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FAX TRANSMISSION COVER SHEET

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TO: Herman T. Guerrero, Chair  
Post Convention Committee  
Third Northern Mariana Islands Constitutional Convention

FROM: Deanne Siemer

MESSAGE:

Herman:

Here's the daily press release.

In accordance with the decision at the Post-Convention Committee meeting, we are concentrating on the lesser-known articles that may be less controversial until there is a decision about when the amendments go on the ballot.

Let us know if there is any particular topic that you would like to have covered.

Deanne

August 16, 1995

## POST-CONVENTION SUMMARY

### Article 17: Ethical Standards

The delegates to the Constitutional Convention put teeth in the ethical standards required of public officials in all three branches of the Commonwealth government and all local governments. Article 17, as amended by the Convention, mandates that the executive branch, the legislative branch, and the judicial branch of the Commonwealth government, and all three local governments provide appropriate regulations to ensure that the constitutionally required ethical standards are met.

Taxpayer lawsuits under Article 10 are available for enforcement of these constitutional standards if government agencies do not issue proper standards and regulations for their employees, and if public funds are expended by government employees in violation of these basic constitutional standards. An advisory commission on the judiciary, established under Article 4, may recommend that the governor remove, suspend, or otherwise sanction a judge for violation of these requirements.

"It is very difficult for a constitution to provide detailed rules for all kinds of government positions," explained Felix R. Nogis, Chair of the Committee on Executive Branch and Local Government, which pushed the new provisions through the Convention. "For that reason, we adopted an innovative approach of setting basic constitutional standards and then requiring each branch to put together the necessary laws or regulations to make sure that government employees, both high and low, comply with the constitutional standards."

The three constitutional standards cover all important aspects of government service. Under Article 17, government employees must respect the rights of all persons, must avoid the appearance of impropriety, and must not use their government position for private gain or advantage.

The constitutional requirements reach all government officers and employees, including the legislature and all its employees, the mayors and all their employees, and every office or agency of government including all autonomous agencies. "The delegates were particularly concerned about reaching local government officials and autonomous agencies," said Nogis, "to ensure that all government funds are protected from improper uses and to require high standards that could be enforced."

The constitutional requirement that government employees "respect the rights of all persons" means that each government employee has a personal responsibility, from the time they take the oath of office, to ensure that nothing done as an official act has the effect of unlawful discrimination or limiting established personal rights. "This is an essential of government service," said Nogis. "Each government agency must assure through its regulations that its employees know the rights that persons in the Commonwealth have, and respect those rights in their government work."

The constitutional requirement that government employees "avoid the appearance of impropriety" means that activities calling into question the integrity of the government must be avoided even if the particular activity is not specifically illegal. "The courts have had rules about appearances of impropriety," said Post-Convention Committee President Herman T. Guerrero, "and the delegates thought it was important to extend this concept to the other branches of government. It is essential to good government that our people not think the government is corrupt. Appearances of impropriety can lead to that harmful impression." Each branch of government will have to define the appearance of impropriety concept within its own context and be sure that this constitutional standard is met.

The constitutional requirement that government employees not use their government positions for private gain or advantage is a basic concept that has been in the Constitution since the 1976 first Convention. The amendments extend these constitutional mandates to local government officials and employees, the Washington Representative, and every other autonomous agency.

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## NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

H. B. NO. 9-408, S.D.2, H.S.1

FIRST SPECIAL SESSION, 1995

## A BILL FOR AN ACT

To provide for a special election to consider proposed amendments to the Constitution which may be submitted by the Third Northern Mariana Islands Constitutional Convention.

## BE IT ENACTED BY THE NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1           Section 1. Title. This Act shall be known as the Special Constitutional  
2 Amendment Election Act of 1995.

3           Section 2. Findings. The Legislature finds that the Pre-Convention  
4 Committee of the Third Constitutional Convention has requested that the  
5 Legislature provide for a special election to consider constitutional  
6 amendments, instead of putting the amendments on the ballot of the general  
7 election of November 1995.

8           There are two compelling reasons for holding a special election. First, it  
9 appears that the Convention will not complete its work until August of 1995.  
10 This would allow only three months for public education, discussion and  
11 debate. These important issues should be given more time.

