

STANDING COMMITTEE REPORT NO. 15-23

RE: C.B. NO. 15-39/R&D

SUBJECT: C.B. NO. 15-39 ESTABLISHING THE FEDERATED STATES OF
MICRONESIA PETROLEUM CORPORATION.

SEPTEMBER 06, 2007

The Honorable Isaac V. Figir
Speaker, Fifteenth Congress
Federated States of Micronesia
Second Special Session, 2007

Dear Mr. Speaker:

Your committee on Resources and Development, to which was
referred Congressional Bill No. C.B 15-39, entitled:

"A BILL FOR AN ACT TO ENACT A NEW TITLE 27 OF THE CODE
OF THE FEDERATED STATES OF MICRONESIA TO GOVERN
ESSENTIAL SERVICES AND TO ENACT A NEW CHAPTER 2 THEREOF
TO CREATE THE FEDERATED STATES OF MICRONESIA PETROLEUM
CORPORATION, AND FOR OTHER PURPOSES."

begs leave to report as follows:

The intent and purpose of the Bill are expressed in its
title. Presidential Communication No. 15-28 explains
further that the proposed Bill is intended "as a next step
in a process targeted to reach final closing by September
30, 2007." It is important to emphasize in reporting on
this Bill that the Committee views its recommendation as "a
next step" rather than a culmination of a process.

Your Committee has held multiple public hearings at both
national and state levels to hear reports on the progress of
negotiations between the FSM Fuel Task Force and MOMI and to
receive comments on the proposed Bill to create the FSM
Petroleum Corporation.

BACKGROUND:

On July 19, 2007 this Committee submitted its Standing
Committee Report No. 15-18 recommending approval of
Congressional Resolution No. 15-23 approving "in principle"
the terms of a Memorandum of Understanding for the purchase
of MOMI assets and a new five year fuel supply agreement on
behalf of all four states of the FSM. That Report and
Resolution are adopted as part of the background and
discussion for this Report of your Committee.

The immediate purpose for the creation of the Federated
States of Micronesia Petroleum Corporation is simply to

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provide the "legal entity" to finalize agreements with MOMI, arrange financing and take ownership of assets. The secondary purpose of the Corporation is to operate the fuel storage and distribution facilities for some interim period pending divestment of its assets to the States or "privatization" by issuance of ownership shares of the Corporation.

It is important to emphasize that all discussions and negotiations leading to agreements for a national fuel supply agreement, to acquire MOMI fuel distribution assets and financing arrangements have been conducted by the FSM Fuel Task Force. Although the President stated in his Presidential Communication No. 15-28 that "the key economic terms of the proposed transaction have been recommended by the FSM's petroleum industry advisor as being both commercially reasonable and advantageous to the FSM" no such agreements or arrangements have yet been presented to this Committee for review.

STATE HEARINGS:

Hearings conducted in each of the states commencing in Kosrae on August 1 and ending in Pohnpei on September 4, 2007 were uniformly instructive and helpful to the Committee in evaluating the Bill as submitted. The comments received during those hearings together with written comments received from each of the State Attorneys General and Legislative Legal Counsel were instrumental in developing the amendments to the Bill submitted by this Committee as CD 1.

KOSRAE:

Separate hearings were held with the Governor and his staff on the afternoon of August 1 and with the Kosrae Legislature the following morning. Since Kosrae currently owns and operates its own fuel entity, a general concern was voiced over the role of the Kosrae based Micronesia Petroleum Corporation in the proposed new unified national fuel entity. A second concern was the effect the "divestment provisions" of the Bill would have on the ability of the shared entity to fulfill its overall mission. Detailed explanations and discussions concerning the flexibility

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provided by the Bill for assimilating MPC into the operations of the new corporation followed. The role of the "Executive Council" of the Corporation in setting the timing and conditions of any future divestment of assets or capitalization of the Corporation was also explained and discussed.

During both sessions of the Kosrae state hearings broad support for the concept of a shared fuel entity was expressed although both the Governor and the Legislature would prefer that Micronesia Petroleum Corporation be allowed to assume the function intended for the new corporation.

