

4th CONSTITUTIONAL CONVENTION *of the* FEDERATED STATES OF MICRONESIA



VOLUME II

PALIKIR, POHNPEI

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VOLUME I

Foreword

Table of Contents

	Page
Introduction	i
Officers	1
Delegates	1
Committees	3
Pre-Convention Committee Members	
Standing Committees Members	
Secretariat Staff	6
Convention Daily Journals	7
Adopted Proposed Amendments	632
Adopted Convention Resolutions	664
Photos (Officers, Delegates and Staff)	717

VOLUME II

Pre-Convention Summary Report	721
Committee of the Whole Journals	727
Approved Standing Committee Reports on Adopted Proposed Amendments	758
Daily Orders	843
Rules of Procedures, all amended versions	950
Enabling Law, all amended versions	1051

Standing Committees Meetings Minutes		1077
Committee on Public Revenue and Taxation	1078	
Committee on Civil Liberties, Culture and Tradition	1113	
Committee on Government Structure and Function	1122	
Committee on General Provision	1134	
Committee on Style and Arrangement	1161	
 MISCELLANEOUS		
Official Communications		1162
From the FSM President	1162	
From the FSM Congress Speaker	1183	
From the 4 th FSMCC President	1210	
Internal	1251	
 Budget		1276
 Proposals		1278
Individual proposals	1278	
Table	1373	

**PRE-CONVENTION
COMMITTEE
SUMMARY REPORT**

**4th Constitutional Convention of the Federated States of Micronesia
Pre-Convention Committee**

SUMMARY OUTCOME

Pursuant to Section 5 of Public Law No. 21-19, entitled Pre-Convention Committee, Delegate-elect Victor Nabeyan (Yap), Delegate-elect James Naich (Chuuk), Delegate-elect Yoslyn Sigrah (Kosrae), Delegate-elect Salomon Saimon (Pohnpei), Delegate-elect Andrew Yatilman (Yap), Delegate-elect Myron Hashiguchi (Chuuk), Delegate-elect Johnson Asher (Kosrae) and Delegate-elect Ricky F. Cantero (Pohnpei), collectively referred to as Pre-Convention Committee, convened in Chuuk State on Tuesday December 3rd, 2019 at the call of Speaker of Congress, the Honorable Wesley W. Simina. The convening was held at the Chuuk Senate Legislative Chamber and, as a result, the following leaderships of the Pre-Convention Committee were selected: Delegate-elect Ricky Cantero as the Chairman, Delegate-elect Andrew Yatilman as Vice Chairman, and Delegate-elect Yoslyn Sigrah as Secretary / Treasurer.

For its first official business, the Pre-Convention Committee members unanimously agreed for an immediate recess of the meeting to be re-convened in Pohnpei on Saturday December 7th, 2019 at 10:00am at the Congressional Committee Hearing Room at the Capital Complex. Provided below is a general summary outcome of the work of the Pre-Convention Committee, based on the agreed and adopted agenda.

Agenda Item 1: To make arrangements for accommodation, equipment and facilities; PROVIDED, HOWEVER, that the Pre-Convention Committee shall, whenever possible, arrange to utilize National Government equipment and facilities (Convention Secretariat).

Under the agenda, Delegates were provided the opportunity to discuss and share perspectives on possible venue for the 4th Constitutional Convention, inclusive of its associated committee meetings. As an outcome of inclusive deliberations, involving issues which among others includes, requirements on spacing, internet connectivity, access to existing both executive and legislative support staff and equipment access to auxiliary offices spaces for respective State delegation caucus and access to reference materials and documents, the delegates unanimously agreed for the Primary venue for the Convention to be the Congress Congressional Chamber, and for the Capital Facility, adjacent to the Chamber to be used for the

Office / Secretariat of the Convention. Recognizing the need to ensure an optional venue, Delegates unanimously agreed for the Gymnasium of the College of Micronesia-FSM to be the secondary venue for the Convention.

On the next steps forward to implementing this decision, Delegates agreed for the letter from the Chairman of the Pre-Convention Committee to be transmitted to Speaker Wesley W. Simina confirming usage of the Congressional Chamber as well as the Central Facility for the 4th Constitutional Convention.

Agenda item 2: To prepare budget for the Constitutional Convention to be submitted to Congress in the regular or special session of Congress next follow (Budget of Convention)

Under the agenda, Delegates were provided the opportunity to discuss and share perspectives on requirements and needs for the construction of a comprehensive budget needed to increase prospect for success of the 4th Constitutional Convention. As an outcome of inclusive deliberations, involving issues which among others include varying logistical challenges of each State, specific projected needs and requirements of each State, among others, the Delegates unanimously agreed on a prepared budget, as referenced below.

On the next steps forward to implementing this decision, Delegates agreed for the letter from the Chairman of the Pre-Convention Committee to be transmitted to President David W. Panuelo and Speaker Wesley W. Simina submitting the prepared budget needed for the 4th Constitutional Convention. The delegates also agreed for immediate efforts towards the establishment of the necessary budgetary account for the Convention as soon as possible to ensure ready access of appropriated funds for the work of the Convention. This specific request of assistance is to be highlighted in the letter to President David W. Panuelo.

Agenda Item 3: To prepare proposed Rules of Procedures

Under the agenda, Delegates were provided the opportunity to discuss and share perspectives on construction on Rules of Procedures aimed to govern proceedings of the 4th Constitutional Convention. The primary source of reference that was used was the Rules of Procedures for the 3rd FSM Constitutional Convention. As an outcome of inclusive deliberations, the delegates unanimously agreed on proposed Rules of Procedures for the 4th Constitutional Convention, as referenced below.

On the next steps forward to implementing this decision, Delegates agreed for the letter from the Chairman of the Pre-Convention Committee to be transmitted to President David W. Panuelo and Speaker Wesley W. Simina submitting the proposed Rules of Procedure for the 4th Constitutional Convention.

Agenda Item 4: To make arrangements for staff (Administrator & Support Staff for the Convention)

Under the agenda, Delegates were provided the opportunity to discuss and share perspectives on arrangements for staff for the 4th Constitutional Convention. As an outcome of inclusive deliberations, especially towards the core main staffing requirements in form of a Convention Secretary, Chief Legal Counsel, Chief Clerk, and prospects for sourcing of other staffing requirements from via existing government employees, the Delegates unanimously agreed on the critical need to move forward on the hiring of a Convention Secretary for immediate organization of the Secretariat for the Convention. Progress on this matter has commenced and agreed deadline to hire a Convention Secretary is set for December 17th, 2019. The delegates have also agreed to move quickly forward in sourcing of potential candidates to serve as Chief Legal Counsel for the Convention. Concrete deliberation on this matter is set for December 17th 2019. As for the Chief Clerk, the assistance of the Chief of Clerk of Congress will be sourced for her expertise on this matter.

On the next steps forward to implementing this decision, Delegates agreed for the letter from the Chairman of the Pre-Convention Committee to be transmitted to President David W. Panuelo and Speaker Wesley W. Simina providing updates on efforts on these matters, with latter containing a specific request for the assistance of the Chief Clerk of Congress.

Agenda Item 5: To confer with the various state delegations to identify those issues that each delegation wishes to raise at the Convention (Prospective Proposals)

Under the agenda, Delegates were provided preliminary opportunity to discuss and share those issues that each delegation may wish to raise at the Convention.

Deliberations on issues of interests were productive and fruitful, and some commonalities among the State delegations were identified, in terms of issues of interests. What was explicit was each State delegation's wish to undertake consultation with State leadership, respectively, prior to confirmation of interests.

Agenda Item 6: To commission any research that it feels should be performed on issues identified by the state delegations prior to the convening of the Convention (Researchers)

Under this agenda item, Delegates discussed and noted the expected roles and responsibilities of Standing Committees in the research and information-gathering process. Considering Delegates' possible interest for sourcing of information and data from the government bureaucracy, at the interim and leading up to the Convention plenary where Committees are to be organized, the Delegates agreed for requests, if any, to be submitted to the Pre-Convention Committee Chairman, who will then officially request for such information.

Agenda Item 7: To perform other functions not otherwise reserve to the Convention which will assure a successful and orderly Convention.

General discussions and sharing of perspectives among the Delegates were undertaken on ways to ensure a successful and orderly Convention. The following are the main key common interests:

a. Public Education Process: There were common interests among the Delegation for the participation of Convention delegates in the public awareness and education processes for the proposals adopted that the Convention may adopt. For this, the Delegates agreed to explore and, if feasible, progress this matter through a Convention Resolution.

b. Delegates' Credentials & Convention Days: To ensure a smooth and orderly Convention process, the Delegates unanimously agreed and sought guidance of the Secretary of the Department of Justice on these matters and attached is a copy of a self-explanatory letter from the Pre-Convention Committee Chairman to the Secretary of the Department of Justice. Also attached is a response letter from the Secretary of the Department of justice providing a legal opinion on questions posed by the Committee.

c. Convention Secretary: Considering the urgency to source a Convention Secretary to ensure advance administrative and logistical

preparations needed for the Convention, the deadline of December 17th was agreed upon. For transparency purposes, the FSM Office of Personnel was sought for assistance towards public advertisement of the position. A standard short-term employment contract template was also developed for anticipation of use, also in consultation with the FSM Office of Personnel.

On December 17th, 2019, after review of credentials, the Committee unanimously selected Mr. Kapilly Capelle of Pohnpei State as the Convention Secretary for the 4th FSM Constitutional Convention. His CV is attached.

d. Chief Legal Counsel: Considering the urgency to source a chief Legal Counsel to provide primary legal guidance to the Convention, the deadline of December 17th was agreed upon. In the interim leading up to the deadline, Delegates agreed for individual efforts to source prospective candidates for the position. Curriculum vitae for identified prospective candidates are to be submitted to the Pre-Convention Committee Chairperson for collation in anticipation of discussions on December 17th.

On December 17th, 2019, after review of credentials, the Committee unanimously selected Kathleen M. Burch as the Chief Legal Counsel for the 4th FSM Constitutional Convention. Her CV is attached.

e. Workshop on Parliamentary Rules: As part of its efforts to explore ways to ensure success and orderly conduct of the Convention, Delegates agreed to arrange for a Delegate Workshop on Parliamentary Procedures proposed to be held on Monday January 6, 2020. With support from the Convention Secretary, the Pre-Convention Committee Chairman was tasked to source for possible individual(s) to undertake and facilitate the workshop.

Agenda Item 8: On other matters, the Delegates deliberated on a letter from the Micronesia Productions, a Pohnpei-based Non-Government Organization (NGO) that specializes in public awareness and education programs. The Delegates noted the importance of such programs and potentials for usage, especially during Post-Convention. The Delegates agreed for the interest of the Micronesia Productions, as provided in the letter, to be addressed by the Convention Secretary.

Agenda Item 9: Adjournment: After review and consideration of the progressive work of the Pre-Convention Committee, Delegates agreed for adjournment marked on December 17th, 2019.



Ricky F. Cantero
Chairman
Pre-Convention Committee

**COMMITTEE
OF THE
WHOLE**

JOURNAL OF THE
COMMITTEE OF THE WHOLE

Day 23

Tuesday, March 10, 2020

Chairman Asher called the Committee of the Whole (COW) to order during the 23rd Day of the Fourth FSM Constitutional Convention at 3:10 p.m.

Delegate Asher: We have two Committee Proposals that have had passed First Reading, Committee Proposal No. 4-03 and 4-04. Based on the Rules, it is required that we read out in its entirety each proposal. So, at this time I would like to request the Chief Clerk if she can read out the first proposal in its entirety, that is Proposal No. 4-03.

Chief Clerk Reyes: Mr. Chairman, the First Committee Proposal for Second Reading is Committee Proposal No. 4-03. It reads:

Relating to the vote required to override a Presidential veto.
Be It RESOLVED, that the following be agreed upon as an amendment to the Constitution:

ARTICLE IX

Section 2. The following powers are expressly delegated to Congress: . . .

(q) to override a Presidential Veto by not less than a 2/3 vote of all the members elected from congressional districts in each state followed by a 3/4 vote of all the members elected At-Large; and....

Offered by: Committee on Government Structure and Functions.

Delegate Nabeyan: Mr. Chairman.

Delegate Asher: Yes, Delegate Nabeyan.

Delegate Nabeyan: I moved that we defer action on it until the next meeting of the COW.

Delegate Kanto: Second.

Delegate Asher: It's been moved and seconded that we defer Committee of the Whole action on Proposal No. 4-03. By way of this deferral, it means that if it goes through, it will be scheduled for the next session day on the calendar.

Delegate Samo: Short recess.

Chairman Asher declared the Committee of the Whole (COW) recessed at 3:16 p.m., subject to the call of the Chair.

RECESS

The COW reconvened at 3:20 p.m.

Chairman Asher: We're now back to session. Discussion?

Delegate Nabeyan: I move for the previous question.

Delegate Saimon: Second.

Chairman Asher: It's been moved and seconded. All those in favor of that we defer action on Proposal No. 4-03 say Aye? All opposed say Nay? Motion carried.

The motion carried by voice vote of Delegates.

With that Proposal off, we now have Proposal No. 4-04. And again, by rules we need to read that Proposal in its entirety, so I kindly ask the Chief Clerk to read the Proposal please.

Chief Clerk Reyes: The second and the last Committee Proposal on the calendar is Committee Proposal No. 4-04 attached to Standing Committee Report 4-04.

This is relating to amending the Constitution.

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

Article XIV
Amendments

Section 1. An amendment of this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by 2/3 of the votes cast on that amendment in each of the 3/4 of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

Offered by: Committee on General Provisions.

Delegate Asher: Thank you.

Delegate Nabeyan: Mr. Chairman.

Delegate Asher: Yes, Delegate Nabeyan.

Delegate Nabeyan: I moved that we recommend this to the Plenary for adoption.

Delegate Naich: Second.

Delegate Asher: It's been moved and seconded that we refer Proposal No. 4-04 to the Plenary for Second Reading action. Discussion?

Delegate Nabeyan: I move for previous question.

Delegate Kanto: Chairman, I do have one for clarification on the Proposal.

Chairman Asher: Yes, Delegate Kanto.

Delegate Kanto: Is it by 2/3 of the votes cast in each state and of 3/4 of the states?

Chairman Asher: Yes.

Delegate Kanto: Thank you.

Chairman Asher: Any more discussion?

Delegate Nabeyan: Recess.

Chairman Asher: Short recess.

Chairman Asher declared the Committee of the Whole (COW) recessed at 3:25 p.m., subject to the call of the Chair.

RECESS

The COW reconvened at 3:28 p.m.

Chairman Asher: We're now back to session. There's a motion to refer Proposal No. 4-04 to Plenary for Second Reading action. All those in favor say Aye? All those opposed say Nay? Motion carried.

The motion carried by voice vote of Delegates.

Delegate Nabeyan: Mr. Chairman.

Delegate Asher: Yes.

Delegate Nabeyan: I move that all rise to Plenary.

Delegate Samo: Second.

Delegate Asher: There is a motion to rise for the Committee of the Whole (COW) and it's been seconded. It's not debatable, so we vote. All those in favor for the Committee of the Whole (COW) to rise, say Aye? All those opposed say Nay? Motion carried.

The motion carried by voice vote of Delegates.

We will now rise and back to Plenary. I declare short recess.

Chairman Asher declared the Committee of the Whole (COW) recessed at 3:30 p.m., subject to the call of the Chair.

/s/

A. Helieisar, Journal Clerk

JOURNAL OF THE
COMMITTEE OF THE WHOLE

Day 25

Thursday, March 12, 2020

Chairman Asher called the Committee of the Whole (COW) to Order during the 25th Day of the Fourth FSM Constitutional Convention at 11:38 a.m.

Delegate Asher: As your Chairman of the Committee of the Whole, I now call our session to order. Before us is the Committee Proposal No. 4-03 in which was referred back to us today. And by our rule, may I ask the Chief Clerk to kindly read out the Committee Proposal again?

Chief Clerk Reyes: Mr. Chairman, the First Committee Proposal for Second Reading is Committee Proposal No. 4-03. It reads as

Relating to the Code, Required to override a Presidential veto.
Be It RESOLVED, that the following be agreed upon as an agreement to the Constitution:

ARTICLE IX

Section 2. The following powers are expressly delegated to Congress: . . .

(q) to override a Presidential Veto but not less than a 2/3 vote of all the members elected from congressional districts in each state followed by a 3/4 vote of all the members elected At-Large; and....

Offered by: Committee on Government Structure and Functions.

Delegate Asher: Thank you, Chief Clerk.

Delegate Nabeyan: Mr. Chairman.

Delegate Asher: Yes, Chairman Nabeyan.

Delegate Nabeyan: I move that we defer action on this to the next COW meeting.

Delegate Martin: Second.

Delegate Asher: There's a motion. It's been moved and seconded to defer action on this Proposal to the next meeting of the Committee of the Whole (COW). All those in favor of the motion say Aye? All those who opposed, say Nay. Motion carried.

The motion carried by voice vote of Delegates.

So, we will move on to the next Proposal which is Standing Committee Proposal No. 4-05. And by rules, I kindly ask the Chief Clerk to read the Proposal in its entirety.

Chief Clerk Reyes: The second and last Committee Proposal for Second Reading. The Committee Proposal No. 4-05

“Relating to dual citizenship.

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

Article III Citizenship

Section 1. A person who is a citizen of the Trust Territory immediately prior to the effective date of this Constitution and a domiciliary of a District ratifying this Constitution is a citizen and national of the Federated States of Micronesia.

Section 2. A person born of parents one or both of whom are citizens of the Federated States of Micronesia is a citizen and national of the Federated States by birth.

Section 3. Citizenship of another country shall not affect a person's Federated States of Micronesia citizenship, as provided under Section 2.

Section 4. A person who has knowingly renounced his citizenship of the Federated States of Micronesia shall remain a national of the Federated States of Micronesia, except as may be provided by law. A national of the Federated States of Micronesia may regain his citizenship of the Federated States of Micronesia in accordance with the residency requirement and other conditions as may be prescribed by law.

Section 5. This Article shall be applied retroactively.

Offered by: Committee on Civil Liberties and Traditions”

Delegate Nabeyan: Mr. Chairman.

Delegate Asher: Yes. We are now up for discussion.

Delegate Nabeyan: I now move that we refer the said Standing Committee Proposal to Plenary for further action.

Delegate Sitan: Second.

Delegate Asher: It has been moved and seconded that the said Standing Committee Proposal be referred to Plenary for further action. All those in favor of the motion say Aye? All those who oppose say Nay. Motion carried.

The motion carried by voice vote of Delegates.

Delegate Nabeyan: Mr. Chairman.

Delegate Asher: Yes.

Delegate Nabeyan: I move that we go back to Plenary.

Delegate Samo: Second.

Delegate Asher: There is a motion and it’s been seconded for the Committee to rise. It’s not debatable, so we vote. All those in favor of the motion say Aye? All those oppose say Nay. Motion carried. The Committee of the Whole (COW), rise.

The motion carried by voice vote of Delegates.

Chairman Asher declared the Convention recessed at 11:42 a.m., subject to the call of the Chair.

/s/

A. Helieisar, Journal Clerk

JOURNAL OF THE
COMMITTEE OF THE WHOLE

Day 29

Friday, June 3, 2022

COW Chairman Asher called the Committee of the Whole to order at 11:15 a.m.. on Friday, June 03, 2022.

Delegate Asher: I now call the Committee of the Whole to order. We have one Committee Proposal that has passed First Reading before us, Committee Proposal 4-03. But first, I would like Chief Clerk to kindly read out the proposal in its entirety. Chief Clerk?

Chief Clerk Reyes: Thank you, Chairman of COW. Committee Proposal 4-03: this is relating to the votes required to override a Presidential veto.

“Resolved that the following be agreed upon as an amendment to the Constitution; Article IX, Section 2: The following powers are expressly delegated to Congress. Subsection (q) to override a Presidential veto by not less than a two-thirds (2/3) vote of all the members elected from congressional districts in each state, followed by a three-fourths (3/4) vote of all the members elected at large.”

Delegate Asher: Thank you, Chief Clerk. The floor is now open for discussion. However, to facilitate comprehensive understanding, I like to ask that the introducer of the proposal or the mover of the proposed amendment give us a brief layout of the impetus of the proposal. Thank you, Chairman Nabeyan.

Delegate Nabeyan: Thank you, Chairman. The intent behind this proposal is referring to the proposal trying to introduce some balance between the powers of Executive and Congress. As you know, the veto power is one of the key tools that the President – the Executive has under the Constitution to check acts of Congress. And so, if his power under the veto is not of in effect an equity check like that of Congress, it will underline the concept of checks and balances. So, currently, under the concern of the Constitution, it takes three of the four Delegations in Congress – Delegations passing one vote – to pass a bill at Final Reading. And when that same bill is vetoed by the President, it also only requires the vote of the same three members of each Delegation to pass – to override that veto. So, if the three members of Congress are casting the vote for each Delegation, one of which didn't go through, the respect of what the person says and in respect of the merge behind

this veto, the same three members of Congress can also override without other members of Congress. So, the aim here is to try to get all other members of Congress involved in that process legally. And as I understand right now, there are informal discussions that Congress conducts before deciding whether or not to cast the vote to override, but that's not required. So, the idea is to restore some balance between the powers of Congress and Executive by raising the threshold for an override and getting all the members of Congress involved. So, a two-thirds vote of the members of Congress – this would mean seven of the ten of the two-year members of Congress will have to vote “Yes,” and then three of the four at-large members will have to vote “Yes” for an override to pass. Thank you.

Delegate Asher: Thank you, Chairman Nabeyan. The floor is still open for discussion.

Delegate Fritz: Mr. Chairman?

Delegate Asher: Yes, Chairman Fritz.

Delegate Fritz: Thank you. Just for clarification. At present, to override a President's veto it only requires the state's delegation. Three-fourths. It takes three-fourths. The suggestion here is to allow the people's representative also to participate. So, in essence, it's making it a little bit more difficult for Congress to override that veto; that's the real intent. So, for the two-third, you would need ten votes. So –

Delegate Nabeyan: You would need seven of the ten – there are ten members currently elected from each election districts –

Delegate Fritz: Oh, election districts; not the important –

Delegate Nabeyan: – so you need seven votes from the two-year members plus three votes from the at-large members. So, a total of ten.

Delegate Asher: Delegate Susaia? You have the floor.

Delegate Susuaia: Thank you, Chairman. I understand the reasoning behind the proposed amendment as to make it a bit difficult to override a presidential veto. But as Delegate Fritz says, the way Congress overrides the veto now is three-fourths of the States, meaning each Delegation – the three Delegations that will vote in favor, presumably the members of the Delegation – majority of the Delegation Members agreed to the override. And so, do you mean the way the

proposal is drafted, it is only trying to register – reveal who in that Delegation supported in favor and who among – and whether the at-large is in favor because at the end of the day, it's the State Delegations that make decisions on override. I really don't see any need – purpose of – I guess, my point is we're here to see how we can improve. I don't know whether this will improve. It may or it may not make a difference, but let it be.

Delegate Albert: Chairman? Here.

Delegate Asher: Chairman Albert.

Delegate Albert: Thank you very much. While I agree that there needs to be some sort of mechanism placed where the balance of powers is somehow restored because right now, I also believe that it's with Congress. I'm wondering if this particular amendment will resolve it. The reason why I said say is because right now, it requires three States to override, as said by both Chairman and Susaia. The way it's voted right now, it gives those three – because it's two Houses – assuming that not the Lower House, but the two-year Representatives will be seven votes, and then additional three votes from the at-large. So, if they had three additional three votes from at-large agree or disagree, it will render the same effect. So, I'm wondering whether we should change it and just combine a total of maybe eleven votes to override, because – you know that, if you think about – if the seven voted “Yes” to override it, and the three that has put in this proposal voted “No,” it will not go through. So, it's just the same three that controls it. Thank you.

Delegate Nabeyan: If I may, Chair.

Delegate Asher: Alright, Chairman Nabeyan.

Delegate Nabeyan: Yeah. This – I know that there are Delegations in Congress on this side that discuss the merits of rules before they decide to cast their votes on Final Reading which would be one vote per Delegation. But I think this mechanism allows the President some room to actually come back to Members of Congress and discuss with them individually to wrestle out and discuss his veto. And then at that point, if he is able to convince them that his veto should survive, there's a better chance that it will. But with the current setup, even if Congress – because the few Chairs of the Delegation that voted to pass a bill at Final Reading – if there are three-fourths for that bill to push it through, respective of what that Delegation would say at that point after the President has consulted with them, they can still, legally speaking, override with everyone else and remain steadfast and pass the vote to override – because they voted to pass the bill in Final Reading

– so it’s really giving some room for the President to try to maneuver and get some Members of Congress on his side to help withstand an attempt to override this veto. Thank you.

Delegate Asher: Thank you, Chairman Nabeyan. The floor is still open for discussion.

Delegate Naich: Mr. Chair. Mr. Chair?

Delegate Asher: Delegate Naich. You have the floor.

Delegate Naich: Thank you, Mr. Chair. Mr. Chair, there are two questions that seem to ride on these proposed amendments. One is redistribution of power. Second is redistribution of resources. Before I vote on these proposed amendments, I would like to have the benefit of the situation that this nation has been facing to necessitate this amendment. I would like to address that question or request to the proponent of this amendment. Thank you, Mr. Chair.

Delegate Asher: Thank you, Delegate Naich. Chairman Nabeyan, you have a response?

Delegate Nabeyan: Yeah, so – I think those of you who have worked with the National Government will be more familiar with this than I, but I’ve seen instances where the will of Congress just – the President just cannot overcome it. And one indication point – and I was hoping it didn’t come to this but – you know, I’m a member of the Committee on J.C.R.P., representing the State of Yap. If my recollection is correct, the power to negotiate treaties is a function of the Executive, which is what the Compact is. And so, when Congress decided to take that away from the President, by passing the Initiation that created J.C.R.P., I know that the President at that time vetoed that on the basis that that would be a – for both of years and the President to delegate for the Nation. Because President would have to write a proper bill and then introduce it. But Congress usually overrode the President over a functioning that the Constitution gives to President. And so, to me, that is an instance where there’s a stark example of an imbalance of power between the Executive and Congress which are supposed to be equal branches of power, but they’re actually not, in practice. And so, I think if this proposal was installed into the Constitution at that time, it would have given the President at that time a better chance virtually consulting with members of Congress and getting some of the members of Congress to see his viewpoint and to sustain his veto. But as the case for now, which was just a meaningless veto on paper because it was going to be overridden or ignored of the meanings behind the veto. Thank you.

Delegate Fritz: Chairman.

Delegate Asher: Thank you. Chairman Fritz?

Delegate Fritz: Yeah, thank you very much. I'm happy because in a while – I will be like my good friend, James Naich; will not be able to vote anymore – but I want to register something. Because at present, I don't really see any problem with the current system because regardless of anything, if we work as Micronesians, one of the concerns between different views, between the President and the country, they should get together and I don't know the difference yet. My problem with the current proposal is vesting this power that was reserved to the States, to those individual members, the four-years at-large. The way Congress operates, at least during my time, is this so-called state votes is actually by consensus of the Delegation. It has nothing to do with the term or the four-year term because it represents the equality of the States, just like the four-year elected at-large anyway. So, if we push the power in the Senator at-large, and he said, "Okay, look, I have this considerate power; I don't really care if you guys disagree with me or not. I'll vote this way, or for that matter, disagree with government's position." Because under the Constitution, it will be just in him or her, as proposed. So, if the intention is to make it a little bit difficult – which you know, has merits – then I'd rather the other portion of it to stay as it was: that the Delegations cast their votes plus those other representatives. Now, with due respect to my good friend from Yap, I think Congress has some authority with respect to conducting foreign affairs because their contribution allows the Congress – the President to conduct foreign affairs in accordance with National Law so they can make a lot that requires treaty-making power to be subject to their decisions. Like I said, I will not be able to vote but I think we need to raise all of this as suggested by –

Delegate Palsis: Mr. Chairman?

Delegate Fritz: – thank you.

Delegate Palsis: Mr. Chairman.

Delegate Asher: Thank you. I yield the floor to Chairman Palsis.

Delegate Palsis: Thank you, Mr. Chairman. First, I would like to applaud the proponent of the proposal and also, the Committee for having to work hard to get this proposal this far. My thing of the proposal here: I don't see how the power of both – either the President or the Congress are weakened by way of this proposal. And I think it is better to involve more heads to participate in the

political process such as this case. So, the more minds being put into an issue, I think it's better service, which is the crux of the proposal here. So, thank you for handing me the opportunity to state my mind in support of the proposal. Thank you.

Delegate Asher: Thank you. Delegate Cantero, you have the floor.

Delegate Cantero: Thank you. We're in the COW process, and this is really the time that we fine-tune our thoughts on these proposals because we're elevating our discussions. Next one will probably be the final discussions to wrap up on these proposals, at least the ones that are currently in the procedure. So, I think it's very important that all of us express our thoughts on these proposals at this point of time. I think that's very important, and we must also appreciate the comments made by our Delegate Fritz simply because of the monumental experiences that he has had in the Legislature so we can't take that for granted. Many of us have not gone through that experience so we rely on those kind of experiences levy to us to also weigh these kind of discussions and thoughts. I think the spirit of the proposal is an honorable one. I think it's good, but I'm also thinking that whether it is really critical at the moment in our government growth. And I say this because while my body is here, my mind is somewhere thinking about right now: how do we get this through our people? How do we get it referred? And how do we make sure that these proposals have really passed so that we can have a really good impact on the successful outcome of the Constitution and considered proposals that are very impactful to the current conditions of our government and our people especially. So, I'm always thinking ahead, and I always end up with the conclusion to be very strategic, all of us to be very strategic and what kind of proposals that we want to put across. So, while I think the proposal is very honorable, I'm not sure it is really quickly needed at this point in our growth. I hope that we don't – I will always continue to meet in this decision – I hope that we don't populate our proposals way too much, or it definitely will have an impact on the psychology of our people how they view the proposals, even how they vote; it will have an effect. The number of proposals that we put across will have an effect on whether – the success of the other proposals – that will have an effect of what will happen. And also, in my view I want to repeat that – you know – you will be, at the end of the day, be part of the educational process of this Convention, to sell to the people the spirit and intention of these proposals. So, I hope we can really – for this particular one, there's a lot of pros and cons to it. Me, I hope we can sell proposals that the advantages are monumentally higher than the disadvantages. I think that will have an impact on how we promote that through public education, and how it's received by our voters. If we have proposals that are 50/50 debatable, pros and cons are

50/50, while it's good, it's healthy – it will have an effect on how the voters cast their votes. So, I like the proposal, I'm just not sure it is really, really, really critical at the moment. I would hope that we focus on those that we – it's very critical we have monumental impact on our country and our people for this particular CONCON process. We have opportunities that will come later on that we can also look at other proposals. But that's just my view on it. I hope we're not too anxious and ambitious. Let's keep it cool, and let's fine-tune our targets. And if we do that, I surely believe we will be successful. The fact that we'll be doing public education – you know – that means that we need each other more than previous Conventions. So that's just my thinking. I support it, but I'm just not sure we need this at this moment. Thank you.

Delegate Kanto: Mr. Chairman.

Delegate Asher: Delegate Kanto.

Delegate Kanto: Thank you, Mr. Chairman. I am confused now because I really don't know the process or the procedure that Congress uses in selecting their Chair – Delegation Chairs. If one of the Delegation Chair does not vote according to their wish, they change him or her right away. I want to put this into practice since I'm now selected the proxy for the Chuuk Delegation. What happened if I vote against them? Of their wish – I'm just wondering! You know at the end of the day, I'll just go ahead and say, "I'm sorry, guys. I really wanted to support that; that's why. I know you guys didn't like it, but I wanted to." Listening to my friend, Chairman Nabeyan and his rationale, I think it makes sense. I just wish that rather than having two stages, just put them all together as ten. Because if not, the majority's seven voted to override, but then the three or the 14; that means minority wins. So, I don't know. Again, as the proxy, I don't know if I will vote the decision of the Chuuk Delegation, or I'll practice my own wish and see what will happen at the end. And at the end, that's why I said, I don't know if they will change me or if they will change the Chairman of the Delegation if they vote against them. I don't know – I don't know if that's right. Thank you.

Delegate Sigrah: Chairman.

Delegate Asher: I yield the floor to Chairwoman Sigrah.

Delegate Sigrah: Thank you very much, Chairman. Briefly, I have taken the time to review, study the proposal. I see more merits on this proposal. I don't see that it's taking away the power of a certain group. I see that it's more participatory, and it will involve more time for the lawmakers, the policymakers, to take their

time to go through the process. So, I think that the more important part here is that we're not weakening, we are strengthening the process. We see the work of its improvement, and that is why we're here on this exercise every ten years – I - here being critical, and I believe that there must be some studies or evidence behind it that caused any one of us proponents to bring their proposals here before we wait for another ten years. So, I am in support of the proposal because I see more merit in it, and I'm ready to vote. Thank you.

President Killion: Mr. Chairman.

Delegate Asher: Thank you. Mr. President, you have the floor.

President Killion: Thank you, Chairman. I associate myself with the comments made by Chairman Fritz and Delegate Kantero regarding this matter. As we know, the said proposal – proposed amendment that we're talking about is mainly to, again as stated by the proponent, to make it difficult to override the President's veto. Based on experience also as a member of Congress, the Delegation Chairman of each of the Delegations may cast the vote on Second and Final Reading, and also on decision to override the President's veto. Given the numbers, 14 members of Congress – six from Chuuk, four from Pohnpei, two each from Yap and Kosrae – and based on experience, usually those Delegations act in unison. They make decisions together to make the numbers. So, a decision that is made or has been made in the past, usually by consensus of each Delegation. So again, in all due respect to Chairman Nabeyan for opening up this proposal, I do not think passage of this proposed amendment to our Constitution will get the balance in favor of preventing, limiting override of Congress. So, I think, again, as elaborated by Delegate Cantero, it should be just – to me it just doesn't make a difference. Therefore, we have to – maybe we limit the number of proposals. But again, if the intent, as stated, is to prevent, to make it harder for override, I don't think the proposal here would achieve that perhaps until the number of members of Congress is increased. Right now, we are 14. If we increase that – I have seen it – there were some proposals introduced to increase the numbers, including one woman from each Delegation beyond, increasing the numbers from 14 to 21. And then, that may be possible to have maneuvering in Congress to make it difficult for overriding Congress. Again, with all due respect, I don't think this particular proposal will achieve what it's intended to do. Thank you.

Delegate Takesy: Mr. Chairman.

Delegate Asher: Thank you, Delegate Takesy.

Delegate Takesy: Thank you, Mr. Chair. And good morning to all of you. I would like to associate myself with the statement made by the good Chairperson from the Island of the Sleeping Lady. The proposal before us addresses the issue of whether it should take the same threshold to overwrite a bill or a veto of the President and passing a bill on Final Reading. The question is the balancing – the checks and balance – exercising it so that in point of fact it works, and it serves the purpose for which the Constitution intends: that the independence of each of the three branches of government be respected under due process. As well articulated in the report, in practice, Congress passes the requirement for passing a bill is equal to the override of the veto. Essentially, the same people that pass the vote can also override. I think it is the intent, and it is good practice for us to respect the independence and give meaning to it by giving it the vote it needs. I think that those of you that have been in Congress have seen that in practice. Those of us on the outside have seen the result of what has happened. Some has been good; some has not been so good. This is a political process. But at the end, it is the good of the people. It is the good of the country that we, as delegates, must look to. And in my view, I agree with the proponents of this proposal that it is it's time for us to actually give meaning to the word override. Thank you.

Delegate Asher: Thank you, Delegate Takesy.

Delegate Liwy: Mr. Chairman.

Delegate Asher: Thank you, Delegate Liwy.

Delegate Liwy: Thank you very much. Maybe you cannot see me on this side because – maybe they should cut that pillar. Before I go on, I would like to take this opportunity to pay my respects to Isoko, Mr. President and Honorable Delegates. I just want to voice my view that I'm really in agreement with this proposal because it gives people like me a chance to see which of my representatives that I have voted into Congress overrides the bill – I mean – the presidential veto. So, to give back the sole decision on the four people to override the presidential veto only gives those people – let's say – a bad name, but doesn't identify the other members if they are in agreement. So if, let's say a person from a particular district also votes for an override, then it gives that particular person some sense that in the next election people might identify him, that he was against what was supposed to be a good thing. So, I think if I have the power to also vote for this, I would vote “Yes.” I'm really in an agreement with this proposal. Thank you very much.

Delegate Susaia: Chairman.

Delegate Asher: Delegate Susaia, you have the floor now.

Delegate Susaia: This is the second round, huh? Let me just say my last few words on this. First, there are two sides to a veto. Just like in life. There's a bad veto; there's a good veto. Seems like the previous comments have been talking too much about the President's veto is good, and Congress is trying to override it. So we must – (*) – presidents, they make bad decisions, too. Congress needs to correct it by overriding. The second concern I have on this: this proposed amendment, to me, breeds dissent and disunity among the Delegations because it pits the two-year Senators against the at-large Senator on an issue to be overwritten or under consideration – (*) – while we're trying to redistribute power between the Executive and Congress, this is really – (*)

*Technical difficulties causing Delegate to be cut off.

Delegate Nabeyan: May I, Mr. Chairman?

Delegate Asher: Go ahead, Delegate Nabeyan, while we wait for Delegate Susaia to come back.

Delegate Nabeyan: I understand that there seems to be some concerns for the proposal. My intention with the Committee, as reported on the proposal, is just to make sure that we actually have a healthy constitutional government that actually functions on the principles of checks and balance between the equivalents of government. I get the point that Susaia mentioned that presidents also make bad decisions. And that's why Congress has the power to override the President, but I think the power to veto and the power to override should be coequal of powers that if one is overall, currently the power to override, then the other one is meaningless. If the same three members of Congress who vote to pass the bill at Final Reading are the same three members who vote to override a veto, then I see the veto as basically a meaningless authority given to the President. Now, the issue of requiring immense power to vote for override would create disunity between the members of Congress elected for two-years, also mentioned those elected of at-large – I think – is less important than the fact that all members of Congress are elected and expected to vote on fundamental, important matters in the Nation. And I think a vote on whether or not to override a veto is one of those. And I would think that all the citizens of this nation expect their representatives, all of them, to have a say on the matter. And I think this proposal allows that. The current setup is – well – it's only the view of those of them who also voted to pass the bill on Final

Reading, that wouldn't become respective of what the other members are saying. So, I think this offers a door to the voices of all members of Congress. Thank you.

Delegate Asher: Thank you, Chairman Nabeyan. Any more - ?

Delegate Cantero: Chairman.

Delegate Asher: Delegate Cantero.

Delegate Cantero: Yeah, I think it sells it to express our views on these things at this stage of our process. You know, in my view, if you look at the Convention history – I mean, all of us know that very, very well – many, many major issues were tabled in those Conventions, some of which we are discussing now. But ultimately, at the end of the day, none of them worked, and this is a reality for us. We can debate this issue back and forth, but the reality for us is really that we aim to have a successful Convention that would output proposals that are most impactful to our people. If we create an environment where the Convention is proven to be a successful mechanism for change, we will actually create hope for people to acknowledge that they have a process to change things, and that's more, in my view, a higher purpose than anything else to give hope to our people that this process actually works. Again, looking at the history of those Conventions, none of them has worked. And so, I ask my question, why haven't these proposals worked? Proposals that are very critical; Revenue Sharing in particular. So, my personal conclusion is maybe those people neglected really the psychology of our people at those times. And I hope that we can refer to their psychology at the moment in our stage of our development. Perhaps one of many reasons is that too many proposals were given to them to actually consider. Perhaps too many proposals were tabled that had impact on the level of optic awareness that the delegates were supposed to do; things like that. We can only speculate, but my personal conclusions grab those things. So, I ask myself, how do we neutralize those kind of conditions to make it – to create an environment that would be conducive, very conducive to the passage of the proposals that we have – that we output and most especially proposals that, in my view, are now more critical than ever. I will admit that Revenue Sharing is something that I personally attached myself to, and I hope that we can output that. But I hope that proposals that are important but not critically needed at the moment does not impact our success in outputting. And even having a successful vote on proposals that are critical, for instance, Revenue Sharing and many others. So ,I'm not – so the point I'm trying to get across is again, we need to not only look at what we do now, but how do we architect ourselves so that we create the best condition for success

when the time is pretty close to public awareness as well as the election time? So that's just my thought at the moment.

Floor Leader Yatilman: Chairman.

Delegate Asher: I yield the floor to Floor Leader.

Floor Leader Yatilman: Thank you very much, Chairman. You know – we are here as Delegates to review the Constitution of the FSM. And where it needs fixing, we have to at least propose some amendments to that. So, we should not shy away from the fact that previous proposals have not passed, and therefore, we should not offer some solutions to fixing what is not working anymore today in our Constitution. So, I want us to be reminded of that. Let's not limit ourselves to the fact that some proposals didn't pass before because there were too many, but rather, let's focus on what we believe needs fixing, and then let's address it now, because the next opportunity would be ten years from today. So, as a member of the Yap Delegation, the Yap Delegation feels that this is one of them on the issue of override. And I cannot go more with what has been expressed by Delegate Takesy, our Chair, and the others who are for it. I believe it's about time that we put in some resemblance of balance in the exercise of power between the Executive and the Legislative branches of our government. I've served four administrations, and on that side of the aisle, there have been cases where the Administration felt that the override, or whatever bill it was, was an infringement on the sort of reserve power of the Executive. But then, when it goes back to Congress for override, it was easy, as Delegate Takesy said. The threshold that was used to pass a bill is also used to do an override. So, I think what we're trying to do here is just raising the bar a little bit for an override to happen, nothing more. This is raising the bar just a little bit beyond what was required to pass a bill in Congress. So seriously, let's not – you know – shy away from doing what we believe is good for our nation in terms of offering fixes to our Constitution. We've seen many and I bet all of you have seen, but we're trying not to see it now that we're in this Convention. We could have put in the millions and millions of money that have come through our Treasury. But sadly, that's not all the priorities of this Nation that should have been funded – did not receive funding or full funding because the power of purchase is with Congress. I'm not shy to say this, and it's a fact of life. It's a fact of what we've seen happening. So, let's do it. Let's see what we can do to at least correct the way our government works and especially our Constitution. Thank you.

Delegate Bossy: Mr. Chairman.

Delegate Asher: Thank you. Delegate Bossy?

Delegate Bossy: I was going to make a motion.

Delegate Asher: We're –

President Killion: Wait, Delegates are – sorry, with all due respect – I don't mean to stop you, but there are still a lot of issues –

Delegate Bossy: Okay, I yield the floor.

Delegate Asher: Can I have Delegate Saimon?

Delegate Saimon: Mr. Thank you, Chairman. I just have a few words, and I actually would like to address the practicality of where we are today. We have a President chosen by Congress. They then send them two buildings down – three buildings down, then they send him laws, or her laws. And when the President vetoes some of them because of public policy considerations or economic considerations or development considerations that are lacking, that are not there – we know they're not there because we're trying to change the Revenue Sharing. Currently, Congress, because of a 2000 case that the Congress refused to change the fisheries funds to be taxable. That could have been fixed, because if Congress has changed revenue derived from fisheries to the income that you subject to division with the States, we wouldn't be looking for the current big issue that's coming up on Revenue Sharing. But we know that Congress doesn't want to do that. And we know that we have a “Super Congress” right now. We have those three people that send that one person that actually is their “Super President” in reality – the reality that I was trying to refer to earlier. So, this proposal will give some power to the President, the intended balance that we have. Speaking of balance, if we have a president that's bad; like you say, there are some bad vetoes also. Yes, we know that. But there is that other balancing mechanism: the Courts. The Courts will then look at the decision of the vetoed law that was not overrated – I'm sorry – that was not overridden, because we now have made it harder and have a decision to a chance to check the last branch that we have, the official last branch that we have, and then do the final check. So, there's that one extra remedy that we have. So – you know – if there's a bad veto and it's not overridden because we just made it a little bit harder, then we have the Courts. But again, going back to reality, we have three “super” beings, persons in Congress. These persons, if I'm not mistaken, pick the President. And then, these three persons can then tell the President what to do all the way. This changes a little bit of the playing field today – if we can pass this. Thank you.

Delegate Asher: Delegate Susaia? We refer the floor back to you since you were cut off. You have the floor now.

Delegate Susaia: Sorry, Chairman and Honorable Delegates. I was about to finish what James wanted me to say on this proposal, but the power – the internet. I guess what he was trying to tell me was not good. But here's what I wanted to conclude my views on this. I am not addressing it based on current office holders. It is the structure that we need to look at. Decisions made in the past have been made already. And if we are to correct them, we have to understand these decisions are based on politics mostly. And, like Chairman Fritz said earlier, there's always consultation between the President and members of Congress. In fact, there is also a presidential letter that explains the veto. And, if Congress is still not satisfied, they override. I think what this proposed amendment is doing is presuming that all these overrides in the past, mostly – majority of it, are not good for the country and therefore we need to raise the bar, like the Floor Leader said. So, what happens if in the event that the veto is bad; we make it hard to override, right? What is wrong with the current situation where like the three States have to vote “Yes” to override after consultation with the President and after their own internal delegation consultation. Then the Chairman of the Delegation cast his vote in session. In here we are now elevating the at-large Senator, giving him power to override the two-year senators if he disagrees with them on the issue to override. That’s bringing – for us, we're encouraging dissent among the Delegations, among each Delegation. We need to make sure that there's a cohesive decision-making process in Congress for the good of the country, not for one person's interest to overrule the others. I appeal to you, Delegates; I believe if we really want to look at decisions in the past presidential vetoes, there's nothing so drastically bad that we need to pass this kind of proposal. The structure is perfect. The allegation – the distribution of power is perfect. So, my vote on this, Chairman, and I wish, if it's appropriate – is it allowed the rules to defer action on this proposal so we can consult each other more?

Delegate Nabeyan: Mr. Chairman.

Delegate Asher: Go ahead, Chairman Nabeyan.

Delegate Nabeyan: Yeah. I think we’ve exhausted discussion on this, and I move that we rise to Plenary and subject this proposal to Second Reading.

Delegate Bossy: Second.

Delegate Fritz: If we go back to the Plenary, are we allowed to amend the proposal then for the consideration on Second Reading or no more?

Delegate Nabeyan: Recess, Chairman.

Delegate Asher: I declare for a recess – short recess.

Chairman Asher declared the Committee of the Whole recessed at 12:09 p.m., subject to call of the Chair.

RECESS

The Committee of the Whole reconvened at 12:27 p.m.

Delegate Asher: I call back the Committee of the Whole to session.

Delegate Nabeyan: Mr. Chairman?

Delegate Asher: Yes, Chairman Nabeyan.

Delegate Nabeyan: I reiterate my motion that we rise to Plenary and recommend a vote of Second Reading.

Delegate Albert: Second.

Delegate Asher: There's been a motion that's moved and seconded. No discussion, no debate? I ask that we vote on that motion. All in favor, say, "Aye." All opposed, say, "Nay." Motion carried.

The motion carried by voice vote of Delegates.

There is a rise to Plenary at 12:28 a.m., Friday, June 03, 2022.

Delegate Asher: Plenary is now rise. We go back to Plenary Session. Mr. President?

President Killion: Recess.

President Killion declared the Convention recessed at 12:28 p.m., subject to call of the Chair.

COW Chairman Asher called the Committee of the Whole to order at 1:27 p.m., Thursday, June 02, 2022.

Delegate Asher: Thank you, Mr. President. The Committee of the Whole is now in order. We have two other Committee Proposals that already passed First Reading: Committee Proposals 4-06, CCD1 and 4-07. At this time, I would like to ask the Chief Clerk to read out the proposals in their entirety.

Chief Clerk Reyes: Thank you, Chairman of the COW. The first proposal is on Committee Proposal 4-06 CCD1. This is relating to 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.

“Resolved that the following be agreed upon as an amendment to the Constitution; Article IX, Section 6: Net review 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 shall be divided equally between the National Government and the appropriate State Government or State Governments. Where two or more State Governments are entitled to such net revenue, such State Governments shall be entitled to 50% divided equally among them. Congress shall give effect to this provision by statute, in a manner consistent with the international treaty application of the Federated States of Micronesia.”

The next proposal is on Committee Proposal 4-07. This is relating to providing exclusive jurisdiction of cases where an interest of land is at issue in the State Courts.

“Resolved that the following be agreed upon as an amendment to the Constitution; Article XI, Section 6, Subsection b: The national courts, including the trial division of the Supreme Court has concurrent original jurisdiction in cases arising under this Constitution; national law or treaties, and in disputes between a State and a citizen of another state, between citizens of different states, between a state or a citizen thereof, and a foreign state, citizen, or subject; provided, however, that the State Courts shall have exclusive jurisdiction in cases where an interest in land is at issue.”

Delegate Asher: Thank you, Chief Clerk. We move to Proposal 4-06 first. That’s the proposal that relates to the distribution of net revenue derived from seabed and subsoil minerals. May I ask, or probably just open the floor of our

discussion and give a chance for the proponent or proponents to state their case on this matter. Thank you.

Delegate Nabeyan: Chair?

Delegate Asher: Chairman Nabeyan; you have the floor.

Delegate Nabeyan: I move that when we rise to Plenary, we recommend this proposal for vote of Second Reading.

Delegate Asher: There's a motion in place.

Delegate Palsis: Second.

Delegate Asher: Second. We shall vote on the motion.

Delegate Nabeyan: Clarifying. Not now, but when we rise, we subject this to vote –

Delegate Asher: Sorry, Chairman Nabeyan. Can you please clarify again your –

Delegate Nabeyan: My main motion was that when we rise to Plenary – not that we rise now – but when we rise to Plenary, that we recommend this to vote for Second Reading. This proposal.

Delegate Asher: Call for a short recess.

Chairman Asher declared the Committee of the Whole recessed at 1:32 p.m., subject to call of the Chair.

RECESS

The Committee of the Whole reconvened at 1:34 p.m.

Delegate Asher: I now call back the Committee of the Whole to order. We are now still on the Committee Proposal 4-06, CCD1. The floor is open for discussion.

Delegate Bossy: Chairman.

Delegate Asher: Delegate Bossy.

Delegate Bossy: I believe we have settled discussions prior to closing the First Reading, so I move to close the discussion.

Delegate Albert: Second.

Delegate Nabeyan: Recess.

Delegate Asher: Short recess.

Chairman Asher declared the Committee of the Whole recessed at 1:35 p.m., subject to call of the Chair.

RECESS

The Committee of the Whole reconvened at 1:37 p.m.

Delegate Asher: Okay. We now call back the Committee of the Whole to order. We are still dealing with Proposal 4-06 [CCD1], and floor is open for discussion.

Delegate Bossy: Chairman, I withdraw my motion.

Delegate Asher: Thank you, Delegate Bossy. Delegate Cantero, you have the floor.

Delegate Cantero: Thank you. Mr. Chairman. I think based on our deliberations on this particular issue, it's clear that it's something that is favorable to all of us. With that, it's most likely that it's going to – I'm assuming that it does – be successful in going through the process of being presented to our constituents or people for consideration. But taking advantage of the COW to exhaust some – really exhaust discussion and clarification in some issues, I thought I maybe wanted to just take this time just to maybe see some clarification from Chairman Nabeyan, especially on the actual implementation and implication of this proposal. Let's say some continental shelf, baseline or area or some minerals have been identified to exist, and that particular area, let's say it's with Pohnpei State. Okay? So, we exploit that area; 50% goes to National, the other 50% goes to Pohnpei State if it's exclusive to Pohnpei State territory. If it's linked up with Kosrae, then they split the revenue on that. If it's not linked up with Chuuk or Yap, those two States will not be eligible for that revenue. Right? Okay. That's good. My question is, is that something that is perhaps beneficial to us as a country? Is that something that would not cause fragmentation, disunity, or is that something new interest to

service this debate of – if I don't get then why am I in – I'm in full support of the proposal. I just need to understand this more. At the end of the day, when we sell this, explain this to our constituents, we need to be able to respond to questions like that from our people that would say, “Why am I not getting it?” We need to be able to justify. I'm in full support of it. I just need to be able to satisfy my – prepare myself for that engagement with our constituents. Thank you.

Delegate Nabeyan: Chair.

Delegate Asher: Thank you. Go ahead, Chairman Nabeyan.

Delegate Nabeyan: Thank you. Those are really good questions, and I'm happy you asked them. I'll try my best to address them. So, this proposal is not introducing a new revenue division. If there's an exploitation of minerals and non-living resources within the jurisdiction – within the EEZ from 12 miles up to 200 miles, this proposal applies. 50% of the net revenue for the exploitation of the minerals within the EEZ stays with the National Government; the other 50% goes to the appropriate state. All this proposal is doing – is because of the – Convention of the Sea has given coastal or member states – party states – jurisdiction in some rights over the content themselves that extend outside the EEZ. If this proposal does not – according to the Constitution states, any resources exploited on the continental shelf itself beyond the 12-mile EEZ, does not fall under this provision, Section 6 of Article IX. So, all this is doing – it's not introducing a new area for revenue division but rather just trying to exploit of the area that discovered minerals in this particular section. So, currently it's from 12 miles up to 200 miles, and now it's 12 miles up to wherever the continental shelves themselves end. So, it's not introducing a new division of revenue that this proposal is asking for.

Delegate Asher: Thank you, Chairman Nabeyan.

Delegate Bossy: Chair. I move for recess.

Delegate Asher: Short recess.

Chairman Asher declared the Committee of the Whole recessed at 1:43 p.m., subject to call of the Chair.

RECESS

The Committee of the Whole reconvened at 1:56 p.m.

Delegate Asher: I call our Committee of the Whole back to order. I understand that we have completed – we exhausted our discussion on Proposal 4-06, CCD1, and I also understand that there is a motion. Chairman Nabeyan?

Delegate Nabeyan: Yes, the motion is that when we rise to Plenary, that we recommend this proposal into Second Reading voting – this proposal – Proposal 4-06, CCD1.

Delegate Palsis: Second.

Delegate Asher: It has been moved and seconded. All those in favor of the motion, say “Aye.” All those opposed, say “Nay.” Motion carried.

The motion carried by voice vote of Delegates.

Delegate Asher: Since we have finished our discussion of Proposal 4-06 [CCD1], we will now move on to Proposal 4-07.

Delegate Nabeyan: Mr. Chairman.

Delegate Asher: Go ahead, Chairman Nabeyan.

Delegate Nabeyan: I move to have this proposal – that when we rise, we recommend this proposal to vote in Second Reading.

Delegate Asher: Thank you, Chairman Nabeyan.

Delegate Bossy: Second.

Delegate Asher: Okay, now the floor is open for discussion on Proposal 4-07. If anything, this proposal is to provide exclusive jurisdiction of cases where an interest of land is at issue in the State Courts. Any discussion?

Delegate Kanto: Chairman.

Delegate Asher: Delegate Kind, you have the floor.

Delegate Kanto: Again, I'm not a lawyer, but “interest of land.” Did you guys define it anywhere – land ownership or just interest of land?

Delegate Asher: Chairwoman Sigrah.

Delegate Sigrah: Thank you very much, Chair. To answer the question, the definition was provided in the Standing Committee Report 4-08, and “interest in land” means – is defined as “ownership of land, transfer of title to land and registration of land.”

Delegate Asher: Thank you, Chairwoman Sigrah.

Floor Leader Yatilman: Chairman.

Delegate Asher: Floor Leader Yatilman.

Floor Leader Yatilman: Thank you very much, Chairman. Just a question, and I may be wrong, but my understanding is State of Kosrae does not have an Appellate Division. And if that is correct, if the Court makes a ruling and someone is not happy, how would –

Delegate Sigrah: Well, when we talk about original jurisdiction – if I may, sorry – it goes back to the Land Court, and then goes out to the State Court, and then the State Court goes to Appellate Law mode, and that is still within the exclusive jurisdiction of the Kosrae State. So, they make a decision, and somebody’s not happy, it goes down again to the State Court and then down to the Land Court. That is the process – what is going on with the Kosrae land registration system. Thank you.

Delegate Palsis: Chairman.

Delegate Asher: Chairman Palsis.

Delegate Palsis: Thank you, Chairman. If I may respond to the question raised by the Floor Leader. Kosrae had just had its CONCON last year, and one of the proposals that was adopted and ratified during the CONCON was to create Kosrae’s own Appellate Court. So, in the meanwhile, we are still appealing our cases from the State Court to the FSM Appellate Court since we did not have the Appellate Division. But within one year from the ratification of the proposal, Kosrae is expected to have its own Appellate Court to review its cases. And if somebody is not happy with the decision from the State Appellate Court, we would still continue to appeal to the FSM Appellate Division. So, in due time, we will have the second layer of Appeal before we exhaust the land decisions before the Appellate Division of the Supreme Court. I hope that helps.

Delegate Asher: Thank you, Chairman Palsis. Delegate Saimon?

Delegate Saimon: Thank you, Chairman. I think the question by the Floor Leader is a valid one, and the answer from Chairperson Sigrah – I want to add to that – and that's the question of original jurisdiction – I'm sorry – doctrine of primary jurisdiction. The question is on land, so what the Constitutional Amendment would do is that it would exclusively give the Courts of the State jurisdiction to adjudicate matters that they would interest in land as defined in the Committee Report. So, in Kosrae – Kosrae is unique because it doesn't have – at least until not yet – have an Appellate court, unlike Pohnpei, Chuuk, and Yap, who do have Appellate Courts. Even Chuuk and – I don't know recall Yap – but even Chuuk, there's a doctrine that allows you to go further to the FSM Court. Pohnpei you can only go up there if there is Constitutional issues from the Constitution in the lower courts. Now the point in saying about primary jurisdiction doctrine is that because – even if the FSM Appellate Courts were to adjudicate after Kosrae Land Court and then the Kosrae State Court, it's under the what's called the Erie Doctrine – well, that's another – but under Federalism – under the way the Courts work together, it must apply state law – what the state laws uses. So even if the Appellate Court is reviewing under the current system of the Kosrae Constitution, it's restricted to the state law on land. So, it should be okay. So, the concern is valid, but it will be okay. Thank you.

Delegate Sigrah: I'm sorry. Can I add to that?

Delegate Asher: Go ahead, Chairwoman Sigrah.

Delegate Sigrah: Because original jurisdiction is going with Land Court in Kosrae State, for example, all the evidence are taken at a landlord level and so when they appeal it, they're limited to review only. There's no more introduction of new evidence. So, when we appeal it to FSM Supreme Court Appellate Division, they're not taking any new evidence. Whatever evidence that was given at the Kosrae State Land Court is what they're going to work with. So that is why it's very important that we give the original jurisdiction to the State where the land is situated at. Thank you.

Delegate Asher: Mr. Chairman.

Delegate Cantero: In anticipation of the reciprocal support from the Kosrae Delegation to Pohnpei Delegation, I think it's important for us to move forward in this proposal, Mr. Chairman.

Delegate Asher: Chairman Fritz.

Delegate Fritz: Thank you. I did want to expound a little bit on the definition on the – interest in land is at issue. I don't think we can limit it to what is in here – this is very important. Anything that relates with land and interest in land, it's in the exclusive jurisdiction of the State Courts. And Kind had asked me a question which I wanted to refer into it but since Salomon raised it – Delegate Saimon – with regard to our Constitution, which allows appeals to the FSM Courts. I believe if we pass this, then that's it. When our Appellate Courts make its final decision with respect to land, it should not be allowed to go up further. Other issues can go up, but not with land matters.

Delegate Cantero: Chair, if I may. Again, in anticipation of reciprocal support from the Chuuk Delegation on this proposal, I suggest we move forward on this proposal.

Delegate Asher: Chairman Nabeyan.

Delegate Nabeyan: I was going to ask to take a vote; let's vote on the main motion.

Delegate Asher: Sorry, Chairman Nabeyan. Can you please state your motion again?

Delegate Nabeyan: That when we rise, we recommend this proposal into Second Reading – this proposal.

Delegate Cantero: Second.

Delegate Asher: There has been a motion seconded. All those in favor, say "Aye." All those opposed, say "Nay." Motion carried.

The motion carried by voice vote of Delegates.

Delegate Nabeyan: Chairman.

Delegate Asher: Chairman Nabeyan.

Delegate Palsis: I move to move us to Plenary.

Delegate Sigrah: Second.

Delegate Asher: Motion to rise. We know it's not debatable. All those in favor, say "Aye." All those opposed, say "No." Motion carried.

The motion carried by voice vote of Delegates.

There is a rise to Plenary at 2:06 p.m., Friday, June 03, 2022.

/s/

Krystal Saimon, Journal Clerk

APPROVED STANDING COMMITTEE REPORTS ON ADOPTED PROPOSED AMENDMENTS

- 1) Dual Citizenship: (CL&T AND S&A)
- 2) Revenue Sharing of Fishing Fees (PF&R and S&A)
- 3) Presidential Veto Override Requirements (GS&F and S&A)
- 4) Revenue Distribution formula for minerals and other non-living resources exploited from seabed and subsoil beyond 12 miles (PF&R and S&A)
- 5) Eligibility requirements to run for FSM Congress (GS&F and S&A)
- 6) State competent courts have exclusive jurisdiction re. land issues: (GP and S&A)
- 7) Establishment of a new Office of Independent Prosecutor (GS&F and S&A)
- 8) Amendment Threshold (GP and S&A)

STANDING COMMITTEE REPORT NO. **CC-SCR-04-05**

DATE: March 11, 2020

RE: CC-PR-4-06; CC-PR-4-26; CC-PR-4-30; CC-PR-4-33; CC-PR-4-40; CC-PR-4-43; CC-PR-4-47

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

Dear Mr. President:

Your Committee on Civil Liberties and Tradition, to which was referred Delegate Proposal Nos. CC-PR-4-06, CC-PR-4-26, CC-PR-4-33, CC-PR-4-40, CC-PR-4-43 and Delegation Proposal Nos. CC-PR-4-30 and CC-PR-4-47, has drafted its own Committee Proposal entitled;

TO AMEND ARTICLE III, SECTIONS 3, 4, 5, AND 6 OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA TO ALLOW FSM CITIZENS TO HOLD DUAL CITIZENSHIP.

begs leave to report as follows:

Article III of the Constitution currently provides:

**“ARTICLE III
Citizenship**

Section 1. A person who is a citizen of the Trust Territory immediately prior to the effective date of this Constitution and a domiciliary of a District ratifying this Constitution is a citizen and national of the Federated States of Micronesia.

Section 2. A person born of parents one or both of whom are citizens of the Federated States of Micronesia is a citizen and national of the Federated States by birth.

Section 3. A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.

Section 4. A citizen of the Trust Territory who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands may become a citizen and national of the Federated States of

Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months of the date he became a United States national.

Section 5. A domiciliary of a District not ratifying this Constitution who was a citizen of the Trust Territory immediately prior to the effective date of this Constitution, may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months after the effective date of this Constitution or within 6 months after his 18th birthday, whichever is later.

Section 6. This Article may be applied retroactively.”

The intent and purpose of the Committee Proposal is (1) to allow a FSM citizen who satisfies Section 2 to hold dual citizenship, (2) to restore FSM citizenship to those who lost their FSM citizenship because they failed to renounce their citizenship of a foreign country, (3) to provide a pathway for FSM citizens who knowingly renounced their FSM citizenship to regain their FSM citizenship through naturalization as provided by law, and (4) to remove those sections of Article III for which there are no longer any persons eligible to claim FSM citizenship.

Your Committee on Civil Liberties and Traditions reviewed, discussed, and debated the seven proposals to amend Article III to allow for dual citizenship. Two proposals would limit dual citizenship to FSM citizens with U.S. citizenship. See Delegate Proposal No. CC-PR-4-06 and Delegation Proposal No. CC-PR-4-40. Two proposals would allow dual citizenship to FSM citizens who acquired citizenship because one or both parents are citizens of the FSM with no other limitations or requirements. See Delegate Proposal No. CC-PR-4-33 and Delegation Proposal No. CC-PR-4-47. One proposal would allow dual citizenship to FSM citizens who acquired citizenship because one or both parents are citizens of the FSM and to FSM citizens who acquired citizenship through naturalization, with no other limitations or requirements. See Delegate Proposal No. CC-PR-4-26. One proposal would allow dual citizenship if the FSM citizen satisfied a residency requirement and also provided a path to restoration of FSM citizenship for persons who had lost their FSM citizenship. See Delegation Proposal No. CC-PR-4-30. One proposal would provide dual citizenship with only those countries identified by Congress and would provide Congress the power to establish the application process for dual citizenship. See CC-PR-4-43.

Your Committee is in favor of dual citizenship. However, with 7 different proposals put forth to address the subject matter, your Committee’s first task was to come to a consensus on the language that is agreeable to the proponents. A separate meeting was conducted with all seven proponents, and an agreement was reached in the form of the existing language currently in front of us today. Your Committee is aware of the fact that dual citizenship has been put to the voters on at least four previous occasions and has failed to be approved by the voters on any of those prior occasions. In reviewing the data, it has become obvious that support for dual citizenship continues to grow with the vast majority of FSM’s population supporting the initiative.

Section 3

Your Committee noted that there are a great number individuals who have lost their FSM citizenship because they did not know that they had to renounce their citizenship of another country or because they could not afford to renounce their citizenship of the other country. The discussion of the process of renunciation of citizenship focused primarily on U.S. citizenship because so many FSM citizens have been born in Guam and Hawaii, automatically making them U.S. citizens under the Fourteenth Amendment to the U.S. Constitution. Your Committee heard numerous examples of individuals who wanted to remain FSM citizens, but who could not because of the renunciation requirement of Section 3.

Your Committee obtained information from the U.S. Embassy in Kolonia, Pohnpei regarding the process of renunciation of U.S. citizenship and determined that if the FSM citizen holds dual citizenship with the U.S., it is impossible for the individual to comply with the requirements of Section 3 of Article III in order to retain their FSM citizenship. The U.S. does not allow a person under the age of 16 to renounce citizenship. For individuals between the ages of 16 and 24, there are severe restrictions on who can renounce citizenship, because the U.S. has experienced situations where individuals in their teens and early 20s have been pressured into renouncing their citizenship against their will and because the U.S. wants to insure that the individual is mature enough to understand the gravity of their actions. There is currently a non-refundable fee of \$2,400 USD to renounce U.S. citizenship, and it takes approximately 3 years to complete the process. In addition, a person can only renounce their U.S. citizenship in designated locations. Once a person starts the process of renouncing their U.S. citizenship, comments are placed in the U.S. passport control system, and these comments affect the person's ability to travel, especially into and out of the U.S.

Your Committee was in unanimous agreement that the current language in Section 3 pertaining to renouncing "citizenship of another nation" should be removed.

A Delegate stated that many of his constituents raised the concern of whether the dual citizen would be loyal. To address this concern, your Committee then discussed proposed loyalty requirements. The two requirements that received the most attention were a vernacular or local language requirement and a residency requirement.

Your Committee determined that the language requirement would be both unfair and difficult to administer. The requirement was deemed unfair for two reasons. First, English is an official language of the FSM and is the unifying language of the FSM. Second, many people currently born and living in the FSM are not fluent in one of the local languages, because many children are raised in multi-lingual homes and speak English at school. The requirement was deemed difficult to administer for two reasons. First, there was concern with who would design the test, what qualifications would that person have, and what would be tested. Second, because there are dialects within each of the local languages, there was concern with how the "official" dialect would be chosen. There was additional concern that some of the local languages do not have uniform rules of spelling or grammar making it difficult to determine whether a given answer is "correct."

Your Committee discussed several possible residency requirements and whether a residency requirement should be placed in the Constitution or whether Congress should be granted the power to establish a residency requirement by statute. The residency requirement in Proposal CC-PR-4-30 was discussed at length. Several Delegates raised the concern as to how a residency requirement would be measured and what documentation would a person need to produce in order to establish that they had been a resident in the FSM for the required period of time. It was noted that those who had lost their FSM citizenship may not have kept their travel documents and may have thrown away their old passports and thus, would not be able to prove that they satisfied the residency requirement. A second concern was that if the residency requirement was during the person's lifetime, then the person may not know that they satisfied the requirements for FSM citizenship until they died. A third concern was that a residency requirement was unfair to those who were in school abroad, those who worked abroad, and those who could not afford to travel home.

One Delegate stated that loyalty was a subjective matter and that it was unfair to treat FSM citizens who acquired dual citizenship through no action of their own differently from other FSM citizens. Most FSM citizens with dual citizenship acquired their citizenship in another country because of where their parents happened to be living when they were born. These individuals should not be penalized because they had no ability to choose where to be born.

Several Delegates raised the concern that allowing dual citizenship would open up land ownership to people with no cultural connection or family ties to Micronesia. Citizenship, however, is controlled by Section 2 of Article III. No person can become a citizen of the FSM unless that person has one parent who is a FSM citizen. Because this requirement of FSM citizenship is in the Constitution, it cannot be changed by statute. Thus, all FSM citizens, whether or not they have citizenship in another country, have Micronesian blood in them.

It was also noted that land ownership is addressed in other provisions of the Constitution and that it was not appropriate to address the issue of land ownership in defining citizenship in Article III. One Delegate stated that just because a person is a FSM citizen does not entitle that person to own land; land is controlled by custom and tradition. Citizenship is more than landownership.

Your Committee unanimously agreed that Section 3 should provide for dual citizenship without any loyalty requirements. The Committee also unanimously agreed that dual citizenship should be limited to those individuals who acquired FSM citizenship as a birth right under Section 2 and that FSM citizens who are naturalized citizens should not be allowed to hold dual citizenship. This distinction was made to insure that individuals who sought to become FSM citizens through naturalization wanted to be FSM citizens and were not seeking FSM citizenship as an entry into the U.S. or to own land for short term gain.

The language for Section 3 that your Committee unanimously agreed upon is:

“Section 3. Citizenship of another country shall not affect a person's Federated States of Micronesia citizenship, as provided under Section 2.”

Section 4 – Current Language

The current language of Section 4 provides a mechanism by which a citizen of the Trust Territory who was living in the Northern Marianas when the Northern Marianas became the Commonwealth of the Northern Marianas could become a citizen of the FSM. The citizen of the Trust Territory had 6 months from the effective date of the Covenant to Establish the Commonwealth of the Northern Marianas to become a FSM citizen. The effective date of the Covenant was January 9, 1978, and six months from that date was July 8, 1978. Thus, there is no one to whom Section 4 applies.

Your Committee unanimously agreed that the current language of Section 4 should be deleted.

Section 4 – Proposed Language

Many Delegates were of the opinion that there is a difference between those who had lost their FSM citizenship because they did not know they had to renounce their citizenship in a foreign country or who were unable to renounce their citizenship in a foreign country and those FSM citizens who had knowingly and voluntarily renounced their FSM citizenship. Your Committee recognized that there are some who have renounced their FSM citizenship because of their employment, including military service, who want to return to the FSM and become part of the community.

Your Committee believes that there should be a path to restoration of citizenship for persons who have renounced their FSM citizenship but want to return. We believe that for this group, a residency requirement establishing a true intent to return to the community is appropriate. Your Committee, however, felt that it would be better to authorize Congress to determine whether or not to establish by law the residency and other requirements for restoration of citizenship rather than enumerating them in the Constitution. If the requirements set are too onerous, then Congress can change the requirements by statute. But, if those requirements are in the Constitution, then another amendment will be needed to make the necessary change.

The language for Section 4 that your Committee unanimously agreed upon is:

“Section 4. A person who has knowingly renounced his citizenship of the Federated States of Micronesia shall remain a national of the Federated States of Micronesia, except as may be provided by law. A national of the Federated States of Micronesia may regain his citizenship of the Federated States of Micronesia in accordance with the residency requirement and other conditions as may be prescribed by law.”

FSM Nationals

One Delegate questioned the need to have both FSM citizens and FSM nationals. The Journals of the 1975 Constitutional Convention were consulted to determine what the original drafters

had understood these terms to mean. Standing Committee Report No. 14 explains the terms “citizen” and “national” as follows:

“The terms ‘citizen’ and ‘national’ both refer to the status of an individual in his relationship to the state. The word ‘national’ has a broader meaning than ‘citizen’. The domestic law term ‘citizen’ is applied to persons with full political and civil rights. ‘National’ is an international law term applied to citizens, as well as persons who, while not citizens, owe permanent allegiance to the state and are entitled to its protection. Under the Committee Proposal, all citizens will be nationals of Micronesia, but all nationals will not be citizens. . . . Frequently, political and civil rights are not extended to nationals but are automatically given to citizens. The right to vote for or to run for elected office in the government, the privilege of appointment to certain positions, the right to own and sell land, etc. are examples of status distinctions which may be made between nationals and citizens.”

1975 Con.Con., SCREP. No. 14, Sept. 23, 1975. The Committee reaffirmed that the terms “citizen” and “national” have and should retain their meaning as set out in Standing Committee Report No. 14.

Your Committee unanimously agreed that the current language that a person who had birth right citizenship under Section 2 but lost that citizenship remains a national of the FSM should remain in the Constitution. A national of the FSM is allowed to enter and live and work in the FSM without having to obtain a visa or work permit. Your Committee believes that maintaining the status of national is important for persons who are Micronesian by birth and who want to live and work in the FSM, but who may not want or be able to, restore their FSM citizenship.

Section 5 – Current Language

The current language of Section 5 provides a mechanism by which a citizen of the Trust Territory living in a District of the Trust Territory that did not ratify the Constitution could become a citizen of the FSM. The Trust Territory citizen had to apply for FSM citizenship within 6 months of the effective date of the Constitution or 6 months after his 18th birthday. The effective date of the FSM Constitution was May 10, 1979. A person born on May 9, 1979, would have been the youngest citizen of the Trust Territory born “immediately prior to the effective date” of the Constitution and would have had to have applied for FSM citizenship no later than November 9, 1977. Thus, there is no one to whom Section 5 applies.

Your Committee unanimously agreed that the current language of Section 5 should be deleted.

Section 6

Your Committee was in unanimous agreement that the amendments to Article III should be retroactive and restore FSM citizenship to those persons who have lost their FSM citizenship by operation of current Section 3 and that restoration of citizenship to this group should be

automatic, requiring no additional action by the FSM citizen. Your Committee was in unanimous agreement that a person who knowingly renounced their FSM citizenship should not automatically regain FSM citizenship, but can restore his citizenship by meeting such requirements as Congress may prescribe by law under Section 4.

Your Committee unanimously agreed that the word "shall" should be substituted for the word "may" to insure that the restoration of citizenship is automatic. Your Committee also agreed that Section 6 should be renumbered as Section 5.

The language that your Committee unanimously agreed upon is:

"Section 5. This Article shall be applied retroactively."

For the reasons stated herein, your Committee on Civil Liberties and Traditions is in accord with the intent and purpose of the Committee Proposal attached hereto and recommends its passage on First Reading, and that it be placed on the Calendar for Second Reading for review by your Committee of the Whole, then placed on the Calendar for Final Reading after review by your Committee on Style and Arrangement.

Respectfully submitted,



Mason Albert, Chairman



Delegate Salvador Iriarte, Iso Nannken

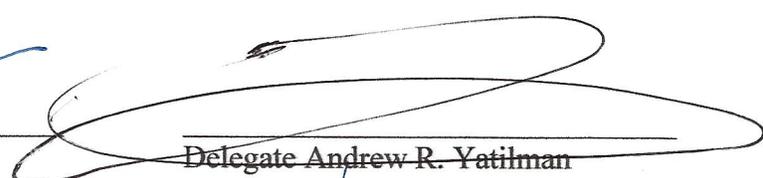
Camillo Noket, Vice Chair



Delegate Akillino H. Susaia

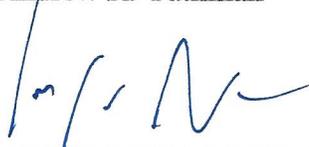


Delegate Salomon Saimon

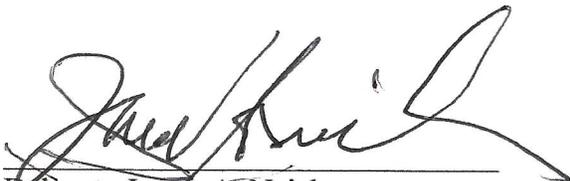


Delegate Andrew R. Yatilman

Delegate Jack S. Fritz



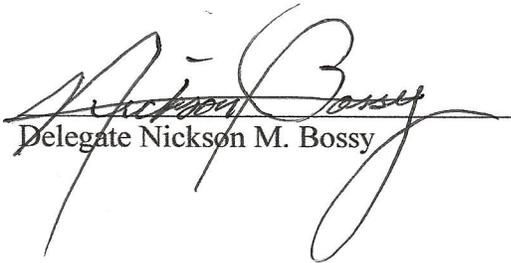
Delegate Victor Nabeyan



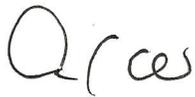
Delegate James A. Naich



Delegate Yoslyn G. Sigrab



Delegate Nickson M. Bossy



Delegate Canney L. Palsis

Delegate Kind K. Kanto

Committee Proposal No. 04-05
Committee on Civil Liberties and Traditions
Standing Committee Report No. CC-SCR-04-05

Relating to dual citizenship.

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

ARTICLE III Citizenship

Section 1. A person who is a citizen of the Trust Territory immediately prior to the effective date of this Constitution and a domiciliary of a District ratifying this Constitution is a citizen and national of the Federated States of Micronesia.

Section 2. A person born of parents one or both of whom are citizens of the Federated States of Micronesia is a citizen and national of the Federated States by birth.

Section 3. ~~A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.~~ Citizenship of another country shall not affect a person's Federated States of Micronesia citizenship, as provided under Section 2.

Section 4. ~~A citizen of the Trust Territory who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months of the date he became a United States national. A person who has knowingly renounced his citizenship of the Federated States of Micronesia shall remain a national of the Federated States of Micronesia, except as may be provided by law. A national of the Federated States of Micronesia may regain his citizenship of the Federated States of Micronesia in accordance with the residency requirement and other conditions as may be prescribed by law.~~

Section 5. ~~A domiciliary of a District not ratifying this Constitution who was a citizen of the Trust Territory immediately prior to the effective date of this Constitution, may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months after the effective date of this Constitution or within 6 months after his 18th birthday, whichever is later.~~

Section 6 ~~5.~~ This Article ~~may~~ shall be applied retroactively.

Date: March 11, 2020

Offered by: Committee on Civil Liberties and Traditions

STANDING COMMITTEE REPORT NO. CC-SCR-04-09

DATE: March 12, 2020

RE: Committee Proposal 4-05

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

Dear Mr. President:

Your Committee on Style and Arrangement, to which was referred Committee Proposal No. 4-04 relating to amending the Constitution, which provides:

ARTICLE III
Citizenship

Section 1. A person who is a citizen of the Trust Territory immediately prior to the effective date of this Constitution and a domiciliary of a District ratifying this Constitution is a citizen and national of the Federated States of Micronesia.

Section 2. A person born of parents one or both of whom are citizens of the Federated States of Micronesia is a citizen and national of the Federated States by birth.

Section 3. ~~A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.~~ Citizenship of another country shall not affect a person's Federated States of Micronesia citizenship, as provided under Section 2.

Section 4. ~~A citizen of the Trust Territory who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months of the date he became a United States national.~~ A person who has knowingly renounced his citizenship of the Federated States of Micronesia shall remain a national of the Federated States of Micronesia, except as may be provided by law. A national of the Federated States of Micronesia may regain his citizenship of the Federated States of Micronesia in accordance with the residency requirement and other conditions as may be prescribed by law.

~~**Section 5.** A domiciliary of a District not ratifying this Constitution who was a citizen of the Trust Territory immediately prior to the effective date of this Constitution, may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months after the effective date of this Constitution or within 6 months after his 18th birthday, whichever is later.~~

Section 6 5. This Article ~~may~~ shall be applied retroactively.

begs leave to report as follows:

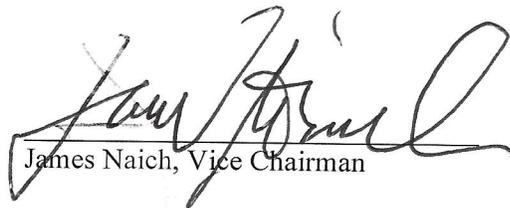
Pursuant to Rule 20.(e) and Rule 51, your Committee on Style and Arrangement reviewed Committee Proposal 4-05 for "inaccuracies, repetition, inconsistencies [and] poor drafting." Your Committee unanimously found that Committee Proposal 4-05 is consistent with the other provisions of the Constitution and is well drafted.

For the reasons stated herein, your Committee on Style and Arrangement recommends adoption of Committee Proposal 4-05 as written.

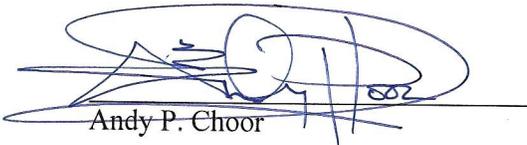
Respectfully submitted,



Salomon Saimon, Chairman



James Naich, Vice Chairman



Andy P. Choor

Myron I. Hashiguchi

Camillo Noket



Asterio Takesy



Johnson Asher

Mason Albert



Ricky F. Cantero

Relating to dual citizenship.

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

ARTICLE III
Citizenship

Section 1. A person who is a citizen of the Trust Territory immediately prior to the effective date of this Constitution and a domiciliary of a District ratifying this Constitution is a citizen and national of the Federated States of Micronesia.

Section 2. A person born of parents one or both of whom are citizens of the Federated States of Micronesia is a citizen and national of the Federated States by birth.

Section 3. ~~A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.~~ Citizenship of another country shall not affect a person's Federated States of Micronesia citizenship, as provided under Section 2.

Section 4. ~~A citizen of the Trust Territory who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months of the date he became a United States national.~~ A person who has knowingly renounced his citizenship of the Federated States of Micronesia shall remain a national of the Federated States of Micronesia, except as may be provided by law. A national of the Federated States of Micronesia may regain his citizenship of the Federated States of Micronesia in accordance with the residency requirement and other conditions as may be prescribed by law.

Section 5. ~~A domiciliary of a District not ratifying this Constitution who was a citizen of the Trust Territory immediately prior to the effective date of this Constitution, may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months after the effective date of this Constitution or within 6 months after his 18th birthday, whichever is later.~~

Section 6 ~~5.~~ This Article may shall be applied retroactively.

Date: March 11, 2020

Offered by: Committee on Civil Liberties and Traditions

STANDING COMMITTEE REPORT NO. _____

DATE: June 21, 2022

RE: CC-PR-04-36

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 Delegation Proposal No. 04-36, entitled;

TO AMEND ARTICLE IX, SECTION 2(m) OF THE CONSITUTION 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.

The current language of Article IX, Section 2(m) is:

“**Section 2.** The following powers are expressly delegated to Congress:

* * *

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

begs leave to report as follows:

Your Committee has previously reported out Committee Proposal 04-08 attached to Standing Committee Report 04-10, which Proposal and Report were referred back to your Committee on March 13, 2020, just prior to the Convention recessing due to the COVID19 pandemic.

Upon reconsideration, your Committee considered all of the revenue sharing proposals that had been submitted to the Convention and referred to your Committee including Delegate Proposal Nos. CC-PR-04-07, CC-PR-04-09, CC-PR-04-20, CC-PR-04-24, CC-PR-04-25, CC-PR-04-34, and CC-PR-04-53, and Delegation Proposal Nos. CC-PR-04-36 and 04-66.

Your Committee held public hearings in January and February of 2020 and again in June of 2022, requesting data from the Secretary of Finance and other FSM agencies and revenue generating public corporations regarding the revenue received by the national government. Because Standing Committee Report No. 04-10 sets out the findings from the 2020 public

hearings and the 2022 financial information reported was not substantially different, your Committee will not repeat the financial information provided in 2022 in this report.¹

Your Committee was unanimous in its agreement that revenues be shared between the national and state governments. Your Committee began its deliberations by reviewing a summary of all of the revenue sharing proposals that had been referred to it. Because the current structure of the Constitution sets out different types or forms of revenue in different sections of Article IX, your Committee determined that it was best to maintain the current structure and address each type of revenue separately. Your Committee then proceeded to discuss how the different types of revenue should be shared between the national and state governments.²

Your Committee focused on revenue from fishing licenses fees and determined that the appropriate provision for placing the revenue sharing provision for fishing licenses fees was in Article IX, Section 2(m), which is the provision of the FSM Constitution that grants the national government power to issue licenses to fish within the FSM EEZ. Your Committee considered several formulas for the division of revenue from fishing license fees, including the Pohnpei formula of 60% to the national government and 40% to the states, the Chuuk formula 40% to the national government and 60% to the states, and a compromise formula of 50/50. Your Committee discussed that because the national government operates almost exclusively on the revenue from fishing license fees it was necessary to ensure that the operations of the national government would remain stable and would allow the current national Trust Fund law to remain in place. Your Committee also discussed that it was important for the states and municipalities to receive revenue because that is where the people live, that local government is more responsive to people's needs, and that local governments provide services directly to the people. Several delegates emphasized that it was important to take small steps, one at a time, so as not to compromise the essential role and functions of the national government, and that increases could be made in future conventions.

Your Committee determined that, at this point in time, the appropriate revenue sharing formula is an equal division between the national government and state governments. This formula will ensure the continued operations of the national government and bring substantial revenue to the state governments. This formula will allow the continued investment in and operation of the FSM Trust Fund, including the national government's investment of funds in the subaccounts that benefit the state governments. Maintaining the FSM Trust Fund is necessary for the future

¹ The 2022 financial information can be found in the Summary Journals of your Committee and in Committee Communication No. 04-01, dated June 14, 2022 from Chairman Jack Fritz to the 4th FSM Constitutional Convention, sharing a general summary of information provided by testimonies of witnesses in the hearings conducted by the Committee on Public Finance and Revenue relating to revenue sharing of available resources which could be shared with our states and local governments given the facts that the states are experiencing financial challenges while our national government is enjoying significant surplus of revenues.

² The sharing of "net revenue derived from ocean floor mineral resources" is the subject of Standing Committee Report No. 04-06 on Committee Proposal 04-06 and is not discussed in and is not a part of this Standing Committee Report and Committee Proposal.

economic sustainability of our nation. This formula for revenue sharing is reflected in Section 2(m)(i) of your Committee's Proposal.

Your Committee then discussed how the states' share of the revenue from fishing license fees should be divided among the states. Your Committee focused on three options. The first option was to leave the revenue sharing to Congress. Several delegates objected to leaving the division to Congress as being unfair because Congress usually divides funds by Congressional Delegation but Congress has not yet created an additional election district for those states whose population has grown. The second option was that 60% of the states' revenue would be divided between the states based on population and 40% of the states' revenue would be divided equally. Several delegates objected to 40% of the states' revenue being shared equally as that would favor the smaller states over the larger states. In response, several delegates pointed out that there were fixed costs of operating government in each state and that these costs did not change based on the size of the population. The example discussed was the cost of operating the airport according to FAA standards to insure that United would service each state, i.e. the cost of building and maintaining the runway was the same for each state. Several delegates also pointed out that state equality and state population was how Congress was structured and that this structure of equality was based on the fact that each state entered the FSM as an equal exercising its right to self-determination. The third option was that 70% of the states' revenue would be divided between the states based on population and 30% of the states' revenue would be divided equally. Your Committee discussed that a 30% share based on equality would be sufficient to meet the fixed costs of government and respect the equality of each of the states, and that the 70% shared based on population would allow each state to meet the needs of the people. After much debate, your Committee determined that the third option was a compromise that reflected the interests of all of the states. The division of the revenue among the states is reflected in Section 2(m)(ii) of your Committee's proposal.

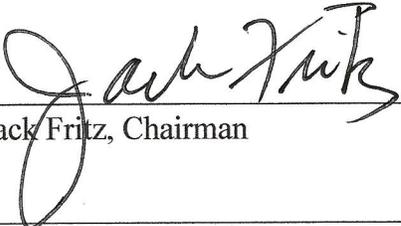
Your Committee believes that it is important that the Constitution provided that the states portion of the revenues derived from fishing license fees be deposited directly into each states general fund. That the revenue will be deposited into the state general fund is reflected in Section 2(m)(iii).

Your Committee also discussed the request of the Chuuk Delegation that your Committee's Proposal provide that funds go directly to the Chuuk municipalities. The Chuuk Delegation's request was based on the provision in the Chuuk Constitution which provides that "the Legislature shall appropriate at least 8 percent of the state operation funds, and shall appropriate to the municipalities for development projects at least 40% of the development funds that may be allocated." Chuuk State Const., Art. VIII, Sec. 6. From the time the Chuuk Constitution took effect, Chuuk State has failed to provide sufficient funding, as constitutionally mandated, to the municipal governments to enable them to carry out their duties and responsibilities to the citizens of the FSM residing in the municipalities. This is why the municipal governments in Chuuk unanimously charged their delegates to seek relief from the fundamental source of law which recognizes their existences but failed to provide adequate means for them to raise revenue on their own. An objection was raised that the FSM Constitution was not the appropriate place for a

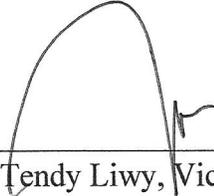
provision for revenue sharing between states and their municipalities, that such matters were part of the internal operations of the state and should be address by the state constitution and the leaders of that state. In response, the Chuuk Delegation pointed out that because the FSM Constitution clearly establishes three levels of government: national, state, and local, FSM Const., Art. VII, Sec. 1, the FSM Constitution was an appropriate place to address the concerns of the municipalities. The Chuuk Delegation also pointed out that the provision they were requesting only applied to Chuuk and would not apply to any other state. Several delegates objected to the inclusion of municipalities because it makes the proposal more complicated and confusing to the people. Your Committee determined that the division of revenues between the state and its municipalities should be resolved internally by each state.

For the reasons stated herein, a majority of your Committee on Public Finance and Revenue is in accord with the intent and purpose of the committee proposal attached hereto and recommends its passage on First Reading, and that it be placed on the Calendar for Second Reading for review by your Committee of the Whole, then placed on the Calendar for Final Reading after review by your Committee on Style and Arrangement.

Respectfully submitted,



Jack Fritz, Chairman



Tandy Liwy, Vice Chairman

Myron Hashiguchi

Cindy S. Mori



Johnny Risin

Roger Arnold



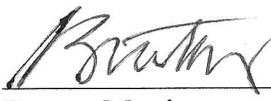
Canney Palsis



Johnson Asher



Ricky Cantero

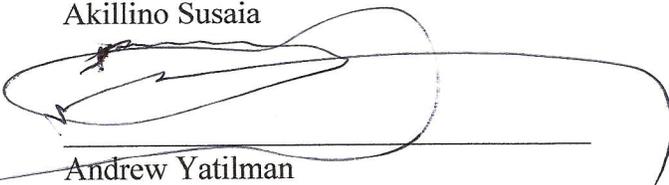


Berney Martin

Akillino Susaia



Andy Choor



Andrew Yatilman





Committee Proposal No. _____
Committee on Public Finance and Revenue
Standing Committee Report No. _____

Relating to Article IX, Section 2(m) of the Constitution of the Federated States of Micronesia to provide that revenue derived from fishing are shared with the States.

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

ARTICLE IX

Section 2. The following powers are expressly delegated to Congress:

(m) (i) 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, provided, however, that not less than 50% of all revenue collected from all forms of fishing fees are shared with the State governments;

(ii) seventy percent (70 %) of the revenue shared with the State governments pursuant to subsection (m)(i) shall be shared among the State governments based on population as determine by the most recent census, and thirty percent (30 %) of the revenue shared with the State governments pursuant to subsection (m)(i) shall be shared equally among the State governments;

(iii) all funds shared pursuant to subsection (m)(i) and (ii) shall be paid into the State treasuries;

Date: June 21, 2022

Offered by: Committee on Public Finance and Revenue

STANDING COMMITTEE REPORT NO. 04-21

DATE: June 24, 2022

RE: Committee Proposal No. 04-13

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

Dear Mr. President:

Your Committee on Style and Arrangement to which was referred Committee Proposal No. 04-013, entitled:

RELATING TO ARTICLE IX, SECTION 2(m) OF THE CONSTITUTION OF THE
FEDERATED STATES OF MICRONESIA TO PROVIDE THAT REVENUE DERIVED
FROM FISHING FEES ARE SHARED WITH THE STATES.

begs leave to report as follows:

Pursuant to Rule 20.(e) and Rule 51, your Committee on Style and Arrangement reviewed Committee Proposal 04-09 for “in accuracies, repetition, inconsistencies [and] poor drafting.” Your Committee unanimously found that Committee Proposal 04-13 is consistent with the other provisions of the Constitution. Your Committee, however, is recommending several changes that are consistent with the Convention’s purpose and intent in passing the Proposal.

First, your Committee recommends that the formatting be changed so that subsection (i) starts after “that” and before “not less than” and that subsections (i), (ii), and (iii) be indented. Your Committee believes that this change in formatting makes clear that the power granted to Congress remains unchanged and clearly establishes the revenue sharing provisions as separate from the power of Congress. This change in formatting requires that “(m)” be removed from subsections (ii) and (iii).

Second, your Committee recommends that “, however,” be removed as the language is superfluous.

Third, your Committee noted that in subsection (i) the 50% was not written out. For consistency, your Committee recommends that “fifty percent (” be inserted before “50%” and “)” be inserted after “50%.” Thus, it is your Committee’s recommendation that subsection (i) read “not less than fifty percent (50%) of all revenue collected from all forms of fishing fees are shared with the State governments;”.

Fourth, for consistency, your Committee recommends that the space between “70” and “%” and the space between “30” and “%” be removed. Your Committee also recommends that a “d” be inserted at the end of “determine” and that an “and” be inserted at the end of the subsection. Thus, it is your Committee’s recommendation that subsection (ii) read: “seventy percent (70%) of the revenue shared with the State governments pursuant to subsection (i) shall be shared among the State governments based on population as determined by the most recent census, and thirty percent (30%) of the revenue shared with the State governments pursuant to subsection (i) shall be shared equally among the State governments; and”.

Fifth, your Committee recommends that an “s” be inserted at the end of “subsection”. Thus, it is your Committee’s recommendation that subsection (iii) read: “all funds shared pursuant to subsections (i) and (ii) shall be paid into the State treasuries;”.

For the reasons stated herein, your Committee on Style and Arrangement recommends adoption of Committee Proposal 04-13, as amended.

Respectfully submitted,



Salomon Saimon, Chairman

James Naich, Vice Chairman



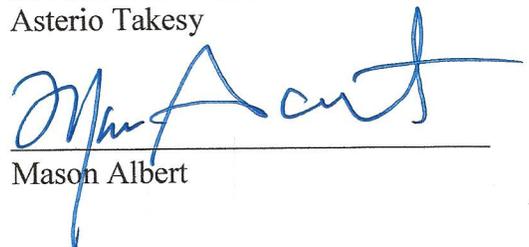
Andy P. Choor

Myron I. Hashiguchi



Joannes (Johnny) Risin

Asterio Takesy



Mason Albert

Johnson Asher



Ricky F. Cantero

Committee Proposal No. 04-13, CCD1
Committee on Public Finance and Revenue
Standing Committee Report No. 04-17

Relating to Article IX, Section 2(m) of the Constitution of the Federated States of Micronesia to provide that revenue derived from fishing fees are shared with the States.

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

ARTICLE IX

Section 2. The following powers are expressly delegated to Congress:

(m) ~~(i)~~ 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; provided, however, that

- (i) not less than fifty percent (50%) of all revenue collected from all forms of fishing fees are shared with the State governments;
- (ii) seventy percent (70%) of the revenue shared with the State governments pursuant to subsection ~~(m)~~(i) shall be shared among the State governments based on population as determined by the most recent census, and thirty percent (30%) of the revenue shared with the State governments pursuant to subsection ~~(m)~~(i) shall be shared equally among the State governments; and
- (iii) all funds shared pursuant to subsections ~~(m)~~(i) and (ii) shall be paid into the State treasuries;

Date: June 24, 2022

Offered by: Committee on Style and Arrangement

STANDING COMMITTEE REPORT NO. CC-SCR-04-03

DATE: March 02, 2020

RE: CC-PR-4-11

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

Dear Mr. President:

Your Committee on Government Structure and Function, to which was referred Delegate Proposal No. CC-PR-4-11, entitled:

“A PROPOSAL TO AMEND ARTICLE IX, SECTION 2(q) OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA TO PROVIDE FOR THE NUMBER OF VOTES REQUIRED TO OVERRIDE A PRESIDENTIAL VETO.”

begs leave to report as follows:

The intent and purpose of the proposal is to ensure proper checks and balances between the Executive and Legislative branches of the National Government of the Federated States of Micronesia. Given that currently the same number of votes for the Congress of the Federated States of Micronesia to pass bills is the same number of votes for Congress to override a Presidential veto of the same bills, an imbalance of power potentially exists between the Executive and Legislative branches.

Your Committee on Government Structure and Function has carefully reviewed the subject proposal and the written amendment to that proposal, both introduced by the Yap State Delegation. CC-PR-4-11, as amended in Committee, requires a 2/3 vote of all the members elected from congressional districts in each state, followed by a 3/4 vote of all members elected at-large to override a Presidential veto.

Article IX, section 2(q) of the Constitution currently reads that Congress has the authority: “to override a Presidential veto by not less than 3/4 vote of all the state delegations, each delegation casting one vote[.]”

To pass a bill on final reading, a 2/3 vote of the four State delegations in Congress is required, with each State delegation casting one vote. See FSM Constitution, Art. IX, Sect. 20. This equates to 3 of 4 votes. To override a veto, a 3/4 vote of the State delegations in Congress is presently required. See FSM Constitution, Art. IX, Sect. 2(q). This also equates to 3 of 4 votes.

This in effect renders the application of the veto power meaningless as the same three State delegations that pass a bill on the final reading can also override any veto of that bill.

As originally introduced, CC-PR-4-11 sought to change the veto process to two separate votes, requiring first a 2/3 vote by all of the members elected from districts in each state, followed by a unanimous vote of all members elected at large. There was some debate about whether requiring a unanimous vote by the at-large members created a threshold that was too high to override a veto.

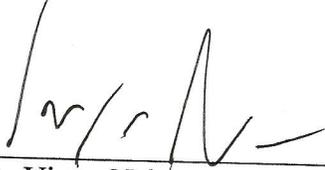
After discussion, the Yap delegates submitted a written amendment to CC-PR-4-11, which amendment requires the votes of $\frac{3}{4}$ of the members of Congress elected at-large to pass an override, instead of a unanimous vote. The Committee voted to pass the motion to amend the proposal. The result is that the affirmative vote of seven of the ten members elected from election districts, followed by a vote of three of the four at-large members would be needed to override a Presidential veto.

A Delegate expressed opposition to the proposal. He is of the belief that the current system addresses the problem the proposal aims to remedy. He contends that under the current system when a bill has been vetoed by the President, Congress meets informally to discuss whether there should be a veto-override. If the consensus is to proceed with a veto-override, each State Delegation meets to discuss its position. When the formal vote on the veto-override is taken, if the Chair of the State Delegation of a smaller state says something that was not agreed to, then the vote is changed. If the Chair of the State Delegation of a larger state says something that was not agreed to, then the members of the State Delegation are polled and the results of the poll control. It was noted by other Delegates that the votes taken during this informal process are not recorded, only the final vote is recorded; hence, the voters cannot hold individual elected officials accountable.

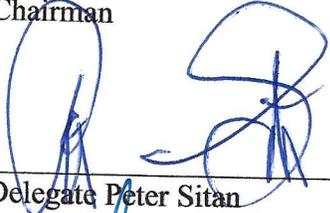
In response to the opposing view, another Delegate expounded that the issue is the Constitution, not the practice of Congress. He rationalized that there is no effective control by the Executive on the arbitrary exercise of power by Congress under the present structure of checks and balances. He continued on that it is important to make sure that we have a system of government with a structure of checks and balances that actually results in a balance of power between co-equal branches of government. He noted that the current system where only the 3 Delegation chairmen, who vote to pass a bill on final reading, can also vote to override a veto of that bill creates an imbalance of power that renders the Executive and Legislative branches of government unequal, and tilts the system of checks and balances in favor of Congress.

In light of the purpose of the Constitution to ensure proper checks and balances, your Committee on Government Structure and Function is in accord with the intent and purpose of the committee proposal attached hereto and recommends its passage on First Reading, and that it be placed on the Calendar for Second Reading for review by your Committee of the Whole, then placed on the Calendar for Final Reading after review by your Committee on Style and Arrangement.

Respectfully submitted,



Delegate Victor Nabeyan
Chairman



Delegate Peter Sitan



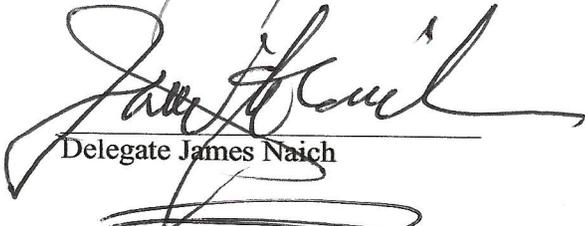
Delegate Marcus Samo



Delegate Myron Hashigushi



Delegate Nickson Bossy



Delegate James Naich



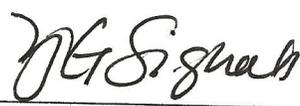
Delegate Andrew Yatilman



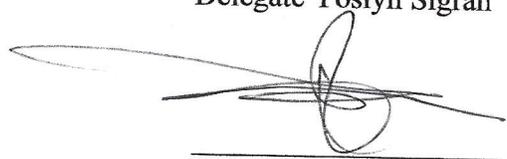
Akillino Susaia
(Vice Chairman)



Delegate Canney Palsis



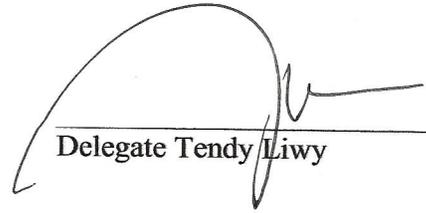
Delegate Yoslyn Sigrah



Delegate Ricky Cantero



Delegate Berney Martin



Delegate Tendency Liwy

Committee Proposal No. 4-03
Committee on Government Structure and Functions
Standing Committee Report No. CC-SCR-04-03

Relating to the votes required to override a Presidential veto.
RESOLVED, that the following be agreed upon as an amendment to the Constitution:

ARTICLE IX

Section 2. The following powers are expressly delegated to Congress: . . .

(q) to override a Presidential veto by not less than a $\frac{3}{4}$ $\frac{2}{3}$ vote of all the members elected from congressional districts in each state followed by a $\frac{3}{4}$ vote of all the members elected at large state delegations, each delegation casting one vote; and . . .

Date: March 02, 2020

Offered by: Committee on Government Structure and
Functions

STANDING COMMITTEE REPORT NO. SCR-04-11

DATE: June 9, 2022

RE: Committee Proposal No. 4-03

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

Dear Mr. President:

Your Committee on Style and Arrangement to which was referred Committee Proposal No. 4-03, entitled:

ARTICLE IX

Section 2. The following powers are expressly delegated to Congress: . . .

(q) to override a Presidential veto by not less than ~~a 3/4~~ 2/3 vote of all the members elected from congressional districts in each state followed by a 3/4 vote of all the members elected at large state delegations, each delegation casting one vote; and

begs leave to report as follows:

Pursuant to Rule 20.(e) and Rule 51, your Committee on Style and Arrangement reviewed Committee Proposal 4-03 for “in accuracies, repetition, inconsistencies [and] poor drafting.” Your Committee unanimously found that Committee Proposal 4-03 is consistent with the other provisions of the Constitution and is well drafted.

In its discussion, your Committee discussed how the Committee Proposal 4-03 would interact with Article IX, Section 8 of the FSM Constitution. Your Committee determined that the use of fractions in Committee Proposal 4-03 was consistent with Article IX, Section 8 and would be easy to apply if the number of members of Congress changes (either increasing or decreasing in number), because the fraction provides a simple mathematical equation. Your Committee also determined that the 4th sentence of Article IX, Section 8, which provides that “[e]ach member has one vote, exception on the final reading of bills,” when read in conjunction with Committee

Proposal 4-03 provides each member of Congress has one vote on a veto override vote. Your Committee concluded the Committee Proposal 4-03 and Article IX, Section 8 are consistent.

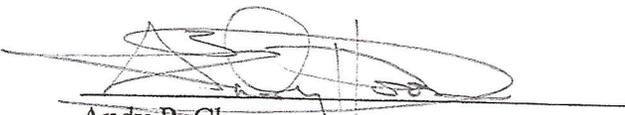
For the reasons stated herein, your Committee on Style and Arrangement recommends adoption of Committee Proposal 4-03 as written.

Respectfully submitted,



Salomon Saimon, Chairman

James Naich, Vice Chairman

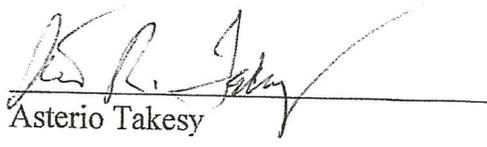


Andy P. Choor

Myron I. Hashiguchi



Joannes (Johnny) Risin

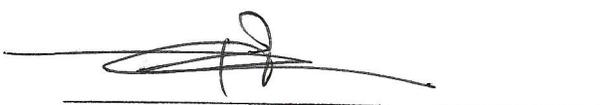


Asterio Takesy

Johnson Asher



Mason Albert



Ricky F. Cantero

Committee Proposal No. 04-03
Committee on Government Structure and Function
Standing Committee Report No. 04-03

Relating to the votes required to override a Presidential veto.
RESOLVED, that the following be agreed upon as an amendment to the Constitution:

Section 2. The following powers are expressly delegated to Congress: . . .

(q) to override a Presidential veto by not less than a $\frac{3}{4}$ - $\frac{2}{3}$ vote of all the members elected from congressional districts in each state followed by a $\frac{3}{4}$ vote of all the members elected at large state delegations, each delegation casting one vote, and . . .

Date: June 9, 2022

Offered by: Committee on Style and Arrangement

Standing Committee Report No: CC-SCR-04-06

DATE: March 11, 2020

Re: CC-PR-04-02

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

Dear Mr. President:

Your Committee on Public Finance and Revenue to which was referred Delegate Proposal No. CC-PR-4-10, entitled:

“A PROPOSAL TO AMEND ARTICLE X, SECTION 6 OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA FOR THE PURPOSE 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 SHALL BE DIVIDED BETWEEN THE NATIONAL GOVERNMENT AND APPROPRIATE STATE GOVERNMENT OR STATE GOVERNMENTS SHALL BE ENTITLED TO NOT LESS THAN 60% OF THE REVENUE. WHERE TWO OR MORE STATE GOVERNMENTS ARE ENTITLED TO SUCH NET REVENUE, SUCH STATE GOVERNMENTS SHALL BE ENTITLED TO NOT LESS THAN 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”.

Article IX, Section 6 of the FSM Constitution currently provides that:

“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.”

The intent and purpose of the proposal is to (a) adjust the division of net revenue from the exploitation of minerals and non-living resources within the jurisdiction of the of the Federated States of Micronesia beyond the 12 miles from island baseline, and also to include the exploitation of seabed and subsoil mineral resources under Section 2(m) of Article IX of the Constitution of the Federated States of Micronesia, including the minerals and other non-living resources within the Extended Continental Shelf within the jurisdiction of the Federated States of Micronesia pursuant to international law and treaties; (b) in exploiting the natural resources beyond the 12 miles from island baselines, revenue collected from mining exploitation shall be 60% for the appropriate State,

and the remaining to the National Government; and (c) when two or more State governments have a claim to the revenues, each State shall be entitled to an equal percentage.

The proposal is intended to replace the term "ocean floor" with "seabed and subsoil" because the latter term reflects the language of the FSM Constitution, as well as the language of the United Nations Convention on the Law of the Sea of 1982 (UNCLOS) (including applicable international treaties) which delimit the FSM Exclusive Economic Zone (EEZ) oceanic jurisdiction. The term "non-living resources" is also a preferred term in the proposal, because it includes mineral resources, as well as petroleum resources and non-living resources that are not considered mineral resources as used in Article IX, Section 2(m) of the Constitution.

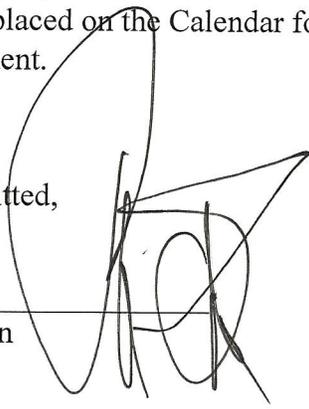
Your Committee also discussed the legal principles and elements in connection to seabed minerals in relation to the Continental Shelf Extension Doctrine. The roles, responsibilities, obligations, and objectives of UNCLOS was also articulated by the originator of the proposal to enable the Committee to understand the scope, content, and depth of the proposal. The question of who owns the minerals in the EEZ and the Continental Shelf Extension Zone was discussed. In addition, your Committee discussed the following questions: At what point can a state claim shared revenue from minerals mined in certain marine zones based on the concepts of "geomorphological", "geophysical", and "geological" definitional issues as defined by UNCLOS (and relevant treaties) and the jurisdictional boundaries established by the FSM Constitution? Should a State have the legal right to claim revenues mined in a zone that is technically part of its territorial zone when applying the three concepts of "geomorphological", "geophysical", and "geological"? If so, can that State share the revenue with other States and the national government to honor the idea of maintaining unity?

The FSM has already claimed certain areas outside its EEZ based on the extended continental shelf doctrine, for example, with Papua New Guinea and the Solomon Islands. Other FSM States stand to benefit from the new technical definitions which allows claims to territory that in turn would allow a State to claim revenues in certain areas of the maritime zones especially with regard to the continental shelf extension. It was expressed in your Committee that the FSM Congress has the power to regulate mining in FSM waters to the extent to which UNCLOS allows oceanic nation-states to claim economic resources and thus, associated revenue. Your Committee is in agreement that the Constitution should recognize the States that are situated at the point of the relevant geological marine zones to claim certain revenues from mining exploitation should be entitled to those revenues.