12           Second, if the amendments are placed on the general election ballot, it is  
13 likely that the Constitutional issues will become part of the general election  
14 campaign, and will be mixed with partisan politics.

15           For this reasons, the Legislature finds that the amendments should be  
16 considered separately, in a special election to be held at least six months after  
17 the end of the Convention.

18           Section 3. Special Election.

19           a) Authority. Pursuant to Article XVIII, Section 5(a) of the  
20 Constitution of the Commonwealth of the Northern Mariana Islands, the  
21 Commonwealth Legislature hereby provides for a special election to  
22 consider those amendments to the Constitution which may be proposed  
23 by the Third Northern Marianas Islands Constitutional Convention.

## HOUSE BILL NO. 9-408, S.D.2, H.S.1

1           b) Date of election. The special election shall be held on the first  
2           Saturday following the date that is six months after the end of the 1995  
3           General Election.

4           c) Scope of election. The election shall only consider those  
5           Constitutional amendments proposed by the Third Constitutional  
6           Convention.

7           Section 4. Severability. If any provision of this Act or the application  
8           of any such provision to any person or circumstance should be held invalid by  
9           a court of competent jurisdiction, the remainder of this Act or the application  
10          of its provisions to persons or circumstances other than those to which it is  
11          held invalid shall not be affected thereby.

12          Section 5. Savings Clause. This Act and any repealer contained herein  
13          shall not be construed as affecting any existing right acquired under contract  
14          or acquired under statutes repealed or under any rule, regulation or order  
15          adopted under the statutes. Repealers contained in this Act shall not affect any  
16          proceeding instituted under or pursuant to prior law. The enactment of this  
17          Act shall not have the effect of terminating, or in any way modifying, any  
18          liability civil or criminal, which shall already be in existence at the date this  
19          Act becomes effective.

20          Section 6. Effective Date. This Act shall take effect upon its approval by  
21          the Governor or upon its becoming law without such approval.

DATE: Prefiled 05/05/95  
      Introduced 05/08/95

Introduced by: /s/ \_\_\_\_\_  
                  Rep. Jesus T. Attao

/s/ \_\_\_\_\_  
                  Rep. Heinz S. Hofschneider

/s/ \_\_\_\_\_  
                  Rep. Oscar M. Babauta

Reviewed for legal sufficiency: /s/ Maya B. Kara

NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE  
FOURTH REGULAR SESSION, 1995

H. J. R. NO. 9-25  
*adopted 8/9/95*

A HOUSE JOINT RESOLUTION

To recall House Legislative Initiative 9-1 from the Board of Elections and for other purposes.

1           WHEREAS, House Legislative Initiative 9-1 was passed by the House of  
2 Representatives on March 10, 1994 and by the Senate on June 7, 1994 and was  
3 duly thereafter transmitted to the Board of Elections to be placed on the ballot  
4 at the next regular general election which shall be held on November 4, 1995;  
5 and

6           WHEREAS, House Legislative Initiative 9-1 proposes substantive changes  
7 to Article II of the Commonwealth Constitution, specifically with regard to the  
8 budgets of the Legislature and Legislative Bureau; and

9           WHEREAS, Ninth Northern Mariana Islands Commonwealth Legislature  
10 passed and on January 6, 1995 the Governor signed into law Public Law 9-18  
11 entitled the "Northern Marianas Third Constitutional Convention Enabling  
12 Act" which authorized the convening of the Third Northern Marianas  
13 Constitutional Convention on June 5, 1995; and

14           WHEREAS, section 12 of Public Law 9-18 specifically vested the  
15 Constitutional Convention with the duty to "propose such amendments to the  
16 Constitution . . . as it believes to be in the best interests of the people of the  
17 Commonwealth;" and

18           WHEREAS, consistent with that mandate, the Third Constitutional  
19 Convention proposed far reaching amendments to Article II with respect to  
20 the structure of the Legislative Branch including substantive amendments to  
21 the budgets of the Legislature and the Legislative Bureau; and

22           WHEREAS, these amendments proposed by the Third Constitutional  
23 Convention and the amendments proposed by Legislative Initiative 9-1  
24 embrace the same subject matter, the legislative budget, but propose very  
25 different approaches and limits to legislative spending; and

