

STANDING COMMITTEE REPORT NO. 17-49

RE: C.R. NO. 17-19/J&GO

SUBJECT: TO CONFIRM THE NOMINEE MR. MAKETO ROBERT TO
THE POSITION OF SECRETARY OF THE DEPARTMENT
OF JUSTICE OF THE FEDERATED STATES OF
MICRONESIA

SEPTEMBER 26, 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 referred C.R. No. 17-19, entitled:

"A RESOLUTION TO CONFIRM THE NOMINATION OF MR. MAKETO
ROBERT TO THE POSITION OF 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.

Maketo Robert has been nominated by the President for the
position of Secretary of the Department of Justice of the
Federated States of Micronesia. This nomination is subject to
the advice and consent of Congress pursuant to article X, section
2(d), of the Constitution and title 2, section 207(1) of the Code
of the Federated States of Micronesia.

Your Committee is satisfied with the qualifications, experience,
and dedication of the nominee. Mr. Robert has a Bachelor of Arts
degree from the University of Guam and a Juris Doctor degree from
California Western School of Law.

Mr. Robert served in this position in the previous

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administration. Prior to his appointment, he was State Attorney General for the State of Chuuk. He had previously worked as a Public Defender in Pohnpei State, a Staff Attorney for the Congress of the Federated States of Micronesia, Legal Counsel for the Micronesian Maritime Authority and the FSM Development Bank, and Staff Attorney for the First Chuuk State Constitutional Convention and the First Federated States of Micronesia Constitutional Convention.

A hearing was held by your Committee on the nomination of Mr. Robert on September 15, 2011. In response to Members' questions, the nominee stated that although he could not promise, given the inherent friction between the two branches, that Congress would always be pleased by his legal advice, he would always be guided by his oath to uphold the constitution and laws of the Nation. He also said he was comfortable giving the President advice that he might not want to hear.

In reply to further questions, the nominee said that he had been in New York when the President had declared the recent state of emergency. He stated that he had subsequently advised the President that a fiscal emergency did not justify a declaration of a state of emergency as enumerated in the Constitution.

The nominee also spoke at some length on his status as a member of the FSM Bar. He stated that he had been reinstated as of September 2 this year, after a suspension that originally arose from his withdrawal from a case in 1997. He said that the suspension was supposed to last for ten months, but his initial petition for reinstatement was apparently denied on the ground that he had engaged in the unauthorized practice of law during that ten-month period.

On the issue of the shortfall in his Department's budget for FY11, which led to Department staff not getting paid, the nominee cited unplanned, unanticipated activity on the part of the police, as well as the diversion by Congress of some FY11 personnel funds to pay for budget overruns in FY10. He conceded that no request for a supplemental appropriation had been submitted in the prior session, although he had communicated with

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the President's office regarding the shortfall. He stated there was no accountant in the Department to keep track of fund balances and that the Department's Administrative Officer had been reassigned following the initiation of the audit into FY10 overruns carried out by the FSM Public Auditor.

The nominee said he had read and responded to the Public Auditor's report into the FY10 overruns, and was asked by the Committee to make recommendations for the future so that similar problems would not be repeated.

Although the Committee appreciates the frank manner in which the nominee answered its questions, serious concerns remain regarding the nominee's ability to manage the Department's budget and his willingness to accept responsibility for budget overruns and to take action to prevent such overruns from occurring in future. Your Committee notes that the Department is projecting a deficit of approximately \$190,000 in Personnel for the current fiscal year. Moreover, the recent report by the Office of the Public Auditor into FY10 budget overruns found that given the "casual and haphazard manner" in which timekeeping and overtime are handled within the Department, "[e]mployees may be compensated for time not worked." The Committee has also received informal communications from staff at the Department regarding the nomination that give further cause for concern. Your Committee invites members to view the communications and consider all these concerns before making a decision on the nomination.

CONCLUSION

Your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.R. No. 17-19, attached hereto, and recommends its adoption.

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Respectfully submitted,

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

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

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