During the legislative session of the Kosrae hearings members raised questions about contingency planning if the current MOMI deadline for completion of the transactions cannot be met and also the readiness of the new Corporation to take over once the transaction is completed. Chairman Neth pointed out that those matters were for the Fuel Task Force but emphasized the urgency of the Committee's efforts to complete work on the Bill for action by Congress at the earliest possible date.

Specific comments and recommendations concerning the wording of the Bill were received from the Kosrae Attorney General and Legislative Counsel, many of which are incorporated into technical amendments proposed by this Committee as CD-1.

CHUUK:

Separate hearings were also conducted with the Governor and his staff and with the Legislature in Chuuk on August 2. Both hearings produced statements of wide support for the concept of the shared fuel entity and expressions of concern with various aspects of the transition from MOMI to Corporation control of the assets and operations.

The Governor observed that first drafts of written agreements for the asset purchases and the new fuel supply agreement had recently been received by the Fuel Task Force from MOMI. He stated that more work would be required on the agreements before they could be recommended to the Board of the new Corporation.

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The timing for all of the matters that need to be completed before any takeover of operations by the Corporation was a significant issue discussed. The Governor summarized the importance of prompt passage of a Bill to create the shared entity as a way to force each of the states to commit to the process through the appointment of their Board member representatives to the Corporation.

The legislative side voiced many of the same concerns relating to planning for a continuous, uninterrupted fuel supply during transition. Additional discussions included whether the fuel entity should be a monopoly due to the "essential service" nature of its function. It was explained that the proposed Bill did not contain language similar to the Telecom statute making fuel distribution a monopoly although MOMI would have an exclusive supply agreement for the Corporation for five years. Nothing in the Bill would prevent another business from purchasing fuel from a different supplier and competing with the Corporation in any of the states.

The members were also interested in preserving the option for future state ownership of the assets through divestment. The provisions of Section 265 of the proposed statute were explained and discussed in that context.

Both the Chuuk Attorney General and the Legislative Counsel provided comments and suggestions for technical changes to the existing draft of the Bill.

YAP:

A single hearing was held in Yap on the afternoon of August 8 attended by the Speaker and members of the Yap Legislature, the Attorney General representing the Governor's office and traditional leaders of Yap. All spoke in support of the concept of collective bargaining for a national fuel supply agreement and the acquisition of MOMI fuel storage and distribution assets.

The Attorney General and Members expressed their interest in state ownership of the MOMI assets and urged careful consideration of the written proposal for changes and

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additions to the proposed statute that had earlier been provided to the Committee by the Governor. Chairman Neth assured those present that the Committee had welcomed the suggestions and will be reviewing each of them in detail before it submits its Report to Congress.

In addition to the written comments and recommendations submitted by Governor Anefal, other comments and suggestions included placing more emphasis on preserving the environment, incorporation of language relating to the role of the Corporation in the development of alternative energy and fuels and the requirement of the Bill for Congressional "advice and consent" for Board appointments of the President but not Legislative advice and consent for appointments by the respective Governors.

Speaker Chieng of the Yap Legislature questioned the extent to which the Corporation would be subject to government control and regulation and expressed his hope that the Corporation would have the flexibility to make sound business decisions independent of political influence. It was explained that the role of the Executive Council of the Corporation as provided in an early draft of the Bill by the FSM Attorney General had been deliberately limited to address that very concern and that most policy and management functions of the Corporation are given to its Board of Directors.

Speaker Chieng concluded his comments with an expression of support for prompt action by Congress to adopt a Bill to create the Corporation.

POHNPEI

The final series of state hearings were held in Pohnpei on September 4, 2007. Separate hearings were held with the Governor and staff during the morning session and with the Legislature during the afternoon session. A copy of written comments addressed by Governor David to President Mori dated July 19, 2007 were not available to this Committee prior to its return to Pohnpei on August 13 following hearings in the other states.

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Pohnpei officials were uniformly in support of the concept of a jointly negotiated fuel supply agreement for all four states and of the acquisition of the MOMI bulk plant facilities located in Yap, Chuuk and Pohnpei. Most agreed with the need to establish the FSM Petroleum Corporation to execute the fuel supply agreement and also as the legal entity to finalize the purchase of the assets prior to the approaching MOMI deadline.

