



EXECUTIVE CHAMBERS

HONOLULU

BENJAMIN J. CAYETANO
GOVERNOR

January 14, 2000

Mr. Ferdinand Aranza
Director, Officer of Insular Affairs
Office of the Secretary
U.S. Department of the Interior
Washington, D.C. 20240

Dear Mr. Aranza:

In accordance with section 104(e)(3) of Public Law 99-239 of January 14, 1986, I am sending you the State of Hawaii's views for your transmittal to Congress as part of your January 2000 annual report to Congress on "The Impact of the Compacts of Free Association on the United States Territories and Commonwealths and on the State of Hawaii."

The Compact of Free Association with the Federated States of Micronesia ("FSM") and the Republic of the Marshall Islands ("Marshall Islands") continues to have much more impact on Hawaii than the 1994 Compact of Free Association with the Republic of Palau. Because the former Compact has not resulted in the hoped-for economic development in either the FSM or Marshall Islands, their citizens continue to avail themselves of their rights under the Compact to freely enter and reside in the United States without the immigration restrictions applicable to citizens of other countries.

The largest impact of the Compact continues to be on our educational and health care systems. Congress' continuing failure to fulfill its promise to redress the adverse effects of the Compact on the State places us in the untenable position of having to assume an extraordinary share of our country's legal and moral obligations under the Compact. During the past year alone, the State spent well over \$14 million in public funds to care for Compact migrants.

Impact on Health Care System

At a time when our newspapers are full of stories about our hospitals' financial problems, staff lay-offs, and cuts in service, we are absorbing Compact migrants who simultaneously suffer from the malnutrition and contagious diseases common to developing countries and the diabetes, heart disease, and cancer common to developed countries. I urge you to review "Pacific Partnerships for Health," a 1998 publication by the Institute of Medicine, which operates under the charter of the National Academy of Sciences. This report provides independent corroboration of the magnitude of the current and impending Compact impact, and repeatedly discusses reforms

Mr. Ferdinand Aranza
January 14, 2000
Page 2

necessary to address two of our continuing critical problems: (1) the enormous costs of the Pacific islands' off-island medical referrals,¹ and (2) the need for the islands to be more accountable for their citizen's medical care.²

Our private hospitals and health care providers have to contend with a staggering bad debt from the FSM and Marshall Islands governments' health care referrals to Hawaii. We are still tabulating the figures. For example, the Queen's Medical Center, which is Hawaii's largest health care provider and is in its third year of operating costs, reports a \$11 million bad debt from Pacific Island nations, primarily the FSM (Exhibit A-1). The Kapiolani Medical Center reports that for South Pacific island patients: (1) it wrote off over \$700,000 in bad debt in just the first six months of the fiscal year beginning July 1, 1999; (2) it typically writes off from \$.5 million to \$1.5 million *per year*; and (3) and as of December 31, 1999, its outstanding receivables were \$1.3 million (Exhibit A-2). These entire amounts are not attributable to the FSM and Marshall Islands, but they are indicative of the problem. The reporting community health centers have about \$420,000 a year in uncompensated costs for primary care services to Compact migrants from the FSM, Marshall Islands, and Palau (Exhibit A-3). One of these small centers, the Queen Emma Clinics, recently collected from the State of Chuuk in the FSM only after exhaustive collection efforts, including implementation of a co-payment requirement for governmentally-referred Chuukese patients (Exhibit A-4).

The problem is bigger than that documented in the above letters from a few of our health care providers. We are still compiling costs. For example, one private medical group that has severely cut back on accepting government referrals from the FSM because of problems declined to provide a letter for transmittal to Congress because of its staff's continuing sympathetic feelings toward the patients themselves. The doctors at our local clinics and hospitals frequently find themselves faced with people who have easily entered the country because of the Compact's generous entry provisions, but who cannot pay for the medical care they need. The doctors then face the dilemma of either turning people away simply because they are poor, or treating them despite the impact it has on our community's health resources. Although some medical suppliers simply refuse to work with certain Pacific island jurisdictions because their accounts are so far in arrears,³ that is not an easy choice for a doctor confronted with a sick person in need.

Unless Congress takes action, we can expect the 2001 expiration of the Compact's 15-year provisions for economic support to dramatically increase migration to Hawaii from the FSM and

¹ Institute of Medicine, *Pacific Partnerships for Health: Charting a New Course*, National Academy Press, 1998) ("Pacific Partnerships") at 7, 34, 60, and 113.

