NATIONAL GOVERNORS' ASSOCIATION

EIGHTY-FOURTH ANNUAL MEETING

PRINCETON, NEW JERSEY
AUGUST 2-4, 1992

NATIONAL GOVERNORS' ASSOCIATION

Chairman - Governor John Ashcroft
Vice Chairman - Governor Roy Romer

1991-1992 COMMITTEES

- *Executive Committee*
  Missouri Governor John Ashcroft - Chairman
  Colorado Governor Roy Romer - Vice Chairman

- *Agriculture and Rural Development*
  Montana Governor Stan Stephens - Chairman
  Nebraska Governor E. Benjamin Nelson - Vice Chairman

- *Economic Development & Technological Innovation*
  Illinois Governor Jim Edgar - Chairman
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  New Jersey Governor Jim Florio - Vice Chairman

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  Oklahoma Governor David Walters - Chairman
  Michigan Governor John Engler - Vice Chairman

- *Justice and Public Safety*
  Nevada Governor Bob Miller - Chairman
  Massachusetts Governor William Weld - Vice Chairman

- *Transportation, Commerce, and Communications*
  Wisconsin Governor Tommy G. Thompson - Chairman
  West Virginia Governor Gaston Caperton - Vice Chairman

NATIONAL GOVERNORS' ASSOCIATION
EIGHTY-FOURTH ANNUAL MEETING

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NATIONAL GOVERNORS' ASSOCIATION

EIGHTY-FOURTH ANNUAL MEETING
PRINCETON, NEW JERSEY
AUGUST 2-4, 1992

A G E N D A

SATURDAY, AUGUST 1:

10:00 am - 5:00 pm	*General Registration*
9:30 am - 5:00 pm	*News Media Registration*
11:00 am - 11:30 am	*Opening News Conference*
5:30 pm - 7:00 pm	*Reception for Governors, Their Families, and Invited Guests (By Invitation)*
7:00 pm - 10:00 pm	*Dinner for Governors, Their Families, and Invited Guests (By Invitation)*
6:30 pm - 9:00 pm	*Reception for Media Attendees*

SUNDAY, AUGUST 2:

7:00 am - 6:00 pm	*General Registration*
7:00 am - 6:30 pm	*News Media Registration*
8:30 am - 9:30 am	*Interfaith Worship Service (For All Attendees)*
9:30 am - 11:00 am	*Brunch for Governors and Their Families*

11:30 am - 1:00 pm	*Executive Committee Meeting* *Governor John Ashcroft* *Missouri, Chairman*
1:30 pm - 3:00 pm	*Meetings of Education Action Teams:*

- *Action Team on School Readiness*
  Governor George Voinovich
  Ohio, Chairman
- *Action Team on the School Years*
  Governor Michael Sullivan
  Wyoming, Chairman
- *Action Team on Lifelong Learning*
  Governor Tommy G. Thompson
  Wisconsin, Chairman

3:15 pm - 5:15 pm	*Joint Meeting:*

- *Committee on Agriculture and Rural Development*
  Governor Stan Stephens
  Montana, Chairman
- *Committee on Energy & Environment*
  Governor George A. Sinner
  North Dakota, Chairman

6:30 pm - 9:30 pm	*"College Days" at Princeton University* *(For All Attendees)*

MONDAY, AUGUST 3:

8:00 am - 5:30 pm	*General Registration*
8:00 am - 6:30 pm	*News Media Registration*
7:15 am - 8:45 am	*Western Governors' Association Meeting*

9:00 am - 11:00 am	*Concurrent Committee Meetings:*
	• *Committee on Economic Development & Technological Innovation Governor Jim Edgar Illinois, Chairman*
	• *Committee on Human Resources Governor John R. McKernan Jr. Maine, Chairman*
	• *Committee on Transportation, Commerce, and Communications Governor Tommy G. Thompson Wisconsin, Chairman*
11:15 am - 1:15 pm	*Governors-Only Lunch & Work Session*
1:30 pm - 3:30 pm	*Concurrent Committee Meetings:*
	• *Committee on International Trade and Foreign Relations Governor David Walters Oklahoma, Chairman*
	• *Committee on Justice and Public Safety Governor Bob Miller Nevada, Chairman*
3:45 pm - 5:30 pm	*Special Work Session for Governors and Staff*
6:30 pm - 9:30 pm	*"Celebrate New Jersey" at Princeton University (For All Attendees)*

TUESDAY, AUGUST 4:

8:00 am - 12:30 pm	*General Registration*
7:30 am - 2:00 pm	*News Media Registration*

7:30 am - 8:45 am	*Breakfast Meeting of the Republican Governors' Association*
9:00 am - N O O N	*Plenary Session* *Governor John Ashcroft* *Missouri, Chairman*
12:15 pm - 12:45 pm	*Closing News Conference*
12:45 pm - 1:45 pm	*Meeting of the 1992-1993 Executive Committee and Standing Committee Chairpersons*
1:30 pm - 4:00 pm	*IGPAC Meeting* *Scanticon Conference Center Hotel*

NATIONAL GOVERNORS' ASSOCIATION
EIGHTY-FOURTH ANNUAL MEETING
1 9 9 2

EXECUTIVE COMMITTEE

TAB 2

EXECUTIVE COMMITTEE

Summary of Issues and Briefing Papers

ISSUE:

- ***Federal Budget***

Because of NGA's concern for the nation's long-term economic health, an NGA budget policy was developed which support protection of safety net programs, selected productivity investments, continued deficit reduction, line-item veto, and a balanced federal budget.

NGA urges Administration and Congress to exert efforts to reduce deficit to zero and for Congress to support a constitutional balanced budget amendment as soon as the deficit was eliminated. However, it would be difficult to derive a balanced budget over a five-year period without raising taxes and there is a substantial opposition to raising either corporate or personal income tax. Therefore, it is believed that discretionary grant programs to states would be one of the first areas Congress would consider for cuts, followed by reductions in the federal share of low-income entitlement programs. The federal deficit is expected to remain about $400 billion for the next fiscal year. The deficit will continue to keep long-term interest rates high and reduce investment and rate of economic growth. It will also increase substantially the pressure for a federal balanced budget constitutional amendment. The scheduled reduction in defense expenditures will result in a large-scale loss of jobs in numerous defense-related industries. States will be expected to assist both in the conversion of defense industries and in the training and reemployment of the dislocated workers. Growing deficits and future international developments may increase the pressure for even further cuts.

A balanced budget amendment could have a significant impact on federal assistance to states both on a long- and short-term basis. Over the long run, there should be a decrease in interest rates, increase private investment and capital formation, and enhance international competitiveness, economic growth, and job creation. While the long-run benefits may be substantial, there will likely be short-run disruptions for state governments. It is important that these disruptions be identified early and that states be full partners in designing an implementation plan that minimizes the potential negative impact. States would be working closely with the Congress and

the Administration to make certain that actions at the national level are consistent with the preservation of vital state and local governments in the federal system.

ISSUE:

- ***C-24: A Process for Measuring and Reporting on Progress Toward the National Education Goals (National Education Goals Panel)***

The National Education Goals Panel was created in July 1990 when the six national education goals were adopted by the governors. The Panel is to determine which education methods are working and how they can be improved to help achieve the goals.

Policy proposals adopted by the governors during the 1992 Winter Meeting included the Reconfiguration of the National Education Goals Panel to retain its political balance and make congressional participants full voting members rather than ex-officio members. The Panel responsibilities were also expanded to include appointing members to the National Education Standards and Assessments Council (NESAC) and certifying world-class standards and criteria for assessments. NESAC members set guidelines for setting education standards and developing criteria to determine the appropriateness of recommended standards and assessments.

The Panel met early this year in Washington D.C. to consider ways to measure school readiness, coordinate state and local student record systems and review data for its 1992 report on educational progress. The Panel heard proposals for long-term data collection for goal one, including a proposed national early childhood assessment system, and for goal two, including a national student record system to monitor high school completion. Another meeting held in June was to determine how to report progress toward the six national education goals in the Panel's 1992 report which will be due on September 1992. The Panel also reviewed progress toward the development of an early childhood assessment system that will measure progress on children's readiness for school.

NGA urges that states should be preparing their educational progress reports for release this fall in conjunction with the report from the National Education Goals Panel. The national report and the individual state reports are expected to attract extensive media attention. Also, governors are urged to send NGA the names of their state report contact persons as soon as possible.

BRIEFING PAPER:

Department of Education

The Department of Education affirms that as a member of the National Forum on Education Statistics and votes on Forum issues, its position on measuring progress toward achieving the national education goals follows the Forum recommendations. The National Forum was established in 1989 as the principal mechanism for implementing the goals of the National Cooperative Education Statistics System. The Forum is an independent body whose mission is to propose and support improvements in the Cooperative System and the elementary and secondary education data base through collaborative effort of all of its members.

The Office of Educational Research and Improvement Center for Education Statistics (NCES) has the responsibility for directing the National Cooperative Education Statistics Program, authorized by the Hawkins-Stafford education Amendments. While the program alone will not insure that Guam will meet the national education goals, the Cooperative system is important in that it is believed that it will be the mechanism through which national indicators will eventually be developed and reported.

In response to the Congressional mandate of the Hawkins-Stafford Education Amendments of 1988, the National Forum prepared and adopted a report - *A Guide To Improving the National Education Data System* - as a first step in a multi-stage process for improving the quality of the national education data system. The Guide represents a voluntary, cooperative effort among the federal Government, States, and education associations to identify the most critical needs for education policy information; assess the present capacity of the national statistical system to address these needs; and to provide broad direction for system improvements based on this analysis. The Guide's proposed 36 specific statistical improvement recommendations bear most directly on measuring the Nation's progress in achieving the six national education goals and their associated objectives.

The Guam Department of Education has indicated that neither the Legislature nor the Territorial Board of Education has adopted the national education goals. The Department of Education has not measured progress toward these goals, although a task force of educators are engaged in looking for alternative assessments. Guam has in the past reacted to national reports by producing extensive plans, the Blueprint for Excellence and Department of Education Goal Statements, School Year 1989-1991, for addressing curriculum and instruction deficiencies. Like most states and territories, Guam has begun to address the national goals and is in the process of reviewing and assessing the Blueprint for Excellence, the DOE Goals for School Year 1989-91, and other resource materials in an effort to introduce school reform.

Targeted for review has been the curriculum of the middle and high schools. The goal of the review is to create a secondary curriculum that presents true alternative learning paths for students across three orientations: Academic or College preparation, Vocational Education, and General Education. Guam participated in the National Assessment of Educational Progress Trial State Mathematics Assessment of 1990 and the upcoming 1992 State 8th grade math assessment and the 4th grade math and reading assessments. A new K-5th grade integrated curriculum was recently approved based on restructuring of curriculum to encourage cross-disciplinary study. Guam DOE supports its curricular reform efforts with state-of-the-art laboratories and computer technology. Under consideration by the Territorial Board of Education is the possibility of lengthening the school day /or school year. Guam will also be reviewing the work of the Special Study Panel on Education Indicators with a goal of developing its own set of indicators upon which to report. As Guam responses to the national goals, it must become cognizant of several important issues that are suggested by school restructuring efforts such as the quality of our educational institutions, learner outcomes, readiness for school, societal support for schools, education and economic productivity, and equity in resources, demographics, and students at risk. Once these issues are articulated and understood, Guam will need to develop a system to report on progress towards meeting the national and local education goals.

ISSUE:

- ***Higher Education Act***

A Higher Education Bill (S.1150) passed by the Senate and a House companion bill (H.R.3553) expand federal aid for college students. Both bills increase the size of grants and loans and allow more middle-income students to qualify for grants by raising income limits for eligibility. NGA supports these provisions. The bills also provide funds to support additional state oversight of certain institutions participating in student financial aid programs. States would be required to provide such oversight only if funds are appropriated to cover the costs incurred and recently, $75 million was reauthorized to cover those costs. Both the House and Senate bills provide grants to states for improving state licensure and oversight activities. However, NGA does not agree with either bill on this issue because the House bill prescribes federal standards that limit states jurisdiction by exempting certain institutions from state reviews while the Senate bill imposes federal standards by having the Secretary of Education set model standards. The Senate bill does not include a new Pell entitlement program or a direct student loan program but the House bill does. Both the House and Senate bills are under reauthorization process.

NGA urges governors to support modification of the "states' limited jurisdiction" provision of the bills before they are reauthorized.

BRIEFING PAPER:

University of Guam

The University of Guam claims that the authorization bill is in a state of a flux because there has been a struggle between the Department of Education and the accreditation agencies. The Department of Education desires on the reduction of the Stafford loans believing that the accreditation associations have been too lax. However, the accreditors say that federal regulations were misinterpreted and there is a lack of understanding of the entire accreditation process thus creating potential abuse of the accreditation system. There is tension between students' access into higher education and the number of students reneging on their loans. The Stafford loans could be eliminated by the Department of Education for any institution with a default rate of 35% or more. University of Guam has a default rate of only 32%, however, the presence of minority students at the University with most of them not paying their loans, the University's default rate has increased. Palau students' default rate is 60% but the University has to accept Palau students because of the Compact of Free Association. The University of Guam's case clearly indicates that colleges, universities, or propriety schools that mainly serve minority students or students from a diverse ethnic background have to pay the price for being not in compliance with the loan program.

The University of Guam recommends that if possible, the Stafford Loan Program should be eliminated and to replace it by a system of direct grants and other incentives. However, if portion of the Stafford Loan Program are to be maintained, the states and territories should administer the loans rather than the financial institutions. The net profitability from the administration of these programs can enhance the educational pursuits of states and territorial interests. Additionally, institutions that serve primarily minority students and by nature of service have a higher default rate, should be given consideration. A direct garnishment of wages for students in default and creation of more work study grants for students both in the university and the private sector are also recommended.

At the University of Guam, many students are discriminated against joining the TRIO Program because of the current formula used for the "Contiguous 48 States". Between 1986 and 1991, the TRIO Program's Low-Income Level Guideline has increased by only 21%. The University of Guam would like to request that the 1991-92 level for Guam should reflect at least a 46% increase over the 21% rate level. Additionally, guidelines for subsequent years should continue to reflect the especially high inflation rate occurring on our island.

ISSUE:

- ***Consumer Credit Reporting***

NGA is opposed to federal preemption of consumer protection laws in credit reporting which protect consumers from abusive and negligent actions of the consumer credit reporting firms. NGA urges nation's governors to support attempts made to modify the preemption language of House bill H.R.3596, the Consumer Credit Reporting Act.

The Senate drafted credit reporting reform bill provides for the right to a free credit reporting every two years; requires that reporting agencies establish toll-free 800 numbers for consumers; requires that agencies complete reinvestigations within thirty days and delete any unverified information; prohibits against supplying incorrect information to credit bureaus; and requires that correction notices be sent to bureaus if incorrect information is sent. The bill also prohibits access to a file for employment purposes without written authorization from the consumer and permit consumers the right to keep their information files out of hands of direct marketers.

NGA urges that the states should have the right to enforce federal credit reporting standards. Several states already have laws regulating credit reporting. However, the bill's federal preemption includes who may access your file without your permission, whether banks or other credit agencies need to conform to the privacy rules established for credit reporting agencies when reporting for their own customers, a legal standard to better insure that accurate information is reported, and the ability of consumers to sue for non-compliance with state or federal consumer protection standards.

BRIEFING PAPER:

Department of Revenue and Taxation

Although the Territory of Guam has not enacted any legislation regulating consumer credit reporting, like most states, Guam would like to retain the option to enact local statutes regulating credit reporting. The effect of the Senate bill is that individuals who have adverse credit records will have difficulty in securing credit to buy cars/ or homes. The department will be preparing letters, one to the Senate Banking Committee expressing opposition to federal preemption to consumer protection laws and another to Chairman Gonzales expressing support for his attempts to modify the preemption language of the House bill.

ISSUE:

- ***Resolution: Audit Authority of the Department of Interior (DOI) Inspector General (IG)***

Governor Lorenzo I. DeLeon Guerrero of CNMI would like to introduce a policy resolution advocating restricted audit authority for the Inspector General. Guam also desires to be included in the provisions of the proposed resolution. The Territory of Guam and CNMI recognize the Inspector General's audit authority over federally-funded programs but are strongly opposed to the audit of locally-funded programs. NGA's support is encouraged through the adoption of the proposed policy resolution.

BRIEFING PAPER:

Department of Revenue and Taxation

The Department strongly stresses that the Inspector General's audit authority should be limited to programs funded by the federal government. As Guam desires to be included in the provision of the resolution, NGA's support is urged to consider and adopt the proposed resolution. Guam believes that locally-funded programs are strictly local affairs and considers the Inspector General's audit as an unnecessary federal intrusion and contrary to the often-stated federal intention of promoting greater self-government and autonomy in U.S. commonwealths and territories.

FEDERAL BUDGET

NGA Objective

- NGA budget policy supports protection of safety net programs, selected productivity investments, continued deficit reduction, line-item veto, and a balanced federal budget.

Walls

On March 31, the House voted 238-187 to defeat a leadership attempt to break the "firewalls" between defense and domestic spending and use savings from defense cuts for new domestic spending. The Senate failed to pass similar legislation (S. 2399) the previous week.

The firewalls were established by the 1990 Budget Enforcement Act. To shift funds for FY 1993, the law requires legislation to pass both houses of Congress and be signed by the President. Most Washington observers say this will not happen.

Budget Resolution

The House Budget Resolution (Option B), H. Con. Res. 287, would cut some domestic discretionary programs to restore about $3 billion of the President's proposed cuts in mass transit, community development, economic development assistance, housing, and child development. It also would add more than $1 billion for education, but nothing for the President's "Education Excellence" proposal. The House would give $900 million less than the Administration for the Highway Obligation Ceiling to continue level funding for urban discretionary mass transit grants, restoring a proposed Administration cut of $900 million.

The Senate Budget Resolution would freeze domestic discretionary spending at FY 1992 levels.

Conference on the Budget Resolution is expected to split a $4 billion difference between the Senate "Freeze" and the House "Option B" (chart attached). Many expect across-the-board cuts in all discretionary programs to pay for priority programs. There is also a $6 billion difference in defense spending between the House and Senate. Final spending will be determined by the individual Appropriations Committees.

Rescissions

In March, the President proposed $5.7 billion in rescission proposals, half of which would come from cancellation of two Seawolf nuclear submarines, $550 million in public housing subsidies, and cuts in myriad agriculture research projects, such as blackbirds, celery, manure, onions, and asparagus. Votes would be taken on each rescission item.

The House Appropriations Committee has packaged all rescissions into "one bill-one vote" for a total savings of $5.8 billion, with cancellation of one Seawolf, four percent cuts in all housing programs, and agriculture research cuts for grapes, pests, mink, apples, blueberries, and weeds. The committee does not cut the Administration's other proposals -- blackbirds to asparagus.

Balanced Budget Constitutional Amendment

The House Budget Committee is holding a series of hearings on proposals calling for a constitutional amendment that would require a balanced federal budget. On May 13, the committee will hear from expert witnesses on state procedures: What is balanced? What is exempt? How is it done? What are the results? H.J. Res 290, sponsored by Rep. Stenholm, has 268 cosponsors (286 are needed for a two-thirds vote requirement).

The Senate Judiciary Committee approved such an amendment (S.J. Res. 18) on May 23, 1991 by a vote of 11-3.

Both bills require a two-thirds vote for passage, a three-fifths vote to spend in excess of receipts, a majority vote of all members (not present - voting) for a tax increase, and an effective date two years after being ratified by three-fourths (38) of the state legislatures.

Final passage is a possibility due to current voter dissatisfaction with Washington's efforts under Gramm/Rudman/Hollings.

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FRANKLIN J.A. QUITUGUA, Ph. D.
Director of Education

P. Leon Guerrero
Attn:
Linda Cruz
6 pages J. Shaf

July 15, 1992

Memorandum

TO: Director, Bureau of Planning

FROM: Director of Education

SUBJECT: National Goals Panel Supplemental Input

Your staff member, Linda Cruz, has asked for additional information relative to National Education Goals. Please be advised neither the Territorial Board of Education nor the Legislature has adopted the national education goals. The Guam Department of Education has not measured progress towards these goals, although there is a task force of educators engaged in looking at alternative assessments. Part of the work of this committee will be to review the National Goals with an eye towards identifying indicators.

Guam has, at Governor Ada's request, participated in the Trial State Assessment conducted by the National Assessment of Education Progress. This assessment targeted grade 8 mathematics two years ago and this past school year targeted grade 4 and 8 mathematics and grade 4 reading. Results from the latest assessment will not be available until late spring (April or May 1993). While we believe this assessment will provide us with some information relative to the National Goals there are problems with this assessment. These problems have to do with the sample size and the fact that the assessment on Guam is not a sample but a census of all grade 8 and 4 students.

We would encourage Governor Ada to support what the National Center for Education Statistics has developed relative to indicator systems and recommend that the National Goals Panel also review the work of this agency in the Office of Educational Research and Improvement.

In the meantime, Guam needs to initiate action on the National Goals with the idea of adopting these goals. I believe the Board of Education would be the proper forum for adoption of these goals. I believe the Governor should also come out publicly in support of the National Goals.

Franklin J. A. Quitugua

Commonwealth Now!

On February 26, 1990 the Nation's governors and the president presented a challenge to the U.S. education system by establishing six performance goals and related objectives to be achieved by the year 2000. The Governors and the President also pointed out the need to develop appropriate measurements and reporting processes to determine whether progress was being made in attaining these goals. To help accomplish this mission, a National Education Goals Panel has been established.

The National Forum on Education Statistics has recently completed a project that should be of great interest to those concerned with measuring progress toward achieving the national education goals. In response to the Congressional mandate of the Hawkins-Stafford Education Amendments of 1988 (P.L. 100-297), the National Forum prepared and adopted a report-- *A Guide To Improving the National Education Data System*-- as a first step in a multi-stage process for improving the quality of the national education data system. The development of the *Guide* represents a voluntary, cooperative effort among the Federal Government, States, and education associations to:

- identify the most critical needs for education policy information,
- assess the present capacity of the national statistical system to address these needs, and
- provide broad direction for system improvements based on this analysis.

The *Guide* assesses the ability of a broad array of education data collection and statistical reports from Federal and State agencies and other sources to provide needed education data. On the basis of this assessment, the *Guide* proposes 36 specific statistical improvement recommendations. While not explicitly designed to address the data needs emanating from the national education goals, the *Guide* contains much information that is directly related to the goals.

The *Guide* was developed to provide a basis for the Federal Government and the States to work together in developing a national education data agenda. The intent was not to focus exclusively on data needs associated with the goals nor to address the full scope of all needs that the goals will engender. Thus, the *Guide* does not comprise an exhaustive view of data needed to monitor progress toward achieving the national education goals; however, it does contain a number of specific recommendations related to this purpose.

It should also be emphasized that the production of the *Guide* is viewed by the National Forum as a first step in a multistage process for improving the quality of the national education data system. As is noted in the *Guide's* introduction:

> We recognize the difference between setting and implementing a statistical improvement agenda. An itinerary is not a plan. Presenting an agenda of important statistical improvement destinations, while valuable, is not the same as determining how

> best to reach them or even which improvements to address first. To do this requires additional research that explicitly considers the strengths and weaknesses of specific implementation strategies from such perspectives as information quality, cost, burden, and compatibility with current activities. Thus, ... the cooperative development of a strategic plan for statistical improvement based on this *Guide* [constitutes] the National Forum's next step in the system improvement process.

The present document-- *Measuring the National Education Goals: Perspectives from a Report of the National Forum on Education Statistics*-- extracts those recommendations and discussions from *A Guide To Improving the National Education Data System* that bear most directly on measuring the Nation's progress in achieving the six national education goals and their associated objectives. Its purpose is to provide policymakers and other officials at all levels of government interested in monitoring national education goal attainment with timely and pertinent information from the National Forum.

Established in 1989, the National Forum is the principal mechanism for implementing the goals of the National Cooperative Education Statistics System. The Forum is an independent body whose mission is to propose and support improvements in the Cooperative System and the elementary and secondary education data base through the collaborative effort of all of its members. Nearly a hundred individuals who represent State and Federal education agencies and national education organizations make up its membership. The National Education Statistics Agenda Committee (NESAC) of the National Forum has prepared this document, which has been endorsed by the National Forum.

This document is divided into two sections. Section 1 (taken from the introduction to *A Guide To Improving the National Education Data System*) describes the four basic criteria for judging the adequacy of potential education data, including data that inform the national education goals. Section 2 addresses each of the national goals and describes relevant recommendations for data system improvement and accompanying background discussions from the National Forum *Guide*.

THE GUAM INITIATIVES

Guam has, in the past reacted to national reports (Nation at Risk) by producing extensive plans (The Blueprint for Excellence and Department of Education Goal Statements, School Year 1989-1991) for addressing curriculum and instruction deficiencies.

The contract the Department has with the U.S. Department of Defense provides almost $10.0 million dollars annually to implement recommendations found in the Blueprint for Excellence and the DOE Goals for School Year 1989-1991 are a direct outgrowth of the Blueprint for Excellence.

There are so many facets of the America 2000 strategy and the indicators that will eventually report on the goals and these strategies that a single briefing paper would not do justice to the process started by the President and the nation's governors in September 1989. However, it is important to keep in mind that Guam, like most states and territories, has begun to address these national goals and is in the process of reviewing and assessing the Blueprint for Excellence, the DOE Goals for School Year 1989-91, and other resource materials in an effort to introduce school reform.

THE QUITUGUA CURRICULAR REFORMS

Under the leadership of Guam's Chief State School Officer, Dr. Franklin J. A. Quitugua, a process that involves many segments of the community and education profession has begun. Targeted for review has been the curriculum of the middle and high schools. The goal being to create a secondary curriculum that presents true alternative learning paths for students across three orientations: Academic or College Preparation, Vocational Education, and General Education. Curricular programs within these three paths are outcome based and are being designed on the basis of Guam's labor market demands and high school student career or courses of study preferences. Since curricular programs are outcome based, a task force has also been assigned to review the pupil assessment program so that student outcomes can be assessed across the various content areas within the learning paths: English, mathamatics, science, history, and geography.

Guam also expects to derive important information from its participation in the National Assessment of Educational Progress Trial State Mathematics Assessment of 1990 and the upcoming 1992 State eighth grade math assessment and the fourth grade math and reading assessments.

The focus on secondary curriculum does not mean elementary has been forgotten. On the contrary, a new K-5th grade integrated curriculum was recently approved and is based on a restructuring of the curriculum so as to encourage cross-disciplinary study. As part of the pupil assessment task force's review, elementary student outcomes will be reviewed and a decision on measuring their attainment made.

The Guam DOE has also chosen to support its curricular reform efforts with state-of-the-art laboratories and technology. Computer laboratories of at least 28 student workstations exist in all public elementary and secondary schools and represent the only school district in the nation to fully install computers in all of its schools. All students have equal access to these systems at the elementary level where writing, reading, and mathematics are taught each day to each child for at least 20 minutes and are used to supplement classroom instruction. Fully computerized high school business laboratories and computer science laboratories have also been installed. Each middle and high school also has one interactive, multimedia workstation and an extensive library of laser disc based courseware in science and social studies as well as state of the art CD-ROM, video capture and scanner technology at their disposal.

Also under consideration by the Territorial Board of Education is the possibility of lengthening the school day and/or school year. This would require legislation, however, DOE officials find that with mandated curricular programs, less and less time is being spent on teaching challenging subject matter within the core curriculum. This shortening of time spent on core subject areas could be one explanation for the relatively static performance of students on nationally normed achievement tests despite tremendous increases in educational funding geared to upgrade teacher skills in both content and methodology, administrator leadership skills, and introduction of technology into the schools.

Guam will also be studying other issues as states and territories gain experience with restructuring their schools. For example, Guam will be reviewing the work of the Special Study Panel on Education Indicators with a goal of developing its own set of indicators upon which to report.

As Guam responds to the national goals it must become congnizant of several important issues that are suggested by school restructuring efforts:

1. Learner outcomes: acquisition of knowledge, skills, and dispositions,
2. The quality of our educational institutions,
3. Readiness for school,
4. Societal support for schools,
5. Education and economic productivity, and
6. Equity: resources, demographics, and students at risk.

Once these issues are articulated and understood, Guam will need to develop a system to report on progress towards meeting the national and local education goals.

C-24. A PROCESS FOR MEASURING AND REPORTING ON PROGRESS TOWARD THE NATIONAL EDUCATION GOALS

24.1 **Preface**

24.2 **National Education Goals Panel**

The National Education Goals Panel will be composed of:

- TWO SENIOR-LEVEL FEDERAL EXECUTIVE BRANCH OFFICIALS APPOINTED BY THE PRESIDENT.

- EIGHT GOVERNORS APPOINTED BY THE CHAIRMAN OR VICE CHAIRMAN OF THE NATIONAL GOVERNORS' ASSOCIATION, WITH EACH APPOINTING THOSE OF THEIR RESPECTIVE POLITICAL PARTIES, IN CONSULTATION WITH EACH OTHER. SIX OF THE GOVERNORS, THREE OF EACH PARTY, WILL SERVE TERMS BEGINNING AT THE NGA ANNUAL MEETING. TWO OF THE GOVERNORS, OF THE OPPOSITE PARTY OF THE PRESIDENT, WILL SERVE TERMS BEGINNING AT THE NGA WINTER MEETING.

- FOUR CONGRESSIONAL MEMBERS APPOINTED BY THE MAJORITY AND MINORITY LEADERS OF THE U.S. SENATE AND THE U.S. HOUSE OF REPRESENTATIVES.

- ~~Four senior level federal executive branch officials appointed by the President;~~
- ~~Six Governors appointed by the chairman of the National Governors' Association in consultation with the vice chairman, with no more than three of the Governors being from the same party; and~~
- ~~Four congressional leaders (Senate Majority and Minority Leaders, the Speaker of the House or his designee, and House Minority Leader) invited to serve as *ex officio* non-voting members.~~

The chairman of the panel will be appointed annually by the chairman of the National Governors' Association.

THE PRESIDENT AND CONGRESSIONAL LEADERSHIP WILL DETERMINE THE TERMS OF THEIR RESPECTIVE MEMBERS. GUBERNATORIAL APPOINTMENTS WILL BE FOR TWO-YEAR TERMS, EXCEPT THAT THE INITIAL TWO GUBERNATORIAL APPOINTMENTS MADE FOR TERMS BEGINNING AT THE NGA WINTER MEETING WILL BE FOR ONE YEAR.

