealth.

ARTICLE I: PERSONAL RIGHTS

Section 1: Laws Prohibited.

No law shall be made that is a bill of attainder, an ex post facto law, a law impairing the obligation of contracts, or a law prohibiting the traditional art of healing.

Section 2: Freedom of Religion, Speech, Press and Assembly

No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

Section 3: Search and Seizure.

The right of the people to be secure in their persons, houses, papers and belongings against unreasonable searches and seizures shall not be violated.

a) No warrants shall issue except upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.

b) No wiretapping, electronic eavesdropping or other comparable means of surveillance shall be used except pursuant to a warrant.

c) A person adversely affected by an illegal search or seizure has a cause of action against the government within limits provided by law.

Section 4: Criminal Prosecutions.

In all criminal prosecutions certain fundamental rights shall obtain.

a) The accused has the right to assistance of counsel and, if convicted, has the right to counsel in all appeals.

b) The accused has the right to be confronted with adverse witnesses and to have compulsory process for obtaining favorable witnesses.

c) No person shall be compelled to give self-incriminating testimony.

d) There shall be a speedy and public trial.

e) No person shall be put twice in jeopardy for the same offense regardless of the governmental entity that first institutes prosecution.

f) Excessive bail shall not be required.

g) Excessive fines shall not be imposed.

h) Cruel and unusual punishment shall not be inflicted.

i) Capital punishment is prohibited.

j) Persons who are under eighteen years of age shall be protected in criminal judicial proceedings and in conditions of imprisonment.

Section 5: Due Process.

No person shall be deprived of life, liberty or property without due process of law.

Section 6: Equal Protection.

No person shall be denied the equal protection of the laws. No person shall be denied the enjoyment of civil rights or be discriminated against in the exercise thereof on account of race, color, religion, ancestry or sex.

Section 7: Quartering Armed Forces.

No member of any armed force in time of peace may be quartered in any house without the consent of the owner, nor in time of war except as provided by law.

Section 8: Trial by Jury.

The legislature may provide for trial by jury in criminal or civil cases.

Section 9: Clean and Healthful Environment.

Each person has the right to a clean and healthful public environment. The legislature shall enact no law infringing this right or permitting the storage or dumping of any nuclear or radioactive material in the lands or waters of the Commonwealth.

Section 10: Privacy.

The right of individual privacy shall not be infringed except upon a showing of compelling interest.

ARTICLE II: LEGISLATIVE BRANCH

Section 1: Legislative Power.

The legislative power of the Commonwealth shall extend to all rightful subjects of legislation and shall be vested in a Northern Marianas Commonwealth legislature composed of a senate and a house of representatives.

Section 2: Composition of the Senate.

a) The senate shall consist of six members with two members elected at large from each of three senatorial districts. The first senatorial district shall consist of Rota, the second senatorial district shall consist of Tinian and Aguiguan, and the third senatorial district shall consist of Saipan and the islands north of it. The senate shall be increased to eight members and two members shall be elected at large from a fourth senatorial district consisting of the islands north of Saipan at the first regular general election after the population of these islands exceeds one thousand persons.

b) The lieutenant governor shall preside over the senate until it elects a presiding officer and shall vote only in the event of a tie.

c) The term of office for senator shall be four years.

d) A senator shall be a United States citizen qualified to vote in the Commonwealth, at least twenty-five years of age, and a resident and domiciliary of the Commonwealth for at least five years immediately preceding the date on which the senator takes office. A longer residency and domicile requirement may be provided by law. A candidate for the senate shall be a registered voter in the senatorial district where he or she is a candidate.

Section 3: Composition of the House of Representatives.

a) The house of representatives shall consist of thirteen members with eleven members elected from Saipan and the islands north of it, one member elected from Rota and one member elected from Tinian and Aguiguan. The number of representatives may be increased by law to not more than fifteen.

b) For purposes of electing representatives Rota shall constitute one district, Tinian and Aguiguan shall constitute one district, and Saipan and the islands north of it shall constitute one district. When the population of the islands north of Saipan equals or exceeds the number of citizens represented by any member of the house of representatives these islands shall constitute a separate district electing one representative.

c) The term of office for representative shall be four years.

d) A representative shall be a United States citizen qualified to vote in the Commonwealth, at least twenty-one years of age, and a resident and domiciliary of the Commonwealth for at least three years immediately preceding the date on which the representative takes office. A longer residency and domicile requirement may be provided by law. A candidate for the house of representatives shall be a registered voter of the district where he or she is a candidate.

Section 4: Reapportionment

a) At least every ten years and within one hundred twenty days following publication of the results of a decennial census, the legislature shall reapportion the seats in the house of representatives as required by changes in Commonwealth population or by law. A reapportionment plan shall provide for a house of representatives with the fewest number of seats that will permit each member to represent approximately the same number of citizens and will provide that the districts for Rota and for Tinian and Aguiguan will have at least one member each.

b) If the legislature fails to act pursuant to section 4(a), the governor shall promulgate a reapportionment plan within one hundred twenty days after the expiration of the time for the legislature to act. The governor's plan shall be published in the same manner as an act of the legislature and upon publication shall have the force of law. Upon the petition of any person qualified to vote, the Commonwealth supreme court has original and exclusive jurisdiction to review a plan and to amend it to comply with the requirements of this Constitution or to establish a plan if the governor has failed to act within the time provided.

