

STANDING COMMITTEE REPORT NO. CC-SCR-04-10

DATE: March 12, 2020

Re: CC-PR-4-36

The Honorable Redley Killion
President
Fourth Constitutional Convention of the
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear Mr. President:

Your Committee on Public Finance and Revenue, to which was referred Delegate Proposal No. CC-PR-4-36, entitled:

“TO AMEND ARTICLE IX SECTION 2(m) OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA TO PROVIDE THAT NET REVENUE DERIVED FROM FISHING ARE SHARED 60% TO THE NATIONAL GOVERNMENT AND 40% TO THE STATES.”

begs leave to report as follows:

Article IX, Section 2(m) currently provides:

“**Section 2.** The following power of the national government is vested in Congress of the Federated States of Micronesia . . .

(m) to regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles from island baselines;”

Your Committee on Public Finance and Revenue, to which was referred Delegate Proposal Nos. CC-PR-04-09, CC-PR-04-20, CC-PR-04-24, CC-PR-04-25, CC-PR-04-34, CC-PR-04-36, and CC-PR-04-53. The Committee decided to work on CC-PR-04-36, and where necessary refer to the other proposals mentioned herein.

Your Committee discussed the possibilities of collapsing all or most of the proposals into one proposal because they deal with the same subject matter, revenue sharing between the State Governments and the National Government. The Chairperson of your Committee called on members for feedback and comments on all of the above proposals.

Your Committee first discussed whether there should be a revenue sharing agreement between the State Governments and National Government. Your Committee agreed that indeed there should

be revenue sharing as provided in the proposal. The second issue your Committee discussed was the types of revenue to share among the State Governments and the National Government. Most Committee members took the position that all revenues have to be shared. However, in the final analysis your Committee agreed that only the fishing access fee should be shared.

Your Committee then addressed the methodology as to how the revenue should be allocated to the various Governments. The first suggestion was in the form proposed in CC-PR-04-36. Your Committee focused on the formula that would require a certain amount of the revenue to be deposited into the States' Trust Fund and the remaining balance to be deposited in the States' Treasury. Your Committee discussed the issue of the States' authority to control the Trust Fund money in its subaccount while the Trust Fund remains under the control of the National Government.

An amendment to CC-PR- 04-36 was made to insert the following new language to Section 2(m): "provided, however, that not less than 40 percent of all revenue collected from all forms of fishing fees are share with the State Governments.

With the amendment to CC-PR-04-36 proposal, the amended proposal reads: "The following power of the national government is vested in Congress of the Federated States of Micronesia . . . (m) to regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles from island baseline provided, however, that not less than 40 percent of all revenue collected from all forms of fishing fees are share with the State Governments."

The intent and purpose of the proposal relates to the revenue derived from within the exclusive maritime zone of the national government jurisdiction to be shared between the two levels of governments—national and the states. The formula should be 40 percent to the States and the remaining 60 percent to the National Government.

Your Committee held a public hearing on February 10, 2020 in the Congress Central Facility regarding whether there should be revenue sharing with respect to unobligated domestic revenue between the State Governments and the National Government. The Committee agreed t that there should be revenue sharing between the states and the national governments so as to improve the quality of economic and social infrastructure in the states. However, the fact remains that revenue sharing, as suggested by the proposal, should be exclusively in connection to fishing access fee only, not other domestic revenue.

Your Committee acknowledged NORMA's Executive Director testimony in previous public hearing where he provided a conservative figure of sixty-three (\$63) million which can be shared between the respective governments. That figure was supported by the Secretary of Finance in a subsequent testimony. The Secretary indicated that the said figure would be an acceptable figure for the Committee to use in its deliberation on the issue of revenue sharing.

The Secretary of Finance emphasized the need to set aside funds for the purpose of maximizing the principle value of the FSM Trust Fund for a long-term financial stability and financial independence. The goal is to reduce the FSM's dependency and reliance on future U.S aid. It was noted that non-fishing revenues have been allocated by regulatory means. It was also discussed that revenue deriving from MRA is unstable, and therefore should not be an integral

part of the domestic revenue sharing allocation.

Your Committee further reconfirmed their support towards the methodology of the sharing formula based on the intent of the proposal, and that is 40 percent to States and 60% for the national government. It was further articulated that sixty percent out of the forty percent should be based on population and the remaining forty percent should be divided equally among the States.

The Chairman stated that perhaps the Committee proposal or commentaries should be reported out for further consideration in the Plenary so that feedback received from members of the Convention could be used for substantiation of the perceived formula. The Chuuk delegation advised the Committee that during its recent consultation the communities expressed their collective desire that there needs to be an agreement among the involved parties that whatever Chuuk State share is from any revenue sharing, the municipal governments should get their share directly by by-passing the Chuuk State Government. There was a concern about this proposition in that the State has always been the facilitator of ensuring that fund reaches the municipalities counterparts in a proper manner. This is to ensure proper application of money at the municipal level. The Chuuk delegation also asked the Committee to find a way to address the issue, either in the Committee, or in the Plenary sessions.