~~The executive branch officials will serve at the pleasure of the President. Governors will be appointed to the panel for a two-year term, except that two of the initial appointments, equally divided between the two parties, shall be for a three-year term.~~

The panel will be responsible for determining the indicators used to measure the national education goals and for reporting progress toward their achievement. Its responsibilities shall include:

- Selecting interim and final measures and appropriate measurement tools to be developed as necessary in each goal area;
- Determining baselines and benchmarks against which progress may be evaluated;
- Determining the format for an annual report to the nation; and

- Reporting on the federal government's action to fulfill those responsibilities set forth in the federal-state partnership at Charlottesville, including funding the federal financial role, providing more flexibility in spending under existing federal programs, and controlling mandates that limit the states' ability to fund education, as defined in the Joint Statement issued at the Charlottesville Summit.

In addition, the panel will review proposed changes in national and international measurement systems as appropriate and make recommendations to the President, the Congress, and the Governors for needed improvements. THE PANEL ALSO WILL APPOINT MEMBERS TO THE NATIONAL EDUCATION STANDARDS AND ASSESSMENTS COUNCIL, AND IT WILL CERTIFY WORLD-CLASS STANDARDS AND CRITERIA FOR ASSESSMENTS.

The panel will not be limited by availability of current data and measurements in its decisions as it designs the format of the report card. It will seek to identify fair, constructive measures that will boost the performance of students at all levels.

The panel shall have the authority to hire and direct an independent staff to assist it with its responsibilities.

In making final decisions, the panel will operate on the principle of consensus among the Governors, executive branch, and Congress. ~~In the event that a vote must be taken, a decision will require 75 percent of the voting members.~~

24.2.1 **Expert Advisers.** The process for developing and establishing appropriate measures shall benefit from the experiences and expertise of the education research and measurement communities and other interested parties.

The panel, in carrying out its responsibilities, will consult broadly with experts in the field of research and measurement, as well as with other interested parties, in order to:

- Identify and evaluate existing indicators; and
- Prepare specific options and recommendations for the panel concerning: the selection of appropriate indicators, baselines, and benchmarks against which performance may be evaluated, and the format for an annual report.

24.3 Report to the Nation

24.4 Extending the Partnership

BRIEFING

This briefing responds to the two priority issues before the National Governors' Association's 84th annual meeting. They are a process of measuring and reporting on progress toward the national higher education goals and the Higher Education Act.

In checking with Rita Walsh, the University's financial aid director, she indicated that the authorization bill is in a state of flux. There has long been a struggle between the department of education and the accreditation agencies. Mr. Lamar Alexander is quoted in the April 22, 1992
Chronicle of Higher Education. This quote indicates the extent of the conflict. "The accreditors themselves, however, said Mr. Alexander was misinterpreting federal regulations and creating the potential for abuse of the accreditation system. James T. Rogers, executive director of the Commission on Colleges of the Southern Association of Colleges and Schools said: "There is a lack of understanding of the entire accreditation process."

At stake here is the control of institutions and their program offerings. What the department of education wishes to do is to reduce the default of Stafford loans believing that the accreditation associations have been too lax. The second issue which follows directly from the above is the tension between students access into higher education and the number of students reneging on their loans. For example, we at the University have a default rate of 32 percent. Any institution with a default rate of 35 percent or more can have its Stafford loans eliminated by the department of education. Most of those who do not repay their loans are minority students. In our case, we have to accept students from Palau. The default rate for students from Palau is 60 percent. In other words, colleges and universities or proprietary schools that mainly serve minority students, or as in our case, students from a diverse ethnic background, might well pay the price for not being in compliance with the loan program.

There also has been an attempt to focus approval of an institution's accreditation and student's funding locally at the state level. Finally, there has been an attempt to do away with the loan program and replace it with direct grants to students. Banking lobbyists have also derailed this program. In summary, the government is in a dilemma. They want to provide universal access to higher education but really can't afford it and are using institutions of higher education to reduce the deficit by holding them responsible for the default rates, while bowing to various lobbying interests.

These issues really are focusing on **accountability** of how our national dollars are spent wisely, fairly and prudently in providing quality opportunities for our students while contributing to the labor needs of the nation.

The word "labor" is used to refer to all students whether from proprietary schools or colleges and universities who are employable by all sectors of society.

Here are some possible "solutions" or "directions" for your consideration. People are not used to referring to our national graduates as "labor" but in our opinion that is what they are.

Upon graduation they enter into a "market" where as taxpaying citizens they are employed to enhance the income of government by paying taxes and the productivity of the organizations they serve. Therefore, the following criteria or assumptions are offered in which our recommendation is used and covered. Moreover, the word "accountability" is used because of the complexity of the matters discussed. It refers to a "system of accountability" because both the criteria and possible solutions demand a somewhat universal approach versus a particular "given fix".

<u>Criteria:</u>

1. There needs to be qualified accessibility of all students to enter higher education.

2. There needs to be a reduction of fiscal obligation both on the part of the federal government and its newly created labor force.

3. Investment in labor is visualized as a positive thrust to enhance the sons of the nation.

4. Whenever possible all sectors of the society should be used to maximize the students' ability to pay, and the students should be able to count on a contribution from each sector (federal, state governments, the business community, and not for profit entities).

<u>Possible Solutions or Directions:</u>

1. If possible, the elimination of the Stafford Loan Program. A system of direct grants and other incentives should replace it.

A study of the cost for administering and policing the Stafford Loan Program should be computed.

2. If portions of the Stafford Loan Program are maintained, then institutions who serve primarily minority students, and who by the nature of the service have a higher default rate, should be given additional consideration via two comparisons.

   A. The number of students who are actually removed from the welfare roles.

   B. Comparing the taxes paid versus the total default of these institutions.

3. Creation of more work study grants for students not only in the university but also in the private sector.

4. If portions of the Stafford Loan Program are maintained, it is recommended that the states and territories administer the loans rather than financial institutions. The net profitability from the administration of these programs can enhance the educational pursuits of state and territorial interests.

5. We recommend the direct garnishment of wages for students in default.

6. Many students who wish to attend the University of Guam's Trio Program are discriminated against because of the current formula used for "Contiguous 48 States". These income levels have been adjusted by approximately 21 percent.

7. Between 1986 (when the TRIO program began at the University of Guam) and 1991, the Guam Consumer Price Index has increased by 46 percent, while the TRIO Program's Low-Income Level Guideline has increased by only the forementioned 21 percent. We would therefore like to request that the 1991-92 Low-Income guidelines for Guam reflect at least a 46 percent increase over 1986 levels. Guidelines for subsequent years should continue to reflect the especially high inflation rate occurring on our island.

8. It has been suggested that teachers in elementary schools be given major tax breaks in order to create more teachers.

<u>HIGHER EDUCATION ACT</u>

<u>NGA Objectives</u>

- Stronger <u>state role</u> in quality and accountability of postsecondary educational institutions to help restore the integrity of the federal financial aid program.

  Both House and Senate bills address this objective. NGA supports these provisions but would prefer that changes be made to them.

  - <u>Fundir</u> NGA supports the House prov: on that authorizes that up to one percent of total federal financial aid will be allocated to states to play a larger and stronger role in assuring the quality and integrity of higher education institutions; the Senate bill originally authorized $10 million.

  - <u>Licensing standards</u>. NGA is not satisfied with either bill on this issue. The House bill prescribes federal standards that limit states' jurisdiction by exempting certain institutions from state review; the Senate bill implicitly imposes federal standards by having the Secretary set model standards. NGA recommends deleting the model standards section.

- More <u>assistance</u> should be given to lower and middle income families who are unable to finance the increasing cost of postsecondary education. In addition, incentives should be developed to help these families contribute as much as possible to the cost of the education.

  Both House and Senate bills increase the maximum financial aid available and raise income eligibility standards to allow more students from middle income families to receive federal financial aid.

  Both House and Senate bills eliminate the use of home or farm equity in determining federal financial aid eligibility in order to help students from middle income families.

- Partnerships should be developed to promote early <u>intervention</u> strategies that raise students' aspirations and help parents and students realize that postsecondary education is both academically and financially within their reach.

  Both House and Senate bills encourage such relationships and include provisions for early intervention programs.

- Reauthorize the State Student Incentive Grant program.

  Both House and Senate bills reauthorize this program: the House at $125 million; the Senate at $85 million. (Current authorization is $75 million.)

The House and Senate are both well underway in the reauthorization process. The Senate completed floor consideration on S 1150 on March 21. As passed, an amendment offered by Senator Sanford struck the original state licensing portion of the bill and substituted an amendment that requires states to work with the Secretary of Education to identify institutions that have engaged in practices that may lead to the misuse of federal funds. The amendment lists possible criteria to help identify such institutions. In addition, states are required to designate an agency or individual to collect complaints regarding institutions and share such information with the Secretary. Priority is given to institutions that meet certain criteria -- primarily proprietary schools. Senator Sanford's amendment also increases the authorization to $20 million.

The House bill is expected to be considered in March or April . Modifications to the House version of the state licensing portion of the bill are currently being considered by the Committee as part of the Committee amendment.

Contact: Patricia Sullivan, 202/624-7723

CONSUMER CREDIT REPORTING

Presently, the Territory of Guam has not enacted any statute regulating credit reporting.

However, the Territory of Guam, like most States, would like to retain the option to enact local statute regulating credit reporting. No matter how thoroughly federal laws are discussed and deliberated there are many times when local conditions and trade practices prevailing in an area like Guam are ignored.

The Senate bill appears to give more latitude to banks and other credit agencies to further intrude into the privacy of individuals. It is most likely that individuals who have adverse credit records will find it harder to secure credit to buy a car or a house.

Accordingly, the Territory of Guam will be sending a letter to the Senate Banking Committee expressing opposition to federal preemption to consumer protection laws. Another letter will be sent to Chairman Gonzales expressing support for his attempts to modify the preemption language of the House bill.

CONSUMER CREDIT REPORTING

NGA Objectives

- Avoid federal preemption of states laws protecting consumers from abusive and negligent actions of consumer credit reporting firms.

- Ensure that states have the right to enforce federal credit reporting standards.

In the Senate, Senators Bryan and Bond have drafted a credit reporting reform bill that they hope to bring before the Senate Banking Committee in early June. Among the bill's provisions are the right to a free credit report every two years; the requirement that reporting agencies establish toll-free 800 numbers for consumers; a requirement that agencies complete reinvestigations within thirty days and delete any unverified information; a prohibition against supplying incorrect information to credit bureaus; and a requirement that correction notices be sent to bureaus if incorrect information is sent. The bill prohibits access to a file for employment purposes without written authorization from the consumer and permits consumers the right to keep their information files out of the hands of direct marketers. Presently, the bill also includes a preemption of state consumer protection laws relating to credit reporting companies.

Areas where state legislation would be preempted include who may access your file without your permission (the Senate bill only sets limits on access for employment purposes); whether banks or other credit agencies need to conform to the privacy rules established for credit reporting agencies when reporting on their own customers; a legal standard to better insure that accurate information is reported; and the ability of consumers to sue for non-compliance with state or federal consumer protection standards.

In the House, the Committee on Banking, Finance and Urban Affairs marked up H.R. 3596, the Consumer Credit Reporting Act on March 25. During markup, a number of consumer protections were removed from the bill, including a provision entitling consumers to a copy of their credit report annually and a ban on credit bureaus selling private financial data on consumers to direct marketers. A broad preemption of state consumer protection laws that had been inserted in the bill by Reps. Wylie and Barnard was narrowed, but the banking committee defeated an amendment by Chairman Gonzalez to strike the preemption language by a vote of 24-27. The House Banking Committee has not yet reported the bill, and Chairman Gonzalez hopes that the preemption language will be removed before it is reported.

Before the 1992 legislative sessions, nineteen states had laws regulating credit reporting: Arizona, Arkansas, California, Connecticut, Florida, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, New Mexico, New York, Oklahoma, Texas,, and Utah.

Action Needed: Senate Banking Committee members need to be made aware of states' opposition to preemption of consumer protection laws regarding credit reporting and continued support needs to be given for Chairman Gonzalez' attempts to modify the House preemption language.

Contact: Scott Bailey, 202/624-5361

DEPARTMENT OF

REVENUE & TAXATION

GOVERNMENT OF GUAM

JOSEPH F. ADA
Governor

FRANK F. BLAS
Lieutenant Governor

JOAQUIN G. BLAZ, Director • V.M. CONCEPCION, Deputy Director

JUL 08 1992

MEMORANDUM

TO: Director, Bureau of Planning

FROM: Director, Department of Revenue and Taxation

SUBJECT: Audit Authority of Inspector General (DOI)

As to the National Governors Association's proposed resolution on the Audit Authority of the Department of Interior's Inspector General, our position has not changed. We continue to advocate limited audit authority for the Inspector General. Their audits should be limited to programs funded by the federal government. Their audits of locally funded Government of Guam programs is an unwelcome intrusion into strictly local affairs. We should encourage the NGA to continue to resolve itself toward limiting the authority of the Inspector General toward that end.

JOAQUIN G. BLAZ

RECEIVED
JUL 08 1992

855 West Marine Drive Agana, Guam 96910 • Tel: (671) 477-5101 • Fax: (671) 472-2643

C-92-1524

Commonwealth of the Northern Mariana Islands
Office of the Governor
Capitol Hill, Saipan MP/USA 96950

U.S.

Phone: (670) 322-5091/2/3
Telefax: (670) 322-5096/99
Telex: 783-622 Gov. NMI

20 APR 1992

RECEIVED

4/27

cc planning - action

mg Gov Lt Gov

The Honorable Joseph F. Ada
Governor of Guam
Executive Chambers
Agana, Guam 96910

Dear Governor Ada:

Re: NGA Resolution Proposed for Annual Meeting August 2-4, 1992

I would like to introduce the enclosed resolution for the summer NGA meeting. Enclosed also is my draft letter to Raymond Scheppach, Executive Director of NGA, with its enclosures. As drafted, the resolution includes Guam. Do you desire that we include your jurisdiction? I haven't yet sent the materials off to NGA; I await your direction. We work against a June 20, 1992 deadline for officially submitting the resolution.

I hope all is well with you. I am also asking Governors Coleman and Farrelly if they wish their jurisdictions included in the resolution.

Sincerely,

LORENZO I. DE LEON GUERRERO
Governor

Enclosures

CC: CNMI Lt. Governor
CNMI Resident Representative to the United States
Executive Director, Pacific Basin Development Council

Commonwealth of the Northern Mariana Islands
Office of the Governor
Capitol Hill, Saipan MP/USA 96950

U. S.

Phone: (670) 322-5091/2/3
Telefax: (670) 322-5096/99
Telex: 783-622 Gov. NMI

6 MAY 1992

Wire the follow up on this for comment! DRT, AG

RECEIVED
MAY 07 1992

Mr. Raymond C. Scheppach
Executive Director
National Governors Association
Hall of the States
444 North Capitol Street
Washington, DC 20001-1572

Dear Mr. Scheppach:

Re: Proposed NGA Policy Resolution

Enclosed is a proposed NGA policy position on the audit authority of the Department of the Interior (DOI) Inspector General (IG). I also enclose some background information.

The Western Governors' Association, at its November 1991 meeting in Las Vegas, adopted almost this identical policy.

U.S. Congressional hearings have been promised on the power of the IG audit authority over local revenues. A copy of a December 19, 1991 joint letter from Congressmen George Miller and Ron de Lugo, respectively Chairman of the House Interior and Insular Affairs Committee, and the Subcommittee on Insular and International Affairs, is enclosed. Meanwhile, undaunted, the DOI IG has me in Federal Court on a petition for enforcement of administrative subpoena.

We could use NGA support. The Federal Government has brought out its big guns. We could use some fire power on our side. Thank you.

Sincerely,

LORENZO I. DE LEON GUERRERO
Governor

Enclosures

CC: CNMI Lt. Governor
CNMI Resident Representative to the United States
Governor Joseph F. Ada, Guam
Governor Alexander A. Farrelly, Virgin Islands
Governor Peter T. Coleman, American Samoa
Executive Director, Pacific Basin Development Council

National Governors' Association
Resolution 92-___

SPONSOR: Governor Guerrero
SUBJECT: Department of the Interior Inspector General Audit Authority

A. BACKGROUND

1. It is recognized that the U.S. Department of the Interior Inspector General plays a role in reviewing the expenditure of authorized, appropriated, or awarded Federal funds.

2. Federal legislation purports to grant the Inspector General of the U.S. Department of the Interior the authority to audit not only Federal funds but those non-Federal funds, accounts, and programs of the Territory of Guam and the Commonwealth of the Northern Mariana Islands (CNMI).

3. No other Federal Inspector General has authority to audit revenues in the Territory of Guam and the Commonwealth, nor does any Federal Inspector General have authority to audit non-Federal funds, accounts, and programs in any State.

4. The ~~continuation of~~ purported authority for the Inspector General of the U.S. Department of the Interior to audit non-Federally generated funds, accounts, and programs in the Territory of Guam and the CNMI is contrary to the often-stated Federal intention of promoting greater self-government and autonomy in the Territory of Guam and the Commonwealth.

5. The Territory of Guam and the CNMI have achieved sufficient technical sophistication to conduct internal audits of their own funds and programs.

B. GOVERNORS' POLICY STATEMENT

1. The authority of the Inspector General of the U.S. Department of the Interior should be restricted to the audit of Federal funds in the Territory of Guam and the Commonwealth of the Northern Mariana Islands.

2. The appropriate legislative committees of the U.S. Congress should take action to limit the Inspector General of the U.S. Department of the Interior's authority to audit in the Territory of Guam and the CNMI.

NATIONAL GOVERNORS' ASSOCIATION
EIGHTY-FOURTH ANNUAL MEETING
1992

COMMITTEE ON AGRICULTURAL AND RURAL DEVELOPMENT

TAB 3

COMMITTEE ON AGRICULTURAL
AND
RURAL DEVELOPMENT

Summary of Issue and Briefing Paper

ISSUE:

- ***G-1: Global Agricultural Trade and Development (Agricultural Barter)***

The adopted policy amendment supports the development of a future guarantees programs for barter transactions involving American agricultural products to facilitate market-style transactions between American producers and the constituent republics of the former Soviet Union. The adopted amendment is expected to be implemented within the limits of the funds currently available to support agricultural trade.

While several Soviet regions have expressed interest in bartering Soviet raw materials or commodities such as oil for American food, such as grains, sufficient Soviet commodities most often are not immediately available, enough to provide equal value for the much needed American food. The "Future Guarantees" programs would allow the provision of critically needed American food on a timely basis.

States are developing new relationships with newly independent republics in the former Soviet Unions. States have sponsored trade missions, developed trade promotion efforts targeted to the republics, developed cultural programs to foster better relations, and participated in humanitarian assistance.

G-1. GLOBAL AGRICULTURAL TRADE AND DEVELOPMENT

1.1 Preface

1.2 Foreign Trade

Farm policy and foreign policy issues are increasingly linked. Governors believe the U.S. government and foreign nations must manage farm and foreign policy together and avoid crises in the one area provoking costly problems in the other area.

We must re-establish a long-term competitive environment for agricultural trade. Better access to agricultural export markets now virtually closed and elimination of unfair competition from inefficient suppliers with subsidized exports will benefit efficient producers who have:

- a product or commodity that is desired by consumers;
- the ability to reliably supply the buyers' needs;
- lowest priced product of a given quality.

The Governors support the following farm policy provisions as long as unfair competition exists from competitors:

- All existing export enhancement programs should be fully implemented and continued during natural disasters to maintain American farmers' trade competitiveness.
- Countervailing measures necessary to make U.S. farm products competitive in world markets, such as the targeted assistance program to counter the adverse effect of subsidies, import quotas, or other unfair trade practices should be used when foreign producer subsidies distort world trade.
- Commodity programs should be revised as the U.S. comparative advantage strengthens. However, we oppose food embargoes and mandatory retaliation against nations with excessive trade surpluses or against farmers when government stockpiles are low because these policies undermine American farmers' trade competitiveness.
- International commodity-pool marketing systems should be pursued.
- Farm dairy programs should be adjusted to recognize the regional differences in production so that farmers in one part of the country are not penalized for production excesses of farmers in other regions.
- The agricultural secretary should use restraint in reducing the level of set-aside acreage following a natural disaster.

Bilateral and multilateral trade negotiations and international summit talks must negotiate reduction or elimination of tariff and nontariff barriers to agricultural trade, including government ownership, government marketing, transportation subsidies, and manipulated exchange rates. It should be recognized that a certain level of world food and land reserve is essential for mankind, and that food reserves should be shared proportionately by all exporting countries.

The United States should extend credit assistance to emerging free market economies where necessary, particularly in Eastern Europe. This assistance can help provide needed food during economic transition, mitigate political instability, and create markets for U.S. agricultural commodities. The Governors strongly support extending General Sales Manager (GSM) credit to the Soviet Union.

1.2.1 AGRICULTURAL BARTER. THE RAPID BREAKDOWN IN THE SOVIET COMMAND ECONOMY AND THE LACK OF FUNCTIONING MARKETS TO REPLACE IT ARE RESULTING IN BOTH SERIOUS SOVIET FOOD SHORTAGES AND MAJOR IMPEDIMENTS TO SUCCESSFUL OPERATION OF THE U.S. LOAN GUARANTEE PROGRAM FOR FOODSTUFFS. IT IS ALSO APPARENT THAT THE UNITED STATES IS LIMITED IN THE SCOPE OF AID IT CAN PROVIDE BY DOMESTIC ECONOMIC CONDITIONS AND BUDGETARY CONSTRAINTS. IT IS THEREFORE IN THE BEST INTERESTS OF BOTH THE U.S. AND THE SOVIET PEOPLES TO FIND WAYS TO INCREASE THE FLOW OF

FOODSTUFFS TO THE CONSTITUENT REPUBLICS OF THE FORMER SOVIET UNION WHILE PROMOTING MARKET-BASED TRANSACTIONS AND LIMITING U.S. FINANCIAL LIABILITIES.

SEVERAL SOVIET REGIONS HAVE RECENTLY EXPRESSED INTEREST IN BARTERING SOVIET RAW MATERIALS OR COMMODITIES, SUCH AS OIL, FOR AMERICAN FOOD, SUCH AS GRAINS. WHILE THESE TRANSACTIONS ARE POTENTIALLY ATTRACTIVE, THE SOVIET COMMODITIES ARE OFTEN NOT IMMEDIATELY AVAILABLE IN SUFFICIENT QUANTITY TO PROVIDE EQUAL VALUE FOR THE AMERICAN FOODS THAT ARE NEEDED IMMEDIATELY. IN ORDER TO ENSURE THAT THE MAXIMUM AMOUNT OF FOODS AND OTHER AGRICULTURAL PRODUCTS ARE MADE AVAILABLE TO THE SOVIET PEOPLE ON A TIMELY BASIS, GUARANTEES OR OTHER ASSURANCES THAT THE BARTER WILL BE COMPLETED ARE REQUIRED.

THE GOVERNORS SUPPORT IMMEDIATE DEVELOPMENT OF A "FUTURES GUARANTEES" PROGRAM TO FACILITATE BARTER TRADES FOR U.S. COMMODITIES BY SOVIET REPUBLICS AND OTHER ORGANIZATIONS. THE DEVELOPMENT OF SUCH A PROGRAM WOULD ALLOW THE PROVISION OF CRITICALLY NEEDED FOODSTUFFS TO THE SOVIET PEOPLE ON AN EXPEDITED BASIS WITHOUT SIGNIFICANT NEW FINANCIAL EXPOSURE TO THE U.S. GOVERNMENT AND TAXPAYERS, ALLOW U.S. PRODUCERS TO SELL MORE U.S. COMMODITIES, AND FACILITATE AND ENCOURAGE THE DEVELOPMENT OF MARKET-STYLE TRANSACTIONS THROUGHOUT THE SOVIET REPUBLICS.

1.3 General Agreement on Tariffs and Trade

NATIONAL GOVERNORS' ASSOCIATION
EIGHTY-FOURTH ANNUAL MEETING
1992

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGICAL INNOVATION

TAB 4

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGICAL INNOVATION

Summary of Issues and Briefing Papers

ISSUE:

- ***E-11: National Partnership for Affordable Housing***

The adopted policy contains new language regarding new programs and projects. The new language supports the HOPE program (Homeownership Opportunities for People Everywhere) aimed at increasing homeownership opportunities for low- and moderate-income families and persons. The new language also seeks changes in the comprehensive housing affordability strategies (CHAS) required in order to participate in federal housing and community development programs and promises that governors will work with the federal and local governments to remove unnecessary regulatory barriers to affordable housing.

The HOME Investment Partnerships program with its new federal home ownership program called HOPE program needs reauthorization. NGA has urged Congress to reauthorize the HOME program for 1993 and provide at least $1.5 billion in funding. NGA also has called for regulations that give states the flexibility to operate an effective partnership with the federal and local government.

BRIEFING PAPER:

Guam Housing and Urban Renewal Authority (GHURA)

GHURA supports the reauthorization of the Home Investment Partnership Program to at least a $2.0 billion or $2.5 billion level because the agency feels that even that amount is inadequate for implementing the HOME Program. The agency also feels that since Guam is pursuing a commonwealth status, it should qualify in funding allocation under the "state" because the "states" are entitled to higher funding allocation. This is based on the inclusion of Puerto Rico, a commonwealth, under the state funding. At present, Guam is treated as an insular area.

GHURA also supports NGA's position that would allow a state, locality, or jurisdiction's CHAS the flexibility to define what type of housing production, how, and where housing funds can best be used to meet their respective needs. The agency support the concept that the funding match be as low as possible, possibly, even a 10% match base given the current "depressed" housing market situation nationwide. The concept for states, territories, and unit of governments to use revenue bonds/general obligation bonds, in-kind services, publicly issued debts, and match waiver/limitation legislation which allow Guam and other insular areas to waive federal match of up to $250,000 is also supported by GHURA. NGA's position to allow areas like us to be able to use some HOME funds to identify and develop the capacity, ability, and management expertise with respect to housing of qualified non-profit organizations like Catholic Social services, Guma Mami, Sanctuary, etc., is also supported. GHURA is also favorable to NGA position about observing existing federal, state and local housing program regulations, however, it is opposed in principle to any provision which would penalize high cost areas. The increase in funding of the HOPE Program is also supported.

ISSUE:

- ***Executive order:Privatization of the HUD Housing Program***

The President has signed an Executive Order on Infrastructure Privatization that encourages and removes obstacles to the sale of state-owned HUD Housing Program projects that were partly financed with federal funds. The Executive Order asks federal agency heads to provide greater financial flexibility to state and local governments that would like to sell or lease local infrastructure.

Because of the ongoing trends of slower revenue growth and skyrocketing cost, most states are now doing statewide review of government functions, looking at what they do, how much their programs cost, and the kind of result those programs deliver. The states are focusing on program privatization in order to restructure major state functions.

BRIEFING PAPER:

Guam Housing and Urban Renewal Authority (GHURA)

GHURA is not sure whether Guam can afford to privatize federally financed infrastructure that include the HUD public housing at this time. According to the agency, it is an issue that could probably be explored with the Chamber of Commerce to find out some of the positive and negative aspects about such proposal. In the area of housing, no positive benefit to private ownership of low-income

housing units is foreseen. GHURA advocates that the Governor continue to explore ways and avenues for lending institutions, private developers, and/or construction companies to encourage them to build new housing units for the low-income and allow for the lease/purchase options with developers and lending institutions and to provide tax incentives to such consortiums and/or syndications to facilitate the building of low-income housing.

ISSUE:

- ***E-12: Regulation of Insurance Industry***

At its 1992 Winter Meeting, NGA adopted a comprehensive statement on insurance regulation that opposes federal preemption of insurance regulations and calls for further actions by states to improve existing state regulation and to foster improved interstate cooperation.

The legislative proposal on regulation of the insurance industry (H.R. 4900) that was introduced in Congress includes provisions on federal certificates of solvency for insurers, reinsurance regulations, establishment of a National Insurance Protection Corporation, creation of a self-regulatory organization to deal with insurance agents or brokers, and federal standards and procedures for rehabilitation and liquidation of federally certified insurance companies only. NGA wants to retain state regulation of the insurance industry, adopt federal sanctions against insurance fraud, retain the competitiveness of the industry especially small insurance companies.

BRIEFING PAPER:

Department of Revenue and Taxation

The department reaffirms its opposition to federal preemption of state regulation of the insurance industry and any federal action that would directly or indirectly affect the ability of states to raise revenue through taxes and fees levied against insurance operation within their borders.

The Guam Insurance Commissioner is being fully supported by the department in its effort to review the effectiveness of state regulatory system for the protection of the Guam's policyholders and the taxpayers. Towards this end, the current insurance laws and regulations are being reviewed. Increased communication and cooperation with other states will be pursued to promote a sound state regulatory system. Proposal for legislation will be sought with statutory amendments and regulatory enhancements to protect consumers, to put in place civil penalties, to

establish adequate financial standards and to provide a climate for competition in the insurance industry.

ISSUE:

- ***E-13: Interstate Bank Branching***

At the 1992 NGA Winter Meeting, the committee adopted a policy position on interstate bank branching that called for more specific policy language. The new policy position, E-13, expands existing policy (A-2), stating support for the dual banking system, recognizes the importance of the banking industry to local economic development, and asserts the role of states in working with banks to promote economic growth. The new language calls for any federal interstate bank branching legislation to not be mandatory for states, to retain state control over interstate branching, and opposes preemption of the right of states to tax banks. The proposal also calls on the Administration and the Congress to meet with states representatives to ensure that states retain essential control over banking operations within their borders.

BRIEFING PAPER:

Department of Revenue and Taxation

The Territory of Guam reaffirms its strong support for the continuation of the dual banking system. Under this system, the federal and the state governments can charter and regulate banks while states have control over entry of out-of-state banks. Banks chartered in the Territory have reinvested most of their capital and deposits within the community, thus, promoting credit availability, housing finance availability and economic development. Locally, chartered banks are taxable under state laws.

No interstate bank branching law should preempt state statutes or regulations that limit branching within a particular state. Each state's system for interstate branching should remain entirely within the purview of states. Guam does not agree that small banks chartered in their respective jurisdictions would be overtaken by giant national banks. Interstate branching should give states the ultimate decision whether to opt-in or opt-out of this program within a given time.

ISSUE:

- ***Tax and Economic Stimulus Legislation***

During the 1980s, federal legislation severely restricted states' use of tax-exempt financing and added multiple requirements which have greatly increased the cost of issuance and narrowed the usefulness of bonds. The Anthony Commission on Public Finance has developed proposals to assist state and localities while retaining the federal goal of greater accountability.

