

S.C.R. NO. 13-37

SEPTEMBER 2, 2003

COMMITTEE ON JUDICIARY AND GOVERNMENTAL OPERATIONS

Your Committee on Judiciary and Governmental Operations, to which was referred C.R. No. 13-14, entitled:

“A RESOLUTION CONFIRMING THE NOMINATION OF MR. PAUL E. MCILRATH TO SERVE AS SECRETARY OF THE DEPARTMENT OF JUSTICE OF THE FEDERATED STATES OF MICRONESIA.”,

begs leave to report as follows:

The intent and purpose of the resolution are expressed in its title.

On July 16, 2003, by Presidential Communication No. 13-29, the President of the Federated States of Micronesia submitted the nomination of Mr. Paul McIlrath to the Congress for confirmation. Mr. McIlrath has been nominated by the President to serve as Secretary of the Department of Justice of the Federated States of Micronesia, a position he has held for the past three years.

Your committee held a public hearing on August 28, 2003 to consider Mr. McIlrath's nomination. Witnesses called before your committee included the nominee, interested members of the public, interested staff of the Department, the President's representative, and interested representatives of other FSM Executive Branch departments and agencies. Your committee also sought the comments of each State's Governor, Legislature, State Attorney General, Chief of Police, Micronesian Legal Services Corporation (“MLSC”) and others.

As noted above, Mr. McIlrath has served as Secretary of Justice for the Federated States of Micronesia for the last three years. During that time, the Department of Justice, like other departments and agencies of the National Government, has been asked to “do more with less”. In many respects, the Department has done just that. Equally important, your committee heard testimony that, under the stewardship of Mr. McIlrath, there has been greater teamwork within the department as a whole, more professionalism throughout the department's divisions, and increased participation of Micronesians in the Divisions of Law and Litigation, all of which were (and continue to be) priorities for the nominee. Nonetheless, concerns about various aspects of the department's performance have been expressed by some -- both within and outside the National Government.

In particular, some have raised concerns about an alleged “lack of sensitivity to local tradition and custom” in the enforcement of FSM law. Others have raised concerns about the administration of the so-called “Joint Law Enforcement” program. Still others complain about what appears to be an increase in the illegal importation of handguns and

drugs into the FSM. Each of these concerns was addressed directly by the nominee during the hearing. While no one can say for sure what will happen over the next four years, your committee was satisfied with the answers provided by the nominee and with his apparent grasp of the complexities of the many challenging issues facing this nation. In particular, your committee was pleased to hear the nominee's answers to a number of difficult and sensitive questions, including those concerning "sovereignty" and the Amended Compact. As the Chief Legal and Law Enforcement Officer of the Nation, the Secretary of Justice must be ever-vigilant to potential threats to our Nation's sovereignty. In addition, your committee hopes that, should the nominee be confirmed, he will dedicate equal energy to finding ways to more effectively and efficiently enforce national law the States. The Joint Law Enforcement program is a critical part of the equation. Better administration of the program is a "must". Your committee would like to make the following technical amendment to the resolution:

1. Line 2 - delete "First" and insert "Second" in lieu thereof.

With these thoughts in mind, your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.R. No. 13-14, as amended herein, and recommends its adoption in the form attached hereto as C.R. No. 13-14, C.D.1.

Signed by Senators Halbert, Alik, Peyal and Christian