Section 5: Enactment of Legislation.

a) Appropriation and revenue bills may be introduced only in the house of representatives. Other bills may be introduced in either house of the legislature. The legislature shall hold joint hearings on all appropriation bills and on all bills involving public debt, taxation or revenue.

b) A bill shall be confined to one subject except bills for appropriations or bills for the codification, revision or rearrangement of existing laws. Appropriation bills shall be limited to the subject of appropriations. Legislative compliance with this subsection is a constitutional responsibility not subject to judicial review.

c) The legislature may not enact a law except by bill. Each bill shall be read at least twice on two separate days in each house before it is voted upon. No bill may be enacted without the approval of at least a majority of the votes cast in each house of the legislature.

d) The legislature shall enact no law which increases the class of nonaliens, except as to those persons defined in Covenant Section 506(c).

Section 6: Local Laws.

[Deferred until consideration of Article VI (Local Government)]

Section 7: Action on Legislation by the Governor.

a) Every bill enacted shall be signed by the presiding officer of the house in which the bill originated and transmitted to the governor. If the governor signs the bill, it shall become law. If the governor vetoes the bill, it shall be returned to the presiding officer of each house of the legislature with a statement of the reasons for the veto. The governor may veto an item, section or part in an appropriation bill and sign the remainder of the bill; provided that the governor may not veto an item, section or part governing the manner in which an appropriation may be expended if any appropriation affected by the item, section, or part is approved.

b) The governor shall have twenty days in which to consider appropriation bills and forty days in which to consider other bills. If the governor fails either to sign or veto a bill within the applicable period, it shall become law.

c) A bill or item, section, or part of a bill vetoed by the governor may be reconsidered by the legislature. The legislature shall have sixty days from the receipt of the governor's veto message in the house of origin of the vetoed bill, item, section, or part of a bill to reconsider the vetoed legislation. If two-thirds of the members in each house vote upon reconsideration to pass the bill, item, section, or part, it shall become law.

d) Any appropriation bill, or any bill affecting spending authority, government financial management, or organization of the government, enacted in the period between a regular general election and the second Monday of January of the following year shall be void unless enacted by the affirmative vote of three-fourths of the members of each house of the legislature.

Section 8: Impeachment.

The governor, lieutenant governor, justices, judges and the resident representative to the United States are subject to impeachment by the legislature for treason, commission of a felony, corruption or neglect of duty. The house of representatives may initiate impeachment proceedings by the affirmative vote of two-thirds of its members and the senate may convict after hearing by the affirmative vote of two-thirds of its members.

Section 9: Vacancy.

A vacancy in the legislature shall be filled by special election if one-half or more of the term remains. If less than one-half of the term remains the governor shall, as soon as possible but not later than twenty days after the vacancy occurs, fill the vacancy by appointing the unsuccessful candidate for the office in the last election who received the largest number of votes and is willing to serve or, if no candidate is available, a person qualified for the office from the district represented. If the governor fails to fill the vacancy within the time specified, the unsuccessful candidate for the office in the last election who received the largest number of votes and is willing to serve shall be deemed appointed on the twenty-first day after the vacancy occurs and shall immediately take office.

Section 10: Compensation.

The salary of members shall be changed no more than once every four years and only upon the recommendation of an advisory commission established by law to make recommendations concerning the compensation of Commonwealth executive, legislative and

judicial officers. No change in salary may be made that exceeds the percentage change in an accepted composite price index for the period since the last change. An increase in salary may not apply to the legislature that enacted it.

Section 11: Other Government Employment.

A member of the legislature may not serve in any other Commonwealth government position including other elective office or independent board, agency, authority or commission established by this Constitution or by Commonwealth law. A person having been a member of the legislature, may not serve in any elective or appointive Commonwealth government position created by statute during the term for which he or she was elected, for a period of one year following the expiration of the term during which the position was created.

Section 12: Immunity.

A member of the legislature may not be questioned in any other place for any written or oral statement in the legislature and a member of the legislature may not be subject to arrest while going to or coming from a meeting of the legislature except for commission of treason, a felony or breach of the peace.

Section 13: Sessions.

The legislature shall meet for organizational purposes on the second Monday of January in the year following the regular general election at which members of the legislature are elected and shall be a continuous body for the two years between these organizational meetings. Each house shall meet in regular sessions for no more than ninety days each year, sixty days before April 1 and thirty days after July 31 of each calendar year, and may be convened at other times for not more than ten consecutive days upon request by its presiding officer or by the governor. When meeting pursuant to a call by the governor, the legislature shall consider only those subjects described in the call.

Section 14: Organization and Procedures.

a) Each house of the legislature shall be the final judge of the election and qualifications of its members and the legislature may vest in the courts the jurisdiction to determine contested elections of members. Each house may compel the attendance of absent members, discipline its members and, by the affirmative vote of three-fourths of its members, expel a member for commission of treason, a felony, breach of the peace, or violation of the rules of that house.

b) Each house of the legislature shall choose a presiding officer from among its members, establish the committees necessary for the conduct of its business, and

promulgate rules of procedure. Each house may compel the attendance and testimony of witnesses and the production of books and papers before the house or its committees. The legislature shall keep a journal of its proceedings that shall be published from day to day.

c) The meetings of the legislature and its committees shall be public except that each house of the legislature or a legislative committee may meet in executive session if authorized by the affirmative vote of two-thirds of the members of the house. Final action on any legislative matter may not be taken in executive session.

Section 15: Conduct of Members.

A member of the legislature who has a financial or personal interest in a bill before the legislature shall disclose that interest and may not debate on or vote on the bill.

Section 16: Budget Ceiling.