The House Ways and Means Committee tax bill approved by the House contains extensions of the mortgage revenue bond program, small issue industrial development bond program and several technical tax-exempt bond provisions to ease existing restrictions, including several Anthony Commission recommendations. NGA supports the bill.

Congress' most important economic stimulus decision includes appropriation for highways, mass transit, and state revolving loan funds for water treatment. However, the President and Congress have not reached a compromise on economic stimulus and tax legislation and Congress failed to override the President's veto of an economic growth and tax package. Therefore, no new tax package will be expected.

The issue of defense funding cuts for domestic spending remains unsettled. Congress, by majority votes, does not want to use defense cuts for domestic purposes in FY 1993. There is a slight possibility, however, that some defense funds could be reallocated within the defense appropriations bill for military retraining of individuals, industry conversion assistance, and education benefits for veterans.

ISSUE:

- ***Interstate Sales Tax Collection***

Under the current state use tax laws, consumers in a state are legally liable for paying use taxes on goods they buy from out-of-state mail order firms. In the 1967 U.S. Supreme Court ruling in the "Bellas Hess v. Illinois Department of Revenue" states were prevented from requiring the mail-order companies to collect the tax. However, the May 26th U.S. Supreme Court decision in the North Dakota v. Quill Corporation, it is appropriate under the 14th Amendment of the Constitution's "due process" clause to compel an out-of-state direct marketing firm to collect a state's use taxes on goods sold by the firm to consumers in the state. The states considered this a partial victory for them. According to the Court, the contacts Quill has in the

However, the decision left unresolved many issues under the Constitution's "commerce clause". The Court said that under the commerce clause, the state can't require Quill to collect the taxes because the firm does not have connection within the state. In the North Dakota case, the Quill connection is through the U.S. Mail, common carriers, and computer diskettes used for placing orders. In other states, mail order companies use toll-free "800" phone numbers, drop shipments and other practices that could constitute substantial connection. According to the Court the underlying issue is one that Congress may be better qualified and has the ultimate power to resolve.

NGA will urge Congress to pass legislation that requires mail-order houses to play by the same rules as in-state retailers. The states will also convince Congress to clarify the Commerce Clause to permit the enforcement of state use tax laws on interstate commerce and to stop the tax-free status of interstate mail order firms that is rapidly undermining the competitive ability of main street retailers across the nation.

BRIEFING PAPER:

Department of Revenue and Taxation

Currently, Guam imposes a 4% Guam Receipts Tax on local sales and services on the seller and similar percentage on consumer upon the importation of tangible property for personal use or consumption. The recommended action by NGA in convincing Congress to clarify the Commerce Clause to permit the enforcement of State Use Tax laws on interstate commerce will benefit and enhance Guam's enforcement of this type of tax. Guam, presently relies on consumers to voluntarily pay the importation use tax on goods they purchase off-island.

Department of Commerce

The department believes that it may be best for Guam to be excluded from any plan for interstate sales tax collection. Under such program, Guam would probably gain revenue but the administrative costs of the program would not be worth this benefit. Guam's mail order sales to the states are and will remain limited to unique or specialty products such as publications and crafts. The publishing sales concern subjects such as coral reef biology and Micronesian anthropology and archeology. The purchasing states' benefit is to education and research. The principal benefit to Guam is putting the Territory on the map, not immediate economic gain. The sales to any state are an infinitesimal portion of the state's retail sales. Further, the impact on sales of Guam's gross receipt tax exemption is insignificant.

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JUL 07,1992
BOP

MEMORANDUM:

TO: Governor

VIA: Director, Bureau of Planning

FROM: Executive Director

SUBJECT: National Governor's Conference Home Program Position Recommended for Governor with Respect to Guam's Housing Condition

The Home Investment Partnership Act, otherwise known as the HOME Program was enacted as Title II of the Cranston-Gonzales National Affordable Housing Act of 1990.

The primary goals of the program are to:

* Expand the supply of decent, permanently affordable housing for lower income families with emphasis on rental housing for very low income families;

* Develop partnerships between federal, State and local levels of government, private non-profit corporations and investors to coordinate housing resources and implement affordable housing programs; and

* Build the capacity of state and local governments and private non-profit corporations to implement affordable housing programs.

Approximately $1.5 Billion has been appropriated by Congress for implementation of the HOME Program during Fiscal Year 1992. At this significant level of funding, HOME has become a major housing program of HUD.

Funds will be distributed on a formula basis with approximately 60% to participating jurisdictions (cities and counties) and 40% to States. In terms of funding allocations to cities and counties, these participating jurisdictions (PJs), will need to receive at least $750,000 to be eligible for a HOME formula grant. Those communities entitled to receive at least $500,000 may participate in the program if they provide the difference below $750,000 from local funds, State HOME funds or by forming /a qualifying consortium. One percent of the HOME Program appropriation will be set aside for Indian Tribes that will be selected for participation based on a competition.

Prior to participating in the HOME Program, state, city and county governments must develop a Comprehensive Housing Affordability Strategy (CHAS) covering all assisted housing activities. The CHAS must be approved by HUD before HOME funds can be received.

Eligible activities under the HOME Program are:

* Rehabilitation
* Substantial Rehabilitation (>$25,000/dwelling unit)
* Property Acquisition
* New Construction
* Site Improvements
* Finance Costs and Relocation
* Tenant-based Rental Assistance

Each participating jurisdiction must set aside at least 15% of its HOME funds to assist community housing development organizations (CHDOs) in building capacity and carrying out specific affordable housing projects. Additionally, 30% of all participating jurisdictions receiving formula allocations are required to dedicate between 30% and 40% of their HOME funds for new construction activities.

Generally, there are varying matching fund requirements by type of activity that must be met by participating jurisdictions for their overall program. For example, under rehabilitation, for every $4 dollars of HOME funds utilized, the PJ must provide $1 dollar in matching funds from eligible non-Federal sources. Regarding new construction, the ratio is 2:1, respectively. However, Congress has waived all matching fund requirements in connection with FY 1992 HOME program funding. This won't be true for FY93 and henceforth unless our lobbying efforts succeed.

The income targeting regulations of the HOME program require that at least 90% of all HOME funds are to be used to assist families with incomes at or below 60% of the area median income (AMI), and the remainder of the funds to assist lower income families with incomes under 80% of the AMI. Rental units must remain affordable for the life of the property; and maximum rent limits are enforced. Although the program emphasis is on rental housing, funding can be used to provide homeownership opportunities to lower income first time buyers.

The funding for Guam and other insular areas is found in a separate section of the federal law. Four insular areas will share in an estimated $1.5M dollar appropriation. We don't know what Guam's share will be, but we estimate it will range from about $375,000 to about $750,000 if our allocation is as authorized by the legislation authorizing insular areas. Regulations still have to be written for insular areas like Guam so we are not at this point able to participate in the HOME program. Furthermore, we understand no appropriation was authorized for the insular areas for FY1992. Please also note that Puerto Rico and D.C. are included as "states" under a listing of estimated number of participating jurisdictions. We feel that if Puerto Rico qualifies as to be considered as a state because of its commonwealth status; and D.C. as a special unit of government, then Guam which is pursuing commonwealth status should also qualify under that definition. Hence, we would like Guam to be included as qualifying under "state" where as under the present measure it is treated as an insular area. "States" are entitled to higher funding allocations.

According to federal officials, HOME may be a more useful housing program for Guam than HOPE I, II, and III which is a program designed to allow residents of HUD-assisted rental developments to be able to buy GHURA owned housing units. We have 751 low income housing units which we are currently renting out to low income families at below market rental rates. We very likely will not participate in the HOPE program to any significant degree since we have a desperate need to expand our low income housing supply rather than seek to reduce it unless replacements are provided, in that the housing situation on Guam differs markedly from the U.S. continent as a whole.

Our recommendations regarding Guam's position on the policy position statements advocated by the National Governor's Association on the Home program and other issues are as follows:

1) <u>Home Funding Base</u>: We support a reauthorization of the Home Investment Partnership Program to at least a $2.0 Billion or 2.5 Billion dollars level because we feel that even that sum is really inadequate to accomplish the tasks the HOME Program purports to attempt to achieve. The federal government is continuing its downward and dwindling funding support for providing low-income housing support for new construction and for rehabilitation; and instead seems to be engaging in the funding of human and related social services programs which are needed as a supplement to "real help housing production" programs but not as a token substitute.

   Further, federal initiatives, appears to be advocating that non-profits and private sector organizations take up the challenge of providing for housing production, a national direction and focus that does not favor Guam and the insular areas in that we do not have sufficient and experienced, and developed non-profit or private sector organizations or entities engaged in low-income housing production.

Until we develop such organizations, we will continue to be in a very poor position to be able to obtain our fair share of federal funding dollars from the various HUD programs. Much of the federal housing and support human and social services dollars are restricted in terms of how these dollars are to be used and the mechanisms through which those funds are channeled.

We have to develop new organizational structures and mechanisms capable of meeting federal requirements which are complex and time consuming to comply with in nature. Additionally, most of the HUD programs have stringent monitoring and administrative requirements which are costly; and which costs at times have to be borne by the local or state government in that HUD often times limits or sometimes prohibits the local jurisdiction from using federal dollars to cover such costs.

2) <u>**Home New Construction Restrictions/Requirements**</u>: We are in support of a National Governor's Association position which:

a) would allow a state or locality or jurisdiction's CHAS the flexibility to define what types of housing production, how, and where housing funds can best be used to meet their respective needs.

3) <u>**Home Match**</u>: We support the concept that the funding match be as low as possible, possibly even a 10% match base given the current "depressed" housing market situation nationwide. We also support the concept for states, territories (insular areas) and units of governments to be allowed to use any and all of the following as appropriate match dollars for HUD housing and HOME programs:

a) revenue bonds/general obligation bonds

b) in kind services as match

c) publicly issued debts

d) match waivers for localities meeting 3 of 5 proposed distress measures

e) match waiver limitation legislation which allows Guam and other insular areas to waive federal match of up to $250,000.

4. <u>**Match in Home Eligibility**</u>: We support the National Governor Association position that states and local funds and investments initiated by these entities even in non-Home projects be used as match as long as HOME targeting requirements are met.

5. <u>**Home Administration Costs**</u>: We support the concept of allowing between 7 to 10 percent of a state or locality's match being comprised of administrative costs.

6. <u>**Partnerships with Non-profit Community Housing Development Organization (CHDO) in HOME**</u>: We support the NGA position to allow areas like us to be able to use some HOME funds to identify and develop the capacity, ability, and management expertise with respect to housing of qualified non-profits like Catholic Social Services, Guma Mami, Guma San Francisco and Sanctuary, among others. We need to develop the organizational structure of these organizations so that they can qualify as eligible entities for HOME and other funds. We support the use of up to 35% of HOME funds for "capacity" building and for a broadening of the definitions of "qualified groups" which would cover insular areas situation.

7. <u>**Maximum Subsidy Limitation Home Projects**</u>:

   We are favorable to the NGA position about observing existing federal, state and local housing program regulations. We are opposed in principle to any provision which would penalize high cost areas. We do not think any proceeds for low-income tax credits should be substracted from the allowable subsidy per unit since this provision will serve as a disincentive from encouraging corporations and developers from participating in building homes for low-income by promoting the benefits of housing tax credits.

8. <u>**Monitoring of Home Project**</u>:

   We support the NGA position that housing units assisted by these funds be inspected every three (3) years.

9. <u>**Review of Subsidy Layering in HUD Programs**</u>:

   We support the NGA position to a large degree, although in Guam's case, we would like to have the flexibility to delegate the review responsibilities to another entity within our jurisdiction. In order to effectively operate a HOME Program, it is important to understand three somewhat similar terms used in the HOME Program - MATCH, LEVERAGING AND LAYERING. Leveraging is defined as the use of HOME funds to increase the availability of other public or private resources (usually money) that might not otherwise be available for a HOME assisted affordable housing project. The concept should be familiar to most state and local government agencies. Layering is a newer term, contained in the HOME legislation. Layering is defined as the combining of <u>federal</u> resources on a HOME assisted project that results in an excessive amount of subsidy for the project; that is, the layering of federal programs results in too high an overall federal expenditure. Participating Jurisdictions must develop a "process" to prevent layering. PJ's must certify, as part of the program description, that a process will be in place to avoid layering.

SUMMARY OF TERMS	
Match	Mandatory use of state, local or private resources donated and used in conjunction with a HOME funds -- a sharing of costs associated with the Program.
Leveraging	Voluntary use of HOME funds to increase the availability of other public or private sector funds.
Layering	Prohibition of use of HOME funds with other federal funds in a manner that would result in excessive subsidy to a specific project.

10. **<u>Comprehensive Housing Affordability Strategies (CHAS)</u>:**

We support the NGA position about using the jurisdiction, or state's CHAS for developing priorities for spending. Guam is presently required to prepare only an abbreviated CHAS plan. The expanded or comprehensive "CHAS" Plan does require the collection (and analysis) of an inventory of and description of the territory's housing supply of units and rental units. HUD wants to know in precise terms, the actual number of housing and rental units needed by low-income families. Because we are looking at our low-income housing needs from a territorial perspective in that we do not have "concentrations" of low-income settlements like in some parts of the continental U. S., "ghetto" and "slum" areas, etc. in cities or large settlements of minority groups which stand out, we need to document our needs from a "territorial" perspective. When you apply for HUD funds however, you need to translate these needs into precise and hard numbers of how many units are needed by bedroom size, and to specify how much, such family's income is over or under HUD's limits and/or whether it's within HUD's income standards, which are very specific. The CHAS preparation of data base information requires constant updating and survey making and monitoring which generally is an administrative cost that has to be borne by a public housing authority (like GHURA) from its program income funds or administrative fees secured through the administration of related HUD programs.

11. <u>HOPE FUNDING</u>: We support an increase in funding support for the HOPE Program which again is small given the nature of the program.

NGA Objectives

- Reauthorize the HOME program for FY 1993 and provide at least $1.5 billion in funding.

- Develop program regulations that permit states the flexibility needed to operate an effective partnership with the federal government and local governments.

On May 19 and 20, the House Subcommittee on Housing and Community Development marked up a draft of a bill to reauthorize housing and community development programs. The Senate Subcommittee on Housing and Urban Affairs has scheduled a markup of its comprehensive housing and community development reauthorization legislation on June 10.

The following is a comparison of the House bill, as reported by the subcommittee, and a draft of the Senate bill.

HOME Authorization: Currently $1.5 billion.

NGA Position:	Increase HOME funding.
House:	$2.1 billion for one year.
Senate:	Two years but no dollar amount specified.

HOME New Construction Restrictions/Requirements: Currently, funds are set aside for rental housing production and distributed for that use only, regardless of a state or locality's comprehensive housing affordability strategy (CHAS). In addition, standards are established that must be met before the increased match for new construction can be waived.

NGA Position:	Greatest flexibility is to make use of funds dependent on CHAS without other restrictions.
House:	Eliminates all designations and restrictions.
Senate:	Ends the set aside and softens the restrictions against new construction.

HOME Match: Currently 25 percent if funds are used for rental assistance; 50 percent if funds are used for rehabilitation; and 75 percent if funds are used for new construction. State and local matching funds are waived for the FY 1992 authorization. Beyond that time, HUD has the power to establish a waiver of 75 percent in the first year, 50 percent in the second year; and 25 percent in the third year. No standards are established in statute, and HUD has developed no criteria for waivers. The only tax-exempt bonds that HUD regulations currently count as match are general obligation bonds, as long as the bond proceeds remain as HOME funds for future uses as well.

NGA Position:	Single matching rate should be set on a sliding scale for states and communities experiencing fiscal distress. All state expenditures, including revenue bonds and G.O. bond funds, should count as match.
House:	Flat 10 percent match; all publicly-issued debt counts as match; match waiver for localities meeting three of five proposed distress measures.
Senate:	25 percent flat match established and up to 25 percent of multifamily bonds issued count as match. Directs HUD to establish a match waiver formula for both states and localities.

Match in HOME-Eligible Units: Currently, HUD has determined that state or local funds must be utilized only in projects that have received HOME funds in order to count as match.

NGA Position:	Since HOME seeks to promote state and local investment in housing targeted to lower and low-income families and individuals, such investments should qualify as match even if no HOME dollars are allocated to such projects, as long as they meet the HOME targeting requirements.
House:	No provision.
Senate:	No provision.

HOME Administrative Costs: Currently, seven percent of a state or locality's match can be comprised of administrative costs.

NGA Position:	No position, although state housing and housing finance agencies both support giving states a choice of an in-kind match at a level of 10 percent or a set aside of 10 percent of HOME funds for administrative purposes.
House:	Permits 10 percent of HOME allocation to be used for administrative costs and repeals the administrative match credit of seven percent.
Senate:	Same has House provision.

Partnerships with Non Profit Community Housing Development Organizations (CHDO) in HOME: Currently, all participating jurisdictions, including states, must set aside 15 percent of their HOME funds for projects run by community, non-profit housing groups. States have 18 months to identify qualified groups and 24 months to commit funds to their projects. Funds not used are returned to HUD and reallocated to such groups across the nation. States cannot use these funds for capacity building. Presently, the definition for these groups is extremely narrow and possibly contradictory (groups must have a specified mix of community residents but also have a track record in housing projects).

NGA Position:	Simplify the definition to ensure that funds are used most effectively and permit states to utilize these funds for capacity building where such groups do not exist.
House:	Permits state to use 5 percent of HOME funds for capacity building if "no" qualified groups exist. Definition of community group broadened and time to commit funds to a community group is extended to 36 months.
Senate:	Permits states to use 2/3 of the CHDO set aside for capacity building if the jurisdiction lacks a "sufficient number" of CHDOs. In addition, extends the time period for identification of CHDOs to 24 months.

Maximum Subsidy Limit on HOME Projects: HUD regulations require that any proceeds from the low-income housing tax credit be subtracted from the allowable subsidy per unit. In addition, the maximum is set at 67 percent of the existing limit in the 221(d)(3) program, which penalizes high cost areas.

NGA Position:	HOME can best be utilized in conjunction with existing federal, state, and local housing programs.
House:	Prohibits HUD from utilizing the per unit limitation. Increases the maximum to 240 percent of the 221(d)(3) limits in higher cost areas.
Senate:	Overrides the Tax Credit rule and the 67 percent limitation by stating that in determining the limit, HUD may not reduce the limit to take into account other subsidies or the match.

Monitoring of HOME Project: Currently, every unit of housing assisted by HOME funds must be inspected annually, with the cost paid for by the state or locality.

NGA Position:	Most other federally assisted housing is inspected on a three year basis. That timetable should satisfy the HOME program requirements.
House:	No provision.
Senate:	No provision.

Review of Subsidy Layering in HUD Programs: As a result of the fraud uncovered during investigations into HUD programs in 1989, HUD has established strict procedures for determining that the level of federal housing assistance for each project is not excessive. However, that has become a sticking point in many programs, especially those proposed by states utilizing the low-income housing tax credit. HUD frequently has not made any determination and programs are seriously delayed.

NGA Position:	State housing agencies that administer the low-income housing tax credit could be delegated the responsibility that, as part of their review of the project, they certify to HUD that the project is within HUD's subsidy layering guidelines. This issue could be one benefit of a state-federal program.
House:	Suspends HUD's review authority for all multifamily housing through FY 1995.
Senate:	Delegates HUD's review authority to review tax credit projects to the states.

Comprehensive Housing Affordability Strategies (CHAS): Current requirements have made CHAS into an expensive data collection and analysis exercise of questionable value.

NGA Position:	States utilize planning for the purposes of setting policy and developing priorities for program spending. CHAS requirements read more like community planning documents, e.g., requiring an inventory of existing housing classified by occupant according to such descriptors as age, race, size of family, whether owning or renting, and then seeking data on which of these categories occupy substandard housing. Developing useful tables on this data on a statewide basis is either extremely expensive or of little value. State CHAS requirements should be more flexible and respond to the responsibilities of states as policymakers, not program administrators.
House:	Requires that CHAS now include tabular information on the extent of homelessness and certification that the jurisdiction has a residential antidisplacement and relocation assistance plan for persons displaced by HOME funded projects. In addition, requires jurisdictions to include antipoverty strategies as a part of CHAS.
Senate:	Adds a new category for assessing lead-based paint hazards; requires CHAS to show how it will meet the identified housing needs, describe reasons for their allocation priorities, and identify any obstacles to addressing underserved needs; and requires the identification of the incidence of rural homelessness in addition to overall homelessness.

Homeownership Opportunities for People Everywhere (HOPE) Funding: Currently, the three HOPE programs (public housing, single family, and multifamily) are funded at $361 million.

NGA Position:	Increased funding.
House:	$290 million authorized for FY 1993.
Senate:	No authorization levels have been set.

Contact: Tim Masanz, 202/624-5311

E- 11. NATIONAL PARTNERSHIP FOR AFFORDABLE HOUSING

11.1 PREFACE

WITH THE PASSAGE OF THE NATIONAL AFFORDABLE HOUSING ACT IN 1990, CONGRESS AND THE ADMINISTRATION HAVE APPROVED A NUMBER OF PROGRAMS AIMED AT CLOSER COOPERATION AMONG FEDERAL, STATE, AND LOCAL GOVERNMENTS WITH THE GOAL OF INCREASING THE SUPPLY OF AFFORDABLE HOUSING AND REDUCING THE NUMBER OF HOMELESS INDIVIDUALS AND FAMILIES. CONSISTENT WITH EXISTING POLICY ON AFFORDABLE HOUSING, THE NATION'S GOVERNORS PLEDGE THEIR SUPPORT TO THIS PARTNERSHIP. KEY ELEMENTS OF THIS PARTNERSHIP INCLUDE REAUTHORIZATION OF THE HOME INVESTMENT PARTNERSHIPS PROGRAM, PERMANENT EXTENSION OF BOTH THE MORTGAGE REVENUE BOND PROGRAM AND THE LOW-INCOME HOUSING TAX CREDIT, AND IMPLEMENTATION OF THE NATIONAL FAIR HOUSING ACT AMENDMENTS OF 1988. THE GOVERNORS ALSO SUPPORT THE HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE) PROGRAM TO FURTHER OPPORTUNITIES FOR HOMEOWNERSHIP FOR LOW-INCOME PEOPLE, AND SUPPORT CONTINUING EFFORTS TO REDUCE THE COST OF AFFORDABLE HOUSING THROUGH LOWERING UNNECESSARY REGULATORY BARRIERS. AGAIN THE GOVERNORS URGE THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) TO WORK MORE CLOSELY WITH STATE HOUSING AGENCIES TO IMPLEMENT EFFECTIVE AFFORDABLE HOUSING PROGRAMS.

11.2 HOME INVESTMENT PARTNERSHIPS PROGRAM

FOR GOVERNORS, THE KEY PROGRAM IN THE NATIONAL AFFORDABLE HOUSING ACT WAS THE HOME INVESTMENT PARTNERSHIPS PROGRAM, WHICH PROVIDES FUNDS TO PARTICIPATING STATES AND LOCALITIES TO REHABILITATE EXISTING UNITS OF AFFORDABLE HOUSING, TO PROVIDE RENTAL ASSISTANCE FOR LOW-INCOME FAMILIES AND INDIVIDUALS, AND TO CONSTRUCT ADDITIONAL UNITS OF AFFORDABLE HOUSING. THE GOAL OF THE PROGRAM SHOULD BE TO PERMIT STATES THE FLEXIBILITY TO DESIGN PROGRAMS, TO LINK THE PROGRAMS WITH OTHER STATE AND FEDERAL HOUSING PROGRAMS, AND TO REQUIRE HUD TO ENTER INTO A PARTNERSHIP WITH STATES.

THE MATCHING REQUIREMENTS FOR THE HOME PROGRAM SHOULD BE FLEXIBLE IN LIGHT OF FISCAL DISPARITIES AND DIFFERING HOUSING NEEDS AMONG REGIONS OF THE COUNTRY, AND BECAUSE OF THE CURRENT FISCAL CRISIS. MATCHING FUND REQUIREMENTS SHOULD NOT BE USED TO DIRECT STATE HOUSING POLICY. FINALLY, FUNDING FOR THE PROGRAM SHOULD BE INCREASED IN ORDER TO ENCOURAGE A GENUINE PARTNERSHIP

11.3 MORTGAGE REVENUE BONDS AND THE LOW-INCOME HOUSING TAX CREDIT

TWO PROGRAMS CONTAINED IN THE FEDERAL TAX CODE PROVIDE STATES A KEY ROLE IN INCREASING THE INVESTMENT IN AFFORDABLE HOUSING AND FORGING ESSENTIAL PARTNERSHIPS WITH THE PRIVATE SECTOR -- THE MORTGAGE REVENUE BOND PROGRAM AND THE LOW-INCOME HOUSING TAX CREDIT. BOTH PROGRAMS SHOULD BE EXTENDED PERMANENTLY TO IMPROVE THEIR VALUE AND EFFICIENCY, AND TO SOLIDIFY TODAY'S EFFECTIVE PARTNERSHIP.

11.4 FAIR HOUSING

THE FAIR HOUSING ACT AMENDMENTS OF 1988 REQUIRED STATES TO DEVELOP "SUBSTANTIALLY EQUIVALENT" FAIR HOUSING PROGRAMS OR TO TURN OVER ENFORCEMENT OF THIS ISSUE TO THE FEDERAL GOVERNMENT. APPROXIMATELY THIRTY-TWO STATES ARE STILL WORKING WITH THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO ATTAIN THIS EQUIVALENCY, AND THE GOVERNORS URGE CONGRESS AND THE ADMINISTRATION TO WORK WITH STATES TO RESOLVE THESE REMAINING CONCERNS TO EFFECTIVELY ESTABLISH THIS PARTNERSHIP.

11.5 HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE) PROGRAM

THE GOAL OF THE HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE) PROGRAM IS TO PROVIDE HOMEOWNERSHIP OPPORTUNITIES FOR PUBLIC HOUSING RESIDENTS, AND TO INCREASE HOMEOWNERSHIP OPPORTUNITIES FOR LOW- AND MODERATE-INCOME FAMILIES AND INDIVIDUALS, WHETHER OR NOT THEY ARE LIVING IN ASSISTED HOUSING. HOPE GRANTS ALSO OFFER AN OPPORTUNITY TO BETTER UTILIZE EXISTING ABANDONED, GOVERNMENT-OWNED, SINGLE-FAMILY PROPERTIES AND MULTIFAMILY PROPERTIES EXPERIENCING FINANCIAL DIFFICULTIES. WHILE HOME FUNDS CAN BE USED FOR SUCH HOMEOWNERSHIP PROJECTS, THE HOPE PROGRAM EMPHASIZES THIS APPROACH AND PROVIDES COUNSELING AND MANAGEMENT TRAINING FOR PARTICIPANTS. AN IMPORTANT COMPONENT OF HOPE GRANTS FOR PUBLIC HOUSING IS FUNDING FOR REPLACEMENT OF THIS IMPORTANT RESOURCE, ESPECIALLY SINCE SO MANY THOUSANDS OF FAMILIES REMAIN ON WAITING LISTS FOR UNITS. FUNDING FOR HOPE GRANTS SHOULD INCREASE, BUT NOT AT THE EXPENSE OF OTHER NGA HOUSING PRIORITIES.

11.6 COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY

THE NATIONAL AFFORDABLE HOUSING ACT OF 1990 REQUIRED COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES (CHAS) AS OVERALL PLANNING DOCUMENTS AT THE

STATE AND LOCAL LEVEL TO APPLY FOR A WIDE RANGE OF HOUSING FUNDS AND COMMUNITY DEVELOPMENT FUNDS, INCLUDING CDBG. TEMPORARY REGULATIONS FOR THE CHAS PERMIT STATES GREAT FLEXIBILITY FOR THE FIRST TWO YEARS OF THE PROGRAM, BUT CONTAIN PROHIBITIVELY EXPENSIVE REQUIREMENTS AFTER THAT DATE. SOME OF THE DATA REQUIRED OFTEN IS NOT AVAILABLE AND IN CERTAIN CASES OBTAINING THE DATA WOULD REQUIRE RESTRUCTURING OF EXISTING STATE PLANNING PROCESSES. REQUIREMENTS FOR THE CHAS NEED TO BE MORE FLEXIBLE, RECOGNIZING THE DIVERSITY OF NEEDS AND RESOURCES AMONG STATES, AND MORE IN LINE WITH THE STATE ROLE OF POLICYMAKER IN AFFORDABLE HOUSING, RATHER THAN HOUSING PROVIDER. WHEREVER POSSIBLE, CHAS REQUIREMENTS SHOULD PERMIT STATES TO PROVIDE EQUIVALENT DATA OR NARRATIVE INFORMATION, SINCE MUCH IMPORTANT HOUSING DATA IS DIFFICULT TO ATTAIN AND IS RAPIDLY CHANGING.

11.7 REGULATORY BARRIERS TO AFFORDABLE HOUSING

THE REPORT OF THE KEMP COMMISSION ON REGULATORY BARRIERS TO AFFORDABLE HOUSING, CHAIRED BY FORMER GOVERNOR THOMAS KEAN, INCLUDES A NUMBER OF IMPORTANT SUGGESTIONS TO THE FEDERAL GOVERNMENT AS WELL AS TO STATES AND LOCALITIES FOR REVIEWING EXISTING REGULATIONS AND FEES IMPOSED ON AFFORDABLE HOUSING PROJECTS. PROVIDING AFFORDABLE HOUSING MUST BECOME A HIGHER PRIORITY FOR ALL LEVELS OF GOVERNMENT. THE COMMISSION HAS SUGGESTED THAT HUD WITHHOLD HOUSING FUNDS FROM STATES AND LOCAL GOVERNMENTS UNTIL STEPS ARE TAKEN TO REMOVE EXISTING REGULATORY BARRIERS, BUT THE GOVERNORS OPPOSE THIS APPROACH. THE GOVERNORS INSTEAD CALL FOR HUD TO WORK WITH STATES IN REVIEWING THE PROBLEM TO DEVELOP AN APPROACH THAT RETAINS ADEQUATE LOCAL CONTROL, RESPONDS TO EXISTING FEDERAL MANDATES, AND RESPECTS OTHER COMPETING STATE AND NATIONAL PRIORITIES, SUCH AS ENVIRONMENTAL PROTECTION. THE NATION'S GOVERNORS PLEDGE THEIR SUPPORT TO JOINT EFFORTS WITH HUD AND LOCAL GOVERNMENTS TO REDUCE REGULATORY BARRIERS.

