

STANDING COMMITTEE REPORT NO. 17-42

RE: P.C. NO. 16-369/J&GO

SUBJECT: FY 2012 BUDGET

SEPTEMBER 21, 2011

The Honorable Isaac V. Figir  
Speaker, Seventeenth Congress  
Federated States of Micronesia  
Second Regular Session, 2011

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which was jointly referred Presidential Communication No. 16-369, begs leave to report as follows:

Presidential Communication No. 16-369 transmits the National Government's proposed budget for fiscal year 2012 as set forth in the National Government Fiscal Year 2012 Proposed Budget ("Budget Book"). Pursuant to rule 7, section 4(b) of the Official Rules of Procedure of the Seventeenth Congress of the Federated States of Micronesia, your Committee has limited its review to those portions of the proposed budget relating to matters under its jurisdiction. These are:

I. Operations:

A. Department of Justice

1. Administration, Office of the Secretary
2. Division of Litigation
3. Division of Law
4. Registrar of Corporations
5. Division of Immigration and Labor
6. National Police

B. Office of the Public Defender

C. National Judiciary

D. Agencies, Boards, Authorities, Commissions and Corporations

1. National Postal Services

E. Special Programs

1. National Election Commission Office

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II. Grants, Subsidies and Contributions:

- A. Department of Justice
  - 1. States Joint Law Enforcement
  - 2. Fuel Subsidy
- B. State Judiciaries
- C. Micronesian Legal Services Corporation

III. Capital and Human Resources Development:

- A. Public Defender
- B. Judiciary Branch Office Repairs/Renovation
- C. FSM Postal Services (Kosrae)
- D. Department of Justice
  - 1. Life Extension for FSM Patrol Boats
  - 2. Slipping for FSM Patrol Boats
  - 3. Aerial Surveillance
  - 4. Immigration Passport Facilitation
- E. National Election Commission
  - 1. Voter ID Card Project

This report and all previous and subsequent reports by this Committee should be treated as policy for this Nation as defined by the Congress. It is your Committee's intent that any commentary found in this report should be treated as policy for the guidance of the relevant departments, agencies and offices.

Your Committee's findings and recommendations follow:

DISCUSSION OF FY 2012 BUDGET

The appropriations discussed below are presented, by department, office and agency, in the order in which they appear in the budget book. The figures given for each department, office and agency include the figures from the budget book for the total amount appropriated by law for FY 2011, as set forth in Public Law No. 16-43, and the amount recommended by EBRC for each entity for FY 2012.

Your Committee makes the following recommendations. In line with the President's aspiration to streamline the functions of the National Government, your Committee has endeavored to keep total overall expenditures within the total amount proposed by EBRC, and any proposed increases have been more than offset by proposed reductions.

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I. OPERATIONS

A. Department of Justice

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Personnel	2,197,610	2,279,062	2,300,029
Travel	108,585	173,131	138,131
Contract	126,520	138,758	143,758
OCE	952,720	435,720	440,720
Fixed Assets	20,000	18,538	46,038
<b>Total</b>	<b>3,405,435</b>	<b>3,045,209</b>	<b>3,068,676</b>
# positions	131	133	131

Your Committee notes that the overall increase in the Personnel line over FY11 is significantly greater than it appears because it does not include \$328,971 in overtime for the Division of Immigration and Labor, which would have been included in this budget in prior years but is now funded through the revolving fund established pursuant to P.L. No. 16-56. In addition, necessary funding in the amount of \$115,355 for hazard pay, night differentials and sea allowances for the National Police was not included in the Department's original budget submission and has been included in our recommended budget.

In addition, this budget does not include an additional \$500,000 for fuel, which was included in the National Police budget for FY11 but now appears as a subsidy. Thus, even taking into account your Committee's adjustments to the EBRC-recommended budget, the Department's overall approved spending shows a marked increase over FY11 levels.