The acting Attorney General of Pohnpei, on behalf of Governor David, and individual Pohnpei senators spoke to the interest of Pohnpei in eventually operating the Pohnpei bulk plant and distribution facilities as a State entity. The Committee was encouraged to give favorable consideration to the amendments to C.B. No. 15-39 proposed by Governor David in his July 19 letter that would permit an individual state to take ownership of the facilities located within its boundaries upon payment to the Corporation of a proportional share of the purchase costs. Vice Speaker Moses informed those present that he had already prepared a floor amendment to the Bill that incorporates the Governor's requested provisions. He expressed concern, however, as to whether there had been consultation between the Governor's office and the Pohnpei Legislature and whether the proposed language was actually the "Pohnpei" position or just that of the Governor's office. Although there had not been prior consultation, several of the legislative representative present at the afternoon hearing adopted the same position.

Chairman Urusemal gave assurances that the Committee would give full consideration to the Governor's proposal as a possible amendment after the initial Corporation Bill is passed if not prior to passage. He stated the Committee would be meeting with members of the Fuel Task Force on September 5 and that the Committee may consider the Governor's proposal earlier if it were determined such an arrangement would not interfere with the Corporations ability to obtain start up financing and satisfy debt obligations after the Corporation is formed.

BANK OF GUAM:

On Monday, August 6 your committee held a hearing at the corporate offices of the Bank of Guam in Guam. Heading the

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Bank delegation was the President, Lourdes (Lou) A. Leon Guerrero. Members of her Bank staff present included Craig Wade, VP/Corporate Banking Group and Joaquin Cook also with the Corporate Banking Group.

Chairman Neth expressed the appreciation of the Committee for the opportunity to meet with Bank officials and the appreciation of the nation for the Bank's establishment of branches in Pohnpei and Yap and its continuing contribution to the economic development of the country. He expressed the desire of the Committee to encourage that Bank of Guam branches also be opened Yap and Kosrae. Chairman Neth explained the primary interest of the Committee at the hearing was related to the Bill to create the FSM Petroleum Corporation. He provided a brief background of the Fuel Task Force and the intended functions and purposes of the proposed shared entity.

President Guerrero responded for the Bank. She first assured the Committee that Bank plans for new branch offices in Yap and Kosrae were advancing to the point of identification of locations and regulatory applications. She then moved to the fuel corporation. She acknowledged Bank meetings with the Task Force and demonstrated a thorough understanding of its negotiations with MOMI and issues faced by the proposed shared fuel corporation.

She initially expressed concern with the role of the Executive Council in Corporation policy making and management. She was interested in the responses from the Kosrae and Chuuk governors and legislatures at the earlier state hearings and asked detailed questions about provisions for ownership of land and assets and specifically the manner in which the Kosrae MPC would be absorbed into the Corporation. She questioned how the Corporation was going to accommodate the interests of each of the states in the ownership and operation of the facilities and also how earnings "surpluses" would be distributed.

The role for the Executive Council in the Corporation Bill was explained, specifically with relation to the timing and circumstances of divestment or privatization. Chairman Neth and staff observed that the organizational concept for the corporation was the management of fuel cost and that any

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surplus funds from operations would be intended for that purpose and debt retirement. Section 21 of the Bill includes as a "function" of the Corporation to invest surplus revenues in the maintenance, expansion and improvement of product, facilities and services. The Bill does not provide for distributions of surpluses prior to a capitalization and issuance of common shares of the corporation pursuant to Executive Council direction under Section 33.

The meeting discussions were appropriately limited by Chairman Neth to the structure of the proposed Corporation. President Guerrero emphasized that the creation of a legal entity is essential to moving credit discussions forward. She and her staff volunteered that they had made two separate proposals to the task force. One was for a conventional loan with taxable interest and the second was for a tax exempt loan. She stated that some form of security for any commercial loan arrangement would be a likely requirement and mentioned possibilities such as a pledge of energy tax revenues as collateral for loan payments.

President Guerrero's concluding comments stressed the importance of establishing a corporate structure based on sound business management principles rather than political expediency. She stated her view that the success of the resulting shared fuel corporations will depend heavily on its ability to identify and hire qualified management personnel.