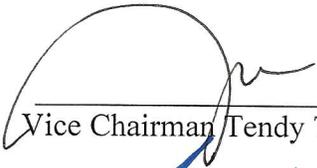
Your Committee incorporates in full the attached briefing paper (Attachment A) as a part of the this Committee Report.

For the reasons stated herein, your Committee ~~Public Finance and Revenue~~ Public Finance and Revenue record with the intent and purpose of the committee proposal attached hereto and recommends its passage on First Reading, and that it be placed on the Calendar for Second Reading for review by your Committee of the Whole, then placed on the Calendar for Final Reading after review by your Committee on Style and Arrangement.

Respectfully submitted,

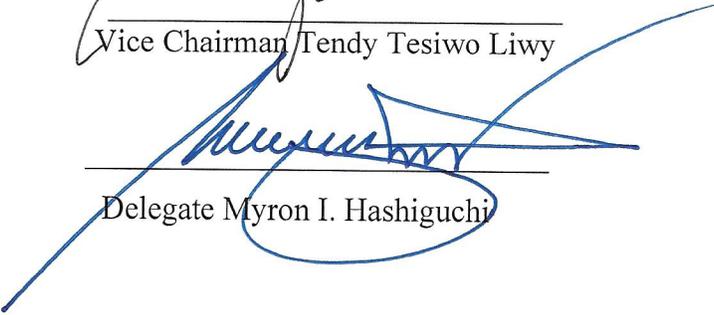


Chairman Peter Sitan



Vice Chairman Tedy Tesiwo Liwy

Delegate Jack S. Fritz



Delegate Myron I. Hashiguchi



Delegate Cindy S-Mori *SIREN MORI*

Delegate Camillo Noket _



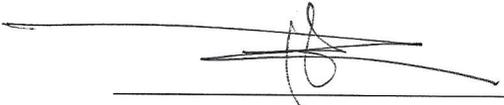
Canney L. Palsis



Delegate Johnson A. Asher



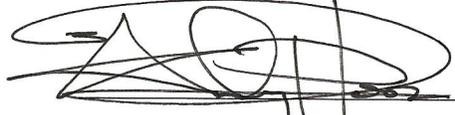
Delegate Berney Martin



Delegate Ricky F. Cantero



Delegate Akillino H. Susaia



Delegate Andy P. Choor



Delegate Andrew R. Yatilman

ATTACHMENT A
STANDING COMMITTEE REPORT NO. 04-06

I. Introduction

This briefing paper discusses several major elements pertaining to Proposal No. CC-PR-4-10 to amend Article IX, section 6, of the Constitution of the Federated States of Micronesia, regarding the distribution of net revenue from the exploitation of seabed and subsoil mineral and other non-living resources within the jurisdiction of the Federated States of Micronesia beyond 12 miles from island baselines, as introduced to the Fourth Constitutional Convention of the Federated States of Micronesia.¹ Specifically, this paper focuses on the major elements of “jurisdiction,” the composition of the “ocean floor,” the types of resources to be exploited, and how a state government qualifies as an “appropriate” state government for the purpose of distributing net revenue under the proposed amendment, particularly as those elements pertain to international law. This briefing paper is in the form of a set of FAQs addressing those elements.

II. FAQs

- Under the Constitution of the Federated States of Micronesia (“FSM”), what is the territorial jurisdiction of the FSM?
 - According to Article I, section 1, of the FSM Constitution, the territorial jurisdiction of the FSM includes the “waters connecting the islands of the archipelago [i.e., the landmasses of the FSM]”—which the Constitution calls “internal waters”—and “extends to a marine space of 200 miles measured outward from appropriate baselines, the seabed, subsoil, water column, insular or continental shelves, airspace over land and water, and any other territory or waters belonging to Micronesia by historic right, custom, or legal title.” However, per the same section 1, this territorial jurisdiction is “limited by the international treaty obligations assumed by the Federated States of Micronesia.” The FSM is currently a State Party to, among other things, the 1982 United Nations Convention on the Law of the Sea (“UNCLOS”) — informally considered by the international community as the “constitution for the Ocean” and containing detailed provisions on the description and delineation of maritime zones—as well as several bilateral maritime delimitation treaties with neighboring countries, all of which potentially limit the FSM’s territorial jurisdiction, as appropriate.
 - UNCLOS confers onto each State Party a number of entitlements to maritime zones and spaces generated by each State Party. Specifically, each State Party has

¹ The text of the amendment proposal is as follows:

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.

- sovereignty* over its territorial sea (i.e., a belt of sea up to 12 nautical miles measured from the baselines of the State Party determined in accordance with UNCLOS) and its internal waters (i.e., waters on the landward side of the baselines of the State Party); *sovereign rights* for specific purposes over its contiguous zone (i.e., a marine space up to 24 nautical miles measured from the baselines of the State Party determined in accordance with UNCLOS — essentially, the territorial sea plus an additional 12 nautical miles), its exclusive economic zone (i.e., a marine space up to 200 nautical miles from the baselines of the State Party determined in accordance with UNCLOS), and its continental shelf (see discussion below, including on an “extended continental shelf”), with such sovereign rights falling short of conferring full sovereignty onto the coastal State for those maritime zones; and *jurisdiction* over all the above-mentioned maritime zones and spaces.
- In light of the foregoing, it is more appropriate for the proposed amendment to reference the *jurisdiction* of the FSM rather than, for example, the *waters* of the FSM, as the latter could be interpreted to be limited to just the water column over which the FSM has sovereignty/sovereign rights/jurisdiction and thus exclude solid features of the marine space of the FSM, whereas the former applies to all of the FSM’s marine spaces, liquid and solid, including the continental shelf beyond 200 nautical miles from the baselines of the FSM (i.e., the so-called “extended continental shelf,” as discussed below).
 - The proposed amendment is limited to the seabed and subsoil of the FSM beyond 12 miles from island baselines—i.e., beyond the territorial sea. Article IX, section 2(m) of the Constitution expressly delegates to the FSM Congress the power 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.” The Constitution is silent on the power to regulate similar such ownership, exploration, and exploitation of natural resources within 12 miles from island baselines of the FSM, so such power rests with the respective state governments.
 - It bears mentioning that UNCLOS uses “nautical miles” when measuring maritime spaces, whereas the FSM Constitution uses “miles” in the same context. A nautical mile is slightly longer than a mile—i.e., a nautical mile is 1.151 miles. However, it is not necessary to use nautical miles in the Constitution in this context or in the amendment proposal, because Article I, section 1 of the Constitution already qualifies the territorial jurisdiction of the FSM by the FSM’s international treaty obligations. Thus, to the extent that the Constitution and amendments thereto pertain to the measurement of marine spaces already defined by UNCLOS, it is appropriate to read the term “nautical miles” into the Constitution’s usage of “miles,” where applicable. Similarly, in this briefing paper, the term “miles” (when referenced by itself) should be read as “nautical miles.”
- What is the composition of the “ocean floor” of the FSM under relevant law, including the international treaty obligations of the FSM?
 - The current language in Article IX, section 6 of the FSM Constitution references the “ocean floor.” However, the Constitution does not define “ocean floor.” The term could be deemed to be self-explanatory and not needing interpretation. However, there are references elsewhere in the Constitution to geological features that arguably

- constitute elements of the “ocean floor.” Article I, section 1 of the FSM Constitution identifies various elements of the marine space that are part of the FSM’s territorial jurisdiction, including the seabed, subsoil, and continental shelves of the FSM.
- Although the three elements of seabed, subsoil, and continental shelves are presented in the Constitution as if separate and distinct, under article 76 of UNCLOS, a continental shelf of a coastal State² is comprised of “*the seabed and subsoil* of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.” (Emphasis added.) While somewhat complicated, the UNCLOS definition makes clear that a continental shelf need not be distinct from the seabed and subsoil but can instead be comprised of the latter two. It is also possible for the seabed and subsoil to be present in the absence of a continental shelf—for example, a land mass generates an exclusive economic zone but not a qualified submarine area that extends beyond its territorial sea (at least in a manner for which “natural prolongation” can be demonstrated in accordance with UNCLOS), in which case, the Ocean floor beyond the territorial sea would qualify as seabed/subsoil but not a continental shelf. Additionally, article 76 of UNCLOS exempts the “deep ocean floor” from its definition of the continental shelf. Thus, any seabed and subsoil situated under the exclusive economic zone generated by a land mass of the Federated States of Micronesia will not qualify as part of the continental shelf of the Federated States of Micronesia under article 76 of UNCLOS if the seabed and subsoil are sufficiently deep to be part of the “deep ocean floor.”
 - Considering the foregoing, it is more accurate to say “seabed and subsoil” rather than just “ocean floor,” as the term “seabed and subsoil” more accurately reflects relevant usage in domestic and international law, including the FSM’s National Seabed Resources Act of 2014.³ “Seabed and subsoil” is also a better formulation than just “continental shelf,” as a coastal State does not always generate the latter, whereas a coastal State’s jurisdiction almost always includes seabed and subsoil.
 - What types of resources are subject to exploitation under the proposed amendment?
 - The proposed amendment addresses the exploitation of “mineral and other non-living resources.” The current language in Article IX, section 6 of the FSM Constitution addresses the exploitation of “mineral resources.” The Constitution does not define “mineral resources.” Similarly, the FSM National Seabed Resources Act of 2014 — which is the primary statutory mechanism by which the FSM regulates the exploitation of mineral resources on the seabed and subsoil of the FSM’s marine spaces — does not define mineral resources, except that it does exclude from the Act’s scope (in relevant part) the “exploration for or recovery of petroleum.” Conversely, article 77 of UNCLOS, on the rights of the coastal State over the continental shelf, recognizes the sovereign right of the coastal State to explore and

² The capitalized form of “State” in this paper to refer to countries, as is the practice in international law, and the lower-case form to refer to one of the four states of the FSM.

³ For a copy of the Act (Public Law No. 20-102), see http://cfsm.gov.fm/iframe/20%20congress/LAWS/PUBLIC_LAW_20-102.pdf.

- exploit the “natural resources” of its continental shelf and defines “natural resources” to include “the mineral and *other non-living resources* of the seabed and subsoil” (along with certain living resources). (Emphasis added.) Therefore, in order to be as comprehensive as possible, in line with UNCLOS, the proposed amendment references the more expansive formulation of “mineral and other non-living resources,” which should capture petroleum and other non-living resources that might not be deemed to be “mineral” resources.
- It bears mentioning that minerals can take liquid and gaseous forms as well as solid forms, and petroleum arguably qualifies as a liquid mineral. Nevertheless, for the avoidance of doubt as well as to future-proof the proposed amendment, the more expansive formulation of “mineral and other non-living resources” is preferable.
 - It also bears mentioning that under the FSM’s National Seabed Resources Act of 2014 as well as UNCLOS (as pertaining to the Area, i.e., the seabed and subsoil of the Ocean floor beyond the jurisdiction of coastal States), the process of exploitation is essentially the final stage of a multi-stage process. The first stage is the prospecting stage, where interested entities survey the seabed and subsoil in limited ways, with minimal or non-existent extraction. The second stage is the exploration stage, where some minimally disruptive extraction might take place solely for initial scientific examination of the quality and value of the extracted resource. Exploitation—i.e., full-blown extraction—is the third stage.
- How does an FSM state government qualify as an “appropriate state government” under the amendment proposal, in line with the international treaty obligations of the FSM?
 - A state government qualifies as an “appropriate state government” if the government passes one of two tests:
 - **Test 1:** 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;
 - Under Test 1, the proposed amendment envisions a state government being an “appropriate one” if the exploitation of the resource occurs within the marine space contained in the official boundaries of the state (as recognized by the FSM’s own official charts/maps/lists of geographical coordinates of points in accordance with Article I, Section 2, of the FSM Constitution) and beyond the territorial sea generated by the land territory of the state. This is the case even if the resource being exploited is part of a resource “bed” that crosses the official boundary between multiple states. It is the point of extraction that matters for the purpose of distribution of net revenue under the proposed amendment.
 - **Test 2:** 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 UNCLOS on what is informally called an “extended continental shelf.”

- Test 2 involves what is informally called an “extended continental shelf,” as defined by UNCLOS. Specifically, under article 76 of UNCLOS, the continental shelf of a coastal State is comprised of “the seabed and subsoil of the submarine areas that extend beyond its territorial sea ***throughout the natural prolongation of its land territory to the outer edge of the continental margin***, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.” (Emphasis added.) If the “outer edge of the continental margin” is more than 200 nautical miles from the baselines of the coastal State, and if there is a “natural prolongation” between the coastal State’s land territory to that outer edge, then that marine space is informally called an “extended continental shelf.” (UNCLOS does not actually use the phrase “extended continental shelf,” but it is common shorthand for the concept among law of the sea experts and practitioners.) The coastal State has jurisdiction over such an “extended continental shelf,” as discussed above.
- Determining the “outer edge of the continental margin” when there is an “extended continental shelf” is a technical exercise that is beyond the scope of this briefing paper to discuss in detail. Essentially, according to article 76 of UNCLOS, if a continental shelf extends more than 200 nautical miles from the baselines of the coastal State, then the coastal State establishes the outer edge of the continental margin by marking fixed points and drawing lines between them in reference to certain features and/or distances in connection to the “foot of the continental slope” (which is also defined in article 76). Additionally, the fixed points comprising the outer limits must not exceed either 350 nautical miles from the baselines of the coastal State or 100 nautical miles from the 2,500 metre “isobath,” which article 76 defines as a “line connecting the depth of 2,500 metres.” It is possible for the outer limits to be more than 350 nautical miles from the baselines, using the “isobath” constraint.
- For an “extended continental shelf” under UNCLOS, in addition to determining the “outer edge of the continental margin,” the coastal State must also demonstrate the “natural prolongation” of its land territory all the way to that “outer edge.” The standards by which a coastal State demonstrates such “natural prolongation” have been established by the Commission on the Limits of the Continental Shelf (“CLCS”). Per article 76 of UNCLOS, the CLCS is a body created by UNCLOS to “make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.” According to

the CLCS, the primary way for a coastal State to demonstrate “natural prolongation” is by demonstrating (typically through surveys, mapping exercises, and similar scientific and technical studies) the geomorphological, geophysical, and geological continuity between the land territory of the coastal State and the continental shelf that the coastal State is claiming as falling under the coastal State’s jurisdiction, including beyond 200 nautical miles from the coastal State’s baselines. If the coastal State claims an “extended continental shelf” but is unable to demonstrate that its land territory continues without a relevant “break” until the outer edge of the claimed “extended continental shelf,” then the claim will likely not be recognized by the CLCS. A “break” can occur when, for example, the seabed and subsoil appear to dip significantly as they progress outward from the land territory and either remain dipped or eventually rise; the seabed and subsoil beyond the dip would no longer be part of the coastal State’s “extended continental shelf.”

- With regard to multiple “appropriate” state governments under the proposed amendment, 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 the proposed amendment takes place in that “extended continental shelf,” and if multiple state governments demonstrate geomorphological, geophysical, and geological continuity (per CLCS standards) 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 the proposed amendment.

Committee Proposal No. **04-06**
Committee on Public on Public Finance and Revenue
Standing Committee Report No. **CC-SCR-04-06**

Relating to 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.

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

ARTICLE IX

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.

Date: March 11, 2020

Offered by: Committee on Public Finance and Revenue

STANDING COMMITTEE REPORT NO. 4-18

DATE: June 21, 2022

RE: Committee Proposal No. 04-06, CCD1

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

Dear Mr. President:

Your Committee on Style and Arrangement to which was referred Committee Proposal No. 04-06, CCD1, entitled:

ARTICLE IX

Section 6. Net revenue 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 two or more state governments are entitled to such net revenue, such state governments shall be entitled to fifty percent (50%), 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.

begs leave to report as follows:

Pursuant to Rule 20.(e) and Rule 51, your Committee on Style and Arrangement reviewed Committee Proposal 04-06, CCD1 for “in accuracies, repetition, inconsistencies [and] poor drafting.” Your Committee unanimously found that Committee Proposal 04-06, CCD1 is consistent with the other provisions of the Constitution. Your Committee, however, is recommending three changes that are consistent with the Convention’s purpose and intent in passing the Proposal.

First, your Committee determined that the word “derived” was accidentally removed from Committee Proposal 04-06, CCD1. Prior to its amendment, Committee Proposal 04-06 had included the word “derived” in the first sentence of Section 6 between “revenue” and “from” which is the current language of Article IX, Section 6 of the FSM Constitution, your Committee determined that there was no intent to remove the word “derive” from Section 6. Thus, your

Committee has reinserted the word “derived” between “revenue” and “from;” so, that the first sentence of Committee Proposal 04-06, CCD1 reads: “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.”

Second, your Committee determined that “mineral” should be the plural “minerals” so that it is consistent with the plural “resources.” Based on the discussion in Standing Committee Report No. 04-06 and the discussion in the Committee of the Whole, your Committee determined that it was the intent of the Convention to include net revenue from the mining of all minerals within this revenue sharing provision. Thus, your Committee recommends that “mineral” be “minerals.”

Third, your Committee determined that the word “the” which is located between “consistent with” and “international treaty” should be removed from the last sentence of the proposal. Your Committee discussed that “the” is a definite article that refers to a specific thing known to the reader and could be interpreted to refer to one specific treaty obligation of the FSM. Your Committee was concerned that if the definite article is used the proposal would be interpreted to only refer to the United Nations Convention on the Law of the Sea, the only international treaty obligation specifically identified in Standing Committee Report No. 04-06. Your Committee recognized that there may be other treaty obligations that are relevant to the subject matter of this Proposal and that it was the intent of the Convention that when Congress gives effect to this provision, the statute enacted be consistent with all of the FSM’s treaty obligations. By removing the definite article, it becomes clear that when Congress enacts the referenced statute the statute must be consistent with all of the FSM’s international treaty obligations. Thus, your Committee recommends that the last sentence of the proposal read: “Congress shall give effect to this provision by statute in a manner consistent with international treaty obligations of the Federated States of Micronesia.”

Finally, your Committee believes that it is important to recognize the importance of ownership of the seabed and subsoil to the history and development of the FSM as a nation. To that end, your Committee has included an Addendum to this Report which sets out that history.

For the reasons stated herein, your Committee on Style and Arrangement recommends adoption of Committee Proposal 04-06, CCD1 as amended.

Respectfully submitted,



Salomon Saimon, Chairman

/s/

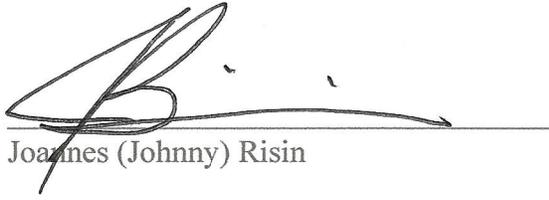
James Naich, Vice Chairman

/s/

Myron I. Hashiguchi

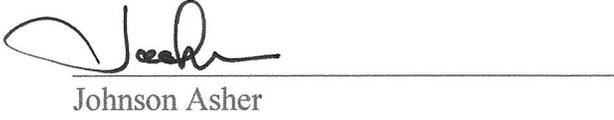


Andy P. Choor



Joannes (Johnny) Risin

Asterio Takesy



Johnson Asher

Mason Albert



Ricky F. Cantero

**ADDENDUM TO
STANDING COMMITTEE REPORT NO. 04-__**

Re: Committee Proposal 04-07, CCD1, CCD2

This addendum is included in the Standing Committee Report to provide an adequate historical context of the above-referenced proposed amendment which has been a subject of careful discussions by your Committee and the Convention as a whole.

Words like ocean floor, seabed and subsoil are technical terms for the marine geologists and marine biologists, including lawyers specializing in the international law of the sea. But for the ordinary citizens, which means most of us, these words do not hold much meaning or relevance -- unless they are presented in the context they were propped up and treated by our Founding Fathers and framers of our Constitution as an argument for the assumption of full self-government by our people after they had been successively held for more than four hundred years as “wards of other nations.” It is worth recalling that the third international effort under the auspices of the United Nations (UNCLOS III) to codify the law of the sea, including its relevant parts such as the seabed, subsoil, and continental shelf, was a driving force for the founding architects of our government in their mandate to “create one nation of many islands” and to draw up the “supreme law” of our land. The founding Fathers also hoped that the resources of the sea could be sustainably exploited to augment the new nation’s economic viability and to blunt the arguments by the detractors summed up in the oft-repeated statement: “there cannot be political independence without economic independence.”

“Ocean floor” could be dismissed as being “Old English” or archaic, perhaps a bit vague, hence the desirability of injecting some measure of modernity and precision in the word as the amendment strives to do. The general semanticists would love us for doing this; but the historians are understandably withholding their judgement for the time being to determine whether we are being honest to ourselves and our future generations about the circumstances in which our country was born as a state with full international personality. We are urged to listen with our heart’s minds to the melody of inspiration in the word ocean floor, along with seabed and subsoil, which resonates with – or reminds us about -- the “Song of Micronesia’s Sovereignty and Independence” composed by our founding nation-builders. It is this song that we must not lose sight of in our debates about the semantics and intent of the proposed amendment.

How does “ocean floor” become relevant here? It captures center-stage attention because it was a critical issue in the push for gaining the practical meaning of our sovereignty, to place nation-building on the top shelf, and to ensure that the exercise of our right to self-determination met the standards of the international community, particularly the UN, including the US. It was a concept that helped to glue Micronesia together as an entity at a time when the unity of Micronesia was subject increasingly to wear and tear by the allure of separation or to break up the Trust Territory of the Pacific Islands (TTPI), forerunner of the FSM. The law of the sea also had a prominent place and a rich history in the aspirations of our leaders in seeking economic viability for the future Micronesian government. It was part of the political vocabulary of those

men who drove the three-prong process that led us to where we are today as the Federated States of Micronesia.

The subject matters of the three phases of the process were inter-related; therefore, conscious efforts were made to keep them aware of their respective activities and to align or coordinate them with each other. These three phases were: 1) the protracted negotiations on the future political status of the Trust Territory of the Pacific Islands (TTPI), forerunner of the FSM government, which extended for about sixteen (16) years and culminated in the Compact of Free Association between the FSM and the US; 2) the testy convening of the 1975 Constitutional Convention of Micronesia, which in the end created the FSM; and 3) the drawn-out petition initiated by the Micronesian leaders to have representation in UNCLOS III. Not surprisingly, most of the key players in the three processes were the same individuals, thus, with the benefit of hindsight, it was important to keep Micronesia's positions on critical issues, such as the law of the sea and its many related subjects, well informed and consistent.

To begin with, it is to be recalled that the TTPI was a "sacred" trust created by the United Nations after the Second World War. The US insisted that it be appointed as the "administering authority" of the brand-new strategic trust, only one of its kind in the world. It justified its petition as the victor in the Pacific theater and, as such, as the guarantor of international peace. Ultimately, the intention was for the administering authority to fulfill the socio-economic and political development requirements of the TTPI to enable the Micronesians to meaningfully exercise their right to self-determination in choosing their political destiny.

The catalyst event occurred when the duly elected leaders of Micronesia assembled in the Congress of Micronesia took the stand to seek termination of the "trusteeship" status by engaging directly with representatives of the US Government to negotiate the political status of the future government of Micronesia. The first so-called "round" of political status talks took place in 1969 in Washington, D.C. As history would readily confirm, the US was vehemently opposed to releasing Micronesia from its grips. Growing impatient in part by the slow pace and inadequacy of promoting credible economic development in the TTPI and in part by Washington's *laissez-faire* attitude on the question of future political status, the Micronesian leaders were undeterred by what they felt were unhelpful obstructions by the administering authority. Armed with mounting support from within Micronesia and from the international community, including from "Micronesian friends and supporters" within the US government, the Micronesian leaders pressed ahead.

From the very start of the future political status negotiations, the Micronesian representatives insisted that they reserved the right to write and amend their own constitution. This was one of the "11 Points" presented to the US during the first round of talks held in Washington. The US was represented not by a diplomat but by a mid-level Interior Department staffer in charge of "parks, wildlife, and public lands." Micronesia was subsumed in his portfolio as another area of responsibility. Beginning with the inaugural round of negotiations, the Micronesians argued they had to have a constitution in hand, one that would empower them to negotiate treaties with foreign countries and to enter into such treaties in their own name and right.

At about the same time, a separate set of negotiations were underway under the auspices of the UN to update and codify the UN Convention on the Law of the Sea. The Micronesian leaders were aware of the third UN law of the sea initiative. Micronesia was still a “trust territory” at that time, but the Micronesian leaders had high ambitions to take part in the law of the sea negotiations and to be a signatory to the final product of the negotiations.

It is to be emphasized that, after the political status talks had already begun, the Micronesian leaders deliberately decided to postpone their participation in the status talks until they finish writing their constitution. To them, writing their own constitution was a matter of priority. Regrettably, the bugging of the Micronesian negotiators and other leaders by the CIA was one major factor that delayed the negotiations. The Micronesian leaders called off the status talks to protest CIA bugging of the Micronesian status negotiations which was prominently reported on the front page of *The Washington Post*. This prompted the Congress of Micronesia to pass resolutions of protest and inquiry to the US Government. This led to the dispatch of Senator Andon Amaraich of Chuuk, then Chair of the Judiciary and Government Operations Committee, to Honolulu during a Christmas holiday to receive a “briefing” on the CIA bugging from US Senator Daniel Inouye of the US Senate Select Committee on Intelligence. Senator Amaraich recalled that Senator Inouye confirmed that the CIA had been -spying on the Micronesian leaders and apologized for not having information on the details of the “spying on the Micronesian negotiators.” It was on the basis of the assurances of Senator Inouye that the Micronesians reconsidered their position to go back to the status negotiations table.

However, the Micronesians remained perplexed by US’s knee-jerk reaction to its proposal to hold a constitutional convention: first, it sought to make the impression that holding a pan-Micronesian constitutional convention would be too costly or that there were no funds in the TTPI budget for holding a huge convention; second, the constitution was incompatible with Washington’s first offer of “commonwealth” status to the TTPI and that it was likely to be at variance with America’s priorities in the future government arrangements that the Micronesian “angry nationalists” were contemplating. When the call for a constitutional constitution could no longer be held back, the US made another move: a “big splash” about the responsibility of conducting “ESG” (education for self-government) in the TTPI, not just on the choices of political status available to the Micronesians, but also on the terms of the chosen status or the new agreement between the US and the new Micronesian government, and any other relevant issues in the transition of government. ESG is an American coinage based on its post-WWII experience in administering its sphere of influence in Germany. The US exported the acronym to the TTPI in the latter years when the FSM was beginning to take shape and transition was anticipated.

As the administering authority, the United States argued it should play a prominent role in the overall ESG activities in Micronesia. The Micronesians approached the US initiative with maximum caution. Inferring from recently declassified US Government information, the matter of ESG in the TTPI was a serious, contentious issue; it was “sensitive” enough to be passed up to the higher echelons of the White House staff, such as John Ehrlichman, Counsel and Domestic Policy Advisor, and National Security Advisor Henry A. Kissinger, including President Richard

M. Nixon himself. The result was a policy decision to drastically cut back the number of Peace Corps Volunteers to serve in the TTPI (which was then the recipient of the largest number of PCV on a per capita basis in the early years), and especially to put a stop to dispatching “those young and damned trouble-making Peace Corps lawyers” to Micronesia.

The Micronesian leaders made it clear it would welcome and appreciate US assistance as an administering authority in providing logistics and the wherewithal for the ESG program in the TTPI, but the design and conduct of the program should be left to the elected representatives of the Micronesian people. The issue of possible “frolicking” came to the surface, i.e., fears that the administering authority might quietly intervene in the ESG to advance its own interests and unduly influence the Micronesian people. The recommendations of the “Solomon Report” and the CIA wiretapping were still fresh on the minds of the Micronesian “angry nationalists.” Ultimately, the US backed off, with the UN weighing in on the ESG issue on the side of the Micronesians.

The Micronesian leaders continued to be confronted with what they saw as US obstructions at the status talks, such as Washington’s emphasis on “centralized” administration while the Micronesians insisted on “decentralizing” the locus of authority to the “districts.” What was more, US promulgation of its Magnuson Act relating to fisheries resources and unabated advancement of its “creeping maritime jurisdiction” – i.e., unilateral expansion of its EEZ from 12 miles to 200 hundred miles – angered the Micronesian leaders and their opposition also spilled into the status negotiations, in fact, derailing their participation in the status talks for some time.

Meanwhile, American prescription for economic self-sufficiency in the TTPI had not shown a credible result. In fact, an American journalist depicted Micronesia as Rust Territory, a reference to the dilapidated Quonset buildings housing the TTPI government offices, just as US Congresswoman Patsy Mink of Hawaii called it in the *Texas Journal of International Law* as “Bungled Trust.” Professor Donald F. McHenry of New York State University, who later served as US Ambassador to the United Nations, took another jab at the administering authority. He called the TTPI a “Trust Betrayed,” which he entitled his book on American “altruism and self-interest” in Micronesia.

Confronted with perceived recalcitrant US attitude at the status talks and the growing pessimism of prospects of American economic “miracles” to take place in the TTPI, the Micronesians devised another strategy. They petitioned to be released from the status of “advisor” on the US delegation to the UNCLOS III and to acquire at least “observer” status in the sessions of UNCLOS III where they would be free to advance Micronesian interests on matters of the law of the sea which positions were often in opposition to US interests. Staff attorneys in the Congress of Micronesia, former law school classmates and law school colleagues with attorneys in the State Department and serving on the US LOS Delegation sought to arrange consultations between Micronesian representations and State Department officials on the issue of having observer status but this proved a formidable task. The US was adamantly opposed to the Micronesian petition, arguing, among other things, that Micronesia was a “trust territory” and lacked standing to have “speaking privilege” in international forums such as UNCLOS III. The

Congress of Micronesia created its own Special Joint Committee on the Law of the Sea; its first chairmanship fell to the stately and illustrious Senator Andon Amaraich to head the heavy lifting task.

There were instances in Washington's Foggy Bottom and in Caracas, Venezuela, which was the venue of the critical and longest session of UNCLOS III, as well as in New York City during inter-sessional working groups, where the Micronesians deployed their unique brand of "civil disobedience" to counter the American objections and to advocate what they strongly believed to be in the best interests of Micronesia. The US LOS Delegation came close to reprimanding the Micronesian "advisors" in Caracas on at least two occasions for behavior the US Delegation found unacceptable. The Micronesians were amused by what they saw as American over-reactions to sharing their concept papers with like-minded delegations and to their holding their own parties and inviting their own friends, including Americans. The Micronesians quipped that one of their valuable lessons from the administering authority was how to engage in "civil disobedience." However, it was in Caracas that, after many attempts, Chairman Amaraich finally was able to meet with Ambassador John Stevenson, head of the US Delegation, for a "heart-to-heart exchange of thoughts" on a number of law of the sea issues, including Micronesia's separate representation in UNCLOS III and desire to be a signatory to the final product of the multilateral negotiations if deemed acceptable to the Micronesians. Stevenson agreed that the US and Micronesia had divergent interests in law of the sea and assured Amaraich he would make his recommendation to his Washington to let the Micronesians be free to advance their own interests at UNCLOS III.

The official response from Washington was slow in coming, and what was perceived as US delaying tactic did not deter Senator Amaraich and his colleagues. Senator Amaraich took his case to a meeting of the UN Trusteeship Council in New York where he rebutted the arguments put forth by the lawyers in the State Department's Legal Bureau. He stated that the emerging Micronesian government was anticipated to have the capacity to transition to a government arrangement qualified to have a voice in LOS matters, hence its participation should be "anticipatory" of that potential eventuality, repeatedly invoking the Trusteeship Agreement and the assumption of the fundamental responsibility of the administering authority to the trustee. Congressman Masao Nakayama, a member of the Micronesian Law of the Sea Committee, who subsequently served as FSM Ambassador to Japan and later to the UN, observed that, at that time, there was a growing consensus among the Micronesian leaders that the resources of Micronesia's EEZ as well as the ocean floor would augment the economic viability of the future government of Micronesia. For Nakayama and his colleagues, the resources of the sea – both in the EEZ and on the ocean floor – were seen as essential to the new nation attaining economic viability, contributing to the credibility of its political self-government. The exploitation of the resources from the EEZ and ocean floor were seen to foster national stability and unity.

In further consolidating Micronesia's positions on the various issues at UNCLOS III, the role of the traditional leaders of Micronesia should not be overlooked. The first pan-Micronesian conference of traditional leaders focusing on the law of sea issues was held in Koror, followed

by the second conference in Chuuk. Issues of traditional ownership of reefs and historic uses of the maritime space were discussed and were useful in formulating the positions advocated by members of the Law of the Sea Committee of the Congress of Micronesia.

In his statement to the UN Trusteeship Council, Chairman Amaraich expounded on the urgency of the Micronesians to assume full responsibility for the ownership, exploitation, and management of their marine resources as provided for under international law. With limited land-based resources, the resources of the sea were seen as the only credible prospect for the economic stability of the future Micronesian government. There was more in Amaraich's statement: he saw the early engagement in the UNCLOS III, while Micronesia was still a trust territory and long before the termination of the Trusteeship Agreement in 1986, as a deliberate move by the Congress of Micronesia to make the necessary steps to expand the "recognition of the Micronesian government in transition" in the international arena. The UNCLOS III process provided the very first opportunity for Micronesia to test out its "fitness" in the international arena. It prevailed.

In his statement to the UN, Senator Amaraich also served notice that Micronesia's engagement in UNLOS III was a "test case" to the administering authority to demonstrate its commitment to its international obligations under the Trusteeship Agreement and intentions toward the future Micronesian government. In the course of the three-prong process, the Micronesian leaders continually evaluated their positions. No doubt, the Americans did likewise. . Diplomats, to be useful, must continually monitor the ebb and flow of events having significant bearing on the state of their relations, so that necessary adjustments can be made. UNCLOS III created enlightened statesmen, Micronesian and American alike, driven to uphold their national interests, yet fully aware that some level of accommodation must be made, especially in a multilateral setting, to protect the integrity of their respective higher interests.

So, the Micronesian and American diplomats at UNCLOS III understood the urgency for accommodation. Among the first area of accommodation was Micronesian representation. After their interface in Caracas, Stevenson informed Amaraich that the US would be supportive of Micronesia's petition to have "observer" status. As earlier alluded to, the US had initially threatened to "reprimand" the Micronesians for ignoring "instructions" from the US Delegation to cease issuing "position papers" (or passing on to other like-minded delegations Micronesian positions to advance as their own) on the then contentious subject of archipelagic states or archipelagic zone. Micronesia was among the pioneering coastal entities championing the concept of archipelago in UNCLOS III. The US was concerned about the mobility of its naval fleet, and it sought to convince the Micronesians that the concept of the EEZ would adequately safeguard their interests, particularly their claim to the resources of the expanded area.

The word "ocean floor", along with seabed and subsoil, was raised by our founding fathers as a critical ingredient in the formative stage of our nation-building.

Authored by: James Naich, Delegate, Chuuk

Committee Proposal No. CC-PR-04-06, CCD1, CCD2
Committee on Style and Arrangement
Standing Committee Report No. 04-18

Relating to 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.

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

ARTICLE IX

Section 6. Net revenue derived from ~~ocean floor~~ seabed and subsoil minerals 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 two or more state governments are entitled to such net revenue, such state governments shall be entitled to fifty percent (50%), 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.

Date: June ____, 2022

Offered by: Committee on Style and Arrangement

STANDING COMMITTEE REPORT NO. CC-SCR-04-15

DATE: June 20 2022

RE: Proposal No. 04-69

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

Dear Mr. President:

Your Committee on Government Structure and Function, to which was referred Delegate Proposal No. 04-69, entitled;

TO AMEND ARTICLE IX, SECTION 9, OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA TO CREATE CONSISTENCY BETWEEN THE ELIGIBILITY REQUIREMENTS TO RUN FOR CONGRESS AND TO BE ELECTED PRESIDENT AND TO REQUIRE RESIDENCY WITHIN THE FSM TO BE ELIGIBLE TO RUN FOR CONGRESS.

begs leave to report as follows:

The intent and purpose of the proposal is to make the citizenship requirement of Article IX, Section 9, consistent with the citizenship requirement of Article X, Section 4:

The current language of Article IX, Section 9 is:

“A person is ineligible to be a member of Congress unless he is at least 30 years of age on the day of election and has been a citizen of the Federated States of Micronesia for at least 15 years, and a resident of the state from which he is elected for at least 5 years. A person convicted of a felony by a state or national government court is ineligible to be a member of Congress. The Congress may modify this provision or prescribe additional qualifications; knowledge of the English language may not be a qualification.”

The current language of Article X, Section 4 is:

“A person shall be ineligible to become President unless he is a member of Congress for a 4-year term, a citizen of the Federated States of Micronesia **by birth**, and a resident of the Federated States of Micronesia for at least 15 years.” (Bold added).

Your Committee believes that the citizenship requirement to be a member of Congress and to be the President should be the same. Article X, Section 4 requires the President to be a citizen “by birth.” A person is a citizen of the FSM “by birth” if “one or both” of their parents are a citizen

of the FSM. Under Article III of the FSM Constitution, a citizen who is born in the FSM is not automatically a citizen of the FSM. Only those persons born in the FSM who have at least one parent who is a FSM citizen is a FSM citizen.¹

Article IX, Section 2(c) grants Congress the power to regulate naturalization and citizenship, meaning that Congress has the power to enact a statute that creates a process by which an individual can become a naturalized citizen. Your Committee believes that the ability to hold the office of Senator in the FSM Congress, as well as FSM President, should be limited to individuals who are FSM citizens by birth.

Your Committee believes that it is important for those individuals who are elected to the highest offices in this country to have knowledge of the values, customs and traditions of the community that they represent and understand the issues facing that community as well as the issues facing the FSM as a whole. In order to ensure that Senators and the President have this understanding and knowledge, your Committee believes that it is important that the individuals running for these offices live in the FSM for a minimum period of time prior to their running for office. Your Committee debated whether this residency period should be a period of 10 years or a shorter period of 5 years. Your Committee determined that the shorter period of 5 years will ensure that the candidate has the requisite knowledge to understand the community that they represent and still allow individuals the flexibility to pursue educational and work opportunities abroad prior to running for office.

The 5 year residency period is a consecutive period. The individual running for office must be living in the FSM for the immediate 5 years preceding their run for office. The residency period should be measured from the date the individual files to be a candidate for office.

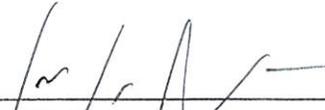
A FSM citizen who is living and working in the FSM outside of their home community remains a resident of their home community. For example, a FSM citizen from Kosrae who moves to Pohnpei to serve in the national government remains a resident of Kosrae. It is the intent of your Committee that these individuals be eligible to run for the office of Senator representing their home community.

For the reasons stated herein, your Committee on Government Structure and Function is in accord with the intent and purpose of the committee proposal attached hereto and recommends its passage on First Reading, and that it be placed on the Calendar for Second Reading for review

¹ Upon ratification of Committee Proposal 04-05, which will amend Article III to allow for dual citizenship, the definition of citizen by birth will remain the same.

by your Committee of the Whole, then placed on the Calendar for Final Reading after review by your Committee on Style and Arrangement.

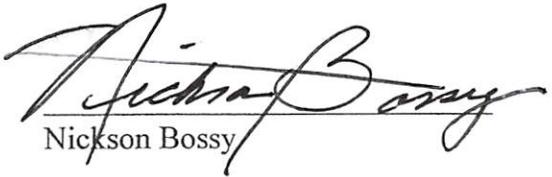
Respectfully submitted,



Victor Nabeyan, Chairman



Akillino Susaia, Vice Chairman



Nickson Bossy

Myron Hashiguchi


Marcus Samo

James Naich



Canney Palsis

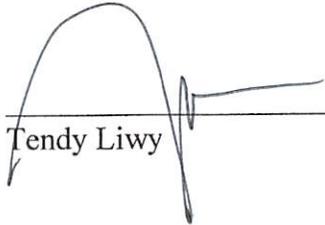
Roger Arnold



Yoslyn Sigrah



Ricky Cantero



Tandy Liwy



Berney Martin

Andrew Yatilman

Committee Proposal No. 04-11
Committee on Government Structure and Functions
Standing Committee Report No. CC-SCR-04-15

ARTICLE IX

Section 9. A person is ineligible to be a member of Congress unless he is at least 30 years of age on the day of election, a citizen of the Federated States of Micronesia by birth, and a resident of the state from which he is elected, or a resident of the Federated States of Micronesia for at least 5 years. A person convicted of a felony by a state or national government court is ineligible to be a member of Congress. The Congress may modify this provision or prescribe additional qualifications; knowledge of the English language may not be a qualification.

Date: June 20, 2022

Offered by: Committee on Government Structure and
Functions

STANDING COMMITTEE REPORT NO. 04-20

DATE: June 24, 2022

RE: Committee Proposal No. 04-11, CCD2

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

Dear Mr. President:

Your Committee on Style and Arrangement to which was referred Committee Proposal No. 04-11, CCD2, entitled:

RELATING TO ARTICLE IX, SECTION 9, OF THE CONSTITUTION OF THE
FEDERATED STATES OF MICRONESIA TO CREATE CONSISTENCY BETWEEN THE
ELIGIBILITY REQUIREMENTS TO RUN FOR CONGRESS AND TO BE ELECTED
PRESIDENT AND TO REQUIRE RESIDENCY WITHIN THE FSM TO BE ELIGIBLE TO
RUN FOR CONGRESS

begs leave to report as follows:

Pursuant to Rule 20.(e) and Rule 51, your Committee on Style and Arrangement reviewed Committee Proposal 4-03 for “in accuracies, repetition, inconsistencies [and] poor drafting.” Your Committee unanimously found that Committee Proposal 4-03 is consistent with the other provisions of the Constitution and is well drafted.

In its discussion, your Committee discussed whether the male pronoun “his” should be changed to a gender neutral term. Your Committee determined that the pronoun “his” is used in several other provisions in the Constitution and has been interpreted to include both women and men. Thus, your Committee determined that no changes were needed to Committee Proposal 04-11, CCD2.

For the reasons stated herein, your Committee on Style and Arrangement recommends adoption of Committee Proposal 04-11, CCD2 as written.

Respectfully submitted,

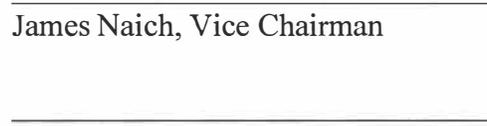


Salomon Saimon, Chairman

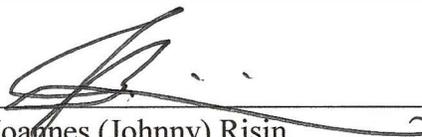


Andy P. Choor

James Naich, Vice Chairman

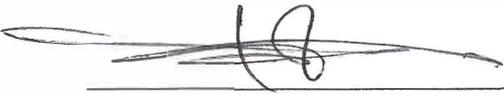


Myron I. Hashiguchi



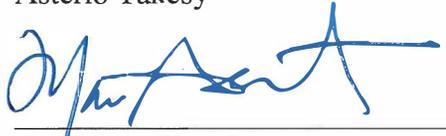
Joannes (Johnny) Risin

Johnson Asher



Ricky F. Cantero

Asterio Takesy



Mason Albert

Committee Proposal No. 04-11, CCD2

Committee on Government Structure and Revenue
Standing Committee Report No. 04-15

Relating to Article IX, Section 9, of the Constitution of the Federated States of Micronesia to create consistency between the eligibility requirements to run for Congress and to be elected President and to require residency within the FSM to be eligible to run for Congress.

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

ARTICLE IX

Section 9. A person is ineligible to be a member of Congress unless he is at least 30 years of age on the day of election, ~~and has been~~ a citizen of the Federated States of Micronesia by birth for at least 15 years, and a domiciliary resident of the state from which he is elected, ~~and is residing in a resident~~ has been residing in of the Federated States of Micronesia for at least 5 years. A person convicted of a felony by a state or national government court is ineligible to be a member of Congress. The Congress may modify this provision or prescribe additional qualifications; knowledge of the English language may not be a qualification.

Dated: June 24, 2022

By: Committee on Style and Arrangement

STANDING COMMITTEE REPORT NO. CC-SCR-04-08

March 12, 2020

RE: CC-PR-4-52

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

Dear Mr. President:

Your Committee on General Provisions, to which was referred Delegate Proposal No. CC-PR-4-52, entitled;

TO AMEND ARTICLE XI, SECTION 6 OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA TO PROVIDE THE STATE COURTS THE EXCLUSIVE JURISDICTION OF CASES WHERE INTEREST OF LAND IS AT ISSUE.

begs leave to report as follows:

Article XI, Section 6 of the Constitution currently provides:

“Section 6.

- (a) The trial division of the Supreme Court has original and exclusive jurisdiction in cases affecting officials of foreign governments, disputes between states, admiralty or maritime cases, and in cases in which the national government is a party except where an interest in land is at issue.
- (b) The national courts, including the trial division of the Supreme Court, have concurrent original jurisdiction in cases arising under this Constitution; national law or treaties; and in disputes between a state and a citizen of another state, between citizens of different states, and between a state or a citizen thereof, and a foreign state, citizen or subject.
- (c) When jurisdiction is concurrent, the proper court may be prescribed by statute.”

The intent and purpose of the proposal is to give State courts exclusive jurisdiction over cases where an interest at land is at issue.

Currently, Article XI, Section 6(a) which establishes the FSM Supreme Court’s exclusive jurisdiction includes an explicit exception for cases “where an interest in land is at issue.”

Article XI, Section 6(b) which establishes the types of cases where there is concurrent jurisdiction in the national courts and the trial division of the Supreme Court does not include an

explicit exception for cases “where an interest in land is at issue.” This has led to many cases that should have been heard in State Court because there is an interest in land at issue being filed in and heard by the FSM Supreme Court. This was not the intent of the delegates to the 1975 Constitutional Convention or the people who ratified the Constitution and has led to a disruption of the division of power between the States and the national government.

Article XI, Section 6(c) establishes that when jurisdiction is concurrent, the proper court may be prescribed by statutes. Congress has not established other national courts.

Land issues received considerable attention in the 1975 Convention. See 1975 Con.Con., SCREP Nos. 33, 36, and 48. It was the intent of the 1975 Convention that “[t]he powers . . . reserved to the states include . . . Land law [and] Inheritance law . . .” 1975 Con.Con., SCREP 33, Vol. II at 814 (Oct. 10, 1975). Your Committee agrees with the founders of this Nation that land law and legal issues surrounding land are state law matters which should be heard in the State Courts.

Your Committee believes that it is important to restate and reaffirm the intent of 1975 Convention:

“Your Committee is aware of the importance of land to all Micronesians and the need to give separate attention to land issues. . . . Traditional laws and customs still govern the ownership of land in all but a small number of cases. Land disputes are thus different from many other types of disputes which have been resolved by importation of foreign law and concepts. Our original laws are still with us to a large degree in the area of land. Your Committee believes there is a consensus at this convention in favor of preserving the viability of such traditional laws and customs – particularly in land cases.

At the same time, it is also clear to your Committee that the laws and customs in each state differ. There is no one “Micronesian land tenure law” which can easily be applied by a court to any case involving a land ownership dispute. **For this reason, it is your Committee’s belief that land issues must be resolved by the judicial system on the state level.**”

1975 Con.Con., SCREP 36, Vol. II at 858 (Oct. 14, 1975) (emphasis added).

Your Committee was in unanimous agreement that State Courts have exclusive jurisdiction in cases where an interest in land is at issue. See also 1975 Con.Con., SCREP 36, Vol. II at 851 (Oct. 14, 1975) (“Your Committee has noted the strong feeling among delegates to this Convention that land is a local matter, and has therefore provided accordingly in the judicial system.”).

Your Committee unanimously agreed that all cases where the judgment may result in the transfer of ownership of land is the exclusive jurisdiction of the State Court where the land is located.

Your Committee is in unanimous agreement that cases where an “interest in land is at issue,” defined as where ownership of land, transfer of title to land, and registration of land is at issue,

the State courts where the land is located have exclusive jurisdiction. The national courts do not have jurisdiction over these cases.

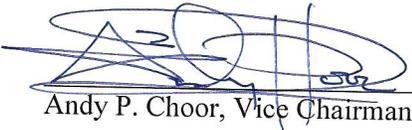
For the reasons stated herein, your Committee on General Provisions is in accord with the intent and purpose of the committee proposal attached hereto and recommends its passage on First Reading, and that it be placed on the Calendar for Second Reading for review by your Committee of the Whole, then placed on the Calendar for Final Reading after review by your Committee on Style and Arrangement.

Respectfully submitted,

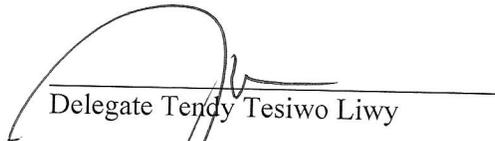


Yoslyn G. Sigrab, Chairwoman

Delegate Salvador Iriarte, Iso Nahnken



Andy P. Choor, Vice Chairman



Delegate Tandy Tesiwo Liwy

Delegate Jack S. Fritz

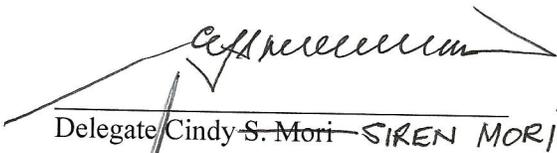


Delegate Berney Martin

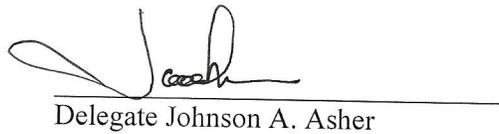
Delegate Kind K. Kanto



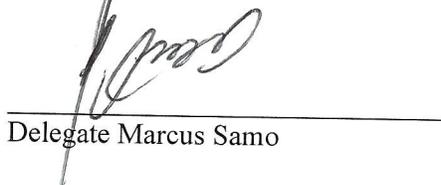
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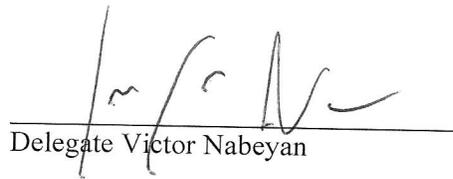
Delegate Cindy S. Mori ~~SIREN MORI~~



Delegate Johnson A. Asher



Delegate Marcus Samo



Delegate Victor Nabeyan

Delegate Asterio Takesy

Committee Proposal No. 04-07
Committee on General Provisions
Standing Committee Report No. 04-08

Relating to providing exclusive jurisdiction of cases where an interest of land is at issue in the State Courts.

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

ARTICLE XI

Section 6.

- (a) The trial division of the Supreme Court has original and exclusive jurisdiction in cases affecting officials of foreign governments, disputes between states, admiralty or maritime cases, and in cases in which the national government is a party except where an interest in land is at issue.
- (b) The national courts, including the trial division of the Supreme Court, have concurrent original jurisdiction in cases arising under this Constitution; national law or treaties; and in disputes between a state and a citizen of another state, between citizens of different states, between a state or a citizen thereof, and a foreign state, citizen, or subject, provided, however, that the state courts shall have exclusive jurisdiction in cases where an interest in land is at issue.
- (c) When jurisdiction is concurrent, the proper court may be prescribed by statute.

Date: March 12, 2020

Offered by: Committee on General Provisions

STANDING COMMITTEE REPORT NO. **SCRP-04-12**

DATE: June 9, 2022

RE: Committee Proposal No. 4-07

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

Dear Mr. President:

Your Committee on Style and Arrangement to which was referred Committee Proposal No. 4-07, amending:

ARTICLE XI

Section 6.

- (a) The trial division of the Supreme Court has original and exclusive jurisdiction in cases affecting officials of foreign governments, disputes between states, admiralty or maritime cases, and in cases in which the national government is a party except where an interest in land is at issue.
- (b) The national courts, including the trial division of the Supreme Court, have concurrent original jurisdiction in cases arising under this Constitution; national law or treaties; and in disputes between a state and a citizen of another state, between citizens of different states, between a state or a citizen thereof, and a foreign state, citizen, or subject, provided, however, that the state courts shall have exclusive jurisdiction in cases where an interest in land is at issue.
- (c) When jurisdiction is concurrent, the proper court may be prescribed by statute.

begs leave to report as follows:

Pursuant to Rule 20.(e) and Rule 51, your Committee on Style and Arrangement reviewed Committee Proposal 4-03 for “in accuracies, repetition, inconsistencies [and] poor drafting.”

Your Committee unanimously found that intent and purpose of Committee Proposal 4-07 is consistent with the other provisions of the Constitution.

Your Committee, however, found that the language used in Committee Proposal 4-07 was not consistent with the other provisions of Article XI, Section 6. In particular, your Committee found that “provided, however,” should be replaced with “except.” It is clear from Standing Committee Report No. 04-08 and the discussion of Committee Proposal No. 04-07 during the Committee of the Whole, that the intent of the Convention is to create an exception to the jurisdiction of the FSM Supreme Court for cases where an interest in land is at issue. When the 1975 Convention drafted the exception to jurisdiction in Section 6(a), they used the word “except.” See FSM Const., Art. XI, Sect. 6(a) (“in cases in which the national government is a party except where an interest in land is at issue”). Thus, the use of the word “except” creates consistency between subsections (a) and (b) and insures that the language creating the exception will be interpreted consistently between the two subsections.

Your Committee also determined that the comma (,) after the word “subject” should be a semicolon (;). Subsection (b) establishes Supreme Court jurisdiction for three categories of cases: those arising (1) under this constitution; (2) national law or treaties; and (3) in disputes between a state and a citizen of another state, between citizens of different states, between a state or a citizen thereof, and a foreign state, citizen, or subject. If a comma is used, then the exception applies only to the disputes falling within (3). If a semi-colon is used, then the exception will apply to all three categories listed in the preceding part of the sentence. Based on Standing Committee Report No. 04-08 and the discussion of Committee Proposal No. 04-07 during the Committee of the Whole, your Committee determined that it was the intent of the Convention that the exception apply to all cases where the FSM Supreme Court has jurisdiction. Thus, the Committee has replaced the comma (,) with a semi-colon (;).

Your Committee also determined that “state courts” should be replaced with “judicial systems of the state.” Your Committee was concerned that “state courts” would be interpreted to mean only the state courts and not local courts or land courts. The Committee reviewed Standing Committee Report No. 04-08 and based on the emphasis the Report places on the 1975 Convention’s intent “that land issues be resolved by the judicial system on the state level.” 1975 Con.Con., SCREP 36, Vol. II at 858 (Oct. 14, 1975). Your Committee determined that intent of the Committee and the Convention was that “state court” meant the state judicial system. Thus, to make the intention of the Convention, that cases where an interest in land is at issue should be heard by the court deemed appropriate by the state where the land is located, your Committee determined that “judicial systems of the state” more accurately reflected the intent of the Committee and would avoid possible misinterpretation of the Committee’s intent in the future. Thus, your Committee replaced “state court” with “judicial systems of the state.”

For the reasons stated herein, your Committee on Style and Arrangement recommends adoption of Committee Proposal 4-07 as amended by the Committee on Style and Arrangement.

Respectfully submitted,



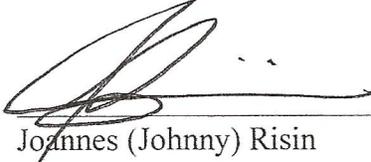
Salomon Saimon, Chairman

James Naich, Vice Chairman

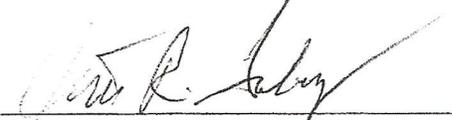


Andy P. Choor

Myron I. Hashiguchi



Joannes (Johnny) Risin



Asterio Takesy

Johnson Asher



Mason Albert



Ricky F. Cantero

Committee Proposal No. 04-07
Committee on General Provisions
Standing Committee Report No. 04-08

Relating to the providing exclusive jurisdiction of cases where an interest of land is at issue in the State Courts.

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

ARTICLE XI

Section 6.

(a) The trial division of the Supreme Court has original and exclusive jurisdiction in cases affecting officials of foreign governments, disputes between states, admiralty or maritime cases, and in cases in which the national government is a party except where an interest in land is at issue.

(b) The national courts, including the trial division of the Supreme Court, have concurrent original jurisdiction in cases arising under this Constitution; national law or treaties; and in disputes between a state and a citizen of another state, between citizens of different states, between a state or a citizen thereof, and a foreign state, citizen, or subject, ~~provided, however, :~~ except that the judicial systems of the states courts shall have exclusive jurisdiction in cases where an interest in land is at issue.

(c) When jurisdiction is concurrent, the proper court may be prescribed by statute.

Date: June 9, 2022

Offered by: Committee on Style and Arrangement

STANDING COMMITTEE REPORT NO. CC- SCR-04-13

DATE: June 13, 2022

RE: Proposal Nos. 04-14, 04-29, 04-44, 04-49, and 04-17

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

Dear Mr. President:

Your Committee on Government Structure and Function, to which was referred Delegate Proposal Nos. 04-14, 04-17, and 04-44, and Delegation Proposal Nos. 04-29 and 04-49, has drafted its own Committee Proposal, entitled;

TO AMEND ARTICLE XII, TO ADD A NEW SECTION 4 TO THE FSM CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA TO CREATE AN OFFICE OF INDEPENDENT PROSECUTOR

begs leave to report as follows:

The intent and purpose of the proposal is to create the Office of Independent Prosecutor, that will be an independent agency of the national government. The main task of the Independent Prosecutor is to investigate and prosecute individuals, governments, and entities that receive and misuse public funds from the national government, and to investigate and prosecute certain national government officials for national offenses involving public corruption.¹ While currently, the FSM Department of Justice has prosecutorial authority over these offenses, your Committee is of the opinion that, given the political process by which the DOJ Secretary is appointed and re-appointed, the Department of Justice may not always have the degree of independence and insulation from political pressure to effectively investigate and prosecute anyone for offenses involving the misuse of national funds or national officials for corruption offenses. The intent of your Committee is to propose the establishment of an Office of Independent Prosecutor which will be clothed with the necessary degree of independence and insulation from political pressures to freely undertake such prosecutions.

Under your Committee's Proposal the Office of the Independent Prosecutor is insulated from political pressure by the two political branches of government. Insulation from political pressure will allow the Independent Prosecutor to investigate and prosecute misuse of national government funds by anyone receiving such funds and corruption by high level officials of the national government. Such investigation and prosecution provides transparency and

¹ See definitions of national funds and national officials below.

accountability which is of critical importance to the economic and political development of our nation.

While there may be concern that an additional constitutional officer will add to the cost of operating the government, it is envisaged that the national government could actually save money by reducing the amount of public funds being misused. The new Office of Independent Prosecutor will work with the Public Auditor and prosecute those individuals who have been identified as misusing government funds. To emphasize the relationship between the Independent Prosecutor and the Public Auditor, the Committee Proposal adds a new Section 4 in Article XII, which immediately follows the section creating the Public Auditor.

The provisions of the Committee Proposal are as follows:

Subsection (a) creates the Office of Independent Prosecutor.

Subsection (b) establishes the appointment and confirmation process. Similar to other constitutional officers such as the Justices of the FSM Supreme Court and the Public Auditor, the Independent Prosecutor will be appointed by the President and confirmed by a 2/3 vote of Congress. Because of the importance of the Independent Prosecutor and because it is a new office, your Committee felt that it was important that the President appoint an Independent Prosecutor in a timely manner. Thus, subsection (b) sets one hundred eighty (180) days as the time period within which the President must appoint the Independent Prosecutor. Your Committee deemed it prudent to use days for measurement, rather than months, because days can be counted more precisely, and the specific date by which the President must appoint the Independent Prosecutor can be easily identified. Your Committee felt that it was important to clearly place the responsibility of timely nominating the Independent Prosecutor with the President.

Subsection (b) also sets a term limit for the Independent Prosecutor to 6 years with no possibility of reappointment for a consecutive term. The Independent Prosecutor's term is longer than the terms of the President and Congress who appointed and confirmed him and thus, the Independent Prosecutor's continued employment is not dependent upon keeping those who put him in office happy. Similarly, the Independent Prosecutor's term is limited to one 6-year period so that the Independent Prosecutor's employment is not dependent upon those who can extend his term of office. The limit of years and term limit were chosen to keep the Independent Prosecutor independent from the government officials he will be investigating and prosecuting and to insulate the Independent Prosecutor from political influence.

Subsection (c) provides an alternative mechanism by which the Independent Prosecutor can be appointed if the President fails to act within the 180-day period set out in subsection (b). Your Committee felt that it was important that an Independent Prosecutor be appointed. Without an alternative mechanism to appoint the Independent Prosecutor, and in the event that a President refused to appoint an Independent Prosecutor, the position would remain unfilled and the constitutional mandate for an Independent Prosecutor thwarted. Subsection (c) empowers the Chief Justice to immediately appoint an acting Independent Prosecutor on day 181, if the President has not yet appointed an Independent Prosecutor. Appointment by the Chief Justice is

the same mechanism that is used to fill a vacancy for the Public Auditor. See 33 FSMC § 505(6). An Independent Prosecutor appointed by the Chief Justice would serve in an interim capacity until the President nominates and the Congress confirms the Independent Prosecutor.

Your Committee discussed that when the Chief Justice appoints an Independent Prosecutor, the Chief Justice will not be able to preside over the cases filed by the individual he appointed. Your Committee, however, determined that the FSM Supreme Court has sufficient mechanisms in place to handle conflicts of interest, and that the Court has experience in implementing these mechanisms.

Subsection (d) establishes the authority of the Independent Prosecutor. Your Committee believes that the authority granted to the Independent Prosecutor should be “exclusive” in order to clearly demarcate the jurisdiction of the Independent Prosecutor and jurisdiction of the Department of Justice. Your Committee is aware that neighboring jurisdictions have experienced problems because the authority granted to their Independent Prosecutor overlaps with the jurisdiction of their Office of Attorney General. By making the authority of the Independent Prosecutor “exclusive” over the areas listed in subsections (d)(i)-(iii), the FSM will avoid any inter-department battles over jurisdiction.

Subsection (d)(i) grants the Independent Prosecutor the authority to “investigate and prosecute any person or entity, whether private or public, or any official of the national, state, or local government for the commission of any national offense relating to national funds.” This grant authorizes the Independent Prosecutor to investigate and prosecute the misuse of public funds by anyone who receives national funds.

Official of the national government means the President, Vice President, FSM Senators, FSM Justices, heads and deputy heads of FSM departments, and heads of offices, agencies, and public corporations of the national government, and the head or person in charge of any other agency or instrumentality of the national government.

National funds means (1) those funds appropriated by the FSM Congress from the FSM Treasury or FSM Trust Fund; (2) COMPACT sector funds or COMPACT trust funds, but does not include those sector funds specifically earmarked for the States; (3) foreign aid, including grants and loans, irrespective of who the grantee, borrower, or beneficiary is, if the national government is a guarantor or, by the terms of the grant or loan, the national government is responsible for managing or monitoring the use of the funds, or accountable for the use thereof; (4) funds held by corporations and other entities created by a statute duly enacted by the FSM Congress; and (5) all funds appropriated by Congress to the States for whatever purposes, except those funds appropriated by Congress to the States as the shares of the States under a revenue-sharing provision of the FSM Constitution. Further, funds appropriated by Congress into the General Funds of the States with the intent that they become state funds lose character as national funds once deposited into state treasuries. Your Committee deems that funds held by the FSM Development Bank (FSMDB), as a national statutory corporation, are national funds for purposes Subsection (d)(i); however, FSMDB funds will lose character as national funds once distributed to and received by the borrower. Conversely, loan repayments from borrowers

achieve character as national funds within the context of Subsection (d)(i) once they are paid to FSMDB.

Subsection (d)(ii) grants the Independent Prosecutor the authority to “investigate and prosecute any official of the national government for the commission of any national offense involving public corruption.” This grant authorizes the Independent Prosecutor to investigate and prosecute public corruption offenses as defined by Title 11 of the FSM Code, and includes offenses where there is corruption, but no misuse of national funds.

The grant of authority in subsection (d)(ii) is limited to the investigation of national government officials. As stated above, official of the national government means the President, Vice President, FSM Senators, FSM Justices, heads and deputy heads of FSM departments, and heads of offices, agencies, and public corporations of the national government, and the head or person in charge of any other agency or instrumentality of the national government.

Your Committee discussed whether the grant of authority should be to investigate all national government employees but determined that it was appropriate for the investigation and prosecution of higher level policy making officials to be done by the Independent Prosecutor who is insulated from political influence. The prosecution of public service system employees is to remain with the Department of Justice, because public service system employees do not have the power to exercise undue influence over the Department of Justice’s determination to file criminal charges.

Your Committee also discussed whether the grant of authority to the Independent Prosecutor should be to prosecute all national crimes committed by any official of the national government. After reviewing the definition of national crime in Title 11 of the FSM Code, 11 FSMC § 104(7), your Committee determined that the authority to be granted should be limited. Your Committee then debated as to whether the authority should be limited to “white collar crimes” or “public corruption crimes.” “White collar crimes” are “non-violent crime usually involving cheating or dishonesty in commercial matters [or otherwise involving pecuniary motivations]. Examples include fraud, embezzlement, bribery, and insider trading.” Black’s Law Dictionary (11th ed. 2019). “Public corruption crimes” include those crimes identified in Subchapter III of Title 11 of the FSM Code and include official oppression; speculating or wagering on official action or information; bribery in official and political matters; threats and other improper influence in official and political matters; retaliation for past official conduct; gifts to public servants by persons subject to their jurisdiction; compensating public servant for assisting private interests in relation to matters before him; and selling political endorsement. 11 FSMC §§ 514 *et seq.* Your Committee determined that the Independent Prosecutor’s authority should include “public corruption crimes,” which will allow the Independent Prosecutor to investigate and prosecute bribery, the acceptance of gifts, the use of information obtained in an official capacity to gain a personal benefit, and corruption crimes which are not covered by subsection (d)(i) because the public corruption crimes do not necessarily involve misuse of national government funds, but are offenses which harm the public’s trust in the national government.

With respect to investigations and cases pending on the effective date of this amendment, the Secretary of Justice and the Independent Prosecutor should consult and determine which cases should be transferred to the Independent Prosecutor and which cases should remain with the Department of Justice.

Subsection (d)(iii) grants the Independent Prosecutor the authority to “investigate and prosecute any person for any offense of obstruction or perjury committed in connection with an investigation or prosecution of the Independent Prosecutor.” This grant authorizes the Independent Prosecutor to investigate and prosecute anyone who obstructs or interferes with the investigations and prosecutions conducted pursuant to subsection (d)(i) or (d)(ii). Your Committee felt that it was appropriate for the Independent Prosecutor to prosecute these crimes as it will be the Independent Prosecutor who will know who interfered with his investigation and will have the evidence of the obstruction or perjury. Moreover, not vesting in the Independent Prosecutor the authority to prosecute obstructions or perjury designed to thwart or impede the Independent Prosecutor’s investigation or prosecution can undermine the efficacy of his office.

The **last paragraph of subsection (d)** establishes a mechanism for appointing a special counsel when the Independent Prosecutor or staff of the office has a conflict of interest and is unable to prosecute. For consistency with subsections (c) and (g), the Chief Justice is authorized to appoint the special counsel. The appointment is for only those cases “that are affected by the conflict of interest.”

Subsection (e) grants the Independent Prosecutor the power to subpoena witnesses to give testimony, to subpoena documents, to obtain a search warrant, and to exercise the powers needed to investigate the crimes identified in subsection (d)(i)-(iii). Subsection (e) allows Congress to grant the Independent Prosecutor additional powers by statute. The power granted to Congress to grant the Independent Prosecutor additional powers is consistent with the power granted to Congress in Section 3(b) of Article XII, which grants Congress power to create “additional duties” for the Public Auditor.

Subsection (e) also allows Congress to establish the qualifications of the Independent Prosecutor. Your Committee believes that it is more appropriate to establish the qualifications by statute to provide flexibility to address to changing circumstances. Your Committee does, however, believe that, at a minimum, the Independent Prosecutor should be a licensed attorney who has been admitted to the FSM bar or is eligible to be admitted to the FSM bar. The Independent Prosecutor must be able to file charging documents with the FSM Supreme Court and to appear in Court to prosecute the subject of the investigation; someone who is not a licensed attorney cannot fulfill these duties.

Subsection (f) establishes mechanism to protect the independence of the Independent Prosecutor by (1) requiring that Congress adequately fund the Office of the Independent Prosecutor, (2) ensuring that Congress and the President are prohibited from reducing the power, capability, or independence of the Independent Prosecutor, and (3) preventing the compensation of the Independent Prosecutor and his staff from being reduced during the Independent Prosecutor’s term. Compensation includes both salary and benefits. The mechanisms for independence are

similar to the mechanisms used for the Justices of the Supreme Court and the Public Auditor. See FSM Const., Art. XI, Sec. 5; FSM Const., Art. XII, Sec. 3(c).

Subsection (f) also requires the Independent Prosecutor to report to the President and Congress at least once a year. See also FSM Const., Art. XII, Sec. 3(c) (“The Public Auditor shall . . . report at least once a year to Congress.”).

Subsection (g) establishes the mechanism by which the Independent Prosecutor can be removed. Although it is important for the Independent Prosecutor to be independent and insulated from political pressure, there must be some mechanism by which to remove an Independent Prosecutor who is abusing this power, is incompetent, incapacitated, or has otherwise violated the terms of his contract or FSM law.

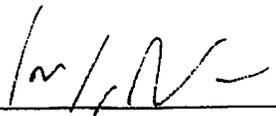
In order to maintain the Independent Prosecutor’s independence but also to allow removal of the Independent Prosecutor when necessary, the Independent Prosecutor may only be removed “for cause.” Your Committee debated whether termination should be for “good cause,” “just cause,” or “for cause.” Your Committee determined that “just cause” was not the appropriate term because “just cause” is more commonly used in international law. Your Committee determined that “good cause,” which has been interpreted by the FSM Supreme Court to mean “legally sufficient,” *Heirs of Benjamin v. Heirs of Benjamin*, 17 FSM R. 621, 627 (App. 2011), is too broad and would not protect the independence of the position. Your Committee determined that “for cause” was the appropriate term, providing insulation from political pressure and still allowing a non-functioning or abusive Independent Prosecutor to be removed.

“For cause” means that the Independent Prosecutor cannot be removed for purely political reasons, caprice, or because his ideas and actions are unorthodox or unpopular. Rather he can be removed only for conduct which is contrary to law or the Constitution or for failing to perform his duties as required by law or by this Constitution. Incompetence by itself is sufficient reason to remove the Independent Prosecutor “for cause.” Removal “for cause” is consistent with the removal provision for the Public Auditor. See FSM Const., Art. XII, Sec. 3(d) (“Congress may remove the Public Auditor from office for cause by 2/3 vote.”).

Subsection (g) also establishes a mechanism to fill a vacancy. If the Independent Prosecutor is removed for cause or there is a vacancy in the position, then the Chief Justice has the power to immediately appoint an acting Independent Prosecutor who will serve until the President can appoint and Congress can confirm a new Independent Prosecutor. By placing this power with the Chief Justice, the Committee’s Proposal is both internally consistent (see subsections (c) and (d)) and consistent with the constitutional provisions for filling a vacancy for the Public Auditor. See FSM Const., Art. XII, Sec. 3(d) (“In [the event the Public Auditor is removed for cause], the Chief Justice shall appoint an acting Public Auditor until a successor is confirmed.”).

For the reasons stated herein, your Committee on Government Structure and Functions is in accord with the intent and purpose of the committee proposal attached hereto and recommends its passage on First Reading, and that it be placed on the Calendar for Second Reading for review by your Committee of the Whole, then placed on the Calendar for Final Reading after review by your Committee on Style and Arrangement.

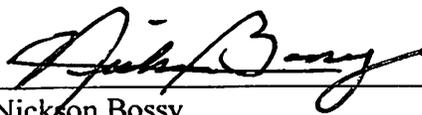
Respectfully submitted,



Victor Nabeyan, Chairman



Akillino Susaia, Vice Chairman



Nickson Bossy

Myron Hashiguchi

James Naich

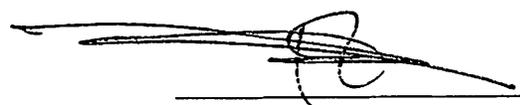
Marcus Samo

Roger Arnold



Canney Palsis

Yoslyn Sigrah



Ricky Cantero



Tendy Liwy



Berney Martin

Andrew Yatilman

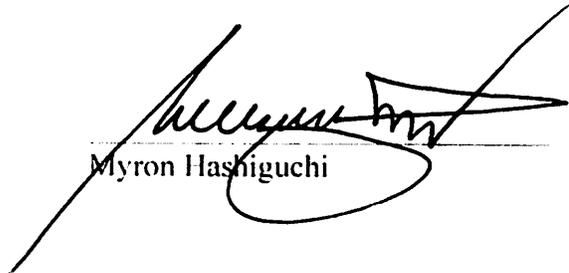
For the reasons stated herein, your Committee on Government Structure and Functions is in accord with the intent and purpose of the committee proposal attached hereto and recommends its passage on First Reading, and that it be placed on the Calendar for Second Reading for review by your Committee of the Whole, then placed on the Calendar for Final Reading after review by your Committee on Style and Arrangement.

Respectfully submitted,

Victor Nabeyan, Chairman

Akillino Susaia, Vice Chairman

Nickson Bossy



Myron Hashiguchi

James Naich

Marcus Samo

Roger Arnold

Canney Palsis

Yoslyn Sigras

Ricky Cantero

Tendy Liwy

Berney Martin

Andrew Yatilman

ARTICLE 12

“Section 4.

(a). The Office of the Independent Prosecutor is hereby established.

(b). The President shall appoint an Independent Prosecutor, with the advice and consent of 2/3 of the members of Congress, to serve for a term of six (6) years and until a successor is appointed and confirmed. The Independent Prosecutor shall not be reappointed to a consecutive term. The President shall appoint the first Independent Prosecutor within one hundred eighty (180) days of the effective date of this section.

(c). If the President does not appoint the Independent Prosecutor within the one hundred eighty (180) days, the Chief Justice shall immediately appoint an acting Independent Prosecutor to serve until a successor is appointed by the President with the advice and consent of Congress.

(d) The Independent Prosecutor has the exclusive authority to:

(i). investigate and prosecute any person or entity, whether private or public, or any official of the national, state, or local government for the commission of any national offense relating to national funds;

(ii). investigate and prosecute any official of the national government for the commission of any national offense involving public corruption; and

(iii). investigate and prosecute any person for any offense of obstruction or perjury committed in connection with an investigation or prosecution of the Independent Prosecutor.

In the event of a conflict of interest inhibiting the prosecutorial capability of the Independent Prosecutor or his office, the Chief Justice shall appoint special counsel to investigate and prosecute the specific cases that are affected by such conflict of interest.

(e). The Independent Prosecutor may compel witness testimony and production of documents by subpoena, effect lawful search and seizure, and exercise such other powers as may be necessary to his investigation or prosecution. The powers and qualifications of the Independent Prosecutor may be prescribed by statute.

(f). The Office of the Independent Prosecutor is independent of administrative control, shall be adequately funded by Congress, and no statute, regulation, or directive shall be enacted or enforced which has the effect of reducing or eliminating the independence, power, or

capability of that office; nor shall the compensation of the Independent Prosecutor and his staff be reduced during his term in office. The Independent Prosecutor shall report at least once a year to the President and Congress.

(g). The Independent Prosecutor may be removed from office for good cause by the President with a 2/3 vote of the members of Congress. Upon removal of the Independent Prosecutor or vacancy in the position, the Chief Justice shall immediately appoint an acting Independent Prosecutor to serve until a successor is appointed by the President with the advice and consent of Congress.”

Date: June 14, 2022

Offered by: Committee on Government Structure and
Functions

STANDING COMMITTEE REPORT NO. 04-19

DATE: June 222022

RE: Committee Proposal No. 04-09

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

Dear Mr. President:

Your Committee on Style and Arrangement to which was referred Committee Proposal No. 04-09, entitled:

ARTICLE _____

“Section 4.

(a). The Office of the Independent Prosecutor is hereby established.

(b). The President shall appoint an Independent Prosecutor, with the advice and consent of 2/3 of the members of Congress, to serve for a term of six (6) years and until a successor is appointed and confirmed. The Independent Prosecutor shall not be reappointed to a consecutive term. The President shall appoint the first Independent Prosecutor within one hundred eighty (180) days of the effective date of this section.

(c). If the President does not appoint the Independent Prosecutor within the one hundred eighty (180) days, the Chief Justice shall immediately appoint an acting Independent Prosecutor to serve until a successor is appointed by the President with the advice and consent of Congress.

(d) The Independent Prosecutor has the exclusive authority to:

(i). investigate and prosecute any person or entity, whether private or public, or any official of the national, state, or local government for the commission of any national offense relating to national funds;

(ii). investigate and prosecute any official of the national government for the commission of any national offense involving public corruption; and

(iii). investigate and prosecute any person for any offense of obstruction or perjury committed in connection with an investigation or prosecution of the Independent Prosecutor.

In the event of a conflict of interest inhibiting the prosecutorial capability of the Independent Prosecutor or his office, the Chief Justice shall appoint special counsel to investigate and prosecute the specific cases that are affected by such conflict of interest.

(e). The Independent Prosecutor may compel witness testimony and production of documents by subpoena, effect lawful search and seizure, and exercise such other powers as may be necessary to his investigation or prosecution. The powers and qualifications of the Independent Prosecutor may be prescribed by statute.

(f). The Office of the Independent Prosecutor is independent of administrative control, shall be adequately funded by Congress, and no statute, regulation, or directive shall be enacted or enforced which has the effect of reducing or eliminating the independence, power, or capability of that office; nor shall the compensation of the Independent Prosecutor and his staff be reduced during his term in office. The Independent Prosecutor shall report at least once a year to the President and Congress.

(g). The Independent Prosecutor may be removed from office for good cause by the President with a 2/3 vote of the members of Congress. Upon removal of the Independent Prosecutor or vacancy in the position, the Chief Justice shall immediately appoint an acting Independent Prosecutor to serve until a successor is appointed by the President with the advice and consent of Congress.”

begs leave to report as follows:

Pursuant to Rule 20.(e) and Rule 51, your Committee on Style and Arrangement reviewed Committee Proposal 04-09 for “in accuracies, repetition, inconsistencies [and] poor drafting.” Your Committee unanimously found that Committee Proposal 04-06, CCD1 is consistent with the other provisions of the Constitution. Your Committee, however, is recommending several changes that are consistent with the Convention’s purpose and intent in passing the Proposal.

First, your Committee recommends that “XII” be inserted after “Article” to indicate that the Committee Proposal is an amendment to Article XII of the Constitution.

Second, your Committee recommends that gender neutral language be used throughout the Committee Proposal. Your Committee recommends replacing the word “his” in subsections (d), (e), and (f) with the word “the.”

Third, in subsection (d)(iii), your Committee recommends that the phrase “investigation or prosecution of the Independent Prosecutor” be changed to “investigation or prosecution by the Independent Prosecutor.” The change in preposition clarifies that it is the Independent Prosecution who is conducting the investigation or prosecution and not the individual being investigated or prosecuted. Thus, it is your Committee’s recommendation that subsection (d)(iii) read: “investigate and prosecute any person for any offense of obstruction or perjury committed in connection with an investigation or prosecution of the Independent Prosecutor.”

Fourth, in the introductory clause of the last sentence in subsection (d), your Committee recommends adding “investigation or” before “prosecutorial capability.” Your Committee noted that this is the only location in the Committee Proposal that does not include both investigation and prosecution. Your Committee discussed that any conflict of interest would attach to the investigation as well as the prosecution and thus, adding “investigation or” is consistent with the intent of the Committee Proposal. Thus, it is your Committee’s recommendation that the last sentence of subsection (d) read: “In the event of a conflict of interest inhibiting the investigation or prosecutorial capability of the Independent Prosecutor or the office, the Chief Justice shall appoint special counsel to investigate and prosecute the specific cases that are affected by such conflict of interest.”

Fifth, because subsection (f) sets out the provisions that ensure the Office of Independent Prosecutor is and remains independent, your Committee recommends using the word “shall” throughout and recommends dividing the provisions into short sentences. Your Committee believes that use of the mandatory verb “shall” and placing each provision in its own sentence provides clarity, prevents vagueness and ambiguity, and emphasizes the intent and need for independence. Thus, it is your Committee’s recommendation that subsection (f) read: “The Office of the Independent Prosecutor shall be independent of administrative control. The Office shall be adequately funded by Congress. No statute, regulation, or directive shall be enacted or enforced which has the effect of reducing or eliminating the independence, power, or capability of that Office. The compensation of the Independent Prosecutor and staff shall not be reduced during the term in office. The Independent Prosecutor shall report at least once a year to the President and Congress.”

Sixth, your Committee recommends that in second sentence of subsection (g) “of 2/3 of the members” be inserted before “of Congress.” Your Committee noted that this was the only location in the Committee Proposal that does not specify the number of members of Congress necessary to confirm or remove the Independent Prosecutor. For consistency, your Committee recommends that the second sentence of subsection (g) read: “Upon removal of the Independent Prosecutor or vacancy in the position, the Chief Justice shall immediately appoint an acting Independent Prosecutor to serve until a successor is appointed by the President with the advice and consent of 2/3 of the members of Congress.”

Seventh, your Committee noted that the Constitution currently does not use periods (.) after subsections and thus recommends the removal of periods after subsections (a), (b), (c), (d)(i), (d)(ii), (d)(iii), (f), and (g).

Finally, your Committee discussed whether it was necessary to clarify that “Chief Justice” referred to the Chief Justice of the FSM Supreme Court. Your Committee reviewed the other provisions of the Constitution and noted that when the term Chief Justice is used it is not modified and that the term Chief Justice as used in these other provisions of the Constitution has been interpreted to refer only to the Chief Justice of the FSM Supreme Court. Thus, your Committee determined that “Chief Justice” did not need to be clarified and the term as used was consistent with the use of the term in other provisions of the Constitution.

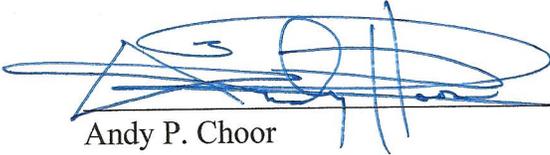
For the reasons stated herein, your Committee on Style and Arrangement recommends adoption of Committee Proposal 04-09, as amended.

Respectfully submitted,



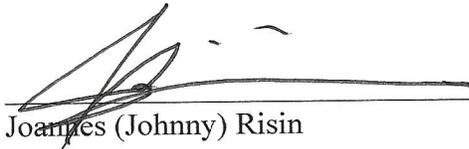
Salomon Saimon, Chairman

James Naich, Vice Chairman



Andy P. Choor

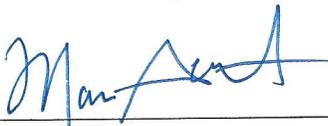
Myron I. Hashiguchi



Joannes (Johnny) Risin

Asterio Takesy

Johnson Asher


Mason Albert
Ricky F. Cantero

ARTICLE XII

“Section 4.

(a): The Office of the Independent Prosecutor is hereby established.

(b): The President shall appoint an Independent Prosecutor, with the advice and consent of 2/3 of the members of Congress, to serve for a term of six (6) years and until a successor is appointed and confirmed. The Independent Prosecutor shall not be reappointed to a consecutive term. The President shall appoint the first Independent Prosecutor within one hundred eighty (180) days of the effective date of this section.

(c): If the President does not appoint the Independent Prosecutor within the one hundred eighty (180) days, the Chief Justice shall immediately appoint an acting Independent Prosecutor to serve until a successor is appointed by the President with the advice and consent of Congress.

(d) The Independent Prosecutor has the exclusive authority to:

(i): investigate and prosecute any person or entity, whether private or public, or any official of the national, state, or local government for the commission of any national offense relating to national funds;

(ii): investigate and prosecute any official of the national government for the commission of any national offense involving public corruption; and

(iii): investigate and prosecute any person for any offense of obstruction or perjury committed in connection with an investigation or prosecution of by the Independent Prosecutor.

In the event of a conflict of interest inhibiting the investigation or prosecutorial capability of the Independent Prosecutor or his the office, the Chief Justice shall appoint special counsel to investigate and prosecute the specific cases that are affected by such conflict of interest.

(e): The Independent Prosecutor may compel witness testimony and production of documents by subpoena, effect lawful search and seizure, and exercise such other powers as may be necessary to his the investigation or prosecution. The powers and qualifications of the Independent Prosecutor may be prescribed by statute.

(f): The Office of the Independent Prosecutor is shall be independent of administrative control;. The Office shall be adequately funded by Congress, and no No statute, regulation, or

directive shall be enacted or enforced which has the effect of reducing or eliminating the independence, power, or capability of that office; Office. nor shall the The compensation of the Independent Prosecutor and his staff shall not be reduced during his the term in office. The Independent Prosecutor shall report at least once a year to the President and Congress.

(g)- The Independent Prosecutor may be removed from office for good cause by the President with a 2/3 vote of the members of Congress. Upon removal of the Independent Prosecutor or vacancy in the position, the Chief Justice shall immediately appoint an acting Independent Prosecutor to serve until a successor is appointed by the President with the advice and consent of 2/3 of the members of Congress.”

Date: June __, 2022

Offered by: Committee on Style and Arrangement

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

DATE: March 2, 2020

RE: CC-PR-4-46

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

Dear Mr. President:

Your Committee on General Provisions, to which was referred Delegation Proposal No. CC-PR-4-46, entitled;

TO AMEND ARTICLE XIV, SECTION 1 OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA TO LOWER THE PERCENTAGE OF VOTES CAST REQUIRED IN EACH STATE TO ADOPT AMENDMENTS TO THE CONSTITUTION FROM THE CURRENT THREE-FOURTHS OF THE VOTES REQUIRED IN THREE-FOURTHS OF THE STATES TO TWO-THIRDS OF THE VOTES IN THREE-FOURTHS OF THE STATES.

begs leave to report as follows:

Current language of Article XIV, Section 1 of the FSM Constitution:

“Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by 3/4 of the votes cast on that amendment in each of 3/4 of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.”

The intent and purpose of CC-PR-4-46 is to lower the percentage of votes required to be cast in each state to adopt an amendment to the Constitution from the current 3/4 of the votes cast to 2/3 of the votes cast. In addition to CC-PR-4-46, there were three other proposals, CC-PR-4-03, CC-PR-4-16, and CC-PR-4-32, which also sought to amend Article XIV, Section 1 to lower the threshold required to approve an amendment to the Constitution.

Your Committee discussed all four proposals at length and determined that there was a need to change the threshold required to approve an amendment to the Constitution. The threshold proposals proposed two different standards. One standard would change the threshold standard to

a national standard of 3/4 of the votes cast across the nation. The other standard would maintain the threshold requirement of a percentage of votes cast in 3/4 of the states, but change that requirement from 3/4 of the votes cast in each state to 2/3 of the votes cast in each state. Proposal CC-PR-4-32 proposed that the measurement be 2/3 of the votes cast in 2/3 of the states; but, it was noted that with four states, the measurement of 2/3 and 3/4 is the same and that 3/4 is an easier measurement for the people to understand.

The Committee determined that a threshold requirement that uses a national standard that measures the votes cast across the nation was not the best standard to use for two reasons. First, a threshold standard that measures the total votes cast nationally may allow one or two states to approve an amendment at the expense of the other states. Second, the Constitution was specifically drafted to create a federation that recognizes all four states as equals, and a threshold standard determined by a national vote fails to honor the principle of federation between and equality of the four states. The Committee determined that a threshold requirement that measures the votes in each of the states and requires 3/4 of the states to meet that threshold was the best standard.

As noted by some Delegates, the purpose of the amendment procedure is to allow for a reasonable majority to amend the Constitution to meet changing needs. One of the Delegates stated that the original drafters of the Constitution all held to the principle of what a constitution is – that a constitution should last through the test of time and changing conditions, as long as the constitution provides for the needs of the people. The focus should be on what would allow for a better future for people.

The Committee focused its discussion on what standard best provides for the flexibility to meet changing needs, but still provides for the stability that a constitution must provide to the nation and its people. Some of the Delegates raised the concern that out of the 38 constitutional amendments proposed by the 1990 and 2001 FSM Constitutional Conventions, only 4 amendments have been approved. There was a discussion regarding whether the failure to approve more of the amendments which had been previously proposed was due to the threshold requirement or due to a lack of public education. A request for data was made to the National Election Commission which has been unable to provide sufficient data for the Committee to make a determination as to the cause of the failure to approve the constitutional amendments proposed by the 1990 and 2001 Conventions.

Other Delegates stated that they did not believe that the threshold requirement needed to be changed. The fact that 4 amendments have passed means that the current threshold can be satisfied. Thus, the reason for failure to approve must be either a failure of the public education program or that the people do not want the amendment. If the problem is a failure of public education, that can be remedied with a better program of public education. If the failure to approve is because the people do not want the amendment, then there is no failure. The process has worked, and the people have said “No amendment.” The will of the people must be respected.

Most Delegates, however, were of the opinion that the 3/4 threshold was too high. Many of the prior proposed amendments had almost gained the required support of 3/4 of the votes cast in 3/4 of the states. One Delegate reminded the Committee that the FSM Constitution itself was adopted by a simple majority vote, and thus, the amendment process requirement of a super-majority vote was more than what was required to put the current Constitution in place.

The Committee determined that a simple majority vote, although the standard used to approve the Constitution, did not provide the stability that the Constitution must provide the nation. The Committee determined that the current 3/4 of the votes cast did not provide a standard that allowed the country to meet the needs of the people in a world that is changing so quickly. The Committee determined that 2/3 of the votes cast was a reasonable standard that would provide stability and allow the flexibility to meet changing times.

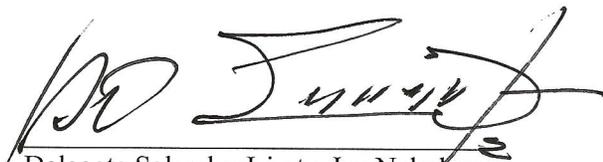
There was a discussion of whether the final version of the Committee Proposal should use percentages or fractions in order to make the proposal easier for the people to understand. The Committee determined that this issue should be left to the Committee on Style and Arrangement.

For the reasons stated herein, your Committee on General Provisions is in accord with the intent and purpose of the committee proposal attached hereto and recommends its passage on First Reading, and that it be placed on the Calendar for Second Reading for review by your Committee of the Whole, then placed on the Calendar for Final Reading after review by your Committee on Style and Arrangement.

Respectfully submitted,



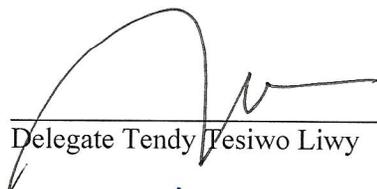
Yoslyn Sigrah, Chairman



Delegate Salvador Iriarte, Iso Nahrken



Andy P. Choor, Vice Chair



Delegate Tendency Liwy



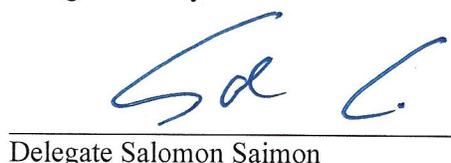
Delegate Jack S. Fritz



Delegate Berney Martin



Delegate Kind K. Kanto



Delegate Salomon Saimon



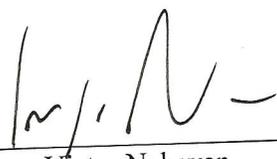
Delegate Cindy S. Mori



Delegate Johnson A. Asher



Delegate Marcus Samo



Delegate Victor Nabeyan



Delegate Asterio Takesy

STANDING COMMITTEE REPORT NO. CC-SCR-04-07

DATE: March 11, 2020

RE: Committee Proposal 4-04

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

Dear Mr. President:

Your Committee on Style and Arrangement, to which was referred Committee Proposal No. 4-04 relating to amending the Constitution, which provides:

ARTICLE XIV

Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by $\frac{3}{4}$ $\frac{2}{3}$ of the votes cast on that amendment in each of $\frac{3}{4}$ of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number affirmative votes shall prevail to the extent of such conflict.

begs leave to report as follows:

Pursuant to Rule 20.(e) and Rule 51, your Committee on Style and Arrangement reviewed Committee Proposal 4-04 for "inaccuracies, repetition, inconsistencies [and] poor drafting." Your Committee determined that in order to maintain consistency within the Constitution numbers should be used rather than writing the number in words.

Your Committee unanimously found that Committee Proposal 4-04 is consistent with the other provisions of the Constitution and is well drafted.

For the reasons stated herein, your Committee on Style and Arrangement recommends adoption of Committee Proposal 4-04 as written.

Respectfully submitted,



Salomon Saimon, Chairman

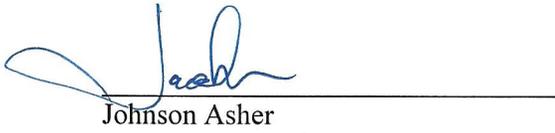


James Naich, Vice Chairman

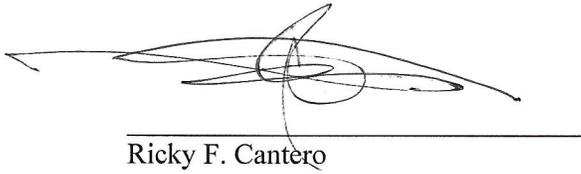


Andy P. Choor

Camillo Noket



Johnson Asher



Ricky F. Cantero



Myron I. Hashiguchi



Asterio Takesy

Mason Albert

Committee Proposal No. 4-04
Committee on General Provisions
Standing Committee Report No. CC-SCR-04-07

Relating to amending the Constitution.

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

ARTICLE XIV

Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by ~~3/4~~ 2/3 of the votes cast on that amendment in each of 3/4 of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number affirmative votes shall prevail to the extent of such conflict.

Date: March __, 2020

Offered by: Committee on General Provisions

**DAILY
ORDERS/CALENDARS**

**ORDER OF BUSINESS
4TH FSM CON CON
TUESDAY – DAY 1
JANUARY 07, 2020**

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY 2020

OPENING DAY – DAY 1

**TUESDAY
JANUARY 07, 2020
10:00 A.M.**

- MC – Convention Secretary, Mr. Kapilly Capelle
- Welcoming & Introduction of Convention delegates
- Introduction of the Temporary President

Acting President Panuelo invites the Sokehs Youth Council Association to sing the FSM National Anthem

ORDER OF BUSINESS

1. **CALL TO ORDER:** by His Excellency, the Hon. David W. Panuelo, Acting President, 4th FSM Constitutional Convention
2. **INVOCATION:** By Senior Pastor Bethwel Henry, United Church of Christ Pohnpei
3. Designation of Temporary Rules of Procedure
4. Designation of Temporary Floor Leader
5. Adoption of Temporary Rules of Procedure
6. Presentation and Adoption of the Qualifications Report

ORDER OF BUSINESS
4TH FSM CON CON
TUESDAY – DAY 1
JANUARY 07, 2020

7. Administration of the Oath of Office, by the Hon. Dennis Yamase, Chief Justice, FSM Supreme Court
8. Roll Call
9. Adoption of Official Rules of Procedure
10. Election of the President (4th FSM Con Con)

(Convention President takes his seat).
11. Election of the Vice President of the 4th FSM Con Con
12. Election of the Floor Leader
13. Election of the Chairman of the Committee of the Whole
14. Appointment of the Chairmen of the Standing Committees
15. Miscellaneous Business
16. Announcement
17. Recess

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY 2020

DAY 2

**WEDNESDAY
JANUARY 08, 2020
10:00 A.M.**

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications-NONE**
6. **Unfinished business-NONE**
7. **Reports of Committees-NONE**
8. **First Reading of Committee Proposals-NONE**
9. **Second Reading of Committee Proposals-NONE**
10. **Final Reading of Proposed Constitutional Amendments-NONE**
11. **Consideration of Resolutions-NONE**

ORDER OF BUSINESS
4TH FSM CON CON
WEDNESDAY – DAY 2
JANUARY 08, 2020

12. Introduction and referral of Delegate proposals and resolutions-NONE
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY 2020

DAY 3

THURSDAY
JANUARY 09, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business:
 - Reports on Committee Organization**
 - a) Committee on Civil Liberties and Traditions
 - b) Committee on Public Finance and Revenue
 - c) Committee on Government Structure and Functions
 - d) Committee on General Provisions

e) Committee on Style and Arrangement

7. Reports of Committees-NONE

8. First Reading of Committee Proposals-NONE

9. Second Reading of Committee Proposals-NONE

10. Final Reading of Proposed Constitutional Amendments-
NONE

11. Consideration of Resolutions-NONE

12. Introduction and referral of Delegate proposals and
resolutions-NONE

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY 2020

DAY 4

FRIDAY
JANUARY 10, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees-NONE
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-NONE
11. Consideration of Resolutions-NONE

**ORDER OF BUSINESS
4TH FSM CON CON
FRIDAY – DAY 4
JANUARY 10, 2020**

12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-01

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY 2020

DAY 5

SATURDAY
JANUARY 11, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees-NONE
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-NONE
11. Consideration of Resolutions-NONE

ORDER OF BUSINESS
4TH FSM CON CON
SATURDAY – DAY 5
JANUARY 11, 2020

12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-02

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY 2020

DAY 6

TUESDAY
JANUARY 14, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications:

****PRE-CONSTITUTIONAL CONVENTION(PCC)**

Communications:

No. 4-1-December 12, 2019, from Mr. Jeffrey S. Tilfas, Assistant Attorney General, DOJ, referring/responding to letter dated December 10,2019 regarding request for legal assistance/opinion.

No. 4-2-December 17, 2019, from Mr. Ricky F. Cantero, Chairman, Pre-Convention Committee, informing Mr. Kapilly Capelle to serve as Convention Secretary for the 4th Constitutional Convention.

ORDER OF BUSINESS
4TH FSM CON CON
TUESDAY – DAY 6
JANUARY 14, 2020

No. 4-3-December 19, 2019, from the Hon. Wesley Simina, Speaker, 21ST FSM Congress, congratulating Mr. Ricky F. Cantero, Chairman of the Pre-Con Committee for completing the Pre-Con session and informing that FSM Congress will not be able to release Chief Clerk, Mrs. Liwiana Ramon for service with the Concon due to the staff's main duty to support the sessions of Congress, and a regular session of Congress that will also take place in January.

No. 4-4-January 2, 2020, from the Hon. Wesley Simina, Speaker, 21ST FSM Congress, responding to the Hon. Ricky F. Cantero, Chairman, Pre-Con Committee, regarding a request for Assistant Chief Clerk Jessica Reyes and some attorneys of Congress to assist the Constitutional Convention by suggesting the following: "1. Ms. Jessica Reyes will be available to assist the session of the Concon on Pohnpei. She will, however, not be available for any consultation travel as she will likely be needed for Congressional session; 2. One attorney, Mr. Alik Jackson, will be available to staff your sessions on Pohnpei, again with the understanding that he will not staff off-island travel."

No. 4-5-January 6, 2020, from the Hon. Wesley Simina, Speaker, 21ST FSM Congress, writing to inform that due to FSM Staff Attorney Alik Jackson's prior commitments and unavailability, FSM Congress Staff Attorney Yancy Cottrill will be the replacement.

Delegation Communications:

No. 4-1 -(undated), from Delegate Nickson Bossy, Chuuk Delegation, congratulating the Honorable Redley Killion as President, the Honorable Iso Nahnken Salvador Iriarte as Vice President, the Honorable Andrew Yatilman as the Floor Leader, and the Honorable Johnson Asher as the Chairman of the Committee of the Whole to the respective offices of the 4TH FSM ConCon.

No. 4-2-(undated), from Delegate Nickson Bossy, Chuuk Delegation, sharing his point of view regarding the composition of the standing committees now set up as delegates are gearing to entertain proposed amendments to the FSM Constitution.

FSM Congress Communications:

No.4-1- January 9, 2020, from the Hon. Wesley Simina, Speaker of the 21st FSM Congress, congratulating the Hon. Redley Killion for being elected as the President of the 4TH Constitutional Convention and responding to the President's request (letter) for staff assistance dated January 8, 2020.

FSM Supreme Court Communications:

No. 4-1-January 9, 2020, from the Hon. Dennis K. Yamase, Chief Justice of the FSM Supreme Court, thanking Delegate Ricky F. Cantero for the opportunity to preside over the administration of oath for the elected delegates to the Fourth Constitutional Convention of the Federated States of

**ORDER OF BUSINESS
4TH FSM CON CON
TUESDAY – DAY 6
JANUARY 14, 2020**

Micronesia and responding to Delegate Ricky F. Cantero’s letter of January 5, 2020 as Chairman of the Pre-Convention Committee requesting legal and administrative assistance from the FSM Supreme Court.

Miscellaneous Communications:

No. 4-1-January 10, 2020, from Mrs. Daisy N. Cantero, Chair, Overall Committee, requesting the honor of President Killion and that of the members of the 4th FSM Constitutional Convention at the 2020 Joint Inauguration of the Governor-elect, Lt. Governor-elect, and members of the 10th Pohnpei Legislature scheduled to take place on Monday, January 13, 2020 at the COM-FSM Gym in Palikir.

6. Unfinished business-NONE
7. Reports of Committees-NONE
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-NONE
11. Consideration of Resolutions-NONE
- 12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-03**

ORDER OF BUSINESS
4TH FSM CON CON
TUESDAY – DAY 6
JANUARY 14, 2020

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY 2020

DAY 7

WEDNESDAY
JANUARY 15, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees-NONE
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-NONE
11. Consideration of Resolutions-NONE

ORDER OF BUSINESS
4TH FSM CON CON
WEDNESDAY – DAY 7
JANUARY 15, 2020

12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-04

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY 2020

DAY 8

THURSDAY
JANUARY 16, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications:

State Communications:

No.4-1-January 10, 2020, from the Hon. Mark Mailo, Lieutenant Governor, Chuuk State, congratulating the Hon. Redley Killion on his election as President of the 4th FSM Constitutional Convention, at the same time indicating how the Chuuk leadership is elated that the convention is now underway and that they are confident that their delegation members will serve the constituency well in the decisions they will make to adopt essential improvements to the nation's Constitution, and urging the Chuuk State's Concon delegation to introduce and unified behind an amendment that would embed a provision into the Constitution

ORDER OF BUSINESS
4TH FSM CON CON
THURSDAY – DAY 8
JANUARY 16, 2020

mandating equitable distribution of certain national revenue among the national and state governments based on equality, population, and per capita income tax contribution by each state to the national government.

6. Unfinished business-NONE
7. Reports of Committees-NONE
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-NONE
11. Consideration of Resolutions-NONE
12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-05
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY 2020

DAY 9

FRIDAY
JANUARY 17, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees-NONE
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-NONE

**ORDER OF BUSINESS
4TH FSM CON CON
THURSDAY – DAY 9
JANUARY 17, 2020**

11. Consideration of Resolutions:

- Convention Resolution No. CC-Res-4-01- FOR ADOPTION
- Convention Resolution No. CC-Res-4-02- FOR ADOPTION
- Convention Resolution No. CC-Res-4-03- FOR ADOPTION

12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-06

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY 2020

DAY 10

SATURDAY
JANUARY 18, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees-NONE
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-NONE

**ORDER OF BUSINESS
4TH FSM CON CON
SATURDAY – DAY 10
JANUARY 18, 2020**

11. Consideration of Resolutions-NONE
12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-07
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY 2020

DAY 11

MONDAY
JANUARY 20, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications-NONE**
6. **Unfinished business-NONE**
7. **Reports of Committees:**
 - **Committee Report No. CC-SCR-4-01, re. CC-PR-04-02:**
“To amend Article XII, Section 1(b) to provide that distribution of shares of foreign assistance from the foreign assistance fund will be made by agreement between the States and National Government instead of shared in equal portions by all of the four States and National Government.”- **Public Finance and Revenue**

ORDER OF BUSINESS
4TH FSM CON CON
MONDAY – DAY 11
JANUARY 20, 2020

8. First Reading of Committee Proposals-NONE

9. Second Reading of Committee Proposals-NONE

10. Final Reading of Proposed Constitutional Amendments-
NONE

11. Consideration of Resolutions:

- **Convention Resolution No. CC-Res-4-04- FOR ADOPTION** *Its oral amendments done by Delegate Susaia were deferred to today's session (Jan. 20,2020; MONDAY). Therefore, this resolution itself was also deferred to today's session (Jan. 20,2020; MONDAY)

12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-08

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY 2020

DAY 12

TUESDAY
JANUARY 20, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications:

Delegation Communications:

No. 4-3-January 19,2020, from Delegate Canney L. Palisis, Chairman, Kosrae Delegation, presenting his complement to President Redley Killion and the 4th CON-CON Leadership, also sharing what was advised by the Office of the Secretariat to each Delegation to submit for President's review and approval the budget for the consultation during the upcoming recess and that budget should reflect one-third (1/3) of the original Delegation budget, concluding with a suggestion that the FSM field offices in the States to be instructed to process the requests for payments and the related services with regards to the CON-CON matters.

Departmental Communications:

No. 4-1- January 18, 2020, from the Hon. Eugene Amor, Secretary, Department of Finance and Administration, responding to Chairman of Public Finance and Revenue Committee (4th FSM Constitutional Convention), the Hon. Peter Sitan's letter dated January 10, 2020 requesting domestic revenue and expenditures of the national government from FY2014 TO FY 2020 by transmitting the compiled data sourced from audited financial statements for prior years and projected revenue and expenditure for FY2020.

6. Unfinished business-NONE

7. Reports of Committees:

- **Committee Report No. CC-SCR-4-01, re. CC-PR-04-02:** "To amend Article XII, Section 1(b) to provide that distribution of shares of foreign assistance from the foreign assistance fund will be made by agreement between the States and National Government instead of shared in equal portions by all of the four States and National Government."- **Public Finance and Revenue** (*DEFERRED on Jan. 20, 2020 to today's session, Jan. 21, 2020)

8. First Reading of Committee Proposals-NONE

9. Second Reading of Committee Proposals-NONE

ORDER OF BUSINESS
4TH FSM CON CON
TUESDAY – DAY 12
JANUARY 21, 2020

10. Final Reading of Proposed Constitutional Amendments-
NONE
11. Consideration of Resolutions-NONE
12. Introduction and referral of Delegate proposals and
resolutions- See REFERRAL SHEET NO. 4-09
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY 2020

DAY 13

WEDNESDAY
JANUARY 22, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees:
8. First Reading of Committee Proposals:
 - **CC-PR-04-02-FOR 1ST READING-PUBLIC FINANCE & REVENUE**-(cf. Committee Report No. CC-SCR-4-01)
**Deferred on 01/21/20 to 01/22/20*
9. Second Reading of Committee Proposals-NONE

ORDER OF BUSINESS
4TH FSM CON CON
WEDNESDAY – DAY 13
JANUARY 22, 2020

10. Final Reading of Proposed Constitutional Amendments-
NONE

11. Consideration of Resolutions-NONE

12. Introduction and referral of Delegate proposals and
resolutions- See REFERRAL SHEET NO. 4-10

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment/Recess

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY 2020 and February 24-March 13, 2020

DAY 14

**MONDAY
FEBRUARY 24, 2020
10:00 A.M.**

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications:**

Agency or Governmental Authority Communications:

No. 4-01-January 21, 2020, from Mr. Ioanis M. Sahm, Acting Director, Office of the National Election Director, responding to Delegate Yoslyn G. Sigrah's request for information on the Second Constitutional Convention in 1990 and the Third Constitutional Convention in 2001 by indicating that the National Election Office has no record of the Constitutional Convention Elections in 1990 and 2001 (*But they do have the information needed from the General Election held on March 8, 2011).

ORDER OF BUSINESS
4TH FSM CON CON
MONDAY– DAY 14
February 24, 2020

6. Unfinished business-NONE
7. Reports of Committees-NONE
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-
NONE
11. Consideration of Resolutions-NONE
12. Introduction and referral of Delegate proposals and
resolutions- See REFERRAL SHEET NO. **4-11**
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 15

TUESDAY
FEBRUARY 25, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees-NONE
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-NONE
11. Consideration of Resolutions-NONE

ORDER OF BUSINESS
4TH FSM CON CON
TUESDAY– DAY 15
February 25, 2020

12. Introduction and referral of Delegate proposals and resolutions- NONE
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 16

WEDNESDAY
FEBRUARY 26, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications-NONE**
6. **Unfinished business-NONE**
7. **Reports of Committees-NONE**
8. **First Reading of Committee Proposals-NONE**
9. **Second Reading of Committee Proposals-NONE**
10. **Final Reading of Proposed Constitutional Amendments-NONE**
11. **Consideration of Resolutions-NONE**

ORDER OF BUSINESS
4TH FSM CON CON
WEDNESDAY– DAY 16
February 26, 2020

12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-12
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 17

THURSDAY
FEBRUARY 27, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th
FSM Constitutional Convention

2. **Silent Prayer**

3. **Roll Call**

4. **Adoption of Journal**

5. **Communications:**

FSM Congress Communications:

No. 4-2-February 26, 2020, from the Hon. Wesley Simina, Speaker of the 21st FSM Congress, informing His Excellency Redley Killion, President of the 4th Constitutional Convention that he is calling for a Fourth Special Session of the FSM Congress to commence on March 05, 2020 for five days.