At the hearing on the Department's FY12 Budget, your Committee stressed the critical role of the Department in facilitating joint law enforcement activities with the states, and noted that no funding had been specifically sought for this purpose. Your Committee hopes that the Department will use its general appropriations and pursue any available sources of grant assistance to support activities in this area, including the holding of a joint law enforcement conference, and would look favorably on a budget request for such activities in FY13.

Detail by Division

**1. Administration, Office of the Secretary**

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	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Personnel	107,464	113,461	113,461
Travel	18,818	43,968	28,968
Contract	20,000	20,000	25,000
OCE	22,600	22,600	22,600
Fixed Assets	2,500	5,903	5,903
<b>Total</b>	<b>171,382</b>	<b>205,932</b>	<b>195,932</b>
#positions	5	5	5

**Personnel**

Your Committee recommends approval of the EBRC-recommended Personnel budget, reflecting the increase in benefits from 9 percent to 11 percent.

**Travel**

Your Committee notes that the Travel budget recommended by EBRC for the Office of the Secretary includes \$25,000 in unanticipated travel. Although some travel may be genuinely unanticipated, this represents over half of the Office's entire travel budget. Your Committee has declined in the past to recommend such vague and unsupported budget requests; indeed, in FY11 we did not support a similar request by this Office for \$20,000 in unanticipated travel. Accordingly, we recommend allowing only \$10,000 for unanticipated travel, and reducing the Travel line accordingly.

**Contractual Services**

Your Committee notes that EBRC declined the Office's request for \$15,000 for a subscription to the Westlaw legal research database. The Committee believes that access to up-to-date legal information is critical to the work of the Department of Justice and to the effectiveness of the National Government as a whole. We therefore recommend the addition of \$15,000 to the Contract budget to cover such a subscription, with the understanding that the Office will share its access to Westlaw with the rest of the Department and, as may be necessary, with other Government Departments.

Under the Contractual Services line, EBRC recommended \$20,000 for the Department's legal intern program for law students. Although your Committee supports the intern program, the \$20,000 budget provided last year was apparently under-utilized, with only one intern being recruited. We therefore recommend reducing the

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budget to \$10,000 for FY12, with the hope that the program will have improved its recruitment and developed sufficiently to justify restoring funding to \$20,000 in FY13.

### **Other Current Expenses**

Your Committee approves the EBRC recommendation of \$22,600 for communications, printing and reproduction, and supplies and materials.

### **Fixed Assets**

Your Committee recommends approval of the Fixed Assets request for 2 typewriters and 4 desktop computers.

## **2. Division of Litigation**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Personnel	139,031	141,581	141,581
Travel	20,350	51,795	41,795
Contract	7,000	7,000	7,000
OCE	0	10,000	10,000
Fixed Assets	0	5,325	5,325
<b>Total</b>	<b>166,381</b>	<b>215,701</b>	<b>205,701</b>
#positions	3	3	3

### **Personnel**

Your Committee recommends approval of the EBRC-recommended Personnel budget, reflecting the increase in benefits from 9 percent to 11 percent.

### **Travel**

Your Committee notes that the Division's EBRC-recommended Travel budget is 150% higher than the budget approved for FY11. At the hearing held on the Department's FY12 budget, the Division indicated that a number of the trips anticipated for staff were still only tentative. However, it also noted that part of its Travel budget is intended for use in extraditing criminals from

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the United States. We therefore recommend reducing the EBRC-recommended amount by \$10,000, and reserving \$10,000 of the remaining budget to be placed in a special fund to be used for extradition purposes only.

### **Contractual Services**

Your Committee approves the EBRC recommendation of \$7,000 for transcripts and witnesses.

### **Other Current Expenses**

Your Committee approves the EBRC recommendation of \$10,000 for communications, library and research materials, and supplies and materials.

### **Fixed Assets**

Your Committee recommends approval of the Division's Fixed Assets request for 1 desktop computer, 2 laptops and 2 printers.