There shall be a ceiling on the budget of the legislature.

a) All appropriations or obligations and expenditures for all operations and activities of the legislature, including the salaries and benefits of the members but excluding major equipment and capital improvement projects, may not exceed four and one half million dollars in any fiscal year.

b) Each member shall receive seventy thousand dollars annually within this ceiling for office expenses including the expense of travel outside the Commonwealth.

c) Within this ceiling the majority leader in each house shall receive an additional fifty thousand dollars a year and the minority leader in each house shall receive an additional thirty five thousand dollars a year for office expenses.

d) The balance of the legislature's budget shall be allocated to the legislative bureau for the purposes specified in Section 17.

e) The amount of the ceiling and all other dollar amounts stated in this section shall be adjusted every two years by the same percentage as the percentage change in the United States Department of Commerce composite price index using the beginning of fiscal year 1997 as the base.

f) No part of the legislature's budget other than a member's salary and benefits may be used for personal or political activities.

g) Obligations and expenditures for the operations and activities of the legislature for the period October 1 through the second Monday in January of a fiscal year in which there is a regular general election may not exceed twenty five percent of the annual spending authority provided by law. This ceiling shall apply to the various offices and activities in the same proportions as the annual spending authority provided by law.

Section 17: Legislative Bureau.

There is hereby established a legislative bureau in the Northern Marianas Commonwealth Legislature.

a) The bureau shall be headed by a director who shall be appointed to a four year renewable term, and may be removed only for cause, by a majority vote of the lieutenant governor, the speaker of the house and the majority leader of the senate. The director shall have a college degree in a relevant field with at least five years of relevant experience or shall have at least ten years of relevant experience.

b) The bureau shall provide all necessary support services for the operation, administration and maintenance of the legislature and its committees within the budgetary allocation provided in section 16(d).

c) The bureau shall employ all staff necessary, other than personal staff of the members, to perform these functions as permitted by its budget. The staff shall include trained or otherwise qualified clerical, operational, administrative and professional personnel.

d) The bureau shall be politically independent and shall perform its duties in nonpartisan fashion. The bureau shall not be subject to any political harassment or pressure and shall not engage in any political activities.

ARTICLE III: EXECUTIVE BRANCH

Section 1: Executive Power.

The executive power of the Commonwealth shall be vested in a governor who shall be responsible for the faithful execution of the laws.

Section 2: Qualifications of the Governor.

The governor shall be a United States citizen qualified to vote in the Commonwealth, at least thirty-five years of age, and a resident and domiciliary of the Commonwealth for at least seven years immediately preceding the date on which the governor takes office. A different period of residence and domicile may be provided by law.

Section 3: Lieutenant Governor.

The lieutenant governor shall have the same qualifications as required for the office of governor and shall perform those duties specified in this Constitution and those assigned by the governor or provided by law. Whenever the office of lieutenant governor is vacant, the governor shall appoint a successor with the advice and consent of the senate.

Section 4: Joint Election of the Governor and Lieutenant Governor.

The governor and lieutenant governor shall be elected at large within the Commonwealth for a term of office of four years. The governor and lieutenant governor shall be elected jointly with each voter casting a single vote applicable to both offices. No person may be elected governor more than twice.

Section 5: Compensation.

The governor and lieutenant governor shall each receive an annual salary and reasonable allowances for expenses as provided by law. Upon the recommendation of the advisory committee on compensation provided for by article II, section 10, the legislature may change the salary of the governor or lieutenant governor. Neither salary may be changed during a term of office.

Section 6: Other Government Employment

The governor or lieutenant governor may not serve in another Commonwealth position or receive compensation for performance of official duties or from any governmental body except as provided by section 5.

Section 7: Succession to the Governorship and Lieutenant Governorship

In case of the removal, death or resignation of the governor, the lieutenant governor shall become governor and the president of the senate shall become lieutenant governor. If the offices of governor and lieutenant governor are both vacant, the president of the senate shall become acting governor and the speaker of the house shall become acting lieutenant governor. An acting governor or lieutenant governor who assumes office when more than one year remains in the

term may serve only until a governor or lieutenant governor is chosen in a special election provided by law.

Section 8: Absence or Disability of the Governor.

a) When the governor is physically absent from the Commonwealth, the lieutenant governor shall be acting governor. If the lieutenant governor is also absent or is otherwise unavailable, the presiding officer of the senate shall be acting governor.

b) When the governor is unable to discharge the duties of the office by reason of physical or mental disability, the lieutenant governor shall be acting governor. If the lieutenant governor is unavailable, the presiding officer of the senate shall be acting governor. If the person next in succession to the governor has reason to believe that the governor is unable to discharge the duties of the office, that person shall file a petition to declare a vacancy with the Commonwealth supreme court. The supreme court has original and exclusive jurisdiction to determine all questions regarding the disability of the governor and the existence of a vacancy in the office of the governor.

Section 9: Executive Functions.

a) The governor shall submit to the legislature a proposed annual balanced budget for the following fiscal year no later than ninety days before the start of the fiscal year. The proposed balanced budget shall describe anticipated revenues of the Commonwealth based on existing revenue generating laws and recommend expenditures not to exceed anticipated revenues. The anticipated revenues may not be increased by the legislature without the consent of the governor. In preparing the proposed balanced budget, the governor shall consider submissions made by the mayors of Rota, Saipan and Tinian and Aguiguan, and the islands north of Saipan as to the budgetary needs of those islands and by the executive assistant appointed under section 18 of this article. The governor's submission to the legislature with respect to the budget shall state the governor's disposition of the budgetary request contained in these submissions and may included recommended tax legislation. If a balanced budget is approved by the legislature, the governor may not reallocate appropriated funds except as provided by law. In the absence of a budget enacted by the legislature and approved by the governor, government operations will be funded as follows:

1) If the projected revenues for the new fiscal year are equal to or greater than the projected revenues for the fiscal year just ended, each agency receiving an appropriation during the past year shall receive the same appropriation for the new fiscal year.