6. **Unfinished business-NONE**

7. **Reports of Committees-NONE**

ORDER OF BUSINESS
4TH FSM CON CON
THURSDAY– DAY 17
February 27, 2020

8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-
NONE
11. Consideration of Resolutions-NONE
12. Introduction and referral of Delegate proposals and
resolutions- NONE
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 18

FRIDAY
FEBRUARY 28, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees-NONE
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-NONE
11. Consideration of Resolutions-NONE

ORDER OF BUSINESS
4TH FSM CON CON
FRIDAY- DAY 18
February 28, 2020

12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-13
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 19

SATURDAY
FEBRUARY 29, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees-NONE
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-NONE
11. Consideration of Resolutions-NONE

ORDER OF BUSINESS
4TH FSM CON CON
SATURDAY– DAY 19
February 29, 2020

12. Introduction and referral of Delegate proposals and resolutions- NONE
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 20

TUESDAY
MARCH 03, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees:

-Committee Report No. CC-SCR-4-02, re.CC-PR-04-01: “To amend Article IV, Section 2 of the Constitution, by adding ‘and other parochial establishments’ and deleting ‘non-religious’ and inserting ‘secular’ in order to expand the ability of the governments of the Federated States of Micronesia to provide assistance to not merely parochial schools, but also other parochial establishments which also

provide secular services to the entire community.” – **Civil Liberties and Traditions**

**-Committee Report No. CC-SCR-4-03, re.CC-PR-04-11: “To amend Article IX, Section 2(q) of the Constitution of the Federated States of Micronesia to provide for the number of votes required to override a Presidential Veto.”-
Government Structure and Functions**

-Committee Report No. CC-SCR-4-04, re.CC-PR-04-46: “To amend Article XIV, section 1 of the Constitution of the Federated States of Micronesia to lower the percentage of votes cast required in each state to adopt amendments to the constitution from the current three-fourths of the votes required in three-fourths of the states to two-thirds of the votes in three-fourths of the states.” -General Provisions****

8. First Reading of Committee Proposals:

-CC-PR-4-01-FOR 1ST READING-*CIVIL LIBERTIES AND TRADITION*- (cf. CC-SCR-4-02)

-CC-PR-4-11-FOR 1ST READING-*GOVERNMENT STRUCTURE AND FUNCTIONS*-(cf.CC-SCR-4-03)

-CC-PR-4-46-FOR 1ST READING-*GENERAL PROVISIONS*- (cf.SCR-SCR-4-04)

9. Second Reading of Committee Proposals-NONE

ORDER OF BUSINESS
4TH FSM CON CON
TUESDAY– DAY 20
MARCH 03, 2020

10. Final Reading of Proposed Constitutional Amendments-
NONE
11. Consideration of Resolutions-NONE
12. Introduction and referral of Delegate proposals and
resolutions- See REFERRAL SHEET NO. 4-14
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 21

FRIDAY
MARCH 06, 2020
3:00 P.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees:

-Committee Report No. CC-SCR-4-02, re.CC-PR-04-01: “To amend Article IV, Section 2 of the Constitution, by adding ‘and other parochial establishments’ and deleting ‘non-religious’ and inserting ‘secular’ in order to expand the ability of the governments of the Federated States of Micronesia to provide assistance to not merely parochial schools, but also other parochial establishments which also

provide secular services to the entire community.” – **Civil Liberties and Traditions** (*DEFFERED on Mar. 03,2020 to next session-Mar.06,2020)

-Committee Report No. CC-SCR-4-03, re.CC-PR-04-11: “To amend Article IX, Section 2(q) of the Constitution of the Federated States of Micronesia to provide for the number of votes required to override a Presidential Veto.”- **Government Structure and Functions** (*DEFFERED on Mar. 03,2020 to next session-Mar.06,2020)

-Committee Report No. CC-SCR-4-04, re.CC-PR-04-46: “To amend Article XIV, section 1 of the Constitution of the Federated States of Micronesia to lower the percentage of votes cast required in each state to adopt amendments to the constitution from the current three-fourths of the votes required in three-fourths of the states to two-thirds of the votes in three-fourths of the states.” **-General Provisions** (*DEFFERED on Mar. 03,2020 to next session-Mar.06,2020)

8. First Reading of Committee Proposals:

-CC-PR-4-01-FOR 1ST READING-CIVIL LIBERTIES AND TRADITION- (cf. CC-SCR-4-02) **Its Standing Committee Report was deferred on Mar. 03,2020 to today’s session, Mar. 06,2020.*

ORDER OF BUSINESS
4TH FSM CON CON
FRIDAY- DAY 21
MARCH 06, 2020

*-CC-PR-4-11-FOR 1ST READING-GOVERNMENT STRUCTURE AND FUNCTIONS-(cf.CC-SCR-4-03) *Its Standing Committee Report was deferred on Mar. 03,2020 to today's session, Mar. 06,2020.*

*-CC-PR-4-46-FOR 1ST READING-GENERAL PROVISIONS-(cf.SCR-SCR-4-04) *Its Standing Committee Report was deferred on Mar. 03,2020 to today's session, Mar. 06,2020.*

9. Second Reading of Committee Proposals-NONE
10. Final Reading of Proposed Constitutional Amendments-NONE
11. Consideration of Resolutions-NONE
12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-15
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 22

SATURDAY
MARCH 07, 2020
11:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications-NONE**
6. **Unfinished business-NONE**
7. **Reports of Committees:**

-Committee Report No. CC-SCR-4-03, re.CC-PR-04-11: “To amend Article IX, Section 2(q) of the Constitution of the Federated States of Micronesia to provide for the number of votes required to override a Presidential Veto.”-
Government Structure and Functions (*DEFERRED on Mar. 03,2020 to next session-Mar.06,2020; *DEFERRED for the second time on Mar.06 to next session-Mar.07,2020*)

-Committee Report No. CC-SCR-4-04, re.CC-PR-04-46: “To amend Article XIV, section 1 of the Constitution of the Federated States of Micronesia to lower the percentage of votes cast required in each state to adopt amendments to the constitution from the current three-fourths of the votes required in three-fourths of the states to two-thirds of the votes in three-fourths of the states.” **-General Provisions** (*DEFERRED on Mar. 03,2020 to next session-Mar.06,2020; *DEFERRED for the second time on Mar.06 to next session-Mar.07,2020*)

8. First Reading of Committee Proposals:

-Committee Proposal 4-03-FOR 1ST READING-GOVERNMENT STRUCTURE AND FUNCTIONS-(cf.CC-SCR-4-03) **Its Standing Committee Report was deferred on Mar. 03,2020 to today’s session, Mar. 06,2020; Its Standing Committee Report was deferred for the second time and this was on Mar. 06,2020 to today’s session, Mar. 07,2020.*

-Committee Proposal 4-04-FOR 1ST READING-GENERAL PROVISIONS-(cf.SCR-SCR-4-04) **Its Standing Committee Report was deferred on Mar. 03,2020 to today’s session, Mar. 06,2020; Its Standing Committee Report was deferred for the second time and this was on Mar. 06,2020 to today’s session, Mar. 07,2020.*

9. Second Reading of Committee Proposals-NONE

10. Final Reading of Proposed Constitutional Amendments-NONE

**ORDER OF BUSINESS
4TH FSM CON CON
SATURDAY– DAY 22
MARCH 07, 2020**

11. Consideration of Resolutions-NONE
12. Introduction and referral of Delegate proposals and resolutions- NONE
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 23

TUESDAY
MARCH 10, 2020
1:00 P.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
- 7. Reports of Committees-NONE**
8. First Reading of Committee Proposals-**NONE**
9. Second Reading of Committee Proposals:

-Committee Proposal 4-03-FOR 2nd **READING-GOVERNMENT
STRUCTURE AND FUNCTIONS**-(cf.CC-SCR-4-03)

ORDER OF BUSINESS
4TH FSM CON CON
TUESDAY– DAY 23
MARCH 10, 2020

-Committee Proposal 4-04-FOR 2nd *READING-GENERAL PROVISIONS*-(cf.SCR-SCR-4-04)

10. Final Reading of Proposed Constitutional Amendments-
NONE

11. Consideration of Resolutions-NONE

12. Introduction and referral of Delegate proposals and
resolutions- **NONE**

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 24

WEDNESDAY
MARCH 11, 2020
2:00 P.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
- 7. Reports of Committees-NONE**
8. First Reading of Committee Proposals-NONE
9. Second Reading of Committee Proposals:

-Committee Proposal 4-03-FOR 2nd **READING-GOVERNMENT
STRUCTURE AND FUNCTIONS**-(cf.CC-SCR-4-03)

*DEFFERRED on Mar. 10,2020 to next session-Mar.
11,2020

ORDER OF BUSINESS
4TH FSM CON CON
WEDNESDAY– DAY 24
MARCH 11, 2020

10. Final Reading of Proposed Constitutional Amendments-
NONE

11. Consideration of Resolutions-NONE

**12. Introduction and referral of Delegate proposals and
resolutions- See REFERRAL SHEET NO. 4-16**

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 25

THURSDAY
MARCH 12, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees:

-Committee Report No. CC-SCR-4-06, re. CC-PR-04-10: "To amend Article X, Section 6 of the Constitution of the Federated States of Micronesia for the purpose 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 baseline shall be divided between the national government and appropriate state government or state

ORDER OF BUSINESS
4TH FSM CON CON
THURSDAY– DAY 25
MARCH 12, 2020

governments shall be entitled to not less than 60% of the revenue. Where two or more state government are entitled to such net revenue, such state government shall be entitled to such net revenue, such state government shall be entitled to not less than 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.” -Public Finance and Revenue

-Committee Report No. CC-SCR-4-07, re. Committee Proposal 4-04 “To amend Article XIV, section 1 of the Constitution of the Federated States of Micronesia to lower the percentage of votes cast required in each state to adopt amendments to the constitution from the current three-fourths of the votes required in three-fourths of the states to two-thirds of the votes in three-fourths of the states.” -Style and Arrangement- **Committee Proposal 4-04 passed 2nd Reading on Mar. 10,2020.*

8. First Reading of Committee Proposals:

- Committee Proposal 4-06-FOR 1ST READING-Public Finance and Revenue-(cf.CC-SCR-4-06)

9. Second Reading of Committee Proposals:

-Committee Proposal 4-03-FOR 2nd READING-*GOVERNMENT STRUCTURE AND FUNCTIONS*-(cf.CC-SCR-4-03)
*DEFERRED on Mar. 10,2020 to next session-Mar. 11,2020; DEFERRED for the second time on Mar.11,2020

ORDER OF BUSINESS
4TH FSM CON CON
THURSDAY– DAY 25
MARCH 12, 2020

to next session-Mar.12,2020-**Further discussion on the proposed amendment to Committee Proposal 4-03 by Delegate Nabeyan will continue in the Committee of the Whole.*

-Committee Proposal 4-05-FOR 2nd READING-*CIVIL LIBERTIES AND TRADITION* - (cf.CC-SCR-4-05)

10. Final Reading of Proposed Constitutional Amendments:

- Committee Proposal 4-04-FOR FINAL READING

11. Consideration of Resolutions-NONE

12. Introduction and referral of Delegate proposals and resolutions- **See REFERRAL SHEET NO. 4-17**

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07JANUARY TO 22 JANUARY, 2020 and 24 FEBRUARY TO 13 MARCH,
2020

DAY 26

FRIDAY
MARCH 13, 2020
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th
FSM Constitutional Convention

2. **Silent Prayer**

3. **Roll Call**

4. **Adoption of Journal**

5. **Communications-NONE**

6. **Unfinished business-NONE**

7. **Reports of Committees:**

-Committee Report No. CC-SCR-4-06, re. CC-PR-04-10: “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.”-Public Finance and

Revenue (**DEFERRED on Mar. 12,2020 to next session-
Mar. 13,2020*)

-Committee Report No. CC-SCR-4-08, re. CC-PR-04-52: “To amend Article XI, section 6 of the Constitution of the Federated States of Micronesia to provide the State Courts the exclusive jurisdiction of cases where interest of land is at issue.”-**General Provisions**

-Committee Report No. CC-SCR-4-09, re. Committee Proposal 4-05: “To amend Article III, Sections 3,4,5 and 6 of the Constitution of the Federated States of Micronesia to allow FSM Citizens to hold dual citizenship.”-**Style and Arrangement- *Committee Proposal 4-05 passed 2nd Reading on Mar. 12,2020.**

8. First Reading of Committee Proposals:

- Committee Proposal 4-06-**FOR 1ST READING**-Public Finance and Revenue-(cf.CC-SCR-4-06)
- Committee Proposal 4-07-**FOR 1st READING**-General Provisions-(cf.CC-SCR-4-08)

9. Second Reading of Committee Proposals-NONE

10. Final Reading of Proposed Constitutional Amendments:

- Committee Proposal 4-05-**FOR FINAL READING**

11. Consideration of Resolutions-NONE

ORDER OF BUSINESS
4TH FSM CON CON
FRIDAY- DAY 26
MARCH 13, 2020

12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-18
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 27

WEDNESDAY
JUNE 01, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Report on Qualifications of Delegates ad hoc Committee on Qualifications
5. Seating of New Delegates
6. Proposed Amendments to Convention Rules
7. Adoption of Journal
8. Communications-NONE
9. Unfinished Business-NONE
10. Reports of Committees-NONE

11. First Reading of Committee Proposals:

- Committee Proposal 4-06-FOR 1ST READING-Public Finance and Revenue-(cf.CC-SCR-4-06)
*(*Deferred on 03/13/20 until after the long recess)*

- Committee Proposal 4-07-FOR 1ST READING-General Provisions-(cf.CC-SCR-4-08)
*(*Deferred on 03/13/20 until after the long recess)*

12. Second Reading of Committee Proposals:

- Committee Proposal 4-03-FOR 2ND READING-
GOVERNMENT STRUCTURE AND FUNCTIONS-(cf.CC-SCR-4-03)
DEFFERRED on Mar. 10,2020 to next session-Mar. 11,2020; DEFERRED for the second time on Mar.11,2020 to next session-Mar.12,2020-Further discussion on the proposed amendment to Committee Proposal 4-03 by Delegate Nabeyan will continue in the Committee of the Whole; Deferred in Committee of the Whole (COW) on 03/12/20 to the first Committee of the Whole (COW) until after the long recess**

13. Final Reading of Proposed Constitutional Amendments-
NONE

14. Consideration of Resolutions-NONE

15. Introduction and referral of Delegate proposals and resolutions- NONE

ORDER OF BUSINESS
4TH FSM CON CON
WEDNESDAY– DAY 27
JUNE 01, 2022

16. Special Orders-NONE

17. MISCELLANEOUS BUSINESS

18. Announcements

19. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 28

THURSDAY
JUNE 02, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications-NONE**
6. **Unfinished business:**
 - Proposed Amendments to Convention Rules
7. **Reports of Committees - NONE**
8. **First Reading of Committee Proposals:**

- Committee Proposal 4-06-FOR 1ST READING-Public Finance and Revenue-(cf.CC-SCR-4-06)
*(*Deferred on 03/13/20 until after the long recess; Deferred again on 06/01/22 to next plenary session)*
Amendment to Committee Proposal 4-06 Introduced by Chairman Nabeyan

- Committee Proposal 4-07-FOR 1st READING-General Provisions-(cf.CC-SCR-4-08)
*(*Deferred on 03/13/20 until after the long recess; Deferred again on 06/01/22 to next plenary session)*

9. Second Reading of Committee Proposals:

- Committee Proposal 4-03-FOR 2nd READING-
GOVERNMENT STRUCTURE AND FUNCTIONS-(cf.CC-SCR-4-03)
DEFERRED on Mar. 10,2020 to next session-Mar. 11,2020; DEFERRED for the second time on Mar.11,2020 to next session-Mar.12,2020-*Further discussion on the proposed amendment to Committee Proposal 4-03 by Delegate Nabeyan will continue in the Committee of the Whole; Deferred in Committee of the Whole (COW) on 03/12/20 to the first Committee of the Whole (COW) until after the long recess; Deferred again on 06/01/22 to next plenary session***

10. Final Reading of Proposed Constitutional Amendments –
NONE

11. Consideration of Resolutions-NONE

ORDER OF BUSINESS
4TH FSM CON CON
THURSDAY– DAY 28
JUNE 02, 2022

12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-19
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 29

FRIDAY
JUNE 03, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications-NONE
6. Unfinished business-NONE
7. Reports of Committees - NONE
8. First Reading of Committee Proposals - NONE

9. Second Reading of Committee Proposals:

- Committee Proposal 4-03-FOR 2nd READING-
GOVERNMENT STRUCTURE AND FUNCTIONS-(cf.CC-SCR-4-03)
(*DEFERRED on Mar. 10,2020 to next session-Mar. 11,2020; DEFERRED for the second time on Mar.11,2020 to next session-Mar.12,2020-**Further discussion on the proposed amendment to Committee Proposal 4-03 by Delegate Nabeyan will continue in the Committee of the Whole; Deferred in Committee of the Whole (COW) on 03/12/20 to the first Committee of the Whole (COW) until after the long recess; Deferred again on 06/01/22 to next plenary session; Deferred on 06/02/22 to next plenary session)*

- Committee Proposal 4-06, CCD1-FOR 2ND READING-
Public Finance and Revenue-(cf.CC-SCR-4-06)
(*Deferred on 03/13/20 until after the long recess; Deferred again on 06/01/22 to next plenary session; *Passed 1st Reading on 06/02/22 with the adoption of an amendment by Delegate Nabeyan as CONCON DRAFT 1, CCD1)*

- Committee Proposal 4-07-FOR 2ND READING-General Provisions-(cf.CC-SCR-4-08)
(*Deferred on 03/13/20 until after the long recess; Deferred again on 06/01/22 to next plenary session; *Passed 1st Reading on 06/02/22)*

10. Final Reading of Proposed Constitutional Amendments –
NONE

11. Consideration of Resolutions-NONE

ORDER OF BUSINESS
4TH FSM CON CON
FRIDAY- DAY 29
JUNE 03, 2022

12. Introduction and referral of Delegate proposals and resolutions- NONE
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 30

SATURDAY
JUNE 04, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications:**

Delegation Communications:

No. 4-4-June 03,2022, from Delegate Cindy S. Mori, Chairperson, Chuuk Delegation, communicating through an e-mail regarding the following: **a)**1st Part of her e-mail is the latest communication she had to Chief Legal Counsel Kathleen M. Burch and Secretary Kapilly Capelle designating Delegate Kind Kanto as her proxy; **b)**2nd Part of her e-mail addressed to President Redley Killion indicating her designation of Delegate Kanto (Faichuuk) as her proxy as Delegation Chair, for today's plenary session, as she will be at a Hearing at the Supreme Court.

*(*This communication was read on record in yesterday's session, Day 29-June 03,2022 under item#05, Communications)*

**ORDER OF BUSINESS
4TH FSM CON CON
SATURDAY– DAY 30
JUNE 04, 2022**

6. Unfinished business-NONE

7. Reports of Committees - NONE

8. First Reading of Committee Proposals - NONE

9. Second Reading of Committee Proposals:

- Committee Proposal 4-03-FOR 2nd READING-
GOVERNMENT STRUCTURE AND FUNCTIONS-(cf.CC-
SCR-4-03)
(*DEFERRED on Mar. 10,2020 to next session-Mar.
11,2020; DEFERRED for the second time on
Mar.11,2020 to next session-Mar.12,2020-**Further
discussion on the proposed amendment to Committee
Proposal 4-03 by Delegate Nabeyan will continue in
the Committee of the Whole; Deferred in Committee
of the Whole (COW) on 03/12/20 to the first
Committee of the Whole (COW) until after the long
recess; Deferred again on 06/01/22 to next plenary
session; Deferred on 06/02/22 to next plenary
session; DEFERRED AGAIN ON 06/03/22 TO NEXT
WEEK)*

10. Final Reading of Proposed Constitutional Amendments –
NONE

11. Consideration of Resolutions-NONE

12. Introduction and referral of Delegate proposals and
resolutions- NONE

ORDER OF BUSINESS
4TH FSM CON CON
SATURDAY– DAY 30
JUNE 04, 2022

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 31

MONDAY
JUNE 06, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications:**

Delegation Communications:

No. 4-5-June 04,2022, from Delegate Nickson Bossy, Chuuk Delegation, writing regarding some issues that are factual, real and eventually will adverse the good standing situations of those delegates who are subjected and confined to such issues: a) "Contingent upon any delegate members of this convention, medical attention and treatment ought to be provided to those who are affected provided there is funding available and ready to expend for such purposes ;b) Meeting allowance had been paid to those of us delegates who are entitled to, and I respectfully request that the allowance be

ORDER OF BUSINESS
4TH FSM CON CON
MONDAY– DAY 31
JUNE 06, 2022

paid to us for the four days of the plenary sessions conducted and attended by the members; c)Travel Authorization: I respectfully request a report of response from the Office of the President to our second written request of our overdrawn TA's and its waiver or otherwise remedy on how we, those affected, would receive our per diem.”

6. Unfinished business-NONE
7. Reports of Committees - NONE
8. First Reading of Committee Proposals - NONE
9. Second Reading of Committee Proposals - NONE
10. Final Reading of Proposed Constitutional Amendments – NONE
11. Consideration of Resolutions-NONE
12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-20
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 32

TUESDAY
JUNE 07, 2022
1:00 P.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications - NONE**
6. **Unfinished business-NONE**
7. **Reports of Committees - NONE**
8. **First Reading of Committee Proposals - NONE**
9. **Second Reading of Committee Proposals - NONE**
10. **Final Reading of Proposed Constitutional Amendments - NONE**
11. **Consideration of Resolutions-NONE**

ORDER OF BUSINESS
4TH FSM CON CON
TUESDAY- DAY 32
JUNE 07, 2022

12. Introduction and referral of Delegate proposals and resolutions- NONE
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 33

WEDNESDAY
JUNE 08, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications - NONE**
6. **Unfinished business-NONE**
7. **Reports of Committees - NONE**
8. **First Reading of Committee Proposals - NONE**
9. **Second Reading of Committee Proposals - NONE**
10. **Final Reading of Proposed Constitutional Amendments - NONE**
11. **Consideration of Resolutions-NONE**

ORDER OF BUSINESS
4TH FSM CON CON
WEDNESDAY– DAY 33
JUNE 08, 2022

12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-21
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 34

FRIDAY
JUNE 10, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**

5. Communications:

Delegation Communications:

No. 4-6-June 08,2022, from Delegate Nickson Bossy, Chuuk Delegation, communicating to raise again his request that is in line and in support to the Honorable Delegate Andrew Yatilman, Floor Leader of this convention his concern on the several session days conducted without actually transacting any business or disposal of the proposals pending before this convention.

No. 4-7-June 09,2022, from Delegate Nickson Bossy, Chuuk Delegation, requesting respectfully for the committee to

ORDER OF BUSINESS
4TH FSM CON CON
FRIDAY– DAY 34
JUNE 10, 2022

inquire information from the Department of Justice relevant to fishing violations, general-penalty report of violations including violations of fishing activities within the 12 mile zone affecting any of the respective states.

6. Unfinished business-NONE

7. Reports of Committees:

- Committee Report No. CC-SCR-4-11, re.CC-PR-04-03: “To amend Article IX, Section 2(q) of the Constitution of the Federated States of Micronesia to provide for the number of votes required to override a Presidential veto.”-*Style and Arrangement*-*Committee Proposal 4-03 passed 2nd Reading on June 04,2022.
- Committee Report No. CC-SCR-4-12, re.CC-PR-04-07, CCD1: “To amend Article XI, Section 6(b) of the Constitution of the Federated States of Micronesia to provide the State Courts the exclusive jurisdiction of cases where interest of land is at issue.”-*Style and Arrangement*-*Committee Proposal 4-07 passed 2nd Reading on June 03,2022.

8. First Reading of Committee Proposals - NONE

9. Second Reading of Committee Proposals - NONE

10. Final Reading of Proposed Constitutional Amendments – NONE

ORDER OF BUSINESS
4TH FSM CON CON
FRIDAY– DAY 34
JUNE 10, 2022

11. Consideration of Resolutions-NONE

12. Introduction and referral of Delegate proposals and resolutions- **See REFERRAL SHEET NO. 4-22**

- CC-PR-04-22 for reassignment to Committee on General Provisions

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 35

MONDAY
JUNE 13, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications:**

Delegation Communications:

No. 4-8-June 10,2022, from Delegate Cindy S. Mori, Chairperson, Chuuk Delegation, communicating through an e-mail designating a PROXY as the Chuuk Delegation Chairperson in the event technical difficulties with the connection and a vote must be cast: “Please accept my colleague from Faichuuk Mr. Kind Kanto as my PROXY for purposes of casting the delegation vote.”

(*This communication was acknowledged and mentioned on record by President Killion on Day 34, June 10,2022.)

6. Unfinished business-NONE

7. Reports of Committees:

- Committee Report No. CC-SCR-4-11, re.CC-PR-04-03: "To amend Article IX, Section 2(q) of the Constitution of the Federated States of Micronesia to provide for the number of votes required to override a Presidential veto."-*Style and Arrangement*-
*Committee Proposal 4-03 passed 2nd Reading on June 04,2022.
*(*This was deferred on 06/10/22)*

8. First Reading of Committee Proposals - NONE

9. Second Reading of Committee Proposals - NONE

10. Final Reading of Proposed Constitutional Amendments:

- Committee Proposal 4-07, CCD1 - FOR FINAL READING- STYLE AND ARRANGEMENT-(cf.CC-SCR-4-12)
*(*Its CC-SCR-4-12 was adopted on 06/10/22; This Committee Proposal 4-07, CCD1 was deferred on 06/10/22)*

11. Consideration of Resolutions:

- Convention Resolution No. CC-Res-4-12-FOR ADOPTION
*(*Placed on 06/10/22; Deferred on 06/10/22)*
- Convention Resolution No. CC-Res-4-13-FOR ADOPTION
*(*Placed on 06/10/22; Deferred on 06/10/22)*

ORDER OF BUSINESS
4TH FSM CON CON
MONDAY– DAY 35
JUNE 13, 2022

12. Introduction and referral of Delegate proposals and resolutions- See REFERRAL SHEET NO. 4-23?????

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 36

TUESDAY
JUNE 14, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications - NONE**
6. **Unfinished business-NONE**
7. **Reports of Committees - NONE**
8. **First Reading of Committee Proposals - NONE**
9. **Second Reading of Committee Proposals - NONE**
10. **Final Reading of Proposed Constitutional Amendments - NONE**
11. **Consideration of Resolutions - NONE**

12. Introduction and referral of Delegate proposals and resolutions- NONE

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

- EXECUTIVE ORDER- “Establishing and organizing a public education task force on the proposed constitutional amendments to lower the threshold vote needed to amend the constitution from 3/4 to 2/3 vote and to legalize dual citizenship”????-Not sure if this is the correct communication that the delegates were referring to and wanted it to be included onto tomorrow’s order whether in communications if it’s addressed to CONCON or to include it under Miscellaneous Business. I couldn’t get a hold of the journal clerk to get her assistance by listening to today’s recording and verify if this is indeed the correct communication. Please advise whether to keep this on tomorrow’s order or to take it out.

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 37

WEDNESDAY
JUNE 15, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**

5. Communications:

Committee Communications:

No. 4-1-June 14,2022, from Delegate Jack Fritz, Esq., Chairman, Committee on Finance and Revenue, 4th FSM Constitutional Convention, sharing a general summary of information provided by testimonies of witnesses in the hearings conducted by the Committee on Finance and Revenue relating to revenue sharing of available resources which could be shared with our states and local governments given the facts that the states are experiencing financial challenges while our national government is enjoying significant surplus of revenues.

6. Unfinished business-NONE

7. Reports of Committees:

- **Committee Report No. CC-SCR-4-13, re.CC-PR-04-09:**
“To amend Article XII, to add a new Section 4 to the FSM Constitution of the Federated States of Micronesia to create an office of Independent Prosecutor.-**Government Structure and Functions**

- **Committee Report No. CC-SCR-4-14, re.CC-PR-04-10:**
“To amend article XIII, Section 4 of the Constitution of the Federated States of Micronesia to provide that ownership of land and water shall be controlled by state law.”-**General Provisions**

8. First Reading of Committee Proposals - NONE

9. Second Reading of Committee Proposals - NONE

10. Final Reading of Proposed Constitutional Amendments - NONE

11. Consideration of Resolutions - NONE

12. Introduction and referral of Delegate proposals and resolutions- NONE

ORDER OF BUSINESS
4TH FSM CON CON
WEDNESDAY– DAY 37
JUNE 15, 2022

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 38

THURSDAY
JUNE 16, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th
FSM Constitutional Convention

2. **Silent Prayer**

3. **Roll Call**

4. **Adoption of Journal**

5. Communications-NONE

6. **Unfinished business-NONE**

7. **Reports of Committees - NONE**

8. **First Reading of Committee Proposals - NONE**

9. Second Reading of Committee Proposals:

- **Committee Proposal 4-09-FOR 2ND READING-**
Government Structure and Functions-(cf.CC-SCR-4-13)

ORDER OF BUSINESS
4TH FSM CON CON
THURSDAY– DAY 38
JUNE 16, 2022

10. Final Reading of Proposed Constitutional Amendments -
NONE

11. Consideration of Resolutions - NONE

**12. Introduction and referral of Delegate proposals and
resolutions- See REFERRAL SHEET NO. 4-23**

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

- **AMENDED EMERGENCY REGULATION TO CLARIFY THE
MAXIMUM PERIOD OF QUARANTINE UPON ARRIVAL IN
FSM**
(*This was distributed to all delegates in yesterday's
session, Day 37, June 15,2022)

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 39

FRIDAY
JUNE 17, 2022
1:00 P.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th
FSM Constitutional Convention

2. **Silent Prayer**

3. **Roll Call**

4. **Adoption of Journal**

5. Communications:

Agency or Governmental Authority Communications:

**No. 4-2-June 16,2022, from Sihna Lawrence, Chairperson,
Board of Directors, FSM Development Bank, responding to a
letter which invites her, in her capacity as Chairwoman of
the FSM Development Bank, to attend a public hearing on
June 16,2022.**

6. **Unfinished business-NONE**

7. Reports of Committees - NONE

ORDER OF BUSINESS
4TH FSM CON CON
FRIDAY– DAY 39
JUNE 17, 2022

8. First Reading of Committee Proposals - NONE
9. Second Reading of Committee Proposals - NONE
10. Final Reading of Proposed Constitutional Amendments - NONE
11. Consideration of Resolutions - NONE
- 12. Introduction and referral of Delegate proposals and resolutions- NONE**
13. Special Orders-NONE
- 14. MISCELLANEOUS BUSINESS**
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 40

MONDAY
JUNE 20, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th
FSM Constitutional Convention

2. **Silent Prayer**

3. **Roll Call**

4. **Adoption of Journal**

5. Communications- NONE

6. **Unfinished business-NONE**

7. **Reports of Committees:**

- **Committee Report No. CC-SCR-4-11, re.CC-PR-04-03:**
“To amend Article IX, Section 2(q) of the Constitution
of the Federated States of Micronesia to provide for
the number of votes required to override a
Presidential veto.”-*Style and Arrangement*
*Committee Proposal 4-03 passed 2nd Reading on June
04,2022.
(*This was deferred on 06/10/22; Deferred again on
06/13/22 to Day 40)

ORDER OF BUSINESS
4TH FSM CON CON
MONDAY– DAY 40
JUNE 20, 2022

8. First Reading of Committee Proposals - NONE
9. Second Reading of Committee Proposals - NONE
10. Final Reading of Proposed Constitutional Amendments - NONE
11. Consideration of Resolutions - NONE
- 12. Introduction and referral of Delegate proposals and resolutions- NONE**
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 41

WEDNESDAY
JUNE 22, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications - NONE**
6. **Unfinished business-NONE**
7. **Reports of Committees:**
 - **Committee Report No. CC-SCR-4-11, re.CC-PR-04-03:** “To amend Article IX, Section 2(q) of the Constitution of the Federated States of Micronesia to provide for the number of votes required to override a Presidential veto.”-*Style and Arrangement*-
***Committee Proposal 4-03 passed 2nd Reading on June 04,2022.**
*(*This was deferred on 06/10/22; Deferred again on 06/13/22 to Day 40; Deferred again on 06/20/22 to the next plenary day, 06/22/22)*

- **Committee Report No. CC-SCR-4-15, re.CC-PR-4-11:**
“To amend Article IX, Section 9, of the Constitution of the Federated States of Micronesia to create consistency between the eligibility requirements to run for Congress and to be elected President and to require residency within the FSM to be eligible to run for Congress.”-**Government Structure and Functions**
- **Committee Report No. CC-SCR-4-16, re. CC-PR-4-12:**
“To amend Article IX, Section 8, of the Constitution of the Federated States of Micronesia to increase the number of at-large members of Congress.”-
Government Structure and Functions
- **Committee Report No. CC-SCR-4-17, re.CC-PR-4-13:**
“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 with the States.”-**Public Finance and Revenue**
- **Committee Report No. CC-SCR-4-18, re.CC-PR-4-06, CCD1:** “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.”-**Style and Arrangement**
*Committee Proposal 4-06, CCD1 passed 2nd Reading on June 03, 2022.

8. First Reading of Committee Proposals - NONE

ORDER OF BUSINESS
4TH FSM CON CON
WEDNESDAY– DAY 41
JUNE 22, 2022

9. Second Reading of Committee Proposals - NONE
10. Final Reading of Proposed Constitutional Amendments - NONE
11. Consideration of Resolutions - NONE
12. Introduction and referral of Delegate proposals and resolutions- NONE
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 42

THURSDAY
JUNE 23, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications - NONE**
6. **Unfinished business-NONE**
- 7. Reports of Committees - NONE**
8. **First Reading of Committee Proposals - NONE**
- 9. Second Reading of Committee Proposals:**
 - **Committee Proposal 4-11, CCD1-FOR 2ND READING-
Government Structure and Functions-(cf.CC-SCR-4-15)**

ORDER OF BUSINESS
4TH FSM CON CON
THURSDAY– DAY 42
JUNE 23, 2022

- **Committee Proposal 4-13-FOR 2ND READING-Public
Finance and Revenue-(cf.CC-SCR-4-17)**

10. Final Reading of Proposed Constitutional Amendments -
NONE

11. Consideration of Resolutions - NONE

**12. Introduction and referral of Delegate proposals and
resolutions- NONE**

13. Special Orders-NONE

14. MISCELLANEOUS BUSINESS

15. Announcements

16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 28 JUNE, 2022*

DAY 43

FRIDAY
JUNE 24, 2022
11:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. **Roll Call**
4. **Adoption of Journal**
5. **Communications - NONE**
6. **Unfinished business-NONE**
7. **Reports of Committees - NONE**
8. **First Reading of Committee Proposals - NONE**
9. **Second Reading of Committee Proposals - NONE**

ORDER OF BUSINESS
4TH FSM CON CON
FRIDAY– DAY 43
JUNE 24, 2022

10. Final Reading of Proposed Constitutional Amendments -
NONE
11. Consideration of Resolutions - NONE
12. Introduction and referral of Delegate proposals and
resolutions- NONE
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 44

MONDAY
JUNE 27, 2022
10:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th
FSM Constitutional Convention

2. **Silent Prayer**

3. **Roll Call**

4. **Adoption of Journal**

5. **Communications - NONE**

6. **Unfinished business-NONE**

7. **Reports of Committees:**

- **Committee Report No. CC-SCR-4-20, re.CC-PR-04-11, CCD2: "Relating to Article IX, Section 9, of the Constitution of the Federated States of Micronesia to create consistency between the eligibility requirements to run for Congress and to be elected President and to require residency within the FSM to be eligible to run for Congress."-Style and Arrangement-**

***Committee Proposal 4-11, CCD2 passed 2nd Reading on June 23,2022.**

ORDER OF BUSINESS
4TH FSM CON CON
MONDAY– DAY 44
JUNE 27, 2022

- **Committee Report No. CC-SCR-4-21, re.CC-PR-04-13:**
“Relating to Article IX, Section 2(m) of the Constitution of the Federated States of Micronesia to provide that revenue derived from fishing fees are shared with the states.”

- *Style and Arrangement-*

***Committee Proposal 4-13 passed 2nd Reading on June 23,2022.**

8. First Reading of Committee Proposals - NONE
9. Second Reading of Committee Proposals - NONE
10. Final Reading of Proposed Constitutional Amendments - NONE
11. Consideration of Resolutions - NONE
- 12. Introduction and referral of Delegate proposals and resolutions- NONE**
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Adjournment

**THE FOURTH FSM CONSTITUTIONAL CONVENTION
FEDERATED STATES OF MICRONESIA
PALIKIR, POHNPEI, FSM 96941**

07 JANUARY TO 22 JANUARY, 2020, 24 FEBRUARY TO 13 MARCH, 2020
and *01 JUNE TO 25 JUNE, 2022*

DAY 45

TUESDAY
JUNE 28, 2022
11:00 A.M.

ORDER OF BUSINESS

1. **CALL TO ORDER:** by the Hon. Redley Killion, President, 4th FSM Constitutional Convention
2. **Silent Prayer**
3. Roll Call
4. Adoption of Journal
5. Communications - NONE
6. Unfinished business-NONE
7. Reports of Committees - NONE
8. First Reading of Committee Proposals - NONE
9. Second Reading of Committee Proposals - NONE
10. Final Reading of Proposed Constitutional Amendments - NONE
11. Consideration of Resolutions - NONE

ORDER OF BUSINESS
4TH FSM CON CON
TUESDAY- DAY 45
JUNE 28, 2022

12. Introduction and referral of Delegate proposals and resolutions- NONE
13. Special Orders-NONE
14. MISCELLANEOUS BUSINESS
15. Announcements
16. Recess Sine Die

RULES OF PROCEDURES (VERSIONS)

- 1) JANUARY 04, 2020
- 2) JANUARY 10, 2020
- 3) May 22, 2022
- 4) JUNE 01, 2022
- 5) JUNE 06, 2022

**RULES OF PROCEDURES
FOURTH FSM CONSTITUTIONAL CONVENTION**

TABLE OF CONTENTS

CHAPTER I. GENERAL PROVISIONS:

- Rule 1 Convening Day
- Rule 2 Quorum
- Rule 3 Admission to Floor – Defined
- Rule 4 Bar of the Convention – Defined
- Rule 5 Invocation

CHAPTER II. OFFICERS AND EMPLOYEES

- Rule 6 Officers of the Convention
- Rule 7 The President - Duties and Powers
- Rule 8 Vice-President – Duties and Powers
- Rule 9 Chairman of the Committee for the Whole – Duties and Powers
- Rule 10 Floor Leader – Duties and Powers
- Rule 11 Chief Legal Counsel
- Rule 12 Convention Secretary
- Rule 13 Assistant Convention Secretary
- Rule 14 Sergeant-at-Arms
- Rule 15 Other Employees

CHAPTER III. MEMBERS

- Rule 16 Conduct in Debate
- Rule 17 Members Called to Order
- Rule 18 Conduct on the Floor

CHAPTER IV. COMMITTEES:

- Rule 19 Types of committees
- Rule 20 Standing Committees
- Rule 21 Members Entitled to Serve on Committees
- Rule 22 Standing Committee Chairmen
- Rule 23 Committee Vice-Chairman and Conduct of Committees
- Rule 24 Powers of Committees
- Rule 25 Sitting on Committees during Session
- Rule 26 Power to Incur Expenses
- Rule 27 Report of Committees
- Rule 28 Consideration of Proposals With or Without Committee Recommendations

CHAPTER V. COMMITTEE OF THE WHOLE:

- Rule 29 Passage on First Reading
- Rule 30 Consideration of Proposals
- Rule 31 Unfinished Consideration of committee Proposals
- Rule 32 Reading; Debate; Amendment
- Rule 33 Motion that Committee Rise
- Rule 34 Reconsideration
- Rule 35 Application of Convention Rules
- Rule 36 Summary Journal

CHAPTER VI. TRANSACTION OF BUSINESS:

- Rule 37 Order of Business
- Rule 38 Petitions – Printing in Journal
- Rule 39 Stating Motions
- Rule 40 When a Motion is in Possession; Withdrawal
- Rule 41 Precedence of Motions
- Rule 42 Motions in Order, Debatable
- Rule 43 Order of Putting Questions
- Rule 44 Amendments to be Germane
- Rule 45 Division of Question
- Rule 46 motions for the Previous Question – Method of Ordering
- Rule 47 Motion for Reconsideration
- Rule 48 Motion for Calls of the Convention – Ordering Calls of the Convention
- Rule 49 Procedure

CHAPTER VII. PROPOSALS

- Rule 50 Introduction
- Rule 51 Order of Consideration of Committee Proposals
- Rule 52 Voting
- Rule 53 Amendment to Committee Proposal

CHAPTER VIII. MISCELLANEOUS:

- Rule 54 Limitation on Debate and Control of Dilatory Procedure
- Rule 55 Reading and Endorsement of Papers
- Rule 56 Language of Proceedings
- Rule 57 Presentation and Endorsement of Communications
- Rule 58 Call of Convention
- Rule 59 Putting the Question
- Rule 60 Recognition During Roll Call

Rule 61 Abstentions
Rule 62 Amendment or Suspension of Rules
Rule 63 Appeals from Decisions of the Presiding Officer
Rule 64 Deferring Appeals
Rule 65 Procedural Issues Not Covered by this Rule

**RULES OF PROCEDURE
FOURTH FSM CONSTITUTIONAL CONVENTION**

CHAPTER 1. GENERAL PROVISIONS

Rule 1. Convening Day. On the convening day, the President of the Federated States of Micronesia, or his designee, shall take the Chair and call all persons present to order. The convention shall then proceed to organize in the following manner:

- a) Adoption of temporary Rules of Procedures;
- b) The Pre-Convention Committee shall report to the Convention on the qualifications of the Delegates;
- c) Oath of office to Delegates administered by the Chief Justice of the FSM Supreme Court;
- d) Adoption of the Rules of Procedure of the Convention by a majority vote of not less than thirteen Delegates;
- e) Election of the Convention President (hereinafter "President") and other officers provided for in the Rules; and
- f) The President of the Federated States of Micronesia, or his designee, takes his seat.

Rule 2. Quorum. Fourteen (14) Delegates to the Convention shall constitute a quorum for the transaction of business, provided that at least one-half of the Delegates from each State are present. A smaller number may adjourn from day to day and may compel the attendance by any means adopted by a majority of the Delegates present, and fix penalties for non-attendance. The Convention President may declare a meeting of the Convention adjourned if no quorum is present at the hour of opening. For purposes of ascertaining whether a quorum exists, the Secretary shall count the Delegates present.

During a meeting of the Convention any Delegate may call upon the President to determine whether a quorum exists or not, and the President shall so determine and announce his findings. No Delegate shall be absent from a meeting of the Convention without leave of the President, subject to appeal to the Convention. The name of the Delegate not present to answer a quorum count and not excused shall be noted on the Journal of the Convention as "absent without Leave" and any such Delegate who is absent without leave shall receive no expenses for the day.

Rule 3. Admission to Floor-Defined. No person, other than a Delegate and officer or employee of the Convention shall be admitted on the floor of the Convention unless invited or approved by the President. All persons granted admission to the floor during this period shall be known to the Sergeant-at-Arms to be entitled to admission to the floor, and persons who must be introduced shall be admitted on the floor only upon the personal request of a Delegate each time such courtesy is granted. The words “floor of the Convention” means the space of the main floor of the Convention, excluding the space designated for visitors and for the press.

Rule 4. Bar of the Convention – Defined. Any Delegate, having answered roll call at the opening of any session, or having entered upon the floor of the Convention after roll call, shall thereafter be deemed as present until leave of absence is obtained from the Convention. Any Delegate present at any session shall continue to be present if he shall be within the bar of the Convention. The phrase “within the bar of the Convention” means the space occupied and used by the Convention, or any committee or other room thereof, and used in connection with conducting the business of the Convention. Provided, in no instance shall a Delegate be deemed present at a roll call vote unless he is at or near his seat on the floor of the convention.

Rule 5. Invocation. Unless otherwise directed by the President, and arranged by the Convention Secretary, each session of the Convention shall be opened by a moment of silent prayer.

CHAPTER II. OFFICERS AND EMPLOYEES

Rule 6. Officers of the Convention. The President shall be elected by a majority vote of the Delegates by secret ballot. If no nominee receives a majority, and there are three or more candidates, the name of the one receiving the lowest number of votes cast shall be removed from the consideration before further balloting. In any event thereafter, the polling shall be continued in this manner until a nominee is elected by a majority of the Delegates. The Vice-President, Chairman of the Committee of the Whole, and the Floor Leader shall be elected in the same manner as the President, provided that each of the four elected officials shall be Delegates of differing states.

Rule 7. The President – Duties and Powers.

a) **General Duties and Powers.** The President shall take the Chair each day at 10:00 a.m., or at the hour to which the Convention shall have designated before adjourned or recessed. He or she shall call the Convention to order and, except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules. He or she shall preserve order and decorum; confine members to the question and prevent personal reflections in debate; speak to points of order and shall decide question of order, subject to an appeal to the Convention. When two or more Delegates seek recognition at the same time, the President shall name the Delegate who is first to speak. The President shall appoint all committee members, after consultation with each State Delegation. All appointments made by the President shall be announced to the

Convention. He or she shall refer proposals and other Convention documents to the appropriate committee for consideration and action and certify with the Secretary of the Convention. The President, or his or her designee in the name of the President, shall certify all vouchers for the payment of the expenses of the Convention. The President shall authorize the admission of non-Delegates into the Convention Hall, subject to appeal to the Convention; declare the vote and announce the results on all questions and decisions; oversee the administration of the business of the Convention; and perform such duties as may be required by law, these Rules, and as may properly appertain to the Office of the President.

b) Administrative Authority. The administrative authority of the Convention, including the authority to make assignments of duties to staff, resides in the President except to the extent otherwise provided for by these Rules.

c) Power to Appoint Officer Replacements. In the absence of the Chairman of the Committee of the Whole or the Floor Leader, the President shall appoint his or her replacement.

d) Voting by the President. The President may vote in all elections, decisions, divisions called for by any Delegate, and on all questions, except on appeals from his or her decision.

Rule 8. Vice President: Duties and Powers. The Vice-President shall exercise the powers and perform the duties of the President, and shall preside over the Convention, in the absence of the President or as President may designate.

Rule 9. Chairman of the Committee of the Whole – Duties and Powers. The Chairman of the Committee of the Whole shall serve as the Presiding Officer to the Committee of the Whole, and perform such other duties as the President may designate.

Rule 10. Floor Leader – Duties and Powers. It shall be the duty of the Floor Leader to propose routine motions which contribute to the orderly and speedy conduct of business, to act as floor manager in aid of the adoption of a proposal or a resolution when another Delegate does not assume this task, and perform such other duties as the President may designate.

Rule 11. Chief Legal Counsel. The Chief Legal Counsel shall act as counsel and legal advisor to the Convention and shall supervise all legal staff of the Convention. The Chief Legal Counsel shall review all legal documents of the Convention and perform other duties as the Convention or the President may designate.

Rule 12. Convention Secretary.

a) General Duties. The Convention Secretary shall attend the Convention each day when the Convention is in session unless excused by the President. He or she

shall have charge of all the records of the Convention and be responsible for the same, and shall not permit original documents to be withdrawn from his or her safekeeping unless ordered by the President. He or she shall authenticate the signature of the President on all official acts, and shall perform such other duties as are required by law, these Rules, and the Convention. The Convention Secretary may delegate the authority to perform any or all of his or her duties, except for certification of official acts and documents.

b) Roll Call. The Convention Secretary shall call the roll at the opening of each session of the Convention and announce whether or not a quorum is present. He or she shall announce the names of the Delegates absent with leave of the Convention, and the names of Delegates absent without leave, and enter the names of all absentees upon the Journal.

c) Publication, Distribution, and Correction of Journal. The Convention Secretary shall keep a Verbatim Journal of the Plenary Session and Committee of the Whole proceedings of the Convention in conformity with the Rules; supervise the daily publication thereof and make such corrections as may be necessary. On each session day, he or she shall furnish each Delegate a duplicated copy of the proceedings of the previous day. The Journal shall be considered the approved Journal of the Convention, unless otherwise ordered.

d) Daily List of Business. The convention Secretary shall daily furnish each Delegate with a list of business on his or her desk and a calendar of the Delegate proposals introduced showing their reference.

e) Printing and Care of Proposals. The convention Secretary shall attend to the printing of all proposals, resolutions and documents ordered printed by the Convention. The Convention Secretary shall give a number to each Delegate proposal and each resolution when introduced, in the order received. When proposals are reported from committees, they shall be called "Committee Proposals", shall be printed, and shall be given a Committee Proposal number in the order received. The Convention Secretary shall cause to be printed at the head of the Committee Proposal the name of the committee which reported the same and the character and number of any report of the committee respecting the proposal. The Convention Secretary shall be responsible to the Convention for the care and preservation of each Delegate Proposal introduced into the Convention and each Committee Proposal. Committee Proposals shall be kept on file in order by their proposal number, unless otherwise ordered by the Convention, and such file shall be called the Committee Proposal File.

f) Safeguarding and Preservation of Convention Records. The Convention Secretary shall be responsible for the care and preservation of all records, documents, and papers of the Convention. After the adjournment of the Convention, he or she shall

deliver such materials to the National Archive within the Congress Library for safekeeping. The materials will be treated in the same manner as records of the Congress.

g) **Responsibility for Convention Hall.** The Convention Secretary shall exercise supervisory care and control of the Hall of the Convention and all Convention rooms and equipment. The Convention Secretary, subject to review by the elected officers, shall oversee the purchase or rent of all necessary equipment, supplies, and postage; arrange for postal, telephone, and telegraph service, and supervise the performance of the administrative staff of the Convention.

Rule 13. Assistant Convention Secretary. The Assistant Convention Secretary shall be deputized to assist the Convention Secretary. Assistant Convention Secretary may perform the duties of the Convention Secretary if the Convention Secretary, due to sickness or other cause, is unable to perform the duties of his or her office. The President shall authorize the Assistant Convention Secretary to certify official acts and documents until the Convention Secretary is able to resume his or her duties.

Rule 14. Sergeant-at-Arms. The Sergeant-at-Arms shall be the chief police officer of the Convention. He or she shall have charge of such assistants as the Convention authorizes. He or she shall attend to the adequacy of the seating arrangements, lighting, and ventilation of the Convention Hall, committee rooms and connecting passageways. He or she shall have authority to serve subpoenas and warrants issued by the Convention or any duly authorized officer or committee of the Convention, or cause the same to be done by his or her assistants, or by police officers as may be provided by law. He or she shall see that all visitors are seated and that they are at no time standing on the floor of the Convention while in session. He or she shall attend the Convention every meeting day, unless excused by the President; maintain order among those present as spectators; give notice to the presiding officer of the attendance of any person with communications or otherwise; attend any committee meeting if so requested; and generally execute all other requirements of his or her office. Where the Sergeant-at-Arms cannot perform his or her duties, due to illness or other cause, the President shall designate a replacement.

Rule 15. Other Employees. The Pre-Convention Committee shall designate employee positions and job description, provide salary scales, appoint employees to be under the supervision of the Convention Secretary, and report their actions to the Convention on Convening day.

(a) Chief Clerk. The Chief Clerk shall perform all duties and responsibilities as assigned by the President of the Convention and/or the Convention Secretary. Where the Chief Clerk cannot perform his or her duties, due to illness or other cause, the President shall designate a replacement.

CHAPTER III. MEMBERS

Rule 16. Conduct in Debate. When any Delegate is about to speak in debate or present any matter to the Convention, he or she shall seek recognition in an appropriate manner, and respectfully address himself or herself to “Mr. President”. After being recognized, the Delegate shall confine himself or herself to the question under debate, and avoid personalities.

Rule 17. Member Called to Order. If any Delegate in speaking transgresses the Rules of the Convention, the President shall, or any Delegate may call him to order; in which case the Delegate so called to order shall immediately stop speaking and shall not begin to speak again unless to explain or proceed in order.

Rule 18. Conduct on the Floor. While the President is putting any question, or while the roll is being called or taken by the Convention Secretary, no Delegate shall walk out of, or cross the Convention Hall nor when Delegate is speaking, shall any Delegate entertain private conversation or pass between the speaker and the Chair.

CHAPTER IV. COMMITTEES

Rule 19. Types of Committees. There shall be standing committees of the Convention whose functions, duties, and memberships shall be as provided by these Rules. Special committees may be established by the President or by the Convention, as required, to consider and report on such special or temporary assignments shall be referred to them. The President may fill vacancies in committees from time to time as may be required.

Rule 20. Standing Committees. There shall be five standing committees whose duties, functions and memberships shall be as specified herein. The first four of these committees may consider and investigate legislation relating to any subject within its jurisdiction.

a) **Committee on Civil Liberties and Traditions.** The Committee on Civil Liberties and Traditions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to traditional and customary rights; citizenship and naturalization; civil and criminal law protections; civil rights and duties, due process of law, equal protection of law, privileges and immunities; suffrage and elections; and other related matters.

b) **Committee on Public Finance and Revenue.** The Committee on Finance and Revenue shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President and by the Convention relating to taxation and finance, indebtedness, levy of duties or tariffs on imports and exports, control of interstate commerce, control of banks, national treasury, budget, audits, fiscal control, revenue laws and other related matters.

c) Committee on Government Structure and Functions. The Committee on Government Structure and Functions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to the structure, functions and powers of the national government, including the size, nature and composition of the legislative, executive and judicial branches; separation of powers; the division and sharing of powers between national, state and local government; relations of the FSM with other nations and international bodies; relations between that national and state governments; and related matters.

d) Committee on General Provisions. The Committee on General Provisions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to social and economic development; natural resources, environment, including land; procedures for revision and amendment of the Constitution; matters not within the jurisdiction of other committees; and other related matters.

e) Committee on Style and Arrangement. The Committee on Style and Arrangement shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to examine, consider and edit all proposals referred to it for inclusion in the Constitution for the purpose of avoiding inaccuracies, repetition, inconsistencies or poor drafting. The committee shall consider and make recommendations on any differences, conflicts or unresolved matters of substance. The committee shall have the authority to rephrase language and to regroup sections proposed for inclusion in the Constitution. But shall have no authority to change the sense or purpose of any proposal referred to it. The committee shall also have the power to recommend that any Committee proposals submitted be re-referred to the originating committee. The committee shall undertake to resolve any inconsistency or conflict in conference with the originating committee. If the committee shall fail to resolve any such inconsistency or conflict, it shall notify the Convention and await instructions.

Rule 21. Members Entitled to Serve on Committee. No Delegate may serve as a member of more than three (3) standing committees. Each State Delegation Chairman, or his or her designee, shall consult with the President on the appointment of members of his or her delegation to Standing Committees. Nothing in these rules shall preclude a Presiding Officer to serve as a member of a Standing Committee, provided however that a Presiding Officer shall serve only as a member, but not an officer of a Standing Committee.

Rule 22. Standing Committee Chairmen.

The Chairmen of the Standing Committees shall be appointed by the elected officers and shall be announced to the Convention.

Rule 23. Committee Vice-Chairman and Conduct of Committees. A committee at its first duly called meeting shall, by a majority of its members, elect a vice-chairman of its choice. When a committee shall elect a vice-chairman, it shall make a report of such election to the Convention. Each committee shall meet at the call of its chairman or upon the written request of a majority of its members. A record roll call vote on any matter before committees shall be taken on demand by any Delegate member of the committee. Each committee shall maintain a summary journal of its proceedings and a business schedule, both of which shall be available to the Delegates, news media and interested members of the public. In case of a vacancy or the prolonged absence of the chairman and vice-chairman, the President of the Convention may appoint an acting-chairman to serve in such capacity. The chairman of the committee may place under oath, or affirmation, any person who appears before the committee to testify on any matter pending before the committee.

Rule 24. Powers of Committees. Committees shall have the right to hold public hearings and to take testimony under oath or affirmation. Before a committee shall hold any hearing or meeting at a location other than where the convention is meeting, the consent of the President shall first be obtained. A committee shall have the power to subpoena documents and witnesses. A committee may grant the powers here authorized to any subcommittee.

- a) **Subpoena.** The President or the Chairman of any duly established committee thereof, shall have the power and authority to issue subpoenas requiring the attendance of witnesses or the production of books, documents or other evidence, in any matter related to the purpose of the Constitutional Convention. Any subpoena or other process issued under the authority of the Convention shall be issued in the name of the Federated States of Micronesia and shall be addressed to any police officer of the Federated States of Micronesia or of any state. Such subpoena or other process shall be signed by the President of the Convention, shall contain a reference to this Rule and section 7 of Public Law No.21-19, and shall set forth in general terms the matter or questions with reference to which such testimony or other evidence is to be taken. Any officer to whom the process described in this subsection is directed, if within their jurisdiction, shall forthwith serve or execute the same, without charge or compensation; PROVIDED, HOWEVER, that any officer serving or executing such subpoena or process shall be compensated for their actual expenses, if any, in connection therewith.

Rule 25. Sitting on Committees During Session of the Convention. No committee shall sit during the sessions of the Convention.

Rule 26. Power to Incur Expenses. No committee or Delegate shall incur any expenses chargeable to the Convention unless authorized in accordance with the provisions of these Rules or by the Convention. Budgets for consultation/representation for each State Delegation (mid and post) shall only be expended with the concurrence of the Chairman of the State Delegation.

Rule 27. Report of the Committees. The signature of a majority of the members appointed in a committee shall be necessary to report a Proposal out of committee. The report of a minority of any committee shall be received, printed in the same manner as the majority report and shall be treated as an appendix to the report of the committee. All Proposals favorably reported by a committee to the Convention shall go to the First Reading File.

Rule 28. Consideration of Proposals With or Without Committee Recommendation. A majority of all the Delegates may, by motion, require a committee to report any Delegate proposal out with or without a written report. When so required, the Delegate Proposal shall be numbered and treated as a Committee Proposal.

CHAPTER V. COMMITTEE OF THE WHOLE

Rule 29. Passage on First Reading. After passing First Reading, all Committee Proposals may only be placed on the Calendar for Second Reading on a day subsequent to the day of passage on First Reading.

Rule 30. Consideration of Proposals. When the Convention shall have arrived at the Second Reading of Proposals, it shall resolve itself into the Committee of the Whole. No other business shall be in order until all Proposals on the Calendar for Second Reading are considered or passed, or the Committee rises. Unless a particular proposal is ordered to be given priority, the Committee of the Whole shall consider and act upon each Proposal on the Calendar for Second Reading according to its order of reference.

Rule 31. Unfinished Consideration of Committee Proposals. All Proposals on the Calendar for Second Reading not disposed of shall be automatically continued to the next day and shall take their places at the head of the Calendar for Second Reading of Proposals for that day in the order of their precedence on the prior day.

Rule 32. Reading, Debating, Amendment. In the Committee of the Whole, proposals shall first be read in entirety by the Convention Secretary and then debated and acted upon by the Committee. All amendments shall be entered on separate paper and reported to the Convention by the chairman when the entire Proposal is reported.

Rule 33. Motion that Committee Rise. A motion that the Committee of the Whole rise shall always be in order and shall be decided without debate by a majority vote of those present. If consideration of a Proposal has not been completed, when the Committee of the Whole next sits it shall further consider that unfinished proposal.

Rule 34. Reconsideration. A motion to reconsider shall be in order in the Committee of the Whole by a majority vote of those present.

Rule 35. Application of Convention Rules. The Rules of the Convention shall be observed in the Committee of the Whole, so far as they be applicable; provided, however:

- (a) no motion to adjourn the Convention shall be in order,
- (b) no motion for the previous question shall be in order,
- (c) no roll call vote shall be called,
- (d) no referrals shall be made to any other committee, and
- (e) no motion to postpone indefinitely shall be in order.

Rule 36. Summary Journal. In addition to the Verbatim Journal required, a summary journal of proceedings of the Committee of the Whole shall be kept by the Secretary and shall include, among other things, a concise and complete memorandum of motions, amendments and other related matters.

CHAPTER VI. TRANSACTION OF BUSINESS

Rule 37. Order of Business. The order of business of the Convention shall be as follows:

1. Call to Order
2. Silent Prayer
3. Roll Call
4. Adoption of Journal
5. Communications
6. Unfinished business
7. Reports of Committees
8. First Reading of Committee Proposals
9. Second Reading of Committee Proposals
10. Final Reading of Proposed Constitutional Amendments
11. Consideration of Resolutions
12. Introduction and referral of Delegate proposals and resolutions
13. Special Orders
14. Miscellaneous Business
15. Announcements
16. Adjournment

If any matter is not considered in its appropriate order, it shall lose its precedence for the day but shall appear in the Order of Business of the following day in its regular order. Any matter may be made a special order of business for any particular day or time by a majority vote of Delegates present.

Rule 38. Petitions-Printing in Journal. No petition, memorial, or other comparable communication shall be read or printed in full in the daily Journal unless ordered read or printed by the President, subject to appeal to the Convention.

Rule 39. Stating Motions. When a motion is made and seconded, it shall be stated by the President; or, if in writing, it shall be handed to and read aloud by the Convention Secretary being debated.

Rule 40. When a Motion is in Possession: Withdrawal. After a motion has been stated by the President or read by the Convention Secretary, it shall be deemed to be in possession of the Convention, but may be withdrawn by the maker of the motion at any time before being amended or put to a vote.

Rule 41. Precedence of Motions. When a question is under debate, no motion shall be received but:

1. to adjourn - not amendable or debatable,
2. to take recess - not amendable or debatable,
3. to defer - amendable and debatable'
4. for the previous question - not amendable or debatable,
5. to commit or re-commit - amendable and debatable, or
6. to amend - amendable and debatable.

Such motions shall take precedence in the order in which they stand arranged, and shall be decided by a majority vote of those Delegated present. When a recess is taken during the pendency of any question, the consideration of such question shall be resumed upon reassembling unless otherwise determined. No motion to defer to commit, or to re-commit after once being decided, shall be again allowed on the same day and at the same stage of the question.

Rule 42. Motions in Order - Debatable. Except when a vote is being taken, a motion to adjourn shall always be in order. A motion to adjourn, a motion to take recess, a motion for the previous question, and all matters relating to questions of order shall be decided without debate.

Rule 43. Order of Putting Questions. All questions shall be put in the order they were moved, except in the case of privileged questions which have precedence.

Rule 44. Amendments to be Germane. No motion or proposition on a subject different from that under consideration shall be admitted under the guise of an amendment or substitute.

Rule 45. Division of Question. Any Delegate may call for a division of the question, which shall be divided if it contains propositions in substance so distinct that one being taken away, a substantive proposition shall remain for the decision of the Convention. A motion to strike out and insert shall be deemed indivisible.

Rule 46. Motions for the Previous Question-Method of Ordering. The method of ordering the previous question shall be as follows: any Delegate may move the previous

question, which motion shall apply to the immediately pending question only. After the seconding of the motion for the previous question, nothing shall be in order prior to ordering the same, except that a Call of the Convention may be moved and ordered. After ordering the previous question, nothing shall be in order prior to the decision of the pending question except demands for a roll call vote, point of order, appeals from the decisions of the Chair, and a motion to adjourn, to take a recess or to defer, all of which shall be decided without debate. The effect of the order of the previous question shall be to put an end to all debate and bring the Convention to a direct vote upon the immediately pending question or questions in their order down to and including the main question. Amendments to the immediately pending question on the Convention Secretary's desk not yet moved shall be deemed disposed of. When a motion to reconsider is taken under the previous question and is decided in the affirmative, the previous question shall have no operation upon the question to be reconsidered. If the Convention shall refuse to order the previous question, the consideration of the subject shall be resumed as though no motion for the previous question has been made.

Rule 47. Motion for Reconsideration. Any Delegate may move for a reconsideration of any question at the same or next succeeding session. A motion to reconsider shall take precedence over all the other questions, except a motion to adjourn and a motion to recess. No motion to reconsider shall be renewed on the same day. A motion to reconsider shall require a majority of all Delegates.

Rule 48. Motion for Calls of the Convention - Ordering Calls of the Convention. Calls of the Convention may be ordered upon motion by a majority of the Delegates present. A motion for a Call of the Convention shall not be entertained after the previous question is ordered.

Rule 49. Procedure. After a Call of the Convention is ordered the Delegates shall not be permitted to leave the floor of the convention without permission of the Convention. The Sergeant-at-Arms shall notify the Delegates within the bar of the Convention of the Call. The Convention Secretary shall call the roll of the Convention and the absentees noted. The Sergeant-at-Arms may, upon motion, be dispatched after the absentees. The Convention may proceed to business under a Call of the Convention pending the arrival of any absentee.

CHAPTER VII. PROPOSALS

Rule 50. Introduction. Matters intended to become a part of the Constitution may be presented by a Delegate, a group of Delegates, a Delegation, or the Preconvention Committee in the form of a proposal endorsed by the Delegate or Delegates introducing it, or in the case of a Delegation Proposal, by the Chairman of the Delegation indicating that the Proposal is introduced "by request of the Delegation". One original of each new proposal shall be handed to the Convention Secretary at the time in the Order of Business set aside for introduction of proposals. All proposals shall be introduced in accordance with the form prescribed by the Convention Secretary and these Rules. Proposals shall be numbered, printed and distributed

under the direction of the Convention Secretary not later than the session day following introduction.

The President shall assign each Proposal to a committee, consistent with the subject matter jurisdiction. Where a proposal embraces subject matter that falls within the proper jurisdiction of several committees, the President may assign the Proposal jointly to more than one committee.

Rule 51. Order of Consideration of Committee Proposals. The process by which a Committee Proposal is considered shall be as follows:

1. A committee shall provide the Secretary of the Convention with its committee Report, attaching the Committee Proposal with any recommended amendments. The convention Secretary shall place the Committee Report on the next day's order of business.
2. Committee Reports shall be discussed and acted upon in order.
3. After adoption of a Committee Report, the Committee Proposal reported upon shall be discussed and acted upon for First Reading.
4. After passing First Reading, the Committee Proposal shall be considered by the Committee of the Whole, which shall report to the Plenary Session its recommendation for action.
5. Not sooner than the day following the passage on First Reading, the Plenary Session shall act upon Second Reading of Committee Proposal by resolving itself into the Committee of the Whole pursuant to Rule 30. Each Committee Proposal that passes Second Reading shall be considered a Proposed Constitutional Amendment and shall be referred to the Committee on Style and Arrangement.
6. The Committee on Style and Arrangement shall provide the Secretary of the Convention with its Committee Report, attaching the Proposed Constitutional Amendment with any stylistic amendments recommended. The Convention Secretary shall place the Committee Report on the next day's order of business.
7. The Report of the Committee on Style and Arrangement shall be discussed and acted upon in order. If such Committee Report does not recommend any stylistic amendments to the Proposed Constitutional Amendment, then adoption of the Report shall be deemed passage of the Proposed Constitutional Amendment on Final Reading.
8. After adoption of the Report of the Committee on Style and Arrangement, the Proposed Constitutional Amendment shall be discussed and acted upon for Final Reading. Discussion shall be limited to those matters that were amended upon the recommendation of the Committee on Style and Arrangement.

Rule 52. Voting. Except as provided elsewhere, either in legislation creating the Constitutional Convention or in these Rules, the adoption of any motion or matter (other than Readings to adopt proposals) by the Convention shall require the affirmative votes of a majority of the Delegates present, and such vote shall be taken by voice vote. Nothing in this rule shall

abridge the right of a Delegate to record his vote on any question previous to the announcement of the result.

The adoption of Committee proposals to amend the Constitution shall be by voice vote or secret ballot on First Reading, Second Reading and, where required, Final Reading. A proposal shall pass First Reading upon the affirmative votes of not less than two-thirds (2/3) of all Delegates.

A proposal shall pass Second Reading upon the affirmative votes of not less than three-fourths (3/4) of the state Delegations, with each Delegation casting one vote. The chairman of each Delegation, or his proxy, shall cast the vote for his Delegation.

Where passage on Final Reading is required pursuant to Rule 51(8), a proposal shall pass on Final Reading upon the affirmative votes of not less than three-fourths (3/4) of the state Delegations, with each Delegation casting one vote. The chairman of each Delegation, or his proxy, shall cast the vote for his Delegation.

Abstentions shall not be counted as an affirmative vote in determining the result of a vote on any Reading of Committee proposals. Before the vote on any Reading of Committee Proposals, the President shall announce the affirmative votes necessary for passage.

Rule 53. Amendment to Committee Proposal. An amendment to a Proposal, whether at Plenary Session or in Committee of the Whole, shall be presented in writing to the Secretary before the convening of the session at which the Proposal will be considered. The Secretary shall duplicate the amendment for distribution to Delegates in advance of its being moved. Any amendment to the amendment may be made orally, but may be required to be reduced to writing and duplicated before being voted on.

CHAPTER VIII. MISCELLANEOUS

Rule 54. Limitation on Debate and Control of Dilatory Procedure. The Convention by motion may limit the time of debate on any subject matter before the Convention, designate a method of allocating the period allowed for debate among Delegates, or take appropriate action to control dilatory procedure.

Rule 55. Reading and Endorsement of Papers. When the reading of a paper is called for and an objection is raised to such reading, the Convention by a majority vote of the Delegates present shall determine whether or not the paper shall be read.

Rule 56. Language of Proceedings. All proceedings in Plenary Sessions and the Committee of the Whole shall be conducted in English.

Rule 57. Presentation and Endorsement of Communications. Petitions, memorials and other communications received by any officer of the Convention or by any Delegate shall be endorsed by the recipient, and by him or her handed directly to the Convention Secretary who shall cause them to be placed on the Order of Business of the following day. The President shall

assign each such matter to an appropriate committee, subject to an appeal to the Convention. The chairman of the Committee, on behalf of the Convention, shall give appropriate notice of the receipt of the communication.

Rule 58. Calls of Convention. Upon calls of the Convention, and in taking a roll call vote upon any question the names of the members shall be called alphabetically by last names.

Rule 59. Putting the Question. Except as specified elsewhere, either in legislation creating the Constitutional Convention, or in these Rules, the President shall put all questions to a voice vote. If the President doubts the result of the vote he may order a division of the Convention.

A roll call vote of the Convention on any question may be had on demand of any Delegate present. On a tie vote the question shall be deemed as lost.

Rules 60. Recognition During Roll Call. After a question has been stated by the President, and the call of the roll had been started by the Convention Secretary, the President shall not recognize a Delegate for any purpose, except upon points of order, until after the announcement of the vote by Convention Secretary. The Convention Secretary shall enter upon the journal the names of those voting "aye" and the names of those voting "no" and the names of those abstaining, if any. Any Delegate is privileged to reserve the right to explain in writing, his or her vote on the roll call, but the Delegate must reserve that right at the time of voting and not otherwise. The written explanation shall be included in the Journal if presented to the Convention Secretary before the next session of the Convention, or in the case of the final day of the Convention, within twenty-four (24) hours of the vote.

Rule 61. Abstentions. An abstention shall be deemed a vote in the affirmative except on Second Reading of Committee Proposals.

Rule 62. Amendment or Suspension of Rules. No rule of the Convention shall be amended unless such amendment is in writing and in the possession of the Convention one day prior to its consideration. A rule may be suspended by a vote of two-thirds of the Delegates present. There may be no suspension of the Rules as to the minimum number of votes or quorum requirements.

Rule 63. Appeals From Decision of the Presiding Officer. All appeals from the decisions of the Presiding Officer shall be decided by an affirmative vote of not less than two-thirds of the Delegates present.

Rule 64. Deferring Appeals. An appeal may be deferred but shall not carry with it the subject matter before the Convention at the time such appeal is taken.

Rule 65. Procedural Issues Not Covered by These Rules. The Rules contained in *Mason's Manual of Legislative Procedure* shall govern the Convention in all cases to which they are

applicable and in which they are not inconsistent with the legislation establishing the Constitutional Convention or these Rules of Procedure.

**RULES OF PROCEDURES
FOURTH FSM CONSTITUTIONAL CONVENTION**

TABLE OF CONTENTS

CHAPTER I. GENERAL PROVISIONS

- Rule 1 Convening Day
- Rule 2 Quorum
- Rule 3 Admission to Floor – Defined
- Rule 4 Bar of the Convention – Defined
- Rule 5 Invocation

CHAPTER II. OFFICERS AND EMPLOYEES

- Rule 6 Officers of the Convention
- Rule 7 The President - Duties and Powers
- Rule 8 Vice-President – Duties and Powers
- Rule 9 Chairman of the Committee for the Whole – Duties and Powers
- Rule 10 Floor Leader – Duties and Powers
- Rule 11 Chief Legal Counsel
- Rule 12 Convention Secretary
- Rule 13 Assistant Convention Secretary
- Rule 14 Sergeant-at-Arms
- Rule 15 Other Employees

CHAPTER III. MEMBERS

- Rule 16 Conduct in Debate
- Rule 17 Members Called to Order
- Rule 18 Conduct on the Floor

CHAPTER IV. COMMITTEES

- Rule 19 Types of Committees
- Rule 20 Standing Committees
- Rule 21 Members Entitled to Serve on Committees
- Rule 22 Standing Committee Chairmen
- Rule 23 Committee Vice-Chairman and Conduct of Committees
- Rule 24 Powers of Committees
- Rule 25 Sitting on Committees during Session
- Rule 26 Power to Incur Expenses
- Rule 27 Report of Committees
- Rule 28 Consideration of Proposals With or Without Committee Recommendations
- Rule 28a Committee Quorum

CHAPTER V. COMMITTEE OF THE WHOLE

- Rule 29 Passage on First Reading
- Rule 30 Consideration of Proposals
- Rule 31 Unfinished Consideration of Committee Proposals
- Rule 32 Reading; Debate; Amendment
- Rule 33 Motion that Committee Rise
- Rule 34 Reconsideration
- Rule 35 Application of Convention Rules
- Rule 36 Summary Journal

CHAPTER VI. TRANSACTION OF BUSINESS

- Rule 37 Order of Business
- Rule 38 Petitions – Printing in Journal
- Rule 39 Stating Motions
- Rule 40 When a Motion is in Possession; Withdrawal
- Rule 41 Precedence of Motions
- Rule 42 Motions in Order, Debatable
- Rule 43 Order of Putting Questions
- Rule 44 Amendments to be Germane
- Rule 45 Division of Question
- Rule 46 Motions for the Previous Question – Method of Ordering
- Rule 47 Motion for Reconsideration
- Rule 48 Motion for Calls of the Convention – Ordering Calls of the Convention
- Rule 49 Procedure

CHAPTER VII. PROPOSALS

- Rule 50 Introduction
- Rule 51 Order of Consideration of Committee Proposals
- Rule 52 Voting
- Rule 53 Amendment to Committee Proposal

CHAPTER VIII. MISCELLANEOUS:

- Rule 54 Limitation on Debate and Control of Dilatory Procedure
- Rule 55 Reading and Endorsement of Papers
- Rule 56 Language of Proceedings
- Rule 57 Presentation and Endorsement of Communications
- Rule 58 Call of Convention
- Rule 59 Putting the Question
- Rule 60 Recognition During Roll Call

Rule 61 Abstentions
Rule 62 Amendment or Suspension of Rules
Rule 63 Appeals from Decisions of the Presiding Officer
Rule 64 Deferring Appeals
Rule 65 Procedural Issues Not Covered by this Rule
Rule 66 Definition of Calendar Days

**RULES OF PROCEDURE
FOURTH FSM CONSTITUTIONAL CONVENTION**

CHAPTER 1. GENERAL PROVISIONS

Rule 1. Convening Day. On the convening day, the President of the Federated States of Micronesia, or his designee, shall take the Chair and call all persons present to order. The convention shall then proceed to organize in the following manner:

- a) Adoption of temporary Rules of Procedures;
- b) The Pre-Convention Committee shall report to the Convention on the qualifications of the Delegates;
- c) Oath of office to Delegates administered by the Chief Justice of the FSM Supreme Court;
- d) Adoption of the Rules of Procedure of the Convention by a majority vote of not less than thirteen Delegates;
- e) Election of the Convention President (hereinafter "President") and other officers provided for in the Rules; and
- f) The President of the Federated States of Micronesia, or his designee, takes his seat.

Rule 2. Quorum. Fourteen (14) Delegates to the Convention shall constitute a quorum for the transaction of business, provided that more than half of the Delegates from each State are present. A smaller number may adjourn from day to day and may compel the attendance by any means adopted by a majority of the Delegates present, and fix penalties for non-attendance. The Convention President may declare a meeting of the Convention adjourned if no quorum is present at the hour of opening. For purposes of ascertaining whether a quorum exists, the Secretary shall count the Delegates present.

During a meeting of the Convention any Delegate may call upon the President to determine whether a quorum exists or not, and the President shall so determine and announce his findings. No Delegate shall be absent from a meeting of the Convention without leave of the President, subject to appeal to the Convention. The name of the Delegate not present to answer a quorum count and not excused shall be noted on the Journal of the Convention as "absent without Leave" and any such Delegate who is absent without leave shall receive no expenses for the day.

Rule 3. Admission to Floor-Defined. No person, other than a Delegate and officer or employee of the Convention shall be admitted on the floor of the Convention unless invited or approved by the President. All persons granted admission to the floor during this period shall be known to the Sergeant-at-Arms to be entitled to admission to the floor, and persons who must be introduced shall be admitted on the floor only upon the personal request of a Delegate each time such courtesy is granted. The words “floor of the Convention” means the space of the main floor of the Convention, excluding the space designated for visitors and for the press.

Rule 4. Bar of the Convention – Defined. Any Delegate, having answered roll call at the opening of any session, or having entered upon the floor of the Convention after roll call, shall thereafter be deemed as present until leave of absence is obtained from the Convention. Any Delegate present at any session shall continue to be present if he shall be within the bar of the Convention. The phrase “within the bar of the Convention” means the space occupied and used by the Convention, or any committee or other room thereof, and used in connection with conducting the business of the Convention. Provided, in no instance shall a Delegate be deemed present at a roll call vote unless he is at or near his seat on the floor of the convention.

Rule 5. Invocation. Unless otherwise directed by the President, and arranged by the Convention Secretary, each session of the Convention shall be opened by a moment of silent prayer.

CHAPTER II. OFFICERS AND EMPLOYEES

Rule 6. Officers of the Convention. The President shall be elected by a majority vote of the Delegates by secret ballot. If no nominee receives a majority, and there are three or more candidates, the name of the one receiving the lowest number of votes cast shall be removed from the consideration before further balloting. In any event thereafter, the polling shall be continued in this manner until a nominee is elected by a majority of the Delegates. The Vice-President, Chairman of the Committee of the Whole, and the Floor Leader shall be elected in the same manner as the President, provided that each of the four elected officials shall be Delegates of differing states.

Rule 7. The President – Duties and Powers.

a) **General Duties and Powers.** The President shall take the Chair each day at 10:00 a.m., or at the hour to which the Convention shall have designated before adjourned or recessed. He or she shall call the Convention to order and, except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules. He or she shall preserve order and decorum; confine members to the question and prevent personal reflections in debate; speak to points of order and shall decide question of order, subject to an appeal to the Convention. When two or more Delegates seek recognition at the same time, the President shall name the Delegate who is first to speak. The President shall appoint all committee members, after consultation with each state Delegation. All appointments made by the President shall be announced to the

Convention. He or she shall refer proposals and other Convention documents to the appropriate committee for consideration and action and certify with the Secretary of the Convention. The President, or his or her designee in the name of the President, shall certify all vouchers for the payment of the expenses of the Convention. The President shall authorize the admission of non-Delegates into the Convention Hall, subject to appeal to the Convention; declare the vote and announce the results on all questions and decisions; oversee the administration of the business of the Convention; and perform such duties as may be required by law, these Rules, and as may properly appertain to the Office of the President.

b) Administrative Authority. The administrative authority of the Convention, including the authority to make assignments of duties to staff, resides in the President except to the extent otherwise provided for by these Rules.

c) Power to Appoint Officer Replacements. In the absence of the Chairman of the Committee of the Whole or the Floor Leader, the President shall appoint his or her replacement.

d) Voting by the President. The President may vote in all elections, decisions, divisions called for by any Delegate, and on all questions, except on appeals from his or her decision.

Rule 8. Vice President: Duties and Powers. The Vice-President shall exercise the powers and perform the duties of the President, and shall preside over the Convention, in the absence of the President or as President may designate.

Rule 9. Chairman of the Committee of the Whole – Duties and Powers. The Chairman of the Committee of the Whole shall serve as the Presiding Officer to the Committee of the Whole, and perform such other duties as the President may designate.

Rule 10. Floor Leader – Duties and Powers. It shall be the duty of the Floor Leader to propose routine motions which contribute to the orderly and speedy conduct of business, to act as floor manager in aid of the adoption of a proposal or a resolution when another Delegate does not assume this task, and perform such other duties as the President may designate.

Rule 11. Chief Legal Counsel. The Chief Legal Counsel shall act as counsel and legal advisor to the Convention and shall supervise all legal staff of the Convention. The Chief Legal Counsel shall review all legal documents of the Convention and perform other duties as the Convention or the President may designate.

Rule 12. Convention Secretary.

a) General Duties. The Convention Secretary shall attend the Convention each day when the Convention is in session unless excused by the President. He or she

shall have charge of all the records of the Convention and be responsible for the same, and shall not permit original documents to be withdrawn from his or her safekeeping unless ordered by the President. He or she shall authenticate the signature of the President on all official acts, and shall perform such other duties as are required by law, these Rules, and the Convention. The Convention Secretary may delegate the authority to perform any or all of his or her duties, except for certification of official acts and documents.

b) Roll Call. The Convention Secretary shall call the roll at the opening of each session of the Convention and announce whether or not a quorum is present. He or she shall announce the names of the Delegates absent with leave of the Convention, and the names of Delegates absent without leave, and enter the names of all absentees upon the Journal.

c) Publication, Distribution, and Correction of Journal. The Convention Secretary shall keep a Verbatim Journal of the Plenary Session and Committee of the Whole proceedings of the Convention in conformity with the Rules; supervise the daily publication thereof and make such corrections as may be necessary. On each session day, he or she shall furnish each Delegate a duplicated copy of the proceedings of the previous day. The Journal shall be considered the approved Journal of the Convention, unless otherwise ordered.

d) Daily List of Business. The convention Secretary shall daily furnish each Delegate with a list of business on his or her desk and a calendar of the Delegate proposals introduced showing their reference.

e) Printing and Care of Proposals. The convention Secretary shall attend to the printing of all proposals, resolutions and documents ordered printed by the Convention. The Convention Secretary shall give a number to each Delegate proposal and each resolution when introduced, in the order received. When proposals are reported from committees, they shall be called "Committee Proposals", shall be printed, and shall be given a Committee Proposal number in the order received. The Convention Secretary shall cause to be printed at the head of the Committee Proposal the name of the committee which reported the same and the character and number of any report of the committee respecting the proposal. The Convention Secretary shall be responsible to the Convention for the care and preservation of each Delegate Proposal introduced into the Convention and each Committee Proposal. Committee Proposals shall be kept on file in order by their proposal number, unless otherwise ordered by the Convention, and such file shall be called the Committee Proposal File.

f) Safeguarding and Preservation of Convention Records. The Convention Secretary shall be responsible for the care and preservation of all records, documents, and papers of the Convention. After the adjournment of the Convention, he or she shall

deliver such materials to the National Archive within the Congress Library for safekeeping. The materials will be treated in the same manner as records of the Congress.

g) **Responsibility for Convention Hall.** The Convention Secretary shall exercise supervisory care and control of the Hall of the Convention and all Convention rooms and equipment. The Convention Secretary, subject to review by the elected officers, shall oversee the purchase or rent of all necessary equipment, supplies, and postage; arrange for postal, telephone, and telegraph service, and supervise the performance of the administrative staff of the Convention.

Rule 13. Assistant Convention Secretary. The Assistant Convention Secretary shall be deputized to assist the Convention Secretary. Assistant Convention Secretary may perform the duties of the Convention Secretary if the Convention Secretary, due to sickness or other cause, is unable to perform the duties of his or her office. The President shall authorize the Assistant Convention Secretary to certify official acts and documents until the Convention Secretary is able to resume his or her duties.

Rule 14. Sergeant-at-Arms. The Sergeant-at-Arms shall be the chief police officer of the Convention. He or she shall have charge of such assistants as the Convention authorizes. He or she shall attend to the adequacy of the seating arrangements, lighting, and ventilation of the Convention Hall, committee rooms and connecting passageways. He or she shall have authority to serve subpoenas and warrants issued by the Convention or any duly authorized officer or committee of the Convention, or cause the same to be done by his or her assistants, or by police officers as may be provided by law. He or she shall see that all visitors are seated and that they are at no time standing on the floor of the Convention while in session. He or she shall attend the Convention every meeting day, unless excused by the President; maintain order among those present as spectators; give notice to the presiding officer of the attendance of any person with communications or otherwise; attend any committee meeting if so requested; and generally execute all other requirements of his or her office. Where the Sergeant –at-Arms cannot perform his or her duties, due to illness or other cause, the President shall designate a replacement.

Rule 15. Other Employees. The Pre-Convention Committee shall designate employee positions and job description, provide salary scales, appoint employees to be under the supervision of the Convention Secretary, and report their actions to the Convention on Convening day.

(a) Chief Clerk. The Chief Clerk shall perform all duties and responsibilities as assigned by the President of the Convention and/or the Convention Secretary. Where the Chief Clerk cannot perform his or her duties, due to illness or other cause, the President shall designate a replacement.

CHAPTER III. MEMBERS

Rule 16. Conduct in Debate. When any Delegate is about to speak in debate or present any matter to the Convention, he or she shall seek recognition in an appropriate manner, and respectfully address himself or herself to “Mr. President”. After being recognized, the Delegate shall confine himself or herself to the question under debate, and avoid personalities.

Rule 17. Member Called to Order. If any Delegate in speaking transgresses the Rules of the Convention, the President shall, or any Delegate may call him to order; in which case the Delegate so called to order shall immediately stop speaking and shall not begin to speak again unless to explain or proceed in order.

Rule 18. Conduct on the Floor. While the President is putting any question, or while the roll is being called or taken by the Convention Secretary, no Delegate shall walk out of, or cross the Convention Hall nor when a Delegate is speaking, shall any Delegate entertain private conversation or pass between the speaker and the Chair.

CHAPTER IV. COMMITTEES

Rule 19. Types of Committees. There shall be standing committees of the Convention whose functions, duties, and memberships shall be as provided by these Rules. Special committees may be established by the President or by the Convention, as required, to consider and report on such special or temporary assignments as shall be referred to them. The President may fill vacancies in committees from time to time as may be required.

Rule 20. Standing Committees. There shall be five standing committees whose duties, functions and memberships shall be as specified herein. The first four of these committees may consider and investigate legislation relating to any subject within its jurisdiction.

a) **Committee on Civil Liberties and Traditions.** The Committee on Civil Liberties and Traditions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to traditional and customary rights; citizenship and naturalization; civil and criminal law protections; civil rights and duties, due process of law, equal protection of law, privileges and immunities; suffrage and elections; and other related matters.

b) **Committee on Public Finance and Revenue.** The Committee on Finance and Revenue shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President and by the Convention relating to taxation and finance, indebtedness, levy of duties or tariffs on imports and exports, control of interstate commerce, control of banks, national treasury, budget, audits, fiscal control, revenue laws and other related matters.

c) Committee on Government Structure and Functions. The Committee on Government Structure and Functions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to the structure, functions and powers of the national government, including the size, nature and composition of the legislative, executive and judicial branches; separation of powers; the division and sharing of powers between national, state and local government; relations of the FSM with other nations and international bodies; relations between that national and state governments; and related matters.

d) Committee on General Provisions. The Committee on General Provisions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to social and economic development; natural resources, environment, including land; procedures for revision and amendment of the Constitution; matters not within the jurisdiction of other committees; and other related matters.

e) Committee on Style and Arrangement. The Committee on Style and Arrangement shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to examine, consider and edit all proposals referred to it for inclusion in the Constitution for the purpose of avoiding inaccuracies, repetition, inconsistencies or poor drafting. The committee shall consider and make recommendations on any differences, conflicts or unresolved matters of substance. The committee shall have the authority to rephrase language and to regroup sections proposed for inclusion in the Constitution. But shall have no authority to change the sense or purpose of any proposal referred to it. The committee shall also have the power to recommend that any Committee proposals submitted be re-referred to the originating committee. The committee shall undertake to resolve any inconsistency or conflict in conference with the originating committee. If the committee shall fail to resolve any such inconsistency or conflict, it shall notify the Convention and await instructions.

Rule 21. Members Entitled to Serve on Committee. No Delegate may serve as a member of more than three (3) standing committees. Each State Delegation Chairman, or his or her designee, shall consult with the President on the appointment of members of his or her delegation to Standing Committees. Nothing in these rules shall preclude a Presiding Officer to serve as a member of a Standing Committee, provided however that a Presiding Officer shall serve only as a member, but not an officer of a Standing Committee.

Rule 22. Standing Committee Chairmen.

The Chairmen of the Standing Committees shall be appointed by the elected officers and shall be announced to the Convention.

Rule 23. Committee Vice-Chairman and Conduct of Committees. A committee at its first duly called meeting shall, by a majority of its members, elect a vice-chairman of its choice. When a committee shall elect a vice-chairman, it shall make a report of such election to the Convention. Each committee shall meet at the call of its chairman or upon the written request of a majority of its members. A record roll call vote on any matter before committee shall be taken on demand by any Delegate member of the committee. Each committee shall maintain a summary journal of its proceedings and a business schedule, both of which shall be available to the Delegates, news media and interested members of the public. In case of a vacancy or the prolonged absence of the chairman and vice-chairman, the President of the Convention may appoint an acting-chairman to serve in such capacity. The chairman of the committee may place under oath, or affirmation, any person who appears before the committee to testify on any matter pending before the committee.

Rule 24. Powers of Committees. Committees shall have the right to hold public hearings and to take testimony under oath or affirmation. Before a committee shall hold any hearing or meeting at a location other than where the convention is meeting, the consent of the President shall first be obtained. A committee shall have the power to subpoena documents and witnesses. A committee may grant the powers here authorized to any subcommittee.

a) **Subpoena.** The President or the Chairman of any duly established committee thereof, shall have the power and authority to issue subpoenas requiring the attendance of witnesses or the production of books, documents or other evidence, in any matter related to the purpose of the Constitutional Convention. Any subpoena or other process issued under the authority of the Convention shall be issued in the name of the Federated States of Micronesia and shall be addressed to any police officer of the Federated States of Micronesia or of any state. Such subpoena or other process shall be signed by the President of the Convention, shall contain a reference to this Rule and Section 7 of Public Law No.21-19, and shall set forth in general terms the matter or questions with reference to which such testimony or other evidence is to be taken. Any officer to whom the process described in this subsection is directed, if within their jurisdiction, shall forthwith serve or execute the same, without charge or compensation; PROVIDED, HOWEVER, that any officer serving or executing such subpoena or process shall be compensated for their actual expenses, if any, in connection therewith.

Rule 25. Sitting on Committees During Session of the Convention. No committee shall sit during the sessions of the Convention.

Rule 26. Power to Incur Expenses. No committee or Delegate shall incur any expenses chargeable to the Convention unless authorized in accordance with the provisions of these Rules or by the Convention. Budgets for consultation/representation for each State Delegation (mid and post) shall only be expended with the concurrence of the Chairman of the State Delegation.

Rule 27. Report of the Committees. The signature of a majority of the members appointed in a committee shall be necessary to report a Proposal out of committee. The report of a minority of any committee shall be received, printed in the same manner as the majority report and shall be treated as an appendix to the report of the committee. All Proposals favorably reported by a committee to the Convention shall go to the First Reading File.

Rule 28. Consideration of Proposals With or Without Committee Recommendation. A majority of all the Delegates may, by motion, require a committee to report any Delegate proposal out with or without a written report. When so required, the Delegate Proposal shall be numbered and treated as a Committee Proposal.

Rule 28.a. Committee Quorum. A simple majority of the members of the Committee shall constitute a quorum for the transaction of Committee business.

CHAPTER V. COMMITTEE OF THE WHOLE

Rule 29. Passage on First Reading. After passing First Reading, all Committee Proposals may only be placed on the Calendar for Second Reading on a day subsequent to the day of passage on First Reading.

Rule 30. Consideration of Proposals. After the Second Reading of Proposals, but prior to a vote on the Second Reading, the Convention shall resolve itself into the Committee of the Whole. No other business shall be in order until all Proposals on the Calendar for Second Reading are considered or passed, or the Committee rises. Unless a particular proposal is ordered to be given priority, the Committee of the Whole shall consider and act upon each Proposal on the Calendar for Second Reading according to its order of reference.

Rule 31. Unfinished Consideration of Committee Proposals. All Proposals on the Calendar for Second Reading not disposed of shall be automatically continued to the next day and shall take their places at the head of the Calendar for Second Reading of Proposals for that day in the order of their precedence on the prior day.

Rule 32. Reading, Debating, Amendment. In the Committee of the Whole, proposals shall first be read in entirety by the Convention Secretary and then debated and acted upon by the Committee. All amendments shall be entered on separate paper and reported to the Convention by the chairman when the entire Proposal is reported.

Rule 33. Motion that Committee Rise. A motion that the Committee of the Whole rise shall always be in order and shall be decided without debate by a majority vote of those present. If consideration of a Proposal has not been completed, when the Committee of the Whole next sits it shall further consider that unfinished proposal.

Rule 34. Reconsideration. A motion to reconsider shall be in order in the Committee of the Whole by a majority vote of those present.

Rule 35. Application of Convention Rules. The Rules of the Convention shall be observed in the Committee of the Whole, so far as they be applicable; provided, however:

- (a) no motion to adjourn the Convention shall be in order,
- (b) no motion for the previous question shall be in order,
- (c) no roll call vote shall be called,
- (d) no referrals shall be made to any other committee, and
- (e) no motion to postpone indefinitely shall be in order.

Rule 36. Summary Journal. In addition to the Verbatim Journal required, a summary journal of proceedings of the Committee of the Whole shall be kept by the Secretary and shall include, among other things, a concise and complete memorandum of motions, amendments and other related matters.

CHAPTER VI. TRANSACTION OF BUSINESS

Rule 37. Order of Business. The order of business of the Convention shall be as follows:

1. Call to Order
2. Silent Prayer
3. Roll Call
4. Adoption of Journal
5. Communications
6. Unfinished business
7. Reports of Committees
8. First Reading of Committee Proposals
9. Second Reading of Committee Proposals
10. Final Reading of Proposed Constitutional Amendments
11. Consideration of Resolutions
12. Introduction and Referral of Delegate Proposals and Resolutions
13. Special Orders
14. Miscellaneous Business
15. Announcements
16. Adjournment

If any matter is not considered in its appropriate order, it shall lose its precedence for the day but shall appear in the Order of Business of the following day in its regular order. Any matter may be made a special order of business for any particular day or time by a majority vote of Delegates present.

Rule 38. Petitions-Printing in Journal. No petition, memorial, or other comparable communication shall be read or printed in full in the daily Journal unless ordered read or printed by the President, subject to appeal to the Convention.

Rule 39. Stating Motions. When a motion is made and seconded, it shall be stated by the President; or, if in writing, it shall be handed to and read aloud by the Convention Secretary before being debated.

Rule 40. When a Motion is in Possession: Withdrawal. After a motion has been stated by the President or read by the Convention Secretary, it shall be deemed to be in possession of the Convention, but may be withdrawn by the maker of the motion at any time before being amended or put to a vote.

Rule 41. Precedence of Motions. When a question is under debate, no motion shall be received but:

1. to adjourn - not amendable or debatable,
2. to take recess - not amendable or debatable,
3. to defer - amendable and debatable,
4. for the previous question - not amendable or debatable,
5. to commit or re-commit - amendable and debatable, or
6. to amend - amendable and debatable.

Such motions shall take precedence in the order in which they stand arranged, and shall be decided by a majority vote of those Delegates present. When a recess is taken during the pendency of any question, the consideration of such question shall be resumed upon reassembling unless otherwise determined. No motion to defer to commit, or to re-commit after once being decided, shall be again allowed on the same day and at the same stage of the question.

Rule 42. Motions in Order - Debatable. Except when a vote is being taken, a motion to adjourn shall always be in order. A motion to adjourn, a motion to take recess, a motion for the previous question, and all matters relating to questions of order shall be decided without debate.

Rule 43. Order of Putting Questions. All questions shall be put in the order they were moved, except in the case of privileged questions which have precedence.

Rule 44. Amendments to be Germane. No motion or proposition on a subject different from that under consideration shall be admitted under the guise of an amendment or substitute.

Rule 45. Division of Question. Any Delegate may call for a division of the question, which shall be divided if it contains propositions in substance so distinct that one being taken away, a substantive proposition shall remain for the decision of the Convention. A motion to strike out and insert shall be deemed indivisible.

Rule 46. Motions for the Previous Question-Method of Ordering. The method of ordering the previous question shall be as follows: any Delegate may move the previous question, which motion shall apply to the immediately pending question only. After the seconding of the motion for the previous question, nothing shall be in order prior to ordering the same, except that a Call of the Convention may be moved and ordered. After ordering the previous question, nothing shall be in order prior to the decision of the pending question except demands for a roll call vote, point of order, appeals from the decisions of the Chair, and a motion to adjourn, to take a recess or to defer, all of which shall be decided without debate. The effect of the order of the previous question shall be to put an end to all debate and bring the Convention to a direct vote upon the immediately pending question or questions in their order down to and including the main question. Amendments to the immediately pending question on the Convention Secretary's desk not yet moved shall be deemed disposed of. When a motion to reconsider is taken under the previous question and is decided in the affirmative, the previous question shall have no operation upon the question to be reconsidered. If the Convention shall refuse to order the previous question, the consideration of the subject shall be resumed as though no motion for the previous question has been made.

Rule 47. Motion for Reconsideration. Any Delegate may move for a reconsideration of any question at the same or next succeeding session. A motion to reconsider shall take precedence over all the other questions, except a motion to adjourn and a motion to recess. No motion to reconsider shall be renewed on the same day. A motion to reconsider shall require a majority of all Delegates.

Rule 48. Motion for Calls of the Convention - Ordering Calls of the Convention. Calls of the Convention may be ordered upon motion by a majority of the Delegates present. A motion for a Call of the Convention shall not be entertained after the previous question is ordered.

Rule 49. Procedure. After a Call of the Convention is ordered the Delegates shall not be permitted to leave the floor of the Convention without permission of the Convention. The Sergeant-at-Arms shall notify the Delegates within the bar of the Convention of the Call. The Convention Secretary shall call the roll of the Convention and the absentees noted. The Sergeant-at-Arms may, upon motion, be dispatched after the absentees. The Convention may proceed to business under a Call of the Convention pending the arrival of any absentee.

CHAPTER VII. PROPOSALS

Rule 50. Introduction. Matters intended to become a part of the Constitution may be presented by a Delegate, a group of Delegates, a Delegation, or the Preconvention Committee in the form of a proposal endorsed by the Delegate or Delegates introducing it, or in the case of a Delegation Proposal, by the Chairman of the Delegation indicating that the Proposal is introduced "by request of the Delegation". One original of each new proposal shall be handed to the Convention Secretary at the time in the Order of Business set aside for introduction of proposals. All proposals shall be introduced in accordance with the form prescribed by the Convention Secretary and these Rules. Proposals shall be numbered, printed and distributed

under the direction of the Convention Secretary not later than the session day following introduction.

The President shall assign each Proposal to a committee, consistent with the subject matter jurisdiction. Where a proposal embraces subject matter that falls within the proper jurisdiction of several committees, the President may assign the Proposal jointly to more than one committee.

Rule 51. Order of Consideration of Committee Proposals. The process by which a Committee Proposal is considered shall be as follows:

1. A committee shall provide the Secretary of the Convention with its Committee Report, attaching the Committee Proposal with any recommended amendments. The convention Secretary shall place the Committee Report on the next day's order of business.
2. Committee Reports shall be discussed and acted upon in order.
3. After adoption of a Committee Report, the Committee Proposal reported upon shall be discussed and acted upon for First Reading.
4. After passing First Reading, the Committee Proposal shall be placed on the calendar for the Second Reading.
5. Not sooner than the day following the passage on First Reading, the Second Reading of the Committee Proposal shall occur in Plenary Session. After the Second Reading, but before the vote on the Second Reading, the Convention shall resolve itself into the Committee of the Whole pursuant to Rule 30. The Committee of the Whole shall report to the Plenary Session its recommendation for action. The Convention in Plenary Session shall vote on the Second Reading of the Committee Proposal after receiving the Committee of the Whole's recommendation for action. Each Committee Proposal that passes Second Reading shall be considered a Proposed Constitutional Amendment and shall be referred to the Committee on Style and Arrangement.
6. The Committee on Style and Arrangement shall provide the Secretary of the Convention with its Committee Report, attaching the Proposed Constitutional Amendment with any stylistic amendments recommended. The Convention Secretary shall place the Committee Report on the next day's order of business.
7. The Report of the Committee on Style and Arrangement shall be discussed and acted upon in order. If such Committee Report does not recommend any stylistic amendments to the Proposed Constitutional Amendment, then adoption of the Report shall be deemed passage of the Proposed Constitutional Amendment on Final Reading.

8. After adoption of the Report of the Committee on Style and Arrangement, the Proposed Constitutional Amendment shall be discussed and acted upon for Final Reading. Discussion shall be limited to those matters that were amended upon the recommendation of the Committee on Style and Arrangement.

Rule 52. Voting. Except as provided elsewhere, either in legislation creating the Constitutional Convention or in these Rules, the adoption of any motion or matter (other than Readings to adopt proposals) by the Convention shall require the affirmative votes of a majority of the Delegates present, and such vote shall be taken by voice vote. Nothing in this rule shall abridge the right of a Delegate to record his vote on any question previous to the announcement of the result.

The adoption of Committee proposals to amend the Constitution shall be by voice vote or secret ballot on First Reading, Second Reading and, where required, Final Reading. A proposal shall pass First Reading upon the affirmative votes of not less than two-thirds (2/3) of all Delegates.

A proposal shall pass Second Reading upon the affirmative votes of not less than three-fourths (3/4) of the state Delegations, with each Delegation casting one vote. The chairman of each Delegation, or his proxy, shall cast the vote for his Delegation.

Where passage on Final Reading is required pursuant to Rule 51(8), a proposal shall pass on Final Reading upon the affirmative votes of not less than three-fourths (3/4) of the state Delegations, with each Delegation casting one vote. The chairman of each Delegation, or his proxy, shall cast the vote for his Delegation.

Before the vote on any Reading of Committee Proposals, the President shall announce the affirmative votes necessary for passage.

Rule 53. Amendment to Committee Proposal. An amendment to a Proposal, whether at Plenary Session or in Committee of the Whole, shall be presented in writing to the Secretary before the convening of the session at which the Proposal will be considered. The Secretary shall duplicate the amendment for distribution to Delegates in advance of its being moved. Any amendment to the amendment may be made orally, but may be required to be reduced to writing and duplicated before being voted on.

CHAPTER VIII. MISCELLANEOUS

Rule 54. Limitation on Debate and Control of Dilatory Procedure. The Convention by motion may limit the time of debate on any subject matter before the Convention, designate a method of allocating the period allowed for debate among Delegates, or take appropriate action to control dilatory procedure.

Rule 55. Reading and Endorsement of Papers. When the reading of a paper is called for and an objection is raised to such reading, the Convention by a majority vote of the Delegates present shall determine whether or not the paper shall be read.

Rule 56. Language of Proceedings. All proceedings in Plenary Sessions and the Committee of the Whole shall be conducted in English.

Rule 57. Presentation and Endorsement of Communications. Petitions, memorials and other communications received by any officer of the Convention or by any Delegate shall be endorsed by the recipient, and by him or her handed directly to the Convention Secretary who shall cause them to be placed on the Order of Business of the following day. The President shall assign each such matter to an appropriate committee, subject to an appeal to the Convention. The chairman of the Committee, on behalf of the Convention, shall give appropriate notice of the receipt of the communication.

Rule 58. Calls of Convention. Upon calls of the Convention, and in taking a roll call vote upon any question the names of the members shall be called alphabetically by last names.

Rule 59. Putting the Question. Except as specified elsewhere in these Rules, the President shall put all questions to a voice vote. If the President doubts the result of the vote he may order a division of the proposal.

A roll call vote of the Convention on any question may be had on demand of any Delegate present. On a tie vote the question shall be deemed as lost.

Rules 60. Recognition During Roll Call. After a question has been stated by the President, and the call of the roll had been started by the Convention Secretary, the President shall not recognize a Delegate for any purpose, except upon points of order, until after the announcement of the vote by Convention Secretary. The Convention Secretary shall enter upon the journal the names of those voting “aye” and the names of those voting “no” and the names of those abstaining, if any. Any Delegate is privileged to reserve the right to explain in writing, his or her vote on the roll call, but the Delegate must reserve that right at the time of voting and not otherwise. The written explanation shall be included in the Journal if presented to the Convention Secretary before the next session of the Convention, or in the case of the final day of the Convention, within twenty-four (24) hours of the vote.

Rule 61. Abstentions. An abstention shall be deemed a vote in the affirmative except on Second Reading of Committee Proposals.

Rule 62. Amendment or Suspension of Rules. No rule of the Convention shall be amended unless such amendment is in writing and in the possession of the Convention one day prior to its consideration. A rule may be suspended by a vote of two-thirds of the Delegates present. There may be no suspension of the Rules as to the minimum number of votes or quorum requirements.

Rule 63. Appeals From Decision of the Presiding Officer. All appeals from the decisions of the Presiding Officer shall be decided by an affirmative vote of not less than two-thirds of the Delegates present.

Rule 64. Deferring Appeals. An appeal may be deferred but shall not carry with it the subject matter before the Convention at the time such appeal is taken.

Rule 65. Procedural Issues Not Covered by These Rules. The Rules contained in *Mason's Manual of Legislative Procedure* shall govern the Convention in all cases to which they are applicable and in which they are not inconsistent with the legislation establishing the Constitutional Convention or these Rules of Procedure.

Rule 66. Definition of Calendar Days. This Constitutional Convention shall continue in session for no longer than thirty calendar days; provided, however, that the Convention may recess, and may extend the session, if necessary, up to a total of forty-five calendar days. For the purposes of this Convention calendar days means Convention days. Convention days begin on the day that the Convention is convened and continue until the Convention recesses and begin again when the Convention reconvenes. Recess days are not Convention days.

**RULES OF PROCEDURES
FOURTH FSM CONSTITUTIONAL
CONVENTION**

TABLE OF CONTENTS

CHAPTER I. GENERAL PROVISIONS

- Rule 1 Convening Day
- Rule 2 Quorum
- Rule 3 Admission to Floor – Defined
- Rule 4 Bar of the Convention – Defined
- Rule 5 Invocation

CHAPTER II. OFFICERS AND EMPLOYEES

- Rule 6 Officers of the Convention
- Rule 7 The President - Duties and Powers
- Rule 8 Vice-President – Duties and Powers
- Rule 9 Chairman of the Committee for the Whole – Duties and Powers
- Rule 10 Floor Leader – Duties and Powers
- Rule 11 Chief Legal Counsel
- Rule 12 Convention Secretary
- Rule 13 Assistant Convention Secretary
- Rule 14 Sergeant-at-Arms
- Rule 15 Other Employees

CHAPTER III. MEMBERS

- Rule 16 Conduct in Debate
- Rule 17 Members Called to Order
- Rule 18 Conduct on the Floor

CHAPTER IV. COMMITTEES

- Rule 19 Types of Committees
- Rule 20 Standing Committees
- Rule 21 Members Entitled to Serve on Committees
- Rule 22 Standing Committee Chairmen
- Rule 23 Committee Vice-Chairman and Conduct of Committees
- Rule 24 Powers of Committees
- Rule 25 Sitting on Committees during Session
- Rule 26 Power to Incur Expenses
- Rule 27 Report of Committees

Rule 28 Consideration of Proposals With or Without Committee Recommendations
Rule 28a Committee Quorum

CHAPTER V. COMMITTEE OF THE WHOLE

Rule 29 Passage on First Reading
Rule 30 Consideration of Proposals
Rule 31 Unfinished Consideration of Committee Proposals
Rule 32 Reading; Debate; Amendment
Rule 33 Motion that Committee Rise
Rule 34 Reconsideration
Rule 35 Application of Convention Rules
Rule 36 Summary Journal

CHAPTER VI. TRANSACTION OF BUSINESS

Rule 37 Order of Business
Rule 38 Petitions – Printing in Journal
Rule 39 Stating Motions
Rule 40 When a Motion is in Possession; Withdrawal
Rule 41 Precedence of Motions
Rule 42 Motions in Order, Debatable
Rule 43 Order of Putting Questions
Rule 44 Amendments to be Germane
Rule 45 Division of Question
Rule 46 Motions for the Previous Question – Method of Ordering
Rule 47 Motion for Reconsideration
Rule 48 Motion for Calls of the Convention – Ordering Calls of the Convention
Rule 49 Procedure

CHAPTER VII. PROPOSALS

Rule 50 Introduction
Rule 51 Order of Consideration of Committee Proposals
Rule 52 Voting
Rule 53 Amendment to Committee

Proposal CHAPTER VIII. MISCELLANEOUS:

Rule 54 Limitation on Debate and Control of Dilatory Procedure
Rule 55 Reading and Endorsement of Papers
Rule 56 Language of Proceedings
Rule 57 Presentation and Endorsement of Communications
Rule 58 Call of Convention

Rule 59 Putting the Question
Rule 60 Recognition During Roll Call Rule 61 Abstentions
Rule 62 Amendment or Suspension of Rules
Rule 63 Appeals from Decisions of the Presiding Officer
Rule 64 Deferring Appeals
Rule 65 Procedural Issues Not Covered by this Rule
Rule 66 Definition of Calendar Day

**RULES OF
PROCEDURE
FOURTH FSM CONSTITUTIONAL CONVENTION**

CHAPTER 1. GENERAL PROVISIONS

Rule 1. Convening Day. On the convening day, the President of the Federated States of Micronesia, or his designee, shall take the Chair and call all persons present to order. The convention shall then proceed to organize in the following manner:

- a) Adoption of temporary Rules of Procedures;
- b) The Pre-Convention Committee shall report to the Convention on the qualifications of the Delegates;
- c) Oath of office to Delegates administered by the Chief Justice of the FSM Supreme Court;
- d) Adoption of the Rules of Procedure of the Convention by a majority vote of not less than thirteen Delegates;
- e) Election of the Convention President (hereinafter “President”) and other officers provided for in the Rules; and
- f) The President of the Federated States of Micronesia, or his designee, takes his seat.