### **3. Division of Law**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Personnel	185,374	283,162	188,774
Travel	9,946	28,686	18,686
Contract	0	0	0
OCE	0	10,000	10,000
Fixed Assets	0	4,810	2,310
<b>Total</b>	<b>195,322</b>	<b>326,658</b>	<b>219,770</b>
#positions	4	6	4

### **Personnel**

The EBRC recommends funding two additional Assistant Attorney General positions. Your Committee notes that it declined a similar funding request for FY11, and that one of the Division's existing Assistant Attorney General positions has been vacant for several months. Your Committee therefore recommends that neither position be approved, and accordingly that the Personnel line be reduced by \$94,388.

### **Travel**

Your Committee notes that the Division's EBRC-recommended Travel budget is nearly three times the size of the budget approved for

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FY11. We therefore recommend reducing the EBRC-recommended amount by \$10,000.

#### **Other Current Expenses**

Your Committee approves the EBRC recommendation of \$10,000 for communications, library and research materials, and supplies and materials.

#### **Fixed Assets**

Your Committee recommends approval of the Division's Fixed Assets request, less \$2,500 for two laptops apparently intended for the two additional requested positions.

#### **4. Registrar of Corporations**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Personnel	31,644	33,909	33,909
Travel	5,000	9,590	9,590
Contract	0	3,500	3,500
OCE	2,500	4,500	4,500
Fixed Assets	0	2,500	2,500
<b>Total</b>	<b>39,144</b>	<b>53,999</b>	<b>53,999</b>
#positions	2	2	2

#### **Personnel**

Your Committee recommends approval of the EBRC-recommended Personnel budget, reflecting the increase in benefits from 9 percent to 11 percent.

#### **Travel**

Your Committee recommends approval of the EBRC-recommended Travel budget.

#### **Contractual Services**

The EBRC recommends \$3,500 for setting up and maintaining a website for the Registrar of Corporations. Your Committee approves this item but requests that the Registrar explore working with other Departments to harmonize the Government's online presence and achieve cost savings.

#### **Other Current Expenses**

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Your Committee approves the EBRC recommendation of \$4,500 for communications, supplies and materials.

### **Fixed Assets**

Your Committee recommends approval of the Division's Fixed Assets request for 1 computer.

### **5. Division of Immigration and Labor**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Personnel	673,772	460,345	460,345
Travel	23,482	14,657	14,657
Contract	74,020	77,758	77,758
OCE	98,220	104,220	109,220
Fixed Assets	0	0	30,000
<b>Total</b>	<b>869,494</b>	<b>656,980</b>	<b>691,980</b>
#positions	37	37	37

### **Personnel**

Your Committee recommends approval of the EBRC-recommended Personnel budget, reflecting the increase in benefits from 9 percent to 11 percent and a saving of \$328,971 from funding overtime through the Immigration, Customs and Quarantine Overtime Revolving Fund. Your Committee was concerned to learn at the hearing on the Department's FY12 budget that the Division is only billing operators of aircraft and sea vessels for the base salaries of its officers incurred from overtime. We expect the Division to bill for the full cost of providing services, including benefits incurred as a result of overtime, such that no supplemental appropriation is required to top up the revolving fund.

### **Travel**

Your Committee recommends approval of the EBRC-recommended Travel budget.

### **Contractual Services**



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Your Committee approves the EBRC recommendation of \$77,758 for maintenance, office space rental, and official ports of entry.

### **Other Current Expenses**

Your Committee notes that the increase in OCE is due to the hosting of the Pacific Immigration Directors' Conference scheduled for the fall of 2011, and approves \$20,000 in funding for this conference, an increase of \$5,000 over the EBRC-recommended amount. Your Committee approves the remaining OCE items - BMS National Security, communications, PIDC annual fee, POL, postage, printing and reproduction, supplies and materials, and utilities - as recommended by EBRC.