The Chairman pointed out that since the other proposals addressed were similar in nature in relation to revenue sharing, it should be the decision of the Committee whether all the proposals should be filed, or only CC PR-36. The members agreed that the latter should be the case.

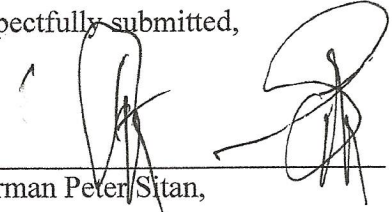
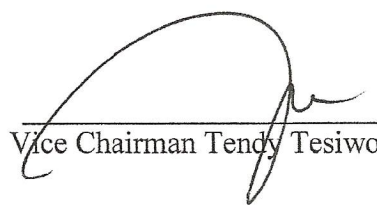
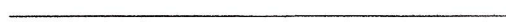
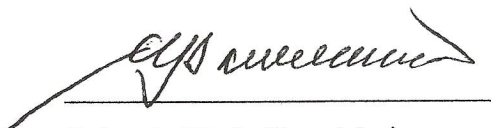


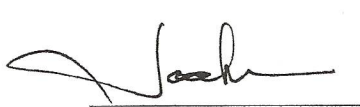
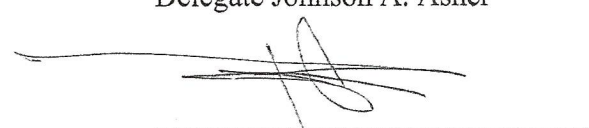


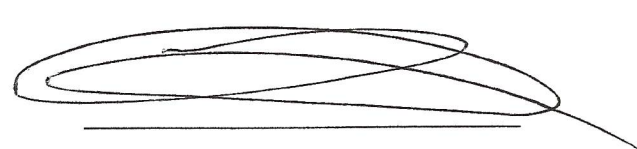
Your Committee also discussed the need to review the financial data that provided by FSM Finance to ensure that the 60% share for the National Government should be enough to fund its operation costs and other unforeseen circumstances as based on earlier public hearing with witnesses from the Departments of Finance and Foreign Affairs. The Chairman noted that it is prudent that due diligence should be exercised to get accurate financial data before making a final decision on revenue sharing or allocations between the affected parties.

There were other issues discussed in the meeting ranging from revenue sharing, plus or minus, 60 percent between the states to be deposited in states sub-Trust Fund account and certain percentage shared between the states. The said allocation formula range was discussed further and it was also suggested that an amendment should be made to refine the language of the proposal so that the FSM is not deprived from what it requires in the future to run the nation based on data available. The amendment was put to vote and it was defeated. A question was raised on what happened if the amendment failed can it be reverted back to its original position. The answer was in the affirmative.

Pohnpei Delegation Proposal CC PR 04-36 shared formula principle was also met with negative sentiments as to whether or not the formula is proper, fair, and equitable which strikes the heart of the proposal. This, however, needs to be discussed further so all the parties involved derived benefits from the formula. Another suggestion in your committee's meeting is to invite state leaders to be part of the negotiated agreement so as to increase its chances at the referendum since they can influence outcomes.

In light of the general consensus of your Committee on Public Finance and Revenue is in accord with the intend and purpose of the Committee Proposal with certain amendments attached hereto and recommend its passage on First Reading, and that it be placed on the Calendar for Final Reading for review by your Committee of the Whole, then place on the Calendar for Final Reading for review by your Committee on Style and Arrangement.

Respectfully submitted,


Chairman Peter Sitan,
Vice Chairman Tendi Tesiwo Liwy
Delegate Jack S. Fritz
Delegate Myron I. Hashiguchi
Delegate Cindy Siren Mori
Delegate Camillo Noket
Delegate Canney L. Palsis
Delegate Johnson A. Asher
Delegate Berney Martin
Delegate Ricky F. Cantero
Delegate Akillino H. Susaia
Delegate Andy P. Choor
Delegate Andrew R. Yatilman

Committee Proposal No. _____
Committee on Public Finance and Revenue
Standing Committee Report No. CE-SCR-04-10

Relating to revenue sharing.

RESOLVED, that the following be agreed upon as an amendment to the Constitution:

ARTICLE IX

Section 2. The following power of the national government is vested in Congress of the Federated States of Micronesia . . .

(m) to regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles from island baseline provided, however, that not less than 40 percent of all revenue collected from all forms of fishing fees are share with the State Governments.

Date: March 13, 2020

Offered by: Committee on Public Finance and Revenue