HOUSE JOINT RESOLUTION NO. **9-25**

1 WHEREAS, the Legislature was accorded the opportunity to provide  
2 commentary and testimony with regard to the amendments proposed by the  
3 Convention and the Committee on Legislative Branch and Public Finance has  
4 duly considered the Legislature's views and incorporated the Legislature's  
5 concerns into its decision making process; and

6 WHEREAS, Public Law 9-18, section 19(a) provides that the amendments  
7 to the Constitution proposed by the Convention shall be submitted to the voters  
8 for ratification at the November 1995 regular general election; and

9 WHEREAS, this timetable for ratification may be extended for six months  
10 to May 1996 if House Bill 9-408 becomes law; and

11 WHEREAS, regardless of when the amendments proposed by the  
12 Convention are submitted to the voters, there is the possibility that  
13 inconsistent proposals to Article II of the Constitution may be approved; and

14 WHEREAS, it is foreseeable that such an event would lead to  
15 administrative and fiscal confusion and generally undermine the stability and  
16 credibility of the political process; and

17 WHEREAS, it is essential that the elected representatives of the people of  
18 the Commonwealth, the members of the Legislature and the Convention  
19 delegates, speak with one voice; and

20 WHEREAS, it is within the power of the Legislature to recall their action  
21 from the Board of Elections so that the voters of the Commonwealth may make  
22 an unambiguous decision regarding the Legislature's budget by approving or  
23 disapproving the Convention's proposal; now, therefore

24 BE IT RESOLVED, by the House of Representatives of the Ninth Northern  
25 Mariana Islands Commonwealth Legislature, Senate concurring, that  
26 Legislative Initiative 9-1 is hereby recalled from the Board of Elections so that  
27 the voters of the Commonwealth may exercise an unambiguous choice  
28 regarding legislative matters, to enhance political stability, and to avoid  
29 inconsistent political and administrative results should both the Convention's  
30 proposal and the legislative initiative be approved by the voters; and

31 BE IT FURTHER RESOLVED that the Speaker of the House of  
32 Representatives and the President of the Senate shall certify and the House  
33 Clerk and the Senate Legislative Secretary shall attest to the adoption of this  
34 joint resolution and thereafter transmit certified copies to the Honorable

HOUSE JOINT RESOLUTION NO. 9-25

- 1 Froilan C. Tenorio, Governor of the Commonwealth of the Northern Mariana
- 2 Islands; to the Attorney General; and to the Chairman of the Board and the
- 3 Executive Director of the Board of Elections.

Date: 8-9-95

INT R D 0 9 AUG 1995

*[Handwritten initials]*

Introduced By: *[Signature]*  
 Rep. Heinz S. Hofscheider





The House of Representatives  
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE  
P.O. Box 586  
Saipan, MP 96950

18<sup>th</sup> DAY, 4<sup>th</sup> NINTH LEGISLATURE  
REGULAR/SPECIAL SESSION, 1995

VOTING RECORD

ON:

reconciler  
JSR 9-25 } defeated

REPRESENTATIVES	YES	NO	OTHER
1. Rep. Joaquin G. Adriano	1		
2. Rep. Jesus T. Attao	5		
3. Rep. Vicente T. Attao		1	
4. Rep. Oscar M. Babauta			<u>yes</u>
5. Rep. Ramon C. Dela Cruz		2	
6. Rep. Crispin Deleon Guerrero		3	
7. Rep. Vianney B. Hocog			<u>absent</u>
8. Rep. Heinz S. Hofschneider		4	
9. Rep. Mametto U. Maratita			<u>yes</u>
10. Rep. Herman T. Palacios	2		
11. Rep. Maria T. (Malua) Peter	6		
12. Rep. Pedro P. Reyes		5	
13. Rep. Benjamin A. Sablan		6	
14. Rep. Alvaro A. Santos	3		
15. Rep. Manuel A. Tenorio		7	
16. Rep. Ana S. Teregeyo			<u>yes</u>
17. Rep. Stanley T. Torres	4		
18. (Rep.) Speaker Diego T. Benavente		8	
TOTAL	76	8	

DATE: 8-9-95

ATTESTED BY: House Clerk