12. **Privatization of Federally Funded Infrastructure**: We are not sure that Guam can afford to privatize federally financed infrastructure such as Environmental Protection Agency (EPA) sewage waste systems, highway, building and maintenance and HUD public housing at this point and time. It is an issue that can probably be explored with the Chamber of Commerce to see what are some of the positive and negative aspects about such proposals. In the area of housing, we do not foresee at this point a positive benefit to private ownership of low-income housing units, but we do advocate that the Governor continue to explore ways and avenues for lending institutions, private developers, and or construction companies, to encourage them to build new housing units for the low income and allow for lease/purchase options with developers and lending institutions, and provide tax incentives to such consortiums and/or syndications to facilitate the building of low-income housing. The Tax Reform Act of 1987 (and the 1986 Tax Reform Act) have made a very big impact on how and where Americans and American businesses will handle real estate investments.

HUD has often talked about providing and using Section 252 of (U. S. Public Law 99-514) and subsequent amendments to the above legislation under the section pertaining to "Low-Income Housing Credit" to encourage corporations and non-profits to invest in affordable housing.

We have attached some briefing materials on this subject for your review and discussion with appropriate cabinet directors (including the tax director) to ascertain the feasibility and/or desirability of exploring how corporations can best participate in low-income tax credit equity pools and other capital investments to increase the production of low-income housing in the territory.

Attachment "A" is a suggested briefing material for the Governor along with this letter and the insert materials on "Low-Income Housing Tax Credits", the "Housing Tax Credit" provisions, and paper on "Evaluating State Equity Funds".

PRIVATIZATION OF FEDERALLY-FUNDED INFRASTRUCTURE

On April 30, the President signed an Executive Order on Infrastructure Privatization to encourage and remove impediments to privatization of federally-financed infrastructure owned by state and local governments. Assets covered include EPA projects, HUD public housing, DOT public transit, budget operations, and highways. Airport privatization is not mentioned in the Executive Order.

Contact: Jim Martin, 202/624-5315

REGULATION OF THE INSURANCE INDUSTRY

The Guam Insurance Commissioner is being fully supported by this office in its effort to review the effectiveness of State regulatory systems for the protection of Guam policyholders and taxpayers.

Towards this end, current insurance laws and regulations are being reviewed. Increased communication and cooperation of Guam with other States will be pursued to promote a sound State regulatory system. Statutory amendments and regulatory enhancements necessary to protect insurance consumers, to put in place adequate civil penalties, to establish adequate financial standards and to provide a climate for competition in the insurance industry will be proposed for legislation.

Although Guam is currently in financial constraints, the office of Insurance Commissioner will be given adequate financial support to improve and upgrade its regulatory systems and to establish a goal for State accreditation under the National Association of Insurance Commissioners (NAIC) program.

The Territory of Guam is reaffirming its opposition to federal preemption of State regulation of the insurance industry and any federal action that would directly or indirectly affect the ability of States to raise revenue through taxes and fees levied against insurance operation within their borders.

REGULATION OF THE INSURANCE INDUSTRY

NGA Objectives

- Retain state regulation of the insurance industry.
- Adopt federal sanctions against insurance fraud.
- Retain the competitiveness of the industry, especially small insurance companies.

Immediately before Congress left for its spring recess, House Commerce Committee Chairman Dingell introduced his long-awaited legislative proposal on regulation of the insurance industry (H.R. 4900). The bill includes provisions to:

- Establish federal certificates of solvency for insurers through a new Federal Insurance Solvency Commission. The commission will set minimum capital standards and surplus requirements.
- Regulate reinsurance through certificates issued by the commission pursuant to higher standards.
- Set broad parameters of federal authority in insurance regulation.
- Establish a National Insurance Protection Corporation (or national guaranty fund).
- Create a self-regulatory organization (the National Association of Registered Agents and Brokers) to deal with insurance agents or brokers.
- Set federal standards and procedures for rehabilitation and liquidation of federally certified insurance companies only.

H.R. 4900 has been referred to the House Commerce Committee. No action has been scheduled.

At its 1992 Winter Meeting, NGA adopted a comprehensive statement on insurance regulation that opposes federal preemption of insurance regulation and calls for further actions by states to improve existing state regulation and to foster improved interstate cooperation.

Contact: Tim Masanz, 202/624-5311

E- 12. THE REGULATION OF INSURANCE

12.1 PREFACE

THE NATION'S GOVERNORS REAFFIRM EXISTING POLICY STATING OPPOSITION TO FEDERAL PREEMPTION OF STATE REGULATION OF THE INSURANCE INDUSTRY. THE GOVERNORS ALSO REAFFIRM THEIR COMMITMENT TO AN EFFECTIVE SYSTEM OF STATE INSURANCE REGULATION AIMED AT THE PROTECTION OF POLICYHOLDERS AND CLAIMANTS THROUGH THE SAFETY AND SOUNDNESS OF INSURANCE COMPANIES. TODAY'S RAPIDLY CHANGING FINANCIAL MARKETS AND GLOBAL COMPETITION ARGUE FOR INCREASED STATE EFFORTS TO MONITOR THE FISCAL HEALTH OF INSURANCE COMPANIES, TO PROVIDE ADEQUATE CONSUMER SAFEGUARDS, AND TO EFFECTIVELY AND EFFICIENTLY REGULATE THIS KEY INDUSTRY. REFORM OF HEALTH INSURANCE SHOULD BE PURSUED ACCORDING TO THE GOVERNORS' POLICY ON HEALTH CARE REFORM.

12.2 FINANCIAL STANDARDS AND STATE ACCREDITATION

THE ESTABLISHMENT OF MINIMUM FINANCIAL REGULATION STANDARDS BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (NAIC) IN 1989 AND THE CREATION OF THE STATE CERTIFICATION PROGRAM IN 1990 TO ENCOURAGE STATE ADOPTION OF THESE STANDARDS ARE IMPORTANT STEPS TOWARD IMPROVED REGULATION. THE ENCOURAGING RESPONSE BY THE STATES TO NAIC'S MINIMUM REGULATORY STANDARDS DEMONSTRATES THAT STATES ARE PREPARED TO MEET THE CHALLENGES POSED BY A RAPIDLY CHANGING INDUSTRY, AND THAT STATES ARE COMMITTED TO AN EFFECTIVE AND EFFICIENT SYSTEM OF COOPERATIVE REGULATION. THE NATION'S GOVERNORS SUPPORT NAIC'S FINANCIAL REGULATION STANDARDS AND ACCREDITATION PROGRAM AS AN IMPORTANT STEP TOWARD REGULATORY CONSISTENCY IN THIS AREA AND A MEANS OF ENHANCING THE EFFECTIVENESS OF STATE REGULATION WHILE PRESERVING THE STRENGTHS OF THE STATE INSURANCE REGULATION SYSTEM.

12.3 ISSUES FOR CONTINUING STUDY AND REFORM

IMPORTANT ISSUES REMAIN IN REGULATING THE INSURANCE INDUSTRY TODAY. THESE INCLUDE ESTABLISHING ADEQUATE CAPITAL AND SURPLUS REQUIREMENTS THROUGH SUCH DEVICES AS RISK-BASED CAPITAL; ENSURING THE ADEQUACY OF THE CURRENT GUARANTY FUND SYSTEM; IMPROVING EFFICIENCY IN THE INSURANCE RECEIVERSHIP PROCESS; STRENGTHENING INTERSTATE COOPERATION BY EXAMINING SUCH MECHANISMS AS INTERSTATE COMPACTS; REGULATING HOLDING COMPANIES AND AFFILIATE COMPANIES.

AND MONITORING SURPLUS LINES AND REINSURANCE, ESPECIALLY NON-U.S. INSURANCE FIRMS.

THE GOVERNORS CALL ON STATE INSURANCE OFFICIALS TO CONTINUE THEIR EFFORTS TO DEVELOP, MONITOR, AND IMPROVE MODEL LAWS AND REGULATORY PROCEDURES AS NEEDED TO RESPOND TO THESE ISSUES AND TO STRENGTHEN STATE INSURANCE REGULATION.

CONCERN ALSO HAS BEEN EXPRESSED OVER THE ANTI-TRUST EXEMPTION FOUND IN THE MCCARRAN-FERGUSON ACT. THE GOVERNORS ARE INTERESTED IN THE ABILITY OF THE INSURANCE INDUSTRY TO OFFER A WIDE ARRAY OF SAFE AND RESPONSIVE CHOICES FOR CONSUMERS. CURRENTLY THERE ARE CONFLICTING VIEWS ON THE IMPACT OF THE ANTI-TRUST EXEMPTION ON COMPETITION IN THE INDUSTRY. AS THIS ISSUE IS STUDIED FURTHER, THE GOVERNORS WANT AN ASSURANCE THAT ANY PROPOSED *federal* CHANGES CONTINUE TO PROMOTE COMPETITION AND DO NOT THREATEN THE VIABILITY OF SMALLER INSURANCE COMPANIES. *The Governors will continue to examine with great interest state law changes that give the broadest benefits to consumers with relation to insurance regulation on policy content protections and competitive price setting.*

12.4 FINANCIAL RESOURCES

TODAY'S ECONOMIC CONDITIONS AND THE FISCAL SITUATION IN MOST STATES MAKE ISSUES OF RESOURCE ALLOCATION CRITICAL. HOWEVER, THE NECESSARILY COOPERATIVE NATURE OF STATE REGULATION OF INSURANCE COMPANIES THAT OFTEN OPERATE IN MORE THAN ONE STATE REQUIRES THAT ADEQUATE RESOURCES BE PROVIDED FOR REGULATION IN EACH STATE. STATES SHOULD SERIOUSLY CONSIDER ALL AVAILABLE OPTIONS TO ENSURE ADEQUATE FUNDING OF INSURANCE REGULATION.

12.5 FEDERAL ROLE

12.5.1 **INSURANCE FRAUD.** PREVENTION, DETECTION, AND PUNISHMENT OF FRAUD COMMITTED AGAINST INSURANCE COMPANIES BY PERSONS WITHIN THE INDUSTRY HAVE LONG BEEN THE DUAL RESPONSIBILITY OF STATE AND FEDERAL GOVERNMENTS. AT BOTH LEVELS, CRIMINAL AND CIVIL REMEDIES EXIST. HOWEVER, THE GROWING INTERSTATE AND INTERNATIONAL NATURE OF INSURANCE FRAUD HAS OUTSTRIPPED THE ABILITY OF STATE AND FEDERAL LAW ENFORCEMENT OFFICIALS TO PROTECT CONSUMERS FROM CRIMINAL ELEMENTS IN THE INDUSTRY. STATE LAW ENFORCEMENT EFFORTS DO NOT EASILY CROSS STATE LINES, AND

EXISTING FEDERAL STATUTES DO NOT ADDRESS SEVERAL IMPORTANT FORMS OF INSURANCE FRAUD.

IN THE SPRING OF 1991, NAIC PROPOSED TO CONGRESS A BILL TO MAKE INSURANCE FRAUD A FEDERAL CRIMINAL OFFENSE, SUBJECTING OFFENDERS TO STIFF PENALTIES. IN RESPONSE TO THE NAIC PROPOSAL, BOTH THE SENATE AND THE HOUSE OF REPRESENTATIVES HAVE APPROVED MEASURES THAT INCORPORATE KEY ELEMENTS OF THE NAIC PROPOSAL INTO FEDERAL CRIMINAL STATUTES.

THE NATION'S GOVERNORS SUPPORT THE EFFORTS OF CONGRESS TO CLOSE THE EXISTING LOOPHOLES IN FEDERAL LAW AND ENSURE THAT INSURANCE CONSUMERS HAVE FULL PROTECTION AGAINST CRIMINAL ACTIVITIES IN CONNECTION WITH THE BUSINESS OF INSURANCE.

12.5.2 **STATE-FEDERAL DIALOGUE.** STATE REGULATION OF SUCH A KEY NATIONAL AND INTERNATIONAL INDUSTRY AS INSURANCE CAN BENEFIT FROM AN OPEN DIALOGUE WITH THE FEDERAL GOVERNMENT. UNFORTUNATELY, THAT HAS NOT BEEN THE NATURE OF A NUMBER OF STATE-FEDERAL DISCUSSIONS ON INSURANCE REGULATION, ALTHOUGH SOME GOOD HAS COME EVEN FROM THESE CONFRONTATIONAL DISPUTES. THE CURRENT SYSTEM OF STATE GUARANTY FUNDS BEGUN IN 1968 GREW RAPIDLY, IN PART DUE TO CONGRESSIONAL HEARINGS ON THAT TOPIC. CURRENT STATE EFFORTS TO ADOPT MORE EFFECTIVE FINANCIAL STANDARDS HAVE BEEN FURTHERED BY CONGRESSIONAL HEARINGS ON THE ISSUE. STATE AGENCIES AND NAIC CONSISTENTLY HAVE BEEN SUPPORTIVE OF FEDERAL REQUESTS FOR INFORMATION ON INSURANCE REGULATION AND IN MANY INSTANCES HAVE DEVELOPED AN EFFECTIVE PARTNERSHIP. YET THE TONE OF SOME OF THESE REQUESTS ALSO HAS BEEN CONFRONTATIONAL. THE NATION'S GOVERNORS SEEK A SUPPORTIVE AND CONTINUING DIALOGUE WITH THE FEDERAL GOVERNMENT AIMED AT IMPROVING STATE REGULATION OF THE INSURANCE INDUSTRY.

SUCCESSFUL STATE EFFORTS TO RESPOND TO RECENT INSOLVENCIES AND TROUBLED COMPANIES DEMONSTRATE THE EFFECTIVENESS OF STATE REGULATION OF THE INSURANCE INDUSTRY. IN ADDITION, A LONG HISTORY OF POLICYHOLDER PROTECTION SUPPORTS STATE CLAIMS OF COMPETENT, PROFESSIONAL REGULATION. RECOMMENDATIONS AND SUGGESTIONS TO STATES FROM THE FEDERAL GOVERNMENT TO IMPROVE THE REGULATORY SYSTEM ARE WELCOME. HOWEVER, FEDERAL ACTIONS TO PREEMPT STATE AUTHORITY AND TO IMPOSE A STRONGER FEDERAL ROLE IN INSURANCE REGULATION ARE UNWARRANTED. FURTHER, THE FEDERAL GOVERNMENT SHOULD TAKE NO ACTION THAT WOULD DIRECTLY

OR INDIRECTLY AFFECT THE ABILITY OF STATES TO RAISE REVENUE THROUGH ASSESSMENTS, TAXES, OR FEES LEVIED AGAINST INSURANCE OPERATIONS WITHIN THEIR BORDERS.

12.6 STATE ROLE

STATE RESPONSIBILITIES INCLUDE ESTABLISHING AND ENFORCING ADEQUATE FINANCIAL STANDARDS AND CONSUMER PROTECTIONS, UPGRADING AND IMPROVING REGULATORY SYSTEMS, CONTINUING STUDY AND REFORM, PROVIDING ADEQUATE FINANCIAL RESOURCES FOR EFFECTIVE REGULATION, AND PROVIDING ADEQUATE CRIMINAL SANCTIONS. THE GOVERNORS, IN CONSULTATION WITH THEIR STATE INSURANCE OFFICIALS, SHOULD REGULARLY REVIEW THE EFFECTIVENESS OF STATE REGULATORY SYSTEMS FOR THE PROTECTION OF STATE POLICYHOLDERS AND STATE TAXPAYERS

THE GOVERNORS CALL ON STATES TO SUPPORT THE STATUTORY AMENDMENTS AND REGULATORY ENHANCEMENTS NECESSARY TO ENSURE STATE ACCREDITATION UNDER THE NAIC PROGRAM. THE GOVERNORS FURTHER AFFIRM THAT INCREASED COMMUNICATION AND COOPERATION AMONG STATES WILL PROMOTE A HEALTHY AND SOUND STATE REGULATORY SYSTEM THAT PROTECTS POLICYHOLDERS AND CLAIMANTS THROUGH A SOUND AND COMPETITIVE INSURANCE INDUSTRY

INTERSTATE BANK BRANCHING

The Territory of Guam reaffirms its strong support for the continuation of the dual banking system. Under this dual banking system Federal and State governments can charter and regulate banks. States have control over entry of out-of-state banks. Currently, due to Federal statutory restrictions, national banks can not simply open up a branch office in another State. If a bank wants to have an office in another State, it has to set up a separate bank with its own charter and board of directors.

Banks chartered in the territory have reinvested most of their capital and deposits within the community, thus, promoting credit availability, housing finance availability and economic development. Locally chartered banks are taxable under State laws.

No interstate branching law should preempt State statutes or regulations that limit branching within a particular State. Each State's system for intrastate branching should remain entirely within the purview of States.

The Territory of Guam, just like any other State does not like to see the small banks chartered in their respective jurisdictions to be taken over or be swallowed by giant national banks. Interstate branching should give States the ultimate decision whether to opt-in or opt-out of this program within a given PERIOD.

NATIONAL GOVERNORS' ASSOCIATION

92-1264

John Ashcroft
Governor of Missouri
Chairman

Roy Romer
Governor of Colorado
Vice Chairman

Raymond C. Scheppach
Executive Director

Hall of the States
444 North Capitol Street
Washington, D.C. 20001-1572
Telephone (202) 624-5300

March 26, 1992

The Honorable Joseph Ada
Governor of Guam
Executive Chamber
P.O. Box 2950
Agana, Guam 96910

Dear Governor Ada:

At the 1992 Winter Meeting of the National Governors' Association, the Committee on Economic Development and Technological Innovation adopted a policy position on interstate bank branching that called for more specific policy language to be proposed by March 15th. As chairman and vice chairman of that committee, we are writing to seek your vote on a proposed amendment containing the requested changes.

The Administration has reintroduced its banking reform bill and both the House and Senate banking committees have expressed interest in separating the branching issue from other banking reform provisions. The issue of state powers is central to this issue. Adoption of the proposed language will create interim policy to be used until the next NGA meeting in August.

Since many national banks today operate within state borders through bank holding companies, states are able to exercise, through corporate laws affecting bank holding companies, a wide range of controls over national banks. How to reconcile that fact to any new system of interstate branching is the issue we're facing.

Staff of all committee Governors have developed the attached proposed language which includes specific statements on state powers regarding taxation, intrastate branching, and the ability to decide whether or not to permit interstate bank branching within each state's borders. Both Congress and the Administration appear willing to accept these conditions. On the question of what essential control states should retain over national banks, the proposed language calls on Congress and the Administration to meet with state representatives and to join us in working out an effective compromise. This would be an effort to create uniform and consistent state powers and standards over national banks that would benefit the banking industry. It would offer the chance for a more broadly acceptable interstate banking system, rather than one which would lead states to choose not to participate.

We ask you to consider the proposed language and to respond by fax or mail to Tim Masanz, the Committee Director, within 10 days if possible. Thank you for your prompt attention to this matter.

Sincerely,

Jim Edgar

Governor Jim Edgar
Chairman
Committee on Economic Development
and Technological Innovation

William Donald Schaefer

Governor William Donald Schaefer
Vice Chairman
Committee on Economic Development
and Technological Innovation

Enclosures

cc: Terence Villaverde, Director
Washington Office

NATIONAL
GOVERNORS
ASSOCIATION

Chairman

Roy Romer
Governor of Colorado
Vice Chairman

Hall of the States
444 North Capitol Street
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COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGICAL INNOVATION

Chairman
Governor Jim Edgar

Committee Director
Tim Masanz

Proposed Changes in Policy

The attached policy is proposed to the Committee on Economic Development and Technological Innovation as the result of a policy resolution adopted at the NGA 1992 winter meeting. This language has been developed by the Staff Advisory Council (SAC) of the committee. Background information and fiscal impact data follow.

Interstate Bank Branching (New Policy Position, E-13)

The proposed policy expands existing policy (A-2. Avoiding Federal Preemption of State Laws and Policies) stating support for the dual banking system, and fulfills the charge to develop more specific language to complete a policy resolution adopted at the NGA 1992 winter meeting on interstate bank branching. Based on the February 4, 1992 resolution, the proposal supports the dual banking system, recognizes the importance of the banking industry to local economic development, and asserts the role of states in working with banks to promote economic growth. The new language calls for any federal interstate bank branching legislation to not be mandatory for states, to retain state control over intrastate branching, and opposes preemption of the right of states to tax banks. The proposal also calls on the Administration and the Congress to meet with state representatives to ensure that states retain essential control over banking operations within their borders.

The proposed policy has no greater fiscal effect than current policy.

Under the NGA rules regarding interim policy, an affirmative vote of two-thirds of the committee's members is required for adoption. A list of the committee's members is also attached.

PROPOSED POLICY ON INTERSTATE BANK BRANCHING

[This draft shows the changes from the resolution adopted by the Governors on February 4, 1992 during the NGA winter meeting. NEW LANGUAGE IS IN ALL CAPS.]

The nation's Governors reaffirm their strong support for the continuation of the dual banking system. This system has served the communities of America well, and has also demonstrated the strengths inherent in state regulation. The ratio of equity capital to assets is higher for state-chartered banks than for national banks, and the failure rate for state banks is below that of national banks.

~~Because of the critical nature of financial services to state economies, the importance of the banking system in state economic development strategies, and in light of the states' responsibilities in areas of economic development and consumer protection, it is essential that Congress recognize certain fundamental state regulatory interests if it enacts legislation authorizing interstate branching.~~

~~Branches of national banks should be subject to the regulation of their host states just as if they were separately incorporated banks, and states should retain all the control over the conduct of banking operations within their borders that they have currently.~~

~~The Committee on Economic Development and Technological Innovation intends by March 15th to develop and approve more specific criteria on this issue.~~

THE AVAILABILITY OF FINANCIAL SERVICES IS CRITICAL TO STATE ECONOMIES. STATES MUST HAVE THE ABILITY TO WORK WITH BANKS TO PROMOTE ECONOMIC DEVELOPMENT, COMMUNITY REINVESTMENT, AND CREDIT AVAILABILITY. IF LEGISLATION AUTHORIZING INTERSTATE BRANCHING IS ENACTED, STATE REGULATORY INTERESTS AND RESPONSIBILITIES, SUCH AS SAFEGUARDING CONSUMER RIGHTS, MUST BE RECOGNIZED AND PROTECTED. FURTHERMORE, ANY FEDERAL LEGISLATION AUTHORIZING INTERSTATE BRANCHING SHOULD STRICTLY RESPECT AND SUPPORT STATE TAX SOVEREIGNTY CONCERNING INTERSTATE BANKING OPERATIONS. ACCORDINGLY, ANY FINAL DECISION TO PERMIT INTERSTATE BRANCHING SHOULD PROVIDE FOR THE FOLLOWING:

1. WHETHER UNDER AN OPT-IN OR AN OPT-OUT STRUCTURE, STATES MUST HAVE THE ABILITY TO DECIDE ULTIMATELY IF INTERSTATE BRANCHING IS APPROPRIATE FOR THEIR STATE. ANY LEGISLATION SHOULD PROVIDE A MEANS AND THREE YEARS FOR STATES TO MAKE AN INFORMED JUDGMENT AS TO WHAT IS IN THEIR BEST INTEREST.

2. NO INTERSTATE BRANCHING LAW SHOULD PREEMPT STATE STATUTES OR REGULATIONS THAT LIMIT BRANCHING WITHIN A PARTICULAR STATE. EACH STATE'S SYSTEM FOR INTRASTATE BRANCHING SHOULD REMAIN ENTIRELY WITHIN THE PURVIEW OF STATES.

3. FEDERAL INTERSTATE BRANCHING LEGISLATION SHOULD NOT PREEMPT, LIMIT, OR INTERFERE WITH THE RIGHT TO TAX THAT STATES HAVE UNDER THE U.S. CONSTITUTION OR OTHER FEDERAL LAWS CURRENTLY IN EFFECT. SUCH LEGISLATION SHOULD BE NEUTRAL WITH RESPECT TO THE METHODS A STATE CAN USE TO TAX A BANK OR ITS BRANCHES.

THE GOVERNORS CALL ON CONGRESS AND THE ADMINISTRATION TO CONSULT WITH THE GOVERNORS, STATE BANK SUPERVISORS, AND STATE TAX ADMINISTRATORS CONCERNING THE IMPACT ON STATES OF ANY FEDERAL LEGISLATIVE PROPOSALS TO AUTHORIZE INTERSTATE BANK BRANCHING, AND TO ENSURE THAT STATES RETAIN ESSENTIAL CONTROL OVER THE CONDUCT OF BANKING OPERATIONS WITHIN THEIR BORDERS.

NGA Objective

- NGA policy supports extension of mortgage revenue bonds, small issue manufacturing bonds, and credits for low-income housing, jobs, education, and research. NGA policy also supports tax simplification changes under Section 415 deferred compensation plans for state pension plans.

The most important economic stimulus decision by Congress this year will come in actual appropriations for highways, mass transit, and state revolving loan funds for water treatment. States could be frozen at FY 1992 levels, thus losing approximately $2 billion in increases.

Partisan differences prevented the President and Congress from reaching a compromise on economic stimulus and tax legislation. Congress failed to override the President's March 20 veto.

Current thinking is that no new tax package will be offered. However, many Members are seeking a temporary extension of expiring tax exempt bonds for housing and small issue manufacturing, as well as tax credits for low-income housing, jobs, education, and research and development. Senator Bentsen and Rep. Rostenkowski have said they will support these extensions only in the form of a clean bill with no amendments.

Many proposals for infrastructure spending continue on the committee agendas of both Houses but few expect final action since the "wall" between defense and domestic spending remains. On March 31, the House voted by a large majority to not use defense funds for domestic purposes in FY 1993. There is a slight possibility that some defense funds could be reallocated within the defense appropriations bill for military retraining of individuals, industry conversion assistance, and education benefits for veterans.

Contact: Jim Martin, 202/624-5315

TAX PACKAGE

NGA Objective

- NGA policy supports extension of mortgage revenue bonds, small issue manufacturing bonds, and credits for low-income housing, jobs, education, and research. NGA policy also supports tax simplification changes under Section 415 deferred compensation plans for state pension plans.

On February 27, the House voted 221-209 to adopt a Democratic tax proposal to increase tax breaks for the middle class. The House bill (H.R. 4210) includes a two-year refundable tax credit of $200 for single taxpayers and $400 for couples, taken against Social Security payments. It will be paid for by a permanent tax rate of 35 percent and a 10 percent surtax on millionaires. The bill will go to conference with a Senate bill yet to be developed. A Republican alternative was defeated 166-264.

Provisions in the Democratic bill that were also in the Republican short-term bill include:

- penalty-free IRA withdrawals for first home, medical, and education expenses;
- investment tax allowance;
- change in the alternative minimum tax (AMT);
- passive loss relief;
- permit pension investments in real estate; and
- index capital gains income for inflation. (The Republican plan would cut the rate to 15 percent.)

The Senate Finance Committee will mark up a tax package on March 3. In its current form, it includes a $300 tax credit for each child, expanded IRAs, investment tax credits, passive loss relief, and some targeted capital gains cuts. These and other provisions would be paid for by additional taxes on those with higher incomes.

Contact: Jim Martin, 202/624-5315

INTERSTATE SALES TAX COLLECTION

Guam presently imposes a 4% Guam Receipts Tax on local sales and services on the seller and similar percentage on consumer upon the importation of tangible property for personal use or consumption.

This is an interesting issue considering Guam's geographical location and heavy reliance on importation of products for resale and personal consumption.

The recommended action by the National Governor's Association (NGA) in convincing Congress to clarify the Commerce Clause to permit the enforcement of State Use Tax laws on interstate commerce will benefit and enhance Guam's enforcement of this type of tax. Guam presently relies on consumers to voluntarily pay the importation use tax on goods they purchase off-island.

DEPARTMENT OF COMMERCE
DIPATTAMENTON I KUMETSIO
GOVERNMENT OF GUAM
AGANA, GUAM 96910

Linda — Here's a great afterthought!

RECEIVED
JUL 09 1992

DC/SE/ERC/92-07-01I

JUL 07 1992

MEMORANDUM

TO: Director, Bureau of Planning

FROM: Director, Department of Commerce

SUBJECT: Interstate Sales Tax Collections, National Governors' Association meeting

A memorandum of June 17 requested position or briefing papers for the National Governor's Association. The requests covered several subjects. This transmittal only concerns Interstate Sales Tax Collections. The issue fascinated a staff member. Thus, he developed the attached comprehensive proposal. You might wish to submit the proposal for review by a tax lawyer. Please consider submission to the National Governors' Association staff.

The staff member is submitting it for review by a tax lawyer. I will submit the proposal modified on the basis of lawyer review to you. Because both the staff member and the lawyer are taking leave, the modified proposal will be available at the earliest in late July. It may not be available in time for the Governors' Association Annual Meeting.

It may be best for Guam to be excluded from any plan for interstate sales tax collection. Under many such programs, Guam would probably gain revenue but the administrative costs of the program would not be worth this benefit. Such exclusion would probably be acceptable by the other Governors. Guam's mail-order sales to the states are and will remain limited to unique or specialty products such as publications and crafts. The sales to any state are an infinitesimal portion of the state's retail sales. The exemption of these sales from Guam's gross receipts tax has negligible influence on the size of the sales.

PETER R. BARCINAS

INTERSTATE SALES TAX COLLECTIONS

On May 26, the U.S. Supreme Court ruled that states can require interstate mail order firms to collect taxes under the Due Process Clause but not under the Commerce Clause unless Congress agrees. In fact, the Court invited Congress to decide the enforcement issues.

The Court said two things: first, the Due Process Clause does not bar enforcement of the states' use tax; and second, the states' enforcement of the use tax places an unconstitutional burden on interstate commerce under the Commerce Clause for direct marketers with limited contacts in the customer's state. However, the Court said "the underlying issue is one that Congress may be better qualified to resolve and one that it has the ultimate power to resolve."

The Court made a fine distinction, saying the "minimum contacts" provision of Due Process does not apply while the "substantial nexus" provision of the Commerce Clause does apply. Therefore, it is a congressional issue.

Action Needed: States must convince Congress to clarify the Commerce Clause to permit the enforcement of state use tax laws on interstate commerce and to stop the tax-free status of interstate mail order firms that is rapidly undermining the competitive ability of main street retailers across the nation. Contacts with the industry will continue seeking agreements on voluntary enforcement procedures.