2) If the projected revenues for the new fiscal year are less than the projected revenues for the fiscal year just ended, all extraordinary or non-recurring expenditures shall be subtracted

from the appropriations for the past fiscal year and the remainder shall be proportionally allocated to each agency funded during the past fiscal year.

3) Each person authorized to expend public funds shall be responsible for operating within the level of funding authorized and shall be held personally liable if such person authorizes expenditures without the appropriate certification that funds are available for the specified purpose.

4) All revenues in excess of the amount of the last appropriation shall remain in the general fund until appropriated by the legislature.

b) The governor shall report in person at least annually to the people through a joint session of the legislature regarding the affairs of the Commonwealth and new measures that are necessary or desirable.

c) The governor shall have the power to grant reprieves, commutations and pardons after conviction for offenses after consultation with a board of parole to be established by law. This power shall not apply to impeachment.

Section 10: Emergency Powers.

The governor may declare a state of emergency in the case of invasion, civil disturbance, natural disaster or other calamity and may mobilize available resources to respond to that emergency. Within thirty days after acting under this section the governor shall report to the legislature regarding the exercise of emergency powers and recommend appropriate legislation.

Section 11: Attorney General.

The governor shall appoint an attorney general with the advice and consent of the senate. The attorney general shall be responsible for providing legal advice to the governor and executive departments, representing the Commonwealth in all legal matters, and prosecuting violations of Commonwealth law. The attorney general may be removed only for cause.

Section 12: Public Auditor.

The governor shall appoint a public auditor with the advice and consent of each house of the legislature. The public auditor shall ensure that proper audits have been conducted of the receipt, possession and disbursement of public funds by the executive, legislative and judicial branches of the government, an instrumentality of the Commonwealth or an agency of local government and shall perform other duties provided by law. The public auditor shall not duplicate professionally acceptable audits performed by private auditing firms or other

governmental auditors. The public auditor shall report to the legislature and the governor at least once every year and this report shall be made public promptly. The public auditor may be removed only for cause and by the affirmative vote of two-thirds of the members of each house of the legislature. In the event that there is a vacancy in the office of the public auditor, the governor shall appoint a temporary public auditor to serve for no more than ninety days. Within thirty days after the vacancy occurs in the office the governor shall submit a nominee for public auditor to the legislature. If the legislature does not act on the confirmation within sixty days after receipt of the nomination, the nominee shall be deemed confirmed. A nominee rejected by the legislature may not be renominated by the governor for the office.

Section 13: Education.

Education is a shared responsibility of the Commonwealth and local governments and the parents of children working together.

a) Education is compulsory within the age and levels provided by law.

b) Policy and standards for the public elementary and secondary education system in the Commonwealth shall be the responsibility of a secretary of education appointed by the governor with the advice and consent of [the senate] [a majority of the chairs of the school boards]. The secretary shall have [an advanced degree in a field of education from an accredited institution and] at least five years residence in the Commonwealth. Other qualifications and salary shall be as provided by law. The term of office shall be the same as the appointing authority.

c) Administration and instruction for the public elementary and secondary education system in the Commonwealth shall be the responsibility of an elected school board in each senatorial district. Each school board shall be composed of five members who shall serve for four-year terms. School board members shall be U.S. citizens qualified to vote in the Commonwealth, resident in the senatorial district from which elected, and at least 25 years of age. Elections shall be non-partisan. Vacancies shall be filled by the next highest vote-getter or, if none, a qualified person appointed by the remaining members of the school board. The requirements of this section 13(c) shall continue in force after a date [ten] years from the election of the first school boards unless the legislature provides otherwise.

d) The legislature shall make an annual appropriation for instruction in the public elementary and secondary education system. This appropriation shall be allocated to the local schools on a per enrolled student basis upon certification by the secretary of education that the school is in compliance with Commonwealth requirements.

e) Higher education, adult continuing education, and vocational education available in postsecondary educational institutions within the Commonwealth shall be consistent with the

needs and resources of the people as provided by law.

Section 14: Heads of Executive Departments.

Each principal department shall be under the supervision of the governor and, unless otherwise provided by law, shall be headed by a single executive. No person shall serve as acting head of an executive department for more than ninety days. The governor shall appoint the heads of executive departments with the advice and consent of the senate. If the senate fails to act within sixty days after receiving the governor's nomination, the nominee shall be deemed confirmed by the senate. A nominee rejected by the senate may not be renominated by the governor for the same office. The governor may remove the heads of executive departments. The governor may at any time require information in writing or otherwise from the head of any administrative department, office or agency of the Commonwealth.

Section 15: Executive Branch Departments.

Executive branch offices, agencies and instrumentalities of the Commonwealth government and their respective functions and duties shall be allocated by law among and within not more than fifteen principal departments so as to group them so far as practicable according to major purposes. Regulatory, quasi-judicial and temporary agencies need not be a part of a principal department. The functions and duties of the principal departments and of other agencies of the Commonwealth shall be provided by law. The legislature may reallocate offices, agencies and instrumentalities among the principal departments and may change their functions and duties. The governor may make changes in the allocation of offices, agencies and instrumentalities and in their functions and duties that are necessary for efficient administration. If these changes affect existing law, they shall be set forth in executive orders which shall be submitted to the legislature and shall become effective sixty days after submission, unless specifically modified or disapproved by a majority of the members of each house of the legislature.