Rule 2. Quorum. Fourteen (14) Delegates to the Convention shall constitute a quorum for the transaction of business, provided that more than half of the Delegates from each State are present. A smaller number may adjourn from day to day and may compel the attendance by any means adopted by a majority of the Delegates present, and fix penalties for non-attendance. The Convention President may declare a meeting of the Convention adjourned if no quorum is present at the hour of opening. For purposes of ascertaining whether a quorum exists, the Secretary shall count the Delegates present.

During a meeting of the Convention any Delegate may call upon the President to determine whether a quorum exists or not, and the President shall so determine and announce his findings. No Delegate shall be absent from a meeting of the Convention without leave of the President, subject to appeal to the Convention. The name of the Delegate not present to answer a quorum count and not excused shall be noted on the Journal of the Convention as “absent without Leave” and any such Delegate who is absent without leave shall receive no expenses for the day.

A Delegate residing outside of the FSM due to the coronavirus pandemic may attend the Convention via Zoom or other online teleconferencing software program determined appropriate by the Secretary. A Delegate attending the Convention via Zoom will be deemed present for the purposes of a quorum when the Delegate has logged into the meeting room and an audio connection is established between the Convention and the Delegate.

Rule 3. Admission to Floor-Defined. No person, other than a Delegate and officer or employee of the Convention shall be admitted on the floor of the Convention unless invited or approved by the President. All persons granted admission to the floor during this period shall be known to the Sergeant-at-Arms to be entitled to admission to the floor, and persons who must be introduced shall be admitted on the floor only upon the personal request of a Delegate each time such courtesy is granted. The words “floor of the Convention” means the space of the main floor of the Convention, excluding the space designated for visitors and for the press.

No person, other than a Delegate and the staff monitoring the connection between the Delegate and the Convention, shall be admitted into the teleconference meeting room during the Convention unless invited or approved by the President. Any person admitted into the teleconference room must be introduced.

Rule 4. Bar of the Convention – Defined. Any Delegate, having answered roll call at the opening of any session, or having entered upon the floor of the Convention or has entered the teleconference meeting room after roll call, shall thereafter be deemed as present until leave of absence is obtained from the Convention. Any Delegate present at any session shall continue to be present if he shall be within the bar of the Convention. The phrase “within the bar of the Convention” means the space occupied and used by the Convention, including the teleconference meeting room, or any committee or other room thereof, and used in connection with conducting the business of the Convention. Provided, in no instance shall a Delegate be deemed present at a roll call vote unless he is at or near his seat on the floor of the convention or is present in the teleconference meeting room with an audio connection.

Rule 5. Invocation. Unless otherwise directed by the President, and arranged by the Convention Secretary, each session of the Convention shall be opened by a moment of silent prayer.

CHAPTER II. OFFICERS AND EMPLOYEES

Rule 6. Officers of the Convention. The President shall be elected by a majority vote of the Delegates by secret ballot. If no nominee receives a majority, and there are

three or more candidates, the name of the one receiving the lowest number of votes cast shall be removed from the consideration before further balloting. In any event thereafter, the polling shall be continued in this manner until a nominee is elected by a majority of the Delegates. The Vice- President, Chairman of the Committee of the Whole, and the Floor Leader shall be elected in the same manner as the President, provided that each of the four elected officials shall be Delegates of differing states.

Rule 7. The President – Duties and Powers.

a) General Duties and Powers. The President shall take the Chair each day at 10:00 a.m., or at the hour to which the Convention shall have designated before adjourned or recessed. He or she shall call the Convention to order and, except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules. He or she shall preserve order and decorum; confine members to the question and prevent personal reflections in debate; speak to points of order and shall decide question of order, subject to an appeal to the Convention. When two or more Delegates seek recognition at the same time, the President shall name the Delegate who is first to speak. The President shall appoint all committee members, after consultation with each state Delegation. All appointments made by the President shall be announced to the Convention. He or she shall refer proposals and other Convention documents to the appropriate committee for consideration and action and certify with the Secretary of the Convention. The President, or his or her designee in the name of the President, shall certify all vouchers for the payment of the expenses of the Convention. The President shall authorize the admission of non-Delegates into the Convention Hall, subject to appeal to the Convention; declare the vote and announce the results on all questions and decisions; oversee the administration of the business of the Convention; and perform such duties as may be required by law, these Rules, and as may properly appertain to the Office of the President.

b) Administrative Authority. The administrative authority of the Convention, including the authority to make assignments of duties to staff, resides in the President except to the extent otherwise provided for by these Rules.

c) Power to Appoint Officer Replacements. In the absence of the Chairman of the Committee of the Whole or the Floor Leader, the President shall appoint his or her replacement.

d) Voting by the President. The President may vote in all elections, decisions, divisions called for by any Delegate, and on all questions, except on appeals from his or her decision.

Rule 8. Vice President: Duties and Powers. The Vice-President shall exercise the powers and perform the duties of the President, and shall preside over the Convention, in the absence of the President or as President may designate.

Rule 9. Chairman of the Committee of the Whole – Duties and Powers. The Chairman of the Committee of the Whole shall serve as the Presiding Officer to the Committee of the Whole, and perform such other duties as the President may designate.

Rule 10. Floor Leader – Duties and Powers. It shall be the duty of the Floor Leader to propose routine motions which contribute to the orderly and speedy conduct of business, to act as floor manager in aid of the adoption of a proposal or a resolution when another Delegate does not assume this task, and perform such other duties as the President may designate.

Rule 11. Chief Legal Counsel. The Chief Legal Counsel shall act as counsel and legal advisor to the Convention and shall supervise all legal staff of the Convention. The Chief Legal Counsel shall review all legal documents of the Convention and perform other duties as the Convention or the President may designate.

Rule 12. Convention Secretary.

a) **General Duties.** The Convention Secretary shall attend the Convention each day when the Convention is in session unless excused by the President. He or she shall have charge of all the records of the Convention and be responsible for the same, and shall not permit original documents to be withdrawn from his or her safekeeping unless ordered by the President. He or she shall authenticate the signature of the President on all official acts, and shall perform such other duties as are required by law, these Rules, and the Convention. The Convention Secretary may delegate the authority to perform any or all of his or her duties, except for certification of official acts and documents.

b) **Roll Call.** The Convention Secretary shall call the roll at the opening of each session of the Convention and announce whether or not a quorum is present. He or she shall announce the names of the Delegates absent with leave of the Convention, and the names of Delegates absent without leave, and enter the names of all absentees upon the Journal.

c) **Publication, Distribution, and Correction of Journal.** The Convention Secretary shall keep a Verbatim Journal of the Plenary Session and Committee of the Whole proceedings of the Convention in conformity with the Rules; supervise the daily publication thereof and make such corrections as may be necessary. On each session day, he or she shall furnish each Delegate a duplicated copy of the proceedings of the previous day. The Journal shall be considered the approved Journal of the Convention, unless otherwise ordered.

d) **Daily List of Business.** The convention Secretary shall daily furnish each Delegate with a list of business on his or her desk and a calendar of the Delegate proposals introduced showing their reference.

e) Printing and Care of Proposals. The convention Secretary shall attend to the printing of all proposals, resolutions and documents ordered printed by the Convention. The Convention Secretary shall give a number to each Delegate proposal and each resolution when introduced, in the order received. When proposals are reported from committees, they shall be called "Committee Proposals", shall be printed, and shall be given a Committee Proposal number in the order received. The Convention Secretary shall cause to be printed at the head of the Committee Proposal the name of the committee which reported the same and the character and number of any report of the committee respecting the proposal. The Convention Secretary shall be responsible to the Convention for the care and preservation of each Delegate Proposal introduced into the Convention and each Committee Proposal. Committee Proposals shall be kept on file in order by their proposal number, unless otherwise ordered by the Convention, and such file shall be called the Committee Proposal File.

f) Safeguarding and Preservation of Convention Records. The Convention Secretary shall be responsible for the care and preservation of all records, documents, and papers of the Convention. After the adjournment of the Convention, he or she shall deliver such materials to the National Archive within the Congress Library for safekeeping. The materials will be treated in the same manner as records of the Congress.

g) Responsibility for Convention Hall. The Convention Secretary shall exercise supervisory care and control of the Hall of the Convention and all Convention rooms and equipment. The Convention Secretary, subject to review by the elected officers, shall oversee the purchase or rent of all necessary equipment, supplies, and postage; arrange for postal, telephone, and telegraph service, and supervise the performance of the administrative staff of the Convention.

Rule 13. Assistant Convention Secretary. The Assistant Convention Secretary shall be deputized to assist the Convention Secretary. Assistant Convention Secretary may perform the duties of the Convention Secretary if the Convention Secretary, due to sickness or other cause, is unable to perform the duties of his or her office. The President shall authorize the Assistant Convention Secretary to certify official acts and documents until the Convention Secretary is able to resume his or her duties.

Rule 14. Sergeant-at-Arms. The Sergeant-at-Arms shall be the chief police officer of the Convention. He or she shall have charge of such assistants as the Convention authorizes. He or she shall attend to the adequacy of the seating arrangements, lighting, and ventilation of the Convention Hall, committee rooms and connecting passageways. He or she shall have authority to serve subpoenas and warrants issued by the Convention or any duly authorized officer or committee of the Convention, or cause the same to be done by his or her assistants, or by police officers as may be provided by law. He or she shall see that all visitors are seated and that they are at no time standing on the floor of

the Convention while in session. He or she shall attend the Convention every meeting day, unless excused by the President; maintain order among those present as spectators; give notice to the presiding officer of the attendance of any person with communications or otherwise; attend any committee meeting if so requested; and generally execute all other requirements of his or her office. Where the Sergeant –at-Arms cannot perform his or her duties, due to illness or other cause, the President shall designate a replacement.

Rule 15. Other Employees. The Pre-Convention Committee shall designate employee positions and job description, provide salary scales, appoint employees to be under the supervision of the Convention Secretary, and report their actions to the Convention on Convening day.

(a) Chief Clerk. The Chief Clerk shall perform all duties and responsibilities as assigned by the President of the Convention and/or the Convention Secretary. Where the Chief Clerk cannot perform his or her duties, due to illness or other cause, the President shall designate a replacement.

CHAPTER III. MEMBERS

Rule 16. Conduct in Debate. When any Delegate is about to speak in debate or present any matter to the Convention, he or she shall seek recognition in an appropriate manner, and respectfully address himself or herself to “Mr. President”. After being recognized, the Delegate shall confine himself or herself to the question under debate and avoid personalities.

Rule 17. Member Called to Order. If any Delegate in speaking transgresses the Rules of the Convention, the President shall, or any Delegate may call him to order; in which case the Delegate so called to order shall immediately stop speaking and shall not begin to speak again unless to explain or proceed in order.

Rule 18. Conduct on the Floor. While the President is putting any question, or while the roll is being called or taken by the Convention Secretary, no Delegate shall walk out of, or cross the Convention Hall nor when a Delegate is speaking, shall any Delegate entertain private conversation or pass between the speaker and the Chair, nor shall any Delegate present in the teleconference meeting room interrupt.

CHAPTER IV. COMMITTEES

Rule 19. Types of Committees. There shall be standing committees of the Convention whose functions, duties, and memberships shall be as provided by these Rules. Special committees may be established by the President or by the Convention, as required, to consider and report on such special or temporary assignments as shall be referred to them. The President may fill vacancies in committees from time to time as may

be required.

Rule 20. Standing Committees. There shall be five standing committees whose duties, functions and memberships shall be as specified herein. The first four of these committees may consider and investigate legislation relating to any subject within its jurisdiction.

a) Committee on Civil Liberties and Traditions. The Committee on Civil Liberties and Traditions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to traditional and customary rights; citizenship and naturalization; civil and criminal law protections; civil rights and duties, due process of law, equal protection of law, privileges and immunities; suffrage and elections; and other related matters.

b) Committee on Public Finance and Revenue. The Committee on Finance and Revenue shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President and by the Convention relating to taxation and finance, indebtedness, levy of duties or tariffs on imports and exports, control of interstate commerce, control of banks, national treasury, budget, audits, fiscal control, revenue laws and other related matters.

c) Committee on Government Structure and Functions. The Committee on Government Structure and Functions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to the structure, functions and powers of the national government, including the size, nature and composition of the legislative, executive and judicial branches; separation of powers; the division and sharing of powers between national, state and local government; relations of the FSM with other nations and international bodies; relations between that national and state governments; and related matters.

d) Committee on General Provisions. The Committee on General Provisions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to social and economic development; natural resources, environment, including land; procedures for revision and amendment of the Constitution; matters not within the jurisdiction of other committees; and other related matters.

e) Committee on Style and Arrangement. The Committee on Style and Arrangement shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to examine, consider and edit all proposals referred to it for inclusion in the Constitution for the purpose of avoiding inaccuracies, repetition, inconsistencies or poor drafting. The committee shall consider and make recommendations on any differences, conflicts or unresolved matters of substance. The committee shall have the authority to rephrase language and to regroup sections proposed for inclusion in the Constitution. But shall have no authority to change the sense or purpose of any proposal referred to it. The committee shall also have the power to recommend that any Committee proposals submitted be re-referred to the originating committee. The committee shall undertake to resolve any inconsistency or conflict in conference with the originating committee. If the committee shall fail to resolve any such inconsistency or conflict, it shall notify the Convention and await instructions.

Rule 21. Members Entitled to Serve on Committee. No Delegate may serve as a member of more than three (3) standing committees. Each State Delegation Chairman, or his or her designee, shall consult with the President on the appointment of members of his or her delegation to Standing Committees. Nothing in these rules shall preclude a Presiding Officer to serve as a member of a Standing Committee, provided however that a Presiding Officer shall serve only as a member, but not an officer of a Standing Committee.

Rule 22. Standing Committee Chairmen.

The Chairmen of the Standing Committees shall be appointed by the elected officers and shall be announced to the Convention.

Rule 23. Committee Vice-Chairman and Conduct of Committees. A committee at its first duly called meeting shall, by a majority of its members, elect a vice-chairman of its choice. When a committee shall elect a vice-chairman, it shall make a report of such election to the Convention. In the event of a vacancy in the office of vice-chairman of a committee, at its first duly called meeting after the vacancy, the vacancy shall be announced and a new vice-chairman shall be elected by a majority of the members of the committee. Each committee shall meet at the call of its chairman or upon the written request of a majority of its members. A record roll call vote on any matter before committee shall be taken on demand by any Delegate member of the committee. Each committee shall maintain a summary journal of its proceedings and a business schedule, both of which shall be available to the Delegates, news media and interested members of the public. The Committee Chair is responsible for placing proposals on the agenda for each meeting; any member of the Committee may move to add a proposal to the agenda, which proposal shall be added to the meeting's agenda if a majority of the members present concur. In case of a vacancy or the prolonged absence of the chairman and vice-chairman, the President of the Convention may appoint an acting- chairman to serve in such capacity. The chairman of the committee may place under oath, or affirmation, any person who appears before the committee to testify on any matter pending before the committee.

Rule 24. Powers of Committees. Committees shall have the right to hold public hearings and to take testimony under oath or affirmation. Before a committee shall hold any hearing or meeting at a location other than where the convention is meeting, the consent of the President shall first be obtained. A committee shall have the power to subpoena documents and witnesses. A committee may grant the powers here authorized to any subcommittee.

a) **Subpoena.** The President or the Chairman of any duly established committee thereof, shall have the power and authority to issue subpoenas requiring the attendance of witnesses or the production of books, documents or other evidence, in any matter related to the purpose of the Constitutional Convention. Any subpoena or other process issued under the authority of the Convention shall be issued in the name of the Federated States of Micronesia and shall be addressed to any police officer of the Federated States of Micronesia or of any state. Such subpoena or other process shall be signed by the President of the Convention, shall contain a reference to this Rule and Section 7 of Public Law No.21-19, and shall set forth in general terms the matter or questions with reference to which such testimony or other evidence is to be taken. Any officer to whom the process described in this subsection is directed, if within their jurisdiction, shall forthwith serve or execute the same, without charge or compensation; PROVIDED, HOWEVER, that any officer serving or executing such subpoena or process shall be compensated for their actual expenses, if any, in connection therewith.

Rule 25. Sitting on Committees During Session of the Convention. No committee shall sit during the sessions of the Convention.

Rule 26. Power to Incur Expenses. No committee or Delegate shall incur any expenses chargeable to the Convention unless authorized in accordance with the provisions of these Rules or by the Convention. Budgets for consultation/representation for each State Delegation (mid and post) shall only be expended with the concurrence of the Chairman of the State Delegation.

Rule 27. Report of the Committees. The signature of a majority of the members appointed in a committee shall be necessary to report a Proposal out of committee. The report of a minority of any committee shall be received, printed in the same manner as the majority report and shall be treated as an appendix to the report of the committee. All Proposals favorably reported by a committee to the Convention shall go to the First Reading File.

Rule 28. Consideration of Proposals With or Without Committee Recommendation. A majority of all the Delegates may, by motion, require a committee to report any Delegate proposal out with or without a written report. When so required, the Delegate Proposal shall be numbered and treated as a Committee Proposal.

Rule 28.a. Committee Quorum. A simple majority of the members of the Committee shall constitute a quorum for the transaction of Committee business.

A Delegate residing outside of the FSM due to the coronavirus pandemic may attend a committee meeting via Zoom or other online teleconferencing software program determined appropriate by the Secretary. A Delegate attending via Zoom will be deemed present for the purposes of a quorum when the Delegate has logged into the meeting and an audio connection has been established between the committee and the Delegate.

CHAPTER V. COMMITTEE OF THE WHOLE

Rule 29. Passage on First Reading. After passing First Reading, all Committee Proposals may only be placed on the Calendar for Second Reading on a day subsequent to the day of passage on First Reading.

Rule 30. Consideration of Proposals. After the Second Reading of Proposals, but prior to a vote on the Second Reading, the Convention shall resolve itself into the Committee of the Whole. No other business shall be in order until all Proposals on the Calendar for Second Reading are considered or passed, or the Committee rises. Unless a particular proposal is ordered to be given priority, the Committee of the Whole shall consider and act upon each Proposal on the Calendar for Second Reading according to its order of reference.

Rule 31. Unfinished Consideration of Committee Proposals. All Proposals on the Calendar for Second Reading not disposed of shall be automatically continued to the next day and shall take their places at the head of the Calendar for Second Reading of Proposals for that day in the order of their precedence on the prior day.

Rule 32. Reading, Debating, Amendment. In the Committee of the Whole, proposals shall first be read in entirety by the Convention Secretary and then debated and acted upon by the Committee. All amendments shall be entered on separate paper

and reported to the Convention by the chairman when the entire Proposal is reported.

Rule 33. Motion that Committee Rise. A motion that the Committee of the Whole rise shall always be in order and shall be decided without debate by a majority vote of those present. If consideration of a Proposal has not been completed, when the Committee of the Whole next sits it shall further consider that unfinished proposal.

Rule 34. Reconsideration. A motion to reconsider shall be in order in the Committee of the Whole by a majority vote of those present.

Rule 35. Application of Convention Rules. The Rules of the Convention shall be observed in the Committee of the Whole, so far as they be applicable; provided, however:

- (a) no motion to adjourn the Convention shall be in order,
- (b) no motion for the previous question shall be in order,
- (c) no roll call vote shall be called,
- (d) no referrals shall be made to any other committee, and
- (e) no motion to postpone indefinitely shall be in order.

Rule 36. Summary Journal. In addition to the Verbatim Journal required, a summary journal of proceedings of the Committee of the Whole shall be kept by the Secretary and shall include, among other things, a concise and complete memorandum of motions, amendments and other related matters.

CHAPTER VI. TRANSACTION OF BUSINESS

Rule 37. Order of Business. The order of business of the Convention shall be as follows:

1. Call to Order
2. Silent Prayer
3. Roll Call
4. Adoption of Journal
5. Communications
6. Unfinished business
7. Reports of Committees
8. First Reading of Committee Proposals
9. Second Reading of Committee Proposals
10. Final Reading of Proposed Constitutional Amendments
11. Consideration of Resolutions

12. Introduction and Referral of Delegate Proposals and Resolutions
13. Special Orders
14. Miscellaneous Business
15. Announcements
16. Adjournment

If any matter is not considered in its appropriate order, it shall lose its precedence for the day but shall appear in the Order of Business of the following day in its regular order. Any matter may be made a special order of business for any particular day or time by a majority vote of Delegates present.

Rule 38. Petitions-Printing in Journal. No petition, memorial, or other comparable communication shall be read or printed in full in the daily Journal unless ordered read or printed by the President, subject to appeal to the Convention.

Rule 39. Stating Motions. When a motion is made and seconded, it shall be stated by the President; or, if in writing, it shall be handed to and read aloud by the Convention Secretary before being debated.

Rule 40. When a Motion is in Possession: Withdrawal. After a motion has been stated by the President or read by the Convention Secretary, it shall be deemed to be in possession of the Convention, but may be withdrawn by the maker of the motion at any time before being amended or put to a vote.

Rule 41. Precedence of Motions. When a question is under debate, no motion shall be received but:

1. to adjourn - not amendable or debatable,
2. to take recess - not amendable or debatable,
3. to defer - amendable and debatable,
4. for the previous question - not amendable or debatable,
5. to commit or re-commit - amendable and debatable, or
6. to amend - amendable and debatable.

Such motions shall take precedence in the order in which they stand arranged, and shall be decided by a majority vote of those Delegates present. When a recess is taken during the pendency of any question, the consideration of such question shall be resumed upon reassembling unless otherwise determined. No motion to defer to commit, or to re-commit after once being decided, shall be again allowed on the same day and at the same stage of the question.

Rule 42. Motions in Order - Debatable. Except when a vote is being taken, a motion to adjourn shall always be in order. A motion to adjourn, a motion to take recess, a motion for the previous question, and all matters relating to questions of order shall be decided without debate.

Rule 43. Order of Putting Questions. All questions shall be put in the order they were moved, except in the case of privileged questions which have precedence.

Rule 44. Amendments to be Germane. No motion or proposition on a subject different from that under consideration shall be admitted under the guise of an amendment or substitute.

Rule 45. Division of Question. Any Delegate may call for a division of the question, which shall be divided if it contains propositions in substance so distinct that one being taken away, a substantive proposition shall remain for the decision of the Convention. A motion to strike out and insert shall be deemed indivisible.

Rule 46. Motions for the Previous Question-Method of Ordering. The method of ordering the previous question shall be as follows: any Delegate may move the previous question, which motion shall apply to the immediately pending question only. After the seconding of the motion for the previous question, nothing shall be in order prior to ordering the same, except that a Call of the Convention may be moved and ordered. After ordering the previous question, nothing shall be in order prior to the decision of the pending question except demands for a roll call vote, point of order, appeals from the decisions of the Chair, and a motion to adjourn, to take a recess or to defer, all of which shall be decided without debate. The effect of the order of the previous question shall be to put an end to all debate and bring the Convention to a direct vote upon the immediately pending question or questions in their order down to and including the main question. Amendments to the immediately pending question on the Convention Secretary's desk not yet moved shall be deemed disposed of. When a motion to reconsider is taken under the previous question and is decided in the affirmative, the previous question shall have no operation upon the question to be reconsidered. If the Convention shall refuse to order the previous question, the consideration of the subject shall be resumed as though no motion for the previous question has been made.

Rule 47. Motion for Reconsideration. Any Delegate may move for a reconsideration of any question at the same or next succeeding session. A motion to reconsider shall take precedence over all the other questions, except a motion to adjourn and a motion to recess. No motion to reconsider shall be renewed on the same day. A motion to reconsider shall require a majority of all Delegates.

Rule 48. Motion for Calls of the Convention - Ordering Calls of the Convention. Calls of the Convention may be ordered upon motion by a majority of the Delegates present. A motion for a Call of the Convention shall not be entertained after the previous question is ordered.

Rule 49. Procedure. After a Call of the Convention is ordered the Delegates shall not be permitted to leave the floor of the Convention without permission of the Convention. The Sergeant-at-Arms shall notify the Delegates within the bar of the Convention of the Call. The Convention Secretary shall call the roll of the Convention

and the absentees noted. The Sergeant-at-Arms may, upon motion, be dispatched after the absentees. The Convention may proceed to business under a Call of the Convention pending the arrival of any absentee.

CHAPTER VII. PROPOSALS

Rule 50. Introduction. Matters intended to become a part of the Constitution may be presented by a Delegate, a group of Delegates, a Delegation, or the Preconvention Committee in the form of a proposal endorsed by the Delegate or Delegates introducing it, or in the case of a Delegation Proposal, by the Chairman of the Delegation indicating that the Proposal is introduced “by request of the Delegation”. One original of each new proposal shall be handed to the Convention Secretary at the time in the Order of Business set aside for introduction of proposals. A Delegate residing outside of the FSM due to the coronavirus pandemic may introduce a proposal by emailing the proposal to the Secretary at least 2 hours prior to the start of the Plenary Session in which the Delegate wants the proposal introduced. A proposal received by the Secretary later than 2 hours before the start of the Plenary Session will be introduced at the next Plenary Session. Such proposal shall conform to the requirements of the Rules.

All proposals shall be introduced in accordance with the form prescribed by the Convention Secretary and these Rules. Proposals shall be numbered, printed and distributed under the direction of the Convention Secretary not later than the session day following introduction.

The President shall assign each Proposal to a committee, consistent with the subject matter jurisdiction. Where a proposal embraces subject matter that falls within the proper jurisdiction of several committees, the President may assign the Proposal jointly to more than one committee.

Rule 51. Order of Consideration of Committee Proposals. The process by which a Committee Proposal is considered shall be as follows:

1. A committee shall provide the Secretary of the Convention with its Committee Report, attaching the Committee Proposal with any recommended amendments. The convention Secretary shall place the Committee Report on the next day’s order of business.

2. Committee Reports shall be discussed and acted upon in order.

3. After adoption of a Committee Report, the Committee Proposal reported upon shall be discussed and acted upon for First Reading.

4. After passing First Reading, the Committee Proposal shall be placed on the calendar for the Second Reading.

5. Not sooner than the day following the passage on First Reading, the Second Reading of the Committee Proposal shall occur in Plenary Session. After the Second Reading, but before the vote on the Second Reading, the Convention shall resolve itself into the Committee of the Whole pursuant to Rule 30. The Committee of the Whole shall report to the Plenary Session its recommendation for action. The Convention in Plenary Session shall vote on the Second Reading of the Committee Proposal after receiving the Committee of the Whole's recommendation for action. Each Committee Proposal that passes Second Reading shall be considered a Proposed Constitutional Amendment and shall be referred to the Committee on Style and Arrangement.

6. The Committee on Style and Arrangement shall provide the Secretary of the Convention with its Committee Report, attaching the Proposed Constitutional Amendment with any stylistic amendments recommended. The Convention Secretary shall place the Committee Report on the next day's order of business.

7. The Report of the Committee on Style and Arrangement shall be discussed and acted upon in order. If such Committee Report does not recommend any stylistic amendments to the Proposed Constitutional Amendment, then adoption of the Report shall be deemed passage of the Proposed Constitutional Amendment on Final Reading.

8. After adoption of the Report of the Committee on Style and Arrangement, the Proposed Constitutional Amendment shall be discussed and acted upon for Final Reading. Discussion shall be limited to those matters that were amended upon the recommendation of the Committee on Style and Arrangement.

Rule 52. Voting. Except as provided elsewhere, either in legislation creating the Constitutional Convention or in these Rules, the adoption of any motion or matter (other than Readings to adopt proposals) by the Convention shall require the affirmative votes of a majority of the Delegates present, and such vote shall be taken by voice vote. Nothing in this rule shall abridge the right of a Delegate to record his vote on any question previous to the announcement of the result.

The adoption of Committee proposals to amend the Constitution shall be by voice vote or secret ballot on First Reading, Second Reading and, where required, Final Reading. A proposal shall pass First Reading upon the affirmative votes of a simple majority of all Delegates.

A proposal shall pass Second Reading upon the affirmative votes of not less than three-fourths (3/4) of the state Delegations, with each Delegation casting one vote. The chairman of each Delegation, or his proxy, shall cast the vote for his Delegation.

Where passage on Final Reading is required pursuant to Rule 51(8), a proposal shall pass on Final Reading upon the affirmative votes of not less than three-fourths (3/4) of the state Delegations, with each Delegation casting one vote. The chairman of each

Delegation, or his proxy, shall cast the vote for his Delegation.

Before the vote on any Reading of Committee Proposals, the President shall announce the affirmative votes necessary for passage.

Rule 53. Amendment to Committee Proposal. An amendment to a Proposal, whether at Plenary Session or in Committee of the Whole, shall be presented in writing to the Secretary before the convening of the session at which the Proposal will be considered. The Secretary shall duplicate the amendment for distribution to Delegates in advance of its being moved. Any amendment to the amendment may be made orally, but may be required to be reduced to writing and duplicated before being voted on.

CHAPTER VIII. MISCELLANEOUS

Rule 54. Limitation on Debate and Control of Dilatory Procedure. The Convention by motion may limit the time of debate on any subject matter before the Convention, designate a method of allocating the period allowed for debate among Delegates, or take appropriate action to control dilatory procedure.

Rule 55. Reading and Endorsement of Papers. When the reading of a paper is called for and an objection is raised to such reading, the Convention by a majority vote of the Delegates present shall determine whether or not the paper shall be read.

Rule 56. Language of Proceedings. All proceedings in Plenary Sessions and the Committee of the Whole shall be conducted in English.

Rule 57. Presentation and Endorsement of Communications. Petitions, memorials and other communications received by any officer of the Convention or by any Delegate shall be endorsed by the recipient, and by him or her handed directly to the Convention Secretary who shall cause them to be placed on the Order of Business of the following day. The President shall assign each such matter to an appropriate committee, subject to an appeal to the Convention. The chairman of the Committee, on behalf of the Convention, shall give appropriate notice of the receipt of the communication.

Rule 58. Calls of Convention. Upon calls of the Convention, and in taking a roll call vote upon any question the names of the members shall be called alphabetically by last names.

Rule 59. Putting the Question. Except as specified elsewhere in these Rules, the President shall put all questions to a voice vote. If the President doubts the result of the vote he may order a division of the proposal.

A roll call vote of the Convention on any question may be had on demand of any Delegate present. On a tie vote the question shall be deemed as lost.

Rules 60. Recognition During Roll Call. After a question has been stated by the President, and the call of the roll had been started by the Convention Secretary, the President shall not recognize a Delegate for any purpose, except upon points of order, until after the announcement of the vote by Convention Secretary. The Convention Secretary shall enter upon the journal the names of those voting “aye” and the names of those voting “no” and the names of those abstaining, if any. Any Delegate is privileged to reserve the right to explain in writing, his or her vote on the roll call, but the Delegate must reserve that right at the time of voting and not otherwise. The written explanation shall be included in the Journal if presented to the Convention Secretary before the next session of the Convention, or in the case of the final day of the Convention, within twenty-four (24) hours of the vote.

Rule 61. Abstentions. An abstention shall be deemed a vote in the affirmative except on Second Reading of Committee Proposals.

Rule 62. Amendment or Suspension of Rules. No rule of the Convention shall be amended unless such amendment is in writing and in the possession of the Convention one day prior to its consideration. A rule may be suspended by a vote of two-thirds of the Delegates present. There may be no suspension of the Rules as to the minimum number of votes or quorum requirements.

Rule 63. Appeals From Decision of the Presiding Officer. All appeals from the decisions of the Presiding Officer shall be decided by an affirmative vote of not less than two-thirds of the Delegates present.

Rule 64. Deferring Appeals. An appeal may be deferred but shall not carry with it the subject matter before the Convention at the time such appeal is taken.

Rule 65. Procedural Issues Not Covered by These Rules. The Rules contained in *Mason’s Manual of Legislative Procedure* shall govern the Convention in all cases to which they are applicable and in which they are not inconsistent with the legislation establishing the Constitutional Convention or these Rules of Procedure.

Rule 66. Definition of Calendar Days. This Constitutional Convention shall continue in session for no longer than thirty calendar days; provided, however, that the Convention may recess, and may extend the session, if necessary, up to a total of forty-five calendar days. For the purposes of this Convention calendar days means Convention days. Convention days begin on the day that the Convention is convened and continue until the Convention recesses and begin again when the Convention reconvenes. Recess days are not Convention days.

**RULES OF PROCEDURES
FOURTH FSM CONSTITUTIONAL
CONVENTION**

TABLE OF CONTENTS

CHAPTER I. GENERAL PROVISIONS

- Rule 1 Convening Day
- Rule 2 Quorum
- Rule 3 Admission to Floor – Defined
- Rule 4 Bar of the Convention – Defined
- Rule 5 Invocation

CHAPTER II. OFFICERS AND EMPLOYEES

- Rule 6 Officers of the Convention
- Rule 7 The President - Duties and Powers
- Rule 8 Vice-President – Duties and Powers
- Rule 9 Chairman of the Committee for the Whole – Duties and Powers
- Rule 10 Floor Leader – Duties and Powers
- Rule 11 Chief Legal Counsel
- Rule 12 Convention Secretary
- Rule 13 Assistant Convention Secretary
- Rule 14 Sergeant-at-Arms
- Rule 15 Other Employees

CHAPTER III. MEMBERS

- Rule 16 Conduct in Debate
- Rule 17 Members Called to Order
- Rule 18 Conduct on the Floor

CHAPTER IV. COMMITTEES

- Rule 19 Types of Committees
- Rule 20 Standing Committees
- Rule 21 Members Entitled to Serve on Committees
- Rule 22 Standing Committee Chairmen
- Rule 23 Committee Vice-Chairman and Conduct of Committees
- Rule 24 Powers of Committees
- Rule 25 Sitting on Committees during Session
- Rule 26 Power to Incur Expenses
- Rule 27 Report of Committees

Rule 28 Consideration of Proposals With or Without Committee Recommendations
Rule 28a Committee Quorum

CHAPTER V. COMMITTEE OF THE WHOLE

Rule 29 Passage on First Reading
Rule 30 Consideration of Proposals
Rule 31 Unfinished Consideration of Committee Proposals
Rule 32 Reading; Debate; Amendment
Rule 33 Motion that Committee Rise
Rule 34 Reconsideration
Rule 35 Application of Convention Rules
Rule 36 Summary Journal

CHAPTER VI. TRANSACTION OF BUSINESS

Rule 37 Order of Business
Rule 38 Petitions – Printing in Journal
Rule 39 Stating Motions
Rule 40 When a Motion is in Possession; Withdrawal
Rule 41 Precedence of Motions
Rule 42 Motions in Order, Debatable
Rule 43 Order of Putting Questions
Rule 44 Amendments to be Germane
Rule 45 Division of Question
Rule 46 Motions for the Previous Question – Method of Ordering
Rule 47 Motion for Reconsideration
Rule 48 Motion for Calls of the Convention – Ordering Calls of the Convention
Rule 49 Procedure

CHAPTER VII. PROPOSALS

Rule 50 Introduction
Rule 51 Order of Consideration of Committee Proposals
Rule 52 Voting
Rule 53 Amendment to Committee

Proposal CHAPTER VIII. MISCELLANEOUS:

Rule 54 Limitation on Debate and Control of Dilatory Procedure
Rule 55 Reading and Endorsement of Papers
Rule 56 Language of Proceedings
Rule 57 Presentation and Endorsement of Communications
Rule 58 Call of Convention

Rule 59 Putting the Question
Rule 60 Recognition During Roll Call Rule 61 Abstentions
Rule 62 Amendment or Suspension of Rules
Rule 63 Appeals from Decisions of the Presiding Officer
Rule 64 Deferring Appeals
Rule 65 Procedural Issues Not Covered by this Rule
Rule 66 Definition of Calendar Day

**RULES OF
PROCEDURE
FOURTH FSM CONSTITUTIONAL CONVENTION**

CHAPTER 1. GENERAL PROVISIONS

Rule 1. Convening Day. On the convening day, the President of the Federated States of Micronesia, or his designee, shall take the Chair and call all persons present to order. The convention shall then proceed to organize in the following manner:

- a) Adoption of temporary Rules of Procedures;
- b) The Pre-Convention Committee shall report to the Convention on the qualifications of the Delegates;
- c) Oath of office to Delegates administered by the Chief Justice of the FSM Supreme Court;
- d) Adoption of the Rules of Procedure of the Convention by a majority vote of not less than thirteen Delegates;
- e) Election of the Convention President (hereinafter “President”) and other officers provided for in the Rules; and
- f) The President of the Federated States of Micronesia, or his designee, takes his seat.

Rule 2. Quorum. Fourteen (14) Delegates to the Convention shall constitute a quorum for the transaction of business, provided that more than half of the Delegates from each State are present. A smaller number may adjourn from day to day and may compel the attendance by any means adopted by a majority of the Delegates present, and fix penalties for non-attendance. The Convention President may declare a meeting of the Convention adjourned if no quorum is present at the hour of opening. For purposes of ascertaining whether a quorum exists, the Secretary shall count the Delegates present.

During a meeting of the Convention any Delegate may call upon the President to determine whether a quorum exists or not, and the President shall so determine and announce his findings. No Delegate shall be absent from a meeting of the Convention without leave of the President, subject to appeal to the Convention. The name of the Delegate not present to answer a quorum count and call for a vote, without their camera on for members participating remotely, and not excused shall be noted on the Journal of the Convention as “absent without Leave” and any such Delegate who is absent without

leave shall receive no expenses for the day.

A Delegate not present in Pohnpei **due to the coronavirus pandemic** may attend the Convention remotely via Zoom or other online videoconferencing software program determined appropriate by the Secretary. A Delegate participating remotely shall participate via videoconference and have their camera on throughout the session in order to be considered present for any quorum count, voting, and attendance purposes.

Rule 3. Admission to Floor-Defined. No person, other than a Delegate and officer or employee of the Convention shall be admitted on the floor of the Convention unless invited or approved by the President. All persons granted admission to the floor during this period shall be known to the Sergeant-at-Arms to be entitled to admission to the floor, and persons who must be introduced shall be admitted on the floor only upon the personal request of a Delegate each time such courtesy is granted. The words “floor of the Convention” means the space of the main floor of the Convention, excluding the space designated for visitors and for the press.

No person, other than a Delegate and the staff monitoring the connection between the Delegate and the Convention, shall be admitted into the videoconference meeting room during the Convention unless invited or approved by the President. Any person admitted into the videoconference room must be introduced.

Rule 4. Bar of the Convention – Defined. Any Delegate, having answered roll call at the opening of any session, or having entered upon the floor of the Convention or has entered the videoconference meeting room after roll call, shall thereafter be deemed as present until leave of absence is obtained from the Convention. Any Delegate present at any session shall continue to be present if he shall be within the bar of the Convention. The phrase “within the bar of the Convention” means the space occupied and used by the Convention, including the videoconference meeting room, or any committee or other room thereof, and used in connection with conducting the business of the Convention. Provided, in no instance shall a Delegate be deemed present at a roll call vote unless he is at or near his seat on the floor of the convention or is present in the videoconference meeting room with their camera on.

Rule 5. Invocation. Unless otherwise directed by the President, and arranged by the Convention Secretary, each session of the Convention shall be opened by a moment of silent prayer.

CHAPTER II. OFFICERS AND EMPLOYEES

Rule 6. Officers of the Convention. The President shall be elected by a majority vote of the Delegates by secret ballot. If no nominee receives a majority, and there are

three or more candidates, the name of the one receiving the lowest number of votes cast shall be removed from the consideration before further balloting. In any event thereafter, the polling shall be continued in this manner until a nominee is elected by a majority of the Delegates. The Vice- President, Chairman of the Committee of the Whole, and the Floor Leader shall be elected in the same manner as the President, provided that each of the four elected officials shall be Delegates of differing states.

Rule 7. The President – Duties and Powers.

a) General Duties and Powers. The President shall take the Chair each day at 10:00 a.m., or at the hour to which the Convention shall have designated before adjourned or recessed. He or she shall call the Convention to order and, except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules. He or she shall preserve order and decorum; confine members to the question and prevent personal reflections in debate; speak to points of order and shall decide question of order, subject to an appeal to the Convention. When two or more Delegates seek recognition at the same time, the President shall name the Delegate who is first to speak. The President shall appoint all committee members, after consultation with each state Delegation. All appointments made by the President shall be announced to the Convention. He or she shall refer proposals and other Convention documents to the appropriate committee for consideration and action and certify with the Secretary of the Convention. The President, or his or her designee in the name of the President, shall certify all vouchers for the payment of the expenses of the Convention. The President shall authorize the admission of non-Delegates into the Convention Hall, subject to appeal to the Convention; declare the vote and announce the results on all questions and decisions; oversee the administration of the business of the Convention; and perform such duties as may be required by law, these Rules, and as may properly appertain to the Office of the President.

b) Administrative Authority. The administrative authority of the Convention, including the authority to make assignments of duties to staff, resides in the President except to the extent otherwise provided for by these Rules.

c) Power to Appoint Officer Replacements. In the absence of the Chairman of the Committee of the Whole or the Floor Leader, the President shall appoint his or her replacement.

d) Voting by the President. The President may vote in all elections, decisions, divisions called for by any Delegate, and on all questions, except on appeals from his or her decision.

Rule 8. Vice President: Duties and Powers. The Vice-President shall exercise the powers and perform the duties of the President, and shall preside over the Convention, in the absence of the President or as President may designate.

Rule 9. Chairman of the Committee of the Whole – Duties and Powers. The Chairman of the Committee of the Whole shall serve as the Presiding Officer to the Committee of the Whole, and perform such other duties as the President may designate.

Rule 10. Floor Leader – Duties and Powers. It shall be the duty of the Floor Leader to propose routine motions which contribute to the orderly and speedy conduct of business, to act as floor manager in aid of the adoption of a proposal or a resolution when another Delegate does not assume this task, and perform such other duties as the President may designate.

Rule 11. Chief Legal Counsel. The Chief Legal Counsel shall act as counsel and legal advisor to the Convention and shall supervise all legal staff of the Convention. The Chief Legal Counsel shall review all legal documents of the Convention and perform other duties as the Convention or the President may designate.

Rule 12. Convention Secretary.

a) **General Duties.** The Convention Secretary shall attend the Convention each day when the Convention is in session unless excused by the President. He or she shall have charge of all the records of the Convention and be responsible for the same, and shall not permit original documents to be withdrawn from his or her safekeeping unless ordered by the President. He or she shall authenticate the signature of the President on all official acts, and shall perform such other duties as are required by law, these Rules, and the Convention. The Convention Secretary may delegate the authority to perform any or all of his or her duties, except for certification of official acts and documents.

b) **Roll Call.** The Convention Secretary shall call the roll at the opening of each session of the Convention and announce whether or not a quorum is present. He or she shall announce the names of the Delegates absent with leave of the Convention, and the names of Delegates absent without leave, and enter the names of all absentees upon the Journal.

c) **Publication, Distribution, and Correction of Journal.** The Convention Secretary shall keep a Verbatim Journal of the Plenary Session and Committee of the Whole proceedings of the Convention in conformity with the Rules; supervise the daily publication thereof and make such corrections as may be necessary. On each session day, he or she shall furnish each Delegate a duplicated copy of the proceedings of the previous day. The Journal shall be considered the approved Journal of the Convention, unless otherwise ordered.

d) **Daily List of Business.** The convention Secretary shall daily furnish each Delegate with a list of business on his or her desk and a calendar of the Delegate proposals introduced showing their reference.

e) Printing and Care of Proposals. The convention Secretary shall attend to the printing of all proposals, resolutions and documents ordered printed by the Convention. The Convention Secretary shall give a number to each Delegate proposal and each resolution when introduced, in the order received. When proposals are reported from committees, they shall be called "Committee Proposals", shall be printed, and shall be given a Committee Proposal number in the order received. The Convention Secretary shall cause to be printed at the head of the Committee Proposal the name of the committee which reported the same and the character and number of any report of the committee respecting the proposal. The Convention Secretary shall be responsible to the Convention for the care and preservation of each Delegate Proposal introduced into the Convention and each Committee Proposal. Committee Proposals shall be kept on file in order by their proposal number, unless otherwise ordered by the Convention, and such file shall be called the Committee Proposal File.

f) Safeguarding and Preservation of Convention Records. The Convention Secretary shall be responsible for the care and preservation of all records, documents, and papers of the Convention. After the adjournment of the Convention, he or she shall deliver such materials to the National Archive within the Congress Library for safekeeping. The materials will be treated in the same manner as records of the Congress.

g) Responsibility for Convention Hall. The Convention Secretary shall exercise supervisory care and control of the Hall of the Convention and all Convention rooms and equipment. The Convention Secretary, subject to review by the elected officers, shall oversee the purchase or rent of all necessary equipment, supplies, and postage; arrange for postal, telephone, and telegraph service, and supervise the performance of the administrative staff of the Convention.

Rule 13. Assistant Convention Secretary. The Assistant Convention Secretary shall be deputized to assist the Convention Secretary. Assistant Convention Secretary may perform the duties of the Convention Secretary if the Convention Secretary, due to sickness or other cause, is unable to perform the duties of his or her office. The President shall authorize the Assistant Convention Secretary to certify official acts and documents until the Convention Secretary is able to resume his or her duties.

Rule 14. Sergeant-at-Arms. The Sergeant-at-Arms shall be the chief police officer of the Convention. He or she shall have charge of such assistants as the Convention authorizes. He or she shall attend to the adequacy of the seating arrangements, lighting, and ventilation of the Convention Hall, committee rooms and connecting passageways. He or she shall have authority to serve subpoenas and warrants issued by the Convention or any duly authorized officer or committee of the Convention, or cause the same to be done by his or her assistants, or by police officers as may be provided by law. He or she shall see that all visitors are seated and that they are at no time standing on the floor of

the Convention while in session. He or she shall attend the Convention every meeting day, unless excused by the President; maintain order among those present as spectators; give notice to the presiding officer of the attendance of any person with communications or otherwise; attend any committee meeting if so requested; and generally execute all other requirements of his or her office. Where the Sergeant –at-Arms cannot perform his or her duties, due to illness or other cause, the President shall designate a replacement.

Rule 15. Other Employees. The Pre-Convention Committee shall designate employee positions and job description, provide salary scales, appoint employees to be under the supervision of the Convention Secretary, and report their actions to the Convention on Convening day.

(a) Chief Clerk. The Chief Clerk shall perform all duties and responsibilities as assigned by the President of the Convention and/or the Convention Secretary. Where the Chief Clerk cannot perform his or her duties, due to illness or other cause, the President shall designate a replacement.

CHAPTER III. MEMBERS

Rule 16. Conduct in Debate. When any Delegate is about to speak in debate or present any matter to the Convention, he or she shall seek recognition in an appropriate manner, and respectfully address himself or herself to “Mr. President”. After being recognized, the Delegate shall confine himself or herself to the question under debate and avoid personalities.

Rule 17. Member Called to Order. If any Delegate in speaking transgresses the Rules of the Convention, the President shall, or any Delegate may call him to order; in which case the Delegate so called to order shall immediately stop speaking and shall not begin to speak again unless to explain or proceed in order.

Rule 18. Conduct on the Floor. While the President is putting any question, or while the roll is being called or taken by the Convention Secretary, no Delegate shall walk out of, or cross the Convention Hall nor when a Delegate is speaking, shall any Delegate entertain private conversation or pass between the speaker and the Chair, nor shall any Delegate present in the videoconference meeting room interrupt.

CHAPTER IV. COMMITTEES

Rule 19. Types of Committees. There shall be standing committees of the Convention whose functions, duties, and memberships shall be as provided by these Rules. Special committees may be established by the President or by the Convention, as required, to consider and report on such special or temporary assignments as shall be referred to them. The President may fill vacancies in committees from time to time as may

be required.

Rule 20. Standing Committees. There shall be five standing committees whose duties, functions and memberships shall be as specified herein. The first four of these committees may consider and investigate legislation relating to any subject within its jurisdiction.

a) Committee on Civil Liberties and Traditions. The Committee on Civil Liberties and Traditions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to traditional and customary rights; citizenship and naturalization; civil and criminal law protections; civil rights and duties, due process of law, equal protection of law, privileges and immunities; suffrage and elections; and other related matters.

b) Committee on Public Finance and Revenue. The Committee on Finance and Revenue shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President and by the Convention relating to taxation and finance, indebtedness, levy of duties or tariffs on imports and exports, control of interstate commerce, control of banks, national treasury, budget, audits, fiscal control, revenue laws and other related matters.

c) Committee on Government Structure and Functions. The Committee on Government Structure and Functions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to the structure, functions and powers of the national government, including the size, nature and composition of the legislative, executive and judicial branches; separation of powers; the division and sharing of powers between national, state and local government; relations of the FSM with other nations and international bodies; relations between that national and state governments; and related matters.

d) Committee on General Provisions. The Committee on General Provisions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to social and economic development; natural resources, environment, including land; procedures for revision and amendment of the Constitution; matters not within the jurisdiction of other committees; and other related matters.

e) Committee on Style and Arrangement. The Committee on Style and Arrangement shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to examine, consider and edit all proposals referred to it for inclusion in the Constitution for the purpose of avoiding inaccuracies, repetition, inconsistencies or poor drafting. The committee shall consider and make recommendations on any differences, conflicts or unresolved matters of substance. The committee shall have the authority to rephrase language and to regroup sections proposed for inclusion in the Constitution. But shall have no authority to change the sense or purpose of any proposal referred to it. The committee shall also have the power to recommend that any Committee proposals submitted be re-referred to the originating committee. The committee shall undertake to resolve any inconsistency or conflict in conference with the originating committee. If the committee shall fail to resolve any such inconsistency or conflict, it shall notify the Convention and await instructions.

Rule 21. Members Entitled to Serve on Committee. No Delegate may serve as a member of more than three (3) standing committees. Each State Delegation Chairman, or his or her designee, shall consult with the President on the appointment of members of his or her delegation to Standing Committees. Nothing in these rules shall preclude a Presiding Officer to serve as a member of a Standing Committee, provided however that a Presiding Officer shall serve only as a member, but not an officer of a Standing Committee.

Rule 22. Standing Committee Chairmen. The Chairmen of the Standing Committees shall be appointed by the elected officers and shall be announced to the Convention.

Rule 23. Committee Vice-Chairman and Conduct of Committees. A committee at its first duly called meeting shall, by a majority of its members, elect a vice-chairman of its choice. When a committee shall elect a vice-chairman, it shall make a report of such election to the Convention. In the event of a vacancy in the office of vice-chairman of a committee, at its first duly called meeting after the vacancy, the vacancy shall be announced and a new vice-chairman shall be elected by a majority of the members of the committee. Each committee shall meet at the call of its chairman or upon the written request of a majority of its members. A record roll call vote on any matter before committee shall be taken on demand by any Delegate member of the committee. Each committee shall maintain a summary journal of its proceedings and a business schedule, both of which shall be available to the Delegates, news media and interested members of the public. The Committee Chair is responsible for placing proposals on the agenda for each meeting; any member of the Committee may move to add a proposal to the agenda, which proposal shall be added to the meeting's agenda if a majority of the members present concur. In case of a vacancy or the prolonged absence of the chairman and vice-chairman, the President of the Convention may appoint an acting- chairman to serve in such capacity. The chairman of the committee may place under oath, or affirmation, any person who appears before the committee to testify on any matter pending before the committee.

Rule 24. Powers of Committees. Committees shall have the right to hold public hearings and to take testimony under oath or affirmation. Before a committee shall hold any hearing or meeting at a location other than where the convention is meeting, the consent of the President shall first be obtained. A committee shall have the power to subpoena documents and witnesses. A committee may grant the powers here authorized to any subcommittee.

a) **Subpoena.** The President or the Chairman of any duly established committee thereof, shall have the power and authority to issue subpoenas requiring the attendance of witnesses or the production of books, documents or other evidence, in any matter related to the purpose of the Constitutional Convention. Any subpoena or other process issued under the authority of the Convention shall be issued in the name of the Federated States of Micronesia and shall be addressed to any police officer of the Federated States of Micronesia or of any state. Such subpoena or other process shall be signed by the President of the Convention, shall contain a reference to this Rule and Section 7 of Public Law No.21-19, and shall set forth in general terms the matter or questions with reference to which such testimony or other evidence is to be taken. Any officer to whom the process described in this subsection is directed, if within their jurisdiction, shall forthwith serve or execute the same, without charge or compensation; PROVIDED, HOWEVER, that any officer serving or executing such subpoena or process shall be compensated for their actual expenses, if any, in connection therewith.

Rule 25. Sitting on Committees During Session of the Convention. No committee shall sit during the sessions of the Convention.

Rule 26. Power to Incur Expenses. No committee or Delegate shall incur any expenses chargeable to the Convention unless authorized in accordance with the provisions of these Rules or by the Convention. Budgets for consultation/representation for each State Delegation (mid and post) shall only be expended with the concurrence of the Chairman of the State Delegation.

Rule 27. Report of the Committees. The signature of a majority of the members appointed in a committee shall be necessary to report a Proposal out of committee. The report of a minority of any committee shall be received, printed in the same manner as the majority report and shall be treated as an appendix to the report of the committee. All Proposals favorably reported by a committee to the Convention shall go to the First Reading File.

Rule 28. Consideration of Proposals With or Without Committee Recommendation. A majority of all the Delegates may, by motion, require a committee to report any Delegate proposal out with or without a written report. When so required, the Delegate Proposal shall be numbered and treated as a Committee Proposal.

Rule 28.a. Committee Quorum. A simple majority of the members of the Committee shall constitute a quorum for the transaction of Committee business.

A Delegate not present in Pohnpei due to the coronavirus pandemic may attend a committee meeting via videoconferencing. A Delegate attending via videoconference will be deemed present for the purposes of a quorum when the Delegate has logged into the meeting and his camera is on throughout the meeting, including roll call, quorum count, and voting.

CHAPTER V. COMMITTEE OF THE WHOLE

Rule 29. Passage on First Reading. After passing First Reading, all Committee Proposals may only be placed on the Calendar for Second Reading on a day subsequent to the day of passage on First Reading.

Rule 30. Consideration of Proposals. After the Second Reading of Proposals, but prior to a vote on the Second Reading, the Convention shall resolve itself into the Committee of the Whole. No other business shall be in order until all Proposals on the Calendar for Second Reading are considered or passed, or the Committee rises. Unless a particular proposal is ordered to be given priority, the Committee of the Whole shall consider and act upon each Proposal on the Calendar for Second Reading according to its order of reference.

Rule 31. Unfinished Consideration of Committee Proposals. All Proposals on the Calendar for Second Reading not disposed of shall be automatically continued to the next day and shall take their places at the head of the Calendar for Second Reading of

Proposals for that day in the order of their precedence on the prior day.

Rule 32. Reading, Debating, Amendment. In the Committee of the Whole, proposals shall first be read in entirety by the Convention Secretary and then debated and acted upon by the Committee. All amendments shall be entered on separate paper and reported to the Convention by the chairman when the entire Proposal is reported.

Rule 33. Motion that Committee Rise. A motion that the Committee of the Whole rise shall always be in order and shall be decided without debate by a majority vote of those present. If consideration of a Proposal has not been completed, when the Committee of the Whole next sits it shall further consider that unfinished proposal.

Rule 34. Reconsideration. A motion to reconsider shall be in order in the Committee of the Whole by a majority vote of those present.

Rule 35. Application of Convention Rules. The Rules of the Convention shall be observed in the Committee of the Whole, so far as they be applicable; provided, however:

- (a) no motion to adjourn the Convention shall be in order,
- (b) no motion for the previous question shall be in order,
- (c) no roll call vote shall be called,
- (d) no referrals shall be made to any other committee, and
- (e) no motion to postpone indefinitely shall be in order.

Rule 36. Summary Journal. In addition to the Verbatim Journal required, a summary journal of proceedings of the Committee of the Whole shall be kept by the Secretary and shall include, among other things, a concise and complete memorandum of motions, amendments and other related matters.

CHAPTER VI. TRANSACTION OF BUSINESS

Rule 37. Order of Business. The order of business of the Convention shall be as follows:

1. Call to Order
2. Silent Prayer
3. Roll Call
4. Adoption of Journal
5. Communications

6. Unfinished business
7. Reports of Committees
8. First Reading of Committee Proposals
9. Second Reading of Committee Proposals
10. Final Reading of Proposed Constitutional Amendments
11. Consideration of Resolutions
12. Introduction and Referral of Delegate Proposals and Resolutions
13. Special Orders
14. Miscellaneous Business
15. Announcements
16. Adjournment

If any matter is not considered in its appropriate order, it shall lose its precedence for the day but shall appear in the Order of Business of the following day in its regular order. Any matter may be made a special order of business for any particular day or time by a majority vote of Delegates present.

Rule 38. Petitions-Printing in Journal. No petition, memorial, or other comparable communication shall be read or printed in full in the daily Journal unless ordered read or printed by the President, subject to appeal to the Convention.

Rule 39. Stating Motions. When a motion is made and seconded, it shall be stated by the President; or, if in writing, it shall be handed to and read aloud by the Convention Secretary before being debated.

Rule 40. When a Motion is in Possession: Withdrawal. After a motion has been stated by the President or read by the Convention Secretary, it shall be deemed to be in possession of the Convention, but may be withdrawn by the maker of the motion at any time before being amended or put to a vote.

Rule 41. Precedence of Motions. When a question is under debate, no motion shall be received but:

1. to adjourn - not amendable or debatable,
2. to take recess - not amendable or debatable,
3. to defer - amendable and debatable,
4. for the previous question - not amendable or debatable,
5. to commit or re-commit - amendable and debatable, or
6. to amend - amendable and debatable.

Such motions shall take precedence in the order in which they stand arranged, and shall be decided by a majority vote of those Delegates present. When a recess is taken during the pendency of any question, the consideration of such question shall be resumed upon reassembling unless otherwise determined. No motion to defer to

commit, or to re-commit after once being decided, shall be again allowed on the same day and at the same stage of the question.

Rule 42. Motions in Order - Debatable. Except when a vote is being taken, a motion to adjourn shall always be in order. A motion to adjourn, a motion to take recess, a motion for the previous question, and all matters relating to questions of order shall be decided without debate.

Rule 43. Order of Putting Questions. All questions shall be put in the order they were moved, except in the case of privileged questions which have precedence.

Rule 44. Amendments to be Germane. No motion or proposition on a subject different from that under consideration shall be admitted under the guise of an amendment or substitute.

Rule 45. Division of Question. Any Delegate may call for a division of the question, which shall be divided if it contains propositions in substance so distinct that one being taken away, a substantive proposition shall remain for the decision of the Convention. A motion to strike out and insert shall be deemed indivisible.

Rule 46. Motions for the Previous Question-Method of Ordering. The method of ordering the previous question shall be as follows: any Delegate may move the previous question, which motion shall apply to the immediately pending question only. After the seconding of the motion for the previous question, nothing shall be in order prior to ordering the same, except that a Call of the Convention may be moved and ordered. After ordering the previous question, nothing shall be in order prior to the decision of the pending question except demands for a roll call vote, point of order, appeals from the decisions of the Chair, and a motion to adjourn, to take a recess or to defer, all of which shall be decided without debate. The effect of the order of the previous question shall be to put an end to all debate and bring the Convention to a direct vote upon the immediately pending question or questions in their order down to and including the main question. Amendments to the immediately pending question on the Convention Secretary's desk not yet moved shall be deemed disposed of. When a motion to reconsider is taken under the previous question and is decided in the affirmative, the previous question shall have no operation upon the question to be reconsidered. If the Convention shall refuse to order the previous question, the consideration of the subject shall be resumed as though no motion for the previous question has been made.

Rule 47. Motion for Reconsideration. Any Delegate may move for a reconsideration of any question at the same or next succeeding session. A motion to reconsider shall take precedence over all the other questions, except a motion to adjourn and a motion to recess. No motion to reconsider shall be renewed on the same day. A motion to reconsider shall require a majority of all Delegates.

Rule 48. Motion for Calls of the Convention - Ordering Calls of the Convention. Calls of the Convention may be ordered upon motion by a majority of the Delegates present. A motion for a Call of the Convention shall not be entertained after the previous question is ordered.

Rule 49. Procedure. After a Call of the Convention is ordered the Delegates shall not be permitted to leave the floor of the Convention without permission of the Convention. The Sergeant-at-Arms shall notify the Delegates within the bar of the Convention of the Call. The Convention Secretary shall call the roll of the Convention and the absentees noted. The Sergeant-at-Arms may, upon motion, be dispatched after the absentees. The Convention may proceed to business under a Call of the Convention pending the arrival of any absentee.

CHAPTER VII. PROPOSALS

Rule 50. Introduction. Matters intended to become a part of the Constitution may be presented by a Delegate, a group of Delegates, a Delegation, or the Preconvention Committee in the form of a proposal endorsed by the Delegate or Delegates introducing it, or in the case of a Delegation Proposal, by the Chairman of the Delegation indicating that the Proposal is introduced “by request of the Delegation”. One original of each new proposal shall be handed to the Convention Secretary at the time in the Order of Business set aside for introduction of proposals. A Delegate not present in Pohnpei due to the coronavirus pandemic may introduce a proposal by emailing the proposal to the Secretary at least 2 hours prior to the start of the Plenary Session in which the Delegate wants the proposal introduced. A proposal received by the Secretary later than 2 hours before the start of the Plenary Session will be introduced at the next Plenary Session. Such proposal shall conform to the requirements of the Rules.

All proposals shall be introduced in accordance with the form prescribed by the Convention Secretary and these Rules. Proposals shall be numbered, printed and distributed under the direction of the Convention Secretary not later than the session day following introduction.

The President shall assign each Proposal to a committee, consistent with the subject matter jurisdiction. Where a proposal embraces subject matter that falls within the proper jurisdiction of several committees, the President may assign the Proposal jointly to more than one committee.

Rule 51. Order of Consideration of Committee Proposals. The process by which a Committee Proposal is considered shall be as follows:

1. A committee shall provide the Secretary of the Convention with its Committee Report, attaching the Committee Proposal with any recommended amendments. The convention Secretary shall place the Committee Report on the next

day's order of business.

2. Committee Reports shall be discussed and acted upon in order.
3. After adoption of a Committee Report, the Committee Proposal reported upon shall be discussed and acted upon for First Reading.
4. After passing First Reading, the Committee Proposal shall be placed on the calendar for the Second Reading.
5. Not sooner than the day following the passage on First Reading, the Second Reading of the Committee Proposal shall occur in Plenary Session. After the Second Reading, but before the vote on the Second Reading, the Convention shall resolve itself into the Committee of the Whole pursuant to Rule 30. The Committee of the Whole shall report to the Plenary Session its recommendation for action. The Convention in Plenary Session shall vote on the Second Reading of the Committee Proposal after receiving the Committee of the Whole's recommendation for action. Each Committee Proposal that passes Second Reading shall be considered a Proposed Constitutional Amendment and shall be referred to the Committee on Style and Arrangement.
6. The Committee on Style and Arrangement shall provide the Secretary of the Convention with its Committee Report, attaching the Proposed Constitutional Amendment with any stylistic amendments recommended. The Convention Secretary shall place the Committee Report on the next day's order of business.
7. The Report of the Committee on Style and Arrangement shall be discussed and acted upon in order. If such Committee Report does not recommend any stylistic amendments to the Proposed Constitutional Amendment, then adoption of the Report shall be deemed passage of the Proposed Constitutional Amendment on Final Reading.
8. After adoption of the Report of the Committee on Style and Arrangement, the Proposed Constitutional Amendment shall be discussed and acted upon for Final Reading. Discussion shall be limited to those matters that were amended upon the recommendation of the Committee on Style and Arrangement.

Rule 52. Voting. Except as provided elsewhere, either in legislation creating the Constitutional Convention or in these Rules, the adoption of any motion or matter (other than Readings to adopt proposals) by the Convention shall require the affirmative votes of a majority of the Delegates present, and such vote shall be taken by voice vote. Nothing in this rule shall abridge the right of a Delegate to record his vote on any question previous to the announcement of the result.

The adoption of Committee proposals to amend the Constitution shall be by

voice vote or secret ballot on First Reading, Second Reading and, where required, Final Reading. A proposal shall pass First Reading upon the affirmative votes of a simple majority of all Delegates.

A proposal shall pass Second Reading upon the affirmative votes of not less than three-fourths (3/4) of the state Delegations, with each Delegation casting one vote. The chairman of each Delegation, or his proxy, shall cast the vote for his Delegation.

Where passage on Final Reading is required pursuant to Rule 51(8), a proposal shall pass on Final Reading upon the affirmative votes of not less than three-fourths (3/4) of the state Delegations, with each Delegation casting one vote. The chairman of each Delegation, or his proxy, shall cast the vote for his Delegation.

Before the vote on any Reading of Committee Proposals, the President shall announce the affirmative votes necessary for passage.

Rule 53. Amendment to Committee Proposal. An amendment to a Proposal, whether at Plenary Session or in Committee of the Whole, shall be presented in writing to the Secretary before the convening of the session at which the Proposal will be considered. The Secretary shall duplicate the amendment for distribution to Delegates in advance of its being moved. Any amendment to the amendment may be made orally, but may be required to be reduced to writing and duplicated before being voted on.

CHAPTER VIII. MISCELLANEOUS

Rule 54. Limitation on Debate and Control of Dilatory Procedure. The Convention by motion may limit the time of debate on any subject matter before the Convention, designate a method of allocating the period allowed for debate among Delegates, or take appropriate action to control dilatory procedure.

Rule 55. Reading and Endorsement of Papers. When the reading of a paper is called for and an objection is raised to such reading, the Convention by a majority vote of the Delegates present shall determine whether or not the paper shall be read.

Rule 56. Language of Proceedings. All proceedings in Plenary Sessions and the Committee of the Whole shall be conducted in English.

Rule 57. Presentation and Endorsement of Communications. Petitions, memorials and other communications received by any officer of the Convention or by any Delegate shall be endorsed by the recipient, and by him or her handed directly to the Convention Secretary who shall cause them to be placed on the Order of Business of the following day. The President shall assign each such matter to an appropriate committee, subject to an appeal to the Convention. The chairman of the Committee, on behalf of the Convention, shall give appropriate notice of the receipt of the communication.

Rule 58. Calls of Convention. Upon calls of the Convention, and in taking a roll call vote upon any question the names of the members shall be called alphabetically by last names.

Rule 59. Putting the Question. Except as specified elsewhere in these Rules, the President shall put all questions to a voice vote. If the President doubts the result of the vote he may order a division of the proposal.

A roll call vote of the Convention on any question may be had on demand of any Delegate present. On a tie vote the question shall be deemed as lost.

Rules 60. Recognition During Roll Call. After a question has been stated by the President, and the call of the roll had been started by the Convention Secretary, the President shall not recognize a Delegate for any purpose, except upon points of order, until after the announcement of the vote by Convention Secretary. The Convention Secretary shall enter upon the journal the names of those voting “aye” and the names of those voting “no” and the names of those abstaining, if any. Any Delegate is privileged to reserve the right to explain in writing, his or her vote on the roll call, but the Delegate must reserve that right at the time of voting and not otherwise. The written explanation shall be included in the Journal if presented to the Convention Secretary before the next session of the Convention, or in the case of the final day of the Convention, within twenty-four (24) hours of the vote.

Rule 61. Abstentions. An abstention shall be deemed a vote in the affirmative except on Second Reading of Committee Proposals.

Rule 62. Amendment or Suspension of Rules. No rule of the Convention shall be amended unless such amendment is in writing and in the possession of the Convention one day prior to its consideration. A rule may be suspended by a vote of two-thirds of the Delegates present. There may be no suspension of the Rules as to the minimum number of votes or quorum requirements.

Rule 63. Appeals From Decision of the Presiding Officer. All appeals from the decisions of the Presiding Officer shall be decided by an affirmative vote of not less than two-thirds of the Delegates present.

Rule 64. Deferring Appeals. An appeal may be deferred but shall not carry with it the subject matter before the Convention at the time such appeal is taken.

Rule 65. Procedural Issues Not Covered by These Rules. The Rules contained in *Mason’s Manual of Legislative Procedure* shall govern the Convention in all cases to which they are applicable and in which they are not inconsistent with the legislation establishing the Constitutional Convention or these Rules of Procedure.

Rule 66. Definition of Calendar Days. This Constitutional Convention shall continue in session for no longer than thirty calendar days; provided, however, that the Convention may recess, and may extend the session, if necessary, up to a total of forty-five calendar days. For the purposes of this Convention calendar days means Convention days. Convention days begin on the day that the Convention is convened and continue until the Convention recesses and begin again when the Convention reconvenes. Recess days are not Convention days.

ADOPTED ON JUNE 02, 2022 BY UNANIMOUS VOTE OF 24 DELEGATES (17 IN PERSON AND 7 VIRTUAL)- DAY 28

**RULES OF PROCEDURES
FOURTH FSM CONSTITUTIONAL
CONVENTION**

TABLE OF CONTENTS

CHAPTER I. GENERAL PROVISIONS

- Rule 1 Convening Day
- Rule 2 Quorum
- Rule 3 Admission to Floor – Defined
- Rule 4 Bar of the Convention – Defined
- Rule 5 Invocation

CHAPTER II. OFFICERS AND EMPLOYEES

- Rule 6 Officers of the Convention
- Rule 7 The President - Duties and Powers
- Rule 8 Vice-President – Duties and Powers
- Rule 9 Chairman of the Committee for the Whole – Duties and Powers
- Rule 10 Floor Leader – Duties and Powers
- Rule 11 Chief Legal Counsel
- Rule 12 Convention Secretary
- Rule 13 Assistant Convention Secretary
- Rule 14 Sergeant-at-Arms
- Rule 15 Other Employees

CHAPTER III. MEMBERS

- Rule 16 Conduct in Debate
- Rule 17 Members Called to Order
- Rule 18 Conduct on the Floor

CHAPTER IV. COMMITTEES

- Rule 19 Types of Committees
- Rule 20 Standing Committees
- Rule 21 Members Entitled to Serve on Committees
- Rule 22 Standing Committee Chairmen
- Rule 23 Committee Vice-Chairman and Conduct of Committees
- Rule 24 Powers of Committees
- Rule 25 Sitting on Committees during Session
- Rule 26 Power to Incur Expenses
- Rule 27 Report of Committees

Rule 28 Consideration of Proposals With or Without Committee Recommendations
Rule 28a Committee Quorum

CHAPTER V. COMMITTEE OF THE WHOLE

Rule 29 Passage on First Reading
Rule 30 Consideration of Proposals
Rule 31 Unfinished Consideration of Committee Proposals
Rule 32 Reading; Debate; Amendment
Rule 33 Motion that Committee Rise
Rule 34 Reconsideration
Rule 35 Application of Convention Rules
Rule 36 Summary Journal

CHAPTER VI. TRANSACTION OF BUSINESS

Rule 37 Order of Business
Rule 38 Petitions – Printing in Journal
Rule 39 Stating Motions
Rule 40 When a Motion is in Possession; Withdrawal
Rule 41 Precedence of Motions
Rule 42 Motions in Order, Debatable
Rule 43 Order of Putting Questions
Rule 44 Amendments to be Germane
Rule 45 Division of Question
Rule 46 Motions for the Previous Question – Method of Ordering
Rule 47 Motion for Reconsideration
Rule 48 Motion for Calls of the Convention – Ordering Calls of the Convention
Rule 49 Procedure

CHAPTER VII. PROPOSALS

Rule 50 Introduction
Rule 51 Order of Consideration of Committee Proposals
Rule 52 Voting
Rule 53 Amendment to Committee

Proposal CHAPTER VIII. MISCELLANEOUS:

Rule 54 Limitation on Debate and Control of Dilatory Procedure
Rule 55 Reading and Endorsement of Papers
Rule 56 Language of Proceedings
Rule 57 Presentation and Endorsement of Communications
Rule 58 Call of Convention

Rule 59 Putting the Question
Rule 60 Recognition During Roll Call Rule 61 Abstentions
Rule 62 Amendment or Suspension of Rules
Rule 63 Appeals from Decisions of the Presiding Officer
Rule 64 Deferring Appeals
Rule 65 Procedural Issues Not Covered by this Rule
Rule 66 Definition of Calendar Day

**RULES OF
PROCEDURE
FOURTH FSM CONSTITUTIONAL CONVENTION**

CHAPTER 1. GENERAL PROVISIONS

Rule 1. Convening Day. On the convening day, the President of the Federated States of Micronesia, or his designee, shall take the Chair and call all persons present to order. The convention shall then proceed to organize in the following manner:

- a) Adoption of temporary Rules of Procedures;
- b) The Pre-Convention Committee shall report to the Convention on the qualifications of the Delegates;
- c) Oath of office to Delegates administered by the Chief Justice of the FSM Supreme Court;
- d) Adoption of the Rules of Procedure of the Convention by a majority vote of not less than thirteen Delegates;
- e) Election of the Convention President (hereinafter “President”) and other officers provided for in the Rules; and
- f) The President of the Federated States of Micronesia, or his designee, takes his seat.

Rule 2. Quorum. Fourteen (14) Delegates to the Convention shall constitute a quorum for the transaction of business, provided that more than half of the Delegates from each State are present. A smaller number may adjourn from day to day and may compel the attendance by any means adopted by a majority of the Delegates present, and fix penalties for non-attendance. The Convention President may declare a meeting of the Convention adjourned if no quorum is present at the hour of opening. For purposes of ascertaining whether a quorum exists, the Secretary shall count the Delegates present.

During a meeting of the Convention any Delegate may call upon the President to determine whether a quorum exists or not, and the President shall so determine and announce his findings. No Delegate shall be absent from a meeting of the Convention without leave of the President, subject to appeal to the Convention. The name of the Delegate not present to answer a quorum count and call for a vote, without their camera on for members participating remotely, and not excused shall be noted on the Journal of the Convention as “absent without Leave” and any such Delegate who is absent without

leave shall receive no expenses for the day.

A Delegate not present in Pohnpei or who is in quarantine may attend the Convention remotely via Zoom or other online videoconferencing software program determined appropriate by the Secretary. A Delegate participating remotely shall participate via videoconference and have their camera on throughout the session in order to be considered present for any quorum count, voting, and attendance purposes.

Rule 3. Admission to Floor-Defined. No person, other than a Delegate and officer or employee of the Convention shall be admitted on the floor of the Convention unless invited or approved by the President. All persons granted admission to the floor during this period shall be known to the Sergeant-at-Arms to be entitled to admission to the floor, and persons who must be introduced shall be admitted on the floor only upon the personal request of a Delegate each time such courtesy is granted. The words “floor of the Convention” means the space of the main floor of the Convention, excluding the space designated for visitors and for the press.

No person, other than a Delegate and the staff monitoring the connection between the Delegate and the Convention, shall be admitted into the videoconference meeting room during the Convention unless invited or approved by the President. Any person admitted into the videoconference room must be introduced.

Rule 4. Bar of the Convention – Defined. Any Delegate, having answered roll call at the opening of any session, or having entered upon the floor of the Convention or has entered the videoconference meeting room after roll call, shall thereafter be deemed as present until leave of absence is obtained from the Convention. Any Delegate present at any session shall continue to be present if he shall be within the bar of the Convention. The phrase “within the bar of the Convention” means the space occupied and used by the Convention, including the videoconference meeting room, or any committee or other room thereof, and used in connection with conducting the business of the Convention. Provided, in no instance shall a Delegate be deemed present at a roll call vote unless he is at or near his seat on the floor of the convention or is present in the videoconference meeting room with their camera on.

Rule 5. Invocation. Unless otherwise directed by the President, and arranged by the Convention Secretary, each session of the Convention shall be opened by a moment of silent prayer.

CHAPTER II. OFFICERS AND EMPLOYEES

Rule 6. Officers of the Convention. The President shall be elected by a majority vote of the Delegates by secret ballot. If no nominee receives a majority, and there are

three or more candidates, the name of the one receiving the lowest number of votes cast shall be removed from the consideration before further balloting. In any event thereafter, the polling shall be continued in this manner until a nominee is elected by a majority of the Delegates. The Vice- President, Chairman of the Committee of the Whole, and the Floor Leader shall be elected in the same manner as the President, provided that each of the four elected officials shall be Delegates of differing states.

Rule 7. The President – Duties and Powers.

a) General Duties and Powers. The President shall take the Chair each day at 10:00 a.m., or at the hour to which the Convention shall have designated before adjourned or recessed. He or she shall call the Convention to order and, except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules. He or she shall preserve order and decorum; confine members to the question and prevent personal reflections in debate; speak to points of order and shall decide question of order, subject to an appeal to the Convention. When two or more Delegates seek recognition at the same time, the President shall name the Delegate who is first to speak. The President shall appoint all committee members, after consultation with each state Delegation. All appointments made by the President shall be announced to the Convention. He or she shall refer proposals and other Convention documents to the appropriate committee for consideration and action and certify with the Secretary of the Convention. The President, or his or her designee in the name of the President, shall certify all vouchers for the payment of the expenses of the Convention. The President shall authorize the admission of non-Delegates into the Convention Hall, subject to appeal to the Convention; declare the vote and announce the results on all questions and decisions; oversee the administration of the business of the Convention; and perform such duties as may be required by law, these Rules, and as may properly appertain to the Office of the President.

b) Administrative Authority. The administrative authority of the Convention, including the authority to make assignments of duties to staff, resides in the President except to the extent otherwise provided for by these Rules.

c) Power to Appoint Officer Replacements. In the absence of the Chairman of the Committee of the Whole or the Floor Leader, the President shall appoint his or her replacement.

d) Voting by the President. The President may vote in all elections, decisions, divisions called for by any Delegate, and on all questions, except on appeals from his or her decision.

Rule 8. Vice President: Duties and Powers. The Vice-President shall exercise the powers and perform the duties of the President, and shall preside over the Convention, in the absence of the President or as President may designate.

Rule 9. Chairman of the Committee of the Whole – Duties and Powers. The Chairman of the Committee of the Whole shall serve as the Presiding Officer to the Committee of the Whole, and perform such other duties as the President may designate.

Rule 10. Floor Leader – Duties and Powers. It shall be the duty of the Floor Leader to propose routine motions which contribute to the orderly and speedy conduct of business, to act as floor manager in aid of the adoption of a proposal or a resolution when another Delegate does not assume this task, and perform such other duties as the President may designate.

Rule 11. Chief Legal Counsel. The Chief Legal Counsel shall act as counsel and legal advisor to the Convention and shall supervise all legal staff of the Convention. The Chief Legal Counsel shall review all legal documents of the Convention and perform other duties as the Convention or the President may designate.

Rule 12. Convention Secretary.

a) **General Duties.** The Convention Secretary shall attend the Convention each day when the Convention is in session unless excused by the President. He or she shall have charge of all the records of the Convention and be responsible for the same, and shall not permit original documents to be withdrawn from his or her safekeeping unless ordered by the President. He or she shall authenticate the signature of the President on all official acts, and shall perform such other duties as are required by law, these Rules, and the Convention. The Convention Secretary may delegate the authority to perform any or all of his or her duties, except for certification of official acts and documents.

b) **Roll Call.** The Convention Secretary shall call the roll at the opening of each session of the Convention and announce whether or not a quorum is present. He or she shall announce the names of the Delegates absent with leave of the Convention, and the names of Delegates absent without leave, and enter the names of all absentees upon the Journal.

c) **Publication, Distribution, and Correction of Journal.** The Convention Secretary shall keep a Verbatim Journal of the Plenary Session and Committee of the Whole proceedings of the Convention in conformity with the Rules; supervise the daily publication thereof and make such corrections as may be necessary. On each session day, he or she shall furnish each Delegate a duplicated copy of the proceedings of the previous day. The Journal shall be considered the approved Journal of the Convention, unless otherwise ordered.

d) **Daily List of Business.** The convention Secretary shall daily furnish each Delegate with a list of business on his or her desk and a calendar of the Delegate proposals introduced showing their reference.

e) Printing and Care of Proposals. The convention Secretary shall attend to the printing of all proposals, resolutions and documents ordered printed by the Convention. The Convention Secretary shall give a number to each Delegate proposal and each resolution when introduced, in the order received. When proposals are reported from committees, they shall be called "Committee Proposals", shall be printed, and shall be given a Committee Proposal number in the order received. The Convention Secretary shall cause to be printed at the head of the Committee Proposal the name of the committee which reported the same and the character and number of any report of the committee respecting the proposal. The Convention Secretary shall be responsible to the Convention for the care and preservation of each Delegate Proposal introduced into the Convention and each Committee Proposal. Committee Proposals shall be kept on file in order by their proposal number, unless otherwise ordered by the Convention, and such file shall be called the Committee Proposal File.

f) Safeguarding and Preservation of Convention Records. The Convention Secretary shall be responsible for the care and preservation of all records, documents, and papers of the Convention. After the adjournment of the Convention, he or she shall deliver such materials to the National Archive within the Congress Library for safekeeping. The materials will be treated in the same manner as records of the Congress.

g) Responsibility for Convention Hall. The Convention Secretary shall exercise supervisory care and control of the Hall of the Convention and all Convention rooms and equipment. The Convention Secretary, subject to review by the elected officers, shall oversee the purchase or rent of all necessary equipment, supplies, and postage; arrange for postal, telephone, and telegraph service, and supervise the performance of the administrative staff of the Convention.

Rule 13. Assistant Convention Secretary. The Assistant Convention Secretary shall be deputized to assist the Convention Secretary. Assistant Convention Secretary may perform the duties of the Convention Secretary if the Convention Secretary, due to sickness or other cause, is unable to perform the duties of his or her office. The President shall authorize the Assistant Convention Secretary to certify official acts and documents until the Convention Secretary is able to resume his or her duties.

Rule 14. Sergeant-at-Arms. The Sergeant-at-Arms shall be the chief police officer of the Convention. He or she shall have charge of such assistants as the Convention authorizes. He or she shall attend to the adequacy of the seating arrangements, lighting, and ventilation of the Convention Hall, committee rooms and connecting passageways. He or she shall have authority to serve subpoenas and warrants issued by the Convention or any duly authorized officer or committee of the Convention, or cause the same to be done by his or her assistants, or by police officers as may be provided by law. He or she shall see that all visitors are seated and that they are at no time standing on the floor of

the Convention while in session. He or she shall attend the Convention every meeting day, unless excused by the President; maintain order among those present as spectators; give notice to the presiding officer of the attendance of any person with communications or otherwise; attend any committee meeting if so requested; and generally execute all other requirements of his or her office. Where the Sergeant –at-Arms cannot perform his or her duties, due to illness or other cause, the President shall designate a replacement.

Rule 15. Other Employees. The Pre-Convention Committee shall designate employee positions and job description, provide salary scales, appoint employees to be under the supervision of the Convention Secretary, and report their actions to the Convention on Convening day.

(a) Chief Clerk. The Chief Clerk shall perform all duties and responsibilities as assigned by the President of the Convention and/or the Convention Secretary. Where the Chief Clerk cannot perform his or her duties, due to illness or other cause, the President shall designate a replacement.

CHAPTER III. MEMBERS

Rule 16. Conduct in Debate. When any Delegate is about to speak in debate or present any matter to the Convention, he or she shall seek recognition in an appropriate manner, and respectfully address himself or herself to “Mr. President”. After being recognized, the Delegate shall confine himself or herself to the question under debate and avoid personalities.

Rule 17. Member Called to Order. If any Delegate in speaking transgresses the Rules of the Convention, the President shall, or any Delegate may call him to order; in which case the Delegate so called to order shall immediately stop speaking and shall not begin to speak again unless to explain or proceed in order.

Rule 18. Conduct on the Floor. While the President is putting any question, or while the roll is being called or taken by the Convention Secretary, no Delegate shall walk out of, or cross the Convention Hall nor when a Delegate is speaking, shall any Delegate entertain private conversation or pass between the speaker and the Chair, nor shall any Delegate present in the videoconference meeting room interrupt.

CHAPTER IV. COMMITTEES

Rule 19. Types of Committees. There shall be standing committees of the Convention whose functions, duties, and memberships shall be as provided by these Rules. Special committees may be established by the President or by the Convention, as required, to consider and report on such special or temporary assignments as shall be referred to them. The President may fill vacancies in committees from time to time as may

be required.

Rule 20. Standing Committees. There shall be five standing committees whose duties, functions and memberships shall be as specified herein. The first four of these committees may consider and investigate legislation relating to any subject within its jurisdiction.

a) Committee on Civil Liberties and Traditions. The Committee on Civil Liberties and Traditions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to traditional and customary rights; citizenship and naturalization; civil and criminal law protections; civil rights and duties, due process of law, equal protection of law, privileges and immunities; suffrage and elections; and other related matters.

b) Committee on Public Finance and Revenue. The Committee on Finance and Revenue shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President and by the Convention relating to taxation and finance, indebtedness, levy of duties or tariffs on imports and exports, control of interstate commerce, control of banks, national treasury, budget, audits, fiscal control, revenue laws and other related matters.

c) Committee on Government Structure and Functions. The Committee on Government Structure and Functions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to the structure, functions and powers of the national government, including the size, nature and composition of the legislative, executive and judicial branches; separation of powers; the division and sharing of powers between national, state and local government; relations of the FSM with other nations and international bodies; relations between that national and state governments; and related matters.

d) Committee on General Provisions. The Committee on General Provisions shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to social and economic development; natural resources, environment, including land; procedures for revision and amendment of the Constitution; matters not within the jurisdiction of other committees; and other related matters.

e) Committee on Style and Arrangement. The Committee on Style and Arrangement shall be comprised of not more than thirteen (13) Delegates. It shall be the duty of this committee to examine, consider and edit all proposals referred to it for inclusion in the Constitution for the purpose of avoiding inaccuracies, repetition, inconsistencies or poor drafting. The committee shall consider and make recommendations on any differences, conflicts or unresolved matters of substance. The committee shall have the authority to rephrase language and to regroup sections proposed for inclusion in the Constitution. But shall have no authority to change the sense or purpose of any proposal referred to it. The committee shall also have the power to recommend that any Committee proposals submitted be re-referred to the originating committee. The committee shall undertake to resolve any inconsistency or conflict in conference with the originating committee. If the committee shall fail to resolve any such inconsistency or conflict, it shall notify the Convention and await instructions.

Rule 21. Members Entitled to Serve on Committee. No Delegate may serve as a member of more than three (3) standing committees. Each State Delegation Chairman, or his or her designee, shall consult with the President on the appointment of members of his or her delegation to Standing Committees. Nothing in these rules shall preclude a Presiding Officer to serve as a member of a Standing Committee, provided however that a Presiding Officer shall serve only as a member, but not an officer of a Standing Committee.

Rule 22. Standing Committee Chairmen.

The Chairmen of the Standing Committees shall be appointed by the elected officers and shall be announced to the Convention.

Rule 23. Committee Vice-Chairman and Conduct of Committees. A committee at its first duly called meeting shall, by a majority of its members, elect a vice-chairman of its choice. When a committee shall elect a vice-chairman, it shall make a report of such election to the Convention. In the event of a vacancy in the office of vice-chairman of a committee, at its first duly called meeting after the vacancy, the vacancy shall be announced and a new vice-chairman shall be elected by a majority of the members of the committee. Each committee shall meet at the call of its chairman or upon the written request of a majority of its members. A record roll call vote on any matter before committee shall be taken on demand by any Delegate member of the committee. Each committee shall maintain a summary journal of its proceedings and a business schedule, both of which shall be available to the Delegates, news media and interested members of the public. The Committee Chair is responsible for placing proposals on the agenda for each meeting; any member of the Committee may move to add a proposal to the agenda, which proposal shall be added to the meeting's agenda if a majority of the members present concur. In case of a vacancy or the prolonged absence of the chairman and vice-chairman, the President of the Convention may appoint an acting- chairman to serve in such capacity. The chairman of the committee may place under oath, or affirmation, any person who appears before the committee to testify on any matter pending before the committee.

Rule 24. Powers of Committees. Committees shall have the right to hold public hearings and to take testimony under oath or affirmation. Before a committee shall hold any hearing or meeting at a location other than where the convention is meeting, the consent of the President shall first be obtained. A committee shall have the power to subpoena documents and witnesses. A committee may grant the powers here authorized to any subcommittee.

a) **Subpoena.** The President or the Chairman of any duly established committee thereof, shall have the power and authority to issue subpoenas requiring the attendance of witnesses or the production of books, documents or other evidence, in any matter related to the purpose of the Constitutional Convention. Any subpoena or other process issued under the authority of the Convention shall be issued in the name of the Federated States of Micronesia and shall be addressed to any police officer of the Federated States of Micronesia or of any state. Such subpoena or other process shall be signed by the President of the Convention, shall contain a reference to this Rule and Section 7 of Public Law No.21-19, and shall set forth in general terms the matter or questions with reference to which such testimony or other evidence is to be taken. Any officer to whom the process described in this subsection is directed, if within their jurisdiction, shall forthwith serve or execute the same, without charge or compensation; PROVIDED, HOWEVER, that any officer serving or executing such subpoena or process shall be compensated for their actual expenses, if any, in connection therewith.

Rule 25. Sitting on Committees During Session of the Convention. No committee shall sit during the sessions of the Convention.

Rule 26. Power to Incur Expenses. No committee or Delegate shall incur any expenses chargeable to the Convention unless authorized in accordance with the provisions of these Rules or by the Convention. Budgets for consultation/representation for each State Delegation (mid and post) shall only be expended with the concurrence of the Chairman of the State Delegation.

Rule 27. Report of the Committees. The signature of a majority of the members appointed in a committee shall be necessary to report a Proposal out of committee. The report of a minority of any committee shall be received, printed in the same manner as the majority report and shall be treated as an appendix to the report of the committee. All Proposals favorably reported by a committee to the Convention shall go to the First Reading File.

Rule 28. Consideration of Proposals With or Without Committee Recommendation. A majority of all the Delegates may, by motion, require a committee to report any Delegate proposal out with or without a written report. When so required, the Delegate Proposal shall be numbered and treated as a Committee Proposal.

Rule 28.a. Committee Quorum. A simple majority of the members of the Committee shall constitute a quorum for the transaction of Committee business.

A Delegate not present in Pohnpei or who is in quarantine may attend a committee meeting via videoconferencing. A Delegate attending via videoconference will be deemed present for the purposes of a quorum when the Delegate has logged into the meeting and his camera is on throughout the meeting, including roll call, quorum count, and voting.

CHAPTER V. COMMITTEE OF THE WHOLE

Rule 29. Passage on First Reading. After passing First Reading, all Committee Proposals may only be placed on the Calendar for Second Reading on a day subsequent to the day of passage on First Reading.

Rule 30. Consideration of Proposals. After the Second Reading of Proposals, but prior to a vote on the Second Reading, the Convention shall resolve itself into the Committee of the Whole. No other business shall be in order until all Proposals on the Calendar for Second Reading are considered or passed, or the Committee rises. Unless a particular proposal is ordered to be given priority, the Committee of the Whole shall consider and act upon each Proposal on the Calendar for Second Reading according to its order of reference.

Rule 31. Unfinished Consideration of Committee Proposals. All Proposals on the Calendar for Second Reading not disposed of shall be automatically continued to the next day and shall take their places at the head of the Calendar for Second Reading of Proposals for that day in the order of their precedence on the prior day.

Rule 32. Reading, Debating, Amendment. In the Committee of the Whole, proposals shall first be read in entirety by the Convention Secretary and then debated and acted upon by the Committee. All amendments shall be entered on separate paper and reported to the Convention by the chairman when the entire Proposal is reported.

Rule 33. Motion that Committee Rise. A motion that the Committee of the Whole rise shall always be in order and shall be decided without debate by a majority vote of those present. If consideration of a Proposal has not been completed, when the Committee of the Whole next sits it shall further consider that unfinished proposal.

Rule 34. Reconsideration. A motion to reconsider shall be in order in the Committee of the Whole by a majority vote of those present.

Rule 35. Application of Convention Rules. The Rules of the Convention shall be observed in the Committee of the Whole, so far as they be applicable; provided, however:

- (a) no motion to adjourn the Convention shall be in order,
- (b) no motion for the previous question shall be in order,
- (c) no roll call vote shall be called,
- (d) no referrals shall be made to any other committee, and
- (e) no motion to postpone indefinitely shall be in order.

Rule 36. Summary Journal. In addition to the Verbatim Journal required, a summary journal of proceedings of the Committee of the Whole shall be kept by the Secretary and shall include, among other things, a concise and complete memorandum of motions, amendments and other related matters.

CHAPTER VI. TRANSACTION OF BUSINESS

Rule 37. Order of Business. The order of business of the Convention shall be as follows:

1. Call to Order
2. Silent Prayer
3. Roll Call
4. Adoption of Journal
5. Communications
6. Unfinished business
7. Reports of Committees
8. First Reading of Committee Proposals
9. Second Reading of Committee Proposals
10. Final Reading of Proposed Constitutional Amendments
11. Consideration of Resolutions
12. Introduction and Referral of Delegate Proposals and Resolutions

13. Special Orders
14. Miscellaneous Business
15. Announcements
16. Adjournment

If any matter is not considered in its appropriate order, it shall lose its precedence for the day but shall appear in the Order of Business of the following day in its regular order. Any matter may be made a special order of business for any particular day or time by a majority vote of Delegates present.

Rule 38. Petitions-Printing in Journal. No petition, memorial, or other comparable communication shall be read or printed in full in the daily Journal unless ordered read or printed by the President, subject to appeal to the Convention.

Rule 39. Stating Motions. When a motion is made and seconded, it shall be stated by the President; or, if in writing, it shall be handed to and read aloud by the Convention Secretary before being debated.

Rule 40. When a Motion is in Possession: Withdrawal. After a motion has been stated by the President or read by the Convention Secretary, it shall be deemed to be in possession of the Convention, but may be withdrawn by the maker of the motion at any time before being amended or put to a vote.

Rule 41. Precedence of Motions. When a question is under debate, no motion shall be received but:

1. to adjourn - not amendable or debatable,
2. to take recess - not amendable or debatable,
3. to defer - amendable and debatable,
4. for the previous question - not amendable or debatable,
5. to commit or re-commit - amendable and debatable, or
6. to amend - amendable and debatable.

Such motions shall take precedence in the order in which they stand arranged, and shall be decided by a majority vote of those Delegates present. When a recess is taken during the pendency of any question, the consideration of such question shall be resumed upon reassembling unless otherwise determined. No motion to defer to commit, or to re-commit after once being decided, shall be again allowed on the same day and at the same stage of the question.

Rule 42. Motions in Order - Debatable. Except when a vote is being taken, a motion to adjourn shall always be in order. A motion to adjourn, a motion to take recess, a motion for the previous question, and all matters relating to questions of order shall be decided without debate.

Rule 43. Order of Putting Questions. All questions shall be put in the order they were moved, except in the case of privileged questions which have precedence.

Rule 44. Amendments to be Germane. No motion or proposition on a subject different from that under consideration shall be admitted under the guise of an amendment or substitute.

Rule 45. Division of Question. Any Delegate may call for a division of the question, which shall be divided if it contains propositions in substance so distinct that one being taken away, a substantive proposition shall remain for the decision of the Convention. A motion to strike out and insert shall be deemed indivisible.

Rule 46. Motions for the Previous Question-Method of Ordering. The method of ordering the previous question shall be as follows: any Delegate may move the previous question, which motion shall apply to the immediately pending question only. After the seconding of the motion for the previous question, nothing shall be in order prior to ordering the same, except that a Call of the Convention may be moved and ordered. After ordering the previous question, nothing shall be in order prior to the decision of the pending question except demands for a roll call vote, point of order, appeals from the decisions of the Chair, and a motion to adjourn, to take a recess or to defer, all of which shall be decided without debate. The effect of the order of the previous question shall be to put an end to all debate and bring the Convention to a direct vote upon the immediately pending question or questions in their order down to and including the main question. Amendments to the immediately pending question on the Convention Secretary's desk not yet moved shall be deemed disposed of. When a motion to reconsider is taken under the previous question and is decided in the affirmative, the previous question shall have no operation upon the question to be reconsidered. If the Convention shall refuse to order the previous question, the consideration of the subject shall be resumed as though no motion for the previous question has been made.

Rule 47. Motion for Reconsideration. Any Delegate may move for a reconsideration of any question at the same or next succeeding session. A motion to reconsider shall take precedence over all the other questions, except a motion to adjourn and a motion to recess. No motion to reconsider shall be renewed on the same day. A motion to reconsider shall require a majority of all Delegates.

Rule 48. Motion for Calls of the Convention - Ordering Calls of the Convention. Calls of the Convention may be ordered upon motion by a majority of the Delegates present. A motion for a Call of the Convention shall not be entertained after the previous question is ordered.

Rule 49. Procedure. After a Call of the Convention is ordered the Delegates shall not be permitted to leave the floor of the Convention without permission of the Convention. The Sergeant-at-Arms shall notify the Delegates within the bar of the Convention of the Call. The Convention Secretary shall call the roll of the Convention

and the absentees noted. The Sergeant-at-Arms may, upon motion, be dispatched after the absentees. The Convention may proceed to business under a Call of the Convention pending the arrival of any absentee.

CHAPTER VII. PROPOSALS

Rule 50. Introduction. Matters intended to become a part of the Constitution may be presented by a Delegate, a group of Delegates, a Delegation, or the Preconvention Committee in the form of a proposal endorsed by the Delegate or Delegates introducing it, or in the case of a Delegation Proposal, by the Chairman of the Delegation indicating that the Proposal is introduced “by request of the Delegation”. One original of each new proposal shall be handed to the Convention Secretary at the time in the Order of Business set aside for introduction of proposals. A Delegate not present in Pohnpei or who is in quarantine may introduce a proposal by emailing the proposal to the Secretary at least 2 hours prior to the start of the Plenary Session in which the Delegate wants the proposal introduced. A proposal received by the Secretary later than 2 hours before the start of the Plenary Session will be introduced at the next Plenary Session. Such proposal shall conform to the requirements of the Rules.

All proposals shall be introduced in accordance with the form prescribed by the Convention Secretary and these Rules. Proposals shall be numbered, printed and distributed under the direction of the Convention Secretary not later than the session day following introduction.

The President shall assign each Proposal to a committee, consistent with the subject matter jurisdiction. Where a proposal embraces subject matter that falls within the proper jurisdiction of several committees, the President may assign the Proposal jointly to more than one committee.

Rule 51. Order of Consideration of Committee Proposals. The process by which a Committee Proposal is considered shall be as follows:

1. A committee shall provide the Secretary of the Convention with its Committee Report, attaching the Committee Proposal with any recommended amendments. The convention Secretary shall place the Committee Report on the next day’s order of business.

2. Committee Reports shall be discussed and acted upon in order.

3. After adoption of a Committee Report, the Committee Proposal reported upon shall be discussed and acted upon for First Reading.

4. After passing First Reading, the Committee Proposal shall be placed on the calendar for the Second Reading.

5. Not sooner than the day following the passage on First Reading, the Second Reading of the Committee Proposal shall occur in Plenary Session. After the Second Reading, but before the vote on the Second Reading, the Convention shall resolve itself into the Committee of the Whole pursuant to Rule 30. The Committee of the Whole shall report to the Plenary Session its recommendation for action. The Convention in Plenary Session shall vote on the Second Reading of the Committee Proposal after receiving the Committee of the Whole's recommendation for action. Each Committee Proposal that passes Second Reading shall be considered a Proposed Constitutional Amendment and shall be referred to the Committee on Style and Arrangement.

6. The Committee on Style and Arrangement shall provide the Secretary of the Convention with its Committee Report, attaching the Proposed Constitutional Amendment with any stylistic amendments recommended. The Convention Secretary shall place the Committee Report on the next day's order of business.

7. The Report of the Committee on Style and Arrangement shall be discussed and acted upon in order. If such Committee Report does not recommend any stylistic amendments to the Proposed Constitutional Amendment, then adoption of the Report shall be deemed passage of the Proposed Constitutional Amendment on Final Reading.

8. After adoption of the Report of the Committee on Style and Arrangement, the Proposed Constitutional Amendment shall be discussed and acted upon for Final Reading. Discussion shall be limited to those matters that were amended upon the recommendation of the Committee on Style and Arrangement.

Rule 52. Voting. Except as provided elsewhere, either in legislation creating the Constitutional Convention or in these Rules, the adoption of any motion or matter (other than Readings to adopt proposals) by the Convention shall require the affirmative votes of a majority of the Delegates present, and such vote shall be taken by voice vote. Nothing in this rule shall abridge the right of a Delegate to record his vote on any question previous to the announcement of the result.

The adoption of Committee proposals to amend the Constitution shall be by voice vote or secret ballot on First Reading, Second Reading and, where required, Final Reading. A proposal shall pass First Reading upon the affirmative votes of not less than two-thirds (2/3) of all Delegates.

A proposal shall pass Second Reading upon the affirmative votes of not less than three-fourths (3/4) of the state Delegations, with each Delegation casting one vote. The chairman of each Delegation, or his proxy, shall cast the vote for his Delegation.

Where passage on Final Reading is required pursuant to Rule 51(8), a proposal shall pass on Final Reading upon the affirmative votes of not less than three-fourths (3/4) of the state Delegations, with each Delegation casting one vote. The chairman of each

Delegation, or his proxy, shall cast the vote for his Delegation.

Before the vote on any Reading of Committee Proposals, the President shall announce the affirmative votes necessary for passage.

Rule 53. Amendment to Committee Proposal. An amendment to a Proposal, whether at Plenary Session or in Committee of the Whole, shall be presented in writing to the Secretary before the convening of the session at which the Proposal will be considered. The Secretary shall duplicate the amendment for distribution to Delegates in advance of its being moved. Any amendment to the amendment may be made orally, but may be required to be reduced to writing and duplicated before being voted on.

CHAPTER VIII. MISCELLANEOUS

Rule 54. Limitation on Debate and Control of Dilatory Procedure. The Convention by motion may limit the time of debate on any subject matter before the Convention, designate a method of allocating the period allowed for debate among Delegates, or take appropriate action to control dilatory procedure.

Rule 55. Reading and Endorsement of Papers. When the reading of a paper is called for and an objection is raised to such reading, the Convention by a majority vote of the Delegates present shall determine whether or not the paper shall be read.

Rule 56. Language of Proceedings. All proceedings in Plenary Sessions and the Committee of the Whole shall be conducted in English.

Rule 57. Presentation and Endorsement of Communications. Petitions, memorials and other communications received by any officer of the Convention or by any Delegate shall be endorsed by the recipient, and by him or her handed directly to the Convention Secretary who shall cause them to be placed on the Order of Business of the following day. The President shall assign each such matter to an appropriate committee, subject to an appeal to the Convention. The chairman of the Committee, on behalf of the Convention, shall give appropriate notice of the receipt of the communication.

Rule 58. Calls of Convention. Upon calls of the Convention, and in taking a roll call vote upon any question the names of the members shall be called alphabetically by last names.

Rule 59. Putting the Question. Except as specified elsewhere in these Rules, the President shall put all questions to a voice vote. If the President doubts the result of the vote he may order a division of the proposal.

A roll call vote of the Convention on any question may be had on demand of any Delegate present. On a tie vote the question shall be deemed as lost.

Rules 60. Recognition During Roll Call. After a question has been stated by the President, and the call of the roll had been started by the Convention Secretary, the President shall not recognize a Delegate for any purpose, except upon points of order, until after the announcement of the vote by Convention Secretary. The Convention Secretary shall enter upon the journal the names of those voting “aye” and the names of those voting “no” and the names of those abstaining, if any. Any Delegate is privileged to reserve the right to explain in writing, his or her vote on the roll call, but the Delegate must reserve that right at the time of voting and not otherwise. The written explanation shall be included in the Journal if presented to the Convention Secretary before the next session of the Convention, or in the case of the final day of the Convention, within twenty-four (24) hours of the vote.

Rule 61. Abstentions. An abstention shall be deemed a vote in the affirmative except on Second Reading of Committee Proposals.

Rule 62. Amendment or Suspension of Rules. No rule of the Convention shall be amended unless such amendment is in writing and in the possession of the Convention one day prior to its consideration. A rule may be suspended by a vote of two-thirds of the Delegates present. There may be no suspension of the Rules as to the minimum number of votes or quorum requirements.

Rule 63. Appeals From Decision of the Presiding Officer. All appeals from the decisions of the Presiding Officer shall be decided by an affirmative vote of not less than two-thirds of the Delegates present.

Rule 64. Deferring Appeals. An appeal may be deferred but shall not carry with it the subject matter before the Convention at the time such appeal is taken.

Rule 65. Procedural Issues Not Covered by These Rules. The Rules contained in *Mason’s Manual of Legislative Procedure* shall govern the Convention in all cases to which they are applicable and in which they are not inconsistent with the legislation establishing the Constitutional Convention or these Rules of Procedure.

Rule 66. Definition of Calendar Days. This Constitutional Convention shall continue in session for no longer than thirty calendar days; provided, however, that the Convention may recess, and may extend the session, if necessary, up to a total of forty-five calendar days. For the purposes of this Convention calendar days means Convention days. Convention days begin on the day that the Convention is convened and continue until the Convention recesses and begin again when the Convention reconvenes. Recess days are not Convention days.

ENABLING LAW:

P.L. 21-19-08/07/2019

(AMENDMENTS)

- 1) P.L. 21-39- 9/25/2019
- 2) P.L. 21-74 -2/7/2020
- 3) P.L. 21-109 -5/04/2020
- 4) P.L. 21-154-7/24/2020
- 5) P.L. 22-66- 12/15/2020

AN ACT

To provide for the selection of delegates and procedures for the Constitutional Convention approved in the referendum of March 2019, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Constitutional Convention. There is hereby
2 created a Constitutional Convention (the "Convention") in and
3 for the Federated States of Micronesia. The Convention shall be
4 known as "The Fourth Constitutional Convention of the Federated
5 States of Micronesia".

6 Section 2. Delegates. The Convention shall consist of
7 four delegations composed of one delegation from each of the
8 four states of the Federated States of Micronesia. Each
9 delegation shall consist of one at-large seat and two seats per
10 election district.

11 (1) Composition of Delegations. The delegates, all of
12 whom shall be citizens of the Federated States of Micronesia,
13 shall be selected as follows:

14 (a) There shall be eleven (11) delegates elected
15 from existing congressional districts from Chuuk State.

16 (b) There shall be seven (7) delegates elected from
17 existing congressional districts from Pohnpei State.

18 (c) There shall be three (3) delegates elected from
19 the congressional district from Yap State.

1 (d) There shall be three (3) delegates elected from
2 the congressional district from Kosrae State.

3 (2) Eligibility. Unless otherwise excluded by law, a
4 person shall be eligible for election as a delegate from the
5 representative state if the person:

6 (a) is a citizen who is twenty-five (25) years of
7 age or older; and

8 (b) has fulfilled the residency requirements set
9 forth in title 9 of the Code of the Federated States of
10 Micronesia (Annotated) for registration as a voter in the
11 representative state or in the case of district candidates, in
12 the representative district; and

13 (c) is not currently under a judgment of mental
14 incompetency or insanity, or under parole, probation, or a
15 sentence for any felony for which he has been convicted by any
16 court.

17 (3) All delegates shall be voting members.

18 Section 3. Elections.

19 (1) Except as otherwise provided in this act, election
20 of delegates shall be held in accordance with title 9 of the
21 Code of the Federated States of Micronesia (Annotated).

22 (2) The election of delegates shall be held during a
23 special election on the first Tuesday after the first Monday in
24 November, 2019.

25 (3) Each person voting for delegates shall be permitted

1 to vote for one at-large seat and one district delegate. The
2 candidate receiving the highest number of votes for a district
3 seat shall be the delegate to the Convention from the
4 representative district.

5 (4) The Convention shall be the sole judge of the
6 elections, returns, and qualifications of its members;
7 PROVIDED, HOWEVER, that in case of a tie vote in the election,
8 the winner shall be determined, if necessary, in a run-off
9 election between the candidates so tied. Run-off elections
10 shall occur no later than thirty days after the results of the
11 general delegate election have been announced.

12 Section 4. Vacancies. Vacancies in any state's
13 convention delegation shall be filled by the relevant candidate
14 receiving the next highest number of votes in the state's
15 delegate election. In the event of a tie between two or more
16 candidates for the next highest number of votes, the vacancy
17 shall be filled by appointment by the Governor from among the
18 tied candidates. Any vacancy of a delegate who was unopposed
19 in the delegate election shall be filled by appointment by the
20 Governor.

21 Section 5. Pre-Convention Committee.

22 (1) There shall be a Pre-Convention Committee which
23 shall consist of two members from each state's convention
24 delegation who are selected by a majority vote of that state's
25 convention delegation. Such selection shall be made no later

1 than November 19, 2019, in writing by the state's delegation to
2 the President of the Federated States of Micronesia.

3 (2) The Pre-Convention Committee shall be convened on
4 the first Tuesday after the first Monday in December, 2019, at
5 the call of the Speaker of the Congress of the Federated States
6 of Micronesia, and shall choose its own officers and organize
7 according to its own rules and procedures.

8 (3) The duties of the Pre-Convention Committee shall be
9 as follows:

10 (a) to make arrangements for accommodations,
11 equipment and facilities; PROVIDED, HOWEVER, that the
12 Pre-Convention Committee shall, whenever possible, arrange to
13 utilize National Government equipment and facilities;

14 (b) to make arrangements for staff;

15 (c) to prepare a budget for the Constitutional
16 Convention to be submitted to Congress in the regular or
17 special session of Congress next following;

18 (d) to confer with the various state delegations
19 to identify those issues that each delegation wishes to raise
20 at the Convention;

21 (e) to commission any research that it feels
22 should be performed on issues identified by the state
23 delegations prior to the convening of the Convention;

24 (f) to prepare proposed rules and procedures; and

25 (g) to perform other functions not otherwise

1 reserved to the Convention which will assure a successful and
2 orderly Convention.

3 (4) Members of the Pre-Convention Committee shall be
4 entitled to per diem and travel expenses at standard rates, as
5 provided by the Financial Management Regulations of the
6 National Government of the Federated States of Micronesia,
7 while on the business of the Committee.

8 (5) Staff assistance for the Pre-Convention Committee
9 shall be provided as needed through the National Government of
10 the Federated States of Micronesia.