Contact: James L. Martin, 202/624-5315

NATIONAL GOVERNORS' ASSOCIATION

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FOR IMMEDIATE RELEASE
MAY 26, 1992 (28-92)
CONTACT: Rae Young Bond, 202/624-5898

QUILL RULING A PARTIAL VICTORY FOR STATES, SAYS GOV. SINNER

WASHINGTON, D.C. — North Dakota Gov. George A. Sinner, one of NGA's lead governors on out-of-state sales tax collection, today released the following statement on the U.S. Supreme Court's May 26 decision in North Dakota v. Quill Corporation:

"The ruling is a partial victory for the states. The court said it is appropriate under the Constitution's 'due process' clause to compel an out-of-state direct marketing firm to collect a state's use taxes on goods sold by the firm to consumers in the state. In North Dakota v. Quill, the court said the contacts Quill has in the state are more than enough to make the company liable to collect the taxes due.

"But the decision left unresolved many issues under the Constitution's 'commerce clause.' Here, the court said the state can't require Quill to collect the taxes, because the firm does not have substantial "nexus" or connection within the state. In the North Dakota case, Quill had nexus defined through the U.S. mail, common carriers, and computer diskettes used for placing orders. However, in many other states mail-order companies use toll-free '800' phone numbers, drop shipments (orders filled directly by suppliers, not the company's main location), and other practices that could constitute 'substantial nexus.' States will continue to litigate in areas they believe offer a strong case for nexus.

"The court also said that 'the underlying issue is one that Congress may be better qualified to resolve and one that it has the ultimate power to resolve.' NGA will urge Congress to pass legislation that requires mail-order houses to play by the same rules as in-state retailers."

Under current law, consumers in a state are legally liable for paying use taxes on goods they buy from out-of-state mail-order firms. But a 1967 U.S. Supreme Court ruling, in Bellas Hess v. Illinois Department of Revenue, effectively prevents the states from requiring the mail-order companies to collect the tax.

-30-

NATIONAL GOVERNORS' ASSOCIATION
EIGHTY-FOURTH ANNUAL MEETING
1 9 9 2

COMMITTEE ON ENERGY AND ENVIRONMENT

TAB 5

COMMITTEE ON ENERGY AND ENVIRONMENT

Summary of Issues and Briefing Papers

ISSUE:

- ***D-36: Resource Conservation and Recovery Act Reauthorization (Solid Waste)***

A provision in the House solid waste bill restricts the local governments' authority to authorize the import of out-of-state waste. The provision would allow governors to veto local decisions to accept waste imports at new facilities, if inconsistent with regional waste capacity needs identified in the state plan. The Senate's interstate waste bill was also amended to allow governors to ban or freeze waste at 1991 or 1992 levels if local governments ask them to, if contracts are protected, and if affected facilities did not receive waste imports in 1991. Governors of states that are large waste importers may freeze and restrict waste imports without local permission. However, governors' waste ban authority could be revoked in 1997 unless all landfills meet 1993 federal standards or are set to close by 2000.

NGA urges all Governors to consider the effects of provisions found in both the House and Senate RCRA bills. The bills would require states to produce state solid waste management plans and to be held accountable for implementing them. These plans include capacity estimating, planning, waste inventories, and source reduction and recycling goals. Governors urge that federal review of plan implementation be removed, give governors flexibility authority, and that numerous new mandates on states be restricted.

ISSUE:

- ***D-17: Federal Facilities (Hazardous Waste)***

In some states, federal facilities are in serious non-compliance with environmental laws. The House and Senate have passed bills to allow states to assess fines and penalties against federal agencies violating state or federal hazardous waste laws. NGA encourages states to accept the House version of the bills because it is more consistent with NGA policy than the Senate's. However, NGA wants Congress to drop a House provision earmarking revenues from state fines or penalties for environmental programs, unless the state constitution requires another distribution.

Without passage of the bill, some federal courts have ruled that federal facilities breaking environmental laws are not subject to the same kinds of penalties that can be used against states and private facilities.

NGA objects to the Senate version that would give the U.S. Energy Department a five-and-one-half year extension to comply with RCRA, a longer extension than any private facility would receive under the bill, giving DOE the authority to store certain mixed wastes which are both radioactive and hazardous. NGA also objects to the amendment that allows the Secretary of Defense to develop and implement regulations concerning the safe development, handling, use, transportation, and disposal of military munitions; allows hazardous waste generated on public vessels or transferred from one vessel to another to escape RCRA regulation until it is moved from the ship.

BRIEFING PAPER:

Guam Environmental Protection Agency

Nuclear waste is generated by the Air Force and the Navy in Guam and is believed to be regulated by the Nuclear Regulatory Commission. All activities regarding nuclear waste are handled strictly by the military and Guam EPA has no access to information due to security classification.

It is not known to GEPA if nuclear waste is stored in Guam, however, the agency has known that there had been a low discharge of low-level radioactive waste in Apra Harbor. However, the Navy claims that all nuclear wastes are shipped off-island.

ISSUE:

- ***Executive Order: Privatization of Environmental Protection Agency Projects***

Some Environmental Protection Agency projects are among those that are included in the President's Executive Order on Infrastructure Privatization to encourage and remove impediments to privatization of federally-financed infrastructure owned by the state and local governments. The Executive Order asks federal agency heads to provide greater financial flexibility to state and local governments that would want to sell or lease local infrastructure.

ISSUE:

- ***D-23: Water Resource Management (Wetlands)***

NGA policy with adopted amendment supports the development of a comprehensive national wetlands strategy that promotes preservation, conservation, and wise management of U.S. wetlands. The amendment also stresses the importance of a strong state role. The amendment recommends changes in the regulatory program concerning the definition and delineation of wetlands, the appropriate uses of mitigation banking and wetlands classification systems, the delegation of programmatic responsibilities among federal agencies, and conditions governing state assumption of the program.

The amendment does not advocate additional spending on wetlands programs, although substantial new nonregulatory programs would require funding. The existing policy recognizes that the lack of federal funding for assumed state programs may deter states from assumption and recommends continued support for development of state wetlands conservation plans.

Congress has urged the President to direct EPA and other related regulatory agencies to withdraw proposed revisions to the Federal Manual for Identifying and Delineating Jurisdictional Wetlands and recommended that the National Academy of Sciences undertake a study to develop recommendations for wetlands delineation.

The case of U.S. EPA overruling an EPA Regional Office of Michigan's authorization of filling wetlands for a controversial golf course development is an indication that U.S. EPA maintains its discretionary oversight authority over wetlands programs assumed by the states and can veto individual permit decisions. The states hope that the federal government should give substantial autonomy to states assuming the wetlands programs.

BRIEFING PAPER:

Department of Agriculture

The Department supports NGA's adopted amendment for the development of a comprehensive national wetlands strategy, and finds the policy acceptable to the needs of the people of Guam. The Government of Guam is currently involved in the process of drafting new laws and regulations to better protect our wetland and water resources because the present laws and regulations do not adequately protect public

interest in the ever increasing demands on these resources by the rapid economic development of the island. The NGA position on wetlands will provide valuable guidance in this effort.

Wetland protection has become a significant issue for developers in Guam, particularly for land-intensive projects such as golf courses since wetlands are found mostly within the project boundaries. In addition to being land-intensive, golf courses are also heavy users of water. The case of the controversial Miyama Hills (now Manenggon Hills) project wherein fine was levied for a federal wetlands regulation violation, has served to emphasize the shortcomings in Guam's existing laws and regulations. With respect to the proposed laws and regulations, there is a real need to avoid the ambiguity that currently exist. There should be consistency in definitions between the local laws and regulations and those on a federal level in order that confusion on the part of the public will be reduced, if not eliminated, and that public compliance be enhanced. Once a new body of laws and regulations has been implemented, there should be an intensive education effort made on the regulatory process as well.

There is also a need for a unified protocol for the delineation of wetlands. Government of Guam is currently using the *1989 Federal Manual for Delineation of Jurisdictional Wetlands* which is not perfect for Guam. Having been prepared primarily for use in the United States, it is not totally applicable to the unique climatic, geologic, and hydrologic conditions of Guam. The Manual is presently undergoing revision at the federal level and it would be ideal to develop a regionalized version to suit the tropical Pacific.

There is a need for increased funding for wetlands both on the local and federal levels. The primary agencies involved in wetland protection are understaffed and are limited in their ability to response to identified needs such as the revision of Guam's water and wetlands laws and regulations. Funding is needed for additional staff to delineate and map wetlands, assess the functions and values of wetlands, develop effective methods of wetland restoration and creation, and to conduct basic research into wetland ecology. Funding for public acquisition of valuable wetlands should also be considered, particularly where significant public benefits, such as flood control, would accrue through continued protection and management of the wetlands. In some cases, such acquisition may be accomplished through land exchange but in case it is not possible, other means such as tax incentives should be sought to encourage landowners to protect and manage their wetland resources for the good of the public.

ISSUE:

- ***D-24: Clean Water Act***

The Clean Water Act reauthorization bill by the Senate provides for the establishment of a "Clean Water Funds" which is not consistent with NGA policy. Present and projected needs for water quality financing far outstrip available resources and additional federal investment in state revolving loan funds is critical to continue progress towards meeting the goals of the Clean Water Act. NGA supports the continuation and expansion of state revolving loan funds to include small communities, non-point pollution, and combined source overflows. However, the Governors oppose the efforts to turn this state program into categorical federal programs. Unless funding is increased, current proposals would eventually terminate the state revolving loan funds and use these revenues for high cost, inefficient categorical programs to be run on a project-by-project basis by EPA.

RCRA REAUTHORIZATION
(SOLID WASTE)

NGA Objectives

- Oppose excessive federal mandates and inappropriate federal involvement in RCRA Subtitle D programs for solid waste, which have traditionally been the responsibility of state and local governments.

- Work to create an effective federal-state partnership in solid waste management through amendments to the Resource Conservation and Recovery Act (RCRA).

- Seek state authority to manage imported solid waste by imposing higher fees and limited bans on out-of-state waste imports.

- Encourage an expanded federal role in research and development of waste management technologies, recyclability and recycled content initiatives, recycled materials market development, and technical assistance.

The Senate Environment and Public Works Committee reported its RCRA Reauthorization bill, S. 976, on May 20. The committee approved a municipal solid waste interstate amendment that allows Governors to limit out-of-state waste at disposal facilities upon request of the affected local government and local solid waste planning unit (if one exists under state law) as long as the waste is not under contract and the facility is not already receiving out-of-state waste.

In states that received more than one million tons of out-of-state waste in 1991 (Pennsylvania, Ohio, Indiana, and Virginia), the Governor may freeze the amount of waste imported at 1991 levels at facilities already receiving waste imports. The Governor may also, if requested by the local government, prohibit waste imports to landfill cells that do not meet state standards. At facilities that received more than 100,000 tons of out-of-state waste, representing more than 30 percent of all the waste received at the facility that year, the Governor may limit waste imports to 30 percent of all waste received at the landfill in 1991. States with more than 4 grandfathered facilities (Indiana, Ohio, Pennsylvania, and Virginia) may limit waste imports to 30 percent of the waste received at a facility in 1991 without the request of the local government.

After January 1, 1995, all authority to limit waste imports is removed, unless all operating landfill cells in the state either meet the new landfill regulations that go into effect in 1993 or are on enforceable schedules to stop receiving waste by January 1, 2000 and to implement a closure plan.

The House Subcommittee on Transportation and Hazardous Materials reported H.R. 3865 on March 26, 1992. The Committee on Energy and Commerce is preparing a trimmed-down RCRA bill addressing only municipal solid waste issues and hopes to release it on June 5, 1992. Changes to the Boucher interstate waste amendment, which was adopted in subcommittee, are being considered for inclusion in the new draft.

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MAY 06 1992

April 27, 1992

To All Governors:

We are writing to urge all Governors to consider the effects of provisions found in both House and Senate Resource Conservation and Recovery Act (RCRA) bills that would prohibit a landfill or incinerator from receiving waste generated outside the state unless it has the authorization of the local government with zoning jurisdiction for the facility. No coordination with the state is required in these local government decisions.

Aside from the dangerous precedent this approach sets, it also jeopardizes the success of intrastate regional planning efforts already underway in many states by allowing localities to accept out-of-state waste at the expense of others in their region or state. Because facilities already receiving out-of-state waste are exempt from the ban, the bill provides no protection of existing capacity.

In addition to potential disruptions of current programs, investing all interstate authority with local governments is incongruent with new state mandates in the bills. For instance, states would be required to produce state solid waste management plans and be held accountable for implementing them. These plans must include capacity estimating, planning, waste inventories, and source reduction and recycling goals. The Senate bill specifically requires that states issue permits for capacity sufficient to manage its municipal solid waste for the next five years, and identify approved sites for capacity for the ensuing eight-year period, yet denies states any interstate controls to carry out these requirements.

In fact, if EPA finds that a state is not implementing any part of its plan for any reason, a series of penalties occur. Waste from the state may not be accepted at commercial facilities in other states, the ban on out-of-state waste without local government authorization is removed, and, in the House bill, state permitting authority is suspended.

The Senate bill, S. 976, is scheduled for markup in the Environment and Public Works Committee on April 29, 1992 and the House Committee on Energy and Commerce could markup its bill, H.R 3865, as soon as mid-May. We urge you to contact members of your congressional

National Governors' Association

New State Mandates in
H.R. 3865, The National Waste Reduction, Recycling, and Management Act

Section 102: Minimum Requirements for State Plans

1. The state must estimate the states current capacity for managing municipal solid waste (MSW) and include procedures for developing adequate capacity during the 10-year planning period. Capacity estimates must be updated biennially.
2. An inventory of Subtitle D wastes must be prepared within 18 months of enactment. It shall identify the amounts and types of expected to be generated in the state or transported into the state during the planning period and in the preceding year. It shall also include information on sources, characteristics, waste management practices, and the amount and destination of waste exported. The inventory must be updated at least biennially. (Sec. 104)
3. The plan shall provide for the closing and upgrading of all existing open dumps.
4. The plan shall provide source reduction goals.
5. Life-cycle cost analyses (LCA) must be conducted for recycling, composting, landfilling, and incinerating waste. The state must then set recycling goals based on LCA.
7. The plan must contain provisions to promote composting.
8. A program must be carried out to divert materials from disposal pursuant to the LCA.
9. The plan must comply with the following scrap-tire requirements (Sec. 105):
   a. Identify the location, size, and characteristics of existing scrap tire collection sites containing at least 3,000 scrap tires, and estimate the present and future capacity of each site and any health and environmental standards.
   b. Provide for a system to separate new scrap tires.
   c. Prioritize the elimination of existing tire piles with a goal of total elimination of all existing tire piles by January 1, 2005.
   d. Specify a method of cost recovery or cost sharing
   e. Prohibit permanent disposal of scrap tires in landfills unless there is not reasonably available recycling alternatives and the tires are shredded.
   f. Require that there be sufficient tire collection sites at which no fee is charged.
   g. Prohibit storage of more than 3,000 tires for more than 60 days.
   h. Adopt a goal of 100% recycling 18 months after enactment.
   i. Plans must include specific provisions for large household appliances based on a combination of market incentives recommended by an independent board.
10. Personnel training must be provided for those collecting solid waste and those working at solid waste storage, recycling, treatment, and disposal facilities.
11. Public educational programs about solid waste management options must be developed through local school boards and other appropriate agencies.
12. The plan must specify an appropriate manner to handle specific wastes such as household hazardous, yard waste, large household appliances, and materials collected for recycling that have remained in storage longer than allowed. For large household appliances, plans must include economic and regulatory incentives similar to those identified in EPA guidelines (Sec. 303(b)).

13. The plan must identify existing markets and the actions states will take to promote their development and the training of state and local officials in the marketing of recovered materials.
14. States must have a policy for procuring reusable products and products made with recovered materials. The plan shall assure that political subdivisions comply with state procurement policies.
15. The plan shall identify the means for coordinating regional planning and implementation under the state plan.
16. The state must certify that it has sufficient legal authority through state law to implement and enforce the requirements of the plan.
17. The state must report biennially to EPA on progress in implementing the plan.

Section 103: Submission, Approval and Implementation of State Plans

1. State must submit solid waste management plan to EPA within 30 months of enactment and hold public hearings.
2. The Governor submits a certification of completeness.
3. The state must revise the plan if disapproved by EPA and resubmit it within 90 days.
4. States must undergo an implementation review 3 years after the plan is approved. If EPA finds the state is not fully implementing the plan then permits issued by the state after this finding become invalid.

Section 206: Permits for Management of Municipal Solid Waste

1. States must establish a permit program within 24 months of enactment for incinerators (including the waste separation requirements and ash management plan described in Sec. 202), landfills, composting, materials recovery facilities, scrap tire collection sites and monofills. Permit terms may be no longer than 10 years.
2. The state must have legal authority for periodic inspections, public notices, and the enforcement of permits and fee requirements.
3. The state must collect a fee of not less than $2 per ton.

Section 301: Recycling

The battery recycling requirements preempt state laws which may necessitate changes in state programs.

Section 601: Mining Waste

1. Authorized state mining waste programs must include the following:
   a. Technical performance standards
   b. Monitoring, verification and enforcement standards
   c. Corrective action standards
   d. Closure/post-closure standards
   e. Financial responsibility standards; and,
   f. Adequate public participation processes.
2. States must undergo a federal audit every 3 years.
3. States must issue permits.
4. States must have adequate enforcement authorities.

Guam is in favor of the third provision in Congressman De Lugo's statement which is intended to insure the insular areas access to the SPR during critical supply shortage.

* 2. Nuclear waste is generated by military facilities (Air Force & Navy) on Guam, and is believed to be regulated by the Nuclear Regulatory Commission. All activities regarding nuclear waste are handled strictly by the military and that this Agency cannot access this information due to military security classification.

   Based on past incidents reported to this Agency, there has been discharge of "low level" (as reported) radioactive waste in Apra Harbor by the Navy. It is not known to this Agency if nuclear waste from both the Navy and the Air Force are being stored in Guam. According to the Navy all nuclear waste are shipped off-island. Guam must not allow the storage of nuclear waste in Guam and must do all it can to prevent it.

3. The process for reviewing and issuing permits under the purview of the Environmental Protection Agency is complex and time consuming particularly under RCRA, CERCLA and the Clean Air Act. The passage of the CAA Amendment of 1990 with its stringent requirement on emissions has literally compounded the already long and arduous process.

   It is unreasonable however, to try and impose the requirements or standards that would normally be required for the City of Los Angeles or any city in California for Guam, when the environmental conditions are not the same. It should be the policy of U.S. EPA to review each locale on its own merits. Perhaps the very reason for the tremendous backlog at EPA is the uniform application of these standard/requirements regardless of its geographical location and impact to the environment.

   Guam is at its peak in economic development. Electrical power demands have doubled if not tripled in less than a decade. Guam must be able to surge forward to meet these demands (not only in the electrical power) in order to realize and maintain its long range goal in self sufficiency through sustained economy.

   Given the available technical expertise at EPA, it is in our territorial interest to work closely with U.S. EPA to address our current and future power system needs.

Joanne M. Brown

JOANNE M. BROWN
Acting

NGA Objective

- Encourage conferees to accept the House version (H.R. 2194) of conflicting bills that allow EPA and states to enforce hazardous waste laws against federal facilities to the same extent that they are enforced against private parties. The House bill is more consistent with NGA policy than the Senate measure. The Senate amendments listed below and the House earmark of state-raised revenues are inconsistent with NGA policy.

Federal facilities legislation passed both the House and Senate, and conference staff are currently meeting.

On October 24 the Senate approved S. 596, the Federal Facilities Compliance Act, with several amendments. This bill clarifies that EPA and the states can levy fines and penalties against federal agencies for violations of state or federal hazardous waste law. The House approved similar legislation, H.R. 2194, on June 24 with strong support from NGA, individual Governors, and the National Association of Attorneys General (NAAG). Without passage of this legislation, some courts have ruled that no enforcement action may be taken against federal agencies, which become effectively self-regulating.

Objectionable provisions of the bills include:

- A Senate amendment giving DOE authority to store certain mixed wastes, which are both radioactive and hazardous, for up to five-and-one-half years without concurrence or involvement by the affected state. Currently, several states have signed agreements with DOE that condition the storage of mixed wastes and subject violations of the agreement to state enforcement. The Senate amendment undercuts such existing agreements by making them unenforceable and eliminates any incentive for DOE to negotiate such agreements with other states. Private generators of mixed wastes receive no break from current law under the amendment.

- A Senate amendment allowing the Secretary of Defense to both develop and implement regulations concerning the safe development, handling, use, transportation, and disposal of military munitions. Under the Senate amendment, DOD remains effectively self-regulating and immune to enforcement with respect to these important activities, including the incineration of nerve gas proposed in eight states.

- A Senate amendment allowing hazardous wastes generated on public vessels or transferred from one vessel to another to escape RCRA regulation until it is removed from the ship. This allows permanent floating storage of hazardous wastes.

- A provision of the House bill earmarking state fines or penalties collected by a state from a federal agency may be used only to support environmental programs, unless the state constitution requires another distribution.

NGA has urged the conferees to recede to the House bill and to drop the earmarking provision.

Contact: Tom Curtis, 202/624-5389

PRIVATIZATION OF FEDERALLY-FUNDED INFRASTRUCTURE

On April 30, the President signed an Executive Order on Infrastructure Privatization to encourage and remove impediments to privatization of federally-financed infrastructure owned by state and local governments. Assets covered include EPA projects, HUD public housing, DOT public transit, budget operations, and highways. Airport privatization is not mentioned in the Executive Order.

Contact: Jim Martin, 202/624-5315

BRIEFING PAPER

WETLANDS AND THE GOVERNMENT OF GUAM

The Division of Aquatic and Wildlife Resources has reviewed the position adopted by the National Governers' Association at their Annual Meeting held in February, 1992 and finds that it is generally acceptable to the needs of the people of Guam. The adoption of this wetland position by the NGA comes at a fortuitous time for Guam, as the Government of Guam is currently involved in the process of drafting new laws and regulations for the purpose of better protecting our wetland and water resources. The NGA position on wetlands will provide valuable guidance in this effort, as that position is, for the most part, well thought out and articulated. The current body of law and regulation that exists on Guam regarding wetlands and water resources in general is proving to be inadequate to protect the public interest in the face of ever increasing demands upon these resources by the rapid economic development of the island.

Wetland protection has become a significant issue for developers on Guam, particularly for such land-intensive projects as golf courses, as wetlands are almost invaiably found somewhere within the project boundaries. Guam received some degree of fame in 1990, when the then Miyama Hills (now Manenggon Hills) project became the subject of the largest fine ever levied for a federal wetland violation within the United States ($1.3 million, plus $100,000 each donated to the Guam Environmental Protection Agency and the Division of Aquatic and Wildlife Resources). Since then, wetlands have been on the minds of almost all land developers on the island and a number of projects have undergone major re-design in order to avoid wetland impacts. In most cases, including at Manenggon Hills, the resultant projects have been improved and enhanced by giving serious consideration to the protection of wetlands. In addition to the important ecological and socioeconomic functions that wetlands perform, such as providing wildlife habitat, mitigation of flooding, and maintenance of water quality, wetlands can become important scenic amenities that function as a form of natural landscaping.

In addition to being land-intensive, golf courses are also heavy users of water, as has recently become clear with respect to the Manenggon Hills project. At Manenggon Hills, they have developed insufficient water storage capacity to provide for vital erosion control measures, such as hydroseeding, over the hundreds of acres of soil that has been exposed to the elements during the developmental phase of the project, not to mention the water needed for the establishment of the project amenities such as the golf course fairways, tees, and greens, and landscaping. In order to forestall a serious erosion disaster occurring once the rainy season begins in earnest, the Government of Guam has had to grant emergency authority to the developer to pump water from the Ylig and Pago Rivers, despite the fact that this has been an extremely dry year and the streamflow in these streams is limited. Other developers have also expressed interest in pumping water from Guam's public streams in order to provide the necessary water for the establishment and maintenance of their various projects. The Manenggon Hills water situation has served to emphasize the shortcomings in Guam's existing laws and regulations regarding the ownership and use of water, and the requests of other developers has made it clear that we must act rapidly to rectify these inadequacies in order that the public interest in wetland and water resources be protected.

An inter-agency effort is underway to revise the body of laws and regulations pertaining to both wetlands and water rights on Guam. This effort includes the Bureau of Planning, the Department of Agriculture (Division of Aquatic and Wildlife Resources), the Guam Environmental Protection Agency, the Attorney General's office, the 21st Guam Legislature, and members of the private sector. Senator Marilyn Manibusan has introduced Bill No. 689, which is based largely upon a model bill originally drafted by the Bureau of Planning, and the various agencies mentioned above are in the process of separating out from that model bill those elements that should remain in statute and those elements that rightly belong as implementing regulations. As previously stated, the NGA position on wetlands will provide some additional valuable guidance in this effort. Although the importance of this effort is recognized by all parties involved, progress has been slow due largely to the fact that the primary agencies involved are short of staff and consequently have been able to contribute only a limited amount of staff time to this project. The volume of work related to the existing development boom on Guam has the key staff of these agencies fully committed to review of development plans, permit applications and environmental documentation for various proposed projects. Because of the importance to Guam of this effort to draft a new body of law and regulation for the protection and use of wetland and water resources, measures should be taken to provide the necessary staff to accomplish the task.

With respect to the proposed laws and regulations, there is a real need to avoid the ambiguity that currently exists. There is a particular need for consistency in definitions between local laws and regulations and those on a federal level, in order that confusion on the part of the public be reduced, if not eliminated, and that public compliance be enhanced. A real need exists for increased public education into the functions (what a wetland does) and values (the benefits derived from wetland functions) of wetlands, with a particular emphasis upon the fact that wetland issues are intimately related to other important issues such as flood and stormwater control, water supply, water quality, fish and wildlife habitat, and fish and wildlife production. Once a new body of law and regulation has been implemented, there should also be an intensive public education effort made on the regulatory process as well.

There is a need for a unified protocol for the delineation of wetlands. The infamous 1989 *Federal Manual for Delineation of Jurisdictional Wetlands* is currently being used as a basic guide by the primary Government of Guam agencies with responsibility for wetlands, but this manual is not perfect. Having been prepared primarily for use within the continental United States, it is not totally applicable to the unique climatic, geologic, and hydrologic conditions of the tropical Pacific. It does, however, correct some of the weaknesses of the earlier 1987 manual that is currently in use by the Army Corps of Engineers. The 1989 manual is currently undergoing revision at the Federal level, and over the long term, it would be ideal to develop (or have developed) a regionalized version to suit the tropical Pacific. Over the short term, it would be worthwhile to have regionalized training in wetland delineation for tropical areas, utilizing the basic techniques found in the 1989 manual, provided by an appropriate federal agency such as the Army Corps of Engineers, the Fish and Wildlife Service, or the Environmental Protection Agency. Such training, if provided in the form of a workshop, could greatly assist resource managers through the tropical Pacific.

There is a need for increased funding for wetlands on both the local and federal levels. As previously stated, the primary agencies involved in wetland protection are understaffed and consequently they are limited in their ability to respond to such clearly identified needs as the revision of Guam's water and wetland laws and regulations. Funding is needed for additional staff to delineate and map wetlands, to assess the functions and values of wetlands, to develop effective methods of wetland restoration and creation (subjects of increasing importance as forms of mitigation for wetland loss), and to conduct basic research into wetland ecology. Funding for public acquisition of valuable wetlands should be considered, particularly where significant public benefits, such as flood control, would accrue through continued protection and management of the wetland. In some cases, such acquisitions may be accomplished through land exchange. In cases where acquisition is not possible, other means, such such as tax incentives, should be sought to encourage landowners to protect and manage their wetland resources for the public good.

D-23. WATER RESOURCE MANAGEMENT

23.1 **Principles**

23.2 **Grant Funding**

23.3 **Clean Water Infrastructure**

23.4 **Point Sources**

23.5 **Nonpoint Sources**

23.6 **Groundwater**

23.7 **Stormwater**

23.8 **Drinking Water**

23.9 **Wetlands**

23.9.1 PREFACE. WETLANDS IN THEIR NATURAL STATE SERVE IMPORTANT ECOLOGICAL AND SOCIOECONOMIC FUNCTIONS THAT ARE EITHER COSTLY OR IMPOSSIBLE TO REPLACE. THEY PROVIDE HABITAT FOR WILDLIFE, MITIGATE FLOODING, AND MAINTAIN WATER QUALITY BY FILTERING OUT SEDIMENTS AND OTHER POLLUTANTS.

THE GOVERNORS RECOGNIZE THE NEED FOR IMPROVED PROTECTION OF THE NATION'S WETLANDS AND SUPPORT DEVELOPMENT OF A COMPREHENSIVE NATIONAL WETLANDS PROTECTION STRATEGY TO PROMOTE PRESERVATION, CONSERVATION, AND WISE MANAGEMENT OF THIS VITAL RESOURCE. THE GOVERNORS BELIEVE A COMPREHENSIVE STRATEGY SHOULD INVOLVE A BROAD RANGE OF BOTH REGULATORY AND NONREGULATORY PROGRAMS, AND A WETLANDS RESEARCH PROGRAM WITH KEY EMPHASIS ON DEVELOPING EFFECTIVE METHODS OF WETLANDS RESTORATION AND CREATION AND OF ASSESSING THE FUNCTIONS AND VALUES OF WETLANDS.

THE GOVERNORS BELIEVE THIS COMPREHENSIVE STRATEGY SHOULD REFLECT FIVE GENERAL PRINCIPLES.

- FIRST, PROTECTION EFFORTS SHOULD BE COHERENT AND COORDINATED TO MAKE THE MOST EFFICIENT USE OF SCARCE RESOURCES AND MINIMIZE INCONSISTENCY AMONG FEDERAL, STATE AND LOCAL PROGRAMS.

- SECOND, WETLANDS MANAGEMENT SHOULD BE INTEGRATED WITH OTHER RESOURCE MANAGEMENT PROGRAMS SUCH AS FLOOD CONTROL, ALLOCATION OF

WATER SUPPLY, PROTECTION OF FISH AND WILDLIFE, AND STORMWATER AND NONPOINT SOURCE POLLUTION CONTROL.

- THIRD, WETLANDS DELINEATION CRITERIA AND MANAGEMENT POLICIES SHOULD RECOGNIZE THE SIGNIFICANT REGIONAL VARIANCE IN THE RESOURCE. MANY WETLANDS FUNCTIONS AND VALUES DERIVE FROM THE LOCATION OF WETLANDS IN THE WATERSHED AND THE RELATIONSHIP OF WETLANDS TO OTHER LAND AND WATERS. MANAGEMENT POLICIES MUST BE TAILORED TO LOCAL HYDROLOGIC AND ECOLOGICAL CONDITIONS.