Section 16: Civil Service.

a) The civil service shall include all persons who are employed by or whose salary is paid by the Commonwealth except persons holding positions filled by election, appointed by the governor under this Constitution, or designated by law as excepted professional, managerial, educational, overseas, and elected officials' personal staff positions. The civil service shall be non-partisan and independent. Appointment and promotion within the civil service shall be based on merit and fitness as demonstrated by examination or other evidence of competence.

b) There is hereby established a civil service commission to develop, administer, and adjudicate personnel policies and standards for the civil service. The commission shall be

composed of five members appointed by the governor with the advice and consent of the senate. At least one member shall be a resident of the each senatorial district and no member may hold any other government position. Other qualifications and compensation shall be as provided by law. Members shall serve five year terms, with one term expiring each year, and may be removed during a term of office only for cause.

c) The civil service commission shall establish a classification for each position for which it has jurisdiction, but may exempt positions from classification where necessary to serve important government interests.

Section 17: Public Services.

[Deferred until consideration of article VI (Local Government)].

Section 18: Executive Assistant for Carolinian Affairs.

a) The governor shall appoint an executive assistant for Carolinian affairs who is acceptable to the Carolinian community within the Commonwealth.

b) The executive assistant shall be a member of the governor's council created under article VI, section 5, and shall advise the governor on matters affecting persons of Carolinian descent within the Commonwealth.

c) The executive assistant shall review the application of government policies to and the availability and quality of government services for persons of Carolinian descent and may report findings or recommendations on these matters to the governor.

d) The executive assistant may investigate complaints and conduct public hearings regarding matters affecting persons of Carolinian descent. The executive assistant may report findings or recommendations on these matters to the governor.

e) The executive assistant may recommend items for inclusion in the proposed annual budget, review the budget before its submission by the governor to the legislature, and recommend amendments to the budget relating to matters affecting persons of Carolinian descent.

f) The executive assistant may at any time require information in writing or otherwise with respect to matters affecting persons of Carolinian descent from the officers of any administrative department, office or agency of the Commonwealth.

g) The annual salary of the executive assistant for Carolinian affairs may not be less than the annual salary of a head of an executive department.

Section 19: Retirement System.

[Being revised by the Committee]

Section 20: Council for Indigenous Affairs

a) There is hereby established the council for indigenous affairs with the duties and responsibilities set forth in this section and otherwise as provided by law.

b) The governor shall appoint the five members of the council with the advice and consent of the senate for terms of four years. Each member shall be a United States citizen qualified to vote in the Commonwealth with background and capability in Chamorro or Carolinian language, customs and traditions.

c) The council shall appoint an executive director and a deputy director with background and capability in Chamorro or Carolinian language, customs and traditions. The chair of the council shall be a member of the governor's council created under article VI, section 5.

d) The council shall develop and promote educational and cultural programs to advance the knowledge and practice of Chamorro and Carolinian language, culture and traditions; coordinate the translation and distribution of official and historic documents; serve as an advocate for the indigenous population; and perform such other duties as may be provided by law or assigned by the governor.

e) The council shall be provided the funding necessary to implement these responsibilities from the interest revenue of the Marianas Public Land Trust. The annual budget of the council for the expenditure of these funds shall be submitted to the governor and the legislature for their information. To the extent funds are available from the Trust the council may allocate such funds to existing scholarship, medical referral and housing programs for the benefit of the local population.

ARTICLE IV: JUDICIAL BRANCH

Section 1:Judicial Power.

The judicial power of the Commonwealth shall be vested in a supreme court and a superior court.

Section 2: Supreme Court.

The supreme court shall consist of a chief justice and at least two associate justices appointed by the governor and confirmed by the senate. The supreme court shall have appellate jurisdiction over final judgments and orders of the superior court and original jurisdiction to issue all writs and orders appropriate to the full exercise of its powers.

Section 3: Superior Court.

The superior court shall consist of a presiding judge and at least three associate judges appointed by the governor and confirmed by the senate. The superior court shall have original jurisdiction over all criminal and civil actions in law and in equity and original jurisdiction to issue all writs and orders appropriate to the full exercise of its powers.

Section 4: Term of Office.

The supreme court justices shall have an initial term of twelve years. The superior court judges shall have an initial term of six years. At the general election immediately before the end of the initial term, the question whether to retain shall be placed on the ballot. The justice or judge shall be retained if a majority of the votes cast are in the affirmative. The terms following the initial term shall be twelve years.

Section 5: Qualifications.

A justice or judge shall be at least thirty-five years of age, be a citizen of the United States, have resided in the Commonwealth for at least five years before appointment, and be a member of the Commonwealth bar.

Section 6: Compensation.

The compensation of justices and judges shall be as provided by law and may not be decreased during a term of office.

Section 7: Sanctions.

A justice or judge is subject to impeachment as provided in article II, section 8, of this Constitution for treason, commission of a felony, corruption or neglect of duty. The legislature shall establish an advisory commission on the judiciary whose members include lawyers and representatives of the public. In the event that vacancies on the commission remain for more than 90 days, the chief justice may make temporary appointments to continue until the legislature acts. Upon recommendation of the advisory commission, the governor may remove, suspend or otherwise sanction a justice or judge for illegal or improper conduct.

Section 8: Limitations on Activities.

A justice or judge may not hold another compensated government position, engage in the practice of law, make a direct or indirect financial contribution to a political organization or candidate, hold an executive office in a political organization, or participate in a political campaign. A justice or judge who becomes a candidate for elected public office must declare candidacy at least six months before the election and must resign judicial office upon such declaration.

Section 9: Administration.