11 (6) The Pre-Convention Committee shall complete its
12 work in no more than fifteen calendar days.

13 Section 6. Procedures.

14 (1) The Constitutional Convention shall be convened on
15 the first Tuesday after the first Monday in January, 2020, and
16 the Constitutional Convention shall continue in session for no
17 longer than thirty calendar days; PROVIDED, HOWEVER, that the
18 Convention may:

19 (a) call recesses; and

20 (b) extend the session, if necessary, for up to a
21 total of forty-five calendar days.

22 (2) The President of the Federated States of
23 Micronesia, or their designee, shall act as President of the
24 Convention until the Convention selects a President from among
25 its membership.

1 (3) The Convention shall select, from among its
2 membership, a President and such additional officers as it may
3 deem necessary and appropriate.

4 (4) The Convention shall adopt its own rules and
5 procedures not inconsistent with this act. All sessions of the
6 Convention shall be open to the public.

7 (5) A quorum of the Convention shall consist of all of
8 the four state delegations. For the purpose of determining a
9 quorum, a state delegation is not present unless more than
10 one-half of the delegates from that state are present.

11 Section 7. Powers of Convention.

12 (1) Subpoena Powers. The President of the
13 Constitutional Convention, or the Chairman of any duly
14 established committee thereof, shall have the power and
15 authority to issue subpoenas requiring the attendance of
16 witnesses or the production of books, documents or other
17 evidence, in any matter related to the purpose of the
18 Constitutional Convention. Any subpoena or other process
19 issued under the authority of the Convention shall be issued in
20 the name of the Federated States of Micronesia and shall be
21 addressed to any police officer of the Federated States of
22 Micronesia or of any state. Such subpoena or other process
23 shall be signed by the President of the Convention, shall
24 contain a reference to this section, and shall set forth in
25 general terms the matter or questions with reference to which

1 such testimony or other evidence is to be taken. Any officer
2 to whom the process described in this subsection is directed,
3 if within their jurisdiction, shall forthwith serve or execute
4 the same, without charge or compensation; PROVIDED, HOWEVER,
5 that any officer serving or executing such subpoena or process
6 shall be compensated for their actual expenses, if any, in
7 connection therewith.

8 (2) Oaths and Affirmations. The President of the
9 Convention or the Chairman of any duly established committee
10 thereof may administer oaths to witnesses in any matter under
11 the examination of the Convention. Every person who, summoned
12 as a witness by the Convention to give testimony or to produce
13 papers upon any matter under inquiry before the Convention,
14 refuses to make oath or affirmation, or to answer any question
15 or inquiry, shall be guilty of contempt of the Constitutional
16 Convention and, upon conviction thereof, shall be fined not
17 more than \$1,000 or imprisoned for not more than one year, or
18 both. Whenever a person violates any of the provisions of this
19 subsection, the President of the Convention shall certify a
20 statement of such facts to the Secretary of the Department of
21 Justice who shall prosecute the offender in the Supreme Court
22 of the Federated States of Micronesia.

23 (3) The officers and employees of the Federated States
24 of Micronesia shall cooperate with the Convention, furnishing
25 such information as may be called for in connection with

1 research activities of the Convention.

2 (4) No delegate to the Convention shall be held to
3 answer before any tribunal, other than the Convention, for any
4 speech or debate in the Convention, and the delegates shall in
5 all cases, except treason, felony, or breach of the peace, be
6 privileged from arrest while on the business of or in
7 attendance at the Convention, and in going to and from the
8 same.

9 Section 8. Duties of the Convention.

10 (1) The Convention shall propose amendments to the
11 Constitution to be placed on a ballot for a referendum to be
12 held in March 2021, or during a special election called for
13 that purpose on an earlier date; PROVIDED, HOWEVER, that in the
14 event that an amendment would effect the general election, the
15 amendment or amendments shall be voted on in a special
16 referendum called by the President of the Federated States of
17 Micronesia for December of 2020.

18 (2) Proposed amendments to the Constitution shall be in
19 the format set forth in the Constitutional Amendment Procedure
20 Act, title 1, section 703 of the Code of the Federated States
21 of Micronesia (Annotated), as amended, and any regulations
22 issued pursuant thereto.

23 (3) When said amendments have been proposed by the
24 Convention, the Convention shall notify the President of the
25 Federated States of Micronesia, who shall transmit a copy of

1 the amendments to the Congress of the Federated States of
2 Micronesia, and shall call a referendum as provided by title 1,
3 chapter 7 of the Code of the Federated States of Micronesia
4 (Anotated), as amended.

5 Section 9. Expenses of delegates and staff.

6 (1) All delegates and staff of the Convention shall be
7 entitled to per diem and travel expenses at standard rates, as
8 provided by the Financial Management Regulations of the
9 National Government of the Federated States of Micronesia,
10 while on the business of the Convention.

11 (2) Any delegate who is an official or employee of the
12 National Government of the Federated States of Micronesia shall
13 be placed on administrative leave with pay and shall be
14 entitled to receive their regular salary during their service
15 as delegate.

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1 Section 10. This act shall become law upon approval by
2 the President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

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August 7, 2019

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/s/ David W. Panuelo
David W. Panuelo
President
Federated States of Micronesia

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AN ACT

To amend section 3 of Public Law 21-19, to clarify the voting for delegates, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 3 of Public Law No. 21-19, is hereby
2 amended to read as follows:

3 "Section 3. Elections.

4 (1) Except as otherwise provided in this act,
5 election of delegates shall be held in accordance
6 with title 9 of the Code of the Federated States
7 of Micronesia (Annotated).

8 (2) The election of delegates shall be held
9 during a special election on the first Tuesday
10 after the first Monday in November, 2019.

11 (3) Each person voting for delegates shall be
12 permitted to vote for one at-large seat and two
13 district delegate seats in their election
14 district. The two candidates receiving the
15 highest number of votes for a district seat shall
16 be the delegates to the Convention from the
17 representative district.

18 (4) The Convention shall be the sole judge of the
19 elections, returns, and qualifications of its members;

1 PROVIDED, HOWEVER, that in case of a tie vote in the
2 election, the winner shall be determined, if necessary,
3 in a run-off election between the candidates so tied.
4 Run-off elections shall occur no later than thirty days
5 after the results of the general delegate election have
6 been announced."

7 Section 2. This act shall become law upon approval by the
8 President of the Federated States of Micronesia or upon its
9 becoming law without such approval.

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September 25, 2019

/s/ David W. Panuelo
David W. Panuelo
President
Federated States of Micronesia

AN ACT

To further amend Public Law 21-19, as amended by Public Law No. 21-39, by amending sections 6 and 9 thereof, in order to clarify the allowable recesses to be called by the Constitutional Convention, to provide allowances to eligible delegates to the Constitutional Convention for their attendance during session, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 6 of Public Law No. 21-19, as amended, is
2 hereby amended to read as follows:

3 "Section 6. Procedures.

4 (1) The Constitutional Convention shall be convened on
5 the first Tuesday after the first Monday in January,
6 2020, and the Constitutional Convention shall continue in
7 session for no longer than thirty calendar days;

8 PROVIDED, HOWEVER, that the Convention may:

9 (a) call recesses, including one extended recess of
10 between 3 and 30 consecutive calendar days, which shall
11 not be included in the calculation of the calendar days
12 the Constitutional Convention is in session and for which
13 no daily allowance under section 9 shall be paid; and

14 (b) extend the session, if necessary, for up to a
15 total of forty-five calendar days.

16 (2) The President of the Federated States of
17 Micronesia, or their designee, shall act as President of
18 the Convention until the Convention selects a President

1 from among its membership.

2 (3) The Convention shall select, from among its
3 membership, a President and such additional officers as
4 it may deem necessary and appropriate.

5 (4) The Convention shall adopt its own rules and
6 procedures not inconsistent with this act. All sessions
7 of the Convention shall be open to the public."

8 (5) A quorum of the Convention shall consist of all of
9 the four state delegations. For the purpose of
10 determining a quorum, a state delegation is not present
11 unless more than one-half of the delegates from that
12 state are present."

13 Section 2. Section 9 of Public Law No. 21-19, as amended, is
14 hereby amended to read as follows:

15 "Section 9. Expenses of delegates and staff.

16 (1) All delegates and staff of the Convention shall be
17 entitled to per diem and travel expenses at standard rates,
18 as provided by the Financial Management Regulations of the
19 National Government of the Federated States of Micronesia,
20 while on the business of the Convention.

21 (2) Any delegate who is an official or employee of the
22 National Government of the Federated States of Micronesia
23 shall be placed on administrative leave with pay and shall be
24 entitled to receive their regular salary during their service
25 as delegate.

1 (3) Delegates who are not getting paid by the national
2 government or a state government during the session for the
3 Constitutional Convention shall be entitled to a daily
4 allowance for their attendance during the session of the
5 Constitutional Convention at a rate of \$200 per day."

6 Section 3. This act shall become law upon approval by
7 President of the Federated States of Micronesia or upon its
8 becoming law without such approval.

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_____ February 7, 2020

/s/ David W. Panuelo
David W. Panuelo
President
Federated States of Micronesia

AN ACT

To further amend Public Law 21-19, as amended by Public Laws Nos. 21-39 and 21-74, by amending section 6 thereof, in order to allow a recess to be called by the Constitutional Convention for up to three months due to the coronavirus emergency, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 1. Section 6 of Public Law No. 21-19,
2 as amended, is hereby amended to read as follows:

3 "Section 6. Procedures

4 (1) The Constitutional Convention shall be
5 convened on the first Tuesday after the first Monday
6 in January, 2020, and the Constitutional Convention
7 shall continue in session for no longer than thirty
8 calendar days; PROVIDED, HOWEVER, that the Convention
9 may:

10 (a) call recesses, including one extended recess of
11 between 3 and 30 consecutive calendar days, which
12 shall not be included in the calculation of the
13 calendar days the Constitutional Convention is in
14 session and for which no daily allowance under section
15 9 shall be paid;

16 (b) extend the session, if necessary, for up to a
17 total of forty-five calendar days ;and

18 (c) The Congressional Convention may call an

1 additional recess of up to three months, which shall
2 not be included in the calculation of the calendar
3 days the Constitutional Convention is in session and
4 for which no daily allowance under section 9 shall be
5 paid, due to the coronavirus emergency.

6 (2) The President of the Federated States of
7 Micronesia, or their designee, shall act as President
8 of the Convention until the Convention selects a
9 President from among its membership. (3) The
10 Convention shall select, from among its membership, a
11 President and such additional officers as it may deem
12 necessary and appropriate.

13 (4) The Convention shall adopt its own rules and
14 procedures not inconsistent with this act. All
15 sessions of the Convention shall be open to the
16 public.

17 (5) A quorum of the Convention shall consist of
18 all of the four state delegations. For the purpose of
19 determining a quorum, a state delegation is not
20 present unless more than one-half of the delegates
21 from that state are present."
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1 Section 2. This act shall become law upon approval by
2 President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

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May 8th, 2020



David W. Panuelo
President
Federated States of Micronesia

AN ACT

To further amend Public Law 21-19, as amended by Public Laws Nos. 21-39, 21-74, and 21-109, by amending sections 6 and 8 thereof, in order to clarify when the Constitutional Convention shall reconvene after the coronavirus emergency, to clarify that Delegates will not be paid during the extended recess, to clarify the timeframe to vote on proposed amendments, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 6 of Public Law No. 21-19, as amended
2 by Public Law Nos. 21-74 and 21-109, is hereby further amended
3 to read as follows:

4 "Section 6. Procedures.

5 (1) The Constitutional Convention shall be convened
6 on the first Tuesday after the first Monday in January,
7 2020, and the Constitutional Convention shall continue in
8 session for no longer than thirty calendar days; PROVIDED,
9 HOWEVER, that the Convention may:

10 (a) call recesses, including one extended recess
11 of between 3 and 30 consecutive calendar days, which shall
12 not be included in the calculation of the calendar days
13 the Constitutional Convention is session and for which no
14 daily allowance under section 9 shall be paid;

15 (b) extend the session, if necessary, for up to a
16 total of forty-five calendar days; and

17 (c) The Constitutional Convention may call an

1 additional recess of up to three months, which shall not
2 be included in the calculation of the calendar days the
3 Constitutional Convention is in session and for which no
4 daily allowance under section 9 shall be paid, due to the
5 coronavirus emergency. The extended recess of three
6 months due to the coronavirus emergency will be resumed at
7 the call of the President of the Constitutional
8 Convention, no later than 3 months after the coronavirus
9 emergency declaration is revoked. After such recess, the
10 Convention shall continue the remaining session days of
11 the Convention in consecutive calendar days. Delegates
12 shall not be entitled to any allowance, as prescribed
13 under section 9, during the coronavirus emergency recess.

14 (2) The President of the Federated States
15 of Micronesia, or their designee, shall act as President
16 of the Convention until the Convention selects
17 a President from among its membership.

18 (3) The Convention shall select, from among its
19 membership, a President and such additional officers as it
20 may deem necessary and appropriate.

21 (4) The Convention shall adopt its own rules and
22 procedures not inconsistent with this act. All sessions
23 of the Convention shall be open to the public.

24 (5) A quorum of the Convention shall consist of all of
25 the four state delegations. For the purpose of

1 determining a quorum, a state delegation is not present
2 unless more than one-half of the delegates from that
3 state are present.”

4 Section 2. Section 8 of Public Law No. 21-19, as amended, is
5 hereby amended to read as follows:

6 “Section 8. Duties of the Convention.

7 (1) The Convention shall propose amendments to the
8 Constitution to be placed on a ballot to be held at the
9 next National Election after the Constitutional
10 Convention adjourns sine die; PROVIDED, HOWEVER, that in
11 the event that an amendment would affect the general
12 election, the amendment or amendments shall be voted on
13 in a special referendum called by the President of the
14 Federated States of Micronesia no later than three
15 months preceding a general National Election.

16 (2) Proposed amendments to the Constitution shall be
17 in the format set forth in the Constitutional Amendment
18 Procedure Act, title 1, section 703 of the Code of the
19 Federated States of Micronesia (Annotated), as amended,
20 and any regulations issued pursuant thereto.

21 (3) When said amendments have been proposed by the
22 Convention, the Convention shall notify the President of
23 the Federated States of Micronesia, who shall transmit a
24 copy of the amendments to the Congress of the Federated
25 States of Micronesia, and shall call a referendum as

1 provided by title 1, chapter 7 of the Code of the
2 Federated States of Micronesia (Annotated), as amended.”

3 Section 3. This act shall become law upon approval by the
4 President of the Federated States of Micronesia or upon its
5 becoming law without such approval.

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_____ July 24, 2020

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/s/ David W. Panuelo
David W. Panuelo
President
Federated States of Micronesia

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AN ACT

To further amend Public Law No. 21-19, as amended by Public Laws Nos. 21-39, 21-74, 21-109 and 21-154, by amending section 6 thereof, to exclude Sundays from the definition of consecutive calendar days, to clarify that the Constitutional Convention shall only reconvene in-person after the emergency declaration; or may reconvene virtually at any time, if during the emergency declaration, to allow for up to three recess days between when the Convention reconvenes following the coronavirus emergency and before adjourning sine die, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 6 of Public Law No. 21-19, as amended BY
2 Public Law Nos. 21-39, 21-74, 21-109 and 21-154, is hereby further
3 amended to read as follows:

4 "Section 6. Procedures.

5 (1) The Constitutional Convention shall be convened
6 on the first Tuesday after the first Monday in January,
7 2020, and the Constitutional Convention shall continue
8 in session for no longer than thirty calendar days;
9 PROVIDED, HOWEVER, that the Convention may:

10 (a) call recesses, including one extended recess
11 of between 3 and 30 consecutive calendar days, which
12 shall not be included in the calculation of the calendar
13 days the Constitutional Convention is in session and for
14 which no daily allowance under section 9 shall be paid;

1 (b) extend the session, if necessary, for up to
2 a total of forty-five calendar days; and

3 (c) The Constitutional Convention may call an
4 additional recess until the coronavirus emergency
5 declaration is revoked, which shall not be included in
6 the calculation of the calendar days that the
7 Constitutional Convention is in session and for which no
8 daily allowance under section 9 shall be paid. The
9 extended recess due to the coronavirus emergency will be
10 resumed at the call of the President of the
11 Constitutional Convention either, in person, no later
12 than 3 months after and not until the coronavirus
13 emergency declaration is revoked, or virtually, at any
14 time during the coronavirus emergency but no later than
15 3 months after the coronavirus emergency declaration is
16 revoked. After such recess, the Convention shall
17 continue the remaining session days of the Convention in
18 consecutive calendar days, excluding Sundays. The
19 Convention may call for a recess or recesses that total
20 no more than three calendar days when it reconvenes
21 after the coronavirus emergency and before it recesses
22 sine die. Delegates shall not be entitled to any
23 allowance, as prescribed under section 9, during the
24 coronavirus emergency recess.

25 (2) The President of the Federated States of

1 Micronesia, or their designee, shall act as President of
2 the Convention until the Convention selects a President
3 from among its membership.

4 (3) The Convention shall select, from among its
5 membership, a President and such additional officers as
6 it may deem necessary and appropriate.

7 (4) The Convention shall adopt its own rules and
8 procedures not inconsistent with this act. All sessions
9 of the Convention shall be open to the public.

10 (5) A quorum of the Convention shall consist of
11 all of the four state delegations. For the purpose of
12 determining a quorum, a state delegation is not present
13 unless more than one-half of the delegates from that
14 state are present."

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1 Section 2. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its becoming
3 law without such approval.

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December 15th, 2021

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/s/ David W. Panuelo
David W. Panuelo
President
Federated States of Micronesia

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**STANDING
COMMITTEES
MEETINGS
MINUTES**

COMMITTEE ON PUBLIC FINANCE AND REVENUE MINUTES

- 1) 01/08/2020
- 2) 01/14/2020
- 3) 01/15/2020
- 4) 01/21/2020
- 5) 02/26/2020
- 6) 02/28/2020
- 7) 03/02/2020
- 8) 05/31/2022
- 9) 06/03/2022
- 10) 06/09/2022
- 11) 06/11/2022
- 12) 06/13/2022
- 13) 06/15/2022
- 14) 06/18/2022
- 15) 06/21/2022

SUMMARY MINUTES
OF THE
COMMITTEE ON PUBLIC FINANCE AND REVENUE
OF THE
FSM CONSTITUTIONAL CONVENTION

FIRST MEETING
January 08, 2020

The Committee on Public Finance and Revenue met at 2:30 p.m. on January 08, 2020 in the Committee Conference Room at the FSM Capital in Palikir, Pohnpei.

Present were Chairman Peter Sitan and Delegates Berney Martin Tendy Liwy, Akilino Susaia, Cindy Mori, Jack Fritz, Andy Choor, Johnson Asher, Ricky Cantero, Camillo Noket, Myron Hashiguchi, and Andrew Yatilman.

Chairman Sitan made opening remarks thanking the members and gave the basic framework as to how the Committee will operate. He then introduced staff attorney, Yancy Cottrill, to the Committee members.

Chairman Sitan then opened the floor for any comments before the Committee was to nominate and vote on the Vice Chairman of the Committee. There was a general discussion amongst members and the staff attorney as to how the proposal process will operate. After the discussion had concluded, Chairman Sitan closed the comments and requested a nomination for the Vice Chairman of the Committee.

Delegate Berney Martin moved to nominate Delegate Tendy Liwy to be Vice Chairman of the Committee. The motion was seconded and Delegate Tendy Liwy was chosen by acclamation to be the Vice Chairman.

Delegate Liwy thanked the members of the Committee for voting him as the Vice Chairman of the Committee.

The meeting was adjourned at 2:50 p.m.

Submitted by Staff Attorney Cottrill

Date: January 9, 2020

SUMMARY MINUTES
OF THE
COMMITTEE ON PUBLIC FINANCE AND REVENUE
OF THE
FSM CONSTITUTIONAL CONVENTION

SECOND MEETING
January 14, 2020

The Committee on Public Finance and Revenue met at 8:30 a.m. on January 14, 2020 in the Committee Conference Room at the FSM Capital in Palikir, Pohnpei.

Present were Chairman Peter Sitan and Delegates Berney Martin, Tendency Liwy, Jack Fritz, Andy Choor, Ricky Cantero, Camillo Noket, and Andrew Yatilman.

Chairman Sitan began the meeting by informing the Committee that he will be putting out a public notice for the hearings to inform the interested public. Chairman Sitan then asked the Committee Staff Attorney to explain the requirement to keep minutes of the meeting or a summary under Rule 23 of the Rules of Procedure.

Staff Attorney Cottrill read the relevant parts of Rule 23 that require a summary and explained that the Committee could vote to suspend that provision if they so choose. The Committee discussed their options and determined that a summary of the proceedings was necessary going forward.

Chairman Sitan next addressed the first proposal before the Committee, CC-PR-4-02. He asked Delegate Noket to explain the proposal as he is the introducer. Delegate Noket stated that this proposal was brought up at the last Constitutional Convention but it was not passed. He explained that this proposal is intended to allow for foreign assistance to be allocated on a need basis and not just equally divided between the four states and national government. He gave an example of a donation of \$100,000 in foreign assistance coming in for an unspecified purpose and it gets divided up between the five governments. He stated that the money may be needed in one of the states more so it would make sense that the national government and the states sit down to decide how to allocate the money to best address the nation's needs.

Delegate Yatilman stated that the proposal is unclear as to what is an agreement under the current proposed amendment. He stated that the Yap delegation is working on an amendment which will require that if the five governments cannot reach an agreement within a year then the funds will be divided equally as is currently required in the Constitution.

Delegate Choor agreed that the term "agreement" is ambiguous. He reiterated the fear that some foreign aid may come in and just sit around as the five governments cannot reach an agreement. He emphasized the need to have a time limit, such as 1 year, then revert back to the current requirement to divide the funds equally.

Chairman Sitan asked for clarification from Delegate Cantero as to if foreign assistance is coming to the nation without strings attached, thus falling under this provision. Delegate Cantero explained that the days of foreign assistance coming in without strings attached are over. He asked to have a few days to research as to whether there are funds in the Foreign

Assistance Fund that have yet to be dispersed. Chairman Sitan suggested tabling the conversation on CC-PR-4-02 until the next meeting after the Committee has had time to gather more information from the relevant departments.

Chairman Sitan next addressed Committee Proposal 4-07, he asked the Committee to wait on this proposal until Delegate Fritz arrived to explain the purpose. Delegate Fritz joined the meeting at this time and explained that the purpose of his proposal is an attempt to give local governments some revenue generated from the fishing fees. The delegates from Yap and Kosrae stated that they will be presenting similar proposals to this section of the Constitution. Chairman Sitan suggested holding off on discussion on CC-PR-4-07 until the Committee has received all the proposals on this issue.

Chairman Sitan noted that CC-PR-4-09 also addressed the division of revenues derived from natural resources and suggested tabling the discussion until the Committee has received all alternative proposals as well as financial information from the FSM Department of Finance.

Delegate Fritz reiterated the need to help out the municipalities by providing them with a portion of the revenue generated in their area. He impressed upon the Committee that this is the impetus behind his proposals.

Delegate Cantero explained that states' success will ultimately be the nation's success. He stated that the Pohnpei delegation looked at these two proposals and have a simple version that will be presented. He stated that the Committee needs to be mindful not to cripple the National Government because then the states and municipalities will not function properly.

Chairman Sitan clarified with the other delegations as to whether they will be submitting additional proposals on these Constitutional provisions. He then suggested holding off on further discussions until a later meeting.

The meeting was adjourned at 9:45 a.m.

Submitted by Staff Attorney Cottrill

Date: November 15, 2020

SUMMARY MINUTES
OF THE
COMMITTEE ON PUBLIC FINANC AND REVENUE
OF THE
FSM CONSTITUTIONAL CONVENTION
THIRDS MEETING
January 15, 2020

The Committee on Public Finance and Revenue met at 2:30 p.m. on January 15, 2020, in the Committee Conference Hearing Room at the FSM Capital in Palikir, Pohnpei.

Members Present at the meeting were Chairman Peter Sitan and Delegates Jack Fritz, Tendy Liwy, Akilino Susaia, Camillo Noket, Canney Palsis, Johnson Asher, Berney Martin, Andrew Yatilman, Cindy S. Mori, and Ricky Cantero,

Also present as witnesses from the Department of Finance and Administration are Secretary Eugene Amor and members of his staff: Sohs John, Robert Alexander Solomon, Andrew Haigh, Salvador Jacob, Erick Paul, and Jermy Mudong.

Chairman Sitan opened meeting welcoming everyone including the invited guests who responded to his letter. Chairman announced that at the previous meeting, the Committee wanted to find out more information regarding Delegate Proposal CCP-R-04-02¹ views on the foreign assistance grant. He asked Deputy Secretary Cantero what they had compiled based on the information requested in the letter that was sent to the Foreign Affairs office.

Ricky Cantero acknowledged the receipt of Secretary's letter to join the Committee to justify information as requested. He expressed apologies on behalf of the Secretary of Foreign Affairs, who was unable to attend the Committee meeting but Secretary Elieisar had assigned Delegate Cantero to represent him in sharing information about ODA. He specifically asked Deputy/Delegate Cantero to present a case pertaining ODA relationship

¹ Delegate Proposal CC-PR-4-02 to provide that distribution of shares of foreign assistance fund will be made by agreement between states and National Government instead of shared in equal portions by all the states and National Government

using China as an example. He prepared for distribution some data on every assistance, FSM received since 2007 to this year, every assistance, every dollar, he wanted to distribute this around the table, to share some light on how Dept. Foreign Affairs handles assistance that comes to the country.

Chairman agreed for information to be distributed but wanted to confine discussion to how Foreign Affairs handles assistance with no strings attached. The first question, was there any foreign assistances that came in that were not earmarked? Is there any fund currently sitting in the account for foreign assistance?

Delegate Cantero stated that for the last five years, they have yet to actually witness distribution of revenue based on the current law and constitutional requirements. Based on the records and their understanding they had yet to witness any distribution of revenue that gets into the country, ODA to be equally distributed among the states to be consistent with the language of the Constitution.

Chairman Sitan acknowledged the information and reconfirmed that there is none. Then he shifted to ask Honorable Secretary Eugene Amor, Department of Finance whether there is an account for foreign assistance and if there was money in such account. Chairman Sitan pointed that out that he understood that there was some money but not distributed.

Secretary Amor thanked Chairman and paid respect to members of the Committee and this body. He apologized that they have not been able to provide the requested information from the Department and that they are doing their best to pull audit files dated back to 2014, they would provide the comprehensive list at the end of this week. Secretary Amor communicated that they are in their high peak of operation, with deadline of National Government's budget today and audit for last fiscal year, and they are doing their best to meet request from outside.

With respect to the question raised by Chairman, Secretary Amor stated that there is no separate account for foreign assistance fund, the fund goes to the general fund, using the public information system, there is a separate tag used in account to track assistance from outside, there is no bank account, and the fund goes into the same general fund. There is no separate account that is tailored to foreign assistance.

Chairman Sitan opened up to Committee members to ask questions.

Delegate Susaia suggested that regarding revenue sharing, the Department can provide the actual revenue collected they need to know how much, when talking about 40 percent, 60 percent of what?

Delegate Noket asked Secretary Amor whether all money received is deposited into to one account.

Secretary Amor stated that the money is deposited in one account, but the money is tracked using financial management information system, they call it the Fund 2023 classification, that's how they track all money to make sure they don't overspend that particular item.

Delegate Noket continued asking that this meant they do have the balance, that they can subtract the balance, then they must have the balance in the account.

Secretary Amor responded that Delegate Noket is right.

Delegate Noket further asked whether they have the amount?

Secretary Amor confirmed that they can provide the report on the balance but it's tag to individual project, there are no funds that are not tagged into specific project. All money is agreed with donor, development agency and partner, and their office can provide balance under each project.

Chariman Sitan interjected to specify that they are not talking about the earmarked but just those funds with no strings attached subject to division, is there any of that fund?

Secretary Amor explained that in practice they have not come across a single grant from outside with no strings attached to it, even what Foreign Affairs negotiated from bilateral partners, they have already come by tagged with a project.

Delegate Noket asked Secretary Amor to confirm whether they are saying they never had money without any distribution, because the law the Constitution provision required that they divided among all states including national government. He asked whether there had been any like that where money has been distributed equally among the states and National Government? Also, reiterating that in their experiences, no money had been not earmarked subject to distribution and division to the states and the national government.

Sec. Amor responded that yes, in their experience there has been nothing, no blank check has ever been given. However, they do foresee one that is coming soon, that is the \$2 million donation from China to the FSM Trust Fund which would most likely revert back to this and would distribute it equally to national and state sub accounts. However as of now, money is tagged because it comes with terms and condition of the grant.

Delegate Cantero wanted to add, there is no more ODA that has injection of cash into the country, those ODA systems are no longer in existence, those things don't come unattached anymore

Delegate Noket raised another question whether who makes the formula for the distribution of trust funds to each of the states and the national government?

Sec Amor stated that as of now, going to trust fund is by Congress appropriations, in some cases they will designate funding into the state government subaccounts, for some cases where there isn't then it goes into the bigger national government account. There is a public law that changes the revenue formula for local taxes, that's the import income tax, GRT and fuel that are coming in. Now the share for the states that are coming in is up to 70 percent for states and 30 percent for the national government. Out of the states 70%, 20% is earmarked for the FSM Trust Funds States subaccounts. So, depending on what taxes are collected in Pohnpei, fifty percent goes to Pohnpei State, 30 percent to national and 20 goes to the Pohnpei's State subaccount in the FSM Trust Fund. About 40 million sits in states subaccounts for FSM Trust Funds.

Delegate Noket is interested in the distribution of the funds that we receive, for instance the trust fund.

Chairman Sitan on the \$2 million from China, how would that be divided?

Delegate Susaia asked the question since this is not the first time China has given money to the trust fund but the question would be, with this \$2 million would this distribution be based on previous direction or the leadership would come back and decide again?

Sec Amor stated that previously before state subaccounts were established then the entire amount was deposited in the FSM Trust Fund, national account.

Delegate Noket on the amendment asked whether it sharing of money can be based on the agreement between the national and state governments instead of you dividing money by the law/legislation or percentage of trust fund?

Chairman pointed out that would be subjected to the leadership and Delegate Noket's amendment, is to change that so that is subjected to negotiation, instead of dividing it, the reason they requested for the account

Delegate Susaia asked out how do they distribute among the national and state governments? Internal distribution, there is already a law, presumably the law applies.

Chairman Sitan pointed out that Delegate Noket's amendment is to change that so subject to negotiation instead of fighting.

Sec Amor mentioned that the amendment may not have much impact because of what secretary said. The reality is no one giving out money and cutting checks, it is tagged, they have experts who do needs assessment.

Delegate Noket hypothetically raised scenario for discussion using if a natural disaster hits, Pohnpei, and Australia provides, how would that be divided if not earmarked?

Sec Amor indicated that from practice what they have seen in case of a natural disaster, the Governor would send a declaration requesting assistance to President and most

money would necessarily go to Chuuk if it is for Chuuk. Even the money from FEMA there is reassessment team to do needs assessment and recommends on how money should be dispersed.

Delegate Fritz stated he found it hard to believe that the Department (Finance) does not see fit to comply with the latter of the Constitution because with here there are supposed to be two accounts for general fund and for foreign financial assistant fund. The general fund you can have special fund within but this one intended to cover what they're talking about. Can be accounted separately but have this because this is what the Constitution says.

Secretary Amor stated that they track the funds with the management information system; they have specific funding category where the classification tracks funds.

Delegate Fritz noted that the money should be put in the foreign assistance fund because that is what the Constitution said and that they have to separate the two.

Secretary Amor pointed out the money that comes in is already tagged so allotments are issued based on the project.

Delegate Fritz stated that when they received the first grant from China, China would took pride that it did not dictate the use of funds to the recipient. They gave us 700 something thousand dollars, but because the Ambassador said it was a blank check, we advised him not to because the Constitution said we have to divide if given blank check. If they would divide it, they would not achieve the purpose. Then Japan gave us 3 million, it was supposed to be for Chuuk but because it was blank check and they had to divide it, which they did. So, some nations still give us blank checks; yet they do not want to dictate to us or appear to be.

Delegate Noket asked whether we are saying the provisions no longer needed?

Secretary Amor stated that only where or when particular nature of the assistance, it's already tagged to a specific project or specific. They have no experience with a blank check, in our view this will help, it may not have a major impact, in today's worlds there is no more blank check coming from our development partners.

Delegate Noket stated that one cannot tell ten years from now.

Delegate Susaia asked whether the Department would support the proposed amendment?

Secretary Amor claimed that they don't have a position from Department of Finance, but will follow what this body decides; their job is only to implement.

Chairman Sitan directed them to move on to another proposed amendment. CC-PR-07² which has to do with Section 6 Article 9 and asked Delegate Fritz to explain his proposal.

Delegate Fritz stated that there were other proposals on the same subject and he is hoping those proposals are available to share with everyone as they have limited time. His attempt here is based on what he has observed for the past years. The municipal government are the ones who really need the assistance compared to the states and national government, when they set up government, three levels of government were established. However, we empower the state and national for some taxing power for state and national but none for the municipal. There is nothing in the Constitution. So, the theory is to allow the state to share the revenue with the municipal government, which some of them do but in the case of my state Chuuk, there is hardly enough to share with the all the many municipalities. Looking for ways to provide funding for the municipal government, after all, all the people of this country reside within the municipal government. Before the state and nation government came together, the municipal governments were already in existence, in other words they are the foundation of the federation, but they don't have the necessary financial equipment to carry out their duties and responsibilities. This proposal, he further noted should be considered with the other amendment because this one, we may not realize anything for the next 2-3 years because it deals with resources and we don't have the expertise. In looking for ways to help municipal governments, he pointed out that this would be one way or the other major one is to share fishing fees to provide some sort of sustenance, guaranteed rather than put this in the place of our state or national leaders which is not happening.

Chairman Sitan asked whether members have any views on this proposal for the municipal government to be included in this proposal.

Secretary Amor explained that they have not earned any revenue from seabed/mineral resources and don't know what financial implication or challenges would be with including municipal governments. They don't have experience so cannot provide comment.

President Killion that also suggested other resources that pertain to other revenues in EEZ that are not well defined, whether there is an effort to make an assessment for other resources in our seabed, maybe not pertinent to Finance Department but other departments like Department of R&D.

² To provide equal sharing of net revenue derived under section 2(m) between the national government, the appropriate state government and local government.

Chairman Sitan mentioned another proposal, is CC-PR-04-09³, with the same intent like the previous one but this is to share revenue with municipal level. Chairman Sitan requested Secretary Amor's comments.

Secretary Amor stated that what he can say is that National Government heavily relies on the fishing revenue. All compact sector grants are now with state governments, no more share with the National Government. National Government relies on corporate income tax but that is highly volatile. Some years can be 52 million, this year we're expecting 4 million, it really depends. He claimed that if we factor those in our operational budget, we may incur legal liabilities when we don't have money to pay and they would turn around and sue the government. Therefore, he recommends for the National Government's budget to come to a certain level, while the project side budget can fluctuate up and down depending on revenue from corporate taxes. Fishing revenue is stable with \$65-70 million per year, 20 percent of fishing revenue is now earmarked to go to the FSM's trust fund. \$46 million we are projecting this year.

Delegate Susaia pointed out to review proposals to distribute, what is needed from Finance or entities funded because of their national nature as there are certain responsibilities that cannot be distributed to the states, if they could help with that, it would help the Committee.

Chairman Sitan pointed out that Finance would be providing that information this coming Friday. He then asked how much is distributed to the municipal governments within each state?

Delegate Fritz pointed out that there is internal distribution in the states, with at least 8 percent goes to the municipal which is very small compared to others. We are talking about so many municipalities, when divided, perhaps only small amount, 200 thousand is given to all municipal governments and when you divide that among all, so that's that they get, their revenue sharing.

Floor leader pointed out that Yap does not have municipal government except for one.

Chairman Asher, wanted to know what the request that was sent to Finance and what the details were.

Chairman Sitan indicated that they should have copy of his letter asking for revenue sharing data from Government for the last 5, 7 years.

Chairman Asher requested that the Secretary provide the information requested.

³ To provide that all Revenues derived from this provision shall be shared on an equitable basis between the states, local and national government.

Delegate Susaia pointed out that they need to know the operational budget.

Chariman indicated that the budgets are included in the request.

Delegate Fritz asked whether it could include operation of states, so that they would have an idea if to share as one family, they need to make sure they don't jeopardize the function of others, need to make sure to have some picture how much Chuuk, Yap, Pohnpei, Kosrae need if there are excess fund if it can redistribute them, including National Government. Also asking Finance to provide by Friday.

President Killion asked for clarification about the Compact sector grants over the years, National Government passed on shares with the states because we have other revenue. But for infrastructure we still have projects for national government, like the college, aren't there other sector grants like health and education that are being used to support those two program areas, including infrastructure so it is not 100 percent sector grants are given to the states, nothing for national government, can you clarify?

Secretary Amor clarified that the College can put in a request for infrastructure and they get millions from the sector grant.

President Killion further asked regarding health and education.

Only the supplement education grant, Sec Amor responded that is not tied with the compact sector grant.

Chairman Sitan, pointed out that the letter specified local revenue and that Delegate Fritz asked for the state too. Committee agreed to hold on to all proposals on revenue sharing until they have the information. He then asked what is the department's knowledge of municipal governments handling funds.

Secretary Amor stated that in the Congress there are public project funds going to municipal government, projects heavily subsidized by public project. In terms of managing finance, the capacity is low and that is their concern of revenue sharing, where is the assurance that money will be well spent when given to the states and local governments? Tested that in 2015, priority projects given to the states at their discretion, there's a lot more senators, when they split up to do public project, the impact was little for grassroots level, because they have small public projects that is not enough for overall infrastructure projects, including utilities, seaports, roads and others to attract investment and economic growth. They purchased computers and helped capacity but at this month no trust in how they manage funds especially at local level.

Delegate Fritz pointed out that he envisioned the government to last forever, the problem of manpower development is OUR responsibility. It is true that our municipal government officials lack the necessary knowledge to run a modern-day type of government,

that's where the national and state government should really help them, because everyone must move forward, not just the state and national government because that's really where there people are, we improve the lives, we improved the state and national. He further pointed out that the proposal noted that if it is pursuant to an approved plan by the state, national and municipal which will force them how to sit down and seriously address how they're supposed to use the funds, not just municipal but the state and national. In that regards, the concern of wasting money could be accommodated.

President Killion applauded the Secretaries for coming up with PCD, project control documents, that are more thorough and straightforward, He then asked how rigorous and thorough are the staff in reviewing the PCDs. He stated that the critical thing is the project funds were used for what the intent they were appropriated. It is important to work and monitor the allottees and implementor of project so that they can achieve the objectives of the appropriation.

Secretary Amor pointed out that they do offer training, however, responsibility of monitoring would rest with allottee. The allottee should implement the funds in line with language of appropriation. If the allottee does not, the Secretary of Finance has the power to suspend allottees from future projects.

Chair pointed out that he would like to make decision on the first proposal whether to file or make it alive. He then extended to Secretary Amor for any last comments.

Secretary Amor thanked Chair and everyone. Then he pointed out they always advise the National Government and all the respective departments that fixed revenue should be financing the operation budget, volatile revenue should be used for projects or saved FSM's Trust Fund to become a fixed revenue at a later time, informing us how much to draw from in the upcoming years to better budget. For instance, the captive insurance, we would not recommend in budget but for project at municipal, state and national levels. Stable revenue can go to operations.

Chairman thanked Secretary Amor and assured that they would call him again after receiving the data.

Delegate Fritz requested Chairman to give them more time as more proposals are coming in on same/similar subject instead of filing some so we can study them, so they have better and informed judgement.

Committee discussed Proposal CC-PR-02. Delegate Susaia made motion to pass which seconded by Delegate Noket.

Floor Leader pointed out that they need to be strategic and not to crowd the ballot with so many proposals, if it has not been broken why would they fix it. It would not apply to anything at the moment.

Delegate Cantero supported being strategic and focus on what the country needs the most.

Delegate Susaia made the motion and suggested that we do not prejudge the merit of the proposal as there would come a time for a grant that not earmarked. The way the current provision is to divide it equally but the amendment proposed that at the time, the leaders would come together and agree how much to distribute, it would be decided on the need of that moment.

Proposed amendment 02 was passed with 7 votes. The Committee report will be prepared for first reading.

The Committee meeting was adjourned at 2:50 p.m.

SUMMARY MINUTES
OF THE
COMMITTEE ON PUBLIC FINANCE AND REVENUE
OF THE
FSM CONSTITUTIONAL CONVENTION

FOURTH MEETING
January 21, 2020

The Committee on Public Finance and Revenue met at 2:35 p.m. on January 21, 2020, in the FSM Congress Chamber at the FSM Capital in Palikir, Pohnpei.

Present were Chairman Peter Sitan and Delegates Berney Martin, Tendency Tesiwo Liwy, Cindy Mori, Jack Fritz, Andy Choor, Canney Palsis, Johnson Asher, Ricky Cantero, and Myron Hashiguchi. Delegate Akillino H. Susaia and Andrew R. Yatilman were absent. A quorum of Committee members being present, the Chairman called the meeting in order. Delegate Redley Killion and Victor Nabeyan also attended the meeting.

Chairman Sitan made an announcement that the minutes for the first two Summary Journals are already done, and he will try to send them out. He then asked the new secretary Mrs. Simina to take notes on the summary minutes of the meeting. Chairman Sitan suggested that before the break the committee members could adopt all the summary minutes.

Chairman Sitan then opened the floor and asked the legal staff to read out the proposals following proposed resolution by numbers. The discussion was on the proposals that are amending a similar section of the Constitution. Staff attorney read the general amendment of the sections, CC-PR 4-07 (Delegate Fritz), CC-PR 4-10 (Delegate Nabeyan) and CC-PR 4-34 (Delegate Hashiguchi), The staff attorney mentioned that the 3 separate proposals are amending the same provision of the Constitution which is Section 6 Article IX. Chairman Sitan suggested merging the two proposals CC-PR 4-07 and CC-PR 4-34 which may prove to be the most difficult ones to merge and suggested that Delegate Fritz, introduce his proposal after the other two proposed resolutions are merged.

Chairman Sitan asked Delegate Nabeyan to explain Proposal CC-PR 4-10, as he is the introducer. Delegate Nabeyan explained that the intent of the proposal is to share revenue (minerals/nonliving resources) extracted and derived from the EZZ, continental shelf, seabed, and ocean floor to be shared equally between the national government and the appropriate state where it is extracted or derived. Unlike what is presented in delegate Fritz's proposal (CC-PR 4-07), which is to help the local government receive their equal share of revenues collected by the national government. Delegate Fritz summarized the intention of his proposal by sharing the challenges encountered by distribution of revenue sharing, which excludes the local governments. He proceeded to explain that as one nation the reality of the said proposal should be reflected in the equal share of revenues among the three levels of governments (national, state, and municipal). He emphasized that the local government are the bedrock of the nation.

With further discussions on Delegates Nabeyan and Fritz's proposals, Chairman Sitan allowed Delegate Martin to share the practice that has been exercised in Pohnpei State. Delegate Martin explained that according to the Pohnpei State Constitution, from all collected revenues 30% goes to the local governments. There have been complaints from the local government that they get their shares late. After deliberations on Delegates Nabeyan and

Fritz's proposals concluded. Chairman Sitan advised that the two proposals should be merged into one proposal.

Delegate Asher, mentioned that according to the Kosrae State Constitution, 10% of all revenues collected goes to the municipal governments. Delegate Cantero added that the sharing of revenues is not the same in each state jurisdiction. Delegate Fritz stated his belief that all the states should get same share so that they can move together and no one is left behind. Delegate Asher informed the Committee that two proposals will be coming soon from the Kosrae Delegation pertaining to fisheries, fishing fees, corporate tax, and other resources. Delegate Fritz emphasized that state governments should consider the municipal governments in the revenue sharing process. Delegate Fritz pointed out a challenge that his proposal faces, while the constitutions speaks to three level of government, national, state and local government, what we see now is the result of the action of those two levels of government (national and state). Chairman Sitan suggested that the Committee does not take action on CC-PR 4-07 or CC-PR 4-10 at this time and then moved on to the other proposals. Delegate Kanto stated that he's not a member of the Committee but he wished to share something regarding what's beyond the 12-mile zone mentioned in the proposals. He explained that the 12-mile zone is the responsibility of the national government to take care of, and if something is found there whether it be minerals or whatever that generates revenue then the revenue generating source was found. Delegate Killion indicated that he was not on this Committee, but regarding the two proposals (CC-PR 4-07 and CC-PR 4-10), he believed that the government issue is that the revenue sharing excludes local governments.

The staff attorney next announced the following proposals; CC-PR-4-09 (Delegate Fritz), 4-24 (President Killion), 4-36 (Delegation of Pohnpei) to amend Article IX, Section 2(m) of the Constitution of the FSM to provide that net revenue derived from fishing fees are shared 60% to the national government and 40% to the States.

Chairman Sitan advised that proposals CC-PR 4-24 and CC-PR 4-36 should be merged together. Delegates Fritz commented that CC-PR 4-36 had a mistake in the drafting because the purpose as written is in line with section 2(m) of Article 6. Chairman Sitan suggested that all proposals related to fishing fees be put together as one proposal. Delegate Asher asked the Committee to revise their proposals on the fishing fees and minerals and bring them back to the Committee after the break in February.

Next, the members of the Committee discussed Delegation Proposal No. CC-PR-4-15, CC-PR 4-20, CC-PR 4-25, CC-PR 4-21, and CC-PR 4-28.

Proposal CC-PR 4-20 seeks to amend section 5 of article IX of the Constitution. Delegate Fritz suggested that the proposal should be assigned to the Civil Liberties Committee. Chairman Sitan agreed with the recommendation that the proposal should be assigned to Civil Liberties Committee. Delegate Killion mentioned that his intention in the proposed resolution was to encourage Congress of the Federated States of Micronesia to do the appropriation. Chairman Sitan asked if members wanted to discuss this proposed resolution the next day or if they would like to go and come back to the discussion in the next session. Delegate Fritz asked Chairman Sitan if he would allow members to digest on the proposals then come back and discuss them in the next meeting.

Next, Delegate Asher asked if NORMA provided any report on fishing efforts or any mineral deposits and how they use the resources.

Chairman Sitan stated he would like to invite some people from NORMA after the break to share anything they have regarding fishing efforts and general advice.

Delegate Cantero presented the concerns he has with the previous Convention. He explained that the delegates in the previous convention were great men but what they had brought to the convention were different agendas that focused on the best interest of each state (division of revenue sharing) rather than presenting what would benefit the whole nation. Chairman Sitan echoed Cantero's sentiment that the present Convention should focus on what would be best for the country. Delegate Killion stated that he agreed with Delegate Cantero but he has different views not about revenue sharing, economic growth, and development with regard to life necessities such as water, power and etc.

Chairman Sitan recommended that Committee would go for recess and come back and have discussing on all the proposals after the recess.

The meeting was adjourned at 4:03 p.m.

Submitted by Secretary Nercy Syne-Simina

Date: January 21, 2020

SUMMARY MINUTES
OF THE
COMMITTEE ON PUBLIC FINANCE AND REVENUE
OF THE
FSM CONSTITUTIONAL CONVENTION
FIFTH MEETING
February 26, 2020

The Committee on Public Finance and Revenue met at 1:30 p.m. on February 26, 2020, in the FSM Congress Chamber at the FSM Capital in Palikir, Pohnpei.

Members Present at the meeting were Chairman Peter Sitan and Delegates Jack S. Fritz, Camillo Noket, Myron I. Hashiguchi, Asterio Takesy, Johnson A. Asher, Canney Palsis, Ricky F. Cantero, Tendy T. Liwy, Berney Martin, Akillino H. Susaia, Andy P. Choor, and Andrew R. Yatilman. Others presented but not members of the committee were Yoslynn Sigrah, Marcus Samo, James Naich, Kind Kanto, Victor Nabeyan, and also President Redley Killion.

Also present as witnesses were Mr. Pangelinan from the office of NORMA and Mr. Patrick McKenzie, FSM Congress Budget Officer. Legal staff in attendance were Kathleen Burch and Yancy Cottrill.

Chairman Sitan opened the meeting and first thanked the witnesses that appeared. Six witnesses had received requests to appear, but only two did so. The witnesses from the Department of Finance and Administration and the Micronesian Registration Authority were informed of the meeting but were not present.

Chairman Sitan welcomed the current executive director of NORMA Mr. Eugene Pangelinan and former executive director of NORMA and now the FSM Congress Budget Officer Patrick McKenzie. The purpose of the hearing was to confirm some numbers on fishing revenue and MRA revenues. Chairman Sitan also stated in his opening statement that he was very disappointed with the Department of Finance and Administration due to the inaccurate data provided from their Office. The Department of Finance and Administration copied the letter to the Speaker's Office to be disseminated as public information.

Chairman Sitan, asked Mr. Pangelinan if he believed the fishing fees would remain consistent at around 60 or 70 million dollars or if he thought it would trend up or down?

Mr. Pangelinan thanked everyone and paid his respect to the Convention President, to Chairman, all delegates, and former director of NORMA, and he proceeded to provide insights on the issues regarding fisheries and fisheries revenues. The components of his presentation are as follows: the fisheries collection fees are comprised of the access agreement treaty, scheduled payment dates,

staggered payments from companies selling their fish, and also the challenges presented by the structure of payments such as United States Treaty and FSM arrangements for payments that coincide with fishing undertaken in each party's water for each cycle of the year. He also mentioned that there were many fluctuation factors for the generation of revenue because of many events, for example El Niño conditions and good trading agreements.

Delegate Fritz asked Mr. Pangelinan, how many fishing agreements does NORMA have and who is implementing the access agreements? Mr. Pangelinan stated NORMA is implementing 16 to 18 access agreements, which include Korea, Taiwan, Japan, and a lot more smaller agreements. He stated that the details of the agreements are sensitive. He can only give the name of the company and the number of vessels. He doesn't want to disclose all the agreements, as it would compromise his ability to negotiate the best deal for NORMA.

Mr. Pangelinan stated that he has an economist that works for him at NORMA. This individual is able to perform a cost/benefit analysis regarding companies that are receiving a discounted rate because they are investing in the local economy in various ways, i.e. providing jobs, opening businesses, etc. He stated that the economist is able to do this for companies that have been investing for a number of years but with new companies, it is not possible to get an accurate cost/benefit analysis of giving them a discounted rate. Mr. Pangelinan stated that NORMA is working on a draft fisheries investment policy that he could provide to the committee.

Delegate Takesy asked a question pertaining to the viability of the fish stocks and if NORMA believed the revenues will be consistent going forward. Mr. Pangelinan stated that the skipjack stock is very healthy and will be moving east as climate change continues to progress. He believes that the revenues will decline in the next 5 to 10 years as other countries will adopt the FSM model of selling days, so the competition will be stronger.

Chairman Sitan opened the floor for questions for FSM Congress Budget Officer, Patrick McKenzie, as he had another obligation. Chairman Sitan gave Mr. McKenzie an opportunity to summarize his findings in regard to the information provided to him from both the Department of Finance and Administration and the committee. Mr. McKenzie found that the numbers provided to the committee from the Department of Finance and Administration did not coincide with what was provided to the Congress of the FSM. He stated that during the last Congressional session in late January through early February, the Ways and Means Committee requested information to explain and reconcile the difference from the Department of Finance and Administration but to date it has yet to be provided. Mr. McKenzie was excused from the hearing.

The committee continued to ask Mr. Pangelinan general questions regarding NORMA's operations and their generation of revenues. Mr. Pangelinan explained

many aspects of the operations of NORMA and how the office generates revenue. When all questions were exhausted, Chairman Sitan, thanked everyone and the witnesses for all their informative answers to the questions.

Discussion regarding the Standing Committee Report No. 4-01 was deferred until Friday, February 28th.

Chairman Sitan stated that he will write a letter to the departments so they expect to get an official notice or else he will subpoena them so that they will show up. Another option was that he request that President Killion write a letter to the Executive stating that the Department of Finance and Administration is not providing accurate data.

Delegation Takesy, suggested that the Constitutional Convention President needs to go and sit down with the President of the Federated States of Micronesia regarding the concern due to the reality that there is no more time left. He stated that this is a serious issue, and they cannot wait for the Executive Branch to hold on to their data.

Chairman Sitan announced that next meeting will be on Friday, February 28th at 1:00 p.m.

The meeting was adjourned at 3:31 p.m.

Submitted by Secretary Nercy Syne-Simina

Date: March 5, 2020

SUMMARY MINUTES
OF THE
COMMITTEE ON PUBLIC FINANCE AND REVENUE
OF THE
FSM CONSTITUTIONAL CONVENTION
SIXTH MEETING
February 28, 2020

The Committee on Public Finance and Revenue met at 2:10 p.m. on February 28, 2020 in the FSM Congress Chamber at the FSM Capital in Palikir, Pohnpei.

Members Present at the meeting were Chairman Peter Sitan and Delegates Myron I. Hashiguchi, Ricky F. Cantero, Andy P. Choor, Andrew R. Yatilman, Jack S. Fritz, and Canney L. Palsis . As some members came and went as your Committee awaited a quorum. The quorum requirement was never met.

Other staff present were staff attorneys Gonzaga Puas and Yancy Cottrill.

The Committee adjourned due to a lack of quorum. Chairman Sitan rescheduled the meeting to Monday, March 02, 2020 at 1:00 p.m. at the same venue.

SUMMARY MINUTES
OF THE
COMMITTEE ON PUBLIC FINANCE AND REVENUE
OF THE
FSM CONSTITUTIONAL CONVENTION
SEVENTH MEETING
March 02, 2020

The Committee on Public Finance and Revenue met at 1:09 p.m. on Monday, March 02, 2020, in the FSM Congress Chamber at the FSM Capital in Palikir, Pohnpei.

1. ESTABLISHMENT OF QUORUM

Present were Chairman Peter Sitan and Delegates Berney Martin, Tendy Liwy, Akilino Susaia, Ricky Cantero, Camillo Noket, Cindy Siren Mori, Johnson Asher, Andy Choor, Others presented but not members of the committee Delegate Marcus Samo, Victor Nabeyan, Yoslyn Sigrah, Redley Killion, James Naich, and Nickson M. Bossy. Delegate Andrew Yatilman, Jack Fritz, and Myron Hashiguchi were absent. With a quorum established, the Chairman called the meeting to order.

2. REVIEWS AND ADOPTION OF MINUTES

The members of the Committee reviewed the minutes of the third meeting and Delegate Susaia moved to adopt the minutes. Delegate Palsis seconded the motion. The Committee adopted the minutes of the meeting held on January 15, 2020.

3. OLD BUSINESS

The members of the Committee discussed Con-Con Proposal CC-PR 4-02. *To amend Article XII, Section 1(b) to provide that distribution of shares of foreign assistance from the foreign assistance fund will be made by agreement between the States and National Government instead of shared in equal portions by all four States and National Government.*

Some of the committee members expressed their concerns and some supported the proposal. Delegate Palsis supported the amendment with the assumption that it can open up the opportunity for foreign grants from other sources and can help the States.

Delegate Susaia was concern by the sharing of grants among the States if there is no agreement. He also stated that sometimes the grant is not enough to share among the States. For instance, if we get a grant and it not big enough to share among the States it will affect the current wording of the proposal to share equally. So it is appropriate to decided by agreement by the four states. He has informed the committee that they need to be mindful because these days we rarely get grants.

Delegate Cantero suggested that the proposal goes perfectly well but if there is no agreement reached, everything will fall apart and it can cause a lot of delay.

Delegate Susaia asked to moved to close the debate and adopt the proposal. Committee agreed and the proposal was adopted.

The Committee members deliberated on Delegate Nabeyan's proposal, CC PR 4 - 10. *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 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.*

Delegate Nabeyan stated the purpose and intention of this proposal was that revenues would be shared 60% to the States and 40% to the National. If two States happen to have a claim then the sharing will be divided between the two States.

Finally, the members agreed and adopted the proposal CC-PR 4-10.

4. NEW BUSINESS

None.

5. MISCELLANEOUS BUSINESS

Chairman Sitan announced that someone from MRA is coming in from Guam next week and he wanted them to come and speak to the committee members. Hopefully they can join the next meeting, which is on Wednesday.

6. ADJOURMENT

The Committee meeting was adjourned at 2:24 p.m.

Prepared by Nercy Syne Simina

Date: March 02, 2020

SUMMARY MINUTES
OF THE
COMMITTEE ON PF&F
OF THE
4TH CONSTITUTIONAL CONVENTION
MAY 31, 2022

The Committee on Public Finance and Revenue held its meeting on May 31, 2022, at 2:15 p.m. In attendance in person were Acting Chair and Vice Chairman Liwy, Delegates Martin, Palsis, Cantero, Choor, and Yatilman. In attendance via Zoom was Delegate Susaia. Arriving after role call was Delegate Asher. Absent were Delegates Fritz, Hashiguchi, Mori, Arnold, and Risin.

Non-Committee member in attendance included Delegates Saimon and Nabeyan. Legal Counsel Burch was present via Zoom.

The Committee acted on the proposals pending in Committee as follows:

CC-PR-04-13 amending Article V, Section 4, regarding traditional ownership of submerged reefs.

The Committee was informed that this proposal was jointly assigned to the Committee on Civil Liberties and Tradition and that that Committee had voted that morning to request a joint meeting with the Committee on Public Finance and Revenue on the proposal.

A motion was made and seconded to defer action on this proposal so that the two Committees could work together on the proposal. The motion carried.

CC-PR-04-21 amending Article IX, Section 3(a), to identify who must be allottee of national funds

A motion was made and seconded to defer action on this proposal. The motion carried.

CC-PR-04-28 amending Article IX, Section 3(a), to identify who must be allottee of national funds

A motion was made and seconded to defer action on this proposal. The motion carried.

The Committee meeting adjourned at 2:30 p.m.

Dated submitted: June 03, 2022

/s/

By Tendency Liwy, Acting Chair and Vice Chairman

SUMMARY MINUTES
OF THE
COMMITTEE ON GOVERNMENT STRUCTURE AND FUNCTIONS
OF THE
4TH CONSTITUTIONAL CONVENTION
JUNE 3, 2022

The Committee on Public Finance and Revenue held its meeting on June 3, 2022, at 1:00 p.m.

The purpose of the meeting was to set the agenda of the Committee for the remaining days of the Convention. Chairman Fritz stated that the primary focus of the Committee needed to be revenue sharing. Because of the number of revenue sharing proposals referred to the Committee and the referral back to the Committee of Standing Committee Report No. 4-10 and Committee Proposal 4-08, Chairman Fritz recommended that the Committee start with a new vehicle, a new draft proposal for revenue sharing.

It was suggested that all of the related revenue sharing proposals be combined into one report.

The Committee overwhelming agreed that the revenue sharing proposal was one of the most important proposals of the Convention.

Chairman Fritz informed the Committee that draft language for the revenue sharing proposal would be circulated shortly. In the meantime, the Committee would be holding Public Hearings to gather as much information on the revenue the national government receives and the sources of the revenue so that the Committee could determine the appropriate revenue that was available for sharing.

The meeting adjourned upon motion.

Date submitted 6/5/22 , by Kathleen Burch, CLC

SUMMARY MINUTES
OF THE
PUBLIC HEARING HELD BY THE
COMMITTEE OF THE PUBLIC FINANCE AND REVENUE
OF THE
4TH CONSTITUTIONAL CONVENTION
JUNE 9, 2022

The Committee on Public Finance and Revenue continued its meeting on June 9, 2022 at 8:30 a.m. by calling a series of witnesses, at the Congress Central Buildings, Palikir, Pohnpei, FM. Present were Chairman Fritz, delegates Liwy, Yatilman, Martin, Palsis, Choor, and Bossy. Joining on Zoom were delegate members Naich, Arnold, and Hasiguchi. Non-members present were President Killion, delegates Risin, Albert, Nabeyan, Saimon, and Kanto. Also present non-members were LC Burch via Zoom and Robert. The Committee subpoenaed witnesses to further their understanding and deliberation on the revenue sharing proposals.

Witness 1: Brendy Carl, Assistant Secretary of Foreign Affairs.

Committee Chairman Fritz opened the meeting welcoming the witness and informing the delegates of the purpose of this public hearing. The witness addressed the committee by stating that foreign affairs deals with foreign countries such as China, Japan, India and Korea currently and out of those countries India and Korea provide approximately \$200,000.00 annually, while China provides funding toward economic and technical agreements. A concern was raised regarding the aid from China and whether prior to designing or naming projects funds were available. The witness informed the Committee that projects are not implementable until the funds are earmarked and prior to being earmarked MOU's are signed for particular projects. The MOU serves as the vehicle to implement a project, hence is a funded project and no revenue enters the country in hard cash. A concern was raised as to how project funding for state and local projects that are not completed when a new administration comes on board is handled. The witness indicated that incomplete projects remain actively on hold regardless of administration and until project implementation is revised or the project is completed. A concern was raised regarding the President's visits to China and the gifts or rewards received and whether they were distributable and could be used by incoming administration. The witness stated that the gift was directed to the President and if not used during that President's administration, the incoming administration can act on it. Another delegate raised the concern that projects funded towards the FSM should be given to states and locals to implement since originally the national government's purpose was to help with incoming revenues and distributing such revenues to the states. The witness responded that the country providing assistance provides expertise to implement the project and of course use some resources of the state or municipality of the particular place of the project. The Chairman thanked the witness and requested for all active MOU's, especially those "in the pipeline" to be produced.

Witness 2: John Sohs, Acting Secretary of Finance, FSM Finance appeared with Jermy Mudong. The witness distributed a spreadsheet to members and began his testimony by zeroing in on the main revenues received by the Department of Finance and Treasury, which are fishing fees and corporate fees. A concern was raised regarding MRA and TRA as to why is there no showing of revenue from them but reflecting revenues by those agencies. It was explained that MRA is not a joint venture, and FSM owns no shares in MRA. The agreement is that MRA will assist in attracting captive insurance companies and will retain 40% of revenues derived from the captive insurance companies and the FSM receive 60% of the revenue. TRA on the other hand has not shown any revenues deposited in the FSM Trust fund. The Chairman requested a breakdown of the 60/40 by Finance to be submitted to the Committee. The witness stated that a revolving fund was established for maritime and other areas and that out of the 60%, from FY2020 forward 20% of the revenues deposited into trust fund are deposited to the subaccounts of each state. A concern was raised regarding the scenario of raising the percentage deposited to state subaccounts to 70% on the fishing fees, and whether it would impact the national government. The witness stated that the national government operates on a \$42M annual expenditure which includes CIPs, subsidies and supports and a 70% share will suffocate the national government. A concern was raised by a delegate on who has authority to transact the trust fund and the response was that it is the FSM Secretary of Finance. Another delegate raised the concern of whether a 40% share of revenues would be appropriate. The witness stated that the national government relies heavily on the fishing fees for its operations and the subsidies it provides to public corporations. The Chairman thanked the witnesses and reminded them of the request to provide the 60/40 breakdown.

Witness 3: Limanman Helgenberger, Acting CEO, NORMA, appeared via Zoom, and Youky Susaia, Jr. Assistant, appeared in person. The Chairman welcomed the witnesses. Acting CEO Helgenberger made a statement to the Committee, which is provided below in its entirety. The witnesses stated that they use the same financial data as Finance. A delegate noted that the witnesses from Finance stated that NORMA has more accurate figures. The witness stated that they will provide data showing the revenue collections by the agency. The Chairman noted that its purpose is to see whether the incoming revenues to NORMA is sufficient to distribute revenue to the states and requested that witness provide the data to the committee.

Constitutional Convention

NORMA Statement

June 6, 2022

First and foremost, thank our Father for His presence and allowing for respective representatives to convene and make critical decisions in the interest of our People. Respects to you chair, respective delegation, colleagues from the executive branch, staff ladies and gentlemen.

From NORMA's perspective, we support the figures presented by Finance as our official accountants. I, however, would like to add that the figures incorporate a cost recovery mechanism put in place by NORMA. In summary, NORMA cost recovers administrative and management fees from the industry. Until this cost recovery mechanism is incorporated into the Finance system, administrative and management fees continue to be reported as revenue.

Mr. Chairman, 90%+ of the fishing rights is generated by the Vessel Day Scheme. Fishing access is sold by the day. The figures have been somewhat consistent as we retain the same partners throughout the 5 year reporting period. Mr. Chair, the fishing fees are also influenced by the enso cycle. Studies by our science providers SPC suggest that given the climate change specific to the enso cycle, fish will migrate out to the high seas. This would mean less revenue moving into the future. However, Mr. Chair, FSM is situated in a prime area that also can be referred to as the gateway to the Asian markets. Hence, even with the fish migration due to the enso cycle, FSM will continue to be a preferred transshipment ground for fishing nations. I raise this Mr. Chair as NORMA, in collaboration with other National and State stakeholders, recognize the evolving need to focus on development. For instance, expansion of ports etc. in support of fishing operations is encouraged. As a result Mr. Chair, NORMA endeavors to maximize the revenue through fishing fees as a short term initiative and encourage economic development to attract fishing nations to transship in our ports as a long term goal. NORMA/R&D extends concessions to fleets who contribute to our economy in terms of employment, transshipment fees, taxes, provisioning among other onshore development. As you may be aware Mr. Chair, there is a draft fisheries investment policy adopted by the FSM president and some states. The policy supports aforementioned initiatives.

Mr. Chairman, I note the reference to US Tuna Treaty (UST). The UST has been one of our major revenue over the past 10 years however it has drastically declined recently. There are 2 components of the UST which includes the US Government component and the Industry fishing activities. The fishing activities have drastically declined decreasing revenue however the USG contribution still remains. As a matter of fact, the Pacific Island Parties are currently in negotiations to increase the US government share due to the decrease in fishing activities and similarly expand the scope of the treaty to address trade that will benefit the Parties collectively.

Date submitted 6/11/22 , by Kathleen Burch, CLC

SUMMARY MINUTES
OF THE
COMMITTEE OF THE PUBLIC FINANCE AND REVENUE
OF THE
4TH CONSTITUTIONAL CONVENTION
JUNE 11, 2022

The Committee of the Public Finance and Revenue continued its meeting on June 11, 2022, at 10:00 a.m. at the Congress Central Building, Palikir, Pohnpei, FM. Present were Chairman Fritz, Delegates Risin, Martin, Palsis, Yatilman, Liwy, Cantero and Choor. Joining in on zoom was Delegate member Mori. Non-members present were President Killion, Delegate Bossy, LC Burch via zoom and Robert.

Chairman Fritz turned the meeting over to Vice Chairman Liwy to chair.

Vice- Chair announced that the proposals for consideration were the proposals dealing with allottee of government funds. Proposal Nos. 04-21 and 04-28 which, on May 31, 2022, had been deferred to the next meeting of the Committee and Proposal No. 04-75.

CC-PR-04-21, to amend Article IX, Section 3(a), to require that allottee of public funds be the FSM President or the Governors.

CC-PR-04-48, to amend Article IX, Section 3(a), to require that Governors of each state be the allottee for all congressional appropriations for public projects in their respective state.

CC-PR-04-75, to amend Article IX, Section 3(a), to specify that the allottee of public funds shall follow the national development plans in the expenditure of public funds.

Proponent, Delegation of Kosrae, by Chairman Palsis explained the purpose of the proposal. Governors are the proper persons to be allottee's of public funds, to avoid incidences where money from the national government is not transparent in its usage in the future. A Delegate raised that the 2 proposals from Pohnpei are both regarding public funding and are similar but the one from Kosrae deals with public project funding. There is existing law that requires that where there is appropriation but no designation, the governor automatically becomes the allottee for state projects for these instances. The Pohnpei delegation cited a case on separation of powers which calls for the support of this proposal. Another delegate raised the issue that the proposal speaks to national and state development plans, but small islands may not be included in development plans (especially outer islands) and thus, may lose out on receiving funds, which would have a negative impact on the smaller islands. A delegate raised the concern that the projected ripple effect of the development plan to begin on the main island then to outer and

smaller islands, but such ripple effect has not occurred. Another delegate raised the issue regarding the separation of powers as this proposal calls for a violation of the intent of the constitutional government- 3 branches with separation of powers. A delegate raised the issue that he supports the proposal but unless the proposals of the independent prosecutor and the revenue sharing goes through it would make sense to hold this proposal to a future date. A delegate supports this proposal for securing the allottees but doesn't support how it is tied to development plans. A delegate pointed out that the Kosraean proposal focuses on public project funds, but the constitution speaks of public funds, which raises confusion.

A motion was made and seconded to table all of the 3 proposals. Motion carried by voice vote.

Vice-Chairman Liwy turned meeting back to Chairman Fritz.

Chairman reported that NFC was the remaining witness for the public hearings.

A motion was made and seconded to move **CC-PR-04-13**, regarding submerged reefs, to the agenda. Motion carried by voice vote.

Discussion on ownership of and use rights to submerge reefs ensued. It was noted that the FSM Code recognizes use rights, but not ownership of submerged reefs outside the 12 mile zone. It was also noted that a statute can be amended by Congress at any time, but a similar provision in the Constitution is more difficult to change. A question was raised as to whether this ownership language was necessary if the revenue sharing provision was passed. A delegate stated that this proposal addresses the future and the concern that many reefs will become submerged reefs over the next 20 years as the ocean rises due to climate change.

Chairman stated that because the proposal was a joint assignment with the Committee on Customs and Tradition, thus a joint committee meeting would be appropriate.

Recess until hearing with NFC at 1:00pm on 6/13/22.

Date submitted 6/12/22 , by Kathleen Burch, CLC

SUMMARY MINUTES
OF THE
PUBLIC HEARING HELD BY
COMMITTEE OF THE PUBLIC FINANCE AND REVENUE
OF THE
4TH CONSTITUTIONAL CONVENTION
JUNE 13, 2022

The Committee of the Public Finance and Revenue continued its meeting on June 13, 2022 at 1:00 p.m. at the Congress Central Building, Palikir, Pohnpei, FM. Present were Chairman Fritz, delegates Kanto, Risin, Liwy, Cantero, and Choir. Joining in late were delegates Martin and Palsis. Non-members present were President Killion, delegate Saimon, LC Burch via Zoom and Robert.

The witnesses were Patricia Jack, CEO NFC, delegate Albert as the Vice for NFC, and Joannes Getarmwai, IT Person. The Chairman opened the hearing by briefing those present that the purpose of the hearing is to find revenue for the possibility of sharing between national and states. The witnesses explained how NFC operated, who its partners were, and various business ventures. The presentation referenced audit reports. A delegate raised the concern of PFC and the fishing companies in Chuuk are making money while NFC has deficiencies. The witness stated that in 2016 it received forgiveness on a \$31M loan to further attract and maintain partnerships. NFC current operates 2 fleets of purse seine vessels. Its main source of income is from management agreements. NFC is currently working to understand the each state's needs to incorporate into its business plan.

Date submitted 6/14/22, by Kathleen Burch, CLC

SUMMARY MINUTES
OF THE
COMMITTEE OF THE PUBLIC FINANCE AND REVENUE
OF THE
4TH CONSTITUTIONAL CONVENTION
JUNE 15, 2022

The Committee of the Public Finance and Revenue met on June 15, 2022, at 1:00 p.m. at the Congress Central Buildings, Palikir, Pohnpei, FM. Present were Chairman Fritz, delegates Kanto, Risin, Yatilman, Martin, Asher, Palsis and Choor. Joining in late are delegates Cantero, Nabeyan, and Liwy. Non-members present were President Killion, delegates Albert, Sigrah, and Bossy, LC Burch via Zoom, and Robert.

Chairman Fritz informed the Committee that he had combined all of the revenue sharing proposals into one document and further stated that in his opinion the revenue sharing provisions should be under Article IX Section 5. A delegate requested that the proposal submitted by the Pohnpei Delegation which had been the basis of SCR 04-10 and Committee Proposal 04-08 be considered. Chairman responded by questioning whether Article IX, Section 2(m) was the proper location for the revenue sharing proposal and suggested that consolidating all of the revenue sharing proposals under Article IX, Section 5 was more appropriate. Chairman added that the proposal reported out of Committee should include language requiring Chuuk State's share of the revenue to be shared with the Chuuk municipalities.

The Committee then discussed the Pohnpei Delegation Proposal CC-PR-04-36 to amend Article IX, Section 2(m) to provide that net revenue derived from fishing are shared 60% to national and 40% to states. A motion was made and seconded that the provision for revenue sharing of fishing fees be placed in Article IX, Section 2(m); the motion carried.

The Committee discussed several formulas for the division of revenue. The Pohnpei formula of 60% to the national government and 40% to the states was presented. A delegate from Pohnpei explained that this formula would ensure that the operations of the national government would remain stable and would allow the current national Trust Fund law to remain in place. Several delegates emphasized that it was important to take small steps, one at a time, so as not to compromise the essential role and functions of the national government, and that increases could be made in the future. The Chuuk formula was 40% to the national government and 60% to the states. A delegate from Chuuk explained that the people live in the municipalities, local government is more responsive to the people's needs, and thus, it is local government that needs the money to operate and meet the needs of the people. A compromise formula of 50/50 was suggested. A motion was made and seconded to adopt the 60 % to the national government and 40% to the states formula; motion carried.

The Committee discussed the need to set out in the proposal the further allocation of the funds. A delegate stated that SCR 04-10 regarding Committee Proposal 04-08 had been referred back to committee to address this issue. A delegate from Yap stated that the formula previously discussed (60% of funds going to the states be shared based on population and 40% of funds based on equality) was important to Yap because if the current formula used by Congress was applied, Yap whose population was twice that of Kosrae would receive the same amount as Kosrae. A delegate from Chuuk raised Chuuk's concern that a percentage of Chuuk's funds should flow directly to the municipalities. A delegate from Pohnpei stated that the division of funds within the state was an internal matter of the state and it would not be proper to include in a constitution. Another delegate stated that the concerns of all of the delegations should be addressed in the language of the proposal and in the standing committee report.

The Chairman requested that LC draft language for the Committee Proposal and to begin drafting a standing committee report based on SCR 04-10 for discussion at the next Committee meeting to be held on June 17th at 1:00 p.m.

Date submitted 6/16/22 , by Kathleen Burch, CLC

SUMMARY MINUTES
OF THE
COMMITTEE ON GOVERNMENT STRUCTURE AND FUNCTIONS
OF THE
4TH CONSTITUTIONAL CONVENTION
JUNE 18, 2022

The Committee on Public Finance and Revenue held its meeting on June 3, 2022, at 1:00 p.m. A quorum was present.

The Chair called the meeting to order and informed the Committee that the purpose of the meeting was to review the draft revenue sharing proposal. The Committee determined that it would be appropriate to review the proposal section by section.

Section (m)(i) set out the PNI proposal that was adopted at the last meeting.

Section (m)(ii) set out the division of funds between the states as set forth in Standing Committee Report 4-10.

Section (m)(iii) set out the language requested by the Chuuk Delegation regarding the division of funds between the State of Chuuk and its municipalities.

A motion was made and seconded to adopt the draft proposal. One delegate stated that the proposal should be limited to the Pohnpei proposal in Section (m)(i).

Another delegate questioned the need for Section (m)(iii) because it will raise questions with regard to other states that have municipalities but would handle the division of money between the state and its municipalities as an internal state matter. A member of the Chuuk Delegate stated that Chuuk needed the language. A question was raised as to whether Section (m)(iii) was appropriate to be in the national Constitution. A Chuuk Delegate responded that because the national Constitution recognizes three levels of government, the provision is appropriately included in the national Constitution. The specter of using the nuclear option was raised if Section (m)(iii) remained in the proposal. In response, a Delegate from Chuuk stated that the Chuuk Delegation could block any proposal on first reading. Delegates from the smaller states suggested that there should be an amicable way to resolve the issue and that the issue could be resolved in Plenary. There was also the suggestion of a majority and minority report.

The Committee then moved on to discuss how the revenue should be divided among the states. A delegate from Pohnpei suggested that a division 60% based on population and 40% divided equally was unfair to the larger states. A delegate from Yap stated that leaving the division to Congress was unfair because Congress would base the division on delegation size and Yap who had twice as many people than Kosrae had an equal representation in Congress as Kosrae. The Delegate from Yap also stated that much of the cost of government was fixed and the same between the states, for example the cost of roads and the airport.

A Delegate reminded the Committee that the revenue sharing proposal was the primary purpose they were here and that a guaranteed percentage was preferable over nothing. The Delegate

reminded the Committee that there were already powerful voices against revenue sharing and cautioned that Section (m)(iii) would be divisive.

Another Delegate reminded the Committee that whatever language was adopted must be language that can pass the referendum. The Delegate then stated that Section (m)(iii) is problematic language that will not pass in Pohnpei and recommended that the Committee move forward with something that can pass. The Delegate stated that he was concerned that the problematic language would destroy the FSM.

It was suggested that the Committee move forward with two proposals, one that included Section (m)(iii) and one that did not. The Plenary could then review both proposals and the Convention would make the decision as to which to move forward with.

The Committee requested that Legal Counsel draft two reports capturing the respective views of the Committee members.

The meeting adjourned upon motion.

Date submitted 6/19/22, by Kathleen Burch, CLC

SUMMARY MINUTES
OF THE
COMMITTEE OF THE PUBLIC FINANCE AND REVENUE
OF THE
4TH CONSTITUTIONAL CONVENTION
JUNE 21, 2022

The committee of the Public Finance and Revenue continued its meeting on June 21, 2022, at 11:00 a.m. at the Congress Central Buildings, Palikir, Pohnpei, FM. Present were Chairman Fritz, delegates Cantero, Choor, Palsis, Martin, Risin, Yatilman. Joining in via Zoom was delegate Mori and joining late was delegate Liwy. Absent and excused were delegates Hasugichi and Arnold. Non-members present were President Killion, delegates Kanto, Bossy, and Sigrah, LC Burch via zoom and Robert.

The draft report was distributed and reviewed. The Committee discussed amending section m(i) from 40% to not less than 50% of revenue sharing between the national and the states, and m(ii) to be amended to 70% of the state fund to be distributed by population and 30% to be equally shared among state governments and on m(iii) to be amended to read as such fund shall be paid into the state treasuries. A motion was made and seconded to adopt the proposed amendments to the Committee Proposal on revenue sharing. The motion carried. The Committee requested that LC amend the draft Standing Committee Report to reflect the actions taken by the Committee. A motion was made to adjourn, seconded and carried.

Date submitted 6/24/22, by Kathleen Burch, CLC

COMMITTEE ON CIVIL LIBERTIES AND TRADITION MINUTES

- 1) 01/17/2020
- 2) 01/22/2020
- 3) 03/02/2020
- 4) 05/31/2022

SUMMARY MINUTES
OF THE
COMMITTEE ON CIVIL LIBERTIES AND TRADITIONS
OF THE
FSM CONSTITUTIONAL CONVENTION

January 17, 2020

The fourth meeting of the Committee on Civil Liberties and Traditions (“CL&T”) was called to order at approximately 8:50 a.m. by Chairman Albert on Friday, January 17, 2020. Present at the meeting were Chairman Mason Albert, Vice Chairman Camillo Noket, Delegates Jack S. Fritz, Nickson M. Bossy, Kind K. Kanto, Salomon Saimon, Andrew R. Yatilman, Victor Nabeyan, Yoslyn G. Sigrah, James A. Naich and Staff Counsel Enlet Jr. Enlet. Delegates Delegate Salvador Iriarte (Iso Nahnkel) and Akillino H. Susaia were unable to attend the meeting. Also observing the meeting were Delegates Marcus Samo and Andy P. Choor. Delegate Samo was present to give some brief explanation for the reasons for introducing Delegate Proposal No. CC-PR No. 4-18.

The Committee first reviewed the Summary Journals for the second and third Committee meetings. The Summary Journal for the second meeting was unanimously adopted and signed by the members. Members clarified that Delegate Proposal No. CC-PR-4-01 as originally proposed was unanimously adopted in its last meeting. Therefore, the Committee instructed its Staff Counsel to amend the Summary Journal for the third day to reflect the adoption of the proposal.

The Committee then began its deliberation on Delegate Proposal No. CC-PR No. 4-18, a proposal to amend Article XIII, Section 1 to include health insurance and pension as a recognized right for the people under this provision. Delegate Samo briefly explained his reasons and questions by the members followed. Some of the concerns that were raised were the financial implications of the proposal and that it would create a right that, if not met due to financial restraints, would create more lawsuits. Although the idea behind the proposal was recognized as a noble one, many members see the proposal as one appropriate for Congress because they already have the power to do so as is “reasonable and necessary.”

After much discussions, the Committee on Civil Liberties and Traditions eventually agreed to table Delegate Proposal No. CC-PR-4-01 for further discussions in its next meeting.

Thereafter, the Committee on Civil Liberties and Traditions adjourned at approximately 9:40 a.m.

SUMMARY MINUTES
OF THE
COMMITTEE ON CIVIL LIBERTIES AND TRADITIONS
OF THE
FSM CONSTITUTIONAL CONVENTION

January 22, 2020

The Committee on Civil Liberties and Traditions(CL&T) held its fifth meeting on January 22, 2020 at 8:45am. In attendance were Chairman Mason Albert, Vice Chairman Camillo Noket, Delegate Jack Fritz, Delegate Nickson M. Bossy, Delegate Kind K. Kanto, Delegate James A. Naich, Delegate Yoslyn G. Sigrath, Delegate Victor Nabeyan, Delegate Andrew R. Yatilman, Delegate Salomon Saimon and Staff Counsel Enlet Jr. Enlet. L.C Katherine was also present. Absent were, Delegate Akillino H. Susaia, Delegate Canney L. Palsis and Delegate Salvador Iriarte (Iso Ko).

Chairman Albert greeted the members and advised them to review the amended committee report on Delegate Proposal No. CC-PR-04-01. The members provided their comments to further clarify the Committee report, including reasons for the changes proposed, clarification of the language to be add into the Committee report. The Staff Counsel took notes of the suggestions and agreed to finalize the Committee report on Delegate Proposal No. CC-PR-04-01 before the next meeting.

Chairman Albert requested that they moved on and revisit the last discussions on Delegate Proposal No. CC-PR-04- 06 (Dual Citizenship). Concerns were raised including the pros and cons of Naturalized Citizenship, but after considerable discussions, the committee agreed to table all discussions. Next steps will include further consultation with their respective States to further clarify these concerns. Post completion of the State consultations, all proposals under dual citizenship will be put together for further discussions among the members.

Delegate Yatilman moved to adopt the amended Committee Report, dated January 22, 2020 for Delegate Proposal No. CC-PR-04-01. All were in favor and passed by voice vote. Delegate Yatilman also moved to adopt Summary Journal on the third meeting for Civil Liberties and Traditions dated January 15, 2020. All were in favor passed by voice vote. He further moved to adopt Summary Journal on fourth meeting for Civil Liberties and Traditions dated January 17, 2020. All were in favor and passed by voice vote.

The Committee on Civil Liberties and Traditions adjourned at 9:55am.

SUMMARY MINUTES
OF THE
COMMITTEE ON CIVIL LIBERTIES AND TRADITIONS
4th CONSTITUTIONAL CONVENTION
MARCH 02, 2020

The Committee on Civil Liberties and Traditions (CL&T) held a meeting on March 02, 2020. Present at the meeting were Chairman Mason Albert, Constitutional Convention President Redley Killion and Committee members Nickson Bossy, Jack Fritz, Kind Kanto, James Naich, Canney Palsis, Yoslyn Sigrah, Salomon Saimon, Victor Nabeyan, and Andrew Yatilman, constituting a quorum. The Committee's legal counsel, Kathleen Burch, was also present.

The meeting was called to order by Chairman Albert at approximately 9:14 a.m.

The began with a review of the SCR 4-1.

There was a brief discussion of difference between free exercise and establishment of religion.

Delegate Naich requested that a statement be made about the relationship between church and state, because church is not indigenous to Micronesia.

Delegate Nabeyan stated that a statement about the relationship between state and church not helpful; what church do you discuss, and what of the other churches.

A Motion was made and seconded to adopt the Standing Committee Report.

Dual Citizenship

Victor Nabeyan stated that need to look at entire Article III. Section 6 applies to amendment. The intention of the language is that if a person renounces their citizenship then there is a pathway to regain FSM citizenship which will be regulated by Congress. This provision would apply to nationals who want to regain their FSM citizenship because they affirmatively renounced their FSM citizenship.

Legal Counsel stated that the language under consideration would give power to; Delegate Nabeyan stated that he thought giving power to Congress was dangerous.

Jack Fritz stated that the main requirement for citizenship is section 2, want to deal with those who lost citizenship, (b) concerns with opening too much, want on or before and dual not effect – should be retroactive.

Chairman Albert is limiting going forward fair to place requirement; should amount of Micronesian blood be taken into consideration. There are concern about land and loyalty issues, and cultural issues.

Victor Nabeyan stated that land ownership is based on citizenship because that is what the Constitution requires. To give dual citizenship status to our citizens with not change that requirement. FSM citizenship does not entitle children to the land, land is controlled by custom and tradition.

Kind Kanto raised the issue of why should we keep those who willingly renounced their FSM citizenship as nationals. Let's not mess with them. Protects right to inherit land ("inheritance by blood") improve ability of FSM citizens to "move up" U.S. Military. FSM citizens living in US not currently eligible for "legal migrant" benefits; proposal would enable FSM citizen to be eligible for more social welfare benefits in the U.S.

Yoslyn Sigrah stated that other states do not have same ownership passage as Yap and Kosrae very protective of land. Support going to Congress as to who can become a citizen of FSM. Do not want to open FSM citizenship up to just anyone..

Victor Nabeyan state that we should allow people to remain nationals if they renounce. This needs to address.

Nickson Bossy stated that he supported Nabeyan's language.

Victor Nabeyan stated that citizenship speaks to more than land. There is another proposal that is more on point to landownership and will address the land ownership concerns raised.

Jack Fritz stated that is should be left up to Congress to deal with concern of citizens to not open the FSM up too much. Fritz also stated that those who are naturalized should not be allowed to hold dual citizenship.

Canney Palsis stated that we should do away with national and 3 year period; anything else should be subject to Congress by statute.

Salomon Simon that because the public has been defeating the dual amendment, the Pohnpei version is an attempt to strike a balance between the concerns raised and those who want dual citizenship.

Yoslyn Sigrah stated that once a citizen renounces, that should it; it is done

Victor Nabeyan stated that he will modify the language based on the discussion and circulate the revised language.

Yoslyn Sigrah stated that when allow foreigners come in, then through Kosraean wife get to control land. On ground level, need to protect our people. Don't want outside influences to disrupt the community.

Andrew Yatilman stated that we want to develop, land is impediment to development of country, need to ease up access to land, if we don't, we need give up development.

Salom Saimon stated that in Pohnpei the FSM can lease land, willing to share land for development; concern is customs and traditions, looking for respect of custom and traditions.

Adjourned 10:49 a.m.

SUMMARY MINUTES
OF THE
COMMITTEE ON GOVERNMENT STRUCTURE AND FUNCTIONS
OF THE
4TH CONSTITUTIONAL CONVENTION

MAY 31, 2022

The Committee on Civil Liberties and Traditions held its meeting on May 31, 2022, at 10:00 a.m. In attendance in person were Chairman Mason, Delegates Fritz, Palsis, Saimon, Bossy, Risin, Sigrah, Kanto, Yatilman, and Nabeyan. In attendance via Zoom was Delegate Naich. Excused were ISO and Delegate Susaia.

Non-Committee member in attendance included President Killion and Delegate Cantero. Legal Counsel Burch was present via Zoom. Committee Staff Attorney Rudson Robert was present in person.

The Committee acted on the proposals pending in Committee as follows:

CC-PR-04-38 amending Article IV, Section 10, to remove the word “slavery”

The proponent of the proposal was not present. A motion was made and seconded to permanently file the proposal. The motion carried.

CC-PR-04-64 amending Article IV and adding a Section 14, to add a privileges and immunities clause

Concerns were discussed as to how a privileges and immunities clause may impact state and local requirements for elections, both who can vote and who can run for office. Concern was also raised as to whether the privileges and immunities clause would interfere too much with the states’ jurisdiction. Concerns were also raised with regard to the impact on land ownership, especially as each island has its own traditional land tenure system. There was a consensus that land ownership issues should be left to the states.

When asked to define “privileges and immunities,” Legal Counsel informed the Committee that it was virtually impossible to give the term a specific definition because of how the U.S. Supreme Court has interpreted that term in the U.S. Constitution.

The Committee was informed that in the FSM that the FSM Supreme Court has interpreted the due process and equal protection clauses to grant everyone within the FSM rights and to limit the powers of the states and national government to interfere with those rights. Because this is the status quo in the FSM, adding a “privileges and immunities” clause would add little to the Constitution.

A motion was made and seconded to permanently file the proposal. The motion carried.

CC-PR-04-28, CC-PR-04-41, and CC-PR-04-42, amending Article XIII, Section 3, which Section pertains to the creation of a Council of Chiefs

A concern was raised that CC-PR-04-41 changed the permissive “may” to mandatory “shall” which would require Congress to create a Council of Chiefs. The problem is that some states do not currently have

traditional systems as part of their state governments. The status quo is of permissive language is preferred because the possibility that a Council of Chiefs could be created remains, but Congress is not required to act before all states have recognized traditional systems in place.

A Delegate from Kosrae recognized that Kosrae used to have traditional leaders, but don't currently have traditional leaders in place. Kosrae would not be able to meet the requirements of the amendment.

A Delegate noted in Yap that the traditional leaders are a 4th branch of government and that in the early days it worked well because they have a meaningful role. The concern is what is the role of the Council of Chiefs. The role is usually to focus on tradition, but there is no tradition at the national level; so, would this be an expansion of the role of the traditional chiefs. It is better to leave the language as is. If there is a need for the traditional leaders to have a role, then Congress can pass a statute.

A Delegate from Chuuk noted that Chuuk has traditional leaders that have a strong and meaningful role in the community. Chuuk has chosen not to include the traditional leaders in any legal document, but the traditional leaders provide order and leadership in Chuuk. The Delegate noted that the current constitution respects the diversity of culture within the FSM and notes that custom and tradition is best left to the states, including the decision as to whether to formalize the teaching of custom and tradition.

A Delegate from Yap raised a concern as to whether a measure that passes the national Council of Chiefs would preempt and action taken by the State Councils.

Another Delegate noted that there have been two conferences of traditional leaders during Trust Territory times that showed great leadership and had a impact on the future of the FSM. The first conference focused on the Law of the Sea and formulated the position that the islands (including RMI, ROP, and CNMI) would take with regard to the Convention. The second conference meet to discuss the future political status of the islands in relation to the U.S. and was a unifying force in bringing the islands together for the 1975 Convention.

A Delegate stated that custom and traditions should be developed and taught because the FSM Supreme Court is required to apply custom and tradition in its decisions.

A motion was made and seconded to permanently file CC-PR-04-41. The motion carried.

The committee continued its discussion of CC-PR-04-42. It was noted that the titles included in the proposal would foist one state's titles on the other states who had no knowledge of what the titles meant.

A motion was made and seconded to permanently file CC-PR-04-42. The motion carried.

The proponent of CC-PR-04-28 was present and stated that the purpose of the proposal was to strengthen custom and tradition inline with the Constitution.

A Delegate stated that he thought it was a good idea to teach custom and tradition in the schools because students are loosing the knowledge, but that the requirement should not be part of the Constitution.

A motion was made and seconded to permanently file CC-PR-04-28. The motion carried.

CC-PR-04-13, amending Article V, Section 4, to recognize traditional ownership of submerged reefs

It was noted that this proposal is jointly assigned to the Committee on Public Finance and Revenue. Committee members felt strongly that because the proposal is about traditional ownership, it belongs in the Committee on Civil Liberties and Traditions.

It was agreed that the Chair would coordinate with the Chair of the Committee on Public Finance and Revenue to schedule a joint meeting. In preparation for the joint meeting, the Delegates requested a visual of what would be included in the proposal (it was suggested that NORMA has maps), and that the current FSM statute defining ownership of submerged reefs outside the 12 mile zone be provided by the legal staff.

CC-PR-04-18, amending Article XIII, Section 1, regarding the right to insurance and pension

A Delegate noted that according to the Standing Committee Reports of the 1975 Convention, that Constitution sets out exclusive national powers and powers concurrently held by the national and state governments. Social security and well being is a concurrent power.

A concern was raised as to whether this amendment would require cross-amendments because of impacts on other provisions of the Constitution.

A concern was raised with regard to how the rights would be funded. A Delegate stated that these items are more properly employee benefits. To which another Delegate responded that he was concerned that if a person was entitled to a pension whether they worked or did not work, they would opt to not work and collect the pension.

Another Delegate raised a concern that because the reference to national government was deleted, that FSM would be defined to include the states and that states would be required to fund the benefits.

Another Delegate stated that “insurance” was too broad and could include all types of insurance, life, health, car, etc.

A motion was made and seconded to permanently file the proposal. The motion carried.

CC-PR-04-04, amending Article XIII, to add Section, to provide a full faith and credit clause

Several delegates who are practicing attorneys described the need for a full faith and credit clause in the Constitution and how such a provision would assist in both civil and criminal cases, creating efficiencies for both the parties and the court. There was a discussion regarding the implications of the full faith and credit clause for criminal law enforcement.

A motion was made and seconded to defer action on this proposal to the next Committee meeting.

Legal Counsel reminded that Committee that its SCR 04-02 had been introduced to the Convention and then tabled in order to see how many proposals the Convention may decide to pass.

On motion, the meeting adjourned at 10:21 a.m.

Dated: June 01, 2022, Submitted by Hila Asanuma

COMMITTEE
ON GOVERNMENT
STRUCTURE
AND
FUNCTIONS
MINUTES

- 1) 01/17/2020
- 2) 02/24/2020
- 3) 03/02/2020
- 4) 03/04/2020

SUMMARY MINUTES
OF THE
COMMITTEE ON GOVERNMENT STRUCTURE AND FUNCTIONS
OF THE
4TH CONSTITUTIONAL CONVENTION

JANUARY 17, 2020

The Committee on Government Structure and functions held its third meeting on January 17, 2020 at 2:30 p.m. In attendance were Del. Peter Sitan, Del. Marcus Samo, Del. Myron I. Hashiguchi, Del. Nickson Bossy, Del. James Naich, Del. Akillino Susaia, Del. Ricky Cantero, Del. Berney Martin, Del. Tendy Liwy, Del. Canney Palsis, Del. Yoslyn G. Sigrah, and Chairman Victor Nabeyan. None was absent.

The Committee acted on proposals to which it has been assigned as of the date of this meeting as follows:

1. CC-PR-4-08. A proposal to amend section 2(d) of Article X to require all Judges of the Supreme Court and all principle officers to be FSM citizens.

The discussion on whether after 40 years of independence it was now time to require FSM Supreme Court Justices to be FSM citizen. Concerns were raised that there are not sufficient FSM citizens to fill these positions and that FSM citizens who do fill the positions currently have conflicts and cannot have cases. Other concerns were that the judicial guidance clause which requires that Micronesia custom & tradition be considered cannot be fully effectuated without Micronesian Justices.

On motion by Del. Susaia, being duly seconded and following discussions, the committee voted to permanently file CC-PR-4-08. 8 delegates voted 'aye', and 5 delegates voted to 'nay'. The motion to permanently file passed.

2. CC-PR-4-11. A proposal to amend Article IX, section 2(g).

Chairman Nabeyan on behalf of Yap Delegation, submitted a written proposal to amend CC-PR-4-11 so that the votes required of the members of Congress elected at-large to pass an override be 3/4, instead of being unanimous. Del. Susaia moved to adopt the proposed amendment. Being duly seconded and following discussions, the motion to adopt the amendment was put to vote, with 7 members voting 'aye' and 6 voting 'nay'. The motion to amend the proposal passed.

Delegate Susaia moved to adopt the proposal as amended. As amended, CC-PR-11 states

“ To amend Article IX , section 2(q) of the Constitution of the Federated

States of Micronesia to provide for the member of votes require to Override a Presidential veto.

(q) to override a Presidential veto by not less than 2/3 vote of all the members elected from congressional districts in each state follow by a ¾ vote of all members elected at-large.”

After discussions, the motion to adopt CC-PR-4-11 as amended was put to a vote, with 7 members voting ‘aye’, and 6 voting ‘nay’. The motion passed.

The Legal Counsel was tasked to draft a committee report to be reviewed at the next committee meeting.

3. CC-PR-12.

The chairman deferred action on CC-PR-4-12.

4. CC-PR-4-14 and CC-PR-4-17. A proposal to amend Article XIV to add an Office of Independent Prosecutor.

These measures are on the same subject matter, i.e. the establishment of the office of the independent prosecutor. The Legal Counsel was charged with the task of comparing these measures, as well as any measure that may be introduced on the same subject matter, and explain to the Committee in a later meeting the similarities and differences between the measures, along with a recommendation on how to reconcile the two measures into one proposal.

The Committee will revisit the proposals at its meeting on January 20, 2020.

5. CCPR-15 A proposal to increase the number of at-large seats in Congress.

Del. Peter Sitan, the introducer of CC-PR-15, having clarified that the strikethrough of the phrase “Each member has one vote, except on the final reading of bills” was inadvertent and was not intended to be part of the proposal, the Committee agreed that the strikethrough was a technical drafting error to be corrected.

As corrected, CC-PR-15 reads

“ To amend Section 8 of Article IX of the Constitution to (1) add one more at-large member from each of the four states; (2) make the term for all members of Congress four year; and (3) to hold national elections every four years.

Section 8. The Congress consists of two members elected at-large from

Each state on the basis of state equality, and additional members elected from congressional districts in each state apportioned by population. All members shall serve for a 4-year term. Each member has one vote, except on the final reading of bills. Congressional elections are held every four years as provided by statute.”

Del. Sitan moved to adopt the proposal as corrected. Being duly seconded, and following discussions, the motion to adopt CC-PR-4-15 as corrected was put to a vote, with 10 members voting ‘aye’, and 3 voting ‘nay’. The motion passed.

During discussion a concern was raised that the number of seats in Congress are balanced between state equally and population equally. If one is changed without changing the other, than imbalance occurs. Many Delegates concerned that increasing the member of at-large Senators increases the member of individuals from whom the President and Vice President can be chosen the proposal should be cost because there will be final election cycles when all Senators serve for four years.

The Legal Counsel was tasked to draft a committee report to be reviewed at the next committee meeting.

6. CC-PR-19 to amend Article X, Section 1 to provide for direct election of the President and Vice President.

As there is another proposal (CC-PR-4-05) on the same subject matter that as already been reassigned from CL&T, and it is also expected other proposals on the same subject matter will be introduced, the Committee decided to:

1. Defer action on this proposal with the aim of reconciling it with other proposals on the same subject matter; and
2. The Chairman moves at the next plenary to withdraw CC-PR-4-05 from CL&T and have it reassigned to GS&F.

Submitted: January 17, 2020

SUMMARY MINUTES
OF THE COMMITTEE ON GOVERNMENT STRUCTURE AND FUNCTIONS
4th CONSTITUTIONAL CONVENTION
FEBRUARY 24, 2020

The Committee on Government Structure and Functions held its fifth meeting on February 24, 2020 at 2:48 p.m. In attendance were Chairman Victor Nabeyan, Del. Marcus Samo, Del. Myron I. Hashiguchi, Del. Nickson Bossy, Del. James Naich, Del. Ricky Cantero, Del. Berney Martin, Del. Tendy Liwy, Del. Yoslyn G. Sigrah, and Del. Peter Sitan. Absent was Del. Akillino S. Susaia, Canney L. Palsis and Andrew R. Yatilman. Quorum present.

Del. Martin moved to adopt the summary minutes of January 17th. The motion was seconded by Del. Liwy. The motion to adopt the January 17th summary minutes was carried by voice vote.

Draft Committee Report 4-15 was discussed. Chairman Nabeyan informed the Committee that the Draft Report raised two additional issues. First, the proposal to increase the term of all Congressional seats to four years creates an inconsistency with Article IX, Section 11, which includes a reference to a 2-year term. Second, as written, the proposal does not eliminate the need for an election every 2 years because the General Election scheduled for 2021 is for the 2-year Congressional seats; so, not all Congressional seats are on the ballot, which means that the four-year terms will end at different times.

A question was raised as to the cost of holding an election every two years. A question was also raised as to what the cost of the extra seats would be, including salary, travel, allowance, etc. It was noted that in analyzing the costs and benefits of the proposal, the cost of holding the election every 2 years must be balanced against the annual cost incurred by each senator (salary, allowance, additional staff, etc.) A request was made that information be sought from Finance and Congress as to these costs. Chairman stated that financial data will be requested going back 3-5 years.

Del. Naich noted a technical error and requested that the word “four” be removed from the introduction language of proposal. The Committee agreed this should be done.

The Committee confirmed that the proposal increases the number of at-large members, without changing the number of members representing election districts. It was noted that Congress has the power to reapportion itself and create more election districts if it so wishes.

A question was raised as to whether this proposal will create a conflict with the proposals for direct election of the President if a direct election amendment is ratified, especially as one of the reasons noted for the proposal is to increase the number of candidates for President. It was noted that there is no direct conflict between this proposal and having the President elected by popular

vote. Chairman Nabeyan stated that each proposal should be treated on its merit rather than on proceeding on the assumption that another proposal will pass as all proposals may fail.

A question was raised as to whether there was any reason to not keep the terms of district representatives as they are at 2 years. It was noted that 2 years is a short time in politics and puts the politician in the position of always being worried about electability.

Del. Sitan stated that he strongly believes there is more of a check and balance with more senators. Del. Sitan also noted that the FSM has the smallest Parliament in the Pacific region.

Legal Counsel was asked to draft amendments for effective date and Section 11.

Draft Committee Report for CC-PR-04-11 was considered next. Del. Sitan stated that he did not support the proposal because he believes the current system addresses the problem. Under the current system when a bill has been vetoed by the President, Congress meets informally to discuss whether there should be a veto-override. If the consensus is to proceed with a veto-override, each State Delegation meets to discuss its position. When the formal vote on the veto-override is taken, if the Chair of the State Delegation of a smaller state says something that was not agreed to, then the vote is changed. If the Chair of the State Delegation of a larger state says something that was not agreed to, then the members of the State Delegation are polled and the results of the poll control.

Chairman Nabeyan stated that the issue is the Constitution, not the practice of Congress. There is no effective control by the Executive on the arbitrary exercise of power by Congress under the present structure of checks and balances. It is important that we make sure that we have a system of government with a structure of checks and balances that actually results in a balance of power between co-equal branches of government. He noted that the current system can allow only 3 Delegation chairmen to decide the override, the same chairman who votes to pass bills on final reading.

Del. Sigrah registered her support of the statement of Chairman Nabeyan, and stated that it is always good and safe to spell out the powers of checks and balances in the Constitution.

Del. Sitan stated that the proposal barely passed the Committee vote, and asked that his objection to the proposal be included in the Committee Report, along with a description of how the current system works.

Del. Takesy stated that the issue here is balance. The legislature should not be able to override veto that easy. The President should have real power to check the legislature against political will and against pork barrel. The proposal is trying to correct the one-sided power and provide for a true expression of people's will. The proposal is reasonable and should pass out of committee.

Legal Counsel was instructed to revise the Committee Report to take into account Del. Sitan's comments.

The Committee adjourned at 4:08 p.m.

Submitted by: Mary Kilmete

Date: February 27, 2020

SUMMARY MINUTES
OF THE COMMITTEE ON GOVERNMENT STRUCTURE AND FUNCTIONS
4th CONSTITUTIONAL CONVENTION

MARCH 2, 2020

The Committee on Government Structure and Functions held its sixth meeting on March 2, 2020 at 2:30 p.m. All members of the Committee were in attendance. Also in attendance were President Killion and Del. Choor. Legal Counsel Tammy Davis was present.

Del. Susaia moved to adopt the summary minutes of February 24th. The motion was seconded by Del. Sitan. The motion to adopt the February 24th summary minutes was carried by voice vote.

A motion was made by Del. Sitan and seconded by Del. Susaia to adopt Standing Committee Report 4-11. The motion passed on a voice vote of the members.

A motion was made by Del. Sitan and seconded by Del. Susaia to adopt his two written amendments to CC-PR-4-15. Del. Sitan explained that the first amendment was to make the effective date of the Proposal the 2023 election so that the election of all at-large delegates would occur at the same time; this would ensure that there was no disruption in the term of the Presidency which could occur if the President had to run for re-election during the term of his office. The second amendment removes the reference to a 2-year term of Congress to ensure internal consistency in the Constitution. The motion passed by a voice vote of the members.

A motion was made by Del. Susaia and seconded by Del. Sitan to adopt CC-PR-4-15 as amended. The motion carried by a voice vote of the members. A request was made to Legal Counsel to prepare the Standing Committee Report for CC-PR-4-15 for review of the Committee.

Chairman Nabeyan requested that Legal Counsel, Tammy Davis, provide a report of her memo on the various proposals referred to the Committee on the Public Prosecutor. Ms. Davis reported that she had compared each of the proposals referred to the Committee against each other and against the proposal for public prosecutor adopted by the 2001 Constitutional Convention.

After the summary provided by Ms. Davis, the Committee discussed each provision of the proposal separately and decided that for each provision the language receiving the highest number of votes of Committee members would be included in the draft of proposal that would be prepared by Legal Counsel. The provisions receiving the most votes were as follows:

1. The public prosecutor would serve a term of 6 years until his/her replacement appointed and confirmed and could not be reappointed.
2. The public prosecutor should be appointed by the President and confirmed by Congress.

3. The public prosecutor should be a member of the FSM bar, in good standing. Congress may prescribe other qualifications by statute.
4. The public prosecutor may be removed by the President with agreement of 2/3 of Congress for cause.

The Committee could not reach an agreement on who should appoint a temporary public prosecutor if the public prosecutor is removed from office for cause. The two options discussed were (a) the Chief Justice would appoint the temporary public prosecutor, and (b) the person 2nd in command would automatically assume the position. It was decided that both options should be included in the draft being prepared by Legal Counsel.

All of the proposals for public prosecutor had provisions that would protect the independence of the office. Chairman Nabeyan listed the protects proposed, which included (a) filing an annual report with President and Congress, (b) adequate funds, (c) no law or regulation may diminish power or independence, and (d) no reduction of salary during term. Because the protections were not inconsistent with one another, it was determined that all would be included in the draft being prepared by Legal Counsel.

Legal Counsel was requested to prepare a draft of the Committee Proposal on the Public Prosecutor based on the decisions made for the next meeting. Legal Counsel was also asked to be prepared to provide legal advice on whether granting the Chief Justice replacement power would create a conflict of interest.

The next meeting of the Committee will be March 4th at 1:30 p.m. in the conference room at Congress Central Facilities.

The meeting adjourned at 4:20 p.m.

Date: March 3, 2020

SUMMARY MINUTES
OF THE COMMITTEE ON GOVERNMENT STRUCTURE AND FUNCTIONS
4th CONSTITUTIONAL CONVENTION

MARCH 4, 2020

The Committee on Government Structure and Functions held its seventh meeting on March 4, 2020 at 1:20 p.m. The only member of the Committee absent was Del. Yatilman. Also in attendance were President Killion, Del. Choor, Del. Takesy, and Del. Mori. Legal Counsel Tammy Davis and Chief Legal Counsel Kathleen Burch were present.

Del. Susaia moved to adopt the summary minutes of March 2nd. The motion was seconded by Del. Hashiguchi. The motion to adopt the March 2nd summary minutes was carried by voice vote.

The Chairman opened the floor for discussion on the draft Standing Committee Report for CC-PR-15. A question was raised as to whether CC-PR-4-15 would impact the Committee Proposal on the veto power and whether both proposals should be considered together. The Chairman reminded the Committee that the Committee Proposal on the veto power and accompanying Standing Committee Report had been reported out of Committee and were on the floor of the Convention. It was then explained that the Committee Proposal on the veto power used the terms “at large members” and “members elected from congressional districts,” and because there was no reference to the number of years for the term there was no conflict between CC-PR-15 and the veto proposal.

Another concern was raised as to whether the adoption of CC-PR-15 would create an inconsistency if one of the proposals for direct election of the President were adopted. The Committee confirmed that there would be no inconsistency. CC-PR-15 would increase the number of at-large members of Congress from 4 to 8 and any proposal on the direct election of the President would focus on the office of President and not impact the members of Congress.

The Introducer of CC-PR-15 reminded the Committee that the increase in the pool of eligible candidates for President was only one of the results of his proposal. The primary purpose of the proposal is to improve the quality of decision-making by the legislative branch.

The Committee discussed that CC-PR-15 will not affect the 2021 general election, but if approved by the voters at the referendum, would go into effect for the 2023 general election.

A concern was raised as to the cost of adding more seats in Congress. The Chairman reported that budget information from Congress had been received and that Finance had not yet responded to the request for information on expenditures.

A motion was made by Del. Susaia and seconded by Del. Sigrah to defer action on the Committee Proposal until the financial information had been received and could be studied. The motion passed on a voice vote of the members.

The Chairman opened the floor for discussion of the Public Prosecutor proposal. The Committee reaffirmed that:

1. The public prosecutor would serve a term of 6 years until his/her replacement was appointed and confirmed and could not be reappointed.
2. The public prosecutor should be appointed by the President and confirmed by Congress.
3. The public prosecutor should be a member of the FSM bar, in good standing. Congress may prescribe other qualifications by statute.
4. The public prosecutor may be removed by the President with agreement of 2/3 of Congress for cause.

The Committee then discussed who should appoint a temporary public prosecutor if the public prosecutor is removed from office for cause. The three options discussed were (a) the Chief Justice would appoint the temporary public prosecutor, (b) the person 2nd in command would automatically assume the position, and (c) the President, Speaker, and Chief Justice would together appoint the successor. After discussing the pros and cons of each option and the need for a neutral decision-maker, the Committee voted that Chief Justice or his designee should appoint the temporary public prosecutor.