- FOURTH, THE GOVERNORS NOTE THAT LAND USE REGULATION IS TRADITIONALLY A STATE AND LOCAL FUNCTION AND BELIEVE THAT INCREASED STATE INVOLVEMENT IN WETLANDS PROTECTION PROGRAMS WILL FURTHER ALL OF THE ABOVE THREE PRINCIPLES, AND THAT THE REGULATORY PROGRAM SHOULD BE DESIGNED TO FACILITATE STATE ASSUMPTION.

- FINALLY, THE GOVERNORS BELIEVE THE NATIONAL STRATEGY SHOULD RECOGNIZE THE UNIQUE SITUATION ENCOUNTERED BY THE STATE OF ALASKA. ALASKA HAS A TREMENDOUS AMOUNT OF WETLANDS -- MORE THAN THE REST OF THE UNITED STATES COMBINED -- AND WETLANDS CONSTITUTE AS MUCH AS 75 PERCENT OF THE LANDSCAPE. MANY ARE ALREADY IN PUBLIC OWNERSHIP, AND THERE HAS BEEN A LOW HISTORIC LOSS RATE -- LESS THAN ONE-TENTH OF 1 PERCENT. BECAUSE OF CERTAIN GEOGRAPHIC CHARACTERISTICS UNIQUE TO THE STATE (IT IS ARCTIC AND SUBARCTIC, WITH DEVELOPMENT CONSTRAINED TO LIMITED GEOGRAPHIC AREAS), POLICIES AND PROCEDURES THAT ARE REASONABLE IN THE COTERMINOUS STATES ARE NOT ALWAYS APPLICABLE IN ALASKA. YET NEEDS DO ARISE THAT MAY IMPACT ON ALASKA'S WETLANDS RESOURCE.

  IN LIEU OF DIRECT APPLICATION OF ALL THESE FOLLOWING RECOMMENDATIONS IN ALASKA, THE GOVERNORS RECOMMEND THAT THE APPROPRIATE GOVERNMENT AGENCIES AND STAKEHOLDER GROUPS IN ALASKA WORK COOPERATIVELY TO DEVELOP REGIONAL WETLANDS STRATEGIES THAT ACCOMMODATE SUSTAINABLE WETLANDS PROTECTION AND SUSTAINABLE ECONOMIC GROWTH FOR THE STATE.

23.9.2 GOALS. THE GOVERNORS BELIEVE THE GOAL OF THE NATIONAL WETLANDS PROTECTION STRATEGY SHOULD BE NO NET LOSS OF WETLAND RESOURCES. THE GOVERNORS RECOMMEND THAT CONGRESS INCLUDE IN THE CLEAN WATER ACT A NATIONAL WETLANDS PROTECTION GOAL TO ACHIEVE NO NET LOSS OF THE NATION'S REMAINING WETLANDS

BASE, AS DEFINED BY ACREAGE AND FUNCTION, AND TO RESTORE AND CREATE WETLANDS WHERE FEASIBLE TO INCREASE THE QUANTITY AND QUALITY OF THE NATION'S WETLANDS RESOURCE BASE.

THIS GOAL DOES NOT IMPLY THAT INDIVIDUAL WETLANDS WILL IN EVERY INSTANCE BE UNTOUCHABLE OR THAT THE NO NET LOSS STANDARD SHOULD BE APPLIED ON AN INDIVIDUAL PERMIT-BY-PERMIT OR ACRE-BY-ACRE BASIS -- ONLY THAT THE NATION'S OVERALL WETLANDS BASE SHOULD REACH EQUILIBRIUM BETWEEN LOSSES AND GAINS IN THE SHORT RUN AND INCREASE IN THE LONG TERM. THE PUBLIC MUST SHARE WITH THE PRIVATE SECTOR THE COSTS OF RESTORING AND CREATING WETLANDS TO ACHIEVE THIS GOAL.

THE GOVERNORS RECOGNIZE THAT THE GOAL MAY HAVE TO BE IMPLEMENTED AT DIFFERENT RATES IN VARIOUS REGIONS OF THE COUNTRY TO REFLECT REGIONAL WETLANDS NEEDS, CONDITIONS, AND TYPES.

HOWEVER, THE GOAL DOES NOT IMPLY THAT WETLANDS LOSSES IN ONE STATE OR REGION OF THE COUNTRY CAN BE BALANCED WITH GAINS IN OTHER, DISTANT REGIONS. MOREOVER, THE GOVERNORS RECOGNIZE THAT THIS GOAL CAN BE MOST EFFECTIVELY MET WITH POLICIES THAT ASSERT A PREFERENCE FOR AVOIDANCE OF WETLANDS ALTERATION.

23.9.3 DEFINITION OF WETLANDS. THE GOVERNORS STRESS THAT THE DEFINITION OF WETLANDS AND DELINEATION CRITERIA MUST BE WORKABLE AND SCIENTIFICALLY VALID, AND SHOULD RECOGNIZE REGIONAL VARIANCE IN THE RESOURCE. THE GOVERNORS MAKE THE FOLLOWING RECOMMENDATIONS.

- CONGRESS SHOULD WRITE INTO THE LAW THE DEFINITION OF WETLANDS CURRENTLY INCLUDED IN EPA'S CLEAN WATER ACT SECTION 404(B)(1) GUIDELINES -- "THOSE AREAS THAT ARE INUNDATED OR SATURATED BY SURFACE OR GROUNDWATER AT A FREQUENCY AND DURATION SUFFICIENT TO SUPPORT, AND THAT UNDER NORMAL CIRCUMSTANCES DO SUPPORT, A PREVALENCE OF VEGETATION TYPICALLY ADAPTED TO LIFE IN SATURATED SOIL CONDITIONS."

- CONGRESS SHOULD NOT LEGISLATE SPECIFIC WETLANDS DELINEATION CRITERIA, BUT SHOULD ESTABLISH A PROCEDURE FOR ADMINISTERING AGENCIES TO DEVELOP REGIONAL DELINEATION GUIDELINES IN CONSULTATION WITH THE STATES AND AN INDEPENDENT SCIENTIFIC ADVISORY COMMITTEE. THE FEDERAL MANUAL FOR

DELINEATING AND IDENTIFYING WETLANDS SHOULD BE REGIONALIZED TO SCIENTIFICALLY DEFINE WETLANDS BASED ON REGIONAL VARIATIONS.

- EFFORTS SHOULD CONTINUE TO ENSURE THAT AGENCIES AT ALL LEVELS OF GOVERNMENT USE EQUIVALENT DEFINITIONS FOR REGULATORY PURPOSES AND TO ENSURE THAT ALL STAFF ARE PROVIDED WITH APPROPRIATE TRAINING FOR IMPLEMENTING FIELD DELINEATION TECHNIQUES.

23.9.4 THE REGULATORY PROGRAM. THE GOVERNORS URGE THE ADMINISTRATION TO CONSIDER CHANGES TO CLEAN WATER ACT SECTION 404 TO MAKE THE PROGRAM MORE WORKABLE. THE GOVERNORS ALSO MAKE THE FOLLOWING SPECIFIC RECOMMENDATIONS.

23.9.4.1 THE SCOPE OF REGULATION. THE GOVERNORS HOLD THAT THE SCOPE OF REGULATION IN FEDERAL AND STATE PROGRAMS SHOULD BE EXPANDED TO EXPLICITLY ADDRESS THE FOLLOWING ACTIVITIES IN WETLANDS: DREDGING, FILLING, REMOVAL OR EXCAVATION OF SOILS, DRAINAGE OR FLOODING, AND DESTRUCTION OF PLANT LIFE OR HABITAT.

THE GOVERNORS ALSO BELIEVE THAT THE SCOPE OF REGULATION SHOULD BE RESTRICTED, UNDER CERTAIN CIRCUMSTANCES, IN APPLICATION TO ARTIFICIAL WETLANDS. SPECIFICALLY, THE GOVERNORS BELIEVE THAT:

- ARTIFICIALLY INDUCED WETLANDS SUCH AS THOSE RESULTING FROM AND INCIDENTAL TO ONGOING AGRICULTURAL PRACTICES, NOT USED FOR MITIGATION OF WETLANDS LOSS, SHOULD NOT BE COUNTED IN THE NATION'S WETLANDS BASE.

- ~~WITH THE EXCEPTION OF WETLANDS CREATED FOR WATERFOWL PRODUCTION,~~ WETLANDS CREATED AND MAINTAINED SOLELY FOR USE IN RESOURCE MANAGEMENT, SUCH AS FOR STORMWATER ABATEMENT, SHOULD BE EXEMPT FROM REGULATION AS LONG AS THEY ARE USED AND MANAGED FOR THEIR INTENDED PURPOSE. THE OWNER OR MANAGER OF SUCH A MANAGED WETLAND SHOULD BE UNDER NO OBLIGATION TO ENSURE THE LONG-TERM PERSISTENCE OF WETLANDS FUNCTIONS AND VALUES. WETLANDS CREATED AND MANAGED FOR WATERFOWL PRODUCTION SHOULD *be exempt from regulation for operation and management activities, but should* REMAIN SUBJECT TO REGULATION *for conversion to non-wetlands* BECAUSE WATERFOWL DEPEND ON CONSISTENT AVAILABILITY OF HABITAT.

23.9.4.2 MITIGATION POLICY. MITIGATION SHOULD BE AN ESSENTIAL COMPONENT OF WETLANDS MANAGEMENT, AND CONGRESS SHOULD INCLUDE A STATEMENT OF MITIGATION POLICY IN THE CLEAN WATER ACT.

THE GOVERNORS BELIEVE THAT REGULATORY POLICIES SHOULD INCLUDE A CLEAR PREFERRED SEQUENCE OF MITIGATION OPTIONS THAT BEGINS WITH AVOIDANCE OF ADVERSE IMPACTS ON WETLANDS AND THE REDUCTION OF UNAVOIDABLE ADVERSE IMPACTS AND ALLOWS THE USE OF ENVIRONMENTAL COMPENSATION ONLY AS A LAST RESORT, WHILE ALLOWING REGULATORS SUFFICIENT FLEXIBILITY TO APPROVE PRACTICAL OPTIONS THAT PROVIDE THE MOST PROTECTION TO THE RESOURCE AND THAT BALANCE THE EFFECTS OF SUCH ACTIONS ON THE TOTAL HUMAN ENVIRONMENT, RECOGNIZING SOCIOECONOMIC FACTORS. THE GOVERNORS RECOGNIZE THAT DEFINITIONS OF AVOIDANCE OF ADVERSE IMPACTS AND REDUCTION OF UNAVOIDABLE ADVERSE IMPACTS MUST BE TAILORED TO REGIONAL CIRCUMSTANCES.

THE GOVERNORS EMPHASIZE THAT MITIGATION WILL WORK ONLY WITH PROVISIONS FOR STRICT ENFORCEMENT, LONG-TERM FINANCING, AND CAREFUL MONITORING OF MITIGATION PROJECTS TO ENSURE THEIR SUCCESS.

THE GOVERNORS SUPPORT THE USE OF MITIGATION BANKING PROVIDED THAT: 1) MITIGATION BANKS ARE USED IN A MANNER CONSISTENT WITH THE SEQUENCING REQUIREMENT, STRICTLY TO MITIGATE UNAVOIDABLE WETLANDS IMPACTS; 2) IMPACTS ARE MITIGATED ON-SITE WHEN POSSIBLE; 3) BANKS ARE LOCATED IN THE SAME WATERSHED OR ECOLOGICAL REGION AS THE WETLANDS IMPACTS THEY MITIGATE; AND 4) BANKS PROVIDE IN-KIND REPLACEMENT OF WETLANDS FUNCTIONS AND VALUES LOST.

23.9.4.3 WETLANDS CLASSIFICATION SYSTEMS. THE GOVERNORS OPPOSE IMPOSITION OF A NATIONAL CLASSIFICATION SYSTEM, BUT BELIEVE THAT CLASSIFICATION SYSTEMS TAILORED TO INDIVIDUAL WATERSHEDS MAY BE A USEFUL TOOL IN DEVELOPING REGIONAL AND LOCAL RESOURCE MANAGEMENT PLANS.

23.9.4.4 COMPENSATION OF PROPERTY OWNERS. THE GOVERNORS BELIEVE THAT INTERPRETATION OF THE FIFTH AMENDMENT OF THE CONSTITUTION CONCERNING THE TAKING OF PROPERTY BY GOVERNMENT IS THE APPROPRIATE PROVINCE OF THE COURTS, AND THAT LEGISLATIVE REQUIREMENTS ARE NOT WARRANTED. THE GOVERNORS BELIEVE THAT CONGRESS SHOULD NOT LEGISLATE A DEFINITION OF COMPENSABLE TAKING OF PRIVATE PROPERTY THROUGH THE CLEAN WATER ACT OR OTHERWISE. A STATUTORY DEFINITION OF A COMPENSABLE TAKING WOULD HAVE FAR-REACHING IMPLICATIONS FOR STATE AND LOCAL ZONING, LAND MANAGEMENT, AND PUBLIC HEALTH LAWS OF ALL KINDS.

23.9.4.5 DELEGATION OF AUTHORITY AMONG FEDERAL AGENCIES. THE GOVERNORS SUPPORT STREAMLINING THE PERMITTING PROCESS. HOWEVER, THE GOVERNORS STRESS THAT EACH

FEDERAL AGENCY RESPONSIBLE FOR THE IMPLEMENTATION OF WETLANDS PROGRAMS CURRENTLY HAS A SPECIFIC INTEREST IN THE PROTECTION OF THE RESOURCE, AND MAKES A UNIQUE CONTRIBUTION TO THE PROGRAM. CONCENTRATION OF AUTHORITIES IN ONE FEDERAL AGENCY WOULD NECESSITATE RESTRUCTURING OF THAT AGENCY AND REALLOCATION OF RESOURCES.

THE GOVERNORS MAY SUPPORT DELEGATION OF CLEAN WATER ACT SECTION 404 AUTHORITIES TO ONE FEDERAL AGENCY AFTER A COMPREHENSIVE STUDY OF THE IMPACTS OF CONCENTRATION, AND DEVELOPMENT OF A PLAN FOR THE NECESSARY REORGANIZATION. IN ANY CASE, THE ROLE OF EACH FEDERAL AGENCY SHOULD BE MORE CLEARLY DEFINED, AND REPLICATION OF RESPONSIBILITIES SHOULD BE REDUCED.

23.9.5 NONREGULATORY APPROACHES TO PROTECTION. THE GOVERNORS STRESS THAT A NATIONAL WETLANDS PROTECTION STRATEGY MUST INVOLVE NONREGULATORY PROGRAMS, AN ESSENTIAL COMPLEMENT TO THE REGULATORY PROGRAM. THE GOVERNORS SUPPORT CONTINUED AND ADDITIONAL EMPHASIS ON RESOURCE MANAGEMENT PLANNING; PROGRAMS TO PROMOTE WETLANDS RESTORATION AND CREATION; DEVELOPMENT OF TAX INCENTIVES TO ENCOURAGE WETLANDS PROTECTION; PUBLIC ACQUISITION OF WETLANDS; PUBLIC EDUCATION AND MANAGEMENT OUTREACH PROGRAMS; WETLANDS MAPPING AND TRACKING SYSTEMS; AND EFFORTS TO REDUCE INCENTIVES TO WETLANDS CONVERSION.

23.9.5.1 RESOURCE MANAGEMENT PLANNING. THE GOVERNORS BELIEVE THAT REGIONAL RESOURCE MANAGEMENT PLANNING IS A VALUABLE MECHANISM TO RECOGNIZE REGIONAL VARIANCE IN WETLANDS RESOURCES, AND TO INTEGRATE WETLANDS PROTECTION WITH OTHER RESOURCE MANAGEMENT EFFORTS.

THE GOVERNORS BELIEVE THAT SPECIAL AREA MANAGEMENT PLANNING, AS CURRENTLY AUTHORIZED UNDER THE COASTAL ZONE MANAGEMENT ACT, SHOULD BE AUTHORIZED UNDER THE CLEAN WATER ACT, AND THAT STATES SHOULD HAVE FLEXIBILITY TO USE FUNDS AUTHORIZED UNDER CLEAN WATER ACT SECTIONS 319, 106, 205(J), AND 604(B) TO SUPPORT WETLANDS MANAGEMENT PLANNING.

23.9.5.2 WETLANDS RESTORATION AND CREATION. CONGRESS SHOULD ESTABLISH A NATIONAL STRATEGY TO COORDINATE AND PROMOTE RESTORATION OF DEGRADED WETLANDS SYSTEMS INVOLVING PARTICIPATION OF FEDERAL AGENCIES, STATE AND LOCAL GOVERNMENT, AND THE PRIVATE SECTOR. THE NORTH AMERICAN WATERFOWL MANAGEMENT PLAN, ADMINISTERED BY THE FISH AND WILDLIFE SERVICE, AND WETLANDS CONSERVATION

PROVISIONS OF THE 1990 FOOD SECURITIES ACT SERVE AS POTENTIAL MODELS FOR SUCH A STRATEGY.

THE GOVERNORS SUPPORT PROVISIONS OF THE 1990 FOOD SECURITIES ACT THAT ENCOURAGE WETLANDS PROTECTION IN PARTICULAR. THE GOVERNORS ENCOURAGE CONGRESS TO FUND THE WETLAND RESERVE PROGRAM TO ITS FULL AUTHORIZED LEVEL.

23.9.5.3 TAX INCENTIVES. CONGRESS SHOULD REVIEW THE FEDERAL TAX CODE TO IDENTIFY OPPORTUNITIES TO ESTABLISH INCENTIVES TO ENCOURAGE WETLANDS PROTECTION

23.9.5.4 PUBLIC ACQUISITION. ACQUISITION PROGRAMS AT ALL LEVELS OF GOVERNMENT, BOTH ALONE AND IN PARTNERSHIP WITH THE PRIVATE SECTOR, SHOULD ACCELERATE ACQUISITION OF VALUABLE WETLANDS.

23.9.5.5 PUBLIC EDUCATION. PUBLIC EDUCATION FOCUSED ON THE VALUE OF WETLANDS AND THE STRUCTURE OF REGULATORY PROGRAMS WILL INCREASE PUBLIC SUPPORT FOR THE PROGRAM AND ABILITY TO PREDICT THE OUTCOME OF REGULATORY DECISIONS. THE GOVERNORS SUPPORT EXPANSION OF FEDERAL, STATE, AND PRIVATE EDUCATION AND OUTREACH PROGRAMS.

23.9.5.6 MAPPING. THE GOVERNORS SUPPORT CONTINUATION AND IMPROVEMENT OF CURRENT NATIONAL WETLANDS INVENTORY MAPPING EFFORTS AS WELL AS EFFORTS TO DISSEMINATE SUCH MAPS TO LANDOWNERS AND TO THOSE RESPONSIBLE FOR WETLANDS AND LAND USE PLANNING.

23.9.5.7 REDUCTION OF INCENTIVES TO CONVERSION. THE FEDERAL GOVERNMENT SHOULD CONDUCT A THOROUGH ASSESSMENT TO IDENTIFY KEY FEDERAL PROGRAMS CAUSING WETLANDS DEGRADATION.

LOCAL GOVERNMENTS SHOULD EXAMINE THEIR FULL RANGE OF DEVELOPMENT CONTROLS TO IDENTIFY AND MODIFY THOSE THAT INTENTIONALLY PROMOTE WETLANDS CONVERSION.

STATES SHOULD IDENTIFY OPPORTUNITIES TO REDUCE UNINTENTIONAL INCENTIVES FOR WETLANDS CONVERSION.

23.9.6 STATE PROGRAMS. THE GOVERNORS BELIEVE THAT INCREASED STATE INVOLVEMENT IN WETLANDS POLICYMAKING AND PROGRAM ADMINISTRATION WILL INCREASE PROGRAM EFFICIENCY AND EFFICACY. STATES CAN EFFECTIVELY INTEGRATE WETLANDS PROTECTION WITH OTHER STATE-ADMINISTERED WATER PROGRAMS AND CAN TAILOR WETLANDS PROGRAMS TO UNIQUE REGIONAL CIRCUMSTANCES.

23.9.6.1 STATE ASSUMPTION. THE GOVERNORS ASSERT THAT THE CLEAN WATER ACT SHOULD ENCOURAGE STATE ASSUMPTION OF THE SECTION 404 WETLANDS REGULATORY PROGRAM, AN EXCELLENT OPPORTUNITY TO SIMPLIFY AND CONSOLIDATE PERMITTING PROCEDURES.

WHILE IT IS POSSIBLE FOR STATES TO ASSUME MANAGEMENT OF THE SECTION 404 PROGRAM, FEW STATES HAVE APPLIED AND ONLY ONE STATE HAS RECEIVED FULL PROGRAM AUTHORIZATION. THE LACK OF FEDERAL FUNDING FOR ASSUMED STATE PROGRAMS AND OTHER CONDITIONS OF ASSUMPTION THAT ARE PERCEIVED AS RIGID ARE THE PRIMARY REASONS FOR THE LACK OF STATE INTEREST. THEREFORE, THE GOVERNORS MAKE THE FOLLOWING RECOMMENDATIONS.

- THE FEDERAL GOVERNMENT SHOULD ESTABLISH CLEAR GOALS FOR WETLANDS PROTECTION. IN THE CONTEXT OF A RESOURCE MANAGEMENT PLAN APPROVED BY EPA, STATES SHOULD HAVE FLEXIBILITY IN DESIGNING PROGRAMS TO ACHIEVE THESE GOALS, TAILORING MANAGEMENT POLICIES TO LOCAL HYDROLOGIC AND ECOLOGICAL CONDITIONS.

- STATES SHOULD BE ALLOWED TO ASSUME DISCRETE AND CLEARLY IDENTIFIABLE PORTIONS OF THE SECTION 404 REGULATORY PROGRAM AS THEY DEVELOP THE CAPABILITY TO DO SO, RATHER THAN REQUIRING THE ENTIRE PROGRAM TO BE DELEGATED AT ONE TIME.

- QUALIFIED STATES THAT HAVE EFFECTIVE PROCESSES FOR COORDINATING THEIR REVIEW WITH THE CORPS OF ENGINEERS FOR PERMITS THAT MAY AFFECT NAVIGABLE WATERS SHOULD BE ALLOWED TO ASSUME ALL SECTION 404 RESPONSIBILITIES, INCLUDING THOSE IN NAVIGABLE WATERS AND ADJACENT WETLANDS. THE CORPS WOULD RESERVE ITS RIGHTS TO PROTECT NAVIGATIONAL SERVITUDE AND NATIONAL DEFENSE, BUT WOULD WORK WITH THE STATES TO CONFINE ITS ROLE TO INTERSTATE AND NATIONAL ISSUES.

- EACH STATE RECEIVING DELEGATION OF THE SECTION 404 PROGRAM SHOULD NEGOTIATE A METHOD OF FEDERAL OVERSIGHT APPROPRIATE TO ITS CIRCUMSTANCES. OVERSIGHT IN THE FORM OF AN ANNUAL PROGRAM AUDIT SHOULD BE A NEGOTIABLE OPTION. OVERSIGHT ON A SLIDING SCALE SHOULD BE PERMITTED.

- FEDERAL AGENCIES SHOULD TEMPORARILY LOAN EMPLOYEES TO STATES ASSUMING THE SECTION 404 PROGRAM TO HELP TRAIN STATE STAFF.

- THE CORPS SHOULD BE ENCOURAGED TO ISSUE STATE PROGRAM GENERAL PERMITS, AND TO ISSUE GENERAL PERMITS FOR GEOGRAPHICAL AREAS AS WELL AS FOR CLASSES OF ACTIVITIES. STATE PROGRAM GENERAL PERMITS ARE AN ALTERNATIVE METHOD FOR STATES TO ASSUME PARTIAL RESPONSIBILITY FOR WETLANDS REGULATION, AND SHOULD BE EXPLICITLY SANCTIONED

23.9.6.2 INTERGOVERNMENTAL COORDINATION. TO FACILITATE EFFECTIVE INTERGOVERNMENTAL COORDINATION, THE GOVERNORS RECOMMEND THAT FEDERAL AGENCIES RESPONSIBLE FOR WETLANDS REGULATION JOINTLY ESTABLISH A STATE-FEDERAL COORDINATING COMMITTEE TO DEVELOP AND EVALUATE NEW WETLANDS MANAGEMENT TECHNIQUES AND COOPERATIVE STATE, FEDERAL AND LOCAL WETLANDS PROGRAMS.

23.9.6.3 STATE WETLANDS CONSERVATION PLANS. STATE AND LOCAL GOVERNMENTS AND REGIONAL AGENCIES, WITH THE FINANCIAL AND TECHNICAL SUPPORT AND COOPERATION OF THE RELEVANT FEDERAL AGENCIES, SHOULD DEVELOP AND IMPLEMENT STATE WETLANDS CONSERVATION PLANS AND OUTLINE APPROPRIATE STATE AND REGIONAL STRATEGIES. THE GOVERNORS RECOMMEND THAT CONGRESS ENCOURAGE EPA TO CONTINUE SUPPORT FOR STATE PLANS AND PROVIDE FUNDS FOR THEIR DEVELOPMENT AND IMPLEMENTATION.

23.9.7 GOVERNMENT COMPLIANCE. ALL LEVELS OF GOVERNMENT MUST SEEK TO AVOID WETLANDS ALTERATIONS IN PROJECTS THAT THEY CONSTRUCT, MAINTAIN, SPONSOR, OR SUPPORT. WHILE SIGNIFICANT IMPROVEMENTS HAVE BEEN MADE IN METHODS AND PROCEDURES FOR EVALUATING THE EFFECTS OF PROGRAMS ON WETLANDS, ADDITIONAL ACTIONS ARE APPROPRIATE. THEREFORE, THE GOVERNORS MAKE THE FOLLOWING RECOMMENDATIONS.

- CONGRESS SHOULD REQUIRE FEDERAL CONSISTENCY WITH STATE WETLANDS CONSERVATION PLANS AND PROGRAMS.

- FEDERAL AND STATE GOVERNMENTS SHOULD REQUIRE OR INITIATE MITIGATION FOR THE DIRECT AND INDIRECT WETLANDS ALTERATIONS CAUSED BY PROJECTS THAT THEY CONSTRUCT, MAINTAIN, SPONSOR, OR SUPPORT.

- EPA SHOULD ESTABLISH PROCEDURES FOR VERIFYING COMPLIANCE WITH WETLANDS MITIGATION PROVISIONS IDENTIFIED IN FEDERAL ENVIRONMENTAL IMPACT STATEMENTS.

- FEDERAL AGENCIES SHOULD RECOGNIZE THE COSTS OF SATISFYING STATE WETLANDS MITIGATION REQUIREMENTS ESTABLISHED BY STATE STATUTE AS LEGITIMATE PROJECT COSTS IN ANY PROJECT SUBJECT TO FEDERAL COST SHARING.

- CONGRESS SHOULD ESTABLISH WETLANDS RESTORATION AND CREATION AS PART OF THE MISSION OF THE CORPS OF ENGINEERS, THE BUREAU OF RECLAMATION, THE SOIL CONSERVATION SERVICE, THE FEDERAL HIGHWAY ADMINISTRATION, AND OTHER FEDERAL AGENCIES AS APPROPRIATE.