The chief justice shall be the administrative head of the judicial branch.

a) The chief justice shall make an annual report to the people in person through a joint session of the legislature.

b) The chief justice shall submit an annual budget for the judicial branch to the legislature.

c) The supreme court has administrative and policy authority with respect to the judiciary, and shall promulgate rules of the courts with respect to appellate procedure, civil and criminal procedure, assignment of judges to Rota and Tinian for effective judicial service for the people of those islands, attorney admission and discipline, governance of the bar, court fees, judicial and professional ethics, duties and responsibilities of the presiding judge and court officials, establishment of special sections or divisions for particular subject matters, and all other matters pertaining to administration of the judicial branch.

d) The chief justice may designate, as the need arises, an active or retired full-time justice or judge from the Commonwealth or an active or retired full-time justice or judge from any

United States federal, state, commonwealth, freely associated state, or territorial court to hear particular cases in either the supreme court or superior court.

Section 10: Succession.

When a vacancy occurs in the office of chief justice, the associate justice most senior in commission shall become acting chief justice. When a vacancy occurs in the office of presiding judge, the associate judge most senior in commission shall become acting presiding judge. If a successor is not appointed by the governor and confirmed by the senate within 90 days of the vacancy, the acting chief justice or the acting presiding judge shall succeed to the office.

Section 11: Advisory opinions.

An official in the Commonwealth who is elected or appointed by the governor and who has a dispute with another elected or appointed official about the exercise of powers or responsibilities under this Constitution or any statute shall apply to the supreme court for an advisory opinion before seeking any other remedy at law or in equity. The supreme court shall issue an advisory opinion in response to an authorized application which shall resolve the dispute submitted, in part or whole. An advisory opinion issued under this section is a final and binding decision when issued.

ARTICLE V: REPRESENTATION IN THE UNITED STATES

Section 1: Permanent Representation in the United States Congress.

Representation of the Commonwealth in the United States Congress is of fundamental importance to the people of the Commonwealth. When the Congress provides that the Commonwealth shall have a member or delegate, that office shall be established with the term of office and other conditions provided by Congress, and an election shall be held promptly to fill that office. The member or delegate shall be a citizen of the United States qualified to vote in the Commonwealth who is at least twenty-five years of age, and shall meet any other qualifications required by Congress. The member or delegate shall make an annual report to the people in person through a joint session of the legislature. Vacancies shall be filled in the manner required by Congress, or by appointment by the governor with the advice and consent of the senate. The member or delegate shall receive an annual salary and allowance for expenses as provided by Congress or by law.

Section 2: Resident Representative to the United States.

Prior to the time Congress provides that the Commonwealth shall have a member or delegate, a resident representative to the United States shall be elected to represent the people of the Commonwealth in the United States. The resident representative shall be a citizen of the United States qualified to vote in the Commonwealth who is at least twenty-five years of age. The resident representative shall serve a term of four years. The governor shall provide a certificate of selection to the United States Department of State. The resident representative shall make an annual report to the people in person through a joint session of the legislature. Vacancies shall be filled by appointment by the governor with the advice and consent of the senate. The resident representative shall receive an annual salary and allowance for expenses as provided by law.

ARTICLE VI: LOCAL GOVERNMENT

[To be inserted.]

ARTICLE VII: ELIGIBILITY TO VOTE AND HOLD OFFICE

Section 1: Qualifications of Voters.

A person is eligible to vote who, on the date of election, is eighteen years of age or older, is domiciled in the Commonwealth, is a resident of the Commonwealth and has resided in the Commonwealth for a period of time provided by law, is not serving a sentence for a felony, has not been found by a court to be of unsound mind, and is either a citizen or national of the United States. The legislature may require that persons eligible to vote to be citizens of the United States.

Section 2: Prohibition of Literacy Requirement.

A person may not be denied the right to vote because that person is unable to read or write.

Section 3: Felony Conviction.

Any person who has been convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States, which conviction has become final, shall be disqualified from seeking or holding any elective office or any appointed office that requires legislative confirmation under this Constitution.

ARTICLE VIII: ELECTIONS

Section 1: Regular General Election.

The regular general election of the Commonwealth shall be held on the first Saturday in November.

Section 2: Other Elections.

Other elections may be held as provided by law.

Section 3: Taking Office After Elections.

Officers elected at the regular general election shall take office on the second Monday of January of the year following the year in which the election was held.

Section 4: Resignation from Public Office.

An elected public official shall resign from office upon certification to be a candidate for another public office, if the term of the office sought begins before the end of the term of the office held.

ARTICLE IX: INITIATIVE, REFERENDUM AND RECALL

Section 1: Initiative.

The people may enact laws by initiative.

a) An initiative petition shall contain the full text of the proposed law. If the petition proposes a general law for the Commonwealth, the petition shall be signed by at least twenty percent of the persons qualified to vote in the Commonwealth. If the petition proposes a local law that affects only one senatorial district, the petition shall be signed by at least twenty percent of the persons from the senatorial district who are qualified to vote.

b) An initiative petition shall be filed with the attorney general for certification that the requirements of section 1, subsection (a) have been met.

c) An initiative petition certified by the attorney general shall be submitted to the voters at the next regular general election that is held at least ninety days from the date the petition has been certified.

d) An initiative petition that proposes a general law for the Commonwealth shall become law if approved by two-thirds of the votes cast by persons qualified to vote in the Commonwealth. An initiative petition that proposes a local law shall become law if approved by two-thirds of the persons from the senatorial district who are qualified to vote. An initiative petition that has been approved by the voters shall take effect thirty days after the date of the election unless the petition provides otherwise.