The Committee agreed that the proposal for public prosecutor should include the following provisions with regard to the duties and powers of the office:

1. Investigate and prosecute any person or entity that receives, spends, or administers public funds from the national government that he has reasonable cause to believe has violated or conspired to violate national law related to the use or management of national funds.
2. Subpoena records and compel witness testimony under oath.
3. Prosecute for obstruction of justice and perjury related to his investigations.
4. At least once a year, report to the President and Congress.
5. Congress may prescribe additional duties by statute.

The Committee discussed the need to have provisions that protect the independence of the office. Legal Counsel was asked to look at the protections provided to the Public Auditor and report to the Committee whether the same type of provisions would be appropriate for the Public Prosecutor.

Legal Counsel was requested to prepare a revised draft of the Committee Proposal on the Public Prosecutor based on the decisions made for the next meeting.

The next meeting of the Committee will be March 10th at 1:30 p.m. in the conference room at Congress Central Facilities.

The meeting adjourned at 3:00 p.m.

Date: March 4, 2020

COMMITTEE ON GENERAL PROVISIONS MINUTES

- 1) 01/08/2020
- 2) 01/18/2020
- 3) 03/03/2020
- 4) 03/05/2020
- 5) 05/31/2022
- 6) 06/04/2022
- 7) 06/08/2022
- 8) 06/09/2022
- 9) 06/14/2022

**SUMMARY OF MINUTES
OF THE
COMMITTEE ON GENERAL PROVISIONS
OF THE
4TH CONSTITUTIONAL CONVENTION**

FIRST MEETING
JANUARY 8, 2020

The Committee on General Provisions held its first meeting on January 8, 2020 at 3:10 p.m. In attendance were Chairman Sigrah and Delegates Jack Fritz, Kind Kanto, Cindy S. Mori, Marcus Samo, Johnson Asher, Tendy Liwy, Berney Martin, Salomon Saimon, Andy Choor, and Victor Nabeyan. Absent were Asterio Takesy and Salvado Iriarte (Iso Nahnken).

Chairman Sigrah called the meeting to order and opened nominations for the Vice Chairman. Vicotr Nabeyan nominated Andy Choor, the nomination was seconded. There were no other nominations. Andy Choor was elected Vice Chairman by voice vote.

The Committee stands in recess until the call of the Chairwoman.

Submitted: January 8, 2020

**SUMMARY OF MINUTES
OF THE
COMMITTEE ON GENERAL PROVISIONS
OF THE
4TH CONSTITUTIONAL CONVENTION**

JANUARY 18, 2020

The Committee on General Provisions was called to order at approximately 8:49 a.m. on Saturday, January 18, 2020, in the Committee Hearing Room at the FSM Capital in Palikir, Pohnpei. At the request of Chairwoman Yoslyn G. Sigrah, Delegate Kanto gave a silent prayer.

Present at the meeting were Chairwoman Yoslyn G. Sigrah and Delegates Jack S. Fritz, Kind K. Kanto, Cindy Siren Mori, Marcus Samo, Asterio Takesy, Tendy Liwy, Berney Martin, Salomon Saimon, Andy P. Choor, and Victor Nabeyan. Committee members not present were Delegates Iso Iriarte and Johnson A. Asher. Also present were President Redley Killion and Delegate Camillo Noket.

Chairwoman Sigrah announced that the Committee would not use a formal process to transact business; the Committee will have a Summary Journal; and thanked everyone for coming early on a Saturday morning.

Chairwoman Sigrah noted that Proposal 4-03, 4-16, and 4-32 were on the same subject, the threshold requirement of amending the Constitution. Chairwoman Sigrah then asked the Delegates who had introduced the proposals to speak on their proposal.

Delegate Camillo Noket explained that his proposal was to reduce the threshold required to pass a constitutional amendment to a reasonable percentage, but not too low. Delegate Noket also noted that his proposal included a provision that the amendment of the threshold requirement be voted on before any other amendments because it will impact all other amendments. Delegates discussed whether the timing of when the amendment should be voted on should be part of the language of the amendment, and a consensus was reached that the timing of the vote should not be part of the language of the amendment but should be communicated by the Convention to the FSM President through a resolution or other mechanism.

There was a general discussion of why past proposed amendments had failed to be ratified. Several Delegates stated that they did not know whether the reason past proposed amendments had failed was because of the threshold requirement or because of a lack of public education. Other Delegates voiced a concern that people vote for their Congressional candidate and leave the rest of the ballot blank. The Delegates requested that data be collected on the past referendums, including the number of proposed amendments, the votes on each amendment by State, the number of registered voters, and any information available on the public education process.

Delegate Takesy noted that the proposals raised two separate issues: should the threshold standard be set by the number of votes across the nation or be set by the number of states passing the amendments. The Samo proposal sets the threshold at $\frac{3}{4}$ votes counted across the nation. The Noket proposal sets the threshold at $\frac{2}{3}$ votes cast in $\frac{3}{4}$ of the states. The purpose of the proposals is to allow for a reasonable majority to amend the Constitution to meet changing needs. We should hold to the principle of what the Constitution is – a document that should last through the test of time and changing conditions. It was the intent of the Framers that the Constitution should not be easy to change; so, they made the benchmark difficult to meet. The Constitution should be respected, but it should allow for reasonable changes in a reasonable manner. A threshold of $\frac{2}{3}$ is good; it will not allow for constant changes over time.

The issue of equity was raised; the idea that if the vote is a national vote, than the larger states can control a smaller state. Delegate Fritz stated that depending on voter turn-out, one of the larger states could control the amendment process if a national process were used and this will create problems with other states.

President Killion noted that public education is important. If people do not understand the amendment, they will vote no. Other Delegates agreed on the importance of public education. Delegate Takesy noted that it was critical that those doing the public education know what they are talking about and are given the time and resources to educate the public. There was a suggestion that separate ballot boxes (one box for the Congressional election, and one box for the Constitutional amendments) might be appropriate. A question was raised as to whether there could be poll watchers reminding people to vote on the Constitutional amendments.

There was a general discussion about whether there were similar proposed amendments pending in Congress.

Chairperson Sigrah stated that Kosrae had a threshold proposal that would be introduced. A Delegate asked if Kosrae could explain its position. Chairperson Sigrah responded that Kosrae wanted the threshold requirement to include the requirement that $\frac{3}{4}$ of the states agree.

Delegate Naich stated that it was important to keep in mind what remedies are available. First, there is Constitutional review every 10 years to take the temperature of the people. There are 3 methods for amending the Constitution. There are ways of deciding or knowing if change is imminent. Before we make wholesale changes to the Constitution, a document that is meant to be stable overtime, it is important to look at what we already have.

Chairperson Sigrah asked for the perspective from Yap, as the perspectives of the other three States had already been heard. Vice Chairman Choor stated that the Constitution itself respects the differences of each State, that at the time the Constitution was drafted the smaller states had a concern that larger states would vote to take away the rights of the smaller States and their citizens and that this concern still rests with the people of the small States. Because the FSM is a loose

federation, the view of all States should be considered. If the voting mechanism is changed, bigger states can affect the rights of the people in the smaller states. The position of the smaller States is that the appropriate threshold is a vote of 2/3 of the people in $\frac{3}{4}$ of the states.

The request for more data was renewed. Chairwoman Sigrah asked Legal Counsel to draft a letter to National Election Commissioner seeking the requested data.

Chairwoman Sigrah thanked all the Delegates for their attendance. Meeting adjourned at 9:54 a.m. The Committee stands in recess until the call of the Chairwoman.

Submitted: January 18, 2020

SUMMARY MINUTES
OF THE
COMMITTEE ON GENERAL PROVISIONS
4TH FSM CONSTITUTIONAL CONVENTION

MARCH 03, 2020

The Committee on General Provisions met at 9:45 a.m. to discuss delegate proposals for amending the Constitution. The following committee members were present: Yoslyn G. Sigrah, Chairperson; Vice Chairperson Andy P. Choor, Jack S. Fritz, Kind K. Kanto, Cindy Siren Mori, Marcus Samo, Asterio R. Takesy, Johnson A. Asher, Tendy Tesiwo Liwy, Berney Martin, Salmon Saimon, and Victor Nabeyan.

Proposal No. 4-50:

Delegate Takesy stated that the purpose of the proposal is spelled out in language the intent to spur foreign investment and allow commercial loans to flow into the country. There is a strong agreement that foreign investment will drive the private sector. We have not been able to bring foreign investment into the country because one impediment is the ability to take a security interest in land. There is a considerable amount of money in the two commercial banks. Bank of Guam wants to reinvest in the community where it is located, because it is a community bank but has found it difficult to do so because wages are low in comparison to other regions, and it is difficult to find bankable loans. It is the commercial area where the private sector can grow. It is Government policy for the private sector to become a major employer, but currently government is still the major employer. If the country is to have any hope for self-sufficiency, then the private sector must be the economic driver. Informed public debate as to whether this proposal will further investment is needed.

Salmon Saimon agreed that the private sector must be developed if the country wants true independence. There is a concern with the status quo. In Pohnpei, the type of interest the proposal would allow is a conditional fee simple.

Jack Fritz questioned how the proposal affects the general prohibition on non-citizens owning land. He was also concerned about the development: for what and by whom. He expressed concern that the local community may not want to invest in sectors the government wants to invest in and develop. He stated that there is a need to protect land.

Asterio Takesy stated that the courts have been good, but the carrying out of court orders has not been occurring. The proposal limits the security interest in land to 35 years because it is reasonable to achieve. Bank of Guam entered in to MOU with FSMDB for housing. But that MOU is restricted to housing, not commercial loans. There is a considerable amount of funds accumulating in the Bank to reinvest. If land can be capitalized, then we should see reasonable development. Small business is backbone of the economy. We cannot keep doing the same thing and hope the outcome will be different. We need to take reasonable risk in order to obtain the gain.

Andy Choor questioned who would own the property, because the proposal says acquire title to property.

Victor Nabeyan stated that currently banks can use a leasehold interest as security. Each state has a different leasehold law.

Jack Fritz questioned what happens if the loan is paid in 30 years, what happens to the security interest.

Johnson Asher stated his concerned that this is the only provision in Constitution that limits land ownership. Proposal does not allow all non-citizens to take a security interest, just banks. Maybe Sect. 5 of Article III for leasehold interest is a solution. Delegate Asher stated that more time is needed to analyze the proposal.

The Chair stated that she would like a report on what is happening with other states, and would like to invite bank officers to come in and discuss what is happening,

Victor Nabeyan stated that he doesn't understand why the bank thinks it is not sufficient to be able to take a security interest in the leasehold. Delegate Nabeyan state that he is more comfortable allowing leasehold interest as security rather than

title. Once use “land title” there is a problem. Delegate Nabeyan stated that he agreed with the intent of the proposal and that there is a problem with lending and financing projects.

Ricky Cantero stated that the proposal is to address what we know over years that government has been trying to push for reinvestment of savings, because the FSM is a net exporter, and we know this is a problem. The wording in the proposal is limited to foreign investment and to securing loans. The BFSM has some foreign interest and thus, cannot own land. Some of the concerns can be addressed in legislation.

Salmon Saimon stated that he agrees that the Bank representatives should testify. He stated that he wanted to know the reason why the banks can't use current law to take a security interest in land. He also stated that enforcement of court decisions is a federalism issue. The Pohnpei police do not like to enforce orders of FSM Supreme Court issues on land, but enforce Pohnpei state court orders. The FSM Supreme Court police have met armed resistance. Delegate Saimon stated that he was concerned as to whether any security interest will be enforceable.

Victor Nabeyan stated that the alternative to title is that the banks can accept leasehold interest.

Next meeting will be a joint meeting with the Committee on Civil Liberties and Traditions on March 4th.

Summary MINUTES
OF THE
COMMITTEE ON GENERAL PROVISIONS
OF THE
4TH CONSTITUTIONAL CONVENTION

MARCH 5, 2020

The Committee on General Provisions (GP) met at 9:35 a.m. on March 5, 2020, in the Central Room at the FSM Capital in Palikir, Pohnpei.

Present at the meeting were Chairperson Yoslyn G Sigrah, Constitutional Convention President Redly Killion and Committee members Jack S. Fritz, Kind K. Kanto, Cindy Siren Mori, Marcus Samo, Asterio R. Takesy, Johnson A. Asher, Salvador Iriarte (Iso Nahnken), Tendy Tesiwo Liwy, Berney Martin, Salomon Saimon, Andy P. Choor, and Victor Nabeyan constituting a quorum. The Committee's legal counsel, Kathleen Burch, was also present.

The meeting began with a general discussion of how to proceed with the remaining work of you Committee.

Proposal No. 4-54:

The Introducer stated that the current provision does not include transportation of radio active materials. The size of EEZ means that it may take days if not weeks to transit the FSM EEZ and we want to avoid any accident within the FSM. The requirement should be mandatory.

Chair Yoslyn Sigrah stated that the proposal is a good proposal and asked whether there had been instances in past?

Jack Fritz stated that in the past, radioactive materials were transported through the FSM EEZ after Congress passed a resolution to allow the transport. Military operation of nuclear vessels are captured by this proposal.

Victor Nabeyan stated that transportation was left out of the original Constitution because of the impact on the FSM's security interest and US. An exception was included so the issue could be addressed when need arises. The proposal could impact industrial material/chemicals and COMPACT issues.

James Naich stated that he fully supported the intent. Delegate Naich discussed two examples. The first was the transshipment of plutonium from France to Japan, and Delegate Naich agreed with Delegate Nabeyan regarding the concerns of the US, but the US was not involved in the transshipment of the plutonium. The FSM took steps to protest and issued a diplomatic note protesting the transshipment, but Delegate Naich was not sure what action was taken by Japan and why Japan ignored the FSM's protest. The second was the issue of the storage of materials from the Trust Territory. A study was done by the US through the EPA. Trust Territory hazardous materials were cleaned up in Marshalls and Palau, but not in the FSM.

Marcus Samo stated that he supported the intent of proposal. Delegate Samo asked what system is in place to make to ensure that the FSM has notice of transshipment of hazardous materials and can protest or approve the transshipment.

Andrew Yatilman stated that currently the FSM may have a difficult time dealing with the U.S. International conventions deal with these issues and the U.S. is not part of the regional Convention. In the Conventions, there are mechanisms which provide for negotiations, but the FSM cannot force those who do not want to be part of Conventions to abide by the terms of the Convention.

Salmon Saimon stated that we live off the ocean, but currently we do not have much control over the ocean. There is a treaty with US, and a treaty is below the Constitution. We need to understand the defense part of the COMPACT, especially when the US is telling Guam how to be safe. Under the COMPACT the US is required to protect us. But no one is telling the FSM how to deal with problem of hazardous waste. Do we benefit from treaty?

Jack Fritz stated that the treaty obligation is to defend the FSM. If the proposal passes, the U.S. will not be able to defend the FSM. Delegate Fritz raised the concern that if the US cannot defend the FSM, the US may withhold COMPACT funds.

Yoslyn Sigrah stated that the Committee needs more research. There are more questions than answers.

Berney Martin stated that he agreed with the concerns raised and questioned the capability to enforce the provision. He also raised the concern of insurance and whether the transporter will have insurance to cover the cost of any accident and whether the FSM will know if there is insurance.

Kind Kanto stated that the intention is that if we cannot monitor and protect the EEZ, then if there is an accident, then there is a law that is being violated. Nothing that prevents the accident.

Victor Nabeyan asked how the proposal will impact international obligations.

Asterio Takesy stated that the Convention on the Law of Sea guarantees transshipment, and the FSM needs to be consistent with international law. It is not just that the FSM is a party to Compact, there are also Climate Change, Biodiversity, Pacific Countries agreements. These agreements obligate us to do certain things, including the right of transit. Delegate Takesy stated that there is not enough information to make an informed decision. He also stated his concern with disengaging from the international community.

Andrew Yatiliman stated that removing the authority of the national government includes removing the authority of the national government to make arrangements for the removal and transport out of the country of such hazardous waste.

Asterio Takesy state that the intent is good; to further protect us; but are we unintentionally setting up conflicts with international SCREP agreement, the removal of PCBs, which require consent from FSM.

Ricky Cantero stated that he agreed with the intent, but needed more information.

Chair Yoslyn Sigrah stated that the Committee would continue the agenda item.

Kind Kanto stated that the Constitution is the supreme law, and that this is a proposal. He asked whether the proposal could be fixed to accomplish the intent without harm to other interests.

Tendy Liwy inquired as to who is responsible to make sure the provision is enforced; can we make sure that the national government is responsible?

Jack Fritz wanted to know how the Palauans deal with the transport of hazardous waste.

Salom Saimon reminded the Committee that the US has to transit the FSM to get to Guam.

Proposal No. 4-45:

The Introducer stated that the intent of the proposal is the sustainability of natural resources, to utilize and protect such resources. Central to the discussion was the fact that existing technology is insufficient to economically develop those resources and that such technology will not be available for many years.

Victor Nabeyan stated that there were similar proposals on clean environment and climate change which should be consolidated into one proposal and suggested that the staff and introducers could work together to consolidate the proposals.

President Redley Killion stated that he had no objection to having the proposals consolidated.

Proposal No. 4-55:

The Introducer stated that the intent of the proposal is to reassert that national corporations should stick to objectives of development of the nation.

Salmon Saimon stated that he was concerned with public corporations running their surplus, that profits should be reinvested in the community, but he recognized that this may be difficult for some corporations because they have shared ownership.

Jack Fritz asked for a clarification of which corporations.

Victor Nabeyan inquired as to what the evil is being cured. And, asked whether the concerns could be addressed in enabling statutes rather than in the Constitution.

Yoslyn Sigrah stated that must have been some things that are not working.

Redley Kllion stated that there was no specific evil or mischief that was being addressed; that we may not have issues now, but may have down road, because there is a tendency for the corporations to be autonomous, to do their own thing.

Asterio Takesy stated that inference with public corporations is not serving needs; these corporations were created for one purpose, to pilot an area and eventually help the private sector.

Salmon Saimon inquired as to whether there were any plans to privatize.

Jack Fritz stated that the proposal will lock the corporations in as public and not move to privatize.

Victor Nabeyan stated that the test stated in the proposal is whether the conduct of the corporations is consistent with development needs which is a subjective test; not a solution. If the corporations are not carrying out their duties, that should be addressed through the enabling legislation and through the corporation's board. If the corporations transition to privatization then that should be done through legislation.

Yoslyn Sigrah stated that some corporations are not paying taxes, amazing huge profits, not sure where depositing funds, profitable, receiving subsidies. It is hard for private companies to compete. The issue warrants examination.

Asterio Takesy stated that when the corporations were created, the national government recognized the areas were risky and that is why the government created the public corporations, to spear head investment in that sector in the hope that private investment would follow. The national government created public corporations in order to minimize political interference. The ultimate goal is to sell. We are 40 years later and corporations are still in existence. The Joint Committee Compact Review is looking at all corporations and asking whether this is the best use of public funds, are the goals being achieved. Will the goals ever be

achieved. The issue is timely, but the proposal should be addressed by legislation at state and national level. This is a transitional issue and should not be in the Constitution.

Redley Killion stated that the corporations are paying taxes, are not getting subsidies, are autonomous, and need to make sure the corporations continue to support the needs of the community. Perhaps can consider whether the issue should be addressed by legislation. The intent of the proposal is to remind corporations to stick to the development mandate.

Victor Nabeyan stated that there is not a problem with the legal structure; any problem is more with the people running the corporation rather than legal framework. The issue should be left to the legislature and the Board.

Chair Yoslyn Sigrah questioned the constitutionality of the corporations to be in existence.

The next Committee meeting is Saturday, March 7th at 9 a.m. followed by Wednesday at 2:30 p.m.

SUMMARY MINUTES
OF THE
COMMITTEE ON GENERAL PROVISIONS
OF THE
4TH CONSTITUTIONAL CONVENTION

MAY 31, 2022

The Committee on General Provisions held its meeting on May 31, 2022, at 4:00 p.m. In attendance in person were Chairwoman Yoslyn G. Sigrah, Vice-Chair Any Choor, Delegates Cantero, Asher, Liwy, Martin, Saimon, and Yatilman. In attendance via Zoom were ISO, Mori, Arnold, and Takesy. Non-Committee members in attendance included Chairman Nabeyan, Legal Counsel Burch and Asanuma were present via Zoom.

The Committee acted on proposals to which it has been assigned as of the date of this meeting as follows:

- **Proposal No. 4-18, amending Article XIII, Section 1 regarding the right to insurance and pension**

At the request of Chairwoman Sigrah, Legal Counsel (LC) Burch summarized the intent and purpose of the proposal. LC Burch informed the committee that Proposal No. 4-18 was jointly assigned to the Committee on Civil Liberties and Traditions and the Committee on General Provisions. She further informed the Committee that the proposal has been permanently filed by the Committee on Civil Liberties and Traditions at its meeting earlier in the day. A motion was then made and seconded to permanently file the proposal. The motion carried.

- **Proposal No. 4-35, amending Article XIII, Section 1 regarding the right to a healthy and clean environment**

LC Burch summarized the intent and purpose of the proposal. Because the two proponents of the proposal were not present at the meeting, it was proposed that discussion of the proposal be deferred to when they are present at the meeting. A motion was made and seconded to table the proposal until the two proponents were able to meet with the Committee. The motion carried.

- **Proposal No. 4-37, amending Article XIII, Section 1 regarding adequate funding for the right to education, health care, and legal services**

LC Burch summarized the intent and purpose of the proposal.

A request was made to table this proposal as the proponents of this proposal were not present in the meeting. A motion was made and seconded to table the proposal. The motion carried.

DISCUSSIONS:

The Committee members were informed that they could add items to the day's agenda by making a motion to add a proposal to the agenda.

LC Burch informed the committee that she had had an opportunity to speak to ISO, who is a member of the Committee, and that ISO had requested that the proposals on landownership not be placed on the agenda until he is available to meet.

A Delegate raised a concern regarding the proposal on clean environment. Currently, the States have authority over their environment, would the proposal give power to the national government to create standards that the states would have to meet. The concern is if so, this would encroach on the jurisdiction of the State government.

LC Burch advised the committee that Article 13 of the Constitution is a general provision. It does not confer complete authority to the national government. An issue was then raised on what the term "recognize" means as this word was being used in the Constitution. LC Burch informed the committee that she and LC Asanuma will research the records of the 1975 ConCon regarding the meaning of "recognize" and advise the committee.

Another Delegate commented that he did not want to expand the jurisdiction of the national government. He further commented that he did not want to give the national government authority over matters that belongs to the state government.

A Delegate commented that all proposals made to this CONCON should be viewed to promote better services, efficiency, and accountability to our people whether it is to the national or state government, and not argue over jurisdiction. But, rather, the debate should focus on what will support the lives of our people.

Another Delegate commented that one level of government should not cross the line into the other's jurisdiction and that it was important to work in line with authority. The question was again raised on what the term "recognize" and "promote" mean. LC Burch informed the committee that she and LC Asanuma will provide a response as soon as they complete their research.

There was a discussion between how the powers granted to Congress in Article IX of the Constitution interacted with the provisions of Article XIII. It was agreed that this explanation would be included in the report made by the legal staff.

On motion, the meeting adjourned at 4:31 pm.

Submitted: June 02, 2022, by Kathleen Burch, CLC

SUMMARY MINUTES
OF THE
COMMITTEE ON GENERAL PROVISIONS
OF THE
4TH CONSTITUTIONAL CONVENTION

June 4, 2022

The Committee on General Provisions held its meeting on June 4, 2022 at 1:00 p.m. In attendance in person were Chairwoman Yoslyn G. Sigrah, Vice-Chair Andy Choor, Delegates Fritz, Kanto, Liwy, Nabeyan, Saimon, and Martin.

Joining late were Delegates Asher and Takesy. The vice-President joined late via zoom.

Non-Committee members in attendance included President Killion, Chief Counsel Burch (attended viz zoom), and Counsel Robert.

The Committee acted on proposals to which it has been assigned as of the date of this meeting as follows:

- **Proposal No. 4-54, amending Article XIII, Section 2 regarding prohibition radioactive, toxic chemicals, etc.**

The delegate summarized the intent and purpose of the proposal. During the discussion, a concern was raised regarding the term “toxic” and “chemical,” while further stating that pesticides may fall under the term intended to be prohibited. Concern was also raised by another delegate that although he supports the proposal, it would not be necessary to amend Article XIII since section 314 and 315 of the Compact of Free Association contains a similar clause for the purpose of national security. Another concern was raised on harmful substances and the effect they could have on health.

The motion was made and seconded to defer the proposal indefinitely. Motion carried.

- **Proposal No. 4-45, amending Article XIII, to add a new section, regarding economic development**

Proponent of this proposal summarized the intent and purpose of the proposal. A Delegate raised a concern that this proposal will put limitations on state government, especially national government, and will limit the resources now for the future generations, and finds it unsupportive. A proponent of the proposal explained that the proposal serves to preserve the sustainability of resources used for FSM. He further explained that part of the intent is to delineate such resources that are within the state and which are within national power.

Another concern was raised as to whether the proposal calls for defining and delineating land and water resources between the state and national. An additional concern was raised that the proposal is essential mainly for two (2) reasons: 1) development of the economy; and 2) for the sensitivity of land in

FSM. The delegate further discussed that the proposal contains living and non-living matters and resources within the 200 EEZ.

Proponent reiterated that the proposal is beyond the jurisdiction, but towards the livelihood of future generations, and requested if such provisions need to be included in the constitution.

A motion was made and seconded to defer the proposal. Motion carried.

- **Proposal Nos. 4-55, amending Article XIII, to add a new section, regarding public corporations**

Delegate summarized the intent and purpose of the proposal. During the discussion, a delegate raised concern about how the proposal defines "National Public Corporation." Another delegate added that Public Corporations would include NFC, Vital, Petro Corp., Fiber Optic, etc., and that the proposal should include a provision where such corporations have surpluses to deposit in the FSM trust. LC Burch defined the distinction between the private corporation, private stock ownership, and public corporation.

A motion was carried and seconded to defer the proposal. Motion carried.

- **Proposal No. 4-59, amending Article XIII, to add a new section, regarding foreign investment**

Delegate summarized the intent and purpose of the proposal. During the discussion, a concern was raised that foreign investment policies are in place both at the state and national levels.

A motion was made and seconded to defer the proposal. Motion carried.

Discussion

The proposal below was not on the order of business for today's committee meeting, but it was moved by Chairwoman Sigrah to the agenda after all the matters in the order of business were disposed of. The motion carried and Proposal No. 4-65 was placed on the agenda.

- **Proposal No. 4-65, amending Article XIII, by adding a new section, regarding the prohibition of the FSM National Government from owning a bank or other financial institution.**

Proponent summarized the intent and purpose of the proposal. Proponent elaborated and mentioned that FSM government owning institutions like FSMDB violates the state constitution where land is prohibited to be sold and the FSMDB auction of the land because of defaulted loan payers is being transferred in violation of state law. Proponent provided a certificate of title to a land where FSMDB is the owner as an example.

Another delegate mentioned that there are mortgage laws that are in place in the FSM, especially in the states. Since the Constitution, like Pohnpei, does now allow the sale of lands, the mortgage affects the land and violates the Constitution.

A delegate informed the committee that he serves as a board of one of the institutions and stated that it may be a conflict to participate in the discussion. However, he emphasized the terms of the actual service of the loan. Amending the Constitution will affect bank institutions like the Bank of FSM, which is an FDIC member.

A motion to coordinate a future hearing was made and seconded. Motion carried.

On motion, the meeting adjourned at 4:17 p.m.

Submitted: June 05,, 2022 by Kathleen Burch, CLC

SUMMARY MINUTES
OF THE
COMMITTEE ON GENERAL PROVISIONS
OF THE
4TH CONSTITUTIONAL CONVENTION

June 8, 2022

The Committee on General Provisions held its meeting on June 8, 2022 at 8:33 a.m. In attendance in person were Chairwoman Yoslyn G. Sigrah, Vice-Chair Andy Choor, Delegates Fritz, Kanto, Liwy, Nabeyan, Saimon, ISO, Takesy, and Martin.

Non-Committee members in attendance included Chief Counsel Burch and Counsel Asanuma (attended via zoom).

The Committee acted on proposals to which it has been assigned as of the date of this meeting as follows:

- **Proposal No. 4-22, amending Article XIII, Section 4 regarding that ownership of land and waters shall be controlled by the states.**

Vice-Chairman Andy Choor introduced the proposals to be discussed in the committee meeting.

Proponent summarized the purpose and intent of the proposal. He commented that the proposal will give meaning to the constitution of the four FSM states. Currently, Article XIII of the Constitution is contrary to the law of each of the four FSM states, and this proposal is intended to accommodate everyone, i.e., FSM citizens and investors.

Proponent assured the committee that the proposal will generally give ownership of land to the people of FSM. He explained using Pohnpei as an example where the law allows foreign investors, non-citizens, or any citizen of Pohnpei to lease land for a term of 50 years expressing that many have utilized this law. Further explaining that people from the traditional kingdom recognize and can give land following customs and traditions.

A concern was raised on how this proposal will affect foreign investors as they contribute to FSM economy. Members of the Committee acknowledged this concern and agreed that investment is vital to the FSM economy. Proponent informed members of the Committee that this proposal is prospective and is not retroactive and that the proposal would not impact titles that have been issued by to the effective date of the proposal.

Another concern was raised on whether the proposal would give ownership of land according to each respective State's Constitution. A delegate confirmed that this proposal would give ownership of land according to each state's constitution. State law will govern how land is held and transferred.

A comment was made supporting the proposal if this proposal was not retroactive. A concern was made regarding the first line of the proposal as to whether it would open the door for foreigners to own land in Yap. Members of the committee agreed to include the current language of the Constitution as the first sentence of the proposal to ensure that only FSM citizens can own land in the FSM. Another delegate expressed support for the proposal and mentioned that it was critical to understand that ownership of land rests with the citizens of FSM, including title to land.

Concern was raised on how the FSM government would be classified as the government owning some land. The question specifically was, would the FSM government be able to own land in Pohnpei? Currently, the FSM government owns land in Pohnpei. This is a conditional deed given back in 1979. The condition is that anything that is not used will be given back to Pohnpei, and if FSM ceases to exist then the land returns to Pohnpei.

Another delegate commented on the constitutionality of the proposal and whether it limits ownership of land to citizens of that state if passed. If the proposal is amended and ratified, then you have to be an FSM citizen and must comply with the law of the state where the land is located. It will be limited to citizens of that state and asked whether this would violate the equal protection clause as it will discriminate against another FSM citizen. This was followed by a comment that if you amend the constitution then the land ownership issue becomes an exception because the last in time controls.

A motion was made to reinstate the original language as stated in the constitution and to insert that this provision will be prospective or not retroactive. This is to be understood by everyone that it's not retroactive. Motion seconded.

A comment was made on the impact this proposal would have on FSM Development Bank as the banks count take a security interest in land as collateral for loans. It was made clear that only FSM Development Bank can have land as collateral and no other banks. It was explained that a mortgage will hold a security interest in the land in case of a default. A concern was the citizenship of the buyer once there was a foreclosure.

On motion, the meeting adjourned at 10:00 a.m.

Submitted: June 09 , 2022 by Kathleen Burch, CLC

SUMMARY MINUTES
OF THE
COMMITTEE ON GENERAL PROVISIONS
OF THE
4TH CONSTITUTIONAL CONVENTION

June 9, 2022

The Committee on General Provisions held its meeting on June 9, 2022 at 1:00 p.m. In attendance in person were Chairwoman Yoslyn G. Sigrah, Vice-Chair Andy Choor, Delegates Kanto, Liwy, Nabeyan, Saimon, and Takesy.

Non-Committee members in attendance included President Killion, Chief Counsel Burch and Counsel Asanuma (attended viz zoom), Counsel Robert.

The Committee acted on proposals to which it has been assigned as of the date of this meeting as follows:

- **Proposal No. 4-50, amending Article XIII, Section 4 to allow temporary ownership of land or waters in Micronesia for sole purposes of investment and loan security.**

The proponent summarized the goal of the proposal. The goal is 1) to stimulate foreign investment; 2) to increase commercial land within the country. This proposal is to support private sector growth. The engine for the development of any country is private sector development. If we hope to develop our country then we must develop a constitution that encourages private sector growth. In terms of practicality, there are ways to secure loans, it is true that you can secure a loan through a long-term lease. In terms of foreign investments, when we look at history, Asian foreign investors, want a title to something as this provides them some sort of security. It is who should we attract versus who is likely to come. As a country, we should be selective about who we allow entering our country. Investment should respect the environment of our country.

The discussion was based on how best to move forward with this proposal. A concern was raised on how proposal CC-PR-04-22 which the Committee just passed gives the right to decide who can and cannot own land in FSM. This will have the same effect for foreign investors as the State will decide who can and cannot own land.

A comment was made recommending including language in the constitution for investment to be viable. Some States allow foreign investors to own land for 35 years or lease land for 50 years, and some delegates didn't think this is a concern and recommended not to take drastic measures in their constitution.

Concern was also made as to the 35 years of owning land with a certificate of title as a certificate of title means owning a land forever. A question was raised as to how foreign investors own land for 35 years as this is not reflected in a certificate of title.

A motion was made and seconded to defer the proposal to the next meeting subject to the call of the Chairwoman. Motion carried.

DISCUSSION

Your committee further discussed Proposal CC-PR-04-22, and all agreed to request the President to move this proposal out of the Committee on Civil Liberties and Traditions since they have been working on this proposal.

On motion, the meeting adjourned at 2:30

Submitted: June 10, 2022 by Kathleen Burch, CLC

SUMMARY MINUTES
OF THE
COMMITTEE ON GENERAL PROVISIONS
OF THE
4TH CONSTITUTIONAL CONVENTION

June 14, 2022

The Committee on General Provisions held its meeting on June 14, 2022, at 1:30 p.m. In attendance in person were Chairwoman Yoslyn G. Sigrah, Vice-Chair Andy Choor, Delegates Fritz, Kanto, Liwy, Nabeyan, Saimon, Samo, ISO, Takesy, and Martin, (Asher and Mori absent)

Non-Committee members in attendance included Chief Counsel Burch and Counsel Asanuma (attended viz zoom).

The Committee acted on proposals to which it has been assigned as of the date of this meeting as follows:

DISCUSSION

The committee meeting started with a discussion on Proposal CC-PR-04-22, where a comment was made to move to adopt the standing committee report No. CC-SCR-4-14 on the proposal and vote on it.

A concern was raised on the statute of limitations on the report on whether it was referring to the statute of limitations of the state or the national. A request was made to clarify that all references made in the report are from the FSM Code.

A comment was made that when you are in state court then state law applies. The standing committee report intends to clarify that state law applies to all interests in land. The Committee wants to ensure that when it comes to land then the law of the state where the land is located controls. This proposal brings back the intent of the forefathers of the FSM Constitution.

The committee discussed whether inheritance law would still apply. This concern was how this amendment will impact the passing of land to children. This will all depend on the state the land is located as the intent is to apply state law. The idea is if you own land today and you have complete ownership of the land in fee simple then the proposed amendment does not change your ownership. And, when you transfer land then the law of that state applies. An example was made to the effect that upon foreclosure of land, the successful owner of that land would have to be someone who can acquire title under state law. It is the Committee's intent that individuals who own land will be able to pass land under the inheritance laws of the state where the land is located. It is the intent of the Committee that the standing committee report reflect that the inheritance law of the state applies.

A concern was made to the Committee to ensure that children who are not FSM citizens can contribute to what their parents have legally. There is the assumption that land passes on to

children and a comment was made that land is passed on to children pursuant to state probate law.

The Committee discussed that this proposal is in favor of what was done in 1975 as the forefathers were very clear that land ownership is pursuant to customs and traditions of the state. The records of the 1975 Convention clearly state that land law and inheritance law are left to the state.

A comment was made that the intent of this proposal was very clear and that is state law will control and land ownership will be under state law, customs, and traditions. Other concerns expressed in the committee will and can be handled in the respective states pursuant to their state laws, inheritance law, and land law. This will allow us to function based on our traditions, customs, and state laws.

The committee adopted the committee report subject to changes proposed by members of the committee.

- **Proposal No. 4-65, adding a new section of Article XIII regarding that the national government shall not hold an ownership interest in a bank.**

Because the representative from the FSM Development Bank was not present, the scheduled public hearing was rescheduled.

A motion was made and seconded to move the item on to the agenda for the next meeting. Motion carried.

Miscellaneous.

A Delegate requested for two proposals 04-73 and 04-74 to be deferred indefinitely as they are similar to the proposal that was just passed regarding land ownership. A motion was made and seconded. Motion carried.

A Delegate moved and it was seconded to put Proposal 4-39 on the agenda.

- **Proposal CC-PR-4-39 To amend Article XIII, Section 3 of the Constitution of the Federated States of Micronesia to prohibit any state from seceding from the nation.**

This proposal is about the principles of unity. A comment was made to keep the status quo. This was followed by a motion and seconded to permanently defer.

Comment was made that it's been 43 years and there have been active efforts to break away from FSM, i.e., Chuuk. The Pohnpei government recently introduced a resolution regarding the future status of Pohnpei and they may want to follow suit in breaking away.

The comment was made that this proposal calls for the solidification of state government. Solidification means you cannot leave. We stick together as one people and as one government.

A comment was made on the merits of staying together as some states are too small to stand alone and reminded the committee that they are stronger together.

Committee further deliberated the idea of unity and that as members of the 4th FSM ConCon, they have an obligation to support the unity and keep the FSM together. As FSM is only 43 years old, we are still infant, and we need to strengthen our unity. A lot of issues are due to disagreements and these are challenges for us, but it is important to support unity.

Delegate reminded us that we are lucky to live together. We have similar customs and history. Westerners came to our shores and in 1975 we got together and made ourselves our own country. We agreed to stay together. Although other Micronesia islands like Palau and Marshall Islands decided to separate and there are some benefits to it. But the existing government structure strengthens us.

PNI delegation informed the committee that the traditional leaders of PNI since the beginning supported unity and support the unity. We will be stronger together.

On motion, the meeting adjourned at 4:00 p.m.

Submitted: June 15, 2022 by Kathleen Burch, CLC

**COMMITTEE
ON STYLE
AND
ARRANGEMENT
MINUTES
1) 01/08/2020**

**SUMMARY OF MINUTES
OF THE
COMMITTEE ON STYLE AND ARRANGEMENT
OF THE
4TH CONSTITUTIONAL CONVENTION**

FIRST MEETING
JANUARY 8, 2020

The Committee on Style and Arrangement held its first meeting on January 8, 2020 at 4:10 p.m. In attendance were Chairman Salomon Saimon and Delegates Myron I. Hashiguchi, James A. Naich, Camillo Noket, Johnson Asher, Mason Albert, Ricky Cantero, and Andy Choor. Absent was Asterio Takesy.

Chairman Saimon called the meeting to order and opened nominations for the Vice Chairman. James Naich was nominated for Vice Chairman, the nomination was seconded. There were no other nominations. James Naich was elected Vice Chairman by voice vote.

The Committee stands in recess until the call of the Chairman.

Submitted: January 8, 2020

COMMUNICATIONS

- 1) FROM THE FSM PRESIDENT
- 2) FROM THE SPEAKER OF CONGRESS
- 3) FROM THE PRESIDENT OF 4TH FSMCC
- 4) INTERNAL
 - a. FROM 4TH FSMCC PRESIDENT
 - b. FROM 4TH FSMCC VICE-PRESIDENT
 - c. FROM LEGAL OPINIONS FROM CHIEF LEGAL COUNSEL
 - d. FROM SECRETARY

COMMUNICATIONS

FROM THE FSM PRESIDENT

- a. 01/31/2020
- b. 02/14/2020
- c. 02/28/2020
- d. 03/14/2020
- e. 11/26/2020
- f. 02/09/2022



The President
Palikir, Pohnpei
Federated States of Micronesia

Public Health Emergency Declaration in the FSM

WHEREAS, the World Health Organization has declared on January 30, 2020 (January 31st 2020 Pohnpei time) that the new Coronavirus is a Public Health Emergency of International Concern (PHEIC);

WHEREAS, the ongoing spread of the Coronavirus are threatening the safety and public security of citizens, nationals and residents of the Federated States of Micronesia;

WHEREAS, as of today, over 8,100 cases of Coronavirus have been confirmed in mainland China with 171 deaths prompting the PHEIC declaration by the World Health Organization; and

WHEREAS, it is imperative that immediate precautionary measures are put in place in FSM in order to protect that lives and safety of its citizens, nationals and residents by initiating ban, restrictions and/or advisory with respect to unnecessary international travels that could intensify the risk of spreading the virus into the FSM territory.

NOW THEREFORE, I, David W. Panuelo, President of the Federated States of Micronesia, pursuant to the authority vested upon me under Article IX Section 10 of the FSM Constitution, do hereby place the entire territory of the Federated States of Micronesia under a state of emergency to address the effects of Coronavirus and order as follows:

(1) All citizens of the Federated States of Micronesia are banned from travelling to mainland China and other countries with confirmed cases of Coronavirus until further notice and until such time that a determination is made that the Coronavirus is effectively contained.

(2) Other citizens, nationals and residents in FSM are strongly advised against taking unnecessary travel to mainland China and other countries, states and territory with confirmed cases of Coronavirus until the situation is reassessed and found to be under control making it safe to resume international travel.

(3) Persons travelling directly or indirectly, either by air or sea transport, from anywhere in mainland China since January 6, 2020, are banned from entering into FSM. They are advised to see a doctor or proceed to a hospital once they experience any of the Coronavirus symptoms, such as, feeling tired, difficulty breathing, high temperature and coughing and/or sore throat.

(4) Persons travelling into FSM from countries, states or territory with confirmed cases of the Coronavirus (other than mainland China) are not allowed to enter into FSM unless they have stayed in a country, state or territory with no confirmed cases of Coronavirus for a period not less than 14 days immediately prior to their entry into FSM.



(5) A task force is hereby established to coordinate all activities that need to be undertaken and measures that must be formulated and implemented in connection with the Coronavirus. The Department of Health is designated as lead department and chair of Task Force, which will be responsible for setting up plans to provide any necessary measures that will ensure that the movement of people and international travellers do not cause the introduction of Coronavirus anywhere in FSM. The members of the Task Force are the following:

- Department of Environment, Climate Change and Emergency Management (DECCEM)
- Department of Foreign Affairs
- Department of Finance
- Department of Transportation Communication and Infrastructure (TC&I)
- Department of Justice
- Department of Resources and Development (R&D)
- Department of Education
- FSM Division of Immigration
- Representatives of the Private Sector
- Representatives of State Governments as recommended by the State Governors

The Task Force shall convene immediately upon issuance of this order and provide the President with timely report and update.

(6) Subject to availability of fund, so much of the Disaster Assistance and Emergency Fund (DAEF), or any available fund, up to \$200,000 is hereby decreed in response to this emergency situation.

(7) The Department of Finance shall identify sources of replenishment for the decreed fund and recommend to the President, as soon as practical, additional supplemental budget request to Congress.

(8) During the emergency, a civil right may be impaired only to the extent actually required for the preservation of peace, health, or safety. The normal requirement of competitive bidding is waived for any procurement made in connection with this declaration of emergency.

SO ORDERED.


David W. Panuelo
President

Date: January 31, 2020



The President
Palikir, Pohnpei
Federated States of Micronesia

**Amendment to the Public Health Emergency Declaration
Per Congressional Resolution No. 21-117**

WHEREAS, on January 31, 2020, the President of the Federated States of Micronesia issued emergency declaration placing travel ban and restrictions in response to the ongoing spread of the 2019-nCoV new Coronavirus;

WHEREAS, the President amended the emergency declaration on February 4, 2020;

WHEREAS, by Congressional Resolution No. 21-117, Congress further amended and modified the declaration on February 12, 2020;

WHEREAS, in the interest of clarity and of giving full publicity to the Emergency Declaration including all the amendments made thereto, a further amendment encapsulating all the issuances becomes necessary; and

WHEREAS, although the Congressional Resolution lifted the 14 days quarantine requirement, such requirement remains critical at this time given our ongoing efforts of capacity building in order to prepare the nation and our citizens in dealing with the adverse impacts of the virus.

NOW THEREFORE, I, David W. Panuelo, President of the Federated States of Micronesia, pursuant to the authority vested upon me under Article X Section 9 of the FSM Constitution, do hereby further amend and clarify the Emergency Declaration set out as follows:

(1) All citizens of the Federated States of Micronesia are banned from travelling to mainland China until further notice and until such time that a determination is made that the Coronavirus is effectively contained.

(2) Other citizens, nationals and residents in the FSM are strongly advised against taking unnecessary travel to mainland China and other countries, states and territories with confirmed cases of the Coronavirus until the situation is reassessed and found to be under control making it safe to resume international travel.

(3) Persons travelling directly or indirectly, either by air or sea transport, from anywhere in mainland China since January 6, 2020, are banned from entering into the FSM.

(4) Regarding commercial sea vessels (cargo, tankers and fishing vessels), they shall all be subject to Customs, Immigration & Quarantine (CIQ) and additional health inspection procedures. Commercial vessel crews are allowed to disembark their vessels only in the performance of required operational duties, and only within the immediate dock facilities. Fishing vessel crews may be allowed to disembark provided that they are assessed as healthy by designated Health authorities.



(5) With respect to commercial airlines conducting regular transit service through the FSM, crewmembers and technical support personnel on board the aircraft may exit the aircraft in order to carry out inspection and regular duties around the aircraft, but they are not permitted to enter any airport facilities except for those necessary for the safe operation of the airplane.

(6) A task force is hereby established to coordinate all activities that need to be undertaken and measures that must be formulated and implemented in connection with the Coronavirus outbreak. The Department of Health is designated as lead department and chair of Task Force, which will be responsible for setting up plans to provide any necessary measures that will ensure that the movement of people and international travellers do not cause the introduction of Coronavirus anywhere in the FSM. The members of the Task Force are the following:

- Department of Environment, Climate Change and Emergency Management (DECCEM)
- Department of Foreign Affairs
- Department of Finance
- Department of Transportation Communication and Infrastructure (TC&I)
- Department of Justice
- Department of Resources and Development (R&D)
- Department of Education
- FSM Division of Immigration
- Representatives of the Private Sector
- Representatives of State Governments as recommended by the State Governors

(7) The Task Force shall coordinate with the task forces established by the FSM States and work together with international partners such as the World Health Organization and the United States Centers for Disease Control and Prevention (CDC), and provide the President with timely reports, update and appropriate recommendations.

(8) Up to the sum of \$700,000, received as balance and available under the Disaster Relief Fund (DRF) accounts set up under Title 55 of the Code of the Federated States of Micronesia (Annotated), from prior declarations of emergencies, is hereby decreed for this Emergency Declaration. This fund shall be used in any manner necessary to deal with the public health emergency, including the mitigation of costs for people affected by the travel ban instituted by the emergency declaration. The Emergency Task Force shall develop suitable criteria for the mitigation of costs for President's approval.



(9) Expenditures of the decreed fund are subject to full accounting. Within 20 days after the end of the emergency, the Chair of the Task Force, with the assistance of the Secretary of Finance and staff, shall provide the President with full report on the expenditure of funds, and shall submit the report to Congress no later than 30 days after the emergency is over.

(10) During the emergency, a civil right may be impaired only to the extent actually required for the preservation of peace, health, or safety. The normal requirement of competitive bidding is waived for any procurement made in connection with this declaration of emergency.

(11) Unless sooner revoked, this Emergency Declaration is valid for a period of no more than sixty (60) days counting from January 31, 2020.

(12) The 14-day quarantine period that was lifted by the Congressional Resolution No. 21-117 is re-imposed and still in effect until February 28, 2020. For the purpose of paragraph, the quarantine requirement means that: *Persons travelling into FSM from countries, states or territories with confirmed cases of the Coronavirus (other than mainland China) are not allowed to enter into the FSM unless they have stayed in countries, states or territories with no confirmed cases of the Coronavirus for a period of no less than 14 days immediately prior to their entry into the FSM.*

(13) Clarification dated February 7, 2020, is hereby rescinded.

(14) The attached Clarification dated February 14, 2020, is in effect and is considered part of this order.

SO ORDERED.

A handwritten signature in blue ink, appearing to read "David W. Pantulo", written over a horizontal line.

David W. Pantulo
President

Date: February 14, 2020

February 14, 2020

Clarification of the Public Health Emergency Declaration

(A) It is clarified that with respect to paragraphs #3 and #4 to the extent concerning “*commercial sea vessels*” (which means: fishing vessels, cargo vessels and oil tankers), travelling to the FSM for the purpose of trade and commerce, the following understanding applies:

(1) Commercial sea vessels traveling from or transiting through mainland China or any country, state or territory with confirmed cases of the Coronavirus are allowed to continue to deliver goods, commodities or supplies to the FSM as part of regular trade and commerce; provided, that such vessels have spent an uninterrupted period of no less than 14 days at sea prior to arrival in the FSM. If commercial sea vessels transit or stop in a port or anywhere in a country, state or territory that has no confirmed cases of the Coronavirus, then such transit or stop is not considered as an “interruption” of the 14 days required in this paragraph.

(2) While operating at sea, should any of these commercial sea vessels come into contact with any other vessel that does not meet the requirement of paragraph (1), then these commercial sea vessels must comply with the 14 days requirement prior to their entry into the FSM.

(3) Upon arrival, crewmembers of such vessels are subject to customs, immigration and quarantine inspections; additionally, they will be subject to any additional screening and inspection processes mandated by national and state Health authorities. With the exception of fishing vessel crews, crewmembers are allowed to disembark their vessels only in the performance of required operational duties and only within the immediate dock facilities. Fishing vessel crews may be allowed to proceed onshore provided that their 14 uninterrupted days at sea can be verified, and they are cleared by Health authorities.

(4) Any crewmembers showing any symptoms of the Coronavirus as determined by the FSM Health authorities are subject to quarantine procedures.

(B) It is further clarified that with respect to commercial airlines conducting regular transit service through the FSM, crewmembers and technical support personnel on board the aircraft may exit the aircraft in order to carry out inspection and regular duties around the aircraft, but they are not permitted to enter any airport facilities except for those necessary for the safe operation of the airline.



The President
Palikir, Pohnpei
Federated States of Micronesia

Decree in relation to the Public Health Emergency Declaration

WHEREAS, on January 31, 2020, the President of the Federated States of Micronesia issued emergency declaration placing travel ban and restrictions in response to the ongoing spread of the new Coronavirus;

WHEREAS, the President amended the emergency declaration on February 4, 2020; and

WHEREAS, on February 12, 2020, the FSM Congress amended the emergency declaration by Congressional Resolution No. 21-117, which lifted the 14-day quarantine requirement, but extended the period of declaration up to 60 days from the date of the Declaration;

WHEREAS, on February 14, 2020, the President responded to the Congressional Resolution No. 21-117 by reinstating the 14-day quarantine through an amended Declaration, and specify that the 14-day quarantine period will continue in effect until February 28, 2020;

WHEREAS, it is in the interest of the citizens of the Federated States of Micronesia to further extend the travel restrictions given that many key information about this disease remain unknown;

WHEREAS, due to the ongoing spread of the Coronavirus and the increasing number of confirmed cases globally;

NOW THEREFORE, I, David W. Panuelo, President of the Federated States of Micronesia, pursuant to the authority vested upon me under Article X Section 9 of the FSM Constitution and in light of the Congressional Resolution No. 21-117, do hereby issue the following decree and clarify the Emergency Declaration as follows:

(1) The 14-day travel restriction contained in the Amended Emergency Declaration, February 14, 2020 is extended to March 13, 2020. For the purpose of this paragraph, the 14-day travel restriction means that: Persons travelling into FSM from countries, states or territories with confirmed cases of the coronavirus (other than mainland China) are not allowed to enter into the FSM unless they have stayed in countries, states or territories with no confirmed cases of the Coronavirus for a period of no less than 14-day immediately prior to their entry into the FSM.

(2) All other terms of the February 14, 2020 Amended Emergency Declaration and the attached February 14, 2020 Clarification, which was made part of the February 14, 2020 Amended Public Health Emergency Declaration remain the same until modified or rescinded.

SO ORDERED.

David W. Panuelo
President

Date: Feb 28th, 2020

February 14, 2020

Clarification of the Public Health Emergency Declaration

(A) It is clarified that with respect to paragraphs #3 and #4 to the extent concerning "*commercial sea vessels*" (which means: fishing vessels, cargo vessels and oil tankers), travelling to the FSM for the purpose of trade and commerce, the following understanding applies:

(1) Commercial sea vessels traveling from or transiting through mainland China or any country, state or territory with confirmed cases of the Coronavirus are allowed to continue to deliver goods, commodities or supplies to the FSM as part of regular trade and commerce; provided, that such vessels have spent an uninterrupted period of no less than 14 days at sea prior to arrival in the FSM. If commercial sea vessels transit or stop in a port or anywhere in a country, state or territory that has no confirmed cases of the Coronavirus, then such transit or stop is not considered as an "interruption" of the 14 days required in this paragraph.

(2) While operating at sea, should any of these commercial sea vessels come into contact with any other vessel that does not meet the requirement of paragraph (1), then these commercial sea vessels must comply with the 14 days requirement prior to their entry into the FSM.

(3) Upon arrival, crewmembers of such vessels are subject to customs, immigration and quarantine inspections; additionally, they will be subject to any additional screening and inspection processes mandated by national and state Health authorities. With the exception of fishing vessel crews, crewmembers are allowed to disembark their vessels only in the performance of required operational duties and only within the immediate dock facilities. Fishing vessel crews may be allowed to proceed onshore provided that their 14 uninterrupted days at sea can be verified, and they are cleared by Health authorities.

(4) Any crewmembers showing any symptoms of the Coronavirus as determined by the FSM Health authorities are subject to quarantine procedures.

(B) It is further clarified that with respect to commercial airlines conducting regular transit service through the FSM, crewmembers and technical support personnel on board the aircraft may exit the aircraft in order to carry out inspection and regular duties around the aircraft, but they are not permitted to enter any airport facilities except for those necessary for the safe operation of the airline.



The President
Palikir, Pohnpei
Federated States of Micronesia

National Declaration Placing the Entire Federated States of Micronesia under a State of National Public Health Emergency in Connection with the COVID-19 Pandemic

WHEREAS, given the then developing spread of the COVID-19 (new Coronavirus) from China and following the declaration by the World Health Organization (WHO) on January 30, 2020 (January 31st 2020 Pohnpei time) that the COVID-19 is a Public Health Emergency of International Concern (PHEIC), the President of the Federated States of Micronesia issued an emergency declaration on January 31, 2020, which was further amended by extending the travel restrictions in light of the Congressional Resolution No. 21-117 adopted during the 3rd Regular Session of the 21st FSM Congress;

WHEREAS, the previous declaration of emergency and subsequent amendments of the emergency declaration were premised upon the initial onset of the COVID-19 from its epicenter in Wuhan, Hubei Province in China beginning to spread out to the neighboring countries in Asia and beyond;

WHEREAS, the most recent finding by the WHO of the COVID-19 as Pandemic (described as an infectious disease where there is significant and ongoing person-to-person spread in multiple countries around the world at the same time) brings a much alarming intensity of the disease with unprecedented levels of risks of widespread disaster and damage to human population;

WHEREAS, the COVID-19 Pandemic exposes the FSM to an undeniable vulnerability from the imminent and likely entry of the virus to the islands unless the National Government resolves to implement effective counter measures to combat the spread of this rare and deadly virus;

WHEREAS, the National Government must mitigate the risk factors associated with the undesirable spread of the COVID-19 anywhere in the FSM, and for this purpose, the FSM must fast-track nationwide capacity building efforts—which remain in progress, intensify the surveillance and monitoring of international airports and seaports in the country, and maintain quarantine and travel ban and restrictions, together and as a whole, comprising the national efforts of combatting the spread of COVID-19 as other countries around the world are doing;

WHEREAS, given that the Congressional Resolution No. 21-129, lifting the “14-day travel restriction” was evidently based upon outdated and incomplete information, which did not take into full consideration the now Pandemic nature of the COVID-19, which is getting worse every day according to updates from the WHO, and has constrained countries to implement lockdowns in several cities as reported by official media outlets around the world;



WHEREAS, the number of countries with confirmed and suspected cases of COVID-19 keeps increasing as of today's date; the number of deaths due to COVID-19 has intensified to a pandemic level with no signs of receding;

WHEREAS, the citizens and residents of the FSM remain extremely vulnerable to this outbreak taking into consideration the fact that airline travel routes connecting into the FSM already have confirmed cases of the COVID-19 in Hawaii and cases under investigation in Guam, and the COVID-19 may very likely cause massive and widespread illnesses and public health disasters that are beyond the ability and present resources of the FSM Government to contain; and

WHEREAS, given the unrelenting global spread of the COVID-19, and the reality that it is already a pandemic, it becomes a matter of legal duty and obligation of the National Government of the FSM, its leadership, and all officials of this Nation to take all the emergency precautions, measures and interventions as a matter of acute emergency and necessity, in order to protect and save lives of our citizens, especially the most vulnerable members of our population—the elderly, the sick and the children.

NOW THEREFORE, I, David W. Panuelo, President of the Federated States of Micronesia, pursuant to the authority vested upon me by Article X Section 9 of the FSM Constitution, which states that the President may declare a state of emergency and *issue appropriate decrees*; and in accordance with law (11 F.S.M.C. §801) vesting upon the President the power and the duty to *declare a state emergency* and *issue appropriate decrees* if the emergency situation so warrants, and based upon §802 of Title 11 of the FSM Code, vesting upon the President the power to *prohibit* certain activities (including travel) and *other activities the President reasonably believes should be prohibited to help preserve public peace, health, or safety*; and on the basis of §803 of Title 11 of the FSM Code, ensuring that emergency decrees are fully observed and maintained; and in accordance with §804 of Title 11 of the FSM Code giving the President sufficient power to react and take action upon an emergency situation, such as presented by the COVID-19 Pandemic ("Nothing in this chapter shall limit any other power to maintain the public peace and safety which is vested in the President."), do hereby DECLARE and ORDER effective immediately:

I – Strengthening of the FSM Ports of Entry

(1) Immediately, all ports of entry of the FSM shall be strengthened and are immediately placed under strict monitoring and surveillance to ensure that the potential carriers of COVID-19 cases do not enter into the FSM. All travellers must be screened thoroughly for any signs or symptoms of the COVID-19. The typical symptoms of the COVID-19 are the following: feeling tired, difficulty breathing, high temperature and coughing and/or sore throat.

(2) All National border and security personnel (Customs, Immigration & Quarantine) are under duty to intensify monitoring of the borders of this Nation and work very closely with the National and State Task Forces.



(3) Given the severity of the situation, as a matter of national security of this Nation and in the interest of maintaining good health and safety of our people, immediately upon its issuance, this Decree shall be disseminated to the public as widely as possible throughout the Nation, by radio, print media and by digital media. The FSM Emergency Task Force shall monitor the implementation, enforcement and full compliance of this emergency declaration and provide timely reports to the President.

II – Travel ban and restrictions

(4) Travel bans being unquestionably imperative must be enforced according to the terms of this declaration. Persons travelling from China since January 6, 2020, are prohibited from entering into the FSM for as long as the COVID-19 Pandemic persists. Rare exceptions may be granted, on a case-by-case basis, in the interest of FSM citizens attending schools in Mainland China and FSM Government officials deployed there, premised upon a favorable advice, assessment and recommendation by the FSM Task Force.

(5) All FSM Citizens are banned from travelling to Mainland China and to any country, state or territory with confirmed cases of COVID-19 until further notice and until such time that a determination is made that the COVID-19 Pandemic is effectively contained. Exceptions may be granted for FSM citizens who are traveling to countries other than China out of economic necessity, education, urgent medical treatment or for immediate family emergencies (e.g., returning to work, going to school, or death or terminal illness of an immediate family member)

(6) Other citizens, nationals and residents of the FSM are strongly advised against travel to any countries, states or territories with confirmed cases of COVID-19 with the understanding that they may be prohibited from reentry, and may be subject to quarantine procedures upon arrival in the FSM.

(7) Notwithstanding paragraph 9, in the event that Guam has a confirmed case of COVID-19, travellers originating from Guam and Hawaii with no symptom of COVID-19 will be permitted to travel to the FSM but will be subject to mandatory quarantine upon their arrival in the FSM.

(8) Any terminating traveller in the FSM having symptoms of the COVID-19 will be permitted to enter but will be subject to quarantine/isolation requirements.

(9) Persons travelling into the FSM from countries, states or territories with confirmed cases of the COVID-19 (other than Mainland China) are not allowed to enter into FSM unless they have self-quarantined in countries, states or territories with no confirmed cases of COVID-19 for a period of at least 14 days immediately prior to their entry into the FSM.

III – Commercial sea vessels

(10) Commercial sea vessels (which means: fishing vessels, cargo vessels and oil tankers), travelling to the FSM for the purpose of trade and commerce, the following



understanding applies:

(a) Commercial sea vessels traveling from or transiting through Mainland China or any country, state or territory with confirmed cases of the COVID-19 are allowed to continue to deliver goods, commodities or supplies to the FSM as part of regular trade and commerce; provided, that such vessels have spent an uninterrupted period of no less than 14 days at sea prior to arrival in the FSM. If commercial sea vessels transit or stop in a port or anywhere in a country, state or territory that has no confirmed cases of the COVID-19, then such transit or stop is not considered as an “interruption” of the 14 days required in this paragraph.

(b) While operating at sea, should any of these commercial sea vessels come into contact with any other vessel that does not meet the requirement of paragraph (a), then these commercial sea vessels must comply with the 14 days requirement prior to their entry into the FSM.

(c) Upon arrival, crew members of such vessels are subject to Customs, Immigration and Quarantine inspections; additionally, they will be subject to any appropriate screening and inspection processes mandated by national and state Health authorities. With the exception of fishing vessel crews, crewmembers are allowed to disembark their vessels only in the performance of required operational duties and only within the immediate dock facilities. Fishing vessel crews may be allowed to proceed onshore provided that their 14 uninterrupted days at sea can be verified, and they are cleared by Health authorities.

(d) Any crewmembers showing any symptoms of the COVID-19 as determined by the FSM Health authorities are subject to quarantine procedures.

IV – Emergency Task Force

(11) A task force is hereby established to coordinate all activities that need to be undertaken and measures that must be formulated and implemented in connection with the COVID-19. The Department of Health and Social Affairs is designated as lead department and chair of Task Force, which will be responsible for setting up plans to provide any necessary measures that will ensure that the movement of people and international travellers do not cause the introduction of COVID-19 anywhere in the FSM. The members of the Task Force are the following:

- Department of Environment, Climate Change and Emergency Management (DECCEM)
- Department of Foreign Affairs
- Department of Finance
- Department of Transportation Communication and Infrastructure (TC&I)
- Department of Justice
- Department of Resources and Development (R&D)
- Department of Education
- FSM Division of Immigration
- Representatives of the Private Sector
- Representatives of State Governments as recommended by the State



Governors

- Development Partners
- Representatives of Faith Groups
- Representatives of Traditional Leaders

(12) The Task Force shall convene immediately upon issuance of this order and provide the President with timely reports and updates.

V – Funds

(13) Subject to the provisions of the Amended Compact, the President may access funding under the Disaster Assistance and Emergency Fund (DAEF). The President may also access any and all appropriated funds from Congress or funds—including the Disaster Relief Fund—that are made available in connection with the COVID-19 emergency declaration and related emergencies. Furthermore, the President may decree additional funding as may be needed during the state of emergency in accordance with Art. X Sec. 9(a) of the FSM Constitution.

(14) Funds that were decreed previously pursuant to a prior emergency declaration in connection to the COVID-19 epidemic are immediately transferred and carried over as decreed funds under this COVID 19 Pandemic emergency declaration.

(15) The Department of Finance shall identify sources of replenishment for the decreed fund and recommend to the President, as soon as practical, additional supplemental budget request to Congress.

VI – Decrees

(16) The President may issue appropriate Decrees in connection with the emergency declaration. Decrees shall be disseminated to the public as widely as possible throughout the Nation, by radio, print media and by digital media. The FSM Emergency Task Force shall monitor the implementation, enforcement and full compliance of Decrees and provide timely report to the President with respect thereon.

(17) Pursuant to Art. X Sec. 9(b) of the FSM Constitution, a civil right may be impaired as required by the nature of the COVID-19 Pandemic for the preservation of peace, health, or safety. The normal requirement of competitive bidding is waived for any procurement made in connection with this declaration of emergency.

VII – Reports

(18) The National Task Force shall meet as needed to monitor the COVID-19 Pandemic, assess the emergency response, consult with national and state stakeholders and partners, and provide updates, recommendations or reports to the President.

VIII – Transition and final clauses

(19) The Emergency Declaration dated January 31, 2020, its amendments and clarifications are hereby rescinded.



(20) The President may issue subsequent decrees to address any new situation that may arise.

SO ORDERED.

A handwritten signature in blue ink, appearing to be "David W. Panuelo", written over a horizontal line.

David W. Panuelo
President

Date: March 14, 2020



The President
Palikir, Pohnpei
Federated States of Micronesia

November 26, 2020

The Honorable Redley Killion
President
Fourth Constitutional Convention
Palikir, Pohnpei FM 96941

Dear President Killion,

I am writing to supplement my earlier letter to you dated November 23, 2020, regarding public education on the proposed constitutional amendments, and also to formalize our telephone conversation, for which I most grateful.

Following the issuance of the Executive Order, a Task Force was created to carry out public education on two proposed constitutional amendments: lowering the threshold of votes required to amend the constitution, and dual citizenship. You will note from the Executive Order that representatives not only from the Executive but also from the Constitutional Convention delegations, FSM Congress, FSM States, civil society, and NGOs will constitute membership on the task force.

Given the difficulties encountered in securing all the membership of the Task Force, the narrowing window of time between now and March 2nd national election, the continuing threat of the Covid-19 pandemic, and travel restriction due to the pandemic, I would recommend to delay the inception of the public education effort until after this COVID-19 pandemic is behind us, or until such time that all the key players of the public education campaign are able to join and contribute to accomplishing the assignment of the Task Force.

I would therefore urge the 4th Constitutional Convention to complete its session as soon as practicable so that all the proposed amendments to the Constitution can be presented as a whole package to the voters during a special referendum in a special election held for this purpose.

In making the above recommendations, I take into serious consideration the competing legal interpretations provided to me with respect to the Public Law No. 21-19 and the recent amendment under Public Law No. 21-154. The amendment requires that the Constitutional Convention shall first complete its task and conclude its session prior to holding a referendum on **ALL** the proposed amendments to the Constitution. In light of the new law, it is in our collective benefit for the Constitutional Convention to explore practical ways of continuing its deliberations, such as bringing majority of the delegates to the national capital on FSM Government owned transportation means. Other delegates who are unable to travel could join the session through other means, perhaps through similar virtual sessions used by the FSM Congress. The Executive Branch will undertake to extend all the assistance needed to accomplish the mandate of the Constitutional Convention.



The Honorable Redley Killion
November 26, 2020
Page 2

In this connection, I would like to call particular attention to the critical need for joint leadership, cooperation, and collaboration among the Executive Branch, the Legislative Branch, and the 4th Constitutional Convention in ensuring the success of our public education effort.

In conclusion, I wish to thank you for your leadership in the 4th Constitutional Convention. I appreciate the importance of your work to our nation for present and future generations. The current Executive Order establishing the Public Education Task Force will be amended/modified to reflect the above.

Sincerely,

A handwritten signature in blue ink, appearing to read "David W. Panuelo". The signature is stylized and somewhat illegible due to the cursive and overlapping lines.

David W. Panuelo
President



The President
Palikir, Pohnpei
Federated States of Micronesia

February 9, 2022

The Honorable Redley Killion
President
4th FSM Constitutional Convention
Palikir, Pohnpei FM 96941

Dear President Killion:

I am pleased to share the enclosed legal opinion issued by the FSM Department of Justice regarding the reconvening of the 4th FSM Constitutional Convention pursuant to Public Law No. 22-66.

In the event that you decide to convene in person, do note that the FSM Congress appropriated \$85,000 during the last regular session to support the further work of the Constitutional Convention. Let me know if there is anything that the Executive could do to assist in your important work. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. W. Panuelo", written over a series of horizontal blue scribbles.

David W. Panuelo
President



Department of Justice
Federated States of Micronesia

Joses R. Gallen, Sr., Secretary

(691) 320-2608

February 7, 2022

AG Op. No. 2022-002

LEGAL OPINION

TO: President of the Federated States of Micronesia
FROM: Secretary of Justice
RE: Reconvening of the 4th FSM Constitutional Convention

Introduction:

On January 26, 2022, we received from the FSM President an oral request for a legal opinion regarding legal issue on whether or not the 4th FSM Constitutional Convention has authority to reconvene in-person during the COVID-19 pandemic. Presently, the Constitutional Convention is in recess in light of the pandemic.

Public Law No. 21-19 established the Constitutional Convention, and this law was amended a few times by the following public laws: Public Laws Nos. 21-39, 21-74, 21-109, 21-154 and 22-66. Sec. 6(1)(c) thereof states that: "The Constitutional Convention may call an additional recess until the coronavirus emergency declaration is revoked, which shall not be included in the calculation of the calendar days that the Constitutional Convention is in session and for which no daily allowance under section 9 shall be paid. The extended recess due to the coronavirus emergency will be resumed at the call of the President of the Constitutional Convention either, in person, no later than 3 months after and not until the coronavirus emergency is revoked, or virtually, at any time during the coronavirus emergency but no later than 3 months after the coronavirus emergency declaration is revoked."

The latest amendment, Public Law No. 22-66, which took effect on December 15, 2021, inserted the phrase that the extended recess will be resumed at the call of the President of the Constitutional Convention "*either, in person, no later than 3 months after and not until the coronavirus emergency declaration is revoked, or virtually, at any time during the coronavirus emergency....*" There arises a question on whether or not this amendment absolutely prohibits altogether the Constitutional Convention from convening in-person during the pandemic especially considering that the amendment's title reads: "to clarify that the Constitutional Convention shall only reconvene in-person after the emergency declaration..."

Issue: Is the 4th FSM Constitutional Convention permitted to convene in-person during the COVID-19 pandemic given the language of the amendment under Public Law No. 22-66?

Answer and discussion: Yes, provided that the in-person convening during the pandemic is allowed in the Constitutional Convention rules of procedure.

In analyzing this legal issue, we consider the plain meaning of the statute under consideration. “The plain meaning of a statutory provision must be given effect whenever possible.” Setik v. FSM, 5 FSM R. 407, 410 (App. 1992).

Whereas, the title of Public Law No. 22-66 expresses some intention that “Constitutional Convention shall only reconvene in-person after the emergency declaration”, the text of the controlling section of the law does not clearly bear this mandatory tone. In fact, section 6(1)(c) uses a non-mandatory construction—that the extended recess due to the coronavirus emergency will be resumed at the call of the President of the Constitutional Convention. It would be reasonable to assume that the FSM Congress could have easily used the word “shall” if its true legislative intention was to bind the Constitutional Convention to act in particular or strict manner according to the seemingly mandatory tenor of the title of the act. But since the FSM Congress refrained from using a mandatory word, it could only be interpreted that it was not its real intention after all to impose a mandate.

“The use of the word shall in a statute is the language of command and considered mandatory.” Ting Hong Oceanic Enterprises v. Supreme Court, 8 FSM R. 1, 5 (App. 1997). “While it is true in construction of statutes and rules that the word “may” as opposed to “shall” is indicative of discretion or a choice between two or more alternatives, the context in which the word appears must be the controlling factor. Kama v. Chuuk, 10 FSM R. 593, 599 (Chk. S. Ct. App. 2002).

Moreover, and equally important in our legal interpretation is that, we took into consideration caselaw with respect to the nature of the powers of a constitutional convention. The case of Constitutional Convention 1990 v. President, 4 FSM Intrm. 320 (App. 1990) [“Constitutional Convention case”] was instructive. There in that case, the Supreme Court said that, “*since the very purpose of a constitutional convention is to review the Constitution and to exercise judgment concerning possible changes, it seems unlikely that another person or organization would be authorized to tell the members of the Convention how to exercise their judgment.*”

The issue in the Constitutional Convention case was whether the FSM Congress, in adopting legislation to implement a decision of the electorate that a convention to revise or amend the Constitution shall be held, may limit the discretion of the Constitutional Convention in determining how to adopt proposals for amendment. The FSM Congress passed Public Law No. 6-24, which in section 6(4) thereof required approval of all four state delegations as a prerequisite to the Convention’s proposal of constitutional amendments. The Supreme Court declared this provision of law unconstitutional.

The Supreme Court explained the rationale for its decision in the Constitutional Convention case, as follows: “...*since the Convention is intended to consider all aspects of the existing governmental framework, it would be anomalous for any of the existing institutions of government to be given control over the constitutional convention's decision-making processes. Thus, the nature of the Convention's mission seems to preclude control over the exercise of its judgment by any outside mechanism. Moreover, if some such check were intended, it seems unlikely that the restraining mechanism would be placed in the hands of the Congress or any existing national government branch, department or agency.*”

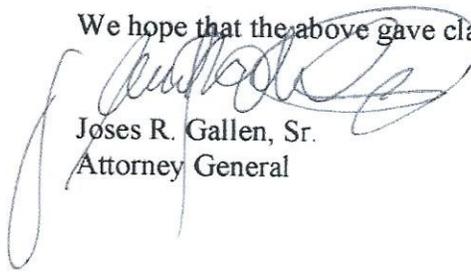
Applying the above rationale, it would be contradicting the nature of the authority of a

constitutional convention affirmed by the Supreme Court if the seemingly non-mandatory tone of the Public Law No. 22-66 were to be given a mandatory application, thereby, prohibiting the 4th FSM Constitutional Convention from convening in-person during the COVID-19 pandemic.

Conclusion:

Taking into consideration the totality of the factual situation, law and caselaw discussed above, it is our legal opinion that the 4th FSM Constitutional Convention is permitted to convene in-person during the COVID-19 pandemic if such convening is allowed by the 4th FSM Constitutional Convention rules of procedure.

We hope that the above gave clarity to the legal issue above. Thank you.



Joses R. Gallen, Sr.
Attorney General

COMMUNICATIONS

FROM THE SPEAKER OF FSM CONGRESS

- a. 02/26/2020
- b. 04/17/2020
- c. 10/14/2021
- d. 03/04/2022
- e. 05/12/2022



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

P.O. Box PS 3
Palikir, Sokehs
Pohnpei State, FM 96941
Tel: (691) 320-2324 / 2338
Fax: (691) 320-5122

Office of the Speaker

February 26, 2020

RECEIVED FEB 29 2020

His Excellency Redley Killion
President,
4th Constitutional Convention
Palikir, Pohnpei FM 96941

Dear President Killion:

I write to inform you that I am calling a Fourth Special Session of the FSM Congress to commence on March 5, 2020 for five days.

I understand that the Fourth Constitutional Convention is currently using the FSM Congress chamber for its session. Thus, I wish to inform you that on Tuesday, March 5, 2020, we need the chamber for the duration of the Fourth Special Session. On this note, I want to meet with you so we can discuss the logistics on the use of the chamber.

With warm regards, I remain,

Sincerely,

A handwritten signature in black ink, appearing to read "Wesley W. Simina".

Wesley W. Simina
Speaker,
21st FSM Congress



Office of the Chief Clerk

CONGRESS OF THE FEDERATED STATES OF MICRONESIA

P.O. Box PS 3
Palikir, Sokehs Pohnpei State, FM 96941
Tel: (691) 320-2324 / 2338 Fax: (691) 320-5122

April 17, 2020

His Excellency David W. Panuelo
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear President Panuelo:

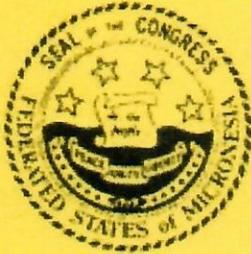
I transmit herewith a certified copy of Congressional Resolution No. 21-138, C.D.1, C.D.2, which was adopted by the Twenty-First Congress of the Federated States of Micronesia, Fifth Special Session, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read "Liwiana Ramon Ioanis".

Liwiana Ramon Ioanis
Chief Clerk
Congress of the
Federated States of Micronesia

Enclosures



TWENTY-FIRST CONGRESS OF THE
FEDERATED STATES OF MICRONESIA
FIFTH SPECIAL SESSION
APRIL 13 - 17, 2020

A RESOLUTION

TO FURTHER AMEND THE PRESIDENT'S PUBLIC HEALTH EMERGENCY
DECLARATION DATED JANUARY 31, 2020, AS AMENDED ON FEBRUARY 7, 2020,
AND FURTHER AMENDED ON MARCH 11, 2020.

INTRODUCED BY SENATOR: WESLEY W. SIMINA

DATE: APRIL 13, 2020

ADOPTED: APRIL 17, 2020

A handwritten signature in black ink, appearing to read "Liwiana Ramon Ioanis".

Liwiana Ramon Ioanis
Chief Clerk, FSM Congress

TWENTY-FIRST CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIFTH SPECIAL SESSION, 2020 CONGRESSIONAL RESOLUTION NO. 21-138, C.D.1,
C.D.2

A RESOLUTION

To further amend the President's Public Health Emergency Declaration dated January 31, 2020, as amended on February 7, 2020, and further amended on March 11, 2020.

1 WHEREAS, on January, 31, 2020, the President issued a Public
2 Health Emergency Declaration; and

3 WHEREAS in accordance to Article X, Section 9 (c) of the FSM
4 Constitution, Congress has the sole authority to revoke, amend or
5 extend the Public Health Emergency Declaration; and

6 WHEREAS, Congress is currently convened for its Fifth Special
7 Session and therefore has the powers under the Constitution to
8 revoke, amend or extend the Declaration; and

9 WHEREAS, Congress has reviewed the Declaration, the
10 amendments, the clarifications and the decrees issued by the
11 President and has reviewed updated information on the COVID-19
12 becoming a pandemic soon after the adoption of the March 11, 2020,
13 amendment to the January 31, 2020, declaration, the facts
14 attending to the declaration, amendments, clarifications and
15 decrees, and has had several public hearings and has met and
16 conferred with the President and has considered the President's
17 requests for Congressional action; now, therefore,

18 BE IT RESOLVED by the Twenty-First Congress of the Federated
19 States of Micronesia, Fifth Special Session, 2020, that:

20 (1) Pursuant to Article X, Section 9 (c) of the FSM

1 Constitution, Congress has the exclusive
2 authority to revoke, amend or extend the
3 Emergency Declaration. The President may not
4 revoke, amend or extend the Emergency
5 Declaration. However, should there be a
6 confirmed case of COVID-19 within the FSM, the
7 President is authorized to amend the Declaration
8 to respond to this situation only.

9 (2) Pursuant to Article X, Section 9 (a) of the FSM
10 Constitution, the President may issue appropriate
11 decrees related to the Emergency Declaration,
12 other than to revoke, amend or extend the
13 Emergency Declaration. Unless and until this
14 Emergency Declaration is revoked by Congress, or
15 it expires of it's own term, the President may
16 not issue an additional or new Emergency
17 Declaration to address the ongoing COVID-19
18 Pandemic. The purported declaration issued on
19 March 14, 2020 by the President is null and void
20 and all purported amendments, decrees and
21 clarifications made pursuant to the purported
22 declaration are also null and void. Most of the
23 contents of the purported March 14, 2020
24 declaration and subsequent decrees thereof are
25 incorporated herein for clarity and comity

1 purposes. The contents thereof which are not
2 inconsistent or contradictory to the January 31,
3 2020 declaration as amended and as further
4 amended herein by Congress are hereby deemed
5 ratified as to their effectiveness and
6 implementation, relating back to their date of
7 issuance or implementation.

8 (3) The President shall discuss with the Governors of
9 all the 4 states the terms of the social
10 distancing requirements and other safety
11 precautions that shall be mandated, within 30
12 days, for the entire nation.

13 (4) The Public Health Emergency Declaration in the
14 FSM dated January 31, 2020, is hereby further
15 amended to read:

16 WHEREAS, the World Health Organization (WHO) has declared on
17 January 30, 2020 (January 31st 2020 Pohnpei time) that the new
18 Coronavirus (COVID-19) is a Public Health Emergency of
19 International Concern (PHEIC); and

20 WHEREAS, the WHO has declared on March 11, 2020, (March 12,
21 2020 Pohnpei time) that COVID-19 is a pandemic and this occurred
22 after Congress adopted it's March 11, 2020 amendment to the
23 January 31, 2020 declaration; and

24 WHEREAS, the COVID-19 Pandemic exposes the FSM to an
25 undeniable vulnerability from the imminent and likely entry of the

1 virus to the islands unless the FSM National Government and the
2 State Governments resolves to implement effective and uniform
3 counter measures to combat the spread of this rare and deadly
4 virus across all of our states; and

5 WHEREAS, the National Government must mitigate the risk
6 factors associated with the undesirable spread of COVID-19
7 anywhere in the FSM, and for this purpose, the FSM must fast-track
8 nationwide, unified capacity building efforts - which remain in
9 progress, intensify the surveillance and monitoring of
10 international airports and seaports in the country, and maintain
11 quarantine and travel restrictions, together and as a whole,
12 comprising the national efforts of combatting the spread of COVID-
13 19 as other countries around the world are doing; and

14 WHEREAS, the number of countries with confirmed and suspected
15 cases of COVID-19 keeps increasing and the number of deaths due to
16 COVID-19 have intensified with no signs of receding in the near
17 future; and

18 WHEREAS, the citizens and residents of the FSM remain
19 extremely vulnerable to this outbreak, taking into consideration
20 the fact that airline travel routes connecting into the FSM
21 already have confirmed cases of COVID-19 in Hawaii and Guam and
22 COVID-19 may very likely cause massive and widespread illnesses
23 and public health disasters that are beyond the ability and
24 present resources of the FSM National and State Governments to
25 contain; and

1 WHEREAS, given the unrelenting global spread of COVID-19, and
2 the reality that is already a pandemic, it becomes a matter of
3 legal duty and obligation of the National Government of the FSM,
4 its leadership and all officials of this Nation, to take all the
5 emergency precautions, measures and interventions as a matter of
6 acute emergency and necessity, in order to protect and save lives
7 of our citizens, especially the most vulnerable members of our
8 population, the elderly, the sick and the children;

9 NOW THEREFORE, I, David W. Panuelo, President of the
10 Federated States of Micronesia, pursuant to the authority vested
11 upon me under Article X, Section 9 of the FSM Constitution, do
12 hereby place the entire territory of the Federated States of
13 Micronesia under a state of emergency to address the effects of
14 COVID-19 and order as follows:

15 (1) Immediately, all ports of entry of the FSM shall
16 be strengthened and are immediately placed under
17 strict monitoring and surveillance to ensure that
18 the potential carriers of COVID-19 do not enter
19 into the FSM. All travellers must be screened
20 thoroughly for any signs or symptoms of COVID-19,
21 such as feeling tired, difficulty breathing, high
22 temperature (fever) and coughing and/or sore
23 throat.

24 (2) All National border and security personnel
25 (Customs, Immigration and Quarantine) are under a

1 duty to intensify monitoring of the borders of
2 this Nation and work very closely with the
3 National and State Task Forces to implement a
4 unified response.

5 (3) Given the severity of the situation, as a matter
6 of national security of this Nation and in the
7 interest of maintaining good health and safety of
8 our people, immediately upon its issuance, this
9 Decree shall be disseminated to the public as
10 widely as possible throughout the Nation, by
11 radio, print media and by digital media. The FSM
12 Emergency Task Force shall monitor the
13 implementation, enforcement and full compliance
14 of this emergency declaration and provide timely
15 reports to the President.

16 (4) Nationwide, unified travel bans must be enforced
17 according to the terms of this declaration.
18 Persons travelling from any infected country,
19 state or territory, are prohibited from entering
20 into the FSM for as long as the COVID-19 Pandemic
21 persists. Rare exceptions may be granted on a
22 case-by-case basis, for certified health experts,
23 technicians and workers assigned to assist the
24 FSM with respect to COVID-19, returning medical
25 referral patients, premised upon prior favorable

1 advice, assessment and recommendation by the FSM
2 Emergency Task Force, in consultation with the
3 state task forces, and subject to all screening,
4 detection, quarantine and isolation procedures
5 and protocols of the State of destination.

6 (5) All FSM Citizens are banned from travelling to
7 any country, state or territory with confirmed
8 cases of COVID-19 until further notice and until
9 such time that a determination is made that the
10 COVID-19 Pandemic is effectively contained.
11 Exceptions may be granted for FSM citizens who
12 will be traveling to affected areas, who are
13 legal residents of an affected area, and are
14 returning to their homes or employment or for
15 urgent medical treatment premised upon favorable
16 advice, assessment and recommendation by the FSM
17 Emergency Task Force.

18 (6) Other citizens, nationals and residents of the
19 FSM are strongly advised against travel to any
20 country, state or territory with confirmed cases
21 of COVID-19, with the understanding that they may
22 be prohibited from re-entry or may be subject to
23 quarantine procedures upon return to the FSM.

24 (7) Travel by air or sea between and within the FSM
25 states is permitted, as long as there are no

1 confirmed cases of COVID-19 within any of the FSM
2 states. Only air and sea travel that originates
3 within the FSM states is permitted, travel that
4 originates outside of the FSM is not permitted.
5 (ie. flights originating in Guam or Hawaii or any
6 other affected area are not permitted and ships
7 originating from any affected area are not
8 permitted). All passengers will be screened at
9 the airport or seaport prior to check in or
10 boarding and are subject to health screening
11 procedures in the FSM state of destination. Any
12 passenger exhibiting symptoms of COVID-19 will
13 not be permitted to board the plane or ship. Any
14 passenger that develops symptoms during transit
15 will be permitted to enter at their final
16 destination, but will subject to
17 quarantine/isolation requirements.

18 (8) Because of the lack of available quarantine and
19 isolation facilities within the FSM, no
20 passengers shall be permitted to disembark into
21 the FSM from any air or sea vessel that
22 originates outside the FSM, subject to the
23 exceptions in Section 4, for FSM citizens
24 international travel and Section (9) for
25 commercial sea vessels. The authority to

- 1 regulate foreign and interstate commerce is
2 expressly granted to Congress in the
3 Constitution, FSM Const. art. IX, § 2(g). FSM
4 Const. art. XIII § 3. requires the national and
5 state governments to uphold the provisions of the
6 Constitution and to advance the principles of
7 unity upon which the Constitution is founded.
8 These travel restrictions may not be amended by
9 the states; they may only be amended by
10 Congressional Resolution if Congress is in
11 session, or by written communication signed by
12 the majority of the Committee of Health and
13 Social Affairs if Congress is not in session.
- 14 (9) Commercial sea vessels (defined as: fishing
15 vessels, cargo vessels and oil tankers) traveling
16 to the FSM for the purpose of trade and commerce,
17 are subject to the following:
- 18 a. Commercial sea vessels are required to abide
19 at all times with the precautionary measures
20 and protocols set by the FSM National
21 Government in coordination with the National
22 and State task forces.
- 23 (10) Fishing vessels, other than the domestic fleet,
24 are subject to the following:
- 25 a. With the exception of transshipment

1 activities in Kosrae by purse seine fishing
2 vessels and of activities falling under
3 section (b) hereof, all transshipment
4 activities are to be carried out in
5 designated transshipment areas to be
6 identified by the National Oceanic Resource
7 and Management Authority (NORMA). A
8 designated transshipment area will be in the
9 territorial waters beyond the three nautical
10 miles zone from baselines. NORMA shall
11 issue appropriate guidelines regulating the
12 transshipment.

13 b. Carrier vessels supporting transshipment
14 activities of the domestic fleets are
15 permitted to enter the anchorage area for
16 transshipping purposes only, subject to
17 state health screening procedures.

18 c. Longline (LL) fishing vessels are allowed to
19 come to port for transshipment purposes,
20 subject to the additional measures
21 established by NORMA for the avoidance of
22 COVID-19, and observing the following
23 guidelines:

24 i. Fresh LL fishing vessels are allowed to
25 transship at port; PROVIDED, THAT, there

1 shall be no contact at anytime prior to
2 the transshipment.

3 ii. Frozen LL fishing vessels are allowed to
4 transship at port; PROVIDED, THAT, the
5 fishing vessels observe the 14-day
6 quarantine at sea, and no crewmembers are
7 allowed to disembark at port. The 14-day
8 quarantine is counted from the date of
9 last contact.

10 iii. For the purpose of Section (b) hereof,
11 and any part of this decree where its
12 application is deemed relevant, "contact"
13 refers to human interaction of less than
14 four (4) feet between a crewmember of one
15 fishing vessel and another crewmember of
16 another fishing vessel, or any other
17 human to human contact external to
18 fishing vessel operations.

19 iv. Bartering, trading and local sale of fish
20 are prohibited. No person is allowed to
21 approach, in the transshipment and
22 Anchorage area, any fishing vessel, or
23 have any contact therewith, at any time
24 during the effective period of this
25 declaration.

1 d. Domestic fishing vessels are allowed to call
2 port in the FSM States for repair,
3 maintenance and provisioning purposes at the
4 Anchorage area, and shall remain in the
5 Anchorage area during repairs, maintenance
6 and provisioning. For the purposes of this
7 section, domestic fishing vessels are fishing
8 vessels that are flagged in the FSM or have a
9 base of operation anywhere in the FSM States.
10 On a case by case basis, NORMA may, in
11 consultation with the states, grant approval
12 for required repairs and maintenance to be
13 completed at the dock for any repairs or
14 maintenance that cannot be carried out at the
15 anchorage area, subject to no human-to-human
16 contact during said repairs. A written plan
17 outlining the safety procedures that will be
18 followed must be submitted to NORMA for
19 approval at least 72 hours prior to the
20 requested repairs.

21 e. With respect to transshipment at sea,
22 Immigration and Customs clearance procedures
23 shall be conducted electronically with the
24 intention of avoiding or minimizing contact.
25 For the duration of the emergency procedure

- 1 concerning transshipment at sea, quarantine
2 procedures are suspended until further notice.
- 3 f. Transshipment at sea shall be monitored
4 thoroughly by the relevant national department
5 or agency, in particular, the Department of
6 Justice (DOJ) and NORMA, to ensure compliance
7 with this directive. NORMA and DOJ, on behalf
8 of the National Emergency Task Force, shall
9 coordinate with the State authorities to
10 ensure that the transshipment activities are
11 not unduly delayed or interfered with by any
12 State-mandated procedures.
- 13 g. It is part of these requirements that 72 hours
14 prior to transshipment, notice shall be
15 provided in advance to NORMA and DOJ using
16 applicable forms of reporting. Included in
17 the notice are the body temperatures of all
18 crewmembers of the fishing vessels intending
19 to transship, taken at 24-hour intervals prior
20 to transshipment. (at 72 hours, at 48 hours
21 and at 24 hours). Information on body
22 temperatures may be shared with the State
23 authorities for health assessment and
24 coordination purposes.
- 25 h. These restrictions are a temporary emergency

1 measure, which shall remain in effect until
2 further notice. Any violation of these
3 restrictions shall be subject to penalty set
4 by law pursuant to 11 F.S.M.C. §803. The
5 Secretary of Justice is ordered to take all
6 measures available within the law to ensure
7 enforcement of these restrictions.

8 (11) A task force is hereby established to coordinate
9 all activities that need to be undertaken and
10 measures that must be formulated and uniformly
11 implemented in connection with the COVID-19
12 Pandemic. The Department of Health and Social
13 Affairs is designated as the lead department and
14 chair of the Task Force, which will be
15 responsible for setting up plans to provide any
16 necessary measures that will ensure that the
17 movement of people and international travellers
18 do not cause the introduction of COVID-19
19 anywhere in the FSM. The members of the Task
20 Force are the following:
21 a. Department of Environment, Climate Change and
22 Emergency Management (DECCEM);
23 b. Department of Foreign Affairs;
24 c. Department of Finance and Administration;
25 d. Department of Transportation, Communications

- 1 and Infrastructure (TC&I);
2 e. Department of Justice;
3 f. Department of Resources and Development (R&D);
4 g. Department of Education;
5 h. FSM Division of Immigration;
6 i. Representatives of the Private Sector;
7 j. Representatives of State Governments as
8 recommended by the State Governors;
9 k. Development Partners;
10 l. Representatives of Faith Groups; and
11 m. Representatives of Traditional Leaders.
- 12 (12) The Task Force shall convene immediately upon
13 issuance of this order and provide the President
14 with timely reports and updates.
- 15 (13) Up to the sum of \$700,000, received as balance
16 and available under the Disaster Relief Fund
17 (DRF) accounts set up under Title 55 of the Code
18 of the Federated States of Micronesia
19 (Annotated), from prior declarations of
20 emergencies, is hereby decreed for this Public
21 Health Emergency Declaration. This fund shall be
22 used in any manner necessary to deal with the
23 public health emergency, including the mitigation
24 of costs for people affected by the travel ban
25 instituted by the emergency declaration. The

1 Emergency Task Force shall develop suitable
2 criteria for the mitigation of costs for
3 President's approval.

4 (14) Other funds received from foreign donors,
5 including the United States, that are
6 specifically related to the FSM national response
7 to the COVID-19 Pandemic may be used for
8 nationwide capacity building, intensifying the
9 surveillance and monitoring of international
10 airports and seaports in the FSM, expanding and
11 maintaining quarantine and travel restrictions,
12 and other national efforts to combat the spread
13 of COVID-19.

14 (15) Expenditures of the decreed funds are subject to
15 full accounting. Within 20 days after the end of
16 the emergency, the Chair of the Task Force, with
17 the assistance of the Secretary of Finance and
18 Administration and staff, shall provide the
19 President with a full report on the expenditure
20 of funds, and shall submit the report to Congress
21 no later than 30 days after the emergency is
22 over.

23 (16) The Department of Finance shall identify sources
24 of replenishment for the decreed funds and
25 recommend to the President, as soon as practical,

1 additional supplemental budget request to
2 Congress.

3 (17) During the emergency, a civil right may be
4 impaired only to the extent actually required for
5 the preservation of peace, health or safety. The
6 normal requirement of competitive bidding is
7 waived for any procurement made in connection
8 with this declaration of emergency.

9 (18) Unless sooner revoked by Congress, this Emergency
10 Declaration is in effect until May 31, 2020.

11 (19) All previous amendments and clarifications to the
12 Public Health Emergency Declaration are hereby
13 revoked.

14 BE IT FURTHER RESOLVED, that the President shall disseminate
15 widely the Public Health Declaration of Emergency as amended by
16 Congress, and any subsequent decrees and clarifications made by
17 the President pursuant to this Resolution; and
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1 BE IT FURTHER RESOLVED, that certified copies of this
2 resolution be transmitted to the President of the Federated States
3 of Micronesia, the Chief Justice of the FSM Supreme Court, the
4 Governors of Chuuk, Kosrae, Pohnpei and Yap States, the presiding
5 officers of the four state legislatures, and the heads of the
6 airports and seaports in Chuuk, Kosrae Pohnpei and Yap.

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10 ADOPTED: April 17, 2020

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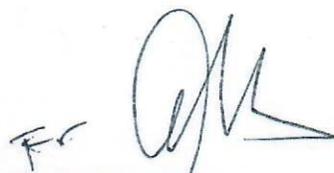
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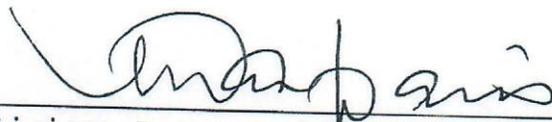
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Wesley W. Simina
Speaker
FSM Congress

ATTEST:



Liwiana Ramon Ioanis
Chief Clerk
FSM Congress



Office of the Speaker

CONGRESS OF THE FEDERATED STATES OF MICRONESIA

P.O. Box PS 3 Palikir, Sokehs

Pohnpei State, FM 96941

Tel: (691) 320-2324 / 2338

Fax: (691) 320-5122

October 14, 2021

The Honorable Redley Killion
President
Fourth FSM Constitutional Convention
Palikir, Pohnpei FM 96941

Dear President Killion:

I am in receipt of your letter of October 7, 2021 requesting Congress to make certain changes to the Constitutional Convention legislation in order to allow the convention to take Sundays and a few more days off and recess days that would not count towards the total ConCon session days. Unfortunately, the communication was received after Congress had adjourned sine die its regular session. This is unfortunate because the session had lasted a record 28 days and could have easily considered the amendments. There is therefore no legislative action possible until the next session.

I have nevertheless instructed the staff to prepare the bill that you sent for introduction. Under the circumstances I will introduce it for consideration at the next session. For future reference it should be noted that bills of this nature should more properly come from the Executive as a by-request bill.

I wish you and the Constitutional Convention the best of luck as you finish your deliberations.

Regards,

A handwritten signature in black ink, appearing to read "Wesley W. Simina".

Wesley W. Simina
Speaker
22nd FSM Congress



Office of the Speaker

CONGRESS OF THE FEDERATED STATES OF MICRONESIA

P.O.Box PS 3 Palikir, Sokehs

Pohnpei State, FM 96941

Tel: (691) 320-2324 /2338

Fax: (691) 320-5122

March 4, 2022

Mr. Redley Killion
President
4th FSM Constitutional Convention

Dear President Killion:

I hope this finds you well. I am in receipt of your letter of February 28, 2022 requesting the use of Congress facilities and the assistance of Congress personnel for the Constitutional Convention to reconvene in person. I understand that you have April, 2022 in mind.

Foremost, I would like to reiterate my full support for the purpose and aims of the Concon. As you well know, Congress provided whatever assistance we could before the pandemic, including the use of some of our staff and our own Chamber for the Concon. I also sought along with the other members to provide for the financial needs of the Concon, and to convince Congress to expeditiously pass laws that are needed for the effective functioning of the Concon.

That being said there is a law on the books -- Public Law No. 22-66 adopted just last December, 2021 -- that restricts the possibility of the Concon meeting in person before the end of the pandemic. As you know, we had discussions and based on those discussions I introduced a bill -- C.B. 22-141 -- this past January, 2022 to remove that restriction. Congress has not taken action on that bill. Therefore Public Law No. 22-66 is still the law of the land.

Now, based upon an opinion from the Department of Justice you plan to ignore Public Law No. 22-66 and proceed with a session in-person, and are requesting logistical and staffing assistance from Congress. I am sorry, but I cannot grant your request. I took an oath of office to uphold the laws of the Federated States of Micronesia. The Speaker of Congress cannot contravene the clear intent of Congress, and do anything that would undermine an existing law passed by Congress, until that law is either amended or struck down by a court, notwithstanding what any lawyer may think of the law, or

Mr. Redley Killion

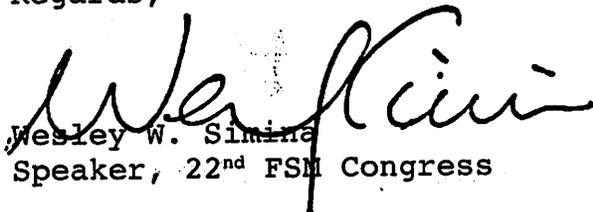
March 4, 2022

Page 2

whether or not I agree with it personally. I would suggest you work with President Panuelo to call a special session so that we can work on the pending bill that would address this problem.

I urge you to trust the democratic process and to allow Congress to consider your needs and wishes, which have been by now made abundantly clear to members of Congress. But for now, Congress cannot assist you logistically. Respect for and compliance with our laws come first.

Regards,



Wesley W. Simina
Speaker, 22nd FSM Congress



Office of the Speaker

CONGRESS OF THE FEDERATED STATES OF MICRONESIA

P.O.Box PS 3 Palikir, Sokehs

Pohnpei State, FM 96941

Tel: (691) 320-2324 /2338

Fax: (691) 320-5122

May 12, 2022

Mr. Redley Killion
President
4th FSM Constitutional Convention

Dear President Killion:

On behalf of all the members of the 22nd Congress of the Federated States of Micronesia, I am pleased to extend warm greetings to you and all the delegates of the 4th FSM Constitutional Convention (ConCon). This is in response to your letter of April 27, 2022, which communicated several requests pertaining to the reconvening of the 4th FSM Constitutional Convention.

As indicated in your letter, the 4th FSM Constitutional Convention intends to reconvene its Plenary Session on June 01, 2022 in Palikir, Pohnpei. In order for the Convention to reconvene its Plenary Session in Palikir, you are requesting the use of certain Congress facilities. You are welcome to do so except for the Chamber. If you refer back to my letter to you dated April 11, I had indicated that this May Regular Session was going to be held in-person. However, due to some developing circumstances, we weren't able to conduct this in-person session anymore in the Chamber. One other concern is for safety due to the electrical system of the Chamber, which requires further repair and attention before we could actually proceed and continue conducting the proceedings of the Congress therein. The work on that is still ongoing.

The Convention is also requesting the assistance of the following staff: Ms. Jessica Reyes as your Chief Clerk, Mr. Atarino Helieisar as your Journal Clerk, and Ms. Mary Kilmete to assist your legal staff, and the Congress pages. I have granted them the permission to work with the Convention starting on the requested date (May 30, 2022) indicated in your letter. Unfortunately, I regret to inform you that one of them won't be able to assist you in the upcoming Plenary Session. As previously communicated in one of my previous letters to you, the Assistant Chief Clerk for FSM Congress, Mr. Atarino Elieisar

Mr. Redley Killion
May 12, 2022
Page 2

is off-island for medical reasons. Until now, he is still out there and will not be available.

If there's anything else you may need from the Congress of the Federated States of Micronesia, please let me know. We wish you and the Convention Delegates all the best in the remaining part of your work.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wesley W. Simina', written over a faint, dotted background.

Wesley W. Simina
Speaker
22nd Congress of the
Federated States of Micronesia

xc: FSM Supreme Court

COMMUNICATIONS

FROM THE PRESIDENT OF 4TH FSMCC

- a. 03/02/2020
- b. 03/06/2020
- c. 03/18/2020
- d. 03/18/2020
- e. 04/14/2020
- f. 07/07/2020
- g. 11/02/2020
- h. 09/20/2021
- i. 09/28/2021
- j. 02/28/2022
- k. 03/24/2022
- l. 03/17/2022
- m. 06/24/2022
- n. 07/14/2022

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

March 2, 2020

The Honorable Wesley W. Simina
Speaker
21st FSM Congress
Palikir, Pohnpei State, FSM 96941

Re: Request for Support of the ConCon

Dear Speaker Simina:

Thank you for your support of the Fourth FSM Constitutional Convention. I am writing to update you on the arrangements the Convention has made to continue its work during the upcoming Special Session of Congress and to request your continued support for the Convention.

With regard to the Convention's schedule for the next two weeks, the Convention has determined that the most efficient and productive way to move the work of the Convention forward is to hold Committee Work Days on Monday, March 2nd, and Wednesday, March 4th thru Tuesday, March 10th. The Convention will hold a Plenary Session on Tuesday, March 3rd, Friday March 5th, and Monday, March 9th. The Convention will resume its regular schedule of Committee meetings and Plenary Sessions on Wednesday, March 11th. For your reference, a courtesy copy of the Convention schedule from March 4th thru March 10th is herewith attached.

On behalf of the Convention, I am requesting your support of an amendment to Public Law No. 21-77. The Convention thanks Congress for passing its budget and providing the funds necessary for a successful Convention. However, Public Law No. 21-77 made FSM President Panuelo the allottee of the Convention funds. I respectfully request that President Panuelo be relieved of this burden and that Section 7 of Public Law No. 21-77, which amends Section 12 of Public Law No. 21-42, be amended to name the President of the Convention as the allottee of the funds appropriated for the Convention.

On behalf of the Convention, I am also requesting your support for several amendments to Public Law No. 21-19, as amended. The first amendment is to Section 5 pertaining to the Pre-Convention Committee. This amendment provides that the members of the Pre-Convention Committee, who are not national or state government employees, are entitled to an allowance of \$200 per day for their attendance at meetings of the Pre-Convention Committee. The allowance

for the members of the Pre-Convention Committee was included in the Convention Budget that was approved by Congress in its last Special Session. Thus, this amendment makes explicit what has already been implicitly authorized.

The second amendment is to Section 6(1)(a) and Section 9(3). The current language of Section 6(1)(a) states that when the Convention is on recess for more than 3 days the delegates are not entitled to a daily allowance as provided under section 9. During Congress' Special Session, the Convention will be holding Committee Work Days, where the delegates will be working in the various Committees to determine which of the Proposals that have been introduced should be reported out of the Committees. The delegates agree that they should not be entitled to a daily allowance on the days the Convention is in recess and the delegates are not doing the work of the Convention. However, on the Committee Work Days, the delegates will be holding extended Committee meetings and public hearings that are essential to the work of the Convention. And, thus, the delegates respectfully request that they be paid the daily allowance on the Committee Work Days. To authorize the payment of the allowance on the Committee Work Days, an amendment is necessary to Section 6(1)(a) which prohibits the payment during the recess and to Section 9(3) to authorize payment of the allowance for attendance of a committee meeting during a Committee Work Day of the Convention.

The third amendment is to Section 6(1)(b) pertaining to the number of days the Convention can extend the session. The current language provides for a 15 day extension for a total of forty-five convention days. The Convention is requesting an additional 7 days for a total of fifty-two convention days. The 7 days was calculated by adding the 5 day Special Session and the day before and the day after the Special Session that the staff require to reconfigure the Chamber between its use by Congress and its use by the Convention.

The fourth amendment is to Section 9(3). Several delegates have raised an issue of equity that national and state government employees are being asked to work on weekends for the Convention, a time when they would not normally work, and yet, are not entitled to the daily allowance. The Convention is requesting that delegates who are national and state government employees on administrative leave with pay be paid the daily allowance for sessions and committee meetings held on Saturday, Sunday, or a national holiday. Payment of the allowance to these delegates for their work on weekends and holidays would compensate them for the time they are dedicating to the work of the Convention, which time would normally be their personal time and not used for the work of the government that employs them.

The Convention understands that the drafting of the amendments to Public Law No. 21-19 may create substantial work for the staff of Congress. In order to not unduly burden the work of Congress staff, the Convention requested its Chief Legal Counsel to draft the proposed language for the amendments to Public Law No. 21-19 as noted above. A copy of this proposed language is attached, and the document will be sent electronically.

Pres. Killion
March 2, 2020
Page 3 of 3

I thank you for your time in reviewing these requests. If you have any questions, I, the leadership of the Convention, and the staff of the Convention are happy to answer any questions you may have.

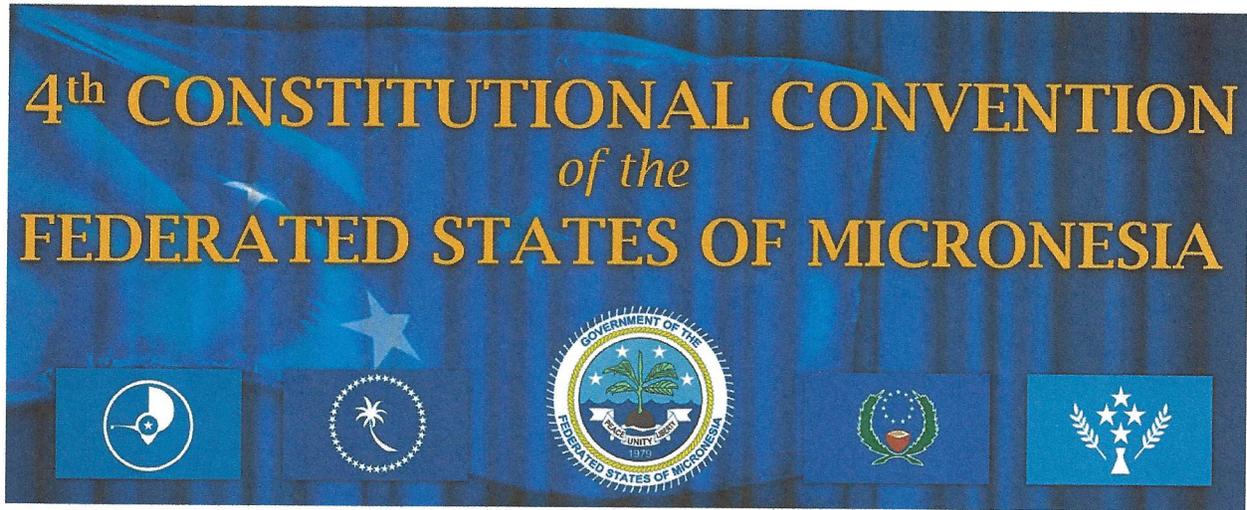
Sincerely,

A handwritten signature in black ink, appearing to read "Redley Killion". The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping underline.

Redley Killion
President
Fourth FSM Constitutional Convention

Cc: His Excellency President Panuelo, FSM

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

March 6, 2020

The Honorable Wesley W. Simina
Speaker
21st FSM Congress
Palikir, Pohnpei FSM 96941

Re: Request for Support of the ConCon

Dear Mr. Speaker:

On behalf of the Convention, I am also requesting your support for two additional amendments to Public Law No. 21-19, as amended.

The first amendment is to Section (6)(1)(a) and is intended to address the concern of corona virus. With recent reports that a person with corona virus may have transited through Guam, many Delegates are concerned that the virus may reach the FSM, and that if such an event were to occur, then the work of the Convention may need to be suspended during the crisis. Under the current language of Section (6)(1)(a), the Convention may only call one extended recess of between 3 and 30 days, regardless of the reason for the recess. The Convention is requesting that a recess called due to an act of God or an emergency declaration not be calculated in the days of the extended recess.

The second amendment is to Section 9(3) to explicitly state that employees of the College of Micronesia (COM-FSM) are not national government employees for the purposes of Section. The two Delegates who are employees of the College are not on administrative leave with pay. Payment of the allowance for these Delegates was included in the budget which was already approved by Congress in its last session.

As with the prior requested amendments, the Convention requested its Chief Legal Counsel to draft the proposed language for the amendments to Public Law No. 21-19. The language for these two amendments are double underlined. A copy of this proposed language is attached, and the document will be sent electronically.

Pres. Killion
March 6, 2020
Page 2 of 2

I wish to reiterate our thanks and appreciate for your continued support of our Convention. If you have any questions on these proposed changes, we are happy to answer them.