~~23.9.1~~ ~~**Federal Policy.** Preservation, conservation, and wise management of the nation's wetlands resources are issues of vital concern to the Governors. Wetlands in their natural state play vital ecological roles and serve functions that are either costly or impossible to replace.~~

~~While the Governors acknowledge that there are federal, state, and local programs to control wetlands alterations, their definitions, policies, and procedures often conflict.~~

~~The Governors recognize the need for significantly improved protection for the nation's wetlands. There is a need for greater coherence and coordination of protection efforts so that governmental resources may be used most efficiently and so that permittees may be better able to understand and predict the outcome of regulatory decisions.~~

~~23.9.2~~ ~~**Recommendations.** Federal wetlands policy should:~~

- ~~Allow states to assume discrete and clearly identifiable portions of the Section 404 regulatory program as they develop the capability to do so, rather than requiring the entire program to be delegated at one time.~~
- ~~Allow the delegation of all Section 404 responsibilities (including those in navigable waters and adjacent wetlands) to qualified states that have effective processes for coordinating their review with the Corps of Engineers for permits that may affect navigable waters. The Corps would reserve its rights to protect navigational servitude and national defense, but would work with the states to confine its role to interstate and national issues.~~
- ~~For states choosing to develop wetlands plans, require federal consistency with state plans and programs that have been approved by EPA.~~
- ~~For states receiving delegation of the Section 404 program, provide for EPA oversight primarily in the form of annual guidance and annual review of program implementation.~~
- ~~Provide support for state wetlands planning and program implementation.~~

~~Because the administration is refining its technical approach to identifying wetlands in the field:~~

- ~~The Governors urge the administration to carefully consider public comments to the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands* and other Section 404 program changes to facilitate state assumption and make the program more workable.~~
- ~~The manual should be carefully reviewed and field tested during the public comment period. After such review and field testing, the Governors may recommend legislative changes to the program in February 1992.~~

~~23.9.3~~ ~~**Goals.** In the meantime, there are many changes that can occur in wetlands protection efforts that would significantly improve our ability to manage this resource.~~

~~The Governors recommend that the nation establish a national wetlands protection goal to achieve no net loss of the nation's remaining wetlands base, as defined by acreage and function, and to restore and create wetlands where feasible to increase the quantity and quality of the nation's wetlands resource base. Artificially induced wetlands such as those resulting from and incidental to agricultural practices, not used for mitigation of wetlands loss, should be counted separately from the nation's wetlands base in a no net loss policy. Such artificially induced wetlands impacts should not be counted as a loss when the modifications are a result of changing practices to better manage water resources with regard to water quality.~~

~~Although calling for a stable and eventually increasing inventory of wetlands, the goal does not imply that individual wetlands will in every instance be untouchable or that the no net loss standard should be applied on an individual permit or acre-by-acre basis — only that the nation's overall wetlands base should reach equilibrium between losses and gains in the short run and increase in the long term. The public must share with the private sector the costs of restoring and creating wetlands to achieve this goal.~~

~~The Governors recognize that the goal may have to be implemented at different rates in various regions of the country to reflect regional wetlands needs, conditions, and types.~~

~~The Governors further recognize the difficulty of meeting this goal and realize the need for a broad range of strategies to achieve the overall policy of wetlands preservation, conservation, and management.~~

~~However, the goal does not imply that wetlands losses in one state or region of the country can be balanced with gains in other, distant regions. Moreover, the Governors recognize that this goal can be most effectively met with policies that assert a preference for avoidance of wetlands alteration.~~

~~The Governors recognize that regional advanced planning for wetlands is an important management tool. State and local governments and regional agencies with the financial and technical support and cooperation of the relevant federal agencies, should develop and implement state wetlands conservation plans to ensure coordination and maximize opportunities to achieve the goal of no net loss and to outline appropriate state and regional strategies.~~

~~23.9.4~~ ~~**Improved Information.** The Governors recognize that reliable information is critical to an effective management system. Therefore, the Governors support:~~

- ~~Continuation and improvement of current National Wetlands Inventory mapping efforts as well as efforts to disseminate such maps to landowners and to those responsible for wetlands and land use planning.~~
- ~~Collection (and maintenance on a computerized system) of information on wetlands values, hydrology, fish and wildlife resources, permits, and compliance monitoring, as an aid to decisionmaking.~~
- ~~Initiation of a National Wetlands Research Program, with key emphasis upon the functions and values of wetlands, the assessment of cumulative impacts, the effectiveness of protection programs, and restoration and creation techniques.~~
- ~~Expansion of federal, state, private, and nonprofit education and outreach programs to improve the level of understanding of the value of wetlands and the regulatory programs designed to protect them.~~

~~23.9.5~~ ~~**Efficiency Improvements.** While it is possible for states to assume management of the Section 404 program, few states have applied and only one state has received full program authorization. The lack of federal funding for assumed state programs and other conditions of assumption that are perceived as rigid are the primary reasons for the lack of state interest. Therefore, the Governors make the following recommendations.~~

- ~~Efforts should continue to ensure that agencies at all levels of government use equivalent definitions for regulatory purposes or develop field methods that provide consistent results, and to ensure that all staff are provided with appropriate training for implementing field delineation techniques.~~
- ~~Regulatory policies should include a clear preferred sequence of mitigation options that begins with avoidance of adverse effects on wetlands and the reduction of unavoidable adverse effects and allows the use of environmental compensation only as a last resort, while allowing regulators sufficient flexibility to select practical options that provide the most protection to the resource and that balance the effects of such actions on the total human environment.~~
- ~~Federal and state programs should explicitly address, if they do not do so now, the following activities in wetlands: dredging, filling, removal or excavation of soils, drainage or flooding, destruction of plant life, and placement of pilings or other obstructions. No type of wetlands conversion should escape unreviewed because of peculiarities in wetlands law or regulation.~~

~~23.9.6~~ ~~**Government Compliance.** All levels of government must seek to avoid wetlands alterations in projects that they construct, maintain, sponsor, or support. While significant improvements have been made in methods and procedures for evaluating the effects of programs on wetlands, additional actions are appropriate. Therefore, the Governors make the following recommendations.~~

- ~~Federal and state governments should require or initiate mitigation for the direct and indirect wetlands alterations caused by projects that they construct, maintain, sponsor, or support.~~
- ~~EPA should establish procedures for verifying compliance with wetlands mitigation provisions identified in federal environmental impact statements.~~

- ~~Federal agencies should recognize the costs of satisfying state wetlands mitigation requirements established by state statute as legitimate project costs in any project subject to federal cost sharing.~~
- ~~Congress should establish wetlands restoration and creation as part of the mission of the Corps of Engineers, the Bureau of Reclamation, the Soil Conservation Service, the Federal Highway Administration, and other federal agencies as appropriate.~~
- ~~The federal government should conduct a thorough assessment to identify key federal programs causing wetlands degradation.~~
- ~~Local governments should examine their full range of development controls to identify and modify those that intentionally promote wetlands conversion.~~
- ~~States should identify opportunities to reduce unintentional incentives for wetlands conversion.~~

~~In recognition of the important role acquisition can play in a comprehensive wetlands program, the Governors recommend that acquisition programs at all levels of government, both alone and in partnership with the private sector, accelerate their acquisition of valuable wetlands.~~

~~Many of the previously mentioned recommendations will be accommodated in state wetlands conservation plans. Thus, the Governors recommend that Congress encourage EPA to continue support for state plans and provide funds for their development.~~

23.10 Water Conservation

23.11 Floodplain Management

CLEAN WATER ACT

NGA Objectives

- Retain the State Revolving Loan Funds as the sole mechanism for water infrastructure financing and extend the federal commitment to provide capitalization grants for SRFs of at least $2.1 billion per fiscal year through the year 2000.

- Revise the law to facilitate state assumption of wetlands programs and develop regional wetlands delineation guidelines in consultation with the states and an independent scientific advisory panel.

Senators Baucus and hafee, the Chairman and ranki minority member of the Senate Environment and Public Works Subcommittee on Environmental Protection, introduced a Clean Water Act reauthorization bill (S. 1081) on May 15, 1991. The House Public Works Subcommittee on Water Resources, chaired by Representative Nowak, has yet to offer a proposal, but may introduce a bill in March.

Major concerns with S. 1081 include:

- The bill establishes a "Clean Water Fund". Fund monies are authorized through 1996 to capitalize state revolving loan funds; and through 1998 for categorical grants supporting nonpoint source and combined sewer overflow control programs, small community assistance, program administration, and specified special programs including clean lakes.

  The proposed Clean Water Fund <u>is not consistent with NGA policy</u>.

  - While SRF capitalization grants are "stretched" through 1996, no additional funds beyond what was authorized in 1987 are available. The SRF was originally capitalized based on pre-1987 program requirements. Funding is inadequate to cover current mandates.

  - The proposed fund "backslides" to inflexible, Washington-based categorical grants. Proposed grant funds would be better utilized in the SRF where needs can be addressed in perpetuity and states have the flexibility to target funds to priority problems.

Amendment of Clean Water Act section 404 governing the regulation of wetlands is likely to be one of the most contentious reauthorization issues. S. 1081 does not address wetlands. However, four major bills amending section 404 have been introduced in the House -- one garnering over 170 cosponsors -- and the House Subcommittee on Water Resources' reauthorization bill will probably address wetlands.

Unless funding is increased, current proposals would eventually terminate the state revolving loan funds and use these revenues for high cost, inefficient categorical programs to be run on a project-by-project basis by EPA.

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NATIONAL GOVERNORS' ASSOCIATION
EIGHTY-FOURTH ANNUAL MEETING
1992

COMMITTEE ON HUMAN RESOURCES

TAB 6

COMMITTEE ON HUMAN RESOURCES

Summary of Issues and Briefing Papers

ISSUE:

- ***C-1: From Classrooms to Workrooms: Meeting the Needs of the Changing American Family***

The adopted amendment to the policy is in the form of a substitute. The policy establishes that the Governors believe that all systems, institutions, and organizations affecting families should develop policies and practices that support families' evolving needs within a changing social environment. The policy asserts that many human resource policies in both the public and private sectors are currently not well integrated and do not adequately reflect new realities facing American families, in terms of both their structure and the increasingly complex pressures they face. The policy acknowledges the difficult circumstances families and children currently face; lays out the qualities of an effective family-supportive strategy; discusses ways in which schools and employers can be "family-friendly"; and outlines the roles of the Governors and the federal government in ensuring that policies and programs in both schools and workplaces support families.

BRIEFING PAPER:

Department of Public Health and Social Services

The Department of Public Health and Social Services cites that it offers programs geared towards assisting today's families to cope and overcome socio-economic problems. However, these programs are not designed to meet the specific needs of an individual family. The programs currently employed were developed based on the western philosophy which promotes individualism. They do not coincide with our island's cultural background of being group-oriented and reliant on a strong family network. Economic growth and development have placed a great deal of stress on our families. Today's families are forced to balance between traditional cultural values and practices and the demands of the workplace and home. The end result is manifested in the breakdown of families and the placement of children into alternative settings.

The department recommends that the federal government provides increased long-term funds to develop and maintain residential treatment facilities, residential group homes, diagnostic and treatment centers and therapeutic homes; to expand community-based services that promote family preservation; to expand the drug and alcohol programs to address unmet needs; and to provide shelter for the homeless which may include transfer of military properties to Guam. The federal government is also urged to reassess its national policies, goals, and objectives to allow Guam the flexibility of incorporating the island's unique cultural practices. Guam also requests for the release of the Department of Defense facilities that are not being utilized to the Government of Guam to address the needs of the homeless population.

ISSUE:

- ***C-3: Job Training Partnership Act/Emergency Funding***

Amendment to the Job Training Partnership Act (JTPA) has been passed in both the House and the Senate. The House or Senate versions address several NGA priorities, including state flexibility on increased targeting and a strengthened role for governors in ensuring the fiscal integrity of JTPA programs. Governors want an amendment that will allow them to establish single, statewide human investment councils. The councils would coordinate state policies on job training and vocational education. Current federal law and regulations require multiple councils.

The passage of the House Defense Authorization bill includes amendments to Title III of the Job Training Partnership Act with provision that would establish a new retraining programs for workers affected by reduction in national defense spending and the programs administered by the Department of Defense. NGA believes that the House approach has created a national discretionary funding stream with its own set of eligibility criteria and mandated services instead of providing states and local areas with a flexible and accessible funding mechanism that builds on existing program capacity. NGA calls on Governors to reach and inform the Senate Armed Services Committee on the impact of the House approach on states.

The Senate passed a bill which was classified as an emergency bill giving an additional $675 million for the JTPA Summer Youth Program as part of a $1.9 billion dire emergency supplemental (H.R. 5132). The JTPA funds are divided into three pots: $100 million targeted to the nation's 75 largest cities; $100 million distributed to the Governors for allocation within the states, and $475 million distributed to the states according to a formula based 50% on the relative number of economically disadvantaged adults, 25% on the relative concentration of economically disadvantaged adults, and 25% on the relative number of unemployed individuals. According to the Budget Enforcement Act, the President would have

to declare the spending an emergency for it to be exempt from the requirement to pay-as-you-go (raise taxes or make cuts in other domestic discretionary programs). Currently, the President has indicated a willingness to declare $200 million in JTPA funding as an emergency.

BRIEFING PAPER:

Agency for Human Resources Development

The Territory of Guam is supportive of the intent of how the funds will be utilized and the President's initiative to ensure an effective and efficient job training system to meet the workforce needs of the nation into the next century. Guam has begun to draft specific plans to create a network of local skills centers to provide a "one-stop shopping" system for vocational and job training services, and to accommodate low-income, skilled deficient youths and adults. The system will also facilitate the process of labor market information and job opportunities for individuals new to the workforce and for those individuals returning to the laborforce after extended absence who need retraining or job placement assistance. The government entity responsible for the administration of federal programs under the JTPA is currently developing a demonstration project to be submitted to the federal government for consideration.

The $370,344 received by the Territory as an additional emergency supplemental funds under JTPA, are to be used for the Title II-B, Summer Youth Employment and Training Program activities for fiscal year 1992. An additional 100 youths, over the projected 400 to be served were enrolled in the Summer Program. Of the 100 additional enrollees, a significant number were sheltered clients (at-risk youths) of DYA. Guam places strong emphasis continuously on job training of both the youths and adults to prepare our laborforce for the demands of an ever changing workplace and economy.

According to AHRD, the creation of a new and separate discretionary funding to retrain workers affected by reduction in national defense spending would seriously undermine the JTPA Dislocated Worker Program. Over the years, the JTPA Program has served a substantial number of dislocated workers throughout the nation. Creating a separate system to perform like functions to that of JTPA Program is a duplication of effort and contrary to President Bush's Job Training 2000 initiative. Timing is important when dealing with dislocated workers, therefore building upon an existing system (JTPA) would be the most prudent approach to undertake. Not only would it eliminate unnecessary delays and ensure effective coordination and delivery of services, but it would also aid in easing the devastating effects of dislocation by providing immediate relief to the individual.

ISSUE:

- ***C-16: Worker Adjustment***

States, commonwealths and territories need the capacity to prepare young people for today's workforce and to work with communities, workers, and business to help workers adjust to changes in workforce needs through national legislation, technical assistance to states, and information sharing among states. As the country undergoes changes in its economic base, including reduction in low-skill jobs and defense spending, state governments continue to facilitate training and retraining for American workers. Dislocated worker policies are necessary to revitalize the productive sector of the economy and to address the human effects of the change that is occurring in the workforce.

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
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NGA 84TH ANNUAL MEETING
TOP PRIORITY ISSUES

Guam families, like the Continental United States, are experiencing extreme difficulties in coping with individual, familial and societal demands. The end result is the continued increase of children requiring substitute care.

The Department of Public Health and Social Services currently offer programs that are geared towards assisting todays' families cope and overcome socio-economic problems. These programs, in attempt to cover a broad and diversified range of family needs, are not designed to meet the specific needs of the individual family. For example, the programs currently employed were developed based on the western philosophy which promotes individualism. This does not coincide with our islands' cultural background which is being group oriented and reliant on a strong family network.

Despite the islands' continued growth and prosperity, todays' families are faced with greater stresses and demands to find a balance between traditional cultural values and practices and the demands of the workplace and home. The ultimate price is manifested in the breakdown of families and the placements of children into alternative settings.

Economic growth and development has placed a great deal of stress on our families. Although cultural pressures implores that a mothers' role be at home, societies demands mandates her participation in the workplace. In the meantime, the role of the father remains basically unchanged. With the absence of both parents the overall welfare of the children are being compromised.

While there are now some afterschool programs in effect to care for children in need while their parents are at work, it remains inadequate. There's an increasing number of children whose parent or parents work and are left to fend for themselves at an early age. The problem is not only limited to after school hours, but also on school holidays and summer months as well.

In addition, most families cannot afford to rent, build, or buy their homes. Land, valued greatly by Chamorros and passed on through generations, is now scarce and unattainable due to foreign induced prices.

Furthermore, the well-being of families are now facing a larger crisis in the cost of health care. Access to health care is being jeopardized by the high cost of insurance, the shortage of physicians and facilities, and the lack of necessary medical equipments.

Drug and alcohol (D&A) is another major concern affecting the solidity of the family unit. There are those who turn to D & A as a panacea to their problems, but instead find that the solution to these difficulties are hindered until the D & A problem is resolved. We are in great need of additional programs to address this issue.

One unforeseen solution that people have elected to take, due to their inability to cope with societies demands and stresses, is Suicide. Our island in the recent years, has seen people young and old, chosing to terminate their own life as the only answer to their problems.

These problems and life stresses have caused families to seek outside assistance and intervention. In the process, these families faced still another obstacle, that is the lack of adequate services and resources. The problems faced by these families are multi-faceted requiring specialized sevices. More and more children are being set to off-island facilities due to the lack of appropriate services on island. These placements are not in concert with the childs' best interest. For instance, they are faced with culture shock, removal from their natural environment, separation from their families and loved ones and treatment is provided in isolation.

In conclusion, the following recommendaitons are submitted:

1. THAT THE FEDERAL GOVERNMENT PROVIDE INCREASED LONG-TERM FUNDS FOR THE FOLLOWING:

    A. TO DEVELOP AND MAINTAIN RESIDENTIAL TREATMENT FACILITIES, RESIDENTIAL GROUP HOMES, DIAGNOSTIC AND TREATMENT CENTERS AND THERAPEUTIC HOMES.

    B. TO ENCHANCE AND PROMOTE PROFESSIONAL SKILLS AND DEVELOPMENT.

    C. TO EXPAND COMMUNITY-BASED SERVICES THAT PROMOTE FAMILY PRESERVATION.

    D. TO EXPAND THE DRUG AND ALCOHOL PROGRAMS TO ADDRESSES UNMET NEEDS.

    E. TO PROVIDE SHELTER FOR THE HOMELESS WHICH MAY INCLUDE TRANSFER OF MILITARY PROPERTIES TO GUAM.

2. THAT THE FEDERAL GOVERNMENT CONTINUE TO REASSESS ITS NATIONAL POLICIES, GOALS AND OBJECTIVES, TO ALLOW GUAM THE FLEXIBILITY OF INCORPORATING ITS UNIQUE CULTURAL PRACTICES.

3. THAT THE FEDERAL GOVERNMENT RELEASE DOD FACILITIES THAT ARE NOT BEING UTILIZED TO THE GOVERNMENT OF GUAM TO ADDRESS THE NEEDS OF THE HOMELESS POPULATION.

C-1. FROM CLASSROOMS TO WORKROOMS: MEETING THE NEEDS OF THE CHANGING AMERICAN FAMILY

1.1 INTRODUCTION

THE SUCCESS OF OUR COUNTRY, OUR STATES, OUR COMMUNITIES, AND OUR PEOPLE IS TIED DIRECTLY TO THE STRENGTH OF OUR FAMILIES. FAMILIES ARE RELIED UPON TO PROVIDE BASIC HEALTH, FOOD, SHELTER, AND SAFETY, NURTURE CHILDREN, PASS ON THE RULES AND VALUES OF THE COMMUNITY, AND BEGIN THE PROCESS OF EDUCATING AND PROMOTING LEARNING AS A LIFELONG ENDEAVOR, EMBODYING SOCIETY'S VALUES AND NORMS. THE FAMILY IS THE CORE BODY THROUGH WHICH SOCIETY'S PRIORITIES ARE MAINTAINED.

MODERN DAY PRESSURES MAKE IT DIFFICULT FOR FAMILIES TO MEET SOCIETAL AND INDIVIDUAL DEMANDS. THE STRUCTURE OF THE FAMILY AND THE DEMANDS IT FACES HAVE CHANGED DRAMATICALLY OVER THE PAST SEVERAL DECADES. THERE ARE INCREASING NUMBERS OF SINGLE-PARENT, DUAL-INCOME, AND MULTI-GENERATION HOUSEHOLDS. MANY HOUSEHOLDS ARE COMPOSED OF NON-RELATED MEMBERS FUNCTIONING AS A FAMILY. CONCURRENTLY, THE WORKFORCE IS BEING RESHAPED. THE AVERAGE WORKER'S AGE IS RISING, THE PERCENTAGE OF YOUNG WHITE MALES IN THE WORKFORCE IS DECLINING, AND WOMEN AND MINORITIES REPRESENT AN INCREASINGLY LARGE SHARE OF NEW ENTRANTS INTO THE LABOR FORCE.

Our families, schools, and businesses working together form the foundation of our communities. Since well functioning families are more likely to make productive contributions to society, Governors believe it is vital that today's families recognize the importance of their role in the community and accept the responsibility which accompanies that role. Governors further believe that all systems, institutions, and organizations interacting with families should be encouraged to pursue policies and practices that support families in their efforts to meet these responsibilities and function effectively.

~~WELL FUNCTIONING FAMILIES ARE MORE LIKELY TO MAKE PRODUCTIVE CONTRIBUTIONS TO SOCIETY, JUST AS SELF SUFFICIENT INDIVIDUALS ARE MORE LIKELY TO PROMOTE STRONG FAMILIES. THUS, GOVERNORS BELIEVE THAT ALL SYSTEMS, INSTITUTIONS, AND ORGANIZATIONS AFFECTING FAMILIES SHOULD DEVELOP POLICIES AND PRACTICES THAT SUPPORT FAMILIES' EVOLVING NEEDS WITHIN A CHANGING SOCIAL ENVIRONMENT.~~

1.2 GOALS OF HUMAN RESOURCE POLICY

GOVERNORS BELIEVE THAT DEVELOPING FAMILY-SUPPORTIVE POLICIES SHOULD BE A TOP NATIONAL PRIORITY. ECONOMIC, EDUCATION, HEALTH, AND HUMAN SERVICE POLICIES MUST WORK IN CONCERT TO NURTURE AND SUPPORT FAMILIES SO THAT THEY FUNCTION MORE EFFECTIVELY AS OUR SOCIETY'S BASIC FOUNDATION. POLICIES MUST REFLECT THE CHANGING AND VARYING STRUCTURE AND COMPOSITION OF FAMILIES AS WELL AS THE INCREASINGLY COMPLEX PRESSURES THEY ENDURE. ALTHOUGH SOCIETAL EXPECTATIONS OF THE IMPORTANCE OF THE FAMILY HAVE NOT WANED, POLICIES IN BOTH THE PUBLIC AND PRIVATE SECTORS HAVE NOT ALWAYS KEPT PACE WITH THE CHANGES THE AMERICAN FAMILY HAS UNDERGONE.

GOVERNORS ALSO BELIEVE THAT THE PRIMARY ROLE OF HUMAN RESOURCE POLICIES IS TO INCREASE THE LIKELIHOOD THAT ALL FAMILIES AND CHILDREN WILL FLOURISH. POLICIES SHOULD STRENGTHEN FAMILIES, SHOULD BE SUFFICIENTLY FLEXIBLE TO RESPOND TO THE DIVERSITY OF FAMILIAL STRUCTURES, AND SHOULD ENSURE THAT FAMILIES HAVE THE NECESSARY SUPPORTS TO CARE FOR THEIR CHILDREN. SPECIFICALLY, THE GOALS OF HUMAN RESOURCE POLICIES SHOULD BE TO ENSURE THAT FAMILIES AND CHILDREN:

- HAVE THE SOCIAL, EMOTIONAL, INTELLECTUAL, MENTAL, AND PHYSICAL WELL-BEING TO BE PRODUCTIVE CITIZENS;
- LIVE IN NURTURING, STABLE, AND SAFE ENVIRONMENTS;
- HAVE THE EDUCATIONAL ACHIEVEMENT, KNOWLEDGE, AND SKILLS TO LEAD PRODUCTIVE AND SATISFYING LIVES; AND
- HAVE SUFFICIENT EMPLOYMENT OPTIONS AND INCOME TO MEET BASIC FAMILY NEEDS, INCLUDING FOOD, SHELTER, HEALTH CARE, AND EDUCATION, AND THE OPPORTUNITY TO ATTAIN A FULFILLING QUALITY OF LIFE.

1.3 A PORTRAIT OF AMERICAN FAMILIES AND CHILDREN

IN ORDER TO ENSURE THAT HUMAN RESOURCE POLICIES MEET THE CHANGING NEEDS OF AMERICAN FAMILIES, IT IS NECESSARY TO UNDERSTAND THE DIFFICULT CIRCUMSTANCES THEY FACE:

- EVERY DAY THOUSANDS OF CHILDREN ARE ADDED TO THE WELFARE ROLLS.
- ONE IN FIVE CHILDREN IS POOR; ONE IN SEVEN RECEIVES AFDC.

- ONE OF EVERY FOUR CHILDREN IS RAISED BY A SINGLE PARENT. THE NUMBER OF SINGLE-PARENT FAMILIES INCREASED FROM 3.8 MILLION IN 1970 TO 9.7 MILLION IN 1990.

- THE UNITED STATES HAS THE HIGHEST DIVORCE RATE IN THE WORLD. MORE THAN HALF OF ALL MARRIAGES ARE EXPECTED TO END IN DIVORCE.

- EVERY YEAR APPROXIMATELY 1 MILLION TEENAGE GIRLS BECOME PREGNANT. MANY OF THESE MOTHERS DO NOT FINISH HIGH SCHOOL, DO NOT FARE WELL IN THE JOB MARKET, AND ARE AT SIGNIFICANT RISK OF BECOMING DEPENDENT ON PUBLIC ASSISTANCE.

- FAMILIES WITH CHILDREN ARE NOW THE FASTEST GROWING SEGMENT OF THE HOMELESS POPULATION.

INCREASINGLY, IN TWO-PARENT FAMILIES, BOTH THE MOTHER AND FATHER ARE WORKING OUTSIDE THE HOME.

- IT NOW TAKES TWO ADULTS WORKING FULL TIME TO APPROXIMATE THE STANDARD OF LIVING OF OUR PARENTS WITH ONE WORKING ADULT; IN 1988, 4.5 MILLION AMERICANS WORKED FULL TIME, BUT STILL QUALIFIED FOR VARIOUS FORMS OF PUBLIC HEALTH AND WELFARE ASSISTANCE.

- INCREASINGLY, PARENTS ARE RELYING ON ADULTS OUTSIDE THE HOME TO PROVIDE CHILD CARE. ABOUT 20 MILLION CHILDREN -- INCLUDING 70 PERCENT OF THOSE WITH EMPLOYED MOTHERS -- ARE CARED FOR BY AN ADULT WHO IS NOT A FAMILY MEMBER.

- AN ESTIMATED 1.3 MILLION CHILDREN AGE FIVE TO FOURTEEN CARE FOR THEMSELVES DURING THE HOURS WHEN THEY ARE NOT IN SCHOOL.

SIMULTANEOUSLY THERE ARE INCREASING NUMBERS OF WORKING MOTHERS AND WOMEN IN THE WORKFORCE.

- IN 1970, 29 PERCENT OF WOMEN WITH CHILDREN UNDER THE AGE OF FIVE WERE IN THE PAID LABOR FORCE; BY 1988 THAT NUMBER HAD RISEN TO 51 PERCENT -- A 77 PERCENT INCREASE.

- SIXTY-FOUR PERCENT OF NEW ENTRANTS INTO THE LABOR FORCE BETWEEN 1985 AND 2000 WILL BE WOMEN; 70 TO 80 PERCENT OF THOSE WOMEN WILL HAVE CHILDREN DURING THEIR WORK LIFE AND REMAIN EMPLOYED.

AT THE SAME TIME, THE FASTEST GROWING SHARE OF THE U.S. POPULATION IS THE ELDERLY. AS A RESULT, AN INCREASING NUMBER OF INDIVIDUALS HAVE CONCURRENT CARE-GIVING RESPONSIBILITIES FOR THEIR CHILDREN, PARENTS, OR OTHER RELATIVES.

- FROM 1950 TO 1986, THE NUMBER OF OLDER AMERICANS AGE SEVENTY-FIVE TO EIGHTY-FOUR GREW FROM ABOUT 3.3 MILLION TO MORE THAN 9 MILLION, AND THE NUMBER AGE EIGHTY-FIVE OR OLDER GREW FROM 600,000 TO MORE THAN 2.7 MILLION.

- IN 1989, 9.9 MILLION OLDER MEN AND 9.7 MILLION OLDER WOMEN LIVED WITH FAMILIES, INCLUDING NEARLY 4 MILLION WHO LIVED WITH THEIR CHILDREN, SIBLINGS, OR OTHER RELATIVES.

MANY FAMILIES LACK ACCESS TO HEALTH CARE.

- APPROXIMATELY 32 MILLION AMERICANS -- INCLUDING 8.3 MILLION CHILDREN UNDER AGE EIGHTEEN -- HAVE NO FORM OF HEALTH INSURANCE COVERAGE.

- ONE OF EVERY FOUR PREGNANT WOMEN RECEIVES NO PRENATAL CARE, INCREASING DRAMATICALLY THE NUMBER OF PREMATURE, LOW-BIRTHWEIGHT BABIES WHO ARE AT GREATER RISK OF BIRTH DEFECTS, LEARNING DISORDERS, AND THE NEED FOR LONG-TERM CARE.

A SIGNIFICANT NUMBER OF INDIVIDUALS DROP OUT OF SCHOOL.

- ALMOST 30 PERCENT OF NINTH-GRADERS DO NOT FINISH HIGH SCHOOL FOUR YEARS LATER. AMONG YOUTH AGES SIXTEEN TO TWENTY-FOUR, 12.6 PERCENT -- ALMOST 4 MILLION -- HAVE NOT COMPLETED HIGH SCHOOL AND ARE NOT ENROLLED IN SCHOOL.

1.4 IMPLICATIONS FOR HUMAN RESOURCE POLICIES

THE CHANGING COMPOSITION OF THE FAMILY AND THE WORKFORCE, COMBINED WITH INADEQUATE FAMILY-SUPPORTIVE POLICIES AND PRACTICES, HAS SIGNIFICANTLY INCREASED THE STRESS EXPERIENCED BY MANY FAMILIES. A GROWING NUMBER OF FAMILIES ARE

ENCOUNTERING PROBLEMS SO SEVERE THAT THEIR ABILITY TO SUSTAIN OR IMPROVE THEIR ECONOMIC, HEALTH, AND SOCIAL STATUS IS THREATENED. FOR SINGLE-PARENT FAMILIES, THE PRESSURES ARE PARTICULARLY GREAT. PARENTS FIND THEMSELVES SQUEEZED BETWEEN THEIR FAMILIAL RESPONSIBILITIES AND THE DEMANDS OF THEIR JOBS. CHILDREN AND ELDERLY PEOPLE OFTEN FIND THEMSELVES ALONE, TRYING TO SURVIVE WITHIN A SOCIAL ORGANIZATION THAT DOES NOT CONSISTENTLY SUPPORT A FAMILY'S CAPACITY TO NURTURE AND PROVIDE FOR ITS OWN NEEDS.

DURING THE PAST DECADE, ALL LEVELS OF GOVERNMENT AND THE PRIVATE SECTOR HAVE EXPERIMENTED WITH VARIOUS STRATEGIES TO IMPROVE THE WELL-BEING OF CHILDREN AND FAMILIES. HOWEVER, POLICIES AND PRACTICES IN BOTH THE PUBLIC AND PRIVATE SECTORS ~~ARE TOO FEW IN NUMBER,~~ ARE OFTEN NOT WELL INTEGRATED, AND DO NOT ADEQUATELY REFLECT NEW REALITIES. THE GOVERNORS BELIEVE THAT MANY POLICIES AND PROGRAMS REFLECT THE NATION'S FAILURE TO RECOGNIZE THAT NEW FAMILY STRUCTURES REQUIRE DIFFERENT POLICIES.

1.5 QUALITIES OF AN EFFECTIVE FAMILY-SUPPORTIVE STRATEGY

THE GOVERNORS BELIEVE THAT FAMILIES ARE SUPPORTED BEST THROUGH POLICIES AND PRACTICES THAT ADDRESS FAMILY NEEDS WHILE BUILDING ON THEIR INHERENT STRENGTHS AND COMPETENCIES. GOVERNORS CONSIDER THE FOLLOWING TO BE THE COMPONENTS OF AN EFFECTIVE STRATEGY TO STRENGTHEN AND SUPPORT FAMILIES:

- POLICIES SHOULD ACKNOWLEDGE THE NUMEROUS FACTORS THAT EITHER INHIBIT OR FOSTER A FAMILY'S ABILITY TO BE A PRODUCTIVE, CONTRIBUTING UNIT OF SOCIETY, HELP PARENTS HANDLE THE DIFFICULT JOB OF BALANCING WORK AND FAMILY, AND SUPPORT FAMILIES IN THEIR EFFORTS TO RAISE AND EDUCATE CHILDREN.