### **Fixed Assets**

The Division made a request for \$30,000 for vehicles for Pohnpei, Chuuk, and Kosrae, which was not recommended by EBRC. Your Committee is persuaded that the vehicles are necessary for officers to visit work sites to enforce immigrant labor laws and for other purposes, and therefore recommend that this request be funded.

### **6. National Police**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Personnel	1,060,323	1,246,604	1,361,959
Travel	18,727	24,435	24,435
Contract	25,500	30,500	30,500
OCE	829,400	284,400	284,400
Fixed Assets	17,500	0	0
<b>Total</b>	<b>1,951,450</b>	<b>1,585,939</b>	<b>1,701,294</b>
#positions	80	80	80

### **Personnel**

Your Committee notes that most of the original increase in Personnel is due to an increase in the amount budgeted for overtime from \$290,912 in FY11 to \$428,255. In addition, the Committee was notified by the Department that necessary funding for hazard pay, night differentials and sea allowances was not included in the Department's original budget submission. Funding these items increases the Personnel line by an additional \$115,355.

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Your Committee urges both the National Police and the Division of Immigration and Labor to take all reasonable measures to control overtime costs, including effectively managing officers' time and analyzing whether the hiring of additional personnel would result in overall cost savings.

### **Travel**

Your Committee recommends approval of the EBRC-recommended Travel budget.

### **Contractual Services**

Your Committee approves the EBRC recommendation of \$30,500 for computerization, website maintenance, Chuuk office lease, and two contract staff.

### **Other Current Expenses**

Your Committee approves the EBRC recommendation of \$284,400 for communications, provisions, spare parts and supplies, utilities and VMS. Your Committee notes that last year's OCE included \$500,000 POL, which this year has been requested as a "Fuel Subsidy" under Grants, Subsidies and Contributions.

## **B. Office of the Public Defender**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Personnel	511,169	525,442	525,442
Travel	87,032	78,779	78,779
Contract	123,150	115,350	115,350
OCE	47,100	44,100	44,100
Fixed Assets	32,500	0	0
<b>Total</b>	<b>800,951</b>	<b>763,671</b>	<b>763,671</b>
#positions	25	25	25

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**Personnel**

The Committee recommends approval of the EBRC-recommended amount. At the hearing on the FY12 Budget, the Public Defender explained that the increase in Personnel is largely due to the Office's desire to improve recruitment for vacant positions in Chuuk and Yap by advertising them at the highest step level.

**Travel**

The Committee recommends the EBRC-recommended amount.

**Contractual Services**

Your Committee approves the EBRC recommendation of \$115,350 for appeal transcripts, attorney fees, Chuuk and Yap leases, janitorial services, scholarship, subscriptions, and Versus Law.

**Other Current Expenses**

Your Committee approves the EBRC recommendation of \$44,100 for books and library materials, communications, freight, POL, printing and reproduction, rental services, repair services, supplies and materials, and utilities.

**C. National Judiciary**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Personnel	757,574	771,072	757,415
Travel	147,015	147,015	147,015
Contract	120,300	120,300	120,300
OCE	175,306	175,306	175,306
Fixed Assets	49,000	49,000	76,000
<b>Total</b>	<b>1,249,195</b>	<b>1,262,693</b>	<b>1,276,036</b>
#positions	31	31	31

**Personnel**

The EBRC-recommended Personnel budget reflects the increase in benefits from 9 percent to 11 percent. In addition, at the budget hearing the Director of the Supreme Court requested that one staff attorney position be eliminated and the funds diverted

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to hire an IT Manager and IT Assistant to support the Court's strategic goal of adopting an electronic filing system and establishing a system-wide area network for the FSM Supreme Court operations in all the four States. The Committee supports funding an IT Manager position with an ungraded status and a starting salary of up to \$28,000 for the first year to allow the Court time to define and refine the tasks and duties before the position is classified under the Public Service System. Including benefits, the total cost of this position should be budgeted at \$31,080. The eliminated staff attorney position was budgeted at \$44,737, so this change will result in a net saving in Personnel of \$13,657.