Sincerely,

A handwritten signature in black ink, appearing to read "Redley Killion", written in a cursive style.

Redley Killion
President
Fourth FSM Constitutional Convention

Cc: President of the FSM

TWENTY-FIRST CONGRESS OF THE FEDERATED STATES OF MICRONESIA
FOURTH SPECIAL SESSION, 2020

A BILL FOR AN ACT

To further amend Public Law No. 21-19, as amended by Public Law No. 21-39 and Public Law No. 21-74, by amending sections 5, 6, and 9 thereof, in order to provide allowances to eligible delegates to the Constitutional Convention who were members of the Pre-Convention Committee for their attendance at meetings of that Committee, to increase the numbers of days the Convention can be extended, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 5 of Public Law No. 21-19, as amended, is
2 hereby amended to read as follows:

3 "Section 5. Pre-Convention Committee.

4 (1) There shall be a Pre-Convention Committee which shall
5 consist of two members from each state's convention
6 delegation who are selected by a majority vote of that
7 state's convention delegation. Such selection shall be
8 made no later than November 19, 2019, in writing by the
9 state's delegation to the President of the Federated
10 States of Micronesia.

11 (2) The Pre-Convention Committee shall be convened on the
12 first Tuesday after the first Monday in December, 2019,
13 at the call of the Speaker of the Congress of the
14 Federated States of Micronesia, and shall choose its
15 own officers and organize according to its own rules
16 and procedures.

1 (3) The duties of the Pre-Convention Committee shall
2 be as follows:

3 (a) to make arrangements for accommodations,
4 equipment and facilities; PROVIDED, HOWEVER,
5 that the Pre-Convention Committee shall,
6 whenever possible, arrange to utilize National
7 Government equipment and facilities;

8 (b) to make arrangements for staff;

9 (c) to prepare a budget for the Constitutional
10 Convention to be submitted to Congress in the
11 regular or special session of Congress next
12 following;

13 (d) to confer with the various state delegations
14 to identify those issues that each delegation
15 wishes to raise at the Convention;

16 (e) to commission any research that it feels
17 should be performed on issues identified by the
18 state delegations prior to the convening of the
19 Convention;

20 (f) to prepare proposed rules and procedures;
21 and

22 (g) to perform other functions not otherwise
23 reserved to the Convention which will assure a
24 successful and orderly Convention.

1 (4) Members of the Pre-Convention Committee shall be
2 entitled to per diem and travel expenses at standard
3 rates, as provided by the Financial Management
4 Regulations of the National Government of the
5 Federated States of Micronesia, while on the
6 business of the Committee.

7 (5) Staff assistance for the Pre-Convention Committee
8 shall be provided as needed through the National
9 Government of the Federated States of Micronesia.

10 (6) The Pre-Convention Committee shall complete its work
11 in no more than fifteen calendar days.

12 (7) Members of the Pre-Convention Committee who were not
13 getting paid by the national government or a state
14 government on the days the Pre-Convention Committee held
15 its meetings shall be entitled to a daily allowance for
16 their attendance at the Pre-Convention Committee
17 meetings at a rate of \$200 per day. This subsection
18 shall be applied retroactively."

19 Section 2. Section 6 of Public Law No. 21-19, as amended, is
20 hereby amended to read as follows:

21 "Section 6. Procedures.

22 (1) The Constitutional Convention shall be convened on the
23 first Tuesday after the first Monday in January, 2020,
24 and the Constitutional Convention shall continue in

1 session for no longer than thirty calendar days;

2 PROVIDED, HOWEVER, that the Convention may:

3 (a) call recesses, including one extended recess of
4 between 3 and 30 consecutive calendar days, which
5 shall not be included in the calculation of the
6 calendar days the Constitutional Convention is in
7 session and for which— a recess in excess of 8
8 consecutive calendar days, no daily allowance under
9 section 9 shall be paid. A recess called because
10 of an act of God or an emergency declaration shall
11 not be included in the calculation of the days of
12 the extended recess; and

13 (b) extend the session, if necessary, for up to a
14 total of ~~forty-five~~ fifty-two calendar days.

15 (2) The President of the Federated States of Micronesia,
16 or their designee, shall act as President of the
17 Convention until the Convention selects a President from
18 among its membership.

19 (3) The Convention shall select, from among its
20 membership, a President and such additional officers as
21 it may deem necessary and appropriate.

22 (4) The Convention shall adopt its own rules and
23 procedures not inconsistent with this act. All sessions
24 of the Convention shall be open to the public.

25 (5) A quorum of the Convention shall consist of all of the
26 four state delegations. For the purpose of determining

1 a quorum, a state delegation is not present unless more
2 than one-half of the delegates from that state are
3 present."

4 Section 3. Section 9 of Public Law No. 21-19, as amended, is
5 hereby amended to read as follows:

6 "Section 9. Expenses of delegates and staff.

- 7 (1) All delegates and staff of the Convention shall be
8 entitled to per diem and travel expenses at standard
9 rates, as provided by the Financial Management
10 Regulations of the National Government of the Federated
11 States of Micronesia, while on the business of the
12 Convention.
- 13 (2) Any delegate who is an official or employee of the
14 National Government of the Federated States of Micronesia
15 shall be placed on administrative leave with pay and
16 shall be entitled to receive their regular salary during
17 their service as delegate.
- 18 (3) Delegates who are not getting paid by the national
19 government or a state government during the session for
20 the Constitutional Convention or during a committee work
21 day of the Convention shall be entitled to a daily
22 allowance for their attendance during the session or at a
23 meeting of a Standing Committee of the Convention held on
24 a committee work day at a rate of \$200 per day. An
25 employee of the College of Micronesia is not an employee

1 of the national government for the purposes of this
2 subsection. A delegate who is an official or employee of
3 the national government or a state government who is on
4 administrative leave with pay shall be entitled to a
5 daily allowance for their attendance of a session of the
6 Convention or of a meeting of a Standing Committee that
7 is held on a Saturday, Sunday, or national holiday at a
8 rate of \$200 per day. The amendment to this subsection
9 shall be applied retroactively."

10 Section 4. This act shall become law upon approval by President
11 of the Federated States of Micronesia or upon its becoming law
12 without such approval.

13 Date: _____

Introduced by: _____

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

March 18, 2020

The Honorable David W. Panuelo
President of the FSM
Palikir, Pohnpei FSM 96941

Re: Proposed Constitutional Amendments Adopted by Constitutional Convention

Dear Mr. President:

It is with great pleasure and honor that I, as President of the Fourth Constitutional Convention of the Federated States of Micronesia, transmit to you pursuant to Section 8(3) of Public Law No. 21-19, as amended, and Section 702(2) of Title 1 of the FSM Code, the first two proposed constitutional amendments adopted by the Convention.

Committee Proposal 04-04 was adopted unanimously on Final Reading on March 12th. This Committee Proposal seeks to amend Section 1 of Article XIV of the FSM Constitution by lowering the percentage of votes cast in each state needed to amend the Constitution from the current $\frac{3}{4}$ of the votes cast in each of the $\frac{3}{4}$ of the states to $\frac{2}{3}$ of the votes cast in each of the $\frac{3}{4}$ of the states.

Committee Proposal 04-05 was adopted unanimously on Final Reading on March 13th. This Committee Proposal seeks to amend Article III of the FSM Constitution by (1) allowing a FSM citizen who satisfies Section 2 to hold dual citizenship, (2) restoring FSM citizenship to those who lost their FSM citizenship because they failed to renounce their citizenship of a foreign country, (3) providing a pathway for FSM citizens who knowingly renounced their FSM citizenship to regain their FSM citizenship by meeting such requirements as Congress may provide by law, and (4) removing those sections of Article III for which there are no longer any persons eligible to claim FSM citizenship.

The Convention strongly believes that the proposed amendment to Section 1 of Article XIV of the Constitution, Committee Proposal 04-04, should be placed on the ballot during a special election to be voted on by the people prior to the March 2021 general election, because approval of this amendment will lower the percentage of votes needed in each state to approve a

Pres. Killion
March 18, 2020
Page 2 of 2

constitutional amendment which in turn will impact the number of votes needed to approve all other proposed constitutional amendments. The Convention respectfully requests that you exercise your discretionary power under Section 8(1) of Public Law No. 21-19, as amended, and Section 702(2) of Title 1 of the FSM Code, to call such a special election and adopted a Resolution to that effect on March 13th. A copy of Convention Resolution No. CC-RES-04-11, C.C.D.1 is herewith attached for your reference.

Thank you for your consideration of the Convention's request. The Convention will continue its work, as mandated by our people, when the COVID-19 pandemic subsides. I have every expectation that the Convention will be transmitting additional proposed constitutional amendments as that work continues.

The Convention thanks you for your support of the Convention and prays for your health and the health of the entire country during this unprecedented time.

Sincerely,



Redley Killion
President
Fourth FSM Constitutional Convention

cc: Speaker, 21st FSM Congress
Governor, Chuuk
Governor, Kosrae
Governor, Pohnpei
Governor, Yap

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

March 18, 2020

The Honorable David W. Panuelo
President of the FSM
Palikir, Pohnpei FSM 96941

The Honorable Wesley W. Simina
Speaker 21st FSM Congress
Palikir, Pohnpei FSM 96941

The Honorable Dennis K. Yamase
Chief Justice of the FSM Supreme Court
Palikir, Pohnpei FSM 96941

Re: Fourth FSM Constitutional Convention

Dear Messrs. President, Speaker, and Chief Justice:

Since the Fourth FSM Constitutional Convention reconvened on February 24th, the Delegates have monitored the situation regarding the novel coronavirus or COVID-19 very closely and have held discussions regarding the virus and its spread on a daily basis. The Delegates reviewed all of the Emergency Declarations and Resolutions issued by the FSM Government and the state governments as they were issued. The Delegates also monitored the pronouncements and recommendations of the World Health Organization (WHO) and monitored the regional news for announcements of COVID-19 positive individuals in Hawaii and in Guam.

In fulfilling the mandate of the people who elected us as delegates to the Fourth FSM Constitutional Convention, the Delegates assessed the impact of the COVID-19 pandemic on the work of the Convention and on the health of the Delegates to and staff of the Convention. As the virus reached the FSM's buffer zone to the east, the Delegates continued the work of the Convention with public hearings and committee meetings, resulting in several proposed constitutional amendments being reported out of Committee and several others nearing that stage.

The Convention determined that in order to fulfill the mandate of the people to review the FSM Constitution for possible revision or amendment it was necessary to extend the Convention by 15 days for a total of 45 calendar days. On March 12th, the Convention adopted Resolution CC-RES-04-09 extending the Convention for a total of 45 calendar days pursuant to Section (6)(1)(b)

Pres. Killion
March 18, 2020
Page 2 of 2

of Public Law No. 21-19, as amended. A copy of this Resolution is attached hereto for your reference.

On March 12, 2020, the WHO announced that COVID-19 was a global pandemic and that countries should take actions to contain and mitigate the virus. About the same time, Guam, our western buffer zone, announced three suspected cases of coronavirus. With these announcements, the Convention deemed that the most prudent response to the COVID-19 pandemic was to recess until the pandemic subsides. On March 13th the Convention adopted Resolution CC-RES-04-10 announcing that due to the COVID-19 pandemic, Emergency Declarations, and travel bans that the Convention will stand in recess until the novel coronavirus pandemic has subsided and will return to session at the call of the Convention President. A copy of this Resolution CC-RES-04-10 is hereto for your reference.

The Convention is determined to reconvene and conclude the work that the people of the FSM, pursuant to Article XIV of the FSM Constitution, have mandated us to do. Prior to recessing, the Convention, with the assistance of the Convention Secretary, determined that the Convention is within budget and the funds that have been appropriated will be sufficient to complete the work of the Convention.

I and each and every Delegate and member of the Convention staff thank you for your support of the Convention and are praying for your health and the health of the entire country during this unprecedented time.

Sincerely,



Redley Killion
President
Fourth FSM Constitutional Convention

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

April 14, 2020

The Honorable Wesley W. Simina
Speaker
21st FSM Congress
Palikir, Pohnpei FSM 96941

Re: Request for Support of the ConCon

Dear Mr. Speaker:

On behalf of the Convention, I wish to thank you and the other members of Congress for changing the allottee of the Convention funds during Congress' last session. I am also requesting your support for several amendments to Public Law No. 21-19, as amended, to address the COVID-19 pandemic and to address the payment of the daily allowance to the delegates who are employees of the College of Micronesia.

The implementation of social distancing has made it impossible for the Convention to continue its work during the pandemic. And, the Convention's recess on March 13th due to the COVID-19 pandemic was timely as the Yap and Kosrae Delegations returned to their home islands on some of the last passenger flights flown by United Airlines. The work of the Convention, however, is not complete.

The Convention is requesting two amendments to Section (6)(1). Under the current language of Section (6)(1)(a), the Convention may only call one extended recess of between 3 and 30 days, regardless of the reason for the recess. The Convention is requesting that a recess called due to an act of God or an emergency declaration not be calculated in the days of the extended recess. The Convention is also requesting the addition of a Section (6)(1)(c) which states that the Convention recess during the pandemic and for up to 45 days after the emergency declarations are lifted. The 45 day buffer will allow the Convention time to determine where each delegate is located, when delegates will be allowed to travel, and whether any State Delegation has any open seats and to have any open seats filled, and to allow the Convention Secretary time to rehire staff, to secure facilities to hold the Convention, and to prepare the necessary travel authorizations for delegates and staff.

The third amendment is to Section 9(3) to explicitly state that employees of the College of Micronesia (COM-FSM) are not national government employees for the purposes of Section. The two Delegates who are employees of the College are not on administrative leave with pay. Although Section 722(1) of Title 40 of the FSM Code specific states that employees of the College are not employees of the FSM national or any state government, these Delegates have been denied payment of the daily allowance. Payment of the allowance for these Delegates is included in the budget which has already approved by Congress.

The final amendment is also to Section 9(3) and would authorize payment of the allowance for attendance of a committee meeting during a Committee Work Day of the Convention. In March, while Congress held its Special Session, the Convention held Committee Work Days and delegates attended extended Committee meetings and public hearings that were essential to the work of the Convention and the adoption of two proposed Constitutional amendments which have been transmitted to President Panuelo. This amendment would authorize payment of the daily allowance to the delegates for attendance of a Committee meeting or a public hearing on these Committee Work Days. The funds for these payments are included in the Convention's budget.

The Convention requested its Chief Legal Counsel to draft the proposed language for the amendments to Public Law No. 21-19. The language for these amendments is underlined. A copy of this proposed language is attached, and the document will be sent electronically.

I wish to reiterate our thanks and appreciation for your continued support of the Convention. If you have any questions on these proposed changes, we are happy to answer them.

During this time of COVID-19, the Delegates and staff of the Convention continue to pray for the health of all of the members and staff of Congress and their families, especially as you work to insure the health and security of the FSM.

Sincerely,



Redley Killion
President
Fourth FSM Constitutional Convention

Cc: President of the FSM

TWENTY-FIRST CONGRESS OF THE FEDERATED STATES OF MICRONESIA
FOURTH SPECIAL SESSION, 2020

A BILL FOR AN ACT

To further amend Public Law No. 21-19, as amended by Public Law No. 21-39 and Public Law No. 21-74, by amending sections 5, 6, and 9 thereof, in order to provide allowances to eligible delegates to the Constitutional Convention who were members of the Pre-Convention Committee for their attendance at meetings of that Committee, to increase the numbers of days the Convention can be extended, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 6 of Public Law No. 21-19, as amended, is
2 hereby amended to read as follows:

3 "Section 6. Procedures.

4 (1) The Constitutional Convention shall be convened on the
5 first Tuesday after the first Monday in January, 2020,
6 and the Constitutional Convention shall continue in
7 session for no longer than thirty calendar days;

8 PROVIDED, HOWEVER, that the Convention may:

9 (a) call recesses, including one extended recess of
10 between 3 and 30 consecutive calendar days, which
11 shall not be included in the calculation of the
12 calendar days the Constitutional Convention is in
13 session and for which no daily allowance under
14 section 9 shall be paid. A recess called because
15 of an act of God or an emergency declaration shall
16 not be included in the calculation of the days of
17 the extended recess; and

1 (b) extend the session, if necessary, for up to a
2 total of forty-five calendar days~~;~~ and

3 (c) recess during the COVID-19 pandemic and up to 45
4 days after all emergency declarations within the
5 FSM that restrict travel or larger group meetings
6 are no longer in effect.

7 (2) The President of the Federated States of Micronesia,
8 or their designee, shall act as President of the
9 Convention until the Convention selects a President from
10 among its membership.

11 (3) The Convention shall select, from among its
12 membership, a President and such additional officers as
13 it may deem necessary and appropriate.

14 (4) The Convention shall adopt its own rules and
15 procedures not inconsistent with this act. All sessions
16 of the Convention shall be open to the public.

17 (5) A quorum of the Convention shall consist of all of the
18 four state delegations. For the purpose of determining
19 a quorum, a state delegation is not present unless more
20 than one-half of the delegates from that state are
21 present."

22 Section 3. Section 9 of Public Law No. 21-19, as amended, is
23 hereby amended to read as follows:

24 "Section 9. Expenses of delegates and staff.

- 1 (1) All delegates and staff of the Convention shall be
2 entitled to per diem and travel expenses at standard
3 rates, as provided by the Financial Management
4 Regulations of the National Government of the Federated
5 States of Micronesia, while on the business of the
6 Convention.
- 7 (2) Any delegate who is an official or employee of the
8 National Government of the Federated States of Micronesia
9 shall be placed on administrative leave with pay and
10 shall be entitled to receive their regular salary during
11 their service as delegate.
- 12 (3) Delegates who are not getting paid by the national
13 government or a state government during the session for
14 the Constitutional Convention or during a committee work
15 day of the Convention shall be entitled to a daily
16 allowance for their attendance during the session or at a
17 meeting of a Standing Committee of the Convention held on
18 a committee work day at a rate of \$200 per day. An
19 employee of the College of Micronesia is entitled to
20 payment of the daily allowance as provided under this
21 subsection. The amendments to this subsection shall be
22 applied retroactively."

23 Section 4. This act shall become law upon approval by President
24 of the Federated States of Micronesia or upon its becoming law
25 without such approval.

FOURTH FEDERATED STATES OF MICRONESIA CONSTITUTIONAL CONVENTION



Palikir, Pohnpei

July 07, 2020

The Honorable Wesley W. Simina
Speaker, 21st FSM Congress
Palikir, Pohnpei
FSM 96941

Re: Amendment to PL 20-19 for indefinite recess due to COVID-19

Dear Speaker Simina,

I present my compliments and well wishes to you and the members of the 21st FSM Congress for your remarkable leadership during these unprecedented times.

While dire consequences of COVID-19 continues unabated worldwide, we acknowledge that President Panuelo had signed into law, PL 21-109, a measure allowing the 4th FSM Constitutional Convention to go on recess for three(3) months from May 04, 2020 to August 04, 2020. At this point the FSM is fortunate as it remains virus-free while almost the entire known world is infected and struggling to contain this virus. While strict measures are in place now to protect the virus from being introduced into our islands, it is only a matter of time before it gets here. Travel restrictions in the FSM remain in place and we understand FSM Congress just extended it for another three months. Currently there are several delegates and the Legal Counsel residing in different regions and time zones in the US; three in Honolulu, one in Washington DC and the LC in Atlanta. They are unable to re-enter FSM due to the travel restrictions

Our Delegates feel that since the Constitution is the foundation of our country, a convention to amend it should not be rushed but must be conducted with utmost diligence in person. Thus this communication is requesting the indulgence of the 21st FSM Congress to please consider the option of amending the enabling law to allow for an indefinite recess subject to the call of the President of the 4th FSM Constitutional Convention.

Thank you for your attention to this matter. Your guidance and/or advice is always appreciated.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Redley Killion', written in a cursive style.

Redley Killion
President, 4th FSM Constitutional Convention

Xc: H.E. President Panuelo

: Iso Nahnken Iriarte, Vice President, 4th FSM Con Con

: Officers/Delegates- 4th FSM Con Con

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

November 2, 2020

His Excellency David W. Panuelo
President of the FSM
Palikir, Pohnpei State, FSM 96941

Re: Proposed Constitutional Amendments Adopted by the 4th FSM Constitutional Convention

Dear Mr. President:

I trust that this letter finds you and your family in good health. It is with much gratitude to the work you have done to keep our country safe that I, the Delegates, staff of the Constitutional Convention, and our families residing in the FSM remain safe and COVID free.

I am writing concerning the two (2) proposed Constitutional amendments which were adopted by the Convention prior to its March 13th recess and transmitted to your office via hand-delivery on March 23rd. These two (2) proposed Constitutional amendments, adopted and delivered to your office prior to the adoption of Public Law No. 21-154, are governed by the provisions of Public Law No. 21-19, prior to its amendment by Public Law No. 21-154. Because these two (2) proposed Constitutional amendments were received by your office more than 45 days prior to the March 2, 2021 general election, these two (2) proposed Constitutional amendments should appear on the March 2, 2021 ballot as provided in the FSM Constitutional Amendment Procedure Act. 1 F.S.M.C. §701 et seq.

Committee Proposal 04-04, adopted unanimously on Final Reading on March 12, 2020, seeks to amend Section 1 of Article XIV of the FSM Constitution by lowering the percentage of votes cast in each state needed to amend the Constitution from the current 3/4 of the votes cast in each of the 3/4 of the states to 2/3 of the votes cast in each of the 3/4 of the states.

Committee Proposal 04-05, adopted unanimously on Final Reading on March 13, 2020, seeks to amend Article III of the FSM Constitution by (1) allowing a FSM citizen who satisfies Section 2 to hold dual citizenship, (2) restoring FSM citizenship to those who lost their FSM citizenship because they failed to renounce their citizenship of a foreign country, (3) providing a pathway for FSM citizens who knowingly renounced their FSM citizenship to regain their FSM

R. Killion
November 2, 2020
Page 2 of 2

citizenship by meeting such requirements as Congress may provide by law, and (4) removing those sections of Article III for which there are no longer any persons eligible to claim FSM citizenship.

As you are aware, the Convention remains in recess due to the pandemic and based on the current rise in cases throughout the world, lack of a vaccine or cure, and based on the fact that several Delegates are currently outside of the FSM, including the Honorable Akillino Susaia, the Convention has no plans to reconvene prior to the March 2, 2021 general election. Committee Proposal 04-04, the threshold amendment, and Committee Proposal 04-05, the dual citizenship proposal, will be the only two proposed constitutional amendments for the March 2, 2021 ballot.

The Convention strongly believes that the public education program on these two amendments should begin as soon as possible. The Delegates and staff of the Convention remain ready to assist in the public education program.

The Convention thanks you for your support of the Convention, prays for your health and the health of the entire country during this unprecedented time, and remains ready to assist you in the public education program on the threshold amendment and dual citizenship amendment.

Sincerely yours,



Redley Killion
President
Fourth FSM Constitutional Convention

Cc: The Hon. Wesley W. Simina, Speaker, 21st. FSM Congress
Gov. Johnson Elimo, Chuuk State
Gov. Reed Oliver, Pohnpei State
Gov. Henry Falan, Yap State
Gov. Carson K. Sigrah, Kosrae State
Delegates, 4th FSM Constitutional Convention
Secretary, 4th FSM Constitutional Convention

FOURTH FEDERATED STATES OF MICRONESIA CONSTITUTIONAL CONVENTION



Palikir, Pohnpei

September 20, 2021

The Honorable Wesley W. Simina
Speaker, 22nd FSM Congress
Palikir, Pohnpei
FSM 96941

Re: Reconvening and support

Dear Speaker Simina:

I present my compliments and congratulations to you and the members of the 22nd FSM Congress for your remarkable leadership during these unprecedented times. Your innovation and fortitude to keep the business of the FSM Legislative Branch fully engaged amidst this exigent crisis with the global coronavirus pandemic is truly commendable.

We are very thankful that at this stage of the global pandemic, the whole FSM remains free from this deadly virus, and we certainly applaud the on-going efforts of our state and national leaders, including yourself and the members of our FSM Congress in that effort. We shall therefore remain alert and vigilant to keep our nation virus-free.

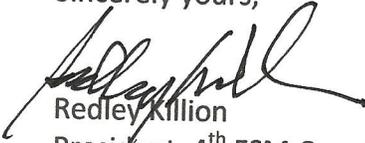
As you are aware, our Convention went into recess on March 14, 2020 because of COVID-19 pandemic which in effect prolongs the completion of our Convention, thus necessitating our incurring additional costs as we have to keep a minimum number of core staff to handle the day to day administrative tasks of our Convention Secretariat and other related functions including officers meetings and other important functions during this protracted and unplanned recess.

At this point, the Officers are ready to reconvene, hence this letter. There are 19 session days remaining for this Convention. We are therefore seeking the assistance of the 22nd FSM Congress under your leadership on facilities for sessions, committee meetings, and office spaces for the Secretariat and the Officers. In addition, the usual support staff, in particular,

Chief Clerk or the assistant, Librarian assistant, IT and other staff with compensation for those who work after working hours and on weekends.

Lastly, the Convention may need a supplement funding to augment the remaining budget to ensure the Convention is successfully completed within the reasonable period required. The plan is to reconvene in mid-October but the committee work will begin a week earlier to get the process in motion. We are estimating a budget supplement of \$85,000.00. The details will be provided soon.

Sincerely yours,



Redley Killion
President, 4th FSM Constitutional Convention

cc: HE President Panuelo
Iso Nahnken Iriarte, Vice President, 4th FSM Con Con
Officers, 4th FSM Con Con
Convention Secretary,
Convention Legal Counsel
Administrator, CFSM

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

September 28, 2021

His Excellency David W. Panuelo
President
Federated States of Micronesia
Palikir, Pohnpei State, FSM 96941

Re: Reconvening of 4th FSM Constitutional Convention

Dear President Panuelo:

On behalf of the Officers, Vice-President ISO Iriarte, Floor Leader Yatilman, Chairman Asher, and all the Delegates of the 4th FSM Constitutional Convention, I offer our compliments and extend our sincere gratitude for availing your valuable time and resources in hosting a luncheon meeting yesterday at noon. The meeting was congenial and very productive in discussing the various issues relating to the reconvening of our 4th FSM Constitutional Convention

In light of the ongoing activities, including FSM Congress current regular session, Chuuk State Government inauguration, President's state visits, renovation of the Congress chambers, COVID-19 travel restrictions, and other considerations, the suggested date of October 25, 2021 to reconvene our convention appears most suitable. Hence, we will now plan and prepare accordingly.

We thank you for your encouragement and assurance to help us to adequately prepare and organize to ensure that our 4th FSM Con Con is reconvened at the earliest time practical to conclude its mandate. Targeting to complete everything no later than late November, 2021 should be pursued as that will allow your office adequate time for finalizing the plans for the needed public education on the proposed constitutional amendments before a special referendum takes place. Your suggestion for having the special referendum to be held on July 12, 2022, is most fitting and appropriate, as it's the FSM Law Day.

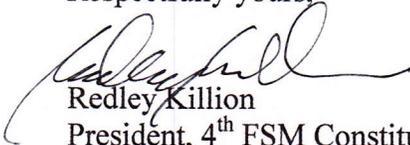
The preparation work is now underway by the Convention Secretary to get things organized and ready based on this proposed timeline for reconvening our convention. The Secretary will be working closely with the Departments of Finance and Administration and Justice to reconcile the

convention's accounts and develop a budget that will support the completion of the work within such period. As was pointed out in our discussion, the projected balance of our Convention budget may be adequate to cover the projected cost, but there may be need to internally reprogram the category balances to appropriately address the real expense of our convention. In case there is a need to supplement what is available, please allow us to submit a minimal supplemental budget as soon as possible.

Meanwhile, the Secretary will need to start identifying and securing key staff (legal, administrative and clerical support personnel) on limited-term employment service contracts. In addition, we are seeking yours and Speaker's blessings to avail the same office spaces provided to the convention earlier for offices and committee meetings purposes.

Again, thank you for your continued support in having us to complete our mandate in undertaking this very important task in reviewing our nation's constitution for possible amendments as needed.

Respectfully yours,



Redley Killion
President, 4th FSM Constitutional Convention

cc. Speaker Simina, 22nd FSM Congress
Vice-President, (ISO) Salvador Iriarte
Floor Leader Yatliman
Chairman COW Asher
Secretary Capelle
Legal Counsel Burch

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

February 28, 2022

The Honorable Wesley W. Simina
Speaker
22nd FSM Congress
Palikir, Pohnpei State, FSM 96941

Re: Reconvening of the 4th FSM Constitutional Convention

Dear Mr. Speaker:

On behalf of the Officers, Vice-President ISO Iriarte, Floor Leader Yatilman, Chairman Asher, and all of the Delegates to the 4th FSM Constitutional Convention, I wish to thank you and the members of Congress for the support that you have provided the Fourth Constitutional Convention of the Federated States of Micronesia (the “Convention”) and for the use of Congress’s facilities, the State Delegation Offices, the Zoom equipment, and assistant of Congress IT staff for meetings for the Convention’s Executive Session this past December.

On behalf of the Convention, I would also like to thank you and the members of Congress for your passage of the supplemental budget of \$85,000 for the Convention to complete its work. With the passage of P.L. No. 22-80, the Convention now has sufficient financial resources to reconvene and complete our task for which we were elected to do over two (2) years ago. The Convention Officers have met and, taking into consideration Congress’s schedule, had determined that the 4th FSM Constitutional Convention will reconvene on Tuesday, April 5, 2022, in Palikir, Pohnpei.

In order for the Convention to reconvene in Palikir as stated above, I am respectfully requesting that the Convention once again be allowed to use Congress’s facilities. In particular, I am requesting that the Convention be allowed to use the Conference Room in the Congress Central Building for our Plenary Sessions, the space next to the Conference Room for the work of the

R. Killion
February 24, 2022
Page 2 of 2

Convention Secretary and administrative staff, the Committee Hearing Room for our Committee meetings, and space in the Congress Library for the Convention legal staff. I am also respectfully requesting that the Convention be allowed to continue using the following Congress staff during our Convention: Ms. Jessica Reyes as our Chief Clerk, Mr. Atarino Helieisar as our Journal Clerk, and the numerous Congress pages.

I thank you for your consideration of these requests and on behalf of the 4th FSM Constitutional Convention, and I wish to again express our appreciation and thanks for your continued support and assistance which will ensure the success of our 4th FSM Constitutional Convention.

Respectfully yours,



Redley Killion
President
4th FSM Constitutional Convention

Cc: Officers, 4th FSM Constitutional Convention
Delegates, 4th FSM Constitutional Convention
Secretary, 4th FSM Constitutional Convention
Chief Legal Counsel

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

March 14, 2022

The Honorable Wesley W. Simina
Speaker
22nd FSM Congress
Palikir, Pohnpei State FSM 96941

Re: Reconvening of the 4th FSM Constitutional Convention

Dear Mr. Speaker:

We are in receipt of your March 4th letter and have discussed its contents. On behalf of the Officers and Delegates of the 4th FSM Constitutional Convention, we thank you for your support of the Convention and its work.

It is truly unfortunate that Congress finds itself at odds with the Executive Branch.

Just as you are, the Convention and its Officers are concerned with the democratic process. In order for the FSM to continue to function as a democracy, the Convention must complete its work. In 2011 and again in 2019, the people of the FSM, exercising their sovereign power, voted to hold a Constitutional Convention. An act to convene the 2011 Convention was never passed, and the work of the Fourth FSM Constitutional Convention has been interrupted due to the COVID pandemic. It has now been more than 20 years since the FSM people have had an opportunity to amend our Constitution. The democratic process as enshrined in the FSM Constitution requires that the people of the FSM be given the opportunity to amend their Constitution every 10 years. In order to fulfill this Constitutional obligation, the Convention must complete its work as soon as possible so that the people can exercise their sovereignty by ratifying the proposed amendments in a referendum.

As the FSM Supreme Court Appellate Division noted in its 1990 decision in *Constitutional Convention 1990 v. President*, 4 FSM Intrm. 320 (App. 1990), the Convention is separate and apart from the FSM national government. The Convention responds directly to the will of the

people. While it is unfortunate that Congress and the Executive Branch are at odds, the Convention must continue the work of the people.

We appreciate your consideration of our request to use Congress's facilities for the reconvening of our Convention next month, and we will make other arrangements to meet the needs of the Convention.

The Convention truly appreciates the support Congress has provided through the appropriation of necessary funds and the support you, as Speaker, have provided in allowing the Convention to use Congress's facilities and staff in 2020 through today. As the constitutional amendment process continues, we look forward to continuing to work with you, the other members of Congress, and President Panuelo to ensure that the amendments proposed by the Convention are placed on the referendum, the date of which has yet to be determined and public education on such proposed amendments is conducted in the states four(4) states before such referendum takes place.

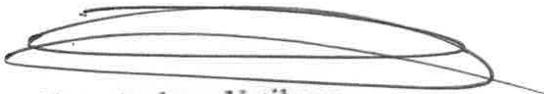
Respectfully yours,



Hon. Redley Killion
President
4th FSM Constitutional Convention



Hon. Salvador Iriarte (Iso-Vahinen, Nett)
Vice President
4th FSM Constitutional Convention



Hon. Andrew Yatilman
Floor Leader
4th FSM Constitutional Convention



Hon. Johnson Asher
Chairman, Committee of the Whole
4th FSM Constitutional Convention

Cc: FSM President Panuelo
Secretary, 4th FSM Constitutional Convention
Chief Legal Counsel

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

March 17, 2022

His Excellency David W. Panuelo
President of the FSM
Palikir, Pohnpei State FSM 96941

Re: Meeting on 3/16/22

Dear President Panuelo:

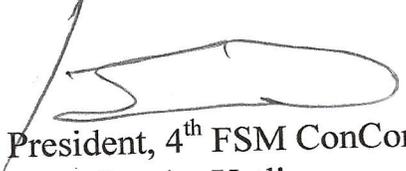
On behalf of the Officers and the Delegates of the 4th FSM Constitutional Convention, I offer our collective compliments and extend our sincere gratitude for availing your valuable time in meeting us on March 16, 2022. The meeting was congenial and very productive.

I want to thank you for initiating dialog with the FSM Congress Speaker to address the unfortunate situation our Convention is grappling with due to differing legal construals.

We acknowledged receipt of your communication to the Speaker calling for a special session to begin on March 21, 2022 for five days. We look forward to a successful session, in which we are hopeful that, among other important national matters to be addressed, reconvening of the Convention, specifically with regards to the issued of "meeting in-person" as contemplated by PL 22-66 be rectified to align our purposes to enable the Convention to proceed. We continue to ask for our collective leadership support for a successful culmination of this historic undertaking.

Sincerely,

Hon. Savador Iriarte/ISO
Vice-President, 4th FSMCC


cc. President, 4th FSM ConCon
Floor Leader Yatliman
Chairman COW Asher
Secretary Capelle
Legal Counsel Burch

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

March 17, 2022

The Honorable Mavin T. Yamaguchi
Speaker
10th Pohnpei Legislature
Peilapalap, Kolonia,
Pohnpei, FSM 96941

Re: Ackowlegdement and appreciation

Dear Speaker Yamaguchi:

Kaselehlieh, Luhk en Dolen Leng Madolinihmw, Mr. Speaker, oh Vice-Speaker, Floor Leader oh tohn Pwihn en Kou Kosonned en Wein Pohnpei Ke-Eisek.

This is to extend on behalf of 4th FSM Constitutional Convention our collective “kaping mwuledek” for your positive reply dated March 11, 2022 to my communication of March 05, 2022 regarding venue request.

Your support is truly a blessing under the circumstances to allow this important historic national undertaking to proceed to completion using Pohnpei Legislature Chamber as its venue. With your help the Convention Secretariat will coordinate with your key administrative staff to organize the necessary arrangements in a timely manner to support this historic event. The Convention will also need committees meeting spaces. For paperwork processing, technical and other manpower support, the Convention will bear the cost as needed for consumable goods and supplies and overtime or employment compensation services for any staff or person that can help the cause.

I understand the Secretariat staff will be coordinating with the Office of the Chief Clerk to orient themselves with the premises, available spaces and support resources that maybe available.

Once again, on behalf of the Officers of the 4th FSM Constitutional Convention, I want to thank you, the leadership and the members of the 10th Pohnpei Legislature for your support on this very important and desparate matter.

Sincerely,



Hon. Salvador Iriarte (ISO)
Vice-President, Fourth FSM Constitutional Convention
Chairman, Pohnpei State Delegation

Cc: Governor, Pohnpei State
Officers, 4th FSM ConCon
Secretariat, 4th FSM ConCon

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

June 24, 2022

His Excellency David W. Panuelo
President
Federated States of Micronesia
Palikir, Pohnpei State FSM 96941

Re: 4th FSM Constitutional Convention Adjournment sine die and Public Education General Plan

Dear President Panuelo:

On behalf of the Officers, Vice-President ISO Iriarte, Floor Leader Yatilman, Chairman COW Asher, and all the Delegates of the 4th FSM Constitutional Convention, I offer our compliments and extend our sincere gratitude to you for availing your valuable time at 10:00am on June 21, 2022 to accord us the pleasure of your company. Vice- President ISO Iriarte and I cherished the discourse and the conversation we had that day, especially on the way forward. At this juncture we are only a few session-days away from finally concluding this Convention that was started on January 07, 2020. As is, June 28, 2022, next week Tuesday, is the absolute latest date set for adjournment sine die.

The Secretariat will need few weeks to take care of the administrative matters and legal documentation requirements needed to properly close out this historic undertaking. For that purpose, I would ask for your blessing and support to continue to avail office space for our Convention Secretary, Legal Counsel and some support staff to wrap things up during the month July.

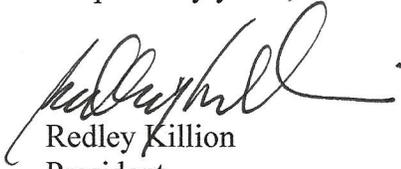
While the Secretary is closing things out for the convention, I would ask him to please consider staying on as necessary to assist the ground work to help us transition into the next critical phase, the Public Education. Based on the Presidential Executive Order dated November 17, 2020 creating the Public Education Task Force, more than 50% of the Delegates of this Convention are members who are going to be involved in such undertaking. The members will need to meet before they returned home next week to start discussing how to proceed forward immediately after our Convention adjourns sine die.

We are all excited to continue working together after this convention is over to help educate our people throughout our nation on the adopted proposed constitutional amendments which we

believe will further contribute to the on-going nation building efforts which started by our Founding Fathers forty-three years ago.

With warm personal regards,

Respectfully yours,



Redley Killion
President
4th FSM Constitutional Convention

- cc. Vice-President, (ISO) Salvador Iriarte, 4th FSM Constitutional Convention
- Floor Leader Yatilman, 4th FSM Constitutional Convention
- COW Chairman Asher, 4th FSM Constitutional Convention
- Secretary Capelle, 4th FSM Constitutional Convention
- Legal Counsel, 4th FSM Constitutional Convention

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

July 14, 2022

The Honorable Wesley W. Simina
Speaker
22nd FSM Congress
Palikir, Pohnpei State, FSM 96941

Dear Speaker Simina:

On behalf of the Officers, Vice-President ISO Iriarte, Floor Leader Yatilman, Chairman COW Asher, and all the Delegates of the 4th FSM Constitutional Convention, I offer our compliments and extend our sincere gratitude to you and the Honorable Members of the 22nd FSM Congress for all the support and assistance rendered to enable the successful completion of our 4th FSM Constitutional Convention despite the numerous challenges which we had encountered during these past 2 ½ years. The Convention officially convened on January 07, 2020 and adjourned sine die on June 28, 2022.

I am pleased to transmit herewith the eight (8) proposed amendments to our FSM Constitution which were adopted during our Convention for your information and reference. The Secretariat will need few more weeks to take care of the administrative matters and legal documentation requirements needed to properly close out this historic undertaking. For that purpose, I would ask for your blessing and support to continue to avail a small office space at the Central Facilities for our Convention Secretary, Legal Counsel and couple support staff to wrap things up during the month July. The support staff from Congress that is helping the Secretary and the Legal Counsel with record keeping and filing is Mrs. Mary Kilmete.

Again, I want to thank you very much for all your help and support in making this very important and historic exercise as success.

Respectfully yours,

Redley Killion
President
4th FSM Constitutional Convention

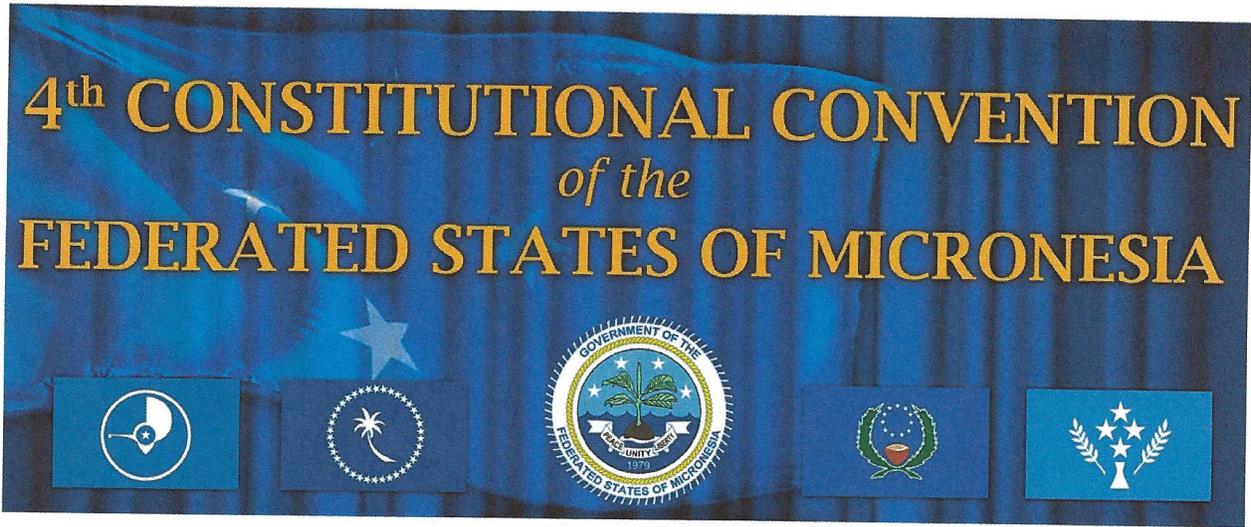
- cc. Vice-President, (ISO) Salvador Iriarte, 4th FSM Constitutional Convention
- Secretary Capelle, 4th FSM Constitutional Convention
- Legal Counsel, 4th FSM Constitutional Convention

COMMUNICATIONS

INTERNAL

- a. FROM THE 4TH FSMCC PRESIDENT
 - 1. Overtime entitlement
 - 2. Reconvening (11/1/2021 and 04/05/2022)
- b. FROM THE 4TH FSMCC VICE-PRESIDENT
 - 1. Reconvening recommendation (10/18/2021)
- c. LEGAL OPINIONS FROM CHIEF LEGAL COUNSEL
 - 1. FMR re. Section 9(1) of PL 21-19
 - 2. Delegates Allowance
 - 3. PL 21-74 and Congress Special Session
 - 4. Voting Requirements
 - 5. ConCon authority to recess and meet virtually during COVID Pandemic.
- d. FROM THE SECRETARY
 - 1. Delegation of Duties to key staff
 - 2. Work schedule during COVID Pandemic recess

Red 1/16/20
KC



Palikir, Pohnpei

January 16, 2020

Kapilly Capelle
Secretary
Fourth FSM Constitutional Convention
Palikir, Pohnpei 96941

Re: Overtime Pay for Convention Staff

Dear Secretary Capelle:

Pursuant to Public Law No. 21-19, Section 5(3)(b), the Fourth Constitutional Convention has authority to “make arrangements for staff.” This authority includes the power to contract with the staff, including overtime payment.

FSM Financial Management Regulation 5.7.6.(3) shall be used as the guideline for payment of overtime to the staff.

In order to be eligible for overtime pay, an individual must work in excess of 40 hours per week in the pay period for which the overtime payment is sought. See 52 FSMC §164; Public Service System Regulation 8.6.

Overtime shall be paid at the rate of one and one-half of the individual’s base pay. The individual must record the overtime on the approved FSM National Government form, which form shall be approved by the individual’s immediate supervisor and myself, as President of the Convention. The overtime form will be presented with the employee’s timesheet. See FSM Financial Management Regulation 5.7.6.(3).

The following are designated as the immediate supervisors who can authorize overtime work: Chief Clerk, Jessica Reyes is the immediate supervisor of the pages and any FSM Congress staff that are working for the Convention. Chief Legal Counsel, Kathleen Burch is the immediate

Pres. Killion
January 16, 2020
Page 2 of 2

supervisor of Mary Kilmete and Nercy Simina. Convention Secretary, Kapilly Capelle is the immediate Supervisor of all other Convention staff.

For the Convention staff that are FSM Government permanent employees, the first 40 hours of work each week should be charged to the FSM account that normally pays their salary; the overtime should be charged to the Convention's account.

For the pages who are not permanent FSM Government employees, the criteria for earning overtime pay should be part of the terms of their contract with the Convention.

Individuals who are FSM Government permanent employees who are exempt from the FSM Public Service System are not eligible for overtime pay.

If you have any questions on this matter, please let me know.

Sincerely,



Redley Killion
President
Fourth FSM Constitutional Convention

Cc: Chief Legal Counsel
Chief Clerk

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

September 30, 2021

Dear Fellow Delegates:

Greetings to each and every one of you; I hope you and your family members are in good health.

The Officers and I have met with President Panuelo to discuss the reconvening of the Convention in relation to COVID-19 travel restrictions and the Convention's need for facilities. Taking into account Congress' Regular Session, the Chuuk State Government Inauguration, the President's visits to the States, the renovation of the Congress Chambers, COVID-19 travel considerations, it has been determined that the 4th FSM Constitutional Convention will reconvene in Plenary Session on Monday, November 1, 2021, and our Committee Work Week will begin on Monday, October 25, 2021.

We have 19 days left in our Convention. By reconvening on November 1, 2021, our Convention will recess *sine die* on Friday, November 19, 2021. See Public Law No. 21-154, amending Public Law No. 21-19 (the remaining 19 session days of the Convention must be "consecutive calendar days"). The Convention will work on Saturdays and Sundays during these last 19 days. Please plan accordingly.

As stated in my previous letters, each day we have remaining in the Convention is essential to complete the important work we have been charged with. To best use our plenary session days, we will use our Committee Work Week so that Committee Proposals can be introduced as soon as the Convention reconvenes. It is important that all Delegates participate in the Committee Work Week and thus, all Delegates should plan on being in Pohnpei no later than Sunday, October 24th. After consultation with Committee Chairs, the Floor Leader will circulate a schedule of Committee meeting dates and times for our Work Week.

At this time, we expect all of the Delegates who are currently outside of the FSM to make their travel arrangements so that they can clear quarantine in Guam and Pohnpei prior to October 24th. Please keep in mind that under current COVID-19 travel restrictions, all travelers coming from Guam must quarantine in Guam for 10 days and quarantine in Pohnpei for 7 days.

R. Killion
January 18, 2021
Page 2 of 2

We are working with PMA and CIA to identify the most cost-efficient way to transport those Delegates within the FSM to Pohnpei. Secretary Capelle will be in contact with you regarding the flight schedule.

Secretary Capelle has been informed by the FSM Department of Finance that the Department will not approve any Travel Authorization for a Delegate or Convention staff member who has an outstanding voucher that has not been filed or has an outstanding balance. If you are a Delegate who has not filed their voucher or who still has an outstanding balance from the overpayment of per diem, please take care of these matters as soon as possible. If you need assistance with this, please contact Secretary Capelle as soon as possible.

I continue to wish you and your families health and prosperity during this trying time, and I look forward to seeing all of you the week of October 25th as we work in Committee in preparation for our reconvening in Convention on November 1st to complete our mandate to review our nation's Constitution which our people entrusted to us more than a year ago.

Respectfully yours,



Redley Killion
President
4th FSM Constitutional Convention

Cc: Secretary, 4th FSM Constitutional Convention
Chief Legal Counsel

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

March 01, 2022

Dear Fellow Delegates:

Greetings to each and every one of you; and I hope you and your family members are in good health.

Several of you have requested a copy of the Secretary of Justice's legal opinion regarding the Convention's authority to reconvene during the pandemic, hence I am forwarding to you a copy of that legal opinion for your information and reference.

I am also forwarding to you copy my letter to President Panuelo informing him that the Convention will be reconvening on Tuesday, April 5, 2022, and requesting that the Department of Finance and Administration be instructed to comply with Financial Management Regulation 5.6.6(1)(d) and issue Travel Authorizations for all Delegates to travel to Pohnpei to attend the Convention regardless of whether a Delegate has an outstanding balance with the FSM National Government. I determined that it was best to invoke the Financial Management Regulations' explicit authorization for Delegates to be issued Travel Authorizations to insure that all Delegates could travel to Pohnpei and to reserve the request for forgiveness of indebtedness to be addressed by Resolution of the Convention. To ask for forgiveness of indebtedness now may delay the issuance of Travel Authorizations which would, in turn, delay the reconvening of the Convention, and it is imperative that we meet and complete our work as soon as possible.

You will also find a copy of my letter to Speaker Simina informing him that the Convention will be reconvening on Tuesday, April 5, 2022, and requesting the use of Congress' facilities and staff as we did when we first convened our 4th FSM Constitutional Convention in January 2020.

I look forward to seeing all of you in Pohnpei early next month..

Respectfully yours,


Redley Killion
President

R. Killion
February 24, 2022
Page 2 of 2

Cc: Secretary, 4th FSM Constitutional Convention
Chief Legal Counsel, 4th FSM Constitutional Convention

FOURTH FEDERATED STATES OF MICRONESIA CONSTITUTIONAL CONVENTION



Palikir, Pohnpei

September 08, **2021**

Memorandum

To : President Redley Killion

From : ISO Chairman, Pohnpei Delegation _____

Subject : Reconvening of 4th FSM Constitutional Convention (4thFSMCC)

Greetings to you Mr. President.

The Pohnpei Delegation is in full support and eager to see 4th FSMCC reconvene as soon as practical. The recess is now about to exceed 18 months, understandably for a reason-COVID 19, and time is always of essence. At this juncture, much have changed and much more have been learned to enable us to reorganize and proceed to bring this major national undertaking to its proper closure.

Since it is impractical to meet when FSM Congress is in session, Pohnpei Delegation is requesting the we reconvene immediately following adjournment of its Third Regular Session scheduled to convene this coming Monday, 09/13/21.

To help with the planning process, the Delegation recommends that the Committees works begin on October 11 and reconvening on October 18, 2021.

The Secretariat should be organized as soon as possible to get the necessary ground work in order before October.

Looking forward to meet you and the Officers in person, if and when you are in Pohnpei soon, otherwise we can always arrange a zoom meeting to discuss this and other matters.

Thank you.

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

January 13, 2020

Redley Killion
President
4th FSM Constitutional Convention
Palikir, Pohnpei FSM 96941

Re: Section 9(1) of Public Law No. 21-19

Dear Mr. President:

This letter constitutes the legal opinion you requested that I provide on the interpretation of Section 9(1) of Public Law No. 21-19.

Public Law No. 21-19, Section 9(1) provides: “All delegates and staff to the Convention shall be entitled to per diem and travel expenses at standard rates, as provided by the Financial Management Regulations of the National Government of the Federated States of Micronesia, while on the business of the Convention.”

Per Diem

The Financial Management Regulations of the National Government, Regulation 5.6.5.(1) provides: “For the purposes, ‘Authorized Travel Expenses’ means only such expenses as are incurred by the traveler named in the Valid TA while the traveler is away from his official duty station or State of assigned duty or principal place of residence.” Travel expenses are defined as “the expenses for land and air transportation, per diem (which includes lodging and daily subsistence allowance), Optional Fixed Allowance and related items incurred by employees/officials who are in travel status on official government business.” FSM Financial Management Reg. No. 5.6.5.(2) (2019). Thus, a traveler is entitled to per diem, if the traveler is “away from his official duty station or State of assigned duty or principal place of residence.” The use of the word “or” means that if the traveler falls into any one of the three identified categories the traveler is not entitled to per diem.

The FSM Financial Management Regulations do not define “official duty station,” “State of assigned duty,” or “principal place of residence.” The FSM Code, however, instructs that when

interpreting the words or phrases in a regulation of the FSM, the words and phrases “shall be read within their context and shall be construed according to the common and approved usage of the English language.” 1 FSMC §208 (2014). See also *FSM v. Wainit*, 12 FSM Intrm. 105, 110 (Chk. 2003) (when terms are not defined by statute, the terms must be given their common recognized definition). The plain meaning or common usage of “official duty station” is the place – city, state, country – where the person is assigned to work by their employer. See FEDWEEK at <https://ask.fedweek.com/federal-government-policies/federal-employee-official-duty-station/> (last visited on Jan. 13, 2020) (defining Federal Employee Duty Station).¹ The plain meaning or common usage of “State of assigned duty” means the State in the FSM where the person is assigned to work.

The FSM Supreme Court has defined “legal residence” as “the place of domicile or permanent abode, as distinguished from temporary residence . . . it is the location defined in law as the residence of the person.” *Berman v. Lambert*, 17 FSM Intrm. 442, 448 (App. 2011) (citing Black’s Law Dictionary 897 (6th ed. 1990)). In *Alik v. Moses*, the FSM Supreme Court held that a citizen of the FSM “sent abroad to represent the nation as an ambassador is . . . a legal resident of some state in the [FSM] . . . even though he is temporarily stationed abroad.” 8 FSM Intrm. 148, 150 (Pon. 1997). The Court found that Ambassador Moses was a citizen of the State from which he ran for Congress, because in order to run for Congress a person must be a resident of the State. *Id.* A person’s principal place of residence is a person’s legal residence, the State where the person exercises their political rights.

This definition of principal place of residence is consistent with the intent of the FSM Financial Management Regulations. A traveler who is away from their official duty station and has traveled to their principal place of residence has returned home. A place where they have lodging and are not in need of government funds to pay for a hotel. Likewise, a person who is away from their State of assigned duty and has traveled to their principal place of residence has returned home and is not in need of lodging.

In order to be a Delegate to the 4th FSM Constitutional Convention, a person must “fulfill[] the residency requirements set forth in title 9 of the Code of the Federated States of Micronesia (Annotated) for registration as a voter in the representative state” FSM Public Law No. 21-19, Section (2)(b). On January 7, 2020, the Pre-Constitutional Convention reported to the Temporary President of the Convention that the electoral qualifications of all delegates-elect were “certified by the Acting National Election Commissioner on November 12, 2019. [That] the Acting Commissioner’s certification confirms that all delegates present today were elected in accordance with Title 9 of the FSM Code, and are qualified to perform service as delegates to the Fourth Constitutional Convention of the FSM. The Acting Commissioner’s certification confirms that all delegates present today were elected in accordance with Title 9 of the FSM Code, and are qualified to perform service as delegates to the Fourth Constitutional Convention of the FSM.” Statement of Delegate Ricky F. Cantero, Chair of Pre-Convention Committee. In order to be certified as a Delegate, the Delegates representing the State of Pohnpei had to be

¹ When FSM law borrows terms from U.S. law, it is appropriate to look to U.S. sources when there are no FSM sources available. See *Bualuay v. Rano*, 11 FSM Intrm. 139 (App. 2002).

legal residents of the State of Pohnpei, which means that their principal place of residence is the State of Pohnpei.

For Delegates whose employers (including employers other than the FSM National Government) have assigned the Delegate to a work station in Pohnpei, their official duty station is Pohnpei. For Delegates whose employers require them to reside on Pohnpei, their State of assigned duty is Pohnpei. For example, Floor Leader Andrew Yatilman, a Delegate from Yap, is employed by the FSM National Government as the Secretary of the Department of Environment and Emergency Management with an official duty station of Pohnpei. Floor Leader Yatilman is not entitled to per diem because Pohnpei is his official duty station. If Pohnpei is a Delegate's official duty station or State of assigned duty, that Delegate has already secure housing on Pohnpei and thus, is not in need of government funds to pay for a hotel.

Regulation 5.6.5. cannot be interpreted to exclude Delegates to the 4th FSM Constitutional Convention. When the drafters of the FSM Financial Management Regulations wanted to exclude Delegates to a Constitutional Convention from the Regulations, they did so explicitly. See FSM Financial Management Regulation 5.6.5.(4)(e)(vi) and 5.6.6.(1)(d). Thus, Regulation 5.6.5., as written, applies to the Delegates and staff of the 4th FSM Constitutional Convention by operation of Section 9(1) of Public Law No. 21-19.

Car Rental

FSM Financial Management Regulation 5.6.5.(4)(e)(vi) provides: "Notwithstanding the requirements in subpart 5.6.5. (that authorized travel expenses be incurred only by a traveler away from his official duty station or State of assigned duty or principal place of residence), an Allottee may obligate and expend funds for the use of a vehicle rental for . . . any Delegate or member of staff of the Constitutional Convention to attend the Constitutional Convention." Thus, all Delegates, including those whose official duty station, State of assigned duty, or principal place of residence is Pohnpei, are entitled to car rental and fuel.

Advances on Travel Authorizations

FSM Financial Management Regulation 5.6.6.(1)(d) provides: "Members of Congress and Constitutional Convention Delegates and Staff. Notwithstanding the provisions of subpart 5.6.6.(c), the Secretary [of Finance] shall approve a request for an advance of one hundred percent (100%) of the estimated travel costs for . . . a Delegate or member of the staff of the Constitutional Convention to attend the Constitutional Convention." Thus, all Delegates who receive per diem are entitled to receive 100% percent of the per diem authorized under their TA.

Days Per Diem May be Claimed

Public Law No. 21-19, Section 9(1) provides that Delegates and staff entitled to per diem are entitled to per diem "while on the business of the Convention." In addition to Plenary Sessions, the business of the Convention includes Committee meetings and other Committee work, State Delegation meetings, meetings between Delegates of different States to discuss the business of the Convention, and attendance at official functions when attendance is in the capacity of Delegate to the Convention.

K. Burch
January 13, 2020
Page 4 of 4

FSM Financial Management Regulation 5.6.5.(4)(d)(i) provides: "The per diem allowance shall be claimable by the traveler beginning on the day of departure through to the day of return" Thus, Delegates and staff are entitled to per diem while in Pohnpei on a Travel Authorization until they return to their State. A Delegate who returns to their State during the Convention is not entitled to per diem on the days that they are in their home State. A Delegate who extends their stay in Pohnpei beyond what is "considered reasonable" is not entitled to per diem for the days beyond those which are considered reasonable. See FSM Financial Management Regulation 5.6.4.(3) and Regulation 5.8.2.(6)(a).

If you have any questions regarding the opinions set forth above, please let me know.

Sincerely,



Kathleen M. Burch
Chief Legal Counsel
4th FSM Constitutional Convention

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

January 17, 2020

Redley Killion
President
4th FSM Constitutional Convention
Palikir, Pohnpei FSM 96941

Re: Allowance for Delegates

Dear Mr. President:

This letter constitutes the legal opinion you requested that I provide regarding the authority of the Convention to pay the Delegates an allowance, also referred to by some Delegates as emoluments.

The Pre-Convention Committee (PCC) proposed that Delegates who are not officials or employees of the National Government receive an allowance of \$200 per day. It is my understanding that the PCC proposed this allowance based on the practice of the Boards of FSM public corporations compensating non-FSM Government employees. The amount of the allowance was determined after ascertaining the amount that the various FSM public corporations pay their board members per day, which ranges from a low of \$30 to a high of \$500. The PCC determined that \$200 was the mid-range and thus, reasonable.

The public corporations that the PCC was using as a reference all have legal authority to pay their Board members an allowance or honorarium. See 21 FSMC §222 (FSM Telecommunications Board authorized to set compensation for non-government employee board members; national and state government employees not entitled to any additional compensation); 24 FSMC §1117 (National Fishing Corporation Board authorized to set compensation for non-government employee board members; national and state government employees not entitled to any additional compensation); 27 FSMC §218 (Micronesian Petroleum Corporation Board has same authorization and limitations on government employees); 40 FSMC §715 (College of Micronesia Board of Regents has same authorization, but honorarium limited to \$30 per day); 30 FSMC §126 (FSM Development Bank Board authorized to set honorarium; government employees not entitled to compensation for meetings during work hours.).

K. Burch
January 14, 2020
Page 2 of 2

Public Law No. 21-19 Section 9(1) addresses travel expenses and per diem for delegates and staff. Section 9(2) provides: "Any delegate who is an official or employee of the National Government of the Federated States of Micronesia shall be placed on administrative leave with pay and shall be entitled to receive their regular salary during their service as delegate." Unlike, the Boards of the FSM public corporations, the enabling act for the Convention does not authorize payment of an allowance to Delegates.

The allowance proposed by the PCC is in the mid-range of what non-government employees of public corporations receive for their service on the various Boards of FSM public corporations, and thus, the amount of the allowance is reasonable. It is my understanding that the allowance has been included in the Budget that has been transmitted to the Speaker for submission to Congress pursuant to Section 5(3)(c) of Public Law No. 21-19. When Congress approves the Convention Budget, which includes the \$200 per day allowance for the Delegates who are non-FSM-government employees, then the approval of the Budget and appropriation of the funds is authorization for the Convention to pay the allowance to non-FSM-government employees.

Expending funds without authorization leaves both the recipient and the allottee subject to potential liability, as such expenditure could be deemed to be misuse of government funds. The recipient of the funds could be asked to return the funds. And, the allottee could be deemed to be in violation of the FSM Financial Management Regulations. Thus, I recommend that the allowance proposed by the PCC not be paid until such time as Congress acts on the Convention Budget.

If you have any questions regarding the opinions set forth above, please let me know.

Sincerely,



Kathleen M. Burch
Chief Legal Counsel
4th FSM Constitutional Convention

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

February 19, 2020

Redley Killion
President
4th FSM Constitutional Convention
Palikir, Pohnpei FSM 96941

Re: Public Law No. 21-74 and FSM Congress Special Session

Dear Mr. President:

As you are aware, the Convention Secretariat has been informed that the FSM Congress may call a Special Session to start on Thursday, March 5th, and to last approximately 5 days (through Monday, March 9th).

During Congress' last Regular Session, Congress passed and the President signed into law Public Law No. 21-74, amending Sections 6 and 9 of Public Law No. 21-19, the Constitutional Convention enabling law. Public Law No. 21-74 amends Section 6(1)(a) to provide that "the Convention may . . . call recesses, including one extended recess of between 3 and 30 consecutive calendar days, which shall not be included in the calculation of the calendar days the Constitutional Convention is in session and for which no daily allowance under section 9 shall be paid"

As discussed in our earlier communication, the current recess is 30 days and will count as the one extended recess allowed under Section 6. Section 6 authorizes the Convention to take an unlimited number of recesses that are either 1 or 2 days in length. Under Public Law No. 21-19, as amended, the Convention may not go into recess for the entire length of Congress' Special Session.

If the Convention cannot recess, then the calendar days on which it must hold at least a *pro forma* Plenary Session will be counted in the number of calendar days of the Convention. This may leave the Convention with an insufficient number of days to complete its work, because of the number of days that it takes the Convention to adopt a proposal once the Standing Committee Report is placed on the Order of Business.

There are several solutions to this problem; some of which require working with the Congress and the FSM President. The options are as follows:

1. Request that Congress amend Section 6(1)(a) to allow the Constitutional Convention to call a second extended recess equal to the length of Congress' Special Session. The amendment should also include a provision that the Delegates may receive the daily allowance during this recess for the reasons discussed below. This option will require agreement of the FSM President because he will have to sign the bill amending Section 6(1)(a) into law.
2. Work with the Speaker to create a schedule where the FSM Congress and the Constitutional Convention can share the Congress Chamber during Congress' Special Session. This option does not require the FSM President's agreement. If this option is chosen, those working on the schedule must keep in mind that there is no set time limit for either Congress' sessions or the Convention's Plenary Sessions, and thus, a realistic schedule must be made. If Congress starts its sessions at 10:00 a.m., then the Convention should start its sessions no earlier than 2:00 p.m. and perhaps even later. Because the Convention can recess for 2 consecutive days without those days counting as Convention days, the Convention only needs to hold a Plenary Session every third day. For example, if the Special Session is five days, then Congress would meet on Thursday, March 5th; Friday, March 6th; Saturday, March 7th; Sunday, March 8th; and Monday, March 9th. The Convention would be in recess on Thursday, March 5th and Friday, March 6th. The Convention would hold a Plenary Session on the afternoon of Saturday, March 7th (this assumes that Congress will be holding a morning session). The Convention would then go back into recess until Tuesday, March 10th when it would resume its regular schedule. If Congress' Special Session goes longer than 5 days, the same schedule should be replicated for the length of the Special Session.
3. Locate a different venue for the Constitutional Convention to hold its Plenary Sessions. This option requires no agreement of either the FSM Congress or the FSM President. Public Law No. 21-19, as amended by Public Laws Nos. 21-74 and 21-39, does not require the Convention to be held in Palikir. Section 5(3)(a) states a preference that "whenever possible . . . National Government equipment and facilities" be used. In securing use of the FSM Congress Chamber, the Pre-Convention Committee fulfilled the intent of Section 5(3)(a). At this point, however, the focus must be on completing the work of the Convention. It may not be possible to complete the work of the Convention using National Government facilities. This option creates the most work for the Convention staff, and depending on what alternative facilities can be secured, increases the expenses of the Convention, expenses which were not included in the Convention budget.

All three options increase the expenses of the Convention. Options 1 and 2 increase the length of the Convention, which will increase the amount of the Delegates' allowance and the cost of per diem for Delegates and staff and will require extension of staff contracts. Option 3 increases

K. Burch
February 19, 2020
Page 3 of 3

costs if the alternative facility requires payment of rent, and there will likely be moving expenses to move equipment and records to the alternative facility and then back to Palikir, and because of the time staff will need to “move” and “return” the Convention, possible increase in staff salary/overtime.

Option 3 allows the Convention to continue its work without interference from the FSM Congress or the FSM President. Option 2 allows the Convention to continue its work with the least amount of disruption. Option 1 requires the most amount of coordination as both the FSM Congress and the FSM President must agree.

For all options, during the Special Session, it is highly likely that Committees will not be able to use the Congressional Hearing Room or the Congress Chambers for Committee work. Alternative space will need to be located either in Palikir or Kolonia for the Committees to do their work.

The Convention leadership should meet as soon as possible to discuss which alternative is most conducive to the Constitutional Convention’s success and to decide if more than one option should be explored in case a back-up alternative is needed. I believe that Secretary Capelle is working on the estimating the increase in cost to assist the leadership with its decision making. Once the Convention Leadership has decided on its preferred course of action, the Convention Leadership should consider meeting with the Speaker of the FSM Congress and with the FSM President to communicate the Convention’s plans.

Regardless of which option is chosen and regardless of the length of the Special Session, no Delegate should be returned to their home state or island during the Special Session. The days that the Convention cannot meet in Plenary Session should be used as Committee working days. The Delegates should work in Committee to report out the proposals the Committee has agreed should be considered by the Convention as a whole. The Floor Leader, with the assistance of Convention staff and input from the Committee Chairpersons, can issue a Committee meeting schedule for the days the Convention does not meet in Plenary Session. If the Committees prioritize the proposals that have been referred to their Committees and report out the priority proposals, then the Convention’s Plenary Sessions will likely be more productive. The use of the days that Congress is in Special Session as Committee working days may actually move the work of the Convention forward more efficiently. If the Delegates are working in Committee on the days in between the Convention Plenary Sessions, then the Delegates should be entitled to the daily allowance because they are doing Convention work on those days.

Please let me know if you have question on any of the above matters.

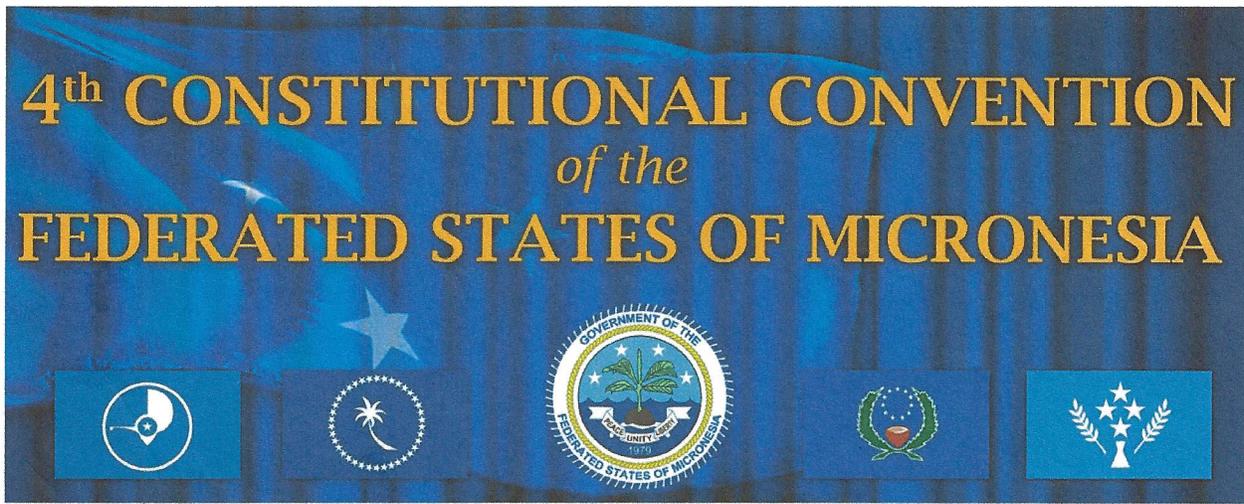
Sincerely,


Kathleen Burch

Chief Legal Counsel

4th FSM Constitutional Convention

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

March 6, 2020

Redley Killion
President
4th FSM Constitutional Convention
Palikir, Pohnpei FSM 96941

Re: Voting Requirements

Dear Mr. President:

This letter constitutes the legal opinion the Convention requested that I provide regarding the manner of voting on a motion to defer indefinitely the First Reading of a Committee Proposal. The three rules that are applicable to a motion to defer indefinitely the First Reading of a Committee Proposal are Rules 52, 59, and 61 of the Rules of Procedure of the Fourth FSM Constitutional Convention.

Rule 52 states that “[e]xcept as otherwise provided elsewhere, either in legislation creating the Constitutional Convention or in these Rules, the adoption of any motion or matter (other than Readings to adopt proposals) by the Convention shall require the affirmative votes of a majority of the Delegates present, and such votes shall be taken by voice vote.” The motion to indefinitely defer the First Reading is not a motion to adopt a Committee Proposal. The number of votes need to pass the motion is the affirmative votes of a majority of the Delegates present.

Both Rule 52 and Rule 59 state that the votes “shall” be by a voice vote. “Shall” is mandatory language, and thus, there is no discretion in how the vote is taken, unless there is another Rule that applies. When the voice vote is taken, if there is a question as to whether the motion passed or was defeated, any Delegate, including the President, may “demand” a roll call vote. See Rule 59. When a vote is taken, “[a]n abstention shall be deemed a vote in the affirmative except on Second Reading of Committee Proposals.” See Rule 61.

The motion at issue, to indefinitely defer the First Reading of a Committee Proposal, was properly taken by a voice vote. See Rules 52 and 59. And, no Delegate demanded a roll call vote. Even if the motion to defer indefinitely the First Reading of a Committee Proposal were deemed to be the equivalent of a motion to adopt a Committee Proposal, the result is the same.

K. Burch
March 6, 2020
Page 2 of 2

Rule 52 also states that “[t]he adoption of Committee proposals to amend the Constitution shall be by voice vote or secret ballot on First Reading, A proposal shall pass First Reading upon the affirmative votes of not less than two-thirds (2/3) of all Delegates.” The vote on the motion could have been done by voice vote or secret ballot. No Delegate requested a secret ballot; thus, the voice vote was the only other option available.

When the vote was taken, the President requested all those voting in the affirmative to say “Aye.” Delegates responded “Aye”. Then, the President requested all those voting in the negative to say “Nay”. No Delegate responded. Any Delegate who did not vote abstained, and under Rule 61, their vote counted as a vote in the affirmative. The voice vote on the motion at issue was all those who voted “Aye” plus those who abstained. Because there were no votes in the negative, all the votes on the motion were in the affirmative. Thus, the motion passed by a unanimous vote of the Delegates present.

Because the vote to defer indefinitely the First Reading of the Committee Proposal was unanimous, the result of the vote satisfies both Rule 52’s requirement of a majority of the Delegates present for motions other than adopting Committee Proposals and Rule 52’s requirement of not less than two-thirds of all Delegates for motions adopting Committee Proposals. There were 23 Delegates present at today’s Plenary Session, and thus, 23 votes in the affirmative on the motion. A majority of the Delegates present was 12, and two-thirds of all Delegates is 16. Today’s unanimous vote was 23, which is greater than 12 or 16. Thus, the motion to defer indefinitely the First Reading of Committee Proposal 4-02 was properly passed.

If you have any questions regarding the opinions set forth above, please let me know.

Sincerely,



Kathleen M. Burch
Chief Legal Counsel
4th FSM Constitutional Convention

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

April 13, 2020

Redley Killion
President
4th FSM Constitutional Convention
Palikir, Pohnpei FSM 96941

Re: ConCon Authority to Recess and to Meet via Video Conferencing

Dear Mr. President:

This letter constitutes the legal opinion you requested regarding the Convention's authority to recess for more than 30 days and to meet via video conferencing. In order for the Convention to make a knowledgeable decision on whether to wait to meet in person in Palikir or to proceed with its work via video conferencing technology, this legal opinion also addresses the issue of when the Convention must conclude its work or recess sine die.

Briefly, the Convention should seek an amendment to Public Law No. 21-19 that provides the Convention authority to recess during the COVID-19 pandemic. Because there is no legal impediment preventing the Convention from using video conferencing to meet, in making the decision as to whether to do so, the Convention leadership should balance the benefits of meeting in person against the time constraint to complete the work of the Convention. In order to insure that the amendments adopted by the Convention are on the March 2, 2021 referendum, the amendments must be adopted by October 8, 2020 and be delivered to President Panuelo no later than October 15, 2020. In order to accomplish its work within this time frame, the Convention needs to reconvene no later than September 17, 2020.

Convention's Authority to Recess for More Than 30 Days

The Convention has the inherent power to determine how it conducts its business, how it makes its decision, and how it interacts with and communicates with the people. *Constitutional Convention 1990 v. President*, 4 FSM R. 320 (App. 1990). Congress, however, has the power to determine "how many delegates will be selected nationally, and how many will be selected by each state, as well as decisions as to the duration, facilities, and budget of the convention." *Id.* at

328. The question of when and how the Convention can call a recess falls within the Convention's power as to how it conducts its business and as to how and when it communicates with the people and falls within Congress' power to determine the duration of the Convention. Because the current COVID-19 pandemic is impacting the duration of the Convention, it is best to seek an amendment from Congress authorizing the Convention to recess during the pandemic. Obtaining such an amendment will insure that there is no challenge to the authority of the Convention to continue its work and thus, no challenge as to whether any of the amendments adopted by the Convention after April 13th should be on the March 2021 referendum. Obtaining such an amendment will also avoid any litigation over the issue.

Because no one knows when the pandemic will end, when FSM citizens will be able to freely travel between the various FSM states, and when delegates who are currently residing outside the FSM will be able to return to the FSM, the amendment to the Public Law No. 21-19 authorizing a recess during the pandemic should not establish a set number of days for the recess. Rather, the COVID-19 recess language should allow the Convention to recess during the pandemic and for 45 days after the national and Pohnpei emergency declarations are lifted. The reason for the 45 day buffer is to allow the Convention time to determine where each delegate is located, when delegates will be allowed to travel, and whether any State Delegation has any open seats and to fill those open seats, and to allow the Convention Secretary time to rehire staff, to secure facilities to hold the Convention, and to prepare the necessary travel authorizations for delegates and staff.

I have taken the liberty to prepare some draft language for your consideration. The draft language is attached to this letter.

Video Conferencing

There is no explicit requirement in the FSM Constitution, the FSM Code, Public Law No. 21-19 as amended, or the Convention's Rules of Procedure that the Convention meet in person, in Palikir. There is, however, an implied assumption that the Convention will meet in Palikir. Section 5(3)(a) of Public Law No. 21-19, as amended, states that the Convention "shall, whenever possible, arrange to utilize National Government equipment and facilities." Because the National Government facilities that are large enough to host the Convention are located in Palikir, this language implies that the Convention will use the FSM National Government facilities in Pohnpei and use of facilities in a particular location implies that the Convention will meet in person as it did for the 1990 and 2001 Constitutional Conventions. However, this language is modified by the condition "whenever possible." The current COVID-19 social distancing requirements make meeting in person in Palikir "not possible" at this point in time.

The Convention Rules 3, 4, 24, and 49 are all based on the assumption that the Convention is meeting in person.

There is no law that prohibits the Convention from using video conferencing technology to meet and conduct business. The Convention does, however, need to comply with Section 6(4) of

Public Law No. 21-19, as amended, which requires that “[a]ll sessions of the Convention shall be open to the public.”

If the Convention decides to meet using video conferencing technology, the Convention will need to consider whether any of the Convention Rules should be amended and will need to choose a technology that allows its proceedings to be “open to the public.”

In making the determination as to whether the Convention should wait until the COVID-19 pandemic is over and meet in person or whether the Convention should meet using video conferencing, the Convention leadership will need to balance the benefits of having the delegates meet in person, including the benefits of the interactions between the State Delegation and considering the difference in the nature of communicating in person versus communicating over technology, and the need to complete the work of the Convention. The Convention leadership will also need to consider whether all delegates have access to the technology that is needed to meet via video conferencing.

There is currently no legal impediment to using video conferencing. The lack of a legal impediment does not mean that using video conferencing is necessarily a wise decision. It may, however, become a necessary decision depending on how long the pandemic lasts.

When Must the Convention Recess Sine Die

Although there is no explicit requirement in the FSM Constitution, the FSM Code, Public Law No. 21-19, as amended, or the Convention’s Rules of Procedure providing a date that the Convention must recess sine die, the work of the Convention must be completed in time for the proposed amendments to be on the March 2, 2021 ballot. The Convention’s enabling statute sets the March 2, 2021 general election as the date for the referendum on the constitutional amendments adopted by the Convention. See Section 8(1) of Public Law No. 21-19, as amended. Amendments that will be placed on the ballot in a general election must be “received by the [FSM] President no later than 45 consecutive days prior to the date of said general election.” 7 F.S.M.C. §702(2). Thus, in order to be on the March 2, 2021 ballot, the proposed constitutional amendments must be received by President Panuelo no later than January 15, 2021.

If, however, a proposed amendment will “effect the general election”, President Panuelo must call a special referendum to be held in December 2020. See Section 8(1) of Public Law No. 21-19, as amended. Although the Section 702(2) requirement that the proposed amendment be received by the President 45 days prior to the referendum does not apply to a special election, the proposed amendments will need to be received with sufficient time to engage in public education. So, if a 45 day public education period is assumed, then the proposed amendments will need to be received by President Panuelo no later than October 15, 2020.

Based on the Convention’s experience to date with engrossing the two amendments that were adopted prior to the March 13th recess and the resolutions, the Convention should assume that it will take one week to engross any amendments and get them delivered to President Panuelo’s

R. Killion
April 13, 2020
Page 4 of 4

office. Thus, amendments that will “effect the general election” must be adopted by the Convention no later than October 8, 2020. All other amendments must be adopted by the Convention no later than January 8, 2021.

Assuming that when the Convention reconvenes it will hold session every day, except Sunday, not take an elongated recess, will use all 19 days remaining to it, and will adopt all proposed amendments by October 8, then the Convention needs to reconvene no later than Thursday, September 17, 2020.

Given that it is likely to take the Standing Committees a couple of meetings to have proposals ready for the Convention to consider in a plenary session, it is highly recommended that either (1) the Committees return to their work one week prior to the Convention reconvening in a plenary session or (2) the Convention reconvene earlier than September 17th and for the first two weeks alternate Committee work days and plenary sessions. Either of these options will allow the Committees sufficient time to move the other proposals pending in the Committees to the Convention floor and provide the Convention with sufficient time to consider the proposals prior to October 8th.

Please let me know if you have any questions on the matters addressed in this opinion.

Sincerely,



Kathleen M. Burch
Chief Legal Counsel
Fourth FSM Constitutional Convention

Cc: S. Iriarte, Vice President Constitutional Convention
A. Yatilman, Floor Leader Constitutional Convention
J. Asher, Chairman COW Constitutional Convention
K. Capelle, Convention Secretary

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei

January 18, 2020

Internal Memorandum

TO : Hon. Redley Killion, President 4th FSM Con. Con.

From : Convention Secretary Kapelle

CC : Chief Clerk and Assistant Secretary

Subject: Delegation of Duties

I beg for your indulgence for my delayed attention to officially delegate/designate duties vested with the Convention Secretary for appropriate staff to officially carry them out when and as needed. Pursuant to Rule 12, “the Secretary may delegate the authority to perform any or all of his or her duties, except for certification of official acts and documents.” As such the Chief Clerk and Assistant Secretary will be delegated certain duties as follows:

- 1) Chief Clerk
 - a) Roll Call during plenary and other sessions
 - b) Supervise copying and distribution of Daily Journals, Daily List of Business or Orders of Days, Proposals, Resolutions, Committee Reports and relevant documents.
 - c) Others duties as assigned by the President and Convention Secretary when a special need arises
- 2) Assistant Secretary
 - a) Oversees daily drafting of Referral Sheets and copying of associate content documents.
 - b) Supervise logistical support for Committee Meeting/Hearing.
 - c) When and as necessary, supervise Administrative Officer and designated staff on purchasing, payment processing and inventory of resource needs for the Convention.
 - d) Others duties as assigned by the President and Convention Secretary when a special need arises

4th CONSTITUTIONAL CONVENTION of the FEDERATED STATES OF MICRONESIA



Palikir, Pohnpei
Office of the 4th Constitutional Convention Secretary

March 24, 2020

Internal Memorandum

TO : All Secretariat Administrative support staff

From : Convention Secretary

Thru : President, 4th FSM Con. Con.

Subject: Recess

As you are all well aware, the Convention is in recess for a reason – COVID-19 pandemic emergency declaration. The plan was to reconvene in 30 days after 3/14/20. However, given the uncertainty of the situation under which this Nation and the States are in now, it is highly likely that the Convention may not be able to reconvene until the threat of this health problem is subsided or resolved somehow very soon.

That being the case, the logistical, administrative and clerical support for the Secretariat will be reduced to bare minimum until such time the emergency situation is improved and a decision is made to reconvene.

Everyone is expected to work full time until Friday, 3/27/20. Thereafter, the Secretariat may need minimal clerical and logistical help. For that purpose, I will be assigning staff to continue helping on part-time basis and/or as the need arises starting 3/30/20 until further notice.

I will be coordinating and keeping everyone abreast of developments through email. Kathe and I will start preparing and organizing all necessary paperwork while waiting for the Convention to reconvene.

I really appreciate and I owe everyone, individually and collectively, a debt of gratitude for your assistance, patience, sacrifice and support in fulfilling the functions and purposes of the Secretariat from the start despite obstacles, challenges and difficulties along the way. Thank you very much.

BUDGET AND FINANCIAL INFORMATION

4TH FSM CONSTITUTIONAL CONVENTION FUNDNG PROFILES

		SOURCES:		
Dates	Appropriations			Allottee(s)
12/6/19	PL 21-55	\$	250,000.00	4th FSM CC President
2/18/20	PL 21-77	\$	776,236.00	
	Total	\$	1,026,236.00	* FSM President 2/18/20 to 3/23/2020 4th FSM CC President 3/24/2020 to end of Convention.
1/31/22	PL 22-80	\$	85,000.00	FSM President

* \$197,009.51 was reimbursed to National Election Commission Account for Election and Preconvention Work expenses. \$829,226.49 was left for the Convention.

Note: 4th FSM CC had two accounts	Amounts
1) A1-53-35-92-09106-20-XXXX	\$829,226.49
2) A1-53-35-92-09108-22-8XXX	\$ 85,000.00

BUDGET vs. EXPENSES
SUMMARY

1) A1-53-35-92-09106-20-XXXX

COST CATEGORIES	BUDGET	EXPENSES	BALANCE
PERSONNEL	\$ -	\$ -	\$ -
TRAVEL	\$ 204,006.68	\$ 176,472.44	\$ 27,534.24
CONSUMABLE GOODS	\$ 178,872.50	\$ 159,106.24	\$ 19,766.26
CONTRACT SERVICES	\$ 446,347.31	\$ 450,061.64	\$ (3,714.33)
FIXED ASSETS	\$ -	\$ -	\$ -
TOTAL	\$ 829,226.49	\$ 785,640.32	\$ 43,586.17

NOTE: \$25,000.00 OF THIS AMOUNT IS RESERVED FOR PRINTING, PUBLICATION AND ARCHIVING OF ALL PROCEEDINGS, REPORTS, DOCUMENTATIONS AND INFORMATION OF THE FOURTH (4TH) FSM CONSTITUTIONAL CONVENTION FOR POSTERITY.

BALANCE \$ 18,586.17

2) A1-53-35-92-09108-22-8XXX

COST CATEGORIES	BUDGET	EXPENSES	BALANCE
PERSONNEL	\$ -	\$ -	\$ -
TRAVEL	\$ 55,000.00	\$ 46,379.00	\$ 8,621.00
CONSUMABLE GOODS	\$ 30,000.00	\$ 25,300.00	\$ 4,700.00
CONTRACT SERVICES	\$ -	\$ -	\$ -
FIXED ASSETS	\$ -	\$ -	\$ -
TOTAL	\$ 85,000.00	\$ 71,679.00	\$ 13,321.00

NOTE: THE SECRETARIAT RECOMMENDS THAT WHATEVER THE BALANCES ARE FOR THESE TWO ACCOUNTS, IF ANY, THEY SHOULD SUPPLEMENT THE BUDGET FOR THE FSM NATIONAL PUBLIC EDUCATION TASK FORCE EFFORT.

PROPOSALS

INDIVIDUAL PROPOSAL AS INTRODUCED
AND ASSIGNED : CC-PR-04-01 TO 04-75

PROPOSAL TABLE

PROPOSED AMENDMENT TO CONSTITUTION

To amend Article IV, Section 2 of the Constitution, by expanding a State's ability to provide assistance to not merely parochial schools, but also other parochial establishments which provide secular services to the entire community.

Article IV, Section 2 currently reads:

Section 2. No law may be passed respecting an establishment of religion or impairing the free exercise of religion, except that assistance may be provided to parochial schools for non-religious purposes.

Amend Section 2 to read as follows:

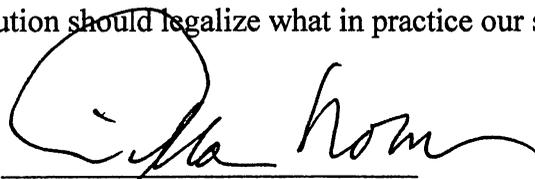
Section 2. No law may be passed respecting an establishment of religion or impairing the free exercise of religion, except that assistance may be provided to parochial schools and other parochial establishments for ~~non-religious~~ secular purposes.

PURPOSE AND INTENT OF AMENDMENT:

Churches in Micronesia often sponsor programs that benefit the entire community, not merely the congregation of that particular church. These programs include schools, sports centers, community meeting venues, typhoon shelters, and shelters for victims of violence. These programs prioritize service to the community over the advancement of religion. Some States have provided assistance for these projects by virtue of necessity despite the establishment of religion clause. For example, on some outer islands, the church may be the only entity capable of sponsoring a typhoon relief shelter. It is universally recognized throughout Micronesia that churches sponsor benevolent projects for the entire community without purposefully advancing their religion in the process.

The State should be able to help these organizations advance secular projects without risking a violation of the establishment of religion section in Article IV, Section 2. This amendment would memorialize the will of the people that has already been put into practice within various States.

The Constitution should legalize what in practice our society has already accepted.

Introducer: 
Camillo Noket

1/2/20
D9K

PROPOSED AMENDMENT TO CONSTITUTION

To amend Article XII, Section 1(b) to provide that distribution of shares of foreign assistance from the foreign assistance fund will be made by agreement between the States and National Government instead of shared in equal portions by the all four States and National Government.

Article XII, Section 1(b) currently reads:

(b) Foreign financial assistance received by the national government shall be deposited in a Foreign Assistance Fund. Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the national government and to the share of every other state.

Amend Article XII, Section 1(b) to read as follows:

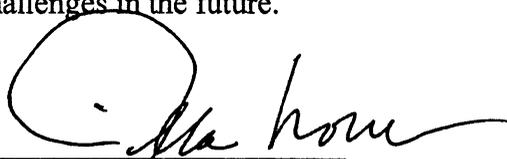
(b) Foreign financial assistance received by the national government shall be deposited in a Foreign Assistance Fund. Except where a particular distribution is required by the terms or special nature of the assistance, ~~each state shall receive a share equal to the share of the national government and to the share of every other state.~~ the National Government and states shall receive shares of the assistance as provided by agreement between the National Government and the States.

PURPOSE AND INTENT OF THE AMENDMENT:

Reasons for replacing equal shares of foreign assistance distribution with that agreed to by the States and National Government:

- Some States might have a greater need for foreign assistance aid due to natural disasters and other unforeseen developments.
- Many Micronesians feel that having 1/5 of the foreign assistance share go to the National Government is money that is not allocated appropriately.
- The FSM is generally decentralized, so there should be more power for the States to determine the distribution of assets – although the National Government ought to be involved to an extent.
- This amendment will provide for greater financial flexibility for the FSM States to react to challenges in the future.

Introducer:


Camillo Noket

1/9/20
Date

A PROPOSED AMENDMENT TO CONSTITUTION

To amend Article XIV, Section 1 of the Constitution to require that only 2/3 of the population of ¾ of the states are required to approve a proposed amendment to the Constitution for the amendment to be ratified and become a part of the Constitution.

Article XIV, Section 1 currently reads:

An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by ¾ of the votes cast on that amendment in each of ¾ of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

Amend Section 1 to read as follows:

An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by ¾ 2/3 of the votes cast on that amendment in each of ¾ of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict. This entire section shall govern the March 2021 referendum and all other referendums that follow.

PURPOSE AND INTENT OF THE AMENDMENT:

Reasons for lowering the bench mark to 2/3 of the population of ¾ of the states for approval of an amendment:

- The Micronesian people adopted the FSM Constitution by a simple majority vote (50%).
- The provisions in the Constitution are mostly plainly stated, and open to little interpretation. The Founders saw that a Constitutional Convention every decade would best serve the purpose of amending the Constitution to fit the needs of the people with changing times.
- However, the current bench mark of 75% of the populations of ¾ of the states set a near impossible bench mark to amend the current constitution and thus, frustrates that vision.
- The Constitution favors status quo for provisions which may never have had 75% or even 67% support from Micronesians at any point in its history.

- The $\frac{3}{4}$ benchmark makes it nearly impossible to adapt the Constitution in a country that experiences the forces of globalization and climate change more intensely than ever in the past.
- Lowering the bench mark to $\frac{2}{3}$ (66.6%), or what is considered a supra-majority, of each state's population, is more than a simple majority vote.
 - o It will reflect the will of the vast majority of the people of the FSM and make necessary changes to the constitution actually possible.
 - o It is still a high enough bench mark that changes to status quo will only occur when a proposed amendment receives a relatively large majority of the population that believes such change is necessary.

The Convention should hold a separate referendum for the ratification on this proposal – well before the March 2021 referendum on the other proposed amendments. If this amendment is ratified, it will then govern the procedure within the March 2021 referendum.

Introducer: 
Camillo Noket

1/9/20
Date

PROPOSED AMENDMENT TO CONSTITUTION

To add a new provision to Article XIII of the Constitution that would require that the States of the FSM recognize the statutes, court orders, and records of the other States.

Add Section 8 to Article XIII to read as follows:

Section 8. Full faith and credit shall be given in each state to the statutes, records, and judicial proceedings of every other state. Congress shall prescribe by statute the manner in which statutes, records, and judicial proceedings may be authenticated and recognized by the other states.

PURPOSE AND INTENT OF THE AMENDMENT:

Reasons for full faith and credit clause:

- The purpose of a “full faith and credit” provisions is to make certain that statutes, court decisions, and official records in one State receive the same legal recognition in other States as they receive in their home State.
- This clause has worked well in other jurisdictions’ constitutions.
- Here are three examples that demonstrate who this amendment may affect:
 - o Court Proceedings. A citizen of Kosrae obtained a judgment in the Kosrae Supreme Court against another person, but the defendant then moved to Yap to work, leaving no property in Kosrae. It would be very difficult for the Kosrae plaintiff to collect his judgment. The Plaintiff would have to go to Yap to collect the judgment; but unless Yap recognizes the judgment, the plaintiff would have to go to Yap and prove his case all over again in the Yap State Court. This amendment would prevent such expensive and unnecessary proceedings.
 - o Official Records. A child living in Chuuk, but born in Pohnpei has to prove that he is a member of a lineage in Chuuk. This amendment would require the court and administrative agencies to recognize a birth certificate issued in Pohnpei just as it would recognize one issued in Chuuk. There would be no need to present numerous witness that may be living in Pohnpei to determine that the child is a member of the lineage.
 - o Statutes. There are situations in which the statutes of one State must be applied by the court of another state – although, this does not usually occur. Two citizens of Kosrae are living and working in Pohnpei, but have a dispute that arose out of a

transaction that occurred between these two individuals in Kosrae. If a lawsuit was filed in the Pohnpei Supreme Court, then the Pohnpei Supreme Court may apply Kosraean law. This amendment would require the Pohnpei Supreme Court to recognize the statutes and case law of Kosrae when deciding the case, although it would be up to the Court to decide which State's law should be applied.

Introducer:


Camillo Noket

1/09/20
Date

PROPOSAL TO AMEND CONSTITUTION

To amend Article X, Section 1 of the Constitution of the Federated States of Micronesia to provide for direct election of the President and Vice President by popular vote.

The current language of Article X, Section 1 is

“The executive power of the national government is vested in the President of the Federated States of Micronesia. He is elected by Congress for a term of four years by a majority vote of all the members. He may not serve for more than 2 consecutive terms.”

Amend Section 1 to read as follows:

“The executive power of the national government is vested in the President of the Federated States of Micronesia. He is elected by a majority vote of the people in a national general election. The President shall be elected on the same ticket with the Vice President. The President and Vice President cannot be from the same State. The President shall serve for a term of four years. He may not serve more than 2 consecutive terms.”

PURPOSE AND INTENT OF AMENDMENT:

Direct election of the President and Vice President empowers the people by guaranteeing that the President and Vice President are answerable to the people. Furthermore, it strengthens the doctrine on separation of power between the Executive Branch and the Congress.

Introducer: Akillino H. Susaja

1/9/20
Dah

[Handwritten signatures and scribbles]

[Handwritten initials]

A PROPOSAL TO AMEND THE CONSTITUTION

To amend section 3 of Article III of the Constitution of the Federated States of Micronesia to allow dual citizenship for FSM and US only.

"Section 3. A citizen of the Federated States of Micronesia who is recognized as a citizen of the United States of America may retain his citizenship of both FSM and USA. A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia. This section shall apply retroactively and prospectively "

Sponsors: 
Jack S. Fritz, Esq. Delegate
Southern Namoneas


Nickson Bossy, Delegate
Northern Namoneas

Purpose and Intent: This proposal retains the old requirements under the Constitution except for FSM citizens who are also US citizens who are proposed to retain their citizenship from both countries, FSM and USA. This proposal is intended to provide comfort to our citizens to retain title to lands and waters which is the main reason for the debate among our citizens. Note that the proposal uses the word, "may" and not "shall" to allow our dual citizen the option, if he or she chooses in the future, to renounce one of his or her citizenship. If that dual citizen voluntarily renounces his FSM citizenship, then by his or her own action, he or she would no longer be eligible to own title to lands and waters in FSM. Everyone should understand why the "dual rights" to citizenship is limited to US only. This is to maintain the hard-earned benefits that the amended compact provides to our citizens abroad. Those type of benefits have yet to be provided by other nations, so it makes sense at this time to limit "dual citizenship" to FSM-USA only. In other words, our dual citizen may enjoy the benefits offered by both his or her countries, to enjoy the benefits of both worlds. Remember that there are ways in which one may lose his or her citizenship. Note further that an FSM citizen who is also a citizen of another nation may retain his FSM citizenship by registering his or her intent **and** renounce his or her citizenship of the other nation. The important matter to remember here is the right to own title to land and waters which must be restricted to FSM citizen only. Since this section is proposed to be applied retroactively it would take care of our citizens who have inadvertently missed the three years dateline so that all would retain their dual citizenship.

1/9/20

A PROPOSAL TO AMEND THE CONSTITUTION

To amend section 6 of Article IX of the Constitution of the Federated States of Micronesia to provide equal sharing of net revenue derived under section 2(m) between the national government, the appropriate state government and local 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 and municipal governments"

Sponsor:


Jack S. Fritz, Esq. Delegate
Southern Namoneas

Purpose and intent: This proposal is another means to help the local governments receive their fair share of the revenues to be gotten by this nation. Again, the resources belong to all of the people or levels of government, not just the state and national. Again, we need to reorient our development strategies and goals. Develop the municipalities will result in advancing prosperities for the states' and nation's economies. Ignore the municipalities as are the case at present, the nation's economy will remain gloomy as the national government or state governments would have no place to base their economic projects.

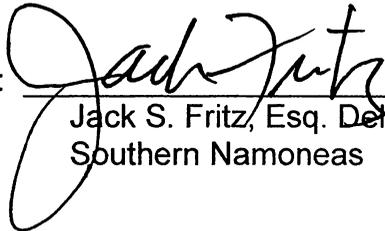
Dated: 1/9/20

A PROPOSAL TO AMEND THE CONSTITUTION

To amend section 2 (d) of Article X of the Constitution of the Federated States of Micronesia to require all judges of the Supreme Court and other courts and the principal officers of the executive departments to be FSM citizens

(d) with the advice and consent of Congress, to appoint ambassadors; all judges of the Supreme Court and other courts prescribed by statute; the principal officers of executive departments in the national government; and such other officers as may be provided for by statute. Ambassadors and principal officers serve at the pleasure of the President. **All ambassadors, judges of the Supreme Court and other courts prescribed by statute; the principal officers of executive departments in the national government shall be citizens of FSM. This amendment shall apply prospectively only.**

Sponsor:



Jack S. Fritz, Esq. Delegate
Southern Namoneas

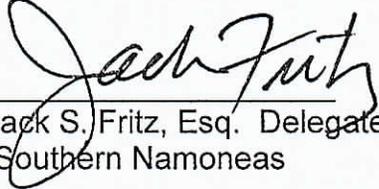
Purpose and intent: In 1975, Micronesians began taking steps to take ownership of their governments and we in FSM in adopting the current FSM Constitution look to its applicability in defining ourselves and our governments. To enable us to create a nation which protects our values and norms, our forefathers allocated certain authorities and powers to enable us continue defining ourselves and to complete the taking of ownership of our newly created governments. To protect and preserve our individual state uniqueness, matters relating to land and waters, and customs and tradition are vested with the states, not the national government a newly created entity by the states (districts at that time). In the formation of and early development of our nation, we lack the necessary qualified manpower to run our governments at all levels of governments. We had and were grateful for those non-citizens who help us built our legal structures and governments up to this time. However, 40 years have passed and at present our nation has sufficient manpower to assume those duties and responsibilities presently carried out by non-citizens. Our citizens must be given opportunities to learn and gain experiences while performing such tasks. It is time to overcome our own fears. It may be argued that perhaps this notion of restricting high level positions to citizens should be inserted in the various articles where those positions are placed in our constitution. However, I believe this is the right place to insert this requirement. Because of current situations with non-citizens still occupying some high-level positions, this amendment would apply prospectively only, no retroactive applications.

A PROPOSAL TO AMEND THE CONSTITUTION

To amend section 2(m) of Article IX of the Constitution of the Federated States of Micronesia to provide that all Revenues derived from this provision shall be shared on an equitable bases between the four the states and municipalities or local governments and the national government;

“ (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; All Revenues derived under this provision shall be shared on an equitable bases between the four the states and local governments and the national government; Such funds or revenues shall be used for local, state, and national governments for uses identified in approved plans of the local, state and national governments. “

Sponsor:


Jack S. Fritz, Esq. Delegate
Southern Namoneas

Purpose and intent: The Constitution recognizes three levels of governments, local, state and national. FSM Const. art. VII, § 1. However, there are no means provided in the Constitution for the local government to raise revenues on its own. It was perhaps envisioned that the states would share their revenues to the local governments, which are provided in some state constitutions but such means are inadequate to raise revenues badly needed by the local governments to carry out their duties and responsibilities to the people in FSM who reside in the municipalities. If the local or municipal governments which are the foundations of the state and national governments are doing well, it follows that the state and national governments would also be doing well as both states and national governments are the sum total of the municipalities. Develop the local governments and the states and nation will equally be developed for the reasons stated above. Recently, the national government has been taking in lots of revenues from licensing of fishing boats and businesses (MRA). These new sources of revenues were not known to our forefathers who drafted the constitution and so they did not provide a means to share such revenues. FSM is comprised of the states who are in turn comprised of the municipalities. The newly found revenues should be shared on an equitable bases to all the three levels of governments as the revenues should belong people of this country and thus to all levels of government. It can be argued that perhaps this proposal is not needed as the national government through the Congress could by way of appropriations provide for the needs of the state and local governments as explained above. However, as already happened, the states had to go to court to seek financial assistances from these two major sources of revenues to the nation. To guarantee some sharing, it would be more preferable to make it a requirement and not discretionary. However, it should be made clear that such sharing must not jeopardize the current and existing duties and responsibilities of the national government. Perhaps, a formula could be developed that would achieve as close as possible the concept of "equitable sharing", and that such formula is to be used for a period of time subject to changes as circumstances warrant. The meaning of "Equitable sharing" should include considerations accounting for population, availability of lands or waters for such proposed uses, and, long term goals as outlined in some approved master plans or strategic development plans. In other words, set a formula for every five years or so and allow representatives of the governments in the future to meet and agree on new formula, if necessary, as may be required in the future. Flexibility should be a key factor in such allocation so that no one is left behind. All levels of governments must receive some funds from these common properties but they must not be wasted. Hence, the limitations are needed to ensure the common properties are used effectively to advance an improve the livelihood of the people of this nation,

proposal no. CC-PR-4-01

to improve the economies of all. Existing plans should be reviewed for changes if necessary or maybe new ones created when none exist. The national government should take lead in helping the local governments develop or align their plans so that such plans would be consistent with the overall intent and purposes of any state and national plans. "Experts" should be hired to work with the local governments for effective plan uses of their funds.

1/9/20

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).

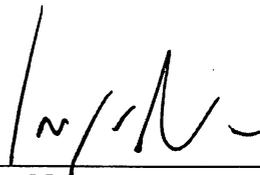
Additionally, the proposal references "non-living resources" in order to also include petroleum resources and other non-living resources that would not be considered "mineral" resources. Currently, Section 2(m) of Article IX of the Constitution of the Federated States of Micronesia

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-RR-4-11

Assigned to: Committee on Government Structure and Function

PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, section 2(q) of the Constitution of the Federated States of Micronesia to provide for the number of votes required to override a Presidential veto.

(q) to override a Presidential veto by not less than a 3/4 2/3 vote of all the members elected from congressional districts in each state followed by a unanimous vote of all the state delegations, ~~each delegation casting one vote~~ members elected at large.

PURPOSE AND INTENT OF AMENDMENT:

A guiding intent of this proposal is to ensure proper checks and balances between the Executive and Legislative branches of the National Government of the Federated States of Micronesia. It is essential for the preservation of the constitutional principle of checks and balances upon which the system of government of the Federated States of Micronesia is founded, that the Executive, Legislative, and Judicial branches of government, being co-equals, are able to check the actions of the other. To the Judiciary, the Constitution of the Federated States of Micronesia bequeaths the power of judicial review over the actions of the Executive and Legislative branches. The Legislative branch is vested the ability to reverse judicial decisions through its power to initiate constitutional amendments and enact laws. The Executive branch has the power of veto, and the Legislative branch the means to override the veto.

But when these facilities of checks cannot be meaningfully applied, the system of balanced power between branches of government starts to erode. Given that the number of votes for the Congress of the Federated States of Micronesia to pass bills is the same number of votes for Congress to override a veto of the same bills, such imbalance of power is potentially the case between the Executive and Legislative branches.

To pass a bill on final reading, a ~~2/3~~ vote of 4 State delegations in Congress is required, with each State delegation casting one vote. This equates to 3 of 4 votes.

To override a veto, a 3/4 vote of 4 State delegations in Congress is presently required, with each State delegation casting one vote. This also comes down to 3 of 4 votes. So, the same number of votes to pass a bill on final reading is the same number of votes to override a veto of that bill. In all likelihood, the same 3 State delegations that vote to pass a bill on final reading will also vote to override a veto of that bill. This in effect renders the application of the veto power meaningless under an ill-proportioned structure of cross checks between the Executive and Legislative branches. In the end, this asymmetry of power will erode the system of checks and balances.

In order to ensure proper checks and balances, this proposal aims to increase the voting threshold by which Congress overrides a veto. This proposal envisions a process of two separate rounds of voting: one round by all the members elected from the congressional districts (which currently number ten), with at least 2/3 of such members needing to vote in support of the override (which

would mean at least 7 votes, with the current number of ten members elected by district), AND another vote by all the members elected at large (which currently number four), with all such members needing to vote in support of the override.

Introducer: 
Victor Nabeyan
By request of the Delegation

Date: 1/10/20

Proposal No.: CC-PR-4-12

Assigned to: Committee on Government Structure and Functions

PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, section 16 of the Constitution of the Federated States of Micronesia to limit the power of the Congress of the Federated States of Micronesia to appropriate public funds during a special session.

Section 16. The Congress shall meet in regular, public session as prescribed by statute. A special session may be convened at the call of the President of the Federated States of Micronesia, or by the presiding officer on the written request of 2/3 of the members, provided, however, that Congress shall not appropriate public funds during a special session except at the request of the President.

PURPOSE AND INTENT OF AMENDMENT:

This proposal is intended to limit the power of the Congress of the Federated States of Micronesia to appropriate public funds during any of its special sessions, so that such appropriations shall only be upon the request of the President of the Federated States of Micronesia. Congress will still have general appropriations power during its regular sessions regardless of whether a particular appropriation is requested by the President. This proposal aims to minimize unnecessary and/or wasteful appropriations by Congress during special sessions. Special sessions should be reserved for pressing matters to be considered by and reflecting the interests of both the Executive and Legislative branches of the National Government of the Federated States of Micronesia.

This proposal is appropriately targeted at section 16 of Article IX of the Constitution of the Federated States of Micronesia, as this existing provision deals with the convening of special sessions, and the proposal is not intended to undermine Congress's general power of the purse.

Introducer: 
Victor Nabeyan
By request of the Delegation

Date: 1/10/20

Committee on Civil Liberties &
Tradition

Proposal No.: CC-PR-4-13

Assigned to: Committee on Public Finance &
Revenue

PROPOSAL TO AMEND CONSTITUTION

To enact a new section 4 of Article V of the Constitution of the Federated States of Micronesia to provide for the recognition and preservation of traditional ownership of submerged reef areas in the waters of the Federated States of Micronesia.

Section 4. Traditional ownership of submerged reef areas in the waters of the Federated States of Micronesia beyond 12 miles from island baselines shall be recognized and preserved. Congress shall give effect to this provision by statute, including for the purpose of distributing net revenue derived from the exploitation of natural resources in such submerged reef areas to appropriate stakeholders.

PURPOSE AND INTENT OF AMENDMENT:

This proposal aims to enshrine the recognition and preservation of traditional ownership of submerged reef areas in the waters of the Federated States of Micronesia beyond 12 miles from island baselines. The issue of traditional ownership of submerged reef areas within 12 miles from island baselines of the Federated States of Micronesia is a matter for each State government in the Federated States of Micronesia to recognize and preserve, whereas recognition and preservation of traditional ownership of submerged reef areas beyond 12 miles from island baselines fall within the purview of National law. This proposal is intended to constitutionally recognize and preserve traditional ownership of submerged reef areas beyond 12 miles from island baselines, and to require the Congress of the Federated States of Micronesia to give effect to such recognition and preservation by statute, including a statute or statutes that outline how net revenue derived from the exploitation of natural resources in such submerged reef areas is shared with or accrues to the benefit of those who have stakeholder interest in such submerged reef areas, including those holding traditional ownership of such areas.

Introducer:



Victor Nabeyan
By request of the Delegation

Date:

1/10/20

Proposal No.: CC-PR-4-14

Assigned to: Committee on Government Structure & Functions

PROPOSAL TO AMEND CONSTITUTION

To add a new Section 4 of Article XII of the Constitution to create the Office of Independent Public Prosecutor.

Section 4.

- (a) The Independent Public Prosecutor is appointed by the President with the advice and consent of Congress. He serves for a term of 4 years and until a successor is confirmed.
- (b) The Independent Public Prosecutor shall investigate and prosecute the criminal misuse of public funds by any branch, department, agency or statutory authority of the national government and in other public legal entities, non-profit organizations or individuals which has received public funds from the national government. Additional duties may be prescribed by statute.
- (c) The Independent Public Prosecutor shall be independent of administrative control except that he shall report at least once a year to the President and Congress.
- (d) The Congress may remove the Independent Public Prosecutor from office for cause by 2/3 vote. In that event, the Chief Justice shall appoint an acting Independent Public Prosecutor until a successor is confirmed.

PURPOSE AND INTENT OF AMENDMENT:

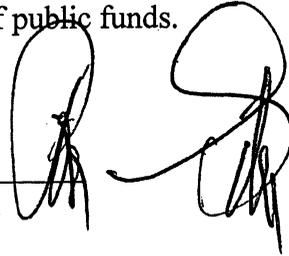
This proposal would add a new Section 4 of Article XII of the Constitution to create the new office, similar to the Public Auditor, with its main task to investigate and prosecute people, governments, offices, etc. that receive and misuse public funds from the National Government.