² *Pacific Partnerships* at 7-8, 36, 38, 40, 48, 60, and 117.

³ *Id.* at 48 .

Marshall Islands. If Compact funding ends as scheduled and no more U.S. aid is provided, the FSM estimates that its funds for health services will decline by as much as 75 percent of its 1996 health budget.⁴

The impending expiration of Compact funding combined with the changing demographics of the migrant populations portend a looming crisis for Hawaii's health care system. The Marshall Islands' population has one of the world's highest growth rates, and half its population is already under the age of 16.⁵ With the population expected to double in the next twenty years and the population density of Kwajalein Atoll's Ebeye Island already one of the highest in the world,⁶ we can expect thousands more Marshallese to use their Compact entry rights to come to Hawaii to seek a better life.

The demographics of the FSM are similar. In 1998, about 44 percent of the population was under 15.⁷ According to the U.S. Department of Interior, in 1995 only a third of FSM households had flush toilets, about 18 percent were connected to a public water supply, about 11 percent were connected to a public sewer, and only about half had electricity.⁸

In light of these statistics, it is not surprising that Hawaii once again has spent several hundred thousand dollars in one year just to treat contagious diseases among Compact migrants. During the last year, in addition to the unpaid-for medical care that the private sector provided for those with contagious diseases, the State spent about \$312,000, including about \$235,246 for Hansen's disease (leprosy), and about \$60,000 for tuberculosis. We continue to have to screen and treat Compact migrants for hepatitis. We also spent about \$300,000 on Medicaid payments for them, and about \$120,000 for community health nursing services for them.

Impact on Social Services

Last year, we had to spend about \$1.7 million for welfare payments to needy Compact migrants (Exhibits B-1 and B-2). The U.S. Census Bureau's 1997 census of Micronesians in Hawaii showed that almost 40 percent live below the poverty level and more than half of these live below 50 percent of the poverty level. Because of their limited English skills and generally low education, they need time and training to enter the work force. We spent about \$163,000 of the

⁴ *Id.* at 114.

⁵ *Id.* at 142, 24.

⁶ *Id.* at 143.

⁷ *Id.* at 111.

⁸ *Id.* at 112.

Mr. Ferdinand Aranza

January 14, 2000

Page 4

\$1.7 million through our entirely State-funded Aged, Blind, and Disabled program, which we created to help those with little or no income who either are not eligible for federally-funded Supplemental Security Income ("SSI") or are eligible for only partial SSI payments. We spent the remaining approximately \$1.5 million through our entirely State-funded TAONF (Temporary Assistance to Other Needy Families) Program, created for those families who are ineligible for TANF (Temporary Assistance to Needy Families).

Impact on Educational System

The largest Compact impact continues to be on our educational system. We have spent about *\$54 million* since 1988 to educate Compact migrant children in public schools' kindergarten through 12th grade--over \$9 million in the last year alone (Exhibit C). We have had to absorb this loss as best we could, at a terrible cost to our own children. It is one reason that Hawaii is last among the 50 states in per pupil expenditures for its public school children in kindergarten through 12th grade. Our schools need that \$54 million back.

The State also spent about \$1.3 million last year for college education of Compact migrants at the University of Hawaii, including its community colleges system. We have allowed the college students from the FSM and Marshall Islands to pay in-state tuition without meeting the durational residency requirements we apply to students from the mainland. A federal government representative recently suggested to one of my staff that despite these students' entry rights under the Compact, we might be able to legally charge them out-of-state tuition. However, we do not think that would be the right stand to take or litigate. These students, almost without exception, have difficulty paying even in-state tuition, and have virtually no family resources to help them. Although government workers in both the FSM and Marshall Islands make much more than most other people there, even their incomes are very low by U.S. standards. For example, in the early 1990's, many full-time police officers in the State of Chuuk made only \$2000 to \$3000 a year. To require FSM and Marshallese college students to pay out-of-state tuition would virtually foreclose their opportunities for a college education.

Impact on Criminal Justice System

We also continue to feel the impact of the Compact on our criminal justice system. About 143 Compact migrants were convicted of 237 offenses last year--at a time when we are having great difficulty finding and funding enough bed space for all those who are incarcerated. These numbers are up from last year's figures of 111 Compact migrants convicted of 186 offenses, and the numbers have gone up every year.

