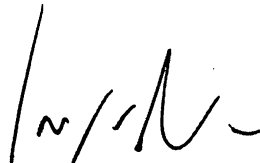


only references “mineral” resources, which could be interpreted to mean only solid resources. Additionally, the National Seabed Resources Act of 2014—the primary statutory mechanism in the Federated States of Micronesia for regulating the exploitation of mineral resources in the seabed and subsoil of the waters of the Federated States of Micronesia beyond 12 miles from island baselines—explicitly excludes petroleum from its regulation of “mineral” resources, which is likely due to the understanding of the national government of the Federated States of Micronesia that the reference to “minerals” in Section 2(m) excludes petroleum.

It is also the intent of this proposal that a state government qualifies as an “appropriate” state government under this proposal if:

- the exploitation of the relevant resource takes place in the seabed and subsoil of the marine space that both falls within the official boundaries of the state and is beyond 12 miles from the island baselines of that state; or
- the exploitation of the relevant resource takes place in the seabed and subsoil of the continental shelf of the Federated States of Micronesia beyond 200 miles from the island baselines of that state, as long as the state government can demonstrate the geomorphological, geophysical, and geological continuity between the land territory of that state and the continental shelf area beyond 200 miles from the island baselines of that state, in accordance with the international treaty obligations of the Federated States of Micronesia, including the provisions in the 1982 United Nations Convention on the Law of the Sea (“UNCLOS”) on what is informally called an “extended continental shelf.”

With regard to multiple “appropriate” state governments, it is possible for the land territories of two or more states of the Federated States of Micronesia to generate the same continental shelf that extends beyond 200 miles from their island baselines, in accordance with UNCLOS and other international treaty obligations of the Federated States of Micronesia. If the exploitation of resources under this proposal takes place in that “extended continental shelf,” and if multiple state governments demonstrate geomorphological, geophysical, and geological continuity between the land territories of their states and that “extended continental shelf” in accordance with UNCLOS and other international treaty obligations of the Federated States of Micronesia, then those state governments qualify as “appropriate” under this proposal.

Introducer: 
 Victor Nabeyan
 By request of the Delegation

Date: 1/10/20

Proposal No.: CC-PR-4-10

Assigned to: Committee on Public Finance & Revenue

PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, section 6 of the Constitution of the Federated States of Micronesia for the purpose of altering the distribution of net revenue derived from seabed and subsoil mineral and other non-living resources exploited from the jurisdiction of the Federated States of Micronesia beyond 12 miles from island baselines.

Section 6. Net revenue derived from ~~ocean floor~~ seabed and subsoil mineral and other non-living resources exploited from the jurisdiction of the Federated States of Micronesia beyond 12 miles from island baselines under Section 2(m) shall be divided equally between the national government and the appropriate state government or state governments. Where only one state government is entitled to such net revenue, the state government shall be entitled to no less than sixty percent (60%) of the revenue. Where two or more state governments are entitled to such net revenue, such state governments shall be entitled to no less than sixty percent (60%) of the revenue, divided equally among them. Congress shall give effect to this provision by statute in a manner consistent with the international treaty obligations of the Federated States of Micronesia.

PURPOSE AND INTENT OF AMENDMENT:

This proposal is intended to adjust the division of net revenue from the exploitation of mineral and other non-living resources within the jurisdiction of the Federated States of Micronesia that takes place beyond 12 miles from island baselines, including the exploitation of seabed and subsoil mineral resources conducted under Section 2(m) of Article IX of the Constitution of the Federated States of Micronesia. When there is only one appropriate state government of the Federated States of Micronesia, such state government shall receive no less than sixty percent of the revenue, which means that the national government shall receive no more than forty percent of the revenue. The national government can decide to receive less than forty percent of the revenue, which means that such state government will receive more than sixty percent of the revenue. When there are multiple appropriate state governments, the national government shall receive no more than forty percent of the net revenue, and such state governments shall divide the remaining revenue equally among them. For example, if there are three appropriate state governments, and if the national government decides that the national government will receive only ten percent of the net revenue, then each such state government shall receive thirty percent of the revenue.

The proposal is also intended to replace "ocean floor" with "seabed and subsoil," as the latter accurately reflects language in, among other things, section 1 of Article I of the Constitution of the Federated States of Micronesia as well as in the 1982 United Nations Convention on the Law of the Sea (which contains international treaty obligations that the same section 1 of Article I cites as limiting the jurisdiction of the Federated States of Micronesia).

Additionally, the proposal references "non-living resources" in order to also include petroleum resources and other non-living resources that would not be considered "mineral" resources. Currently, Section 2(m) of Article IX of the Constitution of the Federated States of Micronesia