Section 2: Referendum.

The people may reject laws by referendum.

a) A referendum petition shall contain the full text of the law sought to be rejected. If the law is a general law for the Commonwealth, the petition shall be signed by at least twenty percent of the persons qualified to vote in the Commonwealth. If the law is a local law that affects only one senatorial district, the petition shall be signed by at least twenty percent of the persons from the senatorial district who are qualified to vote.

b) A referendum petition shall be filed with the attorney general for certification that the requirements of section 2, subsection (a) have been met.

c) A referendum petition certified by the attorney general shall be submitted to the voters at the next regular general election that is held at least thirty days from the date the petition has been certified.

d) A referendum petition concerning a general law for the Commonwealth shall take effect if approved by a majority of the votes cast by persons qualified to vote in the Commonwealth. A referendum petition concerning a local law shall take effect if approved by a majority of the votes cast by persons from the senatorial district who are qualified to vote. A law that is the subject of an approved petition shall become void and be repealed thirty days after the date of the election unless the petition provides otherwise.

Section 3: Recall.

Elected public officials are subject to recall by the voters of the Commonwealth or of the island, islands or district from which elected.

a) A recall petition shall identify the public official sought to be recalled by name and office, state the grounds for recall, and be signed by at least forty percent of the persons qualified to vote for the office occupied by the public official.

b) A recall petition shall be filed with the attorney general for certification that the requirements of section 3, subsection (a) have been met.

c) A recall petition certified by the attorney general shall be submitted to the voters at the next regular general election unless special elections are provided by law for this purpose.

d) A recall petition shall take effect thirty days after the date of the election if approved by two-thirds of the persons qualified to vote for the office involved.

e) A recall petition may not be filed against a public official more than once in any year or during the first six months of a term in office.

ARTICLE X: TAXATION AND PUBLIC FINANCE

[To be inserted.]

ARTICLE XI: PUBLIC LAND

Section 1: Public Lands.

The lands as to which right, title or interest have been or hereafter are transferred from the Trust Territory of the Pacific Islands to any legal entity in the Commonwealth under Secretarial Order 2969 promulgated by the United States Secretary of the Interior on December 26, 1974, the lands as to which right, title or interest have been vested in the Resident Commissioner under Secretarial Order 2989 promulgated by the United States Secretary of the Interior on March 24, 1976, the lands as to which right, title or interest have been or hereafter are transferred to or by the government of the Northern Mariana Islands under article VIII of the Covenant, and the submerged lands off the coast of the Commonwealth to which the Commonwealth now or hereafter may have a claim of ownership are public lands and belong collectively to the people of the Commonwealth who are of Northern Marianas descent.

Section 2: Submerged Lands.

The management and disposition of submerged lands off the coast of the Commonwealth shall be as provided by law.

Section 3: Permanent Preserves

There are hereby established permanent preserves which shall be maintained as uninhabited areas to be used for cultural and recreational purposes, to preserve wildlife and medicinal and other plant life, to conserve water resources, and to provide community farm lands. No permanent structure may be built in the preserves. No land designated as a preserve may be sold, leased, or dedicated to any private use in any way.

- a) [description of land on Saipan]
- b) [description of land on Tinian]
- c) [description of land on Rota]

[Note: The lands to be put in the preserves are being defined by a subcommittee.]

Section 4: Other Public Lands.

The management and disposition of public lands other than those provided for by section 2 shall be the responsibility of the Marianas Land Bureau.

Section 5: Marianas Land Bureau.

There is hereby established the Marianas Land Bureau.

a) The bureau shall have five directors appointed by the governor with the advice and consent of the senate. The directors shall be held to strict standards of fiduciary care and shall direct the affairs of the bureau for the benefit of the people of the Commonwealth who are of Northern Marianas descent. The directors shall serve staggered terms of five years and shall serve not more than two terms.

b) At least one director shall be a resident of each senatorial district, at least one shall be a woman and at least one shall be a representative of the Carolinian community. Each director shall be a citizen of the United States, a resident of the Commonwealth for five years immediately prior to appointment, and shall not hold any other government position.

c) The bureau shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the five directors.

d) The chair shall make an annual report in person to the people at a joint session of the legislature describing the management of the public lands and the nature and effect of transfers of interests in public land made during the preceding year and disclosing the interests of the directors in land in the Commonwealth.

Section 6: Fundamental Policies.

The bureau shall follow certain fundamental policies in the performance of its responsibilities.

a) The bureau shall use some portion of the public lands for a homestead and homestead housing program. A person is not eligible for more than one homestead or homestead housing grant. A person may not receive a freehold interest under this subsection for three years after a grant and may not sell or lease a freehold interest in a grant for twenty five years after receipt. At any time after receiving the freehold interest, the grantee may mortgage the grant provided that all funds received from the mortgage be devoted to the improvement of the grant. Other requirements relating to the program under this subsection shall be provided by rules and regulations issued by the bureau.

b) The bureau may transfer a freehold interest in public lands for use for a public purpose by another agency of government after reasonable notice and public hearing.

c) The bureau may transfer a leasehold interest in public lands for commercial or other purposes after reasonable notice, a solicitation for competing bids, and public hearing. A leasehold interest shall not exceed forty years including renewal rights and shall expire within three years if the commercial purpose is not accomplished. Leasehold interests of more than twenty five years, or more than five hectares, shall be submitted to the legislature. The legislature

acting in a joint session may approve or reject, but may not alter, the lease presented by the bureau. If the legislature fails to act within sixty session days , the lease is deemed approved.

d) The bureau shall operate in accordance with a comprehensive land use plan with respect to public lands including priority of uses and shall adopt or amend the plan only after reasonable notice and public hearing.

e) The bureau shall receive all moneys from the public lands and shall transfer these moneys promptly to the Marianas Public Land Trust except that the bureau may retain the amount necessary to meet reasonable expenses of administration, costs of programs under section 5, subsection (a) and maintenance of the permanent preserves in accordance with a budget approved by the legislature and the governor.