A look forward

Compact migration to Hawaii is costly. There is a lack of congruity between the Compact's generous entry rights and the welcome that the federal government is giving the people who use those rights. It is all too clear that Hawaii will continue be faced with the Hobson's choice of either filling the gap or refusing to do so. The State of Hawaii takes pride in having created a

Mr. Ferdinand Aranza

January 14, 2000

Page 5

diverse community that welcomes and cares for both citizens and strangers. It is hardly a solution to the problem of unredressed Compact impact for us to respond by further tightening our laws to minimize aid to the needy whom the Compact allows to enter so freely. It is *our* doorsteps on which the Compacts migrants are arriving.

The rest of the nation may think that continued U.S. aid to the FSM and Marshall Islands is a fair price to pay for the United States' strategic air and water rights to the islands' vast area of the Pacific. The rest of the nation may even recognize that the United States' national security interests are one of the cornerstones of the Compact relationship. But the fact remains that the nation as a whole is not footing the bill. Until the United States, FSM, and Marshall Islands together design and implement Compact provisions that make the FSM and Marshall Islands more self-sufficient, the State will inevitably incur social costs from Compact migration, and we will look to the Congress to redeem its promise to redress the adverse consequences.

If inadequate medical care in the FSM and Marshall Islands, along with those governments' poor fiscal management and unpaid medical debts, are the fifteen-year legacy of the Compact of Free Association and the 40-year legacy of the former United Nations Trust Territory of the Pacific Islands, perhaps the federal government ought to ask itself some hard questions about the extent to which it fulfilled its duties as either U.N. Trustee or a party to the Compact.

Unquestionably, the successive periods of Spanish, German, and Japanese colonialism, followed by the period of American dominance as U.N. Trustee undermined traditional social controls and authority and ended the previous self-sufficiency of the islands. We view it as an abrogation of the United States' moral responsibility to either: (1) save money by denying medical care or educational opportunities to the people of the former Trust Territory who are allowed to come here, or (2) buy strategic access to the Western Pacific by throwing money at societies damaged by colonialism. From FY 1987 to the end of FY 2001, the United States will have given the FSM over *\$1.3 billion* and the Marshall Islands over *\$623 million* in economic assistance, and yet they owe our hospitals millions. We agree with the Institute of Medicine's recommendation that the federal government should reevaluate its funding mechanisms for Pacific island health care and adopt measures that require meaningful accountability.

We appreciated the June 28, 1998 Senate Appropriation Committee's report that "Hawaii has not received impact aid authorized under the compacts of free association in the past," and that "the financial costs to Hawaii associated with such migration are substantial." S. Rept. 106-99, Department of the Interior and Related Agencies Appropriations Bill, FY 2000, at 58-59. The committee also directed that "[i]f additional funds are necessary for Guam or other governments, this issue should be addressed as part of Compact renegotiation," and directed the Secretary of Interior "to ensure that representatives of the State of Hawaii are provided with an effective opportunity to participate in the upcoming compact renegotiations." The November 17, 1999 Senate and House conference report accompanying the FY 2000 Omnibus Appropriations Act

Mr. Ferdinand Aranza
January 14, 2000
Page 6

reiterated this directive: "The Secretary should ensure that representatives of Hawaii are consulted during the upcoming compact renegotiation process so the impact to Hawaii of migrating citizens from the freely associated states is appropriately considered." H. Rept. 106-479 at 470.

If it would be easier for Congress to redress Compact impact on Hawaii as part of the renegotiation process rather than the annual budget process, we have no objection to that procedure. As you know, House Joint Resolution 187, approving the Compact of Free Association, P.L. 99-188, provided funds to pay the accrued medical debts of the FSM and Marshall Islands for the use of medical facilities in the United States before September 1, 1985. 48 U.S.C. § 1905(d).

Although we realize that this year's \$3 million-increase in Guam's annual Compact impact aid from \$4.58 million to \$7.58 million was largely a result of a personal commitment that the President made to Guam during a visit there last year, it is certainly ironic that a U.S. Territory that for several years has been getting several million dollars a year in Compact impact reimbursement has just been given another \$3 million a year, while the State of Hawaii has never received *any* reimbursement. We understand Guam's need and do not doubt that the additional aid was appropriate. Nevertheless, it is time for Congress to reimburse Hawaii.

We have been pleased with the State Department Office of Compact Negotiation's response to the Committee's mandate, and we look forward to working with that office and the Congress in 2000 on our many mutual Compact concerns.

With warmest personal regards,

Aloha,


BENJAMIN J. CAYETANO