**Travel**

Your Committee approves the EBRC recommendation for travel. The Committee notes that the National Judiciary also receives funding for travel and training provided under the Amended Compact by the Pacific Islands Committee of the Ninth Circuit Judicial Council.

**Contractual Services**

Your Committee approves the EBRC recommendation of \$120,300 for contract extension bonuses, Chuuk courthouse lease, housing allowances, memberships, professional services, repair and maintenance, representation, security services, and staff training.

**Other Current Expenses**

Your Committee approves the EBRC recommendation of \$175,306 for books and library materials, communications, FSM Judicial Conference, Law Day, POL, printing and reproduction, supplies and materials, and utilities.

**Fixed Assets**

The Committee recommends transferring \$2,000 of the funds saved in Personnel to the Fixed Assets line for the purchase of IT equipment to support the new position. In addition, the Director made an additional request of \$25,000 for an official vehicle for Associate Justice Yamase, which the Committee also recommends funding.

**D. Agencies, Boards, Authorities, Commissions & Corporations**

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**1. National Postal Services**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Personnel	440,065	449,022	449,022
Travel	48,299	42,741	42,741
Contract	139,412	156,080	156,080
OCE	92,400	107,400	107,400
Fixed Assets	20,000	20,000	20,000
<b>Total</b>	<b>740,176</b>	<b>775,243</b>	<b>775,243</b>
#positions	38	38	38

**Personnel**

Your Committee recommends approval of the EBRC-recommended Personnel budget, reflecting the increase in benefits from 9 percent to 11 percent.

**Travel**

Your Committee recommends approval of the EBRC-recommended Travel budget.

**Contractual Services**

Your Committee approves the EBRC recommendation of \$156,080 for air transportation, office leases, local and outer islands mail contracts, office and equipment maintenance, personnel contract, and representation funds.

**Other Current Expenses**

Your Committee approves the EBRC recommendation of \$107,400 for POL, promotions, supplies and materials, and telephone bills/overseas calls. At the hearing on the Postal Service's FY12 Budget, your Committee expressed concern about the increase in telephone bills/overseas calls from \$17,000 in FY11 to \$25,000 recommended by EBRC for FY12. The Acting Postmaster explained that part of this cost was to allow for the scanning and tracking of mail through the USPS system. Although it approves this line item for FY12, the Committee urges the Postal Service and other agencies and departments to look into alternatives such as

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internet-based telephonic services to reduce expenditures in this area in the future.

### **Fixed Assets**

Your Committee recommends approval of the Postal Service's Fixed Assets request for computers and peripherals.

## **E. Special Programs**

### **1. National Election Commission**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Personnel	185,300	188,740	188,740
Travel	13,226	12,972	12,972
Contract	21,877	21,877	21,877
OCE	48,463	48,463	48,463
Fixed Assets	7,678	4,250	4,250
<b>Total</b>	<b>276,544</b>	<b>276,302</b>	<b>276,302</b>
#positions	11	11	11

### **Personnel**

Your Committee recommends approval of the EBRC-recommended Personnel budget, reflecting the increase in benefits from 9 percent to 11 percent.

### **Travel**

Your Committee recommends approval of the EBRC-recommended Travel budget.

### **Contractual Services**

Your Committee approves the EBRC recommendation of \$21,877 for lease/rental of office space.

### **Other Current Expenses**

Your Committee approves the EBRC recommendation of \$48,463 for communications, maintenance and repair services, POL, supplies and materials, and utilities.

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**Fixed Assets**

The Committee recommends funding the Commission's Fixed Assets request of \$4,250 for a used vehicle for Yap.