HIGHLIGHTS OF THE STATUTE:

INDEPENDENT CORPORATION: The FSMPC will be an independent public corporation controlled through a Board of Directors. Although most policy and management decisions are made by the Board and CEO of the Corporation, Congressional approval is required for:

- (a) Assumption of third party liability by Corporation - Section 251(2)
- (b) FSM backed or guaranteed loans
- (c) Third party loans in excess of aggregate \$1 million while national government a creditor or

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guarantor of Corporation obligations - Section
251(3)

- (d) Budgets of Corporation while the national government is obligated on any loans or obligations of the Corporation or the Budget relies on grants, loans or subsidies from the FSM - Section 253(3).

BOARD OF DIRECTORS: The Board is composed of seven voting members with State governors appointing one each and the President one. The final two are appointed by the President, subject to advice and consent by Congress, from a pool of private sector candidates nominated by State governors. All Board appointments are required to have some experience in relevant fields and at least one must possess special experience in the field of gas and oil distribution. Terms are for three years.

CHIEF EXECUTIVE OFFICER: The Bill creates a mandatory position of Chief Executive Officer to be hired by and serve at the pleasure of the Board. This person is generally responsible for the day-to-day operation of the Corporation and must have at least 5 years of relevant experience. The position is responsible for the development of a 5 year plan for the corporation and annual plans. The CEO hires and supervises a Chief Financial Officer and a Health and Safety Officer.

FUNCTIONS OF CORPORATION: The functions of the Corporation are:

- (a) manage the facilities,
- (b) contract for product,
- (c) provide for distribution "on the basis of commercially accepted practices, treating all purchasers of Products on equitable terms" (may use subsidies to reduce the overall costs charged to users of public utilities services),
- (d) maintain and operate the facilities to minimize interruption of supply taking safety, health and environment into consideration,
- (e) invest surplus revenues in the maintenance, expansion or improvement of facilities, represent the FSM with regard to regional fuel supply initiatives and

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- (f) generally to do all things necessary or incidental to the performance of its functions under the statute.

POWERS OF THE CORPORATION: Subsection 242(1) of the proposed statute lists customary corporation powers common to almost all corporate entities with one significant difference. The power to "borrow and raise money" in (1)(e) is made subject to Section 251 requiring Congressional approval when the national credit is at risk. Subsection 242(2) lists powers more specific to the functions of this particular corporation. Included are:

- (b) to acquire, lease and take over in any lawful manner the business, property, assets, and liabilities of any preexisting entity relating to fuel storage and distribution, and
- (g) to fix, charge and recover rates and fees for the supply of Product and for any other service provided by the Corporation.

EXECUTIVE COUNCIL: An Executive Council consisting of the President and each of the State Governors is created for the sole purpose "to set the terms and timing of any subsequent divestment of the assets and operations of the Corporation or for the issuance of common shares of the Corporation. Section 243 makes any divestment dependent on the payment or satisfaction of all indebtedness incurred in the formation and operation of the Corporation for which the Government of the Federated States of Micronesia may be obligated or a full and complete release of the Government from liability for the repayment of such loans or indebtedness.

DEBTS AND OBLIGATIONS OF THE CORPORATION: Pursuant to Section 251 of the proposed statute, "unless otherwise provided by law, the debts and obligations of the Corporation shall not be debts or obligations of the Government of the Federated States of Micronesia. CD-1 adds the Governments of the States to the exemption from responsibility for the debts of the Corporation. Pursuant to subsection (2), the Corporation cannot assume the liability of any third party whose assets or operations are acquired by the Corporation unless such assumption is approved by Resolution of Congress. Subsection (3) requires a Resolution of Congress for any new indebtedness of the

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Corporation while the national government remains a guarantor or obligated on preexisting indebtedness totaling more than \$1 million.

FUNDS OF THE CORPORATION: Section 252 lists the sources of "funds of the Corporation" and also requires the Corporation to "conserve its funds by performing its functions and exercising its powers under this Chapter so as to ensure that the total revenues of the Corporation are sufficient to meet all sums properly chargeable to its revenue account including depreciation and interest on capital."

ANNUAL BUDGET: An annual budget with audited accounts is required and if a deficit is projected, a plan for financing it is also required. In that case, Congressional approval is required before any additional indebtedness may be incurred. Section 253.

ACCOUNTS, ANNUAL REPORT AND AUDIT: Section 254 requires sound accounting practices by the Corporation and detailed annual reports by the CFO. The annual reports must be audited by the FSM Public Auditor.