We must have a balancing office to hold people accountable for misuse of public funds. While we have a Public Defender Office to defend individuals for wrong doing, it must be balanced by having an Office to prosecute those, who tend to violate our laws for misuse of public funds. We have seen over the years, that while our Public Auditor has found misuse of public funds and has made referrals to the Department of Justice for further investigation, too often, no further action has been taken. It is common sense that the Attorney General may be conflicted because of non-insulation from politics due to the appointment and confirmation process for the position of chief law enforcement official of the Land.

While there may be a concern that an additional constitutional officer will add to the cost of operating the Government, it is envisaged that the Government could actually save money by reducing the amount of public funds being abused, by governments, offices, individuals, and public officials. Accountability has been a popular word for government officials, but put into practice is very difficult. The new Office of Independent Public Prosecutor will promote and enhance accountability for the use of public funds.

Proposed by Delegate: _____

Peter Sitan



Date: _____

1/11/20

Proposal No.: CC-PR-4-15

Assigned to: Committee on Government Structure and Function

PROPOSAL TO AMEND CONSTITUTION

To amend Section 8 of Article IX of the Constitution to (1) add one more at-large member from each of the four states; (2) make the term for all members of Congress four years; and (3) to hold national elections every four years.

Section 8. The Congress consists of ~~one~~ two members elected at large from each state on the basis of state equality, and additional members elected from congressional districts in each state apportioned by population. All members ~~Members elected on the basis of state equality shall~~ serve for a 4-year term, ~~and all other members for 2 years.~~ Each member has one vote, ~~except on the final reading of bills.~~ Congressional elections are held every four years ~~biennially~~ as provided by statute.

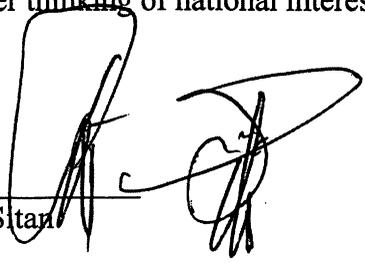
PURPOSE AND INTENT OF AMENDMENT:

This proposal would add four more at-large members to the FSM Congress. This will bring the total number of members to 18, compared to the current 14.

The second issue contained in this proposal is to have all members of the FSM Congress to serve for four years. Currently, only the four at-large members serve for four years. The ten members representing the various election districts in the four states serve for two years. The amendment will increase the four members at-large to eight members. While this may increase cost because of the additional four members, there will be some saving from the second part of the amendment as there will be one less election. While elections every two years allow citizens their democratic rights to evaluate the performance of their representatives, it does invites the issue of more pork barrel legislation to safeguard members' re-election.

Having eight at large members should allow improved outputs from the Legislative Branch, since we expect more scrutiny from more members. The fourteen members of Congress seem to be too small to a population of ours with spread out geographical areas with diverse cultures. Our Micronesian sisters' nations, with smaller population and less diverse cultures, have larger numbers of parliamentarians. Having eight at large members should allow Congress more options to choose a President and a Vice-President. Having more at-large members should promote broader thinking of national interests rather than election districts and states.

Proposed by Delegate: _____

Peter Sitan 

Date: 1/11/20

Proposal No.: CC-PR-4-16

Assigned to: Committee on General Provisions

PROPOSAL TO AMEND CONSTITUTION

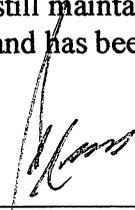
To amend Article XIV, Section 1 of the Constitution of the Federated States of Micronesia to reduce then number of votes required to approve an amendment to the Constitution.

Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by 3/4 of the national votes cast on that ~~amendment in each of 3/4 of the states~~. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

PURPOSE AND INTENT OF AMENDMENT:

Past experience has demonstrated that the current requirement or threshold to pass any amendment is almost impossible. This amendment should allow the wish of the majority to prevail while still maintaining the integrity of due process. The 3/4 threshold of the national vote is reasonable and has been used in other jurisdictions successfully.

Introducer: _____


Marcus Samo

Date: Jan 11, 2020

Proposal No.: CC-PR-4-17

Assigned to: Committee on Government Structure and Function

PROPOSAL TO AMEND CONSTITUTION

To amend Article XIII of the Constitution of the Federated States of Micronesia by adding a new Section 4 to provide an Office of an Independent Prosecutor.

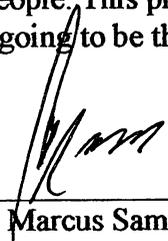
Section 4.

- (a) The Independent Prosecutor shall have the power and duty to prevent, combat and eliminate corruption in government through investigation and prosecution. The Prosecutor may issue subpoenas and compel attendance of witnesses, administer oaths, and exercise other powers and duties as prescribed by statute.
- (b) The Independent Prosecutor shall investigate and prosecute any government officials or individuals who receive and spend public funds or who conspire to the commission of fraud and corruption.
- (c) The President shall appoint an Independent Prosecutor subject to consent by 2/3 of members of FSM Congress who shall serve for a five-year term and for no more than 2 terms.
- (d) The President can remove the Independent Prosecutor subject to approval of the 2/3 of members of the FSM Congress.

PURPOSE AND INTENT OF AMENDMENT:

Conflict of interest and commission of unlawful conduct are rampant in the FSM by government officials and public servants. With an independent prosecutor, impartial to the political appointments process, the independent prosecutor will conduct the investigation of and prosecute those who conduct themselves contrary to the law. The prosecutor will be the beacon of justice for the FSM people. This proposal will ensure that white collar crime, corruption, and abuse of power are not going to be the political culture of the FSM in the future.

Introducer: _____


Marcus Samo

Date: Jan 11, 2020

Proposal No.: CC-PR-4-19

Assigned to: Commission on Civil Liberties and Tradition

PROPOSAL TO AMEND CONSTITUTION

To amend Article XIII, Section 1 of the Constitution of the Federated States of Micronesia to provide a decent living standard for the people of the Federated States of Micronesia.

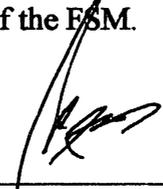
Section 1.

~~The national government of the~~The Federated States of Micronesia recognizes the right of the people to education, health care, and insurance, pension, including legal services ~~and shall take every step reasonable and necessary to provide these services.~~ It shall take every step necessary to provide these services.

PURPOSE AND INTENT OF AMENDMENT:

The purpose of this amendment is to promote an acceptable income level and health care coverage for the working people by providing health care, education, and old age pension. None of the FSM governments (National or State) provide the said above to its employees. Private companies, however, provide such. If we want to maintain our competent work force and also attract future talent to return to the FSM, we must provide them incentives in terms of health and old age pension to sustain their life-style. If not, brain drain will continue to rise and erode the future dignity of the FSM.

Introducer: _____


Marcus Samo

Date: _____

Jan 11, 2020

Proposal No.: CC-PR-4-19

Assigned to: Committee on Government Structure and Function

PROPOSAL TO AMEND CONSTITUTION

To amend Article X, Section 1 of the Constitution of the Federated States of Micronesia to provide for the direct election of the President and Vice President by the people, rather than by the fourteen members of the FSM Congress.

The Article X, Section 1 of the Constitution of the Federated States of Micronesia is amended and reads as follows:

Section 1. The executive power of the national government is vested in the President of the Federated States of Micronesia who shall be elected by the people of the Federated States of Micronesia and shall serve for a term of four years. He is elected by Congress for a term of four years by a majority vote of all the members. He may not serve for more than 2 consecutive terms. The President and the Vice President shall be elected directly by the voters in a general election. They shall be from different states and shall run on one ticket. The winning ticket shall require a 51% of the total votes cast. A run-off election is required if no ticket garners the required 51% of the total votes cast. The president and Vice-President shall hold the offices for a term of four years, and may be re-elected for a maximum of two terms. The minimum age requirement for presidential and vice-presidential candidates shall be 35 years and they shall be FSM citizens.

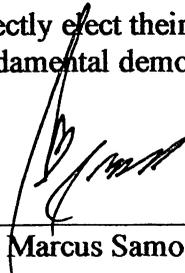
The Article X, Section 4 of the Constitution of the Federated States of Micronesia is amended and reads as follows:

Section 4. A person is ineligible to become President unless he or she is a ~~member of Congress for a 4-year term,~~ a citizen of the Federated States of Micronesia by birth, and a resident of the Federated States of Micronesia for at least 5 ~~15~~ years, and with no prior record of felony or conviction as required by statute.

PURPOSE AND INTENT OF AMENDMENT:

The framers of the first Constitution may have had the courage and wisdom to adopt a proxy of "by the people" through the 14 members of Congress. Over time, this simply has not upheld the gentlemen agreement that was the premise of the original framers of our Constitution. Having the people directly elect their President and Vice President is the ultimate measure of instituting one of the fundamental democratic doctrines of "by the people".

Introducer: _____


Marcus Samo

Date: _____

Jan 11, 2020

Proposal No.: CC-PR-4-20

Assigned to: Committee on Public Finance & Revenue

PROPOSAL TO AMEND THE CONSTITUTION

To amend section 5 of article IX of the Constitution of the Federated States of Micronesia to increase the minimum revenue sharing from 50% to 60% and to require that all national revenues collected regardless of source or manner of collection are shared with the states and local governments for uses approved in such states and local governments' plans.

Section 5. National taxes shall be imposed uniformly. Not less than ~~50%~~ 60% of ~~the~~ all National revenues collected, regardless of source or manner of collection, shall be divided and shared equitably among the states and paid into the treasury treasuries of the each of the states and municipal governments. state where collected.

PUPROSE AND INTENT OF AMENDMENT:

If we deepened our hearts and minds, we will all arrived at the inescapable conclusion that our local governments are the bedrocks and foundations of our federation or nation. Our municipal governments have existed from time immemorial. Except for those citizens who have migrated abroad seeking better opportunities and benefits provided under the Amended Compact, most of our citizens remain and live at homes in their municipalities. Our Constitution has served us fairly well for the past 40 years and we must admit that we have failed to provide better delivery of public services to our people. We need to change our mindset and attitude to seek for ourselves or our state first and everyone else is secondary. We must try to instill what has been missing for the past 40 years, that sense of patriotism, oneness, loyalty, and sense of togetherness or belonging to one country, our country FSM. We should accept each other as one family and as members of the same family as so repeatedly stated by the Honorable Delegate Ricky F. Cantero.

As one family we must learn to accept and share the resources of our nation fairly and justly for all. Equitable sharing must be considered whenever resources are available and considered for sharing with all of us. No one should be left behind. As one family, we must make sure that we progress together as much as possible or practicable. Thus, it is only prudent, right, fair, and just that the 40% of the revenues raised or collected regardless of source and the manner of collection be allocated to the national government so that together with its share under the fishing fees, sufficient funds are allocated to meet its needs. The 60% proposed to be allocated to the states and municipal governments should be allocated base on equitable sharing amongst the states' and municipal governments whose proposed uses must be provided in approved plans of the states and municipal governments. This is to ensure that effective uses of such funds are results of well careful planning and that governments are accountable to the people for their uses.

Prop. no: CC-PR-4-20

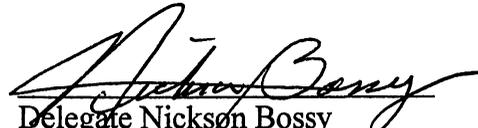
Comm.: Public Finance &
Revenue

Again, if we develop our municipalities first then our state and nation well-being will be enhanced accordingly. This proposal is intended to cover the MRA funds which the national government has yet to share with the states and people in our municipalities.

Introducers:



Delegate Kind K. Kanito
Faichuk Region



Delegate Nickson Bossy
Northern Namoneas Region



Jack Fritz, Esq. Southern Namoneas Region

Date: 01/14/2020

Proposal No.: CC-P2-4-21

Assigned to: Commission on Public Finance & Revenue

PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, Section 3(a) of the Constitution of the Federated States of Micronesia to require that the allottee of public funds be the FSM President or Governors or their allottees and that expenditure of public funds be pursuant to development plans.

Section 3.

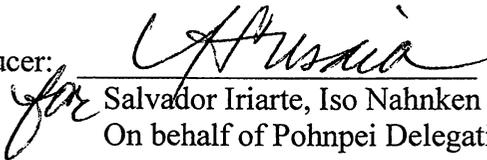
The following powers may be exercised concurrently by Congress and the states:

- (a) To appropriate public funds provided that the allottee of public funds shall be the President, governors or their designees whom all shall follow national development needs or omnibus development plans for the states and other purposes as may be prescribed by statute;

PURPOSE AND INTENT OF AMENDMENT:

The court case of *Udot v. FSM* recognized the evil behind senators controlling public projects. But that ruling technically is not law yet because there is no Appellate Court Decision affirming it. This is the way that the court system works (trial ruling is not law until an appellate decision affirms it), and the senators know this. *Udot* is a trial division ruling that any one judge may deviate if supported by reasonable ruling until affirmed by the Appellate Court. This amendment will fill the missing judicial gap and correct the intent of the separation clause by leaving law-making to Congress and allowing the Executive the all power to implement laws.

Introducer:


for Salvador Iriarte, Iso Nahnken
On behalf of Pohnpei Delegation

Date:

1-14-2020

Committee on Civil Liberties & Traditions

Proposal No.: CC-PR-4-22

Assigned to: Committee General Provisions

PROPOSAL TO AMEND CONSTITUTION

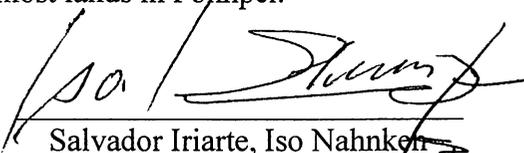
To amend Article XIII, Section 4 of the Constitution of the Federated States of Micronesia to provide that ownership of land and waters shall be controlled by state law.

Section 4. A noncitizen, or a corporation not wholly owned by citizens, may not acquire title to land or waters in Micronesia. Ownership of land and waters in each state shall be held pursuant to the laws and customs and traditions of the respective state. All statutes of the Federated States of Micronesia that provide for ownership of land or waters contrary to the laws and customs and traditions of the respective state shall be null and void one year after the ratification of this amendment.

PURPOSE AND INTENT OF AMENDMENT:

The current language of the Constitution allows the courts to give lands to FSMDB and other non-pwilidak like a Chuukese, Yapese and Kosraeans that is contrary to Pohnpei law (constitution). Banking laws that currently seem to permit this will be nullified. Banks can continue to hold a security interest but the buyer shall be a pwilidak in any auction that follows a foreclosure in the courts. This amendment anticipates an eventual reversal of the ban on sale of land in Pohnpei. It is difficult to police the effectiveness of the ban given the ongoing land transactions. At least, if Pohnpei Constitution allows for the sale of lands, there will be a market for such sales, and unsophisticated people will not get cheated by the rich who are currently buying up most lands in Pohnpei.

Introducer:



Salvador Iriarte, Iso Nahnken
On behalf of the Pohnpei Delegation

Date:

1-14-2020

Proposal No.: CC-PR-4-23

Assigned to: Committee on Government Structure & Function

PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, Section 14 of the Constitution of the Federated States of Micronesia to limit the annual aggregate salary and aggregate allowance for members of Congress to 150 percent of the combined aggregate annual salary and annual allowance of the President.

Section 14.

The Congress may prescribe an annual salary and allowances for members. The annual aggregate salary and annual aggregate allowance for members shall not exceed 150 percent of the combined aggregate annual salary and annual allowance of the President. All salaries and allowances shall be subject to the requirements of financial management laws. An increase may shall not apply to the Congress enacting it.

PURPOSE AND INTENT OF AMENDMENT:

The percentage can be worked out in committee but the current \$150,000 allowance for each senator sees no limit and Congress has proven that it may continue to increase this despite public outcry. The current allowances of the 14 senators total up to \$2,100,000.00. This money, when saved and if some are passed to the four states, it can actually increase perhaps at \$1 for all government employees of the states and national government, including Sector Grant payees, injecting a spur in the economy of the Nation. Store will get more cash and in turn pay more taxes. Many other uses can be realized.

The current language says "may" which then give Congress right to swallow up the policy of not reward a sitting Congress.

Introducer:

for 
Salvador Iriarte, Iso Nahnken
On behalf of Pohnpei Delegation

Date:

1-14-2020

Proposal No.: CC-PR-4-24

Assigned to: Committee on Public Finance & Revenue

PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, Section 2(m) of the Constitution of the Federated States of Micronesia to require Congress to provide for the sharing of revenue between the states and the national government for revenue derived from the exploitation of natural resources within the Exclusive Economic Zone.

Section 2.

(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. However, all such fees or revenues or benefits deriving from such regulation of the ownership, exploration and exploitation of such resources shall be divided in equal shares among the national government and all states of the Federation;

PURPOSE AND INTENT OF AMENDMENT:

This amendment recognizes that a vast portion of the FSM's natural resources are located within the FSM's Exclusive Economic Zone and that in the future these resources are likely to be developed and exploited for revenue for the country. This amendment requires the revenue received from the exploitation of these resources is shared with the states. The amendment uses the current revenue division of equal shares between the national government and all of the state governments.

Introducer: 
Redley Killion

Date: January 13, 2020

Proposal No.: CC-PR-4-25

Assigned to: Committee Public Finance & Revenue

PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, Section 5 of the Constitution of the Federated States of Micronesia to require Congress to share 50% of the revenue derived from the exploitation of natural resources in the portion of the Exclusive Economic Zone that is within the marine boundary of the state as defined in Article 1, section 2 of the FSM Constitution shall be shared with that state.

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. Fifty percent of the fees or revenues or benefits derived from the regulation of the ownership, exploration and exploitation of natural resources within the marines space of the FSM shall be paid into the treasury of the state from whose marine boundary as defined in Article 1, Section 2 of his Constitution the natural resources are located.

PURPOSE AND INTENT OF AMENDMENT:

This amendment recognizes that a vast portion of the FSM's natural resources are located within the FSM's Exclusive Economic Zone and that in the future these resources are likely to be developed and exploited for revenue for the country. This amendment requires the revenue received from the exploitation of these resources is shared with the states. The revenue derived from the exploitation of marine resources shall be divided 50% to the national government and 50% to the state within whose marine boundary the natural resources are located.

Introducer:


Redley Killion

Date:

January 13, 2020

Proposal No.: CC-PR-4-26

Assigned to: Committee on Civil Liberties & Tradition

A PROPOSED AMENDMENT TO CONSTITUTION

To amend Article III, Sections 1, 2, 3, 4, and 5 of the Constitution of the Federated States of Micronesia to allow FSM citizens to hold dual citizenship.

ARTICLE III Citizenship

Section 1. A person who is a citizen of the Trust Territory immediately prior to the effective date of this Constitution and domiciliary of a District ratifying this Constitution is a citizen ~~and national~~ of the Federated States of Micronesia.

Section 2. All a persons born of parents one or both of whom are citizens of the Federated States of Micronesia or naturalized as citizens of the Federated States of Micronesia is a are citizens ~~and national~~ of the Federated States of Micronesia.

Section 3. A citizen of the Federated States of Micronesia may be a citizen of another nation, and shall not be deprived of his Federated States of Micronesia citizenship by exercising his citizenship rights of the other nation. This section applies retroactively. A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effect date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.

Section 4. A citizen of the Trust Territory who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Island may become a citizen ~~and national~~ of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months of the date he became a United States national.

Section 5. A domiciliary of a District not ratifying this Constitution who was a citizen of the Trust Territory immediately prior to the effective date of this Constitution, may become a citizen ~~and national~~ of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months after the effective date of this Constitution or within 6 months after his 18th birthday, whichever is later.

PURPOSE AND INTENT OF THE AMENDMENT:

The proposed amendments to Article III of the FSM Constitution on Citizenship is proposed for the following reasons:

prop. No: CC-PR-9-26

Comm: Civ. Liberties &
Traditions

1. Eliminates the use of the term “national” when referring to individuals who are citizens of the FSM. In light of the other recommended amendments to Article III, the use of the phrase “citizen and national” is no longer necessary.
2. Adds language to Section 2 about “naturalized” citizens to insure that naturalized citizens “born of parents one or both of whom are (FSM) citizens” may not be deprived of their citizenship if they become citizens of another country.
3. Deletes existing Section 3 in its entirety and inserts a new Section affirmatively stating that a citizen of the FSM:
 - a. May also be a citizen of another nation;
 - b. Shall not lose his or her FSM citizenship by exercising citizenship rights of the other nation.
4. Adds language to revise Section 3 to confirm that the provisions of revised Section 3 are to be applied retroactively. This language was deemed necessary to insure that all those who may have lost their FSM citizenship under the provisions of existing Section 3 are once again, and always have been, considered FSM citizens.
5. The proposed amendments are not intended to limit Congress’ power to regulate citizenship and naturalization. See FSM Constit. Art. IX, Sect. 2(c). Rather, they are intended to clarify that a citizen should not lose FSM citizenship simply because he or she exercises rights granted by another nation.

Introducer:


Camillo Noket

Date:

1/14/2020

Proposal No.: CC-PR-4-27

Assigned to: Committee on Civil Liberties & Traditions

PROPOSAL TO AMEND CONSTITUTION

To enact a new section 14 of Article IV of the Constitution of the Federated States of Micronesia to recognize the right to a healthy environment.

Section 14.

Every person has the right to a healthy environment, and to reasonable government measures that protect and conserve the environment.

PURPOSE AND INTENT OF AMENDMENT:

This proposal intends to enshrine a constitutional right to a healthy environment. More than 100 States (i.e., countries) recognize the right to a healthy environment at the national level, including over 90 States in their national constitutions. Numerous major international human rights instruments—particularly regional instruments—also recognize this right. This recognition has accelerated in the last half-century or so, partly in reaction to major international environment conferences and their outcome documents and growing concerns about the state of the environment. According to a 2018 report by the United Nations Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment: “Taking into consideration the ratification of regional human rights agreements and environmental treaties, constitutions and national legislation, more than 150 States have already established legal recognition of the right to a healthy environment, with corresponding obligations.”¹ Such recognition sometimes refers to different or additional qualifiers for “environment”—e.g., “clean,” “sustainable,” “safe”—than just “healthy,” but for the sake of conciseness as well as in recognition that several of those qualifiers are near-synonyms, this proposal focuses on a “healthy” environment. Only if the environment is “healthy” can all other benefits flow, including benefits to human societies (who will be the ones to enjoy a “clean,” “safe,” and “sustainable” environment).

Despite the global trend discussed above, the Federated States of Micronesia has not formally established legal recognition of the right to a healthy environment. The placement of this proposed amendment in Article IV of the Constitution of the Federated States of Micronesia is intended to underscore that someone who does not benefit from a healthy environment will likely not be able to enjoy a large number of other core human rights, including the rights to life, to adequate food, to adequate water, to health, to an adequate standard of living (including adequate housing), to the productive use and enjoyment of property, and to cultural practices and traditions; as well as the rights already enshrined in Article IV.

Enshrining a constitutional right to a healthy environment will, among other things, spur (if not obligate) the national and state governments of the Federated States of Micronesia to take

¹ See the report at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/231/04/PDF/N1823104.pdf?OpenElement> or <https://bit.ly/2R85vgz>.

concrete actions to fulfill the right (e.g., provide clean and safe water to the people of the Federated States of Micronesia, manage local/municipal waste sites in ways that minimize harms to human populations, reduce harmful emissions from government structures and activities, embrace renewable energy) and protect that right from being infringed through official governmental action. Enshrining the right will also give courts in the Federated States of Micronesia broader authority to strike down laws, regulations, and other governmental decrees and actions that undermine the right as well as provide the basis for enhancing public involvement in decision-making about government decrees and actions that could undermine that right.

On the international level, a constitutional recognition of a right to a healthy environment enhances the ability of the Federated States of Micronesia to hold accountable major emitters of greenhouse gases and other substances that are harmful to the environment. The more States recognize the right to a healthy environment—particularly small island developing States like the Federated States of Micronesia that are particularly vulnerable to environmental harms—the greater the likelihood of success for an argument that the right is now part of customary international law applicable to all States, including major contributors to the climate change crisis and related harms to the environment. Such harms would therefore be human rights violations, among other things.

The proposed amendment recognizes that everyone—not just citizens of the Federated States of Micronesia—has the right to a healthy environment. This is in line with most of the provisions in Article IV of the Constitution, where the enumerated rights belong to any and all persons rather than just citizens of the Federated States of Micronesia (with the exception of section 12, as pertaining to the free movement of such citizens within the Federated States of Micronesia). It is also in line with the above-mentioned national constitutions, many (if not most) of which recognize the right as belonging to every person; as well as with relevant international law.

It is the intent of this proposal that the right to a healthy environment is self-executing, just like the other rights currently enshrined in Article IV of the Constitution. However, in order to give guidance to the various branches of the national and state governments in their interactions with the right, the proposal also enshrines a corollary right, one pertaining to the sort of government measures that could be taken by those branches as well as the framework under which those measures could be taken in order to supplement the enjoyment of the right to a healthy environment. The second part of the proposal aims at achieving that corollary purpose.

Introducer:



Victor Nabeyan

By request of the Delegation

Date: January 14, 2020

Proposal No.: CC-PR-4-28

Assigned to: Committee on Public Finance & Revenue

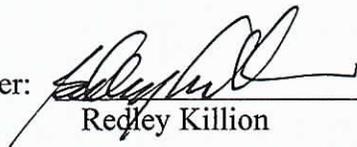
PROPOSAL TO AMEND CONSTITUTION

To amend Article V, Section 3 of the Constitution of the Federated States of Micronesia to require Congress to appropriate funds to support the teaching of Micronesia customs and traditions in all school curriculum in the Federated States of Micronesia.

Section 3. The Congress may establish, when needed, a Chamber of Chiefs consisting of traditional leaders from each state having such leaders, and of elected representatives from states having no traditional leaders. The constitution of a state having traditional leaders may provide for an active, functional role for them. Congress shall appropriate funds for the promotion and teaching of Micronesian customs and traditions in all elementary and secondary school curriculum in the Federated States of Micronesia. The funds appropriated by Congress for this purpose shall be equitably divided among the States.

PURPOSE AND INTENT OF AMENDMENT:

Our FSM Constitution recognizes the importance of custom and tradition by providing a role for traditional leaders within the State governments, by allowing custom and tradition to be protected by statute, and by requiring that court decisions be “consistent with” Micronesian customs and traditions. These provisions were placed in our Constitution in order to help preserve our culture. As our world becomes more globalized and communications with other cultures easier and faster, preserving Micronesian culture will require education of our youth. This proposal requires Congress to fund the education of Micronesian custom and tradition in all schools throughout the FSM.

Introducer: 
Redley Killion

Date: January 14, 2020

Proposal No.: CC-PR-4-29

Assigned to: Committee on Government Structure & Function

PROPOSAL TO AMEND CONSTITUTION

To add a new Section 4 to Article XII creating the Office of Independent Prosecutor.

Section 4.

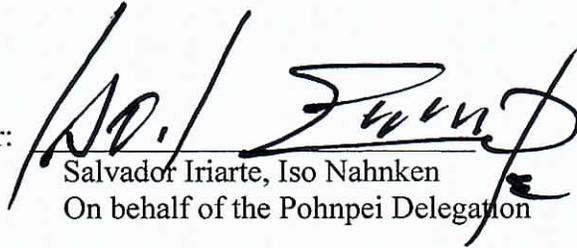
- (a) The Independent Prosecutor is appointed by the president with the advice and consent of two-thirds of the Congress. He serves one six-year term and may not be re-appointed to a consecutive term.
- (b) The President with consent of two-thirds of Congress may remove the Independent Prosecutor. In case of removal from office, the Chief Justice will "immediately appoint" an acting Independent Prosecutor who serves until a successor is appointed and confirmed by Congress.
- (c) The Independent Prosecutor is empowered to investigate and prosecute any person or agency at the national level, state level, or local level that receives, spends or administers public funds from the national government. His investigative and prosecutorial powers extend to the commission of any national offense by any national official and obstruction of his investigation and commission of perjury. He may compel the testimony of witnesses under oath and the production of documents.
- (d) The Office of the Independent Prosecutor shall be adequately funded by Congress.
- (e) No law, regulation, or directive shall be enacted which diminishes the power or independence of the Independent Prosecutor.

PURPOSE AND INTENT OF AMENDMENT:

As envisaged by this proposal, the Office of Independent Prosecutor will be an independent agency of the national government. To protect its independence, the proposal requires that the President can only dismiss the Independent Prosecutor with the consent of two-thirds of the members of Congress. It also provides that the agency shall be adequately funded and prohibits the national government from passing laws, adopting regulations, or issuing directives, which have the intent or effect of diminishing or eliminating the independence of this agency.

The amendment gives the Independent Prosecutor the protection he or she needs from pressures of the two political branches of the national government. Because of his constitutional independence and insulation from political pressure, the Independent Prosecutor will be in a much stronger position to investigate and prosecute white-collar crimes and crimes involving high officials of the national government. This political independence and insulation from politics is something that the Attorney General does not enjoy today.

Introducer:


Salvador Iriarte, Iso Nahnken
On behalf of the Pohnpei Delegation

Date: _____

CC-PR-4-30
Proposal No.: ~~CC-PR-30~~

Assigned to: *Committee on Civil Liberties & Tradition*

PROPOSAL TO AMEND CONSTITUTION

To amend Article III, Section 3 of the Constitution of the Federated States of Micronesia to require a citizen who is recognized as a citizen of another nation to reside in the FSM for not less than 1 year to enjoy the full rights and privileges of a citizen.

Section 3.

~~A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.~~ A citizen who is recognized as a citizen of another nation shall, in his lifetime, have resided in the FSM for not less than 1 year to enjoy the full rights and privileges of a citizen. A national who is recognized as a citizen at one time may regain his citizenship, with an oath of allegiance, after residing in the FSM for not less than 2 years after such loss.

PURPOSE AND INTENT OF AMENDMENT:

Dual citizenship is a very controversial issue that has been floating around for quite sometime now. It has been voted on, through referendum, 4 or 5 times in the past with no success. The main reason for the failures seems to be based on two underlying factors: 1. Land ownership- There is fear that a new class of citizens will emerge who may not value our customs and traditions, and who will not see the importance of land to us Micronesians; 2. Loyalty- There is fear that a new class of citizens will emerge who may have divided loyalty. In repealing the old law and replacing it with the new version, it is hoped that the new sets of qualifiers will serve as tools to reassure those who do not support the initiative that only those who want to be Micronesians may claim those rights we want to protect, ie land ownership, etc. This proposal addresses those who are born abroad and those who have relinquished their FSM citizenship due to Military or otherwise.

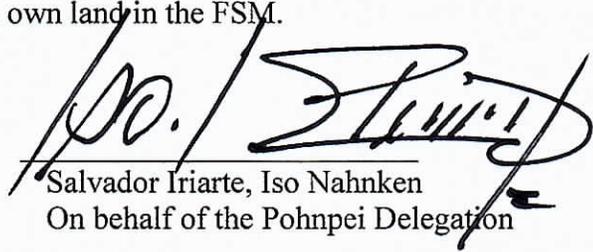
There are two sets of qualifiers. One is intended for children born abroad, that in order for the individual to enjoy the rights and privileges afforded every citizen, he or she must fulfill a residency requirement of 1 year. However, for those who are currently nationals now by virtue of the existing law, they will need to satisfy two sets of qualifiers. First being the residency requirement of 2 years and followed by an oath of allegiance.

Proposal No: CC-PR-4-30

Civil Liberties &
Tradition

This amendment should be seen as an attempt to strike a middle ground to this controversial issue. We are not opening the door to everyone who has a claim of citizenship, but rather we are letting in those who want to be part of our Micronesian family. After all, we are witnessing a growing decline of citizens due to out-migration. If we do not put in place a sound policy to addressing the population decline, there may come a time in the future where only those with money will own land in the FSM.

Introducer:



Salvador Iriarte, Iso Nahnken
On behalf of the Pohnpei Delegation

Date: _____

Proposal No.: CC-PR-4-31

Assigned to: Committee on Government Structure & Function

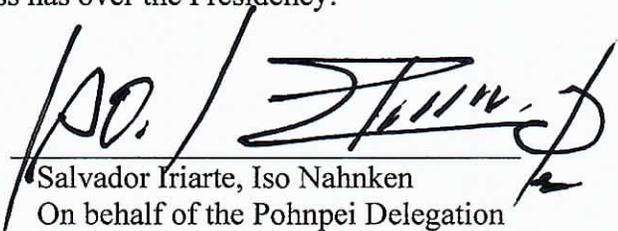
PROPOSAL TO AMEND CONSTITUTION

To amend Article X, Section 1 of the Constitution of the Federated States of Micronesia to provide for the election of the President and Vice President by popular vote.

Section 1. The executive power of the national government is vested in the President of the Federated States of Micronesia. He is elected by Congress for a term of four years by a majority vote of all the members from the people on the same ballot with the Vice President. The President and Vice President cannot be from the same State. The President and the Vice President shall not serve for more than one term of six years. He may not serve for more than 2 consecutive terms.

PURPOSE AND INTENT OF AMENDMENT:

This amendment will give the people the power to elect their President and will limit the control that Congress has over the Presidency.

Introducer: 
Salvador Iriarte, Iso Nahnken
On behalf of the Pohnpei Delegation

Date: _____

Proposal No.: CC-PR-4-32

Assigned to: Committee on General Provisions

PROPOSAL TO AMEND CONSTITUTION

To amend Article XIV, Section 1 of the Constitution of the Federated States of Micronesia to reduce the number of votes needed to amend the Constitution.

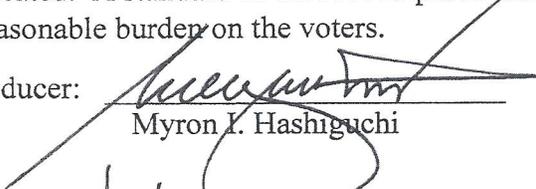
Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become part of the Constitution when approved by $\frac{3}{4}$ - $\frac{2}{3}$ of the votes cast on the amendment in each of $\frac{3}{4}$ - $\frac{2}{3}$ of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

PURPOSE AND INTENT OF AMENDMENT:

This amendment lowers the approval requirement to 66.67% from 75%, which may make the constitution more accessible to being amended. Many amendments have been proposed in the past, but it is extremely difficult to pass needed and necessary amendments.

The above provision lowers the requirement slightly. The standard is still set such that a super majority of voters must approve any amendment. In order to be consistent the number of states that must approve an amendment would be changed to 66.67% but the practical effect would still be to require approval in three of the four states.

The current requirement is simply too high, and does not reflect the will of the voters who wish to affect changes. The FSM must be able to adapt to changes in the world. The original constitution was an appropriate document for its time but times do change. The historical record shows that it is extremely difficult to amend the constitution under the current provision, and that needed changes simply are not approved, even if a large majority of citizens approve and seek such change. Only one amendment has been passed during the time the Constitution has been in effect. The current 75% majority does not meet any worldwide standard for such votes that can be located. A standard of 66.67% requires serious consideration by the voters but is not an unreasonable burden on the voters.

Introducer: 

Myron I. Hashiguchi

Date: 1/14/2020

Proposal No.: CC-PR-4-33

Assigned to: Committee on Civil Liberties & Traditions

PROPOSAL TO AMEND CONSTITUTION

To remove Section 3 of Article III of the Constitution of the Federated States which will remove the requirement that a citizen of the FSM who is recognized as a citizen of another nation must within 3 years of his 18th birthday register his intent to remain a citizen of the FSM and renounce his citizenship of another nation.

~~Section 3. A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.~~

PURPOSE AND INTENT OF AMENDMENT:

The purpose of this amendment is to allow FSM citizens to have dual or additional citizenship along with their FSM citizenship. By eliminating the prohibition on dual citizenship it effectively allows FSM citizens to be citizens of other countries. This provision does not change the requirements to obtain FSM citizenship in the first instance. The same qualifications will be required, which is primarily birth to an FSM citizen. This amendment would not affect the requirements for naturalization of citizenship, nor make it easier for non-FSM citizens to obtain FSM citizenship.

At this point in time there are significant numbers of FSM citizens who live overseas. The FSM government has failed to provide any clear mechanism regarding the maintenance of citizenship and many persons may inadvertently lose their citizenship in the FSM under the current constitutional provision which prohibits dual citizenship. The U.S. provides automatic citizenship upon birth in the U.S., and many FSM citizens have given birth in the U.S. There is currently no easy alternative to maintain FSM citizenship and the U.S., including the U.S. Embassy in Pohnpei, is specifically unhelpful in assisting FSM citizens to either renounce their U.S. citizenship or simply not accept U.S. citizenship in order to maintain FSM citizenship under the current provisions of the Constitution.

Further, due to the inactions of our own government there is not a clear cut process to request and maintain FSM citizenship, even prior to the age of 21. Technically under the current provision anyone who is a citizen of another nation after the age of 21 would automatically lose their FSM citizenship. However, the implementation of this provision is haphazard at best.

These facts are starting to affect every day life in the FSM. Without a clear definition or enforcement of these citizenship issues, there are many questions of who actually owns land in the FSM. Further, the purpose of the Constitutional Convention is to allow voters to vote on these provisions. At the current time though, it is unclear who even has the right to vote as an FSM citizen, and there is simply no mechanism in place to determine this issue.

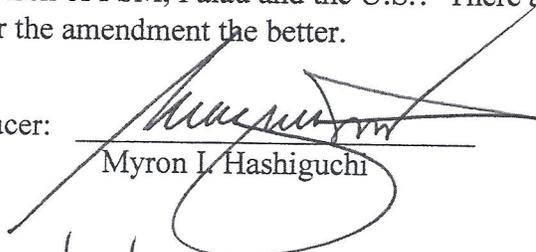
The reasons for this amendment though should not depend solely on the negative issues.

Currently in the world, it appears most nations allow dual or multiple citizenship. Many FSM citizens live and work in the U.S. which would be the most common country for our citizens to have dual citizenship. Many FSM citizens are members of the U.S. military. To appropriately advance in the military also requires adoption of U.S. citizenship. Our citizens should not be penalized by the loss of FSM citizenship as a result. Many business owners have children who were born or reside in the U.S. As time passes, even if those children return, which is desirable for the nation, they may be unable to take over their own family's businesses or own their family's land. These disruptions can only harm our economy.

Land ownership is also a key issue. Land is of utmost importance to the FSM and its citizens. Again this amendment will not create more potential FSM citizens, but it will potentially not deprive persons of their land rights. Right now if land is to be transferred and it was inherited by three brothers, can one brother say I can transfer the land by myself because my other two brothers have U.S. citizenship? What happens if the two brothers are married to FSM citizens and have their own children? Why do we want to encourage such litigation? The FSM and the states have never addressed these issues and they could tear the country apart.

Further, this amendment does not limit dual citizenship to any particular country. Other proposed amendments seek to limit the nations to which dual citizenship could apply. Once again the lack of any guidelines would doom such amendments. The world is a much smaller place now. Many families are a mix of island nations such as Palau or RMI. Under these other proposals dual citizenship would not apply to these children. Further, it is not necessarily true or common that someone may only have two citizenships. What would happen if someone could be a citizen of FSM, Palau and the U.S.? There are no clear answers and it is believed the simpler the amendment the better.

Introducer: _____


Myron I. Hashiguchi

Date: _____

1/14/2020

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.

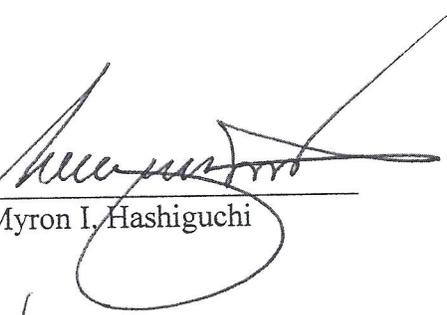
The following is the current provision on sharing of taxes.

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: 
Myron I. Hashiguchi

Date: 1/14/2020

Proposal No.: CC-PR-4-35

Assigned to: Committee
General Provisions*

PROPOSAL TO AMEND CONSTITUTION

To amend Article XIII, Section 1 of the Constitution of the Federated States of Micronesia to recognize the right to a healthy and clean environment.

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, a healthy and clean environment, and legal services and shall take every reasonable and necessary step to provide these services.

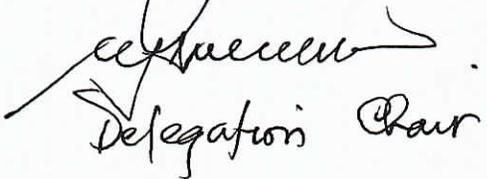
PURPOSE AND INTENT OF AMENDMENT:

In order to ensure the people of the FSM exercise their right to education and good health, they must be provided with the necessary healthy and clean environment. In this 21st Century, Climate Change has become one of the main, if not the main environmental issue facing the world. As a small island developing state (SIDS), FSM is susceptible to the adverse effects of Climate Change. It is the duty of the FSM National Government to take the necessary efforts to ensure that the adverse effects of Climate Change on our air, water, land and people are minimized or prevented.

Introducer: 
Kind K. Kanto


Jack Fritz

Date: 1/17/2020


Delegation Chair

Proposal No.: CC-PR-4-36

Assigned to: Committee on Public Finance and Revenue

PROPOSAL TO AMEND CONSTITUTION

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.

Section 6. To regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles of the island baselines, provided, however, that not less than 40% of all revenue collected from all forms of fishing fees are shared with the State governments.

PURPOSE AND INTENT OF AMENDMENT:

Economic development and progression at the State level is indispensable and fundamental to the overall success and long-term prosperity of the Federated States of Micronesia, as a whole and as a country. While the States bears the authority and responsibility to progress developments of the country, States are denied of some critical resources to undertake this performance and responsibility. Thus, this proposal is to ensure States are granted some revenue generated from the country's fisheries licensing scheme to assist and supplement with needed development objectives of the States.

Introducer: 
 Salvador Iriarte, Iso Nahnken
On behalf of the Pohnpei Delegation

Date: 1-17-20

Proposal No.: CC-PR-4-37

Assigned to: General Provisions*

PROPOSAL TO AMEND CONSTITUTION

To amend Article XIII, Section 1 of the Constitution of the Federated States of Micronesia to require that Congress provide adequate funding for education, health care, and legal services for the people of the FSM.

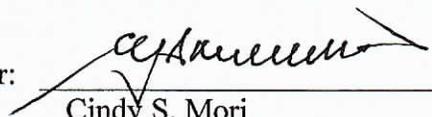
Section 1.

The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services with adequate funding.

PURPOSE AND INTENT OF AMENDMENT:

The recognition of a right without adequate funding to provide the service guaranteed through the Constitution is the same as not having the right. The intent of this proposal is to ensure that Congress appropriates adequate funding so that the people of the FSM can exercise the rights granted to them in the Constitution.

Introducer:



Cindy S. Mori

By request of Chuuk Delegation

Date:

Jan 17, 2020

Proposal No.: CC-PR-4-38

Assigned to: Committee on Civil Liberties and Tradition

PROPOSAL TO AMEND CONSTITUTION

To amend Article IV, Section 10 of the Constitution of the Federated States of Micronesia to clarify that involuntary servitude is prohibited except to punish a crime.

Section 10. ~~Slavery and~~ Involuntary servitude is prohibited except to punish crime.

PURPOSE AND INTENT OF AMENDMENT:

This Section combines slavery and involuntary servitude which are two completely independent concepts. Slavery being illegal and involuntary servitude deemed acceptable. This amendment clarifies that only involuntary servitude is permissible to punish a person convicted of a crime.

Introducer: 
Cindy S. Mori
By request of the Chuuk Delegation

Date: Jan 17, 2020

Proposal No.: CC-PR-4-39

Assigned to: Committee on General Provisions

PROPOSAL TO AMEND CONSTITUTION

To amend Article XIII, Section 3 of the Constitution of the Federated States of Micronesia to prohibit any state from seceding from the nation.

Section 3. It is the solemn obligation of the national and state governments to uphold the provisions of this Constitution and to advance the principles of unity upon which this Constitution is founded. In furtherance of this spirit of unity, no state can secede or separate from this Federation.

PURPOSE AND INTENT OF AMENDMENT:

Upholding the spirit of unity as the fundamental pillar of this Federation is in the best interest of the Federated States of Micronesia. As a small island country in a big world we are better off being together as a country. These days the world order favors the forces of globalization and the building of regional alliances. Preserving unity can translate into more economic opportunities, a competitive advantage over smaller markets in the region, ensuring a stable political environment which can be attractive for increased foreign investments and other capital infusion into the economy. This proposed amendment will provide a clear, convincing, and unified message to the outside world that the FSM will remain united for years to come. It will undoubtedly strengthen our ability to engage and negotiate with our bilateral donors on any bilateral or multilateral agreements.

Introducer:

Akillino Susaia
Akillino Susaia

Berney Martin
Berney Martin

Date:

1-17-2020

Proposal No.: CC-PR-4-40

Assigned to: Committee on Civil Liberties and Tradition

PROPOSAL TO AMEND CONSTITUTION

To amend Article III, Section 3 of the Constitution of the Federated States of Micronesia to provide for dual citizenship for FSM and US citizenship.

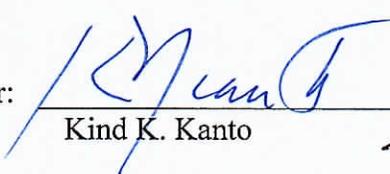
Section 3.

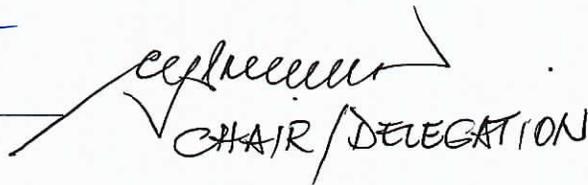
- (a) A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, which ever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.
- (b) A citizen of the Federated States of Micronesia who is recognized as a citizen of the United States of America, unless renouncing either citizenship, remains a citizen of the Federated States of Micronesia and a citizen of the United States of America.
- (c) Subsection (b) of Section 3 is retroactive.

PURPOSE AND INTENT OF AMENDMENT:

This subsection should be retroactive to save those FSM citizens who were forced to lose their citizenship simply because they were not aware of, or failed to comply with the requirements of Article III, section 3 of the FSM Constitution. We are losing our citizens due to this section. It does not make sense to lose one citizenship simply for failing to renounce citizenship of another nation. A citizen should be protected and only lose his citizenship when renouncing it, not simply by failing to renounce another citizenship. At the same time, this will allow those who wish to retain their US citizenship to retain it. However, should one choose to not be a citizen of either nation, he can so choose. Citizens will enjoy the benefits they are entitled to as citizens of both nations.

Introducer:


Kind K. Kanto


CHAIR / DELEGATION

Date:

1/17/2020

Proposal No.: CC-PR-4-41

Assigned to: Committee on Civil Liberties & Tradition

PROPOSAL TO AMEND CONSTITUTION

To amend Article V, Section 3 of the Constitution of the Federated States of Micronesia to add a section to provide for the establishment of Chambers of Traditional Chiefs within the FSM and within each of the respective states and to give the chiefs their roles according to the respective traditional functions within their respective state.

Section 3. The Congress ~~may shall~~ ~~establish, when needed,~~ a Chamber of Chiefs consisting of traditional leaders within the Federated States of Micronesia on a national level providing their active traditional functional role; and from each state having such leaders, and of elected representatives from each states having no traditional leaders. The constitution of a state having traditional leaders may establish a chambers of chiefs in their respective state and provide for an active, functional role for them.

PURPOSE AND INTENT OF AMENDMENT:

While traditions of Pohnpei and Yap are currently strong and effective pertinent to recognition of the traditional leaders and their active role and function in ruling the social lives of their respective communities in their respective states, recognition of traditional leaders in Chuuk, especially Weno and the lagoon islands is fading and their roles in the social lives of the communities are very gloomy and ambiguous.

Introducer: 
Cindy S. Mori
By request of the Chuuk Delegation

Date: 1/18/2020

Proposal No.: CC-PR-4-42

Assigned to: Committee on Civil Liberties & Traditions

PROPOSAL TO AMEND CONSTITUTION

To amend Article V, Section 4 of the Constitution of the Federated States of Micronesia to add a section to specify, define, and designate traditional title of Chiefs within the FSM which were known, proclaimed, and recognized by tradition by one of the most popular and respectful FSM traditional leaders, Petrus Mailo.

Section 4.

On the National level, traditional title for the Chiefs of the respective states shall be as follows: Sou-Ari-raas title to the traditional general chief in Chuuk; Sou-Wonipei title to the traditional general chief in Pohnpei; Sou-Waap title to the traditional general chief in Yap; and Sou-kachaaw title to the traditional general chief in Kosrae. The traditional chiefs within the states shall define and designate the traditional title according to its history, custom, and language of their respective states.

PURPOSE AND INTENT OF AMENDMENT:

The essence of the proposed amendment is to protect, retain, and maintain the traditional oceanic and geographic hemisphere of our Micronesia Nation within which region we are united as one. The four chief titles are proof that within our region we are inseparable and that this FSM Nation should not be separated, divided, nor one state secede from the rest of the states.

Introducer:



Cindy S. Mori

By request of the Chuuk Delegation

Date:

1/18/2020

Proposal No.: CC-PR-4-43

Assigned to: Committee on Civil Liberties
& Tradition

PROPOSAL TO AMEND CONSTITUTION

To amend Article III, Section 3 of the Constitution of the Federated States of Micronesia to provide for dual citizenship as authorized by Congress.

~~**Section 3.** A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.~~

- (a) Congress shall, by statute, identify those countries the citizens of which may hold dual citizenship with the Federated States of Micronesia.
- (b) An individual may hold dual citizenship if at least one parent is a citizen of the Federated States of Micronesia and the individual is a citizen of a country identified by Congress pursuant to subsection (a).
- (c) Dual citizens enjoy all the rights and privileges of citizenship, except a dual citizen may not hold the Office of President.
- (d) Congress shall prescribe by statute the application process for dual citizens.
- (e) This provision shall be retroactive.

PURPOSE AND INTENT OF AMENDMENT:

One's birthplace, the classic criteria of citizenship, is a matter that is not determined by the individual's choice. The intent of this proposed amendment is to enable FSM "citizens" born outside of the FSM to retain or repossess their FSM citizenship, while maintaining their other citizenship. In other words, Dual Citizenship is a mechanism for citizens who were born overseas to maintain their indigenous connectivity to the Micronesian side of their cultural heritage. It is a "preventive diplomacy" in the sense that it seeks to minimize or foreclose the possibility of choosing, by default, their "other" citizenship, thereby giving up the FSM citizenship. By so doing, the proposed amendment seeks to perpetuate the concept of "rewinipos" ("autochthonal/native citizenship" citizenship), a core element in the Micronesian culture and society.

The proposed amendment envisions dual citizenship as a carefully "managed process." The FSM's small size and fragile culture cannot take on broad dual citizenship without careful restraints. There are merits of having some aspects of the process handled by statute, rather than writing it into the Constitution. Specification of nations from which dual citizens may be accepted is an example. In other words, while the principle of dual citizenship should be settled

no. CC-PR-4-43

Comm: Civil Liberties & Tradition

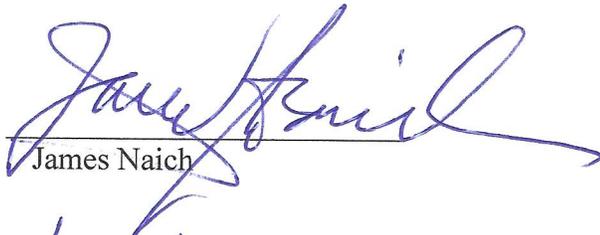
in the Constitution, its proper implementation should be left to statutes, drawing on the mandate of the highest law-making authority and law enforcement authority of the land.

Questions of loyalty are inherent in any situation where there is dualist option. Citizenship may then become a matter of cost-benefit analysis. The alternative costs of giving up one's FSM citizenship cannot be ignored – if one is left with the choice of choosing one citizenship over the other, the renunciation of one citizenship is an unavoidable choice.

Consider also the potential benefits of having “both worlds” combined especially in an increasingly interconnected globalized world. Who says that dual citizenship cannot not be, in the mid-term or long run, a foreign policy tool? It is in dual citizenship where diplomacy and Micronesian culture may dance tango!

To the extent possible, Micronesian citizenship, dual or unitary, must be blood-based; other factors, economic or otherwise, should be taken into consideration as bases for dual citizenship. Blood connectivity to Micronesia is a Micronesian value that should run supreme.

Introducer:


James Naich

Date:

01/18/2020

Proposal No.: CC-PR-4-44

Assigned to: Committee on Government
Structure & Function

PROPOSAL TO AMEND CONSTITUTION

To amend Article XII, Section 4 of the Constitution of the Federated States of Micronesia to create the office of Independent Prosecutor.

Section 4.

- (a) The Independent Prosecutor is appointed by the President with the advice and consent of Congress for a term of six years. The Independent Prosecutor may not be reappointed to a consecutive term in office.
- (b) The Independent Prosecutor may investigate any person, office, or agency of the national, state, or local government that receives, spends, or otherwise administers public funds from the national government and may, when appropriate, prosecute any such person, office, or agency found to have violated any applicable national law. Other applicable duties of the Independent Prosecutor may be prescribed by Congress.
- (c) The Independent Prosecutor is a separate and independent agency. However, at least once a year, he shall report to Congress and the President the activities of the office.
- (d) The salary of the Independent Prosecutor shall not be reduced during his term of office.
- (e) The Independent Prosecutor may be removed from office for good cause by a vote of 2/3 of the members of Congress. In the event of a removal, the Chief Justice of the FSM Supreme Court shall appoint an acting Independent Prosecutor until a successor is confirmed.

PURPOSE AND INTENT OF AMENDMENT:

The proposed amendment adds Section 4 to Article XII of the Constitution. It is based on the increasing realization of the critical importance of the economic development dimension of nation-building. At its core is the increasing desirability, if not necessity, for accountability and administration of justice in the management or expenditure of public funds. The amendment does not envision "competing" with the Constitutional responsibility to make appropriation of public funds. Nor is it intended as an intrusion on the turf of the Executive Branch in the implementation of such projects or activities for which such funds are intended.

The Independent Prosecutor springs into action when there are reasonable grounds to believe there are violations of law as established by Congress for the use or expenditures of public funds. Furthermore, the Independent Prosecutor Office gives "teeth" to the findings of the Public Auditor's Office, especially in cases where further action is warranted. It is envisioned that the Independent Prosecutor's Office will serve the dual purpose of enforcement/compliance and deterrence in the area of public funds administration or expenditures. In the end, the achievement

Proposal no: CC-PR-4-44

Comm: Government Structure & Function

of "sound administration" of public funds for the purpose of nation-building and capacity-building is likely to be enhanced, a benefit to all.

Introducer:


James Naich

Date:

1/18/20

Proposal No.: CC-PR-4-45

Assigned to: Committee on General Provisions

PROPOSAL TO AMEND CONSTITUTION

To amend Article XIII of the Constitution of the Federated States of Micronesia by adding a new section to recognize that the natural resources in the FSM are held in trust for future generations and to require that all economic development include mechanisms to maintain the sustainability of natural resources within the FSM.

Section . The national government of the Federated States of Micronesia recognizes that the natural resources within the FSM are limited and that pursuant to Micronesian custom and tradition these natural resources are held in trust for future generations and shall take every step reasonable and necessary to insure that all economic development includes mechanism to maintain the sustainability of the natural resources within the FSM.

PURPOSE AND INTENT OF AMENDMENT:

Our natural resources are limited, whether we consider those resources to land resources or marine resources. Our Micronesian custom and tradition establishes that we are the mere trustees of these resources for future generations. It is necessary that we work proactively to protect these resources for future generations. The best way to protect these resources is to make sure that all economic development is assessed prior to implementation to insure that the development will not deplete our natural resources.

Introducer:


Redley Killion

Date:

1/20/20

Proposal No. CC-PR-4-46

Assigned to Committee on General Provisions

A PROPOSAL TO AMEND THE FSM CONSTITUTION

To amend Article XIV, Section 1 of the Constitution of the Federated States of Micronesia to lower the percentage of votes cast required in each State to adopt amendments to the Constitution from the current three fourths of the votes in three fourths of the States to two thirds of the voters in three fourths of the States.

Article XIV, Section 1 of the Constitution of the Federated States of Micronesia is proposed to be amended to read as follows:

“Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by $\frac{3}{4}$ $\frac{2}{3}$ of the votes cast on that amendment in each of $\frac{3}{4}$ of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number affirmative votes shall prevail to the extent of such conflict.”

Intent and purpose:

The impetus of this proposal is to lower the threshold from three-fourth ($\frac{3}{4}$) to two-third ($\frac{2}{3}$). Past attempts to amend the FSM Constitution demonstrate that the current threshold creates very difficult, if not impossible, condition for any changes. Only four (4) out of thirty-nine (39) number of proposed amendments to the FSM Constitution have passed in the past 40 years since its inception. Although, there are good reasons to create such strenuous process such as to ensure the stability of the ideals of a country, the need for change now is crucial and long overdue. FSM has changed tremendously the past 40 years. Transformations/changes have occurred in culture, customs, traditions, institutions, politics, environment, economy, domestic and international relations, composition and identities of citizens. The FSM Constitution as is falls short of addressing the fundamental changes to the livelihood of our people. Law is pervasive. It must be amendable to the changes in our society.

Introduce by:


Kosrae Delegation Chairman
Canney L. Palsis


Johnson A. Asher
Delegate

Date:

1.20.20

Proposal No. CC-PR-4-47

Assigned to Committee on Civil Liberties
and Traditions

A PROPOSAL TO AMEND THE FSM CONSTITUTION

To amend Section 3 of Article III of the FSM Constitution to allow dual citizenship for a person born of parents one or both of whom are citizens of the Federated States of Micronesia and who is also recognized as a citizen of another nation.

Section 3 of Article III of the FSM Constitution is hereby proposed to be amended to read as follows:

Section 1. A person who is a citizen of the Trust Territory immediately prior to the effective date of this Constitution and a domiciliary of a District ratifying this Constitution is a citizen and national of the Federated States of Micronesia.

Section 2. A person born of parents one or both of whom are citizens of the Federated States of Micronesia is a citizen and national of the Federated States by birth.

Section 3. A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, ~~within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia~~ is a dual citizen of the Federated States of Micronesia.

Section 4. A citizen of the Trust Territory who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months of the date he became a United States national.

Section 5. A domiciliary of a District not ratifying this Constitution who was a citizen of the Trust Territory immediately prior to the effective date of this Constitution, may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months after the effective date of this Constitution or within 6 months after his 18th birthday, whichever is later.

Section 6. This Article may be applied retroactively.”

Purpose and Intent of the Proposal

Section 3 of Article III requires a citizen of the Federated States of Micronesia who is recognized as a citizen of another nation to register his intent to remain as a citizen of the FSM and renounce the other citizenship. This registry of intent must be done within 3 years of his or her birthday (18-21) or within 3 years of the effectivity of the FSM Constitution. Failure to act within the time frame would cause one to become a national not a citizen. Many have failed to comply to their detriment simply by ignorance or being oblivious of the requisites of Section 3. There is little or no effort by appropriate authority to inform the people of the effect of Section 3 resulting in the inadvertent status of national of FSM and loss of FSM citizenship.

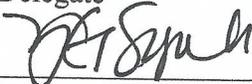
CC-PR-4-47

Civil liberties of Tradition

This proposed amendment will clear and pave the way for those who were deprived of their birth right for FSM citizenship. The proposed amendment will allow dual citizenship.

Introduce by: 
Kosrae Delegation Chairman
Canney L. Palsis


Johnson A. Asher
Delegate


Yoslyn G. Sigrah
Delegate

Date: 01/18/20

Proposal No: CG-PR-4-48 Assigned to: Committee on Public Finance & Revenue

PROPOSAL TO AMEND THE FSM CONSTITUTION

To amend section 3 (a) of Article IX of the Constitution of the Federated States of Micronesia to require that the Governors of each state shall be the allottee for all congressional appropriations for public projects in each respective state.

Section 3. The following powers may be exercised concurrently by congress and the states.

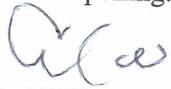
- (a) Appropriate Public projects funds; that the governors of the states shall be the allottees of all congressional appropriations for public project funds in the states. That all congressional appropriations for public projects in the states shall be based on the States' Development Plans and their priorities.

PURPOSE AND INTENT OF THE AMENDMENT:

The state governments are in the best position to understand their priority areas and their needs to develop their economics, social and infrastructures. The state governments have had difficulties meeting their states' Developmental Plans for lack of resources. This impediment will continue, unless some proactive measures are taken. This proposed amendment is a step in the right direction, as all congressional appropriations for public projects will be going to the states to promote and enhance their States' Development Plans and their priorities.

Substantial amount of public funds through congressional appropriations were allotted for certain public projects, which were not in line with the States' Development Plan. There were no consultations and coordination between congress and the respective states to identify what feasible projects deemed compelling. Yet, money were expended with little or no results.

Introducer:



Kosrae Delegation Chairman
Canney L. Palsis



Johnson A. Asher
Delegate



Yoslyn G. Sigrah
Delegate

Dated: 01/18/20

PROPOSAL NO. CC-PR-4-49

ASSIGNED TO: Committee on Government
Structure and Function

PROPOSAL TO AMEND THE CONSTITUTION

To add a new Section 4 to Article XII of the FSM Constitution to provide for the Office of Independent Prosecutor.

New Section 4 shall read:

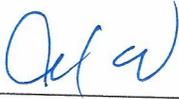
“The Independent Prosecutor shall be nominated by the President with the advice and consent of 2/3 of Congress. The Independent Prosecutor shall serve for a term of eight (8) years until a successor is appointed and confirmed. Independent Prosecutor can only be removed from office by the President for cause, subject to 2/3 affirmative votes of Congress. In the event of removal, the Chief Justice of the FSM Supreme Court shall immediately appoint an Acting Independent Prosecutor who shall serve under such capacity, until a successor is appointed and confirmed.”

PURPOSE AND INTENT OF AMENDMENT:

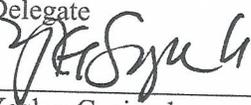
The purpose and intent of this amendment is to have the Office of Independent Prosecutor to investigate and prosecute white color crimes, misuse and misappropriations of public funds by employees of National, States, and local governments, their agencies and instrumentalities.

It is anticipated that with the Office of Independent Prosecutor in place will be a deterrence for potential misuse and misappropriations of public funds. This proposal will further enhance public policy that public funds be used, spent and expended with transparency and accountability.

Introducer: _____


Canney L. Palsis
Kosrae Delegation Chairman


Johnson A. Asher
Delegate


Yoslyn G. Sigrah
Delegate

Dated: 01/18/20

Proposal No.: CC-PR-4-50

Assigned to: Committee on General Provisions

PROPOSAL TO AMEND CONSTITUTION

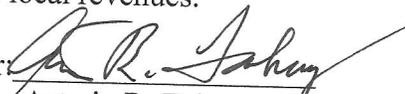
To amend Article XIII, Section 4 of the Constitution of the Federated States of Micronesia to allow temporary ownership of land or waters in Micronesia for sole purposes of investment and loan security.

Section 4.

A noncitizen, or a corporation not wholly owned by citizens, may ~~not~~ acquire title to land or waters in Micronesia for a term of years that shall be no more than 35 years for limited purpose of foreign investment or commercial loan guaranty.

PURPOSE AND INTENT OF AMENDMENT:

Private sector growth of the FSM would be greatly enhanced if foreign investment is enabled to flourish. As well, the commercial banks now doing business in FSM are noncitizens, hence they cannot take land for loan security. The flow of commercial loan to small private business together with foreign investment would help in growing the private sector, provide jobs, and additional local revenues.

Introducer: 
Asterio R. Takesy

Date: 1/20/2025

Proposal No. CC-PR-4-51

Assigned to Committee on Public Finance & Revenue

A PROPOSAL TO AMEND THE FSM CONSTITUTION

To amend Article XII of the FSM Constitution, by amending Section 1 thereof, by adding a new subsection (c) to provide funds collected through taxes and fees to the states to support state priority projects.

Section 1.

- a) Public money raised or received by the national government shall be deposited in a General Fund or special funds within the National Treasury. Money may not be withdrawn from the General Fund or special funds except by law.
- b) Foreign financial assistance received by the national government shall be deposited in a Foreign Assistance Fund. Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the national government and to the share of every other state.
- c) At least fifty percent (50%) of funds raised or received by the national government from fishing fees, corporate taxes and other sources that are not specifically earmarked, shall be distributed to the states to support state priority projects as set in the state approved strategic development plans, including State Infrastructure Development Projects as set by the Infrastructure Planning & Implementation Committee (IPIC).

Intent and purpose of the proposal:

The four states that comprised the FSM Government and its local governments had been having financial difficulties to secure funds to sustain and to meet their approved strategic economic plan. One of the ways in which to meet some of their approved strategic economic plan is through revenues, be it fees or tax derive or collected from fishing fees and corporate taxes, 50% of which shall be distributed equally between the states. This proposed amendment is practical and is consistent with the FSM Constitution and a way forward for the states and its municipalities.

Introduce by:

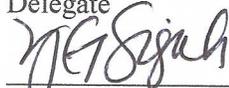


Kosrae Delegation Chairman
Canney L. Palsis

Date: 1.20.20



Johnson A. Asher
Delegate



Yoslyn G. Sigrav
Delegate

Proposal No. CC-PR-4-52

Committee on Government
Structure and Functions
Assigned to Committee on General Provisions

A PROPOSAL TO AMEND THE FSM CONSTITUTION

To amend Article XI, Section 6 of the Constitution of the Federated States of Micronesia to provide the State Courts the exclusive jurisdiction of cases where interest of land is at issue.

Article XI, Section 6 of the Constitution of the Federated States of Micronesia is proposed to be amended to read as follows:

“Section 6.

- (a) The trial division of the Supreme Court has original and exclusive jurisdiction in cases affecting officials of foreign governments, disputes between states, admiralty or maritime cases, and in cases in which the national government is a party except where an interest in land is at issue.
- (b) The national courts, including the trial division of the Supreme Court, have concurrent original jurisdiction in cases arising under this Constitution; national law or treaties; and in disputes between a state and a citizen of another state, between citizens of different states, between a state or a citizen thereof, and a foreign state, citizen, or subject, provided however that the state courts shall have exclusive jurisdiction in cases where an interest in land is at issue.
- (c) When jurisdiction is concurrent, the proper court may be prescribed by statute.”

Intent and Purpose:

The impetus of this proposal is to confer to the state courts the exclusive jurisdiction to adjudicate cases where interest of land is at issue. As customary law and traditional values are the sources of land law in FSM, it is only appropriate and proper that land issues are handled at the state level. Since all the states have different and distinct customary values and beliefs it is pivotal that each state maintain exclusive jurisdiction to deal with its land matters, cases or disputes involving the interest of land. Moreover, the expertise and knowledge on customs and traditions are possessed at the state level. Accordingly, it is only appropriate that the jurisdiction to deal with land matters or cases be vested in the state courts.

This proposal would support the development of the jurisprudence of land law that would be consistent with the values, norms and the customs of each state. So long as the customary law of each state informs land rights, interests, ownership, distribution, succession and others, the authority to adjudicate land cases, disputes or controversies where an interest in land is at issue should remain with the states.

Introduce by: _____


Johnson Asher

Date: _____

1.17.20

Proposal No. CC-PR-4-53

Assigned to Committee on Public Finance & Revenue

A PROPOSAL TO AMEND THE FSM CONSTITUTION

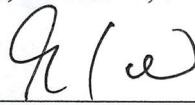
To amend Article IX, Section 6 of the Constitution of the Federated States of Micronesia for the purpose of giving the states fifty percent share in the revenue derived from living resources in the exclusive economic zone. Section 6 of Article IX of the FSM Constitution is proposed to be amended to read as follows:

“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. Fifty percent (50%) of the net revenue derived from the living resources exploited under subsection 2(m) of this Article shall be paid into the treasuries of the state governments. The fifty percent net revenue shall be divided equally among the four state governments.”

Intent and Purpose of the Proposal

- The intent of this bill is to reform the current FSM national top-down approach for economic development to state-centered in order to improve the financial capacity of the states to provide essential public services such as health, education, and infrastructure to the people.
- Currently, all the states, most, are facing financial stress or difficulty. There is little to no economic development at the state level-state governments. They do not have the money. While we know that people are in the states, the infrastructure are in the states, the real services (health, education) are in the states. There is little money funneled down to the states to improve the services or the states are not generating enough revenue to subsidize their operational budgets. While they're facing all these financial difficulties, the revenue base of the national government has increased tremendously. The current approach for economic development in FSM needs to be modified. The approach is top-down, meaning national government gets all the money and then little money is trickled down to the states to facilitate economic development. The intent of this bill is to improve the financial capacity of the state government to provide the primary public services to the people, health, education, and infrastructure development.

Introduce by:

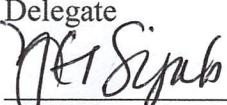


Canney L. Palsis, Chairman
Kosrae Delegation

Date: 1.21.20



Johnson A. Asher
Delegate



Yoslyn G. Sigrah
Delegate

Proposal No.: CC-PR-4-54 Assigned to: Committee on General Provisions

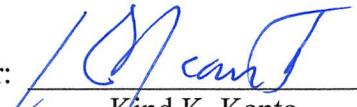
PROPOSAL TO AMEND CONSTITUTION

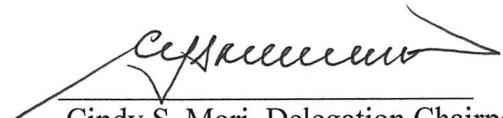
To amend Article XIII, Section 2 of the Constitution of the Federated States of Micronesia to add the phrase, "shall not be transported across", and put a period between the words Micronesia and without, and delete the rest of the sentence.

Section 2. Radioactive, toxic chemical, or other harmful substances ~~may not be~~ shall not be transported across, tested, stored, used, or disposed of within the jurisdiction of the Federated States of Micronesia. ~~without the express approval of the national government of the Federated States of Micronesia.~~

PURPOSE AND INTENT OF AMENDMENT:

A ship transporting radioactive, toxic chemical, or other harmful substance across the FSM will take days. In addition, eliminate the exception of express approval by the national government of the FSM. I see no reason whatsoever that would justify the national government to authorized such actions. We have a very good example of the danger of giving such authority to the national government. The nuclear dome in the Marshall Islands is a very unfortunate but very clear example.

Introducer: 
Kind K. Kanto


Cindy S. Mori, Delegation Chairperson

Date: 1/21/2020

Proposal No.: CC-PR-4-55

Assigned to: Committee on General Provisions

PROPOSAL TO AMEND CONSTITUTION

To amend Article XIII of the Constitution of the Federated States of Micronesia by adding a new section to require that all public corporations shall support and act consistent with the development needs of the national government and the state governments.

Section . All national public corporations shall operate such that their business supports and is consistent with the development needs of the national government and the state governments of the states in which they operate.

PURPOSE AND INTENT OF AMENDMENT:

Congress has created several public corporations, most of which have monopolies. These public corporations were created with FSM government funds for the purpose of providing needed services to FSM citizens. Thus, these public corporations should act in a manner that is consistent with the needs of the people as identified by the national and state governments. Moreover, because most of these public corporations are monopolies, they should not be allowed to earn excessive profits from the very people they were created to service and assist.

Introducer:


Redley Killion

Date:

Jan. 20, 2020

Proposal No.: CC-PR-4-56

Assigned to: Committee on Government Structure & Functions

PROPOSAL TO AMEND CONSTITUTION

To amend Article X, Sections 1, 4, and 5 of the Constitution of the Federated States of Micronesia to provide for the election of the President and Vice President by popular vote.

Section 1. The executive power of the national government is vested in the President of the Federated States of Micronesia. He or she is elected ~~by Congress~~ for a term of four years ~~by a majority vote of all of the members.~~ He and may not serve for more than 2 consecutive terms. The President and Vice President shall run on a ticket, each shall be a citizen of a different state. The candidate that wins the highest percentage of votes cast determined by adding the percentage of votes won by each ticket in each state shall be declared to be the President and Vice President.

Section 4. A person is ineligible to become President unless he or she is ~~a member of Congress for a 4-year term,~~ a citizen of the Federated States by birth, at least 30 years of age on the day of election, and a resident of the Federated States of Micronesia for at least 15 years. A person who has been convicted of a felony by a court of competent jurisdiction is ineligible to be President or Vice President.

Section 5. ~~After the election of the President, the Vice President is elected in the same manner as the President, has~~ The Vice-President shall have the same qualifications as the President, and serves for the same term of office. ~~He may not be a resident of the same state. After the election of the President and Vice President, vacancies in Congress shall be declared.~~

PURPOSE AND INTENT OF AMENDMENT:

The President and Vice President should be elected directly by the people. But, in order for all four states to feel that the President is their President and to maintain the unity of the country, the President and Vice President should be elected by the support of the people in each state. This proposal provides that the President and Vice President who win the highest percentage of votes across the nation calculated by adding the percentage of votes cast in each state. Example: In an election with 3 candidates for President, votes are cast in each state, and the percentage of the vote won based on the votes cast is determined. The results are: Ticket 1 won 20% of Yap vote; 50% of Chuuk vote; 30% of Pohnpei vote; and 10% of Kosrae vote for a total of 110% (20+50+30+10). Ticket 2 won 25% of the Yap vote; 30% of the Chuuk vote; 40% of the Pohnpei vote; and 40% of the Kosrae vote for a total of 135% (25+30+40+40). Ticket 3 won 50% of the Yap vote; 20% of the Chuuk vote; 30% of the Pohnpei vote; and 50% of the Kosrae vote for a total of 150% (50+20+30+50). The winner of the election would be Ticket 3.

Introducer: 
Redley Killion

Date: Jan 28, 2020

Proposal No.: CC-PR-4-57

Assigned to: Committee on Public Finance & Revenue

PROPOSAL TO AMEND CONSTITUTION

To amend Article XII, Section 2(a) of the Constitution of the Federated States of Micronesia to limit the growth of the budget of the national government to a 10% annual increase.

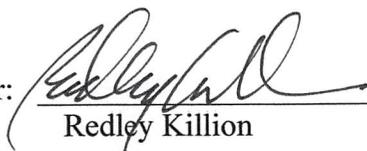
Section 2.

- (a) The President shall submit an annual budget to Congress at a time prescribed by statute. The budget shall contain a complete plan of proposed expenditures, anticipated revenues, and other money available to the national government for the next fiscal year, together with additional information that Congress may require. The budget for the national government, inclusive of all agencies, departments, and public corporations, shall increase no more than 10% per annum. The Congress may alter the budget in any respect, except that the budget Congress approves cannot exceed the 10% per annum increase.

PURPOSE AND INTENT OF AMENDMENT:

It is important for the FSM to become fiscally stable and fiscally responsible. We must insure that we save for future contingencies, including natural disasters and rising sea levels. By capping the national budget to a 10% per annum increase, the national government should be able to address the needs of the country and meet inflation while also being fiscally responsible.

Introducer:


Redley Killion

Date:

Jan. 21, 2020

Proposal No.: CC-PR-4-57 Assigned to: Committee on Public Finance & Revenue

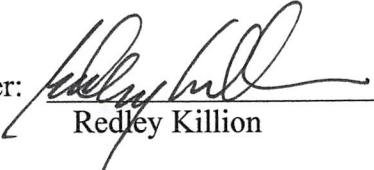
PROPOSAL TO AMEND CONSTITUTION

To amend Article XII, Section 2 of the Constitution of the Federated States of Micronesia to require that the allocation of resources support the priority needs of the States.

- (a) The President shall submit an annual budget to Congress at a time prescribed by statute. The budget shall contain a complete plan of proposed expenditures, anticipated revenues, and other money available to the national government for the next fiscal year, together with additional information that Congress may require. The Congress may alter the budget in any respect; except, however, all allocation of revenues and other money shall be to support the priority needs of each of the states and the priority needs of the national government.

PURPOSE AND INTENT OF AMENDMENT:

It is important that all public funds are expended for public purpose. The state governments know the needs of their communities, and the leadership of each state has worked to identify the needs of state and its people. The appropriation for funds from the national government should be to support the state's priorities, and not special projects that benefit the few.

Introducer:  _____
Redley Killion

Date: Jan. 21, 2020

Proposal No.: CC-PR-4-59

Assigned to: Committee on General Provisions

PROPOSAL TO AMEND CONSTITUTION

To amend Article XIII of the Constitution of the Federated States of Micronesia by adding a new section to require that foreign investment support the development needs of the nation and states, provides for the well-being of local citizens.

Section . All foreign investment shall be consistent with the development priorities established by the national government and the state where the foreign investment will be located. All effort shall be made to insure that foreign investment supports the needs of local citizens.

PURPOSE AND INTENT OF AMENDMENT:

More economic development is needed, but that development should be consistent with the development plans of the national government and the states. As a country, we need foreign investment to spur economic development, to create jobs for our citizens, and, hopefully, keep our citizens in the FSM because they can live a prosperous life within our Micronesian traditions. But, the foreign investment that is needed should not be to solely benefit the foreigner. The needs of our local communities must be taken into consideration, and all development should be planned so as to provide for a clean, healthy environment for future generations.

Introducer:


Redley Killion

Date:

Jan. 21, 2020

Proposal No.: CC-PR-4-60

Assigned to: Committee on Government
Structure & Functions

PROPOSAL TO AMEND CONSTITUTION

To amend Sections 1, 4, and 5 of Article X of the Constitution to require direct election of the President and Vice-President by the people through an electoral college style system.

Section 1.

- (a) The executive power of the national government is vested in the President of the Federated States of Micronesia.
- (b) No more than one candidate from each state shall run for the office of President. Each state shall determine their candidate for President through a primary process. The primary shall be held two months prior to the General Election.
- (c) The winner of the primary in each state shall be the candidate who wins the most votes cast. The winner of the primary in each state shall select the person who will run with them as Vice President. The President and Vice President shall run on one ticket and shall be citizens of different states.
- (d) In the General Election, the citizens of each state shall vote for the President and Vice President at the same time that they vote for their members of Congress.
- (e) The President and Vice President are ~~is~~ elected by Congress for a term of four years by a majority vote of all the members.
- (f) ~~He~~ The President and Vice President may not serve for more than 2 consecutive terms. If the incumbent President does not win the primary, then another citizen of that state may not serve as President for what would have been the incumbent President's second term.

Section 4. A person is ineligible to become President or Vice President unless ~~he is a member of Congress for a 4 year term,~~ he or she is a citizen of Micronesia by birth, at least 30 years of age on the day of the election, and a resident of the Federated States of Micronesia for at least 15 years. A person who has been convicted of a felony by a court of competent jurisdiction is ineligible to be President or Vice President.

Section 5. After the election of the President, the Vice President is elected in the same manner as the President, has the same qualifications, and serves for the same term of office. He may not be a resident of the same state. After the election of President and the Vice President, vacancies in Congress shall be declared.

- (a) The President and Vice President shall be the candidates receiving a majority of votes in the Electoral College. If no candidate receives a majority of votes, then the candidate from the state that has not had the most recent President shall be declared the winner.
- (b) The votes of the Electoral College shall be calculated automatically as follows:
 - (i) For a state's at large district, one vote shall be cast for the candidate that received the highest number of votes in that state.
 - (ii) For each election district in the state, one vote shall be cast for the candidate who received the highest number of votes cast in the election district.

CC-PR-4-60

Government Structure ↓
Function

(c) The National Election Commissioner, upon receipt of all of the Electoral College votes from all of the states, shall declare the winner.

PURPOSE AND INTENT OF AMENDMENT:

Under this proposal, the President and Vice-President will be elected by the voters, through a college electoral delegate style system. The candidates for President and Vice-President should be from different states and shall run on one ticket. There will be no more than one candidate from each state for the President and Vice-President. No President from the same state may serve more than two consecutive terms.

The concept of a college electoral system should mirror or be somewhat similar to the election of President and Vice-President by the Congress. Currently, there are five (5) election districts in Chuuk, three (3) in Pohnpei and Yap and Kosrae each has one (1). Each state has one at-large member. Each elector would have one (1) vote. Meaning the total votes under the current system is 14. Thus, electorate delegates would be the same as current system. Chuuk will have 6, Pohnpei 4, and Yap and Kosrae each has 2. With this proposal, a ticket may win electoral votes from different districts in different states, but each ticket can only win the one State electorate delegate's vote if that ticket carries the majority state-wide votes cast. In the smaller states, whichever ticket wins that state gets 2 electoral college votes. The smaller states, however, now have a better opportunity to get one or more electoral vote from the larger states or vice-versa, by attracting people from the larger states to be part of their team. A run-off election will be required if no ticket garners a majority of electorate votes.

This proposal will also promote unity in the Nation, as it is expected that a ticket will try to get supporters from all the states, which will hopefully impact the composition of the Cabinet resulting in an increase in the number of Cabinet members from states other than that of the President.

This proposal contains no different concept than current allocation of congressional votes. It puts the decision however, to the majority of voters cast in a given election district and the state-wide voters. This will allow the voters to exercise their constitutional rights to directly elect the President of their choice. It also maintains the current voting allocations in each district through the people instead of the district representative in Congress.

The Proposal will limit one candidate from each state for both the President and Vice-President. This is to avoid, too many re-run off elections and be consistent with current arrangement. Further, it will not allow two individuals from the same State to be President one after another.

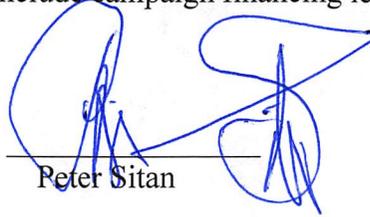
The proposal would take away, the fears on uneven check and balance between the Executive and Legislative branches. Too often, many have said that the President is the Constituent of the Congress, and only natural that the President would act like a constituent of the Congress instead of the people. Accountability of the President will therefore, be to the people, instead of the Congress.

CC-PR-4-60

Gov't Structure & function

Finally, there could be a need to put in some kind of measures to avoid only the rich can run for office. This could include campaign financing legislation etc.

Proposed by Delegate:



Peter Sitan

Date:

1/21/20

Proposal No.: CC-PR-4-61

Assigned to: Committee on Government
Structure & Functions

PROPOSAL TO AMEND CONSTITUTION

To amend Article X, Sections 1, ^{4, 5, 6} of the Constitution of the Federated States of Micronesia to provide for popular election of the President.

Section 1. The executive power of the national government is vested in the President of the Federated States of Micronesia. ~~He~~ The President and Vice President of the Federated States of Micronesia shall run on a ticket, be elected by the eligible voters, and serve for a term of four years. The President and Vice President ~~He~~ may not serve for more than 2 consecutive terms.

Section 4. A person is ineligible to become President or Vice President unless he is ~~a member of Congress for a 4-year term,~~ a natural born citizen of the Federated States of Micronesia by birth, is at least 35 years upon assumption of office, and a resident of the Federated States of Micronesia for at least 15 years.

Section 5. ~~After the election of the President, the Vice President is elected in the same manner as the President, has the same qualifications, and serves for the same term of office. He may not be a resident of the same state. After the election of the President and Vice President, vacancies in Congress shall be declared.~~ The President and Vice President shall be residents of two different states. If the President is from a "small" state, the Vice President shall be from a "large" state, or vice versa. Determination of which states are "small" or "large" shall be based on the apportionment of membership of Congress.

Section 6. If the office of the President is vacant, or the President is unable to perform his duties, the Vice President becomes President. In the event that the Vice President is unable to perform the duties of the Office of President, then the Speaker of Congress shall become President. In the event all three offices are vacant or all three officers are unable to perform their duties, Congress shall provide by statute for the succession of offices. ~~in the event both offices are vacant, or either or both officers are unable to discharge their duties.~~

PURPOSE AND INTENT OF AMENDMENT:

One of the major compromises of the Micronesian Constitutional Convention of 1975 related to the manner of electing the President and Vice President. It was agreed that the President and Vice President must be elected by all the (14) members of Congress from among the (4) at-large members representing the states. At the core of the election scheme was a “gentlemen agreement” that the Presidency and Vice Presidency be rotated among the four states. The rationale for the rotation-inspired “gentlemen agreement” was to further strengthen the young nation’s sense of nationhood or national unity by ensuring that all the states will have the opportunity to serve in the top two offices in the land.

The gentlemen agreement scheme was put into practice since the commencement of the FSM constitutional government in 1979. But less than half into the four decades of constitutional government, the logic of the gentlemen agreement has demonstrably been going through “wear and tear.” For instance, in the last 45 years of constitutional governance, one state (Chuuk) has twice held the Presidency for two terms consecutively; one state (Kosrae) has not served a full term of the Presidency (except to serve out the balance of a different state’s presidency; one state (Pohnpei) has sat in the Presidency seat consecutively by two different persons. By the time the 4th Constitutional Convention was convened, the “gentlemen agreement” underlying the present method of electing the President and Vice President seemed to have lost the high fashion that it used to enjoy in the political vocabulary of the FSM national-building process and constitutional evolution.

The primary motivation for the proposed amendment is not in response to a loud outcry for “citizen empowerment,” though it is cognizant of the growing desire for grater citizen participation or expression of interest in the political process. Politically, the FSM continues to be in a state of state or adaptation.

“Participatory democracy” is no longer a cliché reserved remotely for the sophisticated top echelons of the Micronesian political society. The idea that “all people” have the right to vote for their “representatives” in government has spread to all levels of the Micronesian society and may no longer be completely evaded or reversed. In short, the democratizing trends in the Micronesian sovereign community have begun making an impact on the political consciousness of the Micronesians to write such political conviction in their nation’s constitution.

The democratizing trends in Micronesia’s evolving polity on the one hand and the shortcoming of the gentlemen’s agreement conspire to serve as the impetus or strong advocates for the proposed amendment. The following points should also be highlighted or asserted:

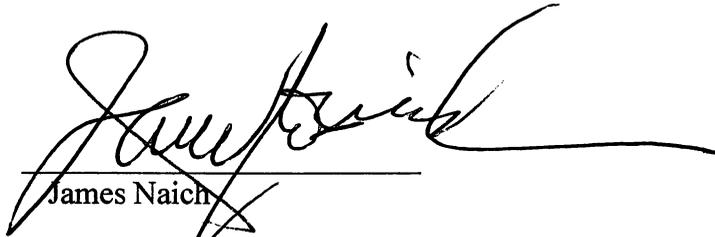
- 1) Guaranteeing the outcome of the election for the President or Vice President is neither appropriate nor desirable. Ensuring equal opportunity in the national leadership of the land remains the noble objective of the nation; hence the desirability of both the “small” and “large” states given equal opportunity – i.e., that the right of the majority must be respected while protecting the interests of the minority.
- 2) The experiences of the past 40-some years have demonstrated the weaknesses and unreliability of “gentlemen’s agreement.” The proposed amendment seeks to formalize what was then viewed to be an agreement among men of goodwill. It simply did not work. It is hoped that the formalization of the opportunity to “co-share” in the leadership of the nation will produce the desired objective.

CC-PR-4-61

Gov't Structure by Function

- 3) Continued absence of popular election of the President and Vice President further contributes to the argument that the top two leaders of the country are free from being accountable to the people, except indirectly by their representatives in the legislative branch.
- 4) Indirect election of the President and Vice President makes mockery of the separation of three branches of government, thus the mechanism of checks and balances. This is in contradistinction of the direct election of the members of the national legislature.

Introducer:



James Naich

Date:

1/20/20

Proposal No.: CC-PR-4-62

Assigned to: Committee Government Structure & Functions

PROPOSAL TO AMEND CONSTITUTION

To amend Article XI, Section 3 of the Constitution of the Federated States of Micronesia to provide for the qualifications of the Chief Justice and all associate justices of the FSM Supreme Court and any other established courts to be FSM citizens or nationals.

Section 3. The Chief Justice and all associate justices of the FSM Supreme Court and any other national court shall be citizens or nationals of the Federated States of Micronesia, and are appointed by the President with the approval of 2/3 of Congress. Justices shall serve for a term of 25 years, but can be nominated for a second term during good behavior.

PURPOSE AND INTENT OF AMENDMENT:

When the FSM Constitution was drafted, there were none or very few FSM citizens who were lawyers. Today, there are more qualified FSM citizens to be justices of the FSM Supreme Court. The FSM citizens know the customs and traditions which are supposed to be very important in making rulings. If justices of the FSM Supreme Court are FSM citizens, land cases can then be adjudicated in the FSM Supreme Court. Appealed land-cases from Chuuk and Kosrae state supreme courts can be handled by the FSM Supreme Courts. Finally, I see no justices from other countries in the US Supreme Court. Why should there be in the FSM Supreme Court?

Introducer: 
Kind K. Kanto


Cindy S. Mori, Delegation Chairperson

Date: 1/21/2020

Proposal No: CC-PR-4-63

Assigned to: Committee on Government Structure & Function

PROPOSAL TO AMEND CONSTITUTION

To amend Article X, Sections 1, ~~4~~, 5 and 6 of the Constitution of the Federated States of Micronesia to provide for direct election of the President and Vice President.

Section 1. The executive power of the national government is vested in the President of the Federated States of Micronesia. ~~He~~ The President and Vice President shall run on a ticket and are is elected ~~by Congress~~ for a term of four years by a plurality majority vote of the votes cast of all the members in three of the four states during a national election. He may not serve for more than 2 consecutive terms.

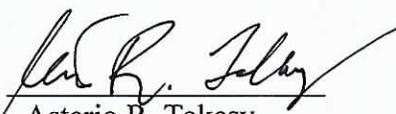
Section 4. A person is ineligible to become President unless ~~he is a member of Congress for a 4-year term,~~ he or she is a citizen of Micronesia by birth, at least 35 years of age on the day of the election, and a resident of the Federated States of Micronesia for at least 15 years. A person who has been convicted of a felony by a court of competent jurisdiction is ineligible to be President or Vice President.

Section 5. ~~After the election of the President, the Vice President is elected in the same manner as the President, has the same qualifications, and serves for the same term of office. He~~ The Vice President shall have the same qualifications as the President. The President and Vice President may not be a resident citizens of the same state. After the election of President and the Vice President, vacancies in Congress shall be declared.

Section 6. Primary elections shall be held in all four states to elect two pairs of candidates no less than six months before the next national election. The two pairs of candidates with the most votes in three of the four states shall be candidates.

THE PURPOSE AND INTENT OF AMENDMENT:

To give the voters in each state opportunity to directly elect the President and Vice President in exercising their civic duty and right as a citizen. Direct election of the President and Vice President will have the cumulative effect of strengthening unity of the people of the nation. In unity commerce and social development will thrive putting the nation on firmer footing. The President will have the political mandate directly from the people of the nation to more effectively bring about internal checks and balances at the national level.

Introducer: 
Asterio R. Takesy

Date: 1/21/2020

Proposal No.: CC-PR-4-84

Assigned to: Committee on Constitutional & Traditional

PROPOSAL TO AMEND CONSTITUTION

To amend Article IV of the Constitution of the Federated States of Micronesia by adding a new Section 14 to provide an individual from one state the right to the same privileges and immunities as enjoyed by the citizen of another state.

Section 14. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several states, including the right to own land, subject only to the right of each State to set reasonable residency requirements.

PURPOSE AND INTENT OF AMENDMENT:

This proposal amends Article IV of the Constitution to specifically protect the citizens of one state of the FSM when they reside or are travelling in another state of the FSM. This section will provide to each FSM citizen the same rights, privileges, and protections as a State provides to its own citizens, including the right of a FSM citizen of one State to own land in another State. The amendment allows for each state to set a reasonable residency requirement to own land in order to limit speculative investment that will arbitrarily increase the price of land for sale.

Introducer:


Camillo Noket

Date:

2/25/20

Proposal No.: CC-PR-64-65

Assigned to: Committee on GP

PROPOSAL TO AMEND CONSTITUTION

To amend Article XIII of the Constitution of the Federated States of Micronesia by adding a new section to prohibit the FSM national government from owning a bank or other financial institution.

Section . The national government shall not hold an ownership interest in, hold shares or stock of, or hold any equitable interest in a bank, including a depository bank, or other financial institution.

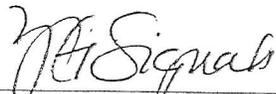
PURPOSE AND INTENT OF AMENDMENT:

The national government should act as a regulator to protect the interests of the FSM people and the economy of the FSM. The national government should not be a participant in the financial market. When the national government acts as both a regulator and a participant in the financial market, conflicts of interest are created, and the FSM people are not protected. When the government is both owner of the financial institution and regulator of the financial institution, then the government is in the position of regulating itself, issuing itself citations for failure to comply with the law; this is a situation that does not work because rarely will an entity punish itself.

The FSM Development Bank (FSMDB), a national government creation, is not regulated, but has been allowed to compete in the commercial sector. Both the FSM national government and FSMDB own shares in the Bank of the FSM, creating a situation where the national government is a shareholder and regulator of the Bank of the FSM (Bank). And, although FSMDB is a competitor of the Bank of the FSM, it owns shares of the Bank and sits on the Bank's Board and thus, has access to the Bank's internal documents, creating a situation where FSMDB as a competitor has an advantage over the Bank. If the FSM national government acted solely as a regulator, these types of conflicts would not occur.

The national government should focus on creating an environment conducive to economic growth and should not be competing with private sector businesses.

Introducer:


Yoslyn G. Sgrah

Date:

2-27-20

Proposal No. CC-PR-4-66

Assigned Committee: Committee on Public Finance & Revenue

PROPOSAL TO AMEND CONSTITUTION

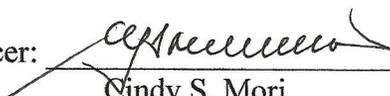
To amend ARTICLE IX Section 5 of the Constitution of the Federated States of Micronesia to increase the State's share of the tax revenues collected from 50% to 70%.

Section 5. National Taxes shall be imposed uniformly. Not less than 50% 70% of the revenues shall be paid into the treasury of the state where collected.

PURPOSE AND INTENT OF AMENDMENT:

The National government is undoubtedly an important entity that drives our nation. However, there is a disparity between the National Government and the State Governments in terms of financial stability. With the current status quo, and the uncertainty of the financial provisions of the compact, the states face a far bigger problem as far as its ability to provide the services for its citizens. This amendment will not solve all the problems at once, but it will be a huge plus for the states in the long run.

Introducer: _____


Cindy S. Mori
Chuuk Delegation

Date: _____

3/08/2020

Proposal No. CC-PR-4-67

Assigned to: Committee on General Provisions

PROPOSAL TO AMEND CONSTITUTION

To incorporate climate change under ARTICLE XIII General Provisions as section 1(a).

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

Section 1 (a). The governments of the Federated States of Micronesia recognize climate change as security threat to the environment, and shall take the necessary measures in a timely manner to protect the environment. To that end, the national government shall provide means to the state governments as provided by law in the implementation of practices that are conducive to the sustainability of the environment.

PURPOSE AND INTENT OF AMENDMENT:

Climate change is a global threat in relation to food, water, environmental, and national security. The Federated States is on the cutting edge of this global phenomena. Its environmental integrity and sovereignty are defined by its Constitution in compliance with international laws. Article 1, section 1, of the FSM Constitution states that the waters connecting the islands of the FSM Micronesian archipelago are internal waters regardless of dimensions, and jurisdiction extends to a marine space of 200 miles measured outward from appropriate baselines, the seabed, subsoil, water column, insular or continental shelves, airspace over land and water, and any other territory or waters belonging to Micronesia by historic right, custom, or legal title. FSM islands and waters, however, are being slowly affected by climate change. Both local people and climate change experts have noted the impact of climate change on the environment. The legal implications on FSM's territorial sovereignty have not yet been seriously considered.

The FSM government has adopted a policy that places survivability as an uncompromising priority. In its official policy statement, the national government states its role to mitigate climate change especially at the international level, and adaptation at the domestic level to reduce FSM's vulnerability to climate change's adverse impacts. In this context, FSM reaffirms its rights to exist as a nation under international law, particularly in view of the debate on sovereignty as a result of possible reconfiguration of island territories when some islands may become submerged in the future. This new provision reaffirms FSM's commitment and support toward mitigation efforts at the grassroots level by mobilizing resources, as dictated by statutes and regulation.

Introducer:



Date:

3/05/2020

*Committee on Government Structure
& Functions*

Proposal No.: CC-PR-04-68

Assigned to: Committee on General Provisions

PROPOSAL TO AMEND CONSTITUTION

To amend Article I, Section 1 of the Constitution of the Federated States of Micronesia to designate Faichuuk as the 5th State of the Federated States of Micronesia.

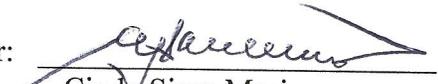
Section 1

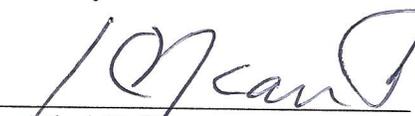
Section 1. The territory of the Federated States of Micronesia is comprised of the Districts of the Micronesian archipelago: Yap, Chuuk, Faichuuk, Pohnpei, and Kosrae that ratify this Constitution. Unless limited by international treaty obligations assumed by the Federated States of Micronesia, or by its own act, the waters connecting the islands of the archipelago are internal waters regardless of dimensions, and jurisdiction extends to a marine space of 200 miles measured outward from appropriate baselines, the seabed, subsoil, water column, insular or continental shelves, airspace over land and water, and any other territory or waters belonging to Micronesia by historic right, custom, or legal title.

PURPOSE AND INTENT OF AMENDMENT:

The intent of this amendment is to allow Faichuuk, comprised of Nomusofo (Udot, Romolum, Eot, Fanapanges) Tol, Polle, Paata, Onei to be recognized as a state of the FSM. Faichuuk is the most populated district in the State of Chuuk. Faichuuk is comprised of 26 square miles of land and marine space, with a population of 17,000. It has been the desire of the Faichuuk people to exercise their right of self- governance and to determine their political and economic future. The people of Faichuuk have been unduly oppressed due to the proximity to the State capitol of Chuuk, Weno, and the associated contemporary complexities of the growing over-crowded conditions and challenges of the capitol. Faichuuk strives to develop politically and economically by way of financial and political re-apportionment and other support services.

To achieve such will require support for this proposal.

Introducer: 
Cindy Siren Mori

Introducer: 
Kind K. Kanto

Date: 3.12.20

PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, Section 9, of the Constitution of the Federated States of Micronesia to create consistency between the eligibility requirements to run for Congress and to be elected President and to require residency within the FSM to be eligible to run for Congress.

Article IX. Section 9. A person is ineligible to be a member of Congress unless he is at least 30 years of age on the day of election ~~and has been~~ a citizen of the Federated States of Micronesia by birth for at least 15 years, and a resident of the state from which he is elected and a resident of the Federated States of Micronesia for at least 5 10 years. A person convicted of a felony by a state or national government court is ineligible to be a member of Congress. The Congress may modify this provision or prescribe additional qualifications; ~~knowledge of the English language may not be a qualification.~~

INTENT AND PURPOSE OF AMENDMENT

There are two purposes for this amendment. The first purpose is to make the eligibility requirements for running for Congress consistent with the eligibility requirements for being chosen President. This amendment will allow only those who are FSM citizens by birth to be eligible to run for Congress. It is important for all of our national political leaders to be vested in the future of this country and being a FSM citizen by birth is a clear measurement of one’s ties to the FSM.

The second purpose of this amendment is to ensure that those who run for Congress understand what is happening within the FSM, understand our citizens, and the needs of the state from which they are elected, as well as the needs of the national government. A FSM citizen who has spent decades living in Guam, Hawaii, or the mainland US has been living in a different culture and is not well versed in the current needs of our islands. Including a FSM residency requirement will prevent those who have not been vested in their home communities from running for office from abroad. This residency requirement is especially important once the FSM recognizes dual citizenship.

This proposal will allow those citizens of Chuuk, Kosrae, and Yap who are living and working in Pohnpei and those citizens of Pohnpei who are living and working in other states to run for Congress. Citizens who are serving their state by working in the national government or who are serving in their sister communities are knowledgeable of the unique problems and circumstances facing the FSM.

Date: June 1st, 2022

Introducer: 
 Kind Kanto
 Delegate, Chuuk

Committee Proposal No. CC-PR-04-70
Committee on _____

PROPOSAL TO AMEND CONSTITUTION

To amend Article XII, Section 1, of the Constitution of the Federated States of Micronesia to add a new subsection (c) to create a FSM Trust Fund.

Section 1.

“(c) A FSM Trust Fund shall be created to contribute to the long-term financial viability of the national government and state government. The FSM Trust Fund shall maintain accounts for the national government and each state government; the funds in each account are the property of the accountholder. The FSM Trust Fund shall be managed by a Board of Trustees, a majority of which must be FSM citizens. Congress shall enact such laws as necessary to effectuate this provision.”

PURPOSE AND INTENT OF AMENDMENT

As a small island nation it is imperative for the FSM to have financial security and to become less dependent on foreign assistance. In order to create that financial security, the FSM must invest in its future. The FSM Trust Fund is the vehicle for that investment. Although Congress has created a Trust Fund, Congress can easily terminate that Fund by a similar majority vote, defeating the purpose of the Trust Fund. By including the FSM Trust Fund as part of the FSM Constitution, the FSM Trust Fund will become permanent helping to create the foundation for the FSM’s financial security and stability.

Date: June 1, 2020

Introduced by:



Redley Killion
Convention President

Committee Proposal No. CC-PR-04-71
Committee on GS&F

PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, Section 8, of the Constitution of the Federated States of Micronesia to increase the number of at-large members of Congress.

Section 8. The Congress consists of ~~one~~ two members elected at large from each state on the basis of state equality, and additional members elected from congressional districts in each state apportioned by population. Members elected on the basis of state equality serve for a 4-year term, and all other members for 2 years. Each member has one vote, except on the final reading of bills. Congressional elections are held biennially as provided by statute.

PURPOSE AND INTENT OF AMENDMENT

The purpose of this amendment is to increase the pool of Senators from which to choose a President and Vice-President. The positions of President and Vice President are too important to restrict the eligible pool of persons who can hold the highest offices of the land to a mere 4 at-large Senators. Because the election of the new Senators will be held at the same time as the current Senators, the only real election cost is the addition of a name to the ballot. Although the increased number of Senators would increase the costs of Congress' operations, the benefit of having more choices for President and Vice President outweigh the financial costs considering the difficulties Congress has faced in the past in electing the most appropriate individuals for these two important positions.

Date: June 03, 2022

Introduced by:



Akillino H. Susaia

Delegate

PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, Section 14 of the Constitution of the Federated States of Micronesia to limit the combined annual salary and allowance for members of Congress.

Section 14. The Congress may prescribe an annual salary and allowance for members. The annual aggregate salary and annual aggregate allowance for members shall not exceed 150 percent of the combined aggregate annual salary and annual allowance of the President. All salaries and allowances shall be subject to the requirements of financial management laws. An increase in salary or allowance may shall not apply to the Congress enacting it.

PURPOSE AND INTENT OF AMENDMENT

The percentage can be worked out in committee but the current \$150,000 allowance for each senator sees no limit and Congress has proven that it may continue to increase this despite public outcry. The current allowances of the 14 senators total up to \$2,100,000.00. This money, when saved and if some are passed to the four states, it can actually increase perhaps at \$1 for all government employees of the states and national government, including Sector Grant payees, injecting a spur in the economy of the Nation. Local businesses will get more cash and in turn pay more taxes. Many other uses can be realized.

The current language says "may" which is permissive and gives Congress right to swallow up the policy of not reward a sitting Congress. The amendment uses the word "shall" which is mandatory and explicitly applies to both salary and allowance.

Introducer: _____



Delegate Salomon Saimon

Date: _____



Proposal No: CC-PR-04-73

Assigned to: General Provision

PROPOSAL TO AMEND CONSTITUTION

To amend Article XIII, Section 4 of the Constitution of the Federated States of Micronesia to provide that ownership of land and water will be determined by the customs and traditions of each state.

Section 4. A noncitizen, or a corporation ~~not wholly owned by citizens~~ with any noncitizen shareholder, may not acquire title to land or waters in the Federated States of Micronesia. Notwithstanding the provisions of Article IV, the ownership of land and waters in each of the states shall be determined and held pursuant to the laws of the respective states and/or where applicable, pursuant to the customs and traditions of the state or the traditional kingdoms of the state.

PURPOSE AND INTENT OF AMENDMENT

The proposal keeps ownership from noncitizens, including companies with one noncitizen shareholder. It will allow the states to decide who owns land based on the prerogative of that state pursuant to the laws (constitutions of the state) and/or pursuant to customs and traditions. For example, this proposal will allow FSM citizens who move to Pohnpei to own land in Pohnpei if the customs of traditional kingdoms allow it. As stated by Traditional Leader Iso Nahnken Iriarte, a non-Pohnpeian can become of pwilidak and in becoming so by many years of living in Pohnpei after acquiring right to vote and so forth and if say Nett decides to give to Chuukese, Yapese or Kosrean land pursuant to Nett customs, as confirmed by Iso Salvador, Vice President, then that is up to Nett. That ownership by that FSM citizen shall be valid.

Those already with lands cannot lose lands. The current language attempts to eliminate any due process or equal protection concerns. However, this last concern is suggested by Delegate Nabeyan that it may not be necessary to mention Article IV because committee discussions will show intent that those affected are protected and taken into consideration. This will be discussed further so the language of Article IV is still on here.

Finally as pointed out by Delegate Albert, there is no need to mention the new article being prospective because of the already discussed Article IV protections for due process (no losing of lands already acquired).

Introducer: 
Delegate Salomon Saimon

Date: 4/4/2022

PROPOSAL

TO ENACT A NEW SECTION 5 OF ARTICLE I OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA TO PROVIDE FOR THE RIGHT OF THE PEOPLE OF A STATE FOR SELF -DETERMINTION WHEN THE NATIONAL GOVERNMENT IS BETRAYING THE TRUST, IGNORING THE NEED OF A STATE AND THWART THE SPIRIT OF THE UNION.

SECTION 5. A STATE CAN SECEDE FROM THE UNION BY THE VOTES OF THE PEOPLE OF THAT STATE FOR REASONS OF NATIONAL LEADERSHIP CORRUPTION, ABUSE AND WANTON DIREGARD OF STATE'S SOVERIGNTY AND NEED.

PURPOSE AND INTENT OF THE AMENDMENT

FSM WAS ESTABLISHED ON MAY 10, 1978 TO BE A LOOSE FEDERATION. THE FRAMERS OF THE MICRONESIAN CONSTITUTIONAL CONVENTION WAS WITH THE VIEW THAT THE CENTRAL POWER OF THE NATIONAL GOVERNMENT SHOULD BE LESS CENTRALISED THAN IT WAS UNDER THE TRUST TERRITORY ADMINISTRATION*. THIS AMENDMENT IS TO ENSURE THE LEADERS OF THE FSM NATIONAL GOVERNMENT UPHOLD THAT PRINCIPLE AND DO NOT AGGRANDIZE AND ABUSE THEIR POWERS TO MARGINALIZE OR OSTRACIZE THE NEEDS AND AFFAIRS OF THE STATE GOVERNMENTS.

* (SCREP NO. 33, II JOURNAL OF MICRONESIA CONSTITUTIONAL CONVENTION).

Dated: June 4, 2022

for 

Iso Nahnken Salvador Iriarte
Pohnpei At-large Delegate



Salomon Saimon
Pohnpei ED2 Delegate

Proposal No: CC-PR-04-75

Assigned to: Public Finance and Revenue

PROPOSAL TO AMEND CONSTITUTION

To amend Article IX, Section 3(a) of the Constitution of the Federated States of Micronesia to specify that the allottee of public funds shall follow national development plans in the expenditure of those public funds.

Section 3. The following powers may be exercised concurrently by Congress and the states:

(a) to appropriate public funds provided that the allottee of public funds shall be the President, governors or their designees whom all shall follow national development needs or omnibus development plans for the states and other purposes as may be prescribed by statute;

PURPOSE AND INTENT OF AMENDMENT:

This amendment specifies who must be the allottee of public funds and that the public funds must be spent on public purposes. In Udot v. FSM, the FSM Supreme Court Trial Division recognized the evil behind senators controlling public projects. The FSM Supreme Court Appellate Court affirmed that the act of allottees consulting with senators was unconstitutional and violated the separation clause of the FSM Constitution. FSM v. Udot, 12 FSM R. 29 (App. 2003). Despite the FSM Supreme Court's holding, consultations continue. This proposal limits such consultation and potentially all other means of control of public funds by members of Congress.

Introducer: _____


Delegate Salomon Saimon

Date: _____

6/4/2022

PROPOSAL TABLE

ARTICLE	TITLE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17 to 22
Article I	TERRITORY	68				74												
Article II	SUPREMACY																	
Article III	CITIZENSHIP	26	26	6, 26, 30, 33, 40, 43, 47	26	26												
Article IV	DECLARATION OF RIGHTS		1								38				27, 64			
Article V	TRADITIONAL RIGHTS			28, 41	13, 42													
Article VI	SUFFRAGE																	
Article VII	LEVELS OF GOVT.																	
Article VIII	POWERS OF GOVT.																	
Article IX	LEGISLATIVE	9 (m), 11(a), 24(m), 36(m)	21(a), 48, 75(a)		20, 25, 66	7, 10, 34, 53	15, 71	69						23, 72		12		
Article X	EXECUTIVE	5, 19, 31, 56, 60, 61, 63	8 (d)		55, 60, 61, 63	55, 60, 61, 63	63											
Article XI	JUDICIAL			62		52												
Article XII	FINANCE	20(b), 35, 51, 70(c-new)	57 (a)		14, 17, 29, 44, 49													
Article XIII	GENERAL PROVISIONS	18, 37, 67(a)	54, 58	39	22, 50, 73			4, 45, 55, 59	65									
Article XIV	AMENDMENTS	3, 16, 32, 46																
Article XV	TRANSITION																	
Article XVI	EFFECTIVE DATE																	
		1 to 75 #	Proposal No. (CC-PR-04-#)															
			Sections affected															
			New sections proposed															
			Sections not affected															

NOTES