**II. Grants, Subsidies and Contributions**

**A. Department of Justice**

**1. States Joint Law Enforcement**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Kosrae	25,000	25,000	25,000
Pohnpei	50,000	50,000	50,000
Chuuk	50,000	50,000	50,000
Yap	25,000	25,000	25,000

Your Committee recommends funding this budget request in full.

**2. Fuel Subsidy**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Fuel Subsidy	0	500,000	500,000

Your Committee recommends approval of this item, which replaces the POL line item for the National Police.

**B. State Judiciaries**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Kosrae	30,000	30,000	30,000
Pohnpei	45,000	45,000	45,000
Chuuk	45,000	45,000	50,000
Yap	30,000	30,000	30,000

Your Committee recommends approving a request from the Chief Justice of the Chuuk State Supreme Court that the Chuuk state judiciary's appropriation be increased to \$50,000 to reflect increased costs. Your Committee approves the partial use of the Yap State Judiciary subsidy for scholarships.

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**C. Micronesian Legal Services Corporation**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
	150,000	150,000	150,000

Your Committee recommends funding the MSLC's budget request in full.

**III. Capital and Human Resources Development**

**A. Public Defender**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Pohnpei PD Renovation and Retaining Wall	0	12,000	12,000

The Committee recommends funding this project, which was initially requested for FY 11.

**B. Judiciary Branch Office Repairs/Renovation**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
FSM Supreme Court Improvement Kosrae	0	65,964	65,964
FSM Supreme Court Improvement Pohnpei	0	55,000	55,000
FSM Supreme Court Improvement Chuuk	0	9,900	9,900
FSM Supreme Court Improvement	0	12,474	12,474

After the Committee rejected these requests last fiscal year, the National Judiciary approached the Executive, as the Committee had suggested, inquiring whether Infrastructure Maintenance Funds could be used to support these projects. The Executive declined this request, and the Committee recommends the funding of these projects for FY 2012.

**C. FSM Postal Services (Kosrae)**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended



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FSM Postal Services (Kosrae)	0	100,000	100,000
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Your Committee recommends funding this project for construction of a permanent postal building in Kosrae, subject to the land for the building still being available.

**D. Department of Justice**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Life Extension for FSM Patrol Boats	85,000	85,000	85,000
Slipping for FSM Patrol Boats	250,000	250,000	250,000
Aerial Surveillance	0	25,000	25,000
Immigration Passport Facilitation	0	150,000	0

Your Committee supports the Capital Development Projects requested by the Department of Justice, with the exception of Immigration Passport Facilitation. Although Congress has previously rejected OIA funding for the passport project, your Committee believes that this project deserves reconsideration; in any event, however, we urge the Department to seek an extension of the lapse date for OIA funding before seeking to fund the program from domestic revenues.

**E. National Election Commission**

	FY 11 Appropriated	FY 12 EBRC Recommended	FY 12 J&GO Recommended
Voter ID Card Project	83,000	25,000	25,000

Your Committee recommends funding this budget request in full.

**CONCLUSION**

Your Committee on Judiciary and Governmental Operations has carefully reviewed the President's recommended FY 2012 budget and all information provided by the Executive and the entities under your Committee's jurisdiction. The recommended sums set forth above reflect your Committee's recommendations on the level of funding for the designated activity, program or project for FY 2012.

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Subject to the conditions and limitations set forth herein and the availability of funds as determined by your Committee on Ways and Means, your Committee on Judiciary and Governmental Operations recommends approval of the amounts listed above.

Respectfully Submitted,

/s/ David W. Panuelo  
David W. Panuelo, chairman

/s/ Bonsiano F. Nethon  
Bonsiano F. Nethon, vice chairman

/s/ Tiwiter Aritos  
Tiwiter Aritos, member

/s/ Isaac V. Figir  
Isaac V. Figir, member

/s/ Yosiwo P. George  
Yosiwo P. George, member

/s/ Dohsis Halbert  
Dohsis Halbert, member

/s/ Roger S. Mori  
Roger S. Mori, member