TAX LIABILITY: The Corporation is specifically made subject to FSM taxes as may be required by law.

CONTRACTS: Section 262 requires bidding for all contracts for the purchase of supplies and materials and construction projects in excess of \$25,000 and permits local contractor preference.

TRANSITION; EMPLOYEES: Section 264 protects the Corporation from liability for any benefits accrued by employees of MOMI or MPC who are hired by the Corporation when it takes over operations.

DIVESTMENT OF ASSETS AND OPERATIONS: A key issue for certain States has been the terms and conditions under which the fuel assets acquired from MOMI would be returned to State ownership and control. The Bill as submitted places the authority to make that determination with the Executive Council of the President and State Governors "provided such divestment provides for the payment or satisfaction of all indebtedness incurred in the formation and operation of the

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Corporation for which the Government of the Federated States of Micronesia may be obligated or a full and complete release of the Government of the Federated States of Micronesia from liability for the repayment of such loans or indebtedness." A divestment or capitalization "instruction" by the Executive Council requires the unanimous consent of the President and the Governors.

Both Yap and Pohnpei submitted draft amendments to the Bill intended to modify the "divestment" provisions. The Yap proposal would place the ownership of the assets in the States subject to operation by the Corporation while the Pohnpei proposal would allow an individual State to control the timing of a partial divestment by allowing it to take control of the assets within its boundaries at any time by payment of a portion of the total acquisition cost.

CD-1 AMENDMENTS:

Changes to C.B. No. 15-39 as proposed by the Committee are contained in C.D.1. Most of the amendments result from suggestions and comments received by your Committee during public hearings or written suggestions received from Governors and legal staff of the various state governments. The recommended changes are all intended to improve or clarify original language of the Bill without making material alterations to the form, functions or powers of the Corporation as proposed.

- (1) Section 202(10) is amended to include "alternative fuels" in the definition of "Product or Products." This was a suggestion received from several different sources throughout the hearing process.
- (2) A common criticism heard during hearings with the State legislatures was the fact the Bill required "advice and consent" for the President's appointments but not for the Governor's appointments. "Advice and consent" by the Chuuk Senate and the Yap, Pohnpei and Kosrae Legislatures was inserted to be consistent with the requirement for Congressional approval of the Section 214(1)(a) appointment by the President. Congressional

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- advice and consent is still required for the two Section 214(1)(f) "private sector" appointments of the President from state nominations.
- (3) A subsection 241(b) is inserted to provide for a "Transitional Board" appointed solely by the President without advice and consent. This was done to meet the need of the corporation to have a Board in place at the earliest possible time. The Transitional Board is limited to no more than six months.
 - (4) As per the suggestion of the Kosrae Attorney General, Section 214(3) will now prohibit not only a Director from possessing any pecuniary interest in any business or entity which derives any part of its revenue from the distribution of oil or gas in the FSM, but also members of his or her immediate family.
 - (5) Section 214(4) permits a sitting member of the Board to continue for not more than 90 days after the expiration of his or her term if no replacement has been named or approved as the case may be. This change was a suggestion made by several of the State legal staff members.
 - (6) The Kosrae Attorney General recommended that Section 216(1) spell out that the four required annual meetings of the Board must include at least one each quarter.
 - (7) Section 242(2)(h) is amended at the suggestion of the Kosrae Attorney General to remove the limitation on the power to ration or differentially allocate supply of product "during times of shortage" and to make the power subject to "reasonable business practices and the needs of customers."
 - (8) Section 251 specifically provided that the debts and obligations of the Corporation are NOT the debts and obligations of the Government of the FSM unless assumed pursuant to law. The amendment proposed by the Governor of Yap would add the Governments of the States to that protection.
 - (9) Section 255 was intended to confirm the Corporation will pay all taxes provided by law.

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- The amendment proposed by the Governor of Yap is simply an improvement of the language used.
- (10) Section 262 imposes a competitive bidding process on the procurement and contracting activities of the Corporation. Suggestions were received from the Kosrae and Chuuk Attorneys General and the Kosrae Legislative Counsel which have been incorporated into the amendment. The bidding threshold was lowered to \$20,000 to harmonize with the local bidder preference provisions of Section 405, Title 55 of the FSM Code.
- (11) Section 265 was amended at the suggestion of the office of the Yap Legislative Counsel to harmonize the permissive nature of subsection one with the mandatory nature of subsection two. Consideration of more substantive changes suggested for this section and a proposed new Section 266 are deferred for future consideration and not included in CD-1.