Section 7: Land Titles

The bureau is vested with jurisdiction to investigate, survey, consider, adjudicate, and resolve land titles.

Section 8: Marianas Public Land Trust.

There is hereby established the Marianas Public Land Trust.

a) The trust shall have five trustees appointed by the governor with the advice and consent of the senate, who shall be held to strict standards of fiduciary care. At least one trustee shall be a resident of each senatorial district, at least one trustee shall be a woman and at least one trustee shall be a representative of the Carolinian community. The trustees shall serve staggered terms of five years, and shall serve not more than two terms.

b) The trustees shall make reasonable, careful and prudent investments. At least forty percent of investments shall be in obligations purchased in the United States with a high rating for quality and security. Investments in equities shall be purchased in companies listed on the United States stock exchange with the highest requirements for listing.

c) The trustees may fund or guarantee the maintenance of the permanent preserves under section 3 and mortgages and loans permitted under section 6(a) to an amount not to exceed forty percent of interest earnings each year.

d) The trustees shall make an annual written report to the people accounting for the revenues received and expenses incurred by the trust and describing the investments and other transactions authorized by the trustees.

ARTICLE XII: RESTRICTIONS ON ALIENATION OF LAND

[To be inserted.]

ARTICLE XIII: EMINENT DOMAIN

Section 1: Eminent Domain Power.

The Commonwealth may exercise the power of eminent domain as provided by law to acquire private property necessary for the accomplishment of a public purpose.

Section 2: Limitations.

Private property may not be taken without just compensation. Private land may be taken only if no suitable public land is available for the accomplishment of the public purpose.

ARTICLE XIV: NATURAL RESOURCES

Section 1: Marine Resources.

The marine resources in waters off the coast of the Commonwealth over which the Commonwealth now or hereafter may have any jurisdiction shall be managed, controlled, protected and preserved by the legislature for the benefit of the people.

Section 2: Uninhabited Islands.

The islands of Maug, Uracas, Asuncion, Guguan, Angyuta and other islands specified by law shall be maintained as uninhabited places and used only for the preservation and protection of natural resources, including but not limited to bird, wildlife and plant species.

Section 3: Places and Things of Cultural and Historical Significance.

Places of importance to the culture, traditions and history of the people of the Northern Mariana Islands shall be protected and preserved and public access to these places shall be maintained as provided by law. Artifacts and other things of cultural or historical significance shall be protected, preserved and maintained in the Commonwealth as provided by law.

Section 4: Natural Resources.

The mineral, water, and other natural resources located on public lands shall be managed, controlled, protected and preserved by the legislature for the benefit of the people.

[ARTICLE XV]

Note: Moved to article III, section 13. This article will be renumbered.

ARTICLE XVI: CORPORATIONS

Section 1: Corporations.

No private business corporation shall be organized and no existing corporate charter shall be extended or amended except by general laws.

[ARTICLE XVII]

Note: This article has been combined with Article XXII. After completion of actions on first reading, this Article will be re-numbered.

ARTICLE XVIII: CONSTITUTIONAL AMENDMENT

[To be inserted.]

ARTICLE XIX: CODE OF ETHICS

[To be inserted.]

[ARTICLE XX]

Note: moved to article III, section 16. This article will be renumbered.

ARTICLE XXI: GAMBLING

Section 1: Prohibition

Gambling is prohibited in the Northern Mariana Islands except in any senatorial district when approved in a popular initiative by the affirmative vote of two-thirds of the persons qualified to vote in that district. This article does not prohibit gambling activities in the Commonwealth to the extent authorized by law on June 5, 1995.

ARTICLE XXII: COMMONWEALTH UNITY

Section 1: Oath of Office.

All members of the legislature and officers and employees of the Commonwealth and its political subdivisions taking office shall take and subscribe to the following oath or affirmation:

I do solemnly affirm (or swear) that I will support and defend the Constitution and laws of the Commonwealth of the Northern Mariana Islands, the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the applicable provisions of the Constitution, laws and treaties of the United States of America, and that I will faithfully discharge my duties to the best of my ability (so help me God).

Section 2: Official Seal

The official seal of the Commonwealth shall consist of a circular field of blue having in its center a white star superimposed on a gray latte stone, surrounded by the traditional Carolinian mwaar consisting of the following flowers: langilang, flores maya, angagha, and teibwo, on the outer border, and the words encircling the mwaar, "Commonwealth of the Northern Mariana Islands" and "Official Seal."

Section 3: Official Flag.

The official flag of the Commonwealth shall consist, on both sides of a rectangular field of blue, a white star in the center, superimposed on a gray latte stone, surrounded by the traditional Carolinian mwaar. The dimension of the flag, the mwaar, the star and latte stone shall be provided by law.

Section 4: Official Languages.

The official languages of the Commonwealth shall be Chamorro, Carolinian and English, as deemed appropriate and as enforced by the legislature. The legislature may provide that

government proceedings and documents shall be in at least one of the three languages. This section shall not subject to judicial review.

Section 5: Capital.

Saipan shall be the capital of the Commonwealth.

SCHEDULE ON TRANSITIONAL MATERIALS

[To be inserted.]