- POLICIES SHOULD BE COMPREHENSIVE AND SHOULD RESULT IN LONG-TERM BENEFITS FOR FAMILIES AND CHILDREN. THEY SHOULD PROMOTE A CONTINUUM OF SUPPORTS AND SERVICES THAT ARE READILY AVAILABLE TO MEET THE BROAD RANGE OF FAMILY NEEDS.

- POLICIES SHOULD FOCUS ON OUTCOMES THAT GAUGE A FAMILY'S OVERALL WELL-BEING~~, RATHER THAN ON PROCESS MEASURES SUCH AS THE NUMBER OF HOURS AN INDIVIDUAL PARTICIPATES IN A PARTICULAR PROGRAM~~.

- OUR HUMAN SERVICE SYSTEM MUST BE WELL COORDINATED AND INTEGRATED AND POLICIES MUST BE GUIDED BY THE NEEDS OF CHILDREN AND FAMILIES, NOT BY THE NEEDS OF THE INSTITUTIONS THAT ESTABLISH THE POLICIES.

- POLICIES SHOULD EMPHASIZE PREVENTION AND EARLY INTERVENTION. FOR SOME FAMILIES, HELP AT A CRITICAL JUNCTURE MAY MEAN THE DIFFERENCE BETWEEN AN ABUSIVE RELATIONSHIP AND A HEALTHY ALTERNATIVE. FOR OTHERS, IT MAY MEAN PREVENTING A CHILD FROM DROPPING OUT OF SCHOOL.

- POLICIES SHOULD BE COMMUNITY-BASED, BUT SHOULD RECOGNIZE THE UNIQUE NEEDS OF DISTRESSED AREAS THAT LACK ACCESS TO NECESSARY RESOURCES, AS WELL AS THE CAPACITY TO BUILD FAMILY SUPPORT MECHANISMS AT THE LOCAL LEVEL. EACH COMMUNITY -- WORKING WITH ITS FAMILIES -- MUST DETERMINE THE MOST APPROPRIATE ARENAS THROUGH WHICH TO PROVIDE ASSISTANCE.

1.6 EDUCATION AND EMPLOYMENT POLICIES

IN NEARLY ALL COMMUNITIES, SCHOOLS AND THE WORKPLACE ARE TWO MAJOR FORCES IN THE LIFE OF A FAMILY, AND THEREFORE HAVE ENORMOUS POTENTIAL EITHER TO STRENGTHEN AND REINFORCE OR TO UNDERMINE A FAMILY'S ABILITY TO FUNCTION WELL. IT HAS BECOME INCREASINGLY IMPORTANT FOR EDUCATION AND EMPLOYMENT POLICIES TO HELP PARENTS BALANCE THEIR RESPONSIBILITIES TO BOTH THEIR FAMILIES AND THEIR JOBS.

1.6.1 CLASSROOMS. FAMILIES, COMMUNITIES, AND EDUCATORS HAVE THE OPPORTUNITY IN SCHOOLS TO COME TOGETHER TO EDUCATE AND NURTURE CHILDREN. THE GOALS OF SCHOOLS MUST BE TO PROVIDE THE BEST EDUCATION POSSIBLE TO STUDENTS AND TO PARTICIPATE ACTIVELY IN THE COMMUNITY TO SUPPORT FAMILIES. SCHOOLS HAVE GREAT ACCESS TO AND INFLUENCE UPON CHILDREN AND THEIR FAMILIES. HOWEVER, MANY COMPONENTS OF OUR EDUCATION SYSTEM -- INCLUDING SCHOOL FACILITIES, EQUIPMENT, AND TRANSPORTATION SERVICES -- HAVE NOT BEEN FULLY UTILIZED TO SUPPORT FAMILIES BY APPROACHING STUDENTS HOLISTICALLY. THE EDUCATIONAL SYSTEM CAN BE A TREMENDOUS RESOURCE TO FAMILIES AND TO COMMUNITIES OVERALL.

IF WE ARE TO ACHIEVE OUR NATIONAL EDUCATION GOALS, STUDENTS MUST BE PHYSICALLY AND EMOTIONALLY READY TO LEARN AND EDUCATORS MUST TEACH TO A HIGHER ACADEMIC STANDARD. BECAUSE SO MANY PARENTS WORK OUTSIDE THE HOME, IT IS INCREASINGLY IMPORTANT FOR THE SCHOOL TO BE AN ACCESS POINT TO HELP FAMILIES

FILL NEEDS THAT USED TO BE MET AT HOME. THE GOVERNORS BELIEVE IT IS NECESSARY TO REEVALUATE EXISTING POLICIES AND PRACTICES TO ENSURE THAT SCHOOLS ARE TO THE GREATEST EXTENT POSSIBLE ACCOMMODATING THE NEEDS OF CHILDREN AND FAMILIES IN TODAY'S WORLD

SCHOOLS CAN SUPPORT FAMILIES IN TWO CRITICAL WAYS

- BY FACILITATING ACCESS -- IN CONJUNCTION WITH HUMAN SERVICE AGENCIES -- TO SERVICES THAT ENHANCE THE FAMILY'S ABILITY TO FUNCTION WELL; AND
- BY BEING RESPONSIVE TO WORKING PARENTS.

The Governors believe that schools should work within their communities to help support families. For example, a number of school districts around the country are experimenting with 'full service schools' that help parents to ensure that their children arrive at school ready to learn by coordinating and integrating a wide array of social services and offering nutritious meals. Other schools are responding to the needs of working families by making available literacy training for families, before and after school programs for students, and flexible hours for parent-teacher conferences. Efforts like these can help bridge the gap between the society in which American schools were originally designed and the one that exists today.

~~FOR EXAMPLE, "FULL SERVICE SCHOOLS" THAT DIRECTLY PROVIDE OR HELP PARENTS OBTAIN PRENATAL AND EARLY CHILDHOOD CARE, HEALTH CARE SERVICES, AND NUTRITIOUS MEALS MAY SIGNIFICANTLY STRENGTHEN FAMILIES IN THEIR COMMUNITIES. SIMILARLY, SCHOOLS CAN BE RESPONSIVE TO THE NEEDS OF WORKING FAMILIES BY MAKING AVAILABLE LITERACY TRAINING FOR FAMILIES, BEFORE AND AFTER SCHOOL PROGRAMS FOR STUDENTS, AND FLEXIBLE HOURS FOR PARENT-TEACHER CONFERENCES.~~

THE GOVERNORS BELIEVE THAT SCHOOLS AND FAMILIES SHOULD WORK TOGETHER WITHIN THE COMMUNITY TO SUPPORT THE WHOLE CHILD. FULL-SERVICE, FAMILY-RESPONSIVE SCHOOLS CAN BE AN INVALUABLE RESOURCE FOR THE ENTIRE COMMUNITY. THEY CAN BRIDGE THE GAP BETWEEN THE SOCIETY IN WHICH AMERICAN SCHOOLS WERE ORIGINALLY DESIGNED AND THE ONE THAT EXISTS TODAY.

1.6.2 WORKROOMS. SIMILARLY, GOVERNORS RECOGNIZE THAT REFORMS MUST OCCUR IN THE WORKPLACE TO ACCOMMODATE CHANGING SOCIAL AND DEMOGRAPHIC REALITIES. INCREASINGLY, EMPLOYERS ARE RECOGNIZING THAT THEY PLAY A CRITICAL ROLE, THROUGH THE STRUCTURE AND FLEXIBILITY OF THE WORK ENVIRONMENT AND THE PROVISION OF

BENEFITS, IN ENABLING WORKERS TO PARTICIPATE FULLY IN THE LABOR MARKET. THE EXTENT TO WHICH AN EMPLOYER SUPPORTS WORKERS IN BALANCING THE COMPETING PRESSURES OF WORK AND FAMILY IS A MAJOR FACTOR IN THE SUCCESS OF BOTH THAT INDIVIDUAL EMPLOYER AND HIS OR HER EMPLOYEES, AS WELL AS IN THE NATION'S COMPETITIVENESS.

INCREASINGLY, EMPLOYERS ARE HELPING EMPLOYEES BALANCE THE DAILY CONFLICTS CREATED BY COMBINING FAMILY AND WORK RESPONSIBILITIES. FURTHER, THE FEDERAL GOVERNMENT HAS PASSED LEGISLATION TO SUPPORT FAMILIES, INCLUDING THE RECENTLY ENACTED CHILD CARE DEVELOPMENT BLOCK GRANT AND THE JOB OPPORTUNITIES AND BASIC SKILLS (JOBS) TRAINING PROGRAM. HOWEVER, IN MANY CASES, BARRIERS STILL EXIST TO THE ADOPTION OF FAMILY-SUPPORTIVE PRACTICES IN THE WORKPLACE.

WITH ATTENTION TO THE NEEDS OF SMALL BUSINESSES, INCENTIVES *for voluntary participation* SHOULD BE PROVIDED TO EMPLOYERS TO FACILITATE -- AND BARRIERS SHOULD BE ELIMINATED THAT CONSTRAIN -- THE PROVISION OF FAMILY-SUPPORTIVE PRACTICES, INCLUDING SHORT- AND LONG-TERM FAMILY AND MEDICAL LEAVE ARRANGEMENTS; FLEX-TIME AND PART-TIME SCHEDULES; JOB SHARING ARRANGEMENTS; THE PROVISION OR SUBSIDIZATION OF DEPENDENT CARE; LEAVE TIME TO ADDRESS PRESSING FAMILY NEEDS; DEPENDENT CARE ACCOUNTS; EMPLOYEE ASSISTANCE PROGRAMS; TRANSPORTATION ASSISTANCE; AND WORKPLACE LITERACY AND OTHER TRAINING PROGRAMS.

1.7 THE GOVERNOR'S ROLE

THE GOVERNORS RECOGNIZE THAT THEY PLAY AN IMPORTANT ROLE IN PROVIDING LEADERSHIP TO ENSURE THAT POLICIES AND PROGRAMS IN BOTH SCHOOLS AND WORKPLACES, AS WELL AS IN THE COMMUNITY OVERALL, SUPPORT AND PROTECT FAMILIES. A GOVERNOR CAN:

1.7.1 AS A VISIONARY LEADER

- PROVIDE LEADERSHIP TO CATALYZE A CULTURAL CHANGE IN SCHOOLS AND WORKPLACES, AS WELL AS IN OTHER COMMUNITY ORGANIZATIONS.

- WORK WITH BUSINESS, LABOR, EDUCATION, AND COMMUNITY LEADERS TO POOL RESOURCES TO SUPPORT FAMILIES AND TO HELP DIRECT PUBLIC OPINION TO VIEW SCHOOLS AND WORKPLACES AS HIGHLY VALUED INSTITUTIONS CAPABLE OF IMPLEMENTING APPROPRIATE AND SUCCESSFUL PROGRAMS.

- RECOGNIZE -- THROUGH HIGHLY VISIBLE AWARDS -- SCHOOLS, FIRMS, AND OTHER ORGANIZATIONS THAT INCORPORATE FAMILY-SUPPORTIVE POLICIES

- WORK WITH SMALL BUSINESSES TO HELP SURMOUNT BARRIERS TO ACHIEVING FAMILY-SUPPORTIVE WORK ENVIRONMENTS

- ENCOURAGE THE DEVELOPMENT OF FAMILY-RESPONSIVE WORKPLACES AND SCHOOLS THROUGH THE ESTABLISHMENT OF INCENTIVES -- FINANCIAL AND OTHER -- TO ENCOURAGE MEANINGFUL COLLABORATION BETWEEN THE VARIETY OF ORGANIZATIONS AND AGENCIES THAT WORK, OFTEN CONCURRENTLY, WITH CHILDREN AND THEIR FAMILIES.

1.7.2 AS HEAD OF GOVERNMENT

- ESTABLISH A CLEAR VISION FOR STATE AGENCIES THAT MAKES STRENGTHENING FAMILIES AND COMMUNITIES THE PRIMARY GOAL

- INITIATE INNOVATIVE PROGRAMS UTILIZING STATE RESOURCES AND LEADERSHIP.

- ENSURE THAT SERVICES PROVIDED THROUGH STATE GOVERNMENT RECOGNIZE THE CHANGING COMPOSITION AND PRESSURES UPON FAMILIES; ARE COMPREHENSIVE; ARE EASILY ACCESSED BY FAMILIES, EDUCATORS, BUSINESS, LABOR, AND COMMUNITY LEADERS, AND, WHENEVER POSSIBLE, WORK WITH FAMILIES WITHIN THE CONTEXT OF THEIR OWN HOMES AND COMMUNITIES.

- REVIEW STATE LAWS AND REGULATIONS TO ELIMINATE UNNECESSARY OR ANTIQUATED BARRIERS TO CHANGE IN THE WORKPLACE, IN SCHOOLS, AND IN STATE HUMAN RESOURCE PROGRAMS.

- ENCOURAGE PARTNERSHIPS AND INNOVATIVE AGREEMENTS WITH FOUNDATIONS AND THE PRIVATE SECTOR

1.7.3 AS CHIEF EXECUTIVE OFFICER

- SERVE AS A MODEL EMPLOYER IN SUPPORTING FAMILIES BY, FOR EXAMPLE, ENSURING THAT LEAVE POLICIES ARE RESPONSIVE TO FAMILIES AND EXPERIMENTING WITH FLEXIBLE JOB ARRANGEMENTS.

1.8 THE FEDERAL ROLE

THE GOVERNORS WANT TO BE HELD ACCOUNTABLE FOR OUTCOMES THAT MEASURE THE WELL-BEING OF FAMILIES AND CHILDREN. FEDERAL REGULATIONS AND LEGISLATION SHOULD ENCOURAGE AND ENABLE THE PROVISION OF SERVICES THAT ARE COMPREHENSIVE, PREVENTIVE, AND RESPONSIVE TO THE MULTIPLE NEEDS OF TODAY'S FAMILIES.

TO ENABLE THE STATES TO DEVELOP POLICIES THAT SUPPORT FAMILIES AND CHILDREN, THE FEDERAL GOVERNMENT SHOULD:

- ACKNOWLEDGE THE UNIQUENESS OF STATES AND ENABLE STATES TO CONTINUE TO SERVE AS LABORATORIES FOR DEVISING AND TESTING INNOVATIVE PROGRAMS BY PROVIDING STATES WITH MAXIMUM FLEXIBILITY TO ADAPT PROGRAMS TO THE DIFFERING SOCIAL, ECONOMIC, HISTORICAL, AND POLITICAL CIRCUMSTANCES THAT EXIST AMONG AND WITHIN THE STATES.

- PROVIDE INCENTIVES TO STATES -- INCLUDING WAIVERS FROM FEDERAL REQUIREMENTS -- TO FACILITATE EFFECTIVE AND EFFICIENT INTEGRATION OF SERVICES TO FAMILIES AND CHILDREN.

- WORK WITH STATES TO REMOVE LEGISLATIVE, REGULATORY, AND ADMINISTRATIVE BARRIERS TO EFFECTIVE SERVICE DELIVERY.

- IN ALL ITS DEALINGS WITH STATE GOVERNMENTS, REFLECT THE PARTNERSHIP THAT EXISTS BETWEEN IT AND THE STATES AS A RESULT OF SHARED ADMINISTRATIVE AND FINANCIAL RESPONSIBILITY FOR HUMAN RESOURCE PROGRAMS.

- ENCOURAGE A FOCUS ON OUTCOMES BY ASSISTING EACH STATE IN DEVELOPING A PERFORMANCE MEASUREMENT FRAMEWORK THAT IS BASED ON THE NEEDS OF THE STATE AND IS CONSISTENT WITH NATIONAL POLICY GOALS.

- ASSIST STATES IN ACHIEVING GOALS THROUGH THE PROVISION OF TECHNICAL ASSISTANCE AND SUPPORT.

- ~~PROVIDE BROAD POLICY GUIDANCE TO THE STATES IN RESPONSE TO NATIONALLY ESTABLISHED PRIORITIES IN WHICH SUPPORTING FAMILIES IS A GOAL.~~

1.9 CONCLUSION

FOR FAMILIES TO BE THE PRIMARY SUPPORT FOR AMERICAN CHILDREN, GOVERNMENT AND PRIVATE SECTOR POLICIES MUST RECOGNIZE THE CHANGING NATURE OF FAMILIES AND THE INCREASED PRESSURES UPON THEM. SCHOOLS AND WORKPLACES ARE AMONG THE MOST CRITICAL ARENAS IN THE LIVES OF FAMILIES WITH GREAT POTENTIAL TO IMPROVE -- OR UNDERMINE -- THEIR QUALITY OF LIFE. THE GOVERNORS WILL WORK WITH EMPLOYERS AND EDUCATORS WITHIN THEIR COMMUNITIES AND WITH THE FEDERAL GOVERNMENT TO ENSURE THE INCORPORATION OF POLICIES AND PRACTICES THAT SUPPORT FAMILIES IN THEIR EFFORTS TO BE PRODUCTIVE, SELF-SUFFICIENT, AND NURTURING OF THEIR CHILDREN.

~~C-1. GENERAL PRINCIPLES~~

~~We recognize the necessity of governmental assistance to the impoverished, elderly, disabled, and otherwise disadvantaged segments of our nation's population, and strongly support the creation and operation of carefully planned and administered government programs to provide such assistance. Human services and assistance programs, where possible and appropriate, should be designed and operated so that they contribute toward realization of the following goals:~~

- ~~Maintenance or achievement of the greatest possible degree of economic self support by preventing, reducing, or eliminating economic dependency;~~
- ~~Maintenance or achievement of the greatest possible degree of personal self sufficiency by preventing, reducing, or eliminating personal dependency;~~
- ~~Promoting and contributing to achievement of the greatest possible degree of personal health, both physical and mental;~~
- ~~Maximizing human development and dignity;~~
- ~~Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests;~~
- ~~Strengthening, rehabilitating, or reuniting families to function more effectively as society's basic unit of mutual support and assistance;~~
- ~~Enhancing the abilities of individuals, voluntary organizations, and the private sector to assist in meeting human needs, where appropriate.~~

~~Because of their proximity to potential recipients and their consequent responsiveness to the needs of those recipients, state governments are uniquely situated to provide most efficiently and successfully many human services and forms of governmental assistance. The federal government should utilize state governments as partners in administration and operation of many national human services and assistance programs. In such cases, in order to maximize the impact of the programs and federal funds invested in them, the federal government should provide state governments with the greatest possible degree of flexibility to adapt the programs to the differing social, economic, historical, and political circumstances that exist among and within the states. State flexibility in program operation is also important for two other reasons:~~

- ~~State governments should serve as laboratories for devising and testing innovative concepts of human services programs and delivery systems and methodologies. The nation and, specifically, the federal government can profit from the products of state experimentation. Such experimentation can occur only when states are granted substantial flexibility in program operation.~~

- ~~All state governments have established legislative processes and timetables and unique budgetary preparation methods and calendars. In establishing or amending any federal program in which state governments have or will be expected to undertake a significant role, Congress and the federal executive agencies must accommodate these differences, or implementation in the manner or according to the schedule envisioned by the federal government may be impossible in one or more states.~~

~~Federal statutory requirements and program regulations are a significant factor in the cost of administering human resources programs. Excessive regulations unavoidably increase administrative costs and consequently reduce the proportion of available funding that can be used to achieve program objectives. Therefore, Congress and federal executive branch agencies should review existing statutes and regulations, and exercise care in writing new ones, to ensure that requirements are reasonable and necessary for efficient program management and service delivery and do not drain resources needlessly from achieving program objectives.~~

~~In all its dealings with state governments, the federal government should reflect the partnership that exists between it and the states as a result of shared administrative and financial responsibility for human services and assistance programs.~~

~~Adopted August 1980.~~

JTPA EMERGENCY SUPPLEMENTAL

On Tuesday, June 23, 1992, the Territory of Guam received an additional $370,344 in emergency supplemental funds under the Job Training Partnership Act (JTPA) program. These emergency supplemental funds are to be used for Title II-B, Summer Youth Employment & Training Program activities for Calendar Year 1992.

These funds could not have come at a more opportune time for the Territory. The Agency for Human Resources Development (AHRD), responsible for administering the JTPA program, has taken steps towards increasing program enrollment levels for the summer. An additional one hundred (100) youths, over the projected 400 to be served, were enrolled in the Summer Program. These youths will be provided basic and remedial education training services, as well as work experience training, as part of the exposure to the world of work activity. In addition, testing and assessment services, job counseling, labor market and career information services, and job matching are integral parts of the program.

Of the 100 youths enrolled, a significant number were sheltered clients (at-risk) of the Guam Department of Youth Affairs. Through close coordination with DYA, AHRD was able to provide much needed JTPA services to these at-risk youths for the summer.

We are extremely appreciative of this supplemental funding and, as mentioned earlier, we have put these monies to good use. Job training is essential not only for survival in the workplace but for continuous upward movement of the individual. We will continue to place strong emphasis on job training in order to prepare our laborforce for the demands of an ever changing workplace and economy.

In reference to the Job Training 2000 initiative and the availability of funds for incentive grants and competitive demonstration grants, the Territory of Guam is extremely supportive of the intent of how the funds will be utilized and the President's initiative to ensure an effective and efficient job training system to meet the workforce needs of the Nation into the next century. The Territory's position in applying for the incentive grants remains contingent upon directions from the JTPA Federal Grantor Agency in San Francisco, as these grants were transmitted directly to the Governors in all fifty (50) states. The Territory of Guam has already begun to draft specific plans to create a network of local skills centers to provide a "one-stop shopping" system for vocational and job training services and, to accomodate low income, skilled deficient youths and adults. In addition, the existence of local skill centers in the Pacific will also benefit our neighbors who migrate to our island to seek employment. The system will also facilitate the process of labor market information and job opportunities for individuals new to the workforce and for those individuals returning to the laborforce after extended absence who need retraining or job placement assistance. Establishment of these skill centers will provide efficient and consistent human resource information that will also benefit employers in the private sector.

The government entity responsible for the administration of federal programs under the Job Training Partnership Act (JTPA) has been informed of this initiative and is currently developing a demonstration project to be submitted to the Federal Government for consideration.

BRIEFING PAPER

NGA: Issues and Concerns Regarding Training Programs in the FY93 House Defense Authorization

The creation of a new and separate discretionary funding stream to retrain workers affected by reductions in national defense spending, coupled with special eligibility criteria and mandated services, would seriously undermine the Job Training Partnership Act's (JTPA) Dislocated Worker program.

Over the years, the JTPA program has served a substantial number of dislocated workers throughout the nation. Programmatic, financial, and monitoring systems have been developed, implemented, evaluated, and improved so that immediate response and early intervention is afforded the affected worker. The JTPA system has been in place for years and should be utilized indiscriminately, when dealing with dislocated and non-dislocated eligible individuals. Creating a separate system to perform like functions to that of the JTPA program is a duplication of effort and, contrary to President Bush's Job Training 2000 initiative.

JTPA should be the avenue for this program and funding. Federal funds appropriated for training, retraining or upgrading workers should be allocated to JTPA, preferably on a formula-allocated basis; discretionary funding involves substantial paperwork and processing time. Additionally, since national defense cuts affect numerous states and the territories, competition for these funds does not mean all areas affected will receive these monies, therefore, formula-allocation would be a more expeditious approach.

Furthermore, we feel that establishing special eligibility criteria and mandated services is unnecessary and, at best, discriminatory for those workers who would not meet the special criteria. Criteria for eligibility to receive services under the JTPA Dislocated Worker program is simply dislocation. However, if the intent of the defense adjustment program is to target priority services to the senior worker, a more appropriate approach would be early intervention services rather than at time of dislocation. With advance notice effective coordination can be realized. This service is locally available through the Agency for Human Resources Development (AHRD) and the Guam Employment Service, Department of Labor.

Timing is extremely important when dealing with dislocated workers, that *is why building upon an existing system (JTPA) would be the most prudent approach to undertake. Not only would it eliminate unnecessary delays and ensure effective coordination and delivery of services, most importantly, it would aid in easing the devasting effects of dislocation by providing immediate relief to the individual.*

JOB TRAINING PARTNERSHIP ACT
EMERGENCY FUNDING

On May 20, the Senate passed an additional $675 million for the JTPA Summer Youth (Title IIB) Program as part of a $1.9 billion dire emergency supplemental (H.R. 5132). The bill also included $250 million each for Head Start, Chapter I, and Weed and Seed (a program to combat crime, drug use, and gang activity). The JTPA funds are divided into three pots: $100 million targeted to the nation's 75 largest cities; $100 million distributed to the Governors for allocation within the state; and $475 million distributed to the states according to a formula based 50 percent on the relative number of economically disadvantaged adults, 25 percent on the relative concentration of economically disadvantaged adults, and 25 percent on the relative number of unemployed individuals.

Changes to the Senate bill are likely to occur in conference, including the overall amount for emergency funding and the formula allocation. The entire spending bill was classified as an emergency by the Senate. According to the Budget Enforcement Act, the President would also have to declare the spending an emergency for it to be exempt from the requirement to pay-as-you-go (raise taxes or make cuts in other domestic discretionary programs). Currently, the President has indicated a willingness to declare $200 million in JTPA funding as an emergency.

Contact: Sally Sachar, 202/624-7823

JOB TRAINING 2000

On April 29, Senator Dole introduced the President's Job Training 2000 legislation (S. 2633). On May 28, Rep. Goodling introduced the House version of the bill (H.R. 5288) with several important modifications. Representative Gunderson and House Republican Leader Michel were co-sponsors.

The Senate bill would create:

- gubernatorial waiver authority;
- a network of local skills centers, utilizing the Job Training Partnership Act's Private Industry Councils, to provide "one stop shopping" for vocational and job training services;
- a performance based certification system for federal vocational training; and
- a voucher payment system for federal vocational training.

The House bill is similar to the Senate version, but it is believed that it eliminates the voucher payment system for federal vocational training.

Final congressional action this year is unlikely.

Contact: Sally Sachar, 202/624-7823

NATIONAL GOVERNORS' ASSOCIATION

John Ashcroft
Governor of Missouri
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Roy Romer
Governor of Colorado
Vice Chairman

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RECEIVED

June 25, 1992

MEMORANDUM

TO: Governor's Washington Representatives, NGA State Contacts, and State EDWAA Liaisons

FROM: Sally Sachar, Senior Policy Analyst
Evelyn Ganzglass, Policy Studies Director for Employment and Social Services

RE: Contact Senate on Defense Adjustment Issues

Attached please find an analysis of issues and concerns arising from the June 4 passage of the House Defense Authorization which includes amendments to Title III of the Job Training Partnership Act. A provision in the House bill would apparently prohibit contracting for rapid response services outside the state Dislocated Worker Unit. Other provisions would establish a new defense discretionary funding program under Title III which would be administered by the Department of Defense.

It is important that we reach members of the Senate Armed Services Committee to inform them of the impacts of the House approach on the states, as this committee is currently drafting their own approach to defense adjustment. The Senate plans to mark up just after the July 4 recess. A list of Senate Armed Services members is also attached.

If you need additional information, please contact John Lederer at (202) 624-5335 or Sally Sachar at (202) 624-7823.

Attachments

RECEIVED

National Governors' Association
Issues and Concerns Regarding Training Programs
in the FY93 House Defense Authorization

General Concerns and Priorities

On June 4, the House of Representatives passed an FY93 Defense Authorization bill which contains provisions to establish new retraining programs for workers affected by reductions in national defense spending. These programs would be administered by the Department of Defense and include a new federal discretionary program under the Job Training Partnership Act. The bill also makes several amendments to JTPA apart from the new program.

In general, NGA believes the approach the House has taken is misdirected, and would result in a slow and ineffective use of resources to address this important issue. Instead of providing states and local areas with a flexible and accessible funding mechanism that builds on existing program capacity, the House has created another national discretionary funding stream with its own unique set of eligibility criteria and mandated services.

NGA continues to believe that the best mechanism for building a flexible, targeted, and effective defense adjustment program is to provide states with a formula-allocated supplement (based on defense-related employment and other factors) to the EDWAA Governors' Reserve (40 percent funds). The supplement would be used for defense-related activities authorized under JTPA section 302(c)(1), including rapid response, regional, industry, or site-specific projects, supplementary allocations to substate grantees, coordination with employment security, and technical assistance. This approach has the advantage of getting the funds out as expeditiously as possible; building on existing programs and service systems; ensuring program design flexibility; and targeting areas affected by defense dislocation.

Specific Concerns

- Section 4324(a)(4) of the House bill would probably prohibit state dislocated worker units from using contractors to provide rapid response services. Financial agreements to augment rapid response capacity can be an important tool for ensuring effective coordination and service delivery, especially in states too large to cover from a central office.

- The program establishes a priority system for determining eligible grantees in which JTPA substate grantees are given the first option to apply for funds, followed by labor-management committees, employer or employee groups, and finally, if none of these groups applies, state agencies. We find no compelling rationale for establishing a presumptive grantee or program operator, and would certainly oppose states being last in line.

- Eligibility is limited to workers who have worked for a private defense contractor for five years or more. This provision precludes the common practice of providing comprehensive services to all workers affected by a workforce reduction at a particular site.

- The program mandates the formation of labor-management committees (LMC) unless the Secretary of Defense waives the requirement after determining that an unsuccessful "good-faith effort" to establish an LMC has been made. These provisions are not necessary to promote the formation of labor-management committees and will inevitably delay the application for and receipt of funds.

- The new program would mandate the development of an economic conversion plan as a condition for full funding of the project. It is not clear whether workers could be served if management refused to participate in the development of such a plan or did not intend to convert the facility to commercial production, as is often the case.

- The provisions regarding "skill enhancement retraining" seem ambiguous and inconsistent. The legislation should be reworded to clearly state whether skill enhancement or skill upgrading is being promoted, and in either case, the eligibility provisions should be modified accordingly.

- The provision of needs-related payments is mandated and must be provided in accordance with the provisions of the Clean Air Employment Transition Assistance (CAETA) program. The CAETA needs-related payments provisions, as implemented by USDOL, are poorly written and should not serve as a model for enhancing income maintenance for workers in training.

For more information regarding defense worker readjustment issues, contact John Lederer at (202) 624-5335, and for questions on legislative strategy contact Sally Sachar at (202) 624-7823. Both are on NGA staff.

REAFFIRM*

C-16. WORKER ADJUSTMENT

16.1 Preface

The national economy and the American worker now operate in an environment where change is the norm. Any system developed to deal with the effects of change must be designed to facilitate transition rather than inhibit it. Much of the dislocation occurring in the economy is the result of the decline in the viability of the productive sector of the economy. Although dislocated worker policies alone will not revitalize the productive sector, they