SEPTEMBER 5 HEARING:

Your Committee held its final public hearing at 2:00 p.m. on September 5, 2007 meet with representatives of the FSM Fuel Task Force and the Attorney General's Office. Senator Satiro Paul, Vice-Chairman of the Standing Committee on Resources and Development of the Fifteenth Congress chaired the meeting. Other Committee members present were Senators Peter Sitan, Joseph J. Uresemal and Resio S. Moses. The hearing was attended by Senators Fredrico O. Primo, Moses A. Nelson and Roosevelt D. Kansou. Those present by invitation included Peter Christian, Chairman of the FSM Fuel Task Force (FTF) and FTF members Maderson Ramon and Hubert Yamatan and Assistant Attorney General Loretha Barnett. Also attending was Mr. Jared Morris the FTF energy advisor.

The hearing was convened by Vice Chairman Paul. Following his welcoming comments he invited opening statements from Chairman Christian of the Task Force and other witnesses present.

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Chairman Christian stated that he had just returned from meetings in Chuuk and revealed that asset purchase and fuel supply agreements have been initialed by MOMI and the Task Force and are now awaiting adoption of a Bill creating the Corporation and approval by Congress to become effective. He expressed surprise that preliminary copies of those agreements had not yet been provided to Congress or staff.

Chairman Christian requested that Maderson Ramon respond to questions about the status of financing arrangements. Mr. Ramon stated that negotiations for Corporation financing have progressed as far as they can without having a Corporation in existence to actually sign the loan agreements. He confirmed that any loan agreement will include approximately 5 million for the purchase of the assets of MOMI and another 5 million for use as start up and operating capital by the Corporation. The financing arrangements are with the Bank of Guam since the Bank of the FSM has lending limits that would have precluded it from making the full loan. He also confirmed that any loan from the Bank of Guam to the Corporation will require a guarantee by the national government and a pledge of its "full faith and credit." Mr. Ramon stated that the bank was basing its loan negotiations on a 4 state operation and that any "splintering" of the four states would complicate the loan process and require renegotiation.

There was discussion about what complications, if any, would arise if individual states were allowed to buy the facilities from the Corporation and operate them independently. The general observation was that any "splintering" of the four state operation would require a greater evaluation of its effect on the ability of the remaining operation to operate and satisfy the remaining obligations of the Corporation. Assistant Attorney General Barnett stated that it would also complicate the pending agreements with MOMI, including the fuel supply agreement, and that they would also require some renegotiation should that happen.

Mr. Jared Morris was called upon to give his expert view of the proposed Corporation and the proposed agreements with MOMI. He stated that there are a number of alternatives available for the provision of fuel distribution services

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ranging from allowing private enterprise to take over distribution facilities to having a fully government managed operation. He outlined the reasons that big multinational corporations have been divesting their fuel distribution assets throughout the Pacific region but stated it was mostly because they were not making enough money to satisfy stockholders. He gave examples of the volumes of fuel used in the entire Pacific region in relation to world consumption and then by comparison the total daily consumption of the FSM to demonstrate the problem individual countries face in negotiations with fuel corporations.

Mr. Morris explained how a national approach to fuel supply was likely to produce lower fuel prices than an individual state approach. He stated the process that the Fuel Task Force has been engaged in is similar to the process that has been forced upon small Pacific island nations throughout the region. He stated that the agreements that have been negotiated for the FSM are the most favorable that he has seen. He expressed his opinion the Corporation is capable of operating successfully as long as it remains a combined entity.

There was discussion about the ability of the Corporation to take over the MOMI business operations. Several members of the Task Force explained that current FSM citizens employed by MOMI in the state operations would be retained. Training is an ongoing effort for both employees and management. The start up financing includes funding for technical assistance and it was also anticipated that substantial benefits could be received from retention of management and employees of the Kosrae based Micronesia Petroleum Corporation.

In response to specific questions, Chairman Christian represented the agreed price for the distribution assets of MOMI as significantly lower than the actual market value and approximately 20% of the replacement cost. Questions concerning whether the facilities are "substandard" were answered by the Task Force energy advisor. He stated that "you would build them differently today" if you were replacing them. He said there is "plenty of room for improvement" regarding the tank farm facilities but that the business plan already included plans for improvements.

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Committee member questioned the advisability of passing the Corporation Bill without having even seen the agreements the Corporation will be making and the national government guaranteeing and the effect of national guarantees pledging the nations "full faith and credit" as collateral. Assurances were given that passage of the Bill creating the Corporation and approval of agreements of the Corporation were separate and distinct issues. Passage of the Bill would not by itself expose the national government to financial liability and that the agreements referred to will be subject to future review by Congress.

Statements of appreciation were made and the hearing was adjourned by Vice Chairman Paul. The Committee then commenced a review of the written comments and suggestions received from each of the states and changes or additions recommended after the submission of the Bill. The Committee found many of them to be valuable contributions to the wording of the Bill. Some of those suggestions have been incorporated into CD-1 for consideration by Congress.

One of the recommended changes relates to the manner of appointment of the Board of Directors. The Committee agreed with comments received during hearings in several of the States that it was inconsistent to provide for "advice and consent" by Congress of Presidential appointments but not provide for Legislative advice and consent for Governor's appointments. Accordingly, advice and consent by the Chuuk State Senate and the Legislatures of Yap, Kosrae and Pohnpei was inserted for the Governors' appointments.

Secondly, because of the urgency in having a Board of Directors in place soon after the Corporation is legally formed, provision was made for a transitional Board of Directors consisting of 5 members all appointed by the President without advice and consent. The "Transitional Board" is limited to not more than six months.

It was the consensus of the Committee that other proposals that would make more substantive changes to the structure of the Corporation or the way in which it is managed or in which divestment decisions are made should be left for future consideration as amendments.

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RE: C.B. NO. 15-39/R&D

SUBJECT: C.B. NO. 15-39 ESTABLISHING THE FEDERATED STATES OF
MICRONESIA PETROLEUM CORPORATION.

SEPTEMBER 06, 2007

CONCLUSION:

The immediate goal of C.B. No. 15-39 is simply to establish a legal entity to enter into the financial transactions leading the acquisition and control of the MOMI fuel facilities in three states and to secure a new fuel supply agreement for all states.

The Corporation will, for some interim period, be called upon to operate the fuel distribution facilities in all four states. During that time it will be required to meet the obligations of its fuel supply agreement and financing arrangements. The ability of the Corporation to finance its operations and service its debt is premised on a business model consisting of the operation of the fuel facilities in all four of the states.

The Committee believes that the current Bill is drafted in such a way as to maximize future flexibility regarding the state ownership and control of assets and operations while promoting the immediate goal of securing a steady, secure and reasonably priced source of fuel for all of the States of the FSM. It must be cautious of any provisions that may compromise the commercial viability of the Corporation during its existence.

While the Committee agrees with the ultimate goal of State ownership and management of the fuel distribution facilities, it believes any subsequent full or partial divestment must occur under circumstances that will not compromise the overall purpose of the Corporation to provide a secure and economical fuel supply to all citizens of the nation.

The Committee considers the adoption of C.B. No. 15-39 to be only a "next step" in assuring future energy supplies for the nation. It will by no means be the culmination of the process. With the immediate need for the creation of a legal entity accomplished, this Committee and Congress will have the opportunity in future months to give further attention to the specific visions and expectations of each of the states with regard to the future of the proposed FSM Petroleum Corporation.

STANDING COMMITTEE REPORT NO. 15-23

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SEPTEMBER 06, 2007

RECOMMENDATION:

Your Committee on Resources and Development recommends the passage of C.B. No. 15-39, CD-1 on first and second reading.

Respectfully submitted,

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Dion G. Neth, chairman	/s/ Setiro Paul Setiro Paul, vice chairman

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/s/ Resio S. Moses Resio S. Moses, member	/s/ Peter Sitan Peter Sitan, member

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Joe N. Suka, member	/s/ Joseph J. Urusemal Joseph J. Urusemal, member W/Reservation

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/s/ Paliknoa K. Welly Paliknoa K. Welly, member