

Proposal No.: CC-PR-4-34

Assigned to: Committee on Public Finance & Revenue

## PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, Section 6 of the Constitution of the Federated States to provide for revenue sharing of revenue derived from fishing or the capturing of living marine resources, corporate tax, and the national governments captive insurance provisions between the national government and the state governments.

**Section 6.** Net revenue derived from ocean floor mineral resources exploited under Section 2(m) shall be divided equally between the national government and the appropriate state government. Net revenue derived from fishing fees, fishing or capturing of living marine resources shall be divided equally between the national government and the states, with each state's share being divided based on population as of the last census. Net revenue derived from any other program or tax which is not earned in any individual state, such as the national government major corporations tax provisions or the national government captive insurance provisions, and which are deemed not subject to section 5, shall be divided equally between the national government and the states, with each state's share being divided based on population as of the last census.

### PURPOSE AND INTENT OF AMENDMENT:

The purpose of this amendment is to require revenue sharing with the States of the two primary income sources for the nation at this time.

Article IX, sections 5 and 6, appeared to only address the anticipated income to the national government at that point in time when the Constitution was adopted. At that time, development was anticipated in the individual states, and gross revenue taxes would be based on revenue generated by a fixed asset in a fixed location. However, the actual progress of the nation has developed in a different manner.

The following is the current provision on sharing of taxes.

**Article I, Section 5** National taxes shall be imposed uniformly. Not less than 50% of the revenues shall be paid into the treasury of the state where collected.

The amendment is added to section 6 concerning other net revenue, rather than amending section 5 which will remain the same. The reasoning for this change is that fishing fees or licenses to fish in the FSM may or may not be a national tax. By amending section 6 this issue need not be addressed. This provision then applies to a distribution of the fishing fees between the national government and the states. Further the payment of fishing fees provides the fishing vessel the right to fish in the entire FSM EEZ and not in a particular EEZ adjacent to a particular state. For example if a vessel purchased 100 fishing days, it is not necessary to determine if

the vessel fished for 30 days in the EEZ adjacent to Kosrae, 20 days in the EEZ adjacent to Yap and 50 days in the EEZ adjacent to Chuuk. Instead this provision simply divides the fees on a pro rata population basis no matter where in the FSM the fishing took place. This will make the provision easier to administer and be a fairer and more equitable distribution.

The other area of major revenue generation is the Major Corporations tax, 54 FSMC 311 et. seq., and the taxes on captive insurance corporations. The taxes generated are not part of any business enterprises specifically in any one state in the FSM, but it is a tax program set up solely through the national government for Japanese corporations. Since there is no business enterprise in a state, Article 1, section 5 is not applicable. As a result, there should be a sharing between all of the states of this tax revenue and a pro rata basis appears to be the most equitable. This program has been well established and generates substantial tax revenue for the nation. At the current time there is no mechanism to distribute a fair share to the individual states, and this amendment specifically addresses that issue.

Introducer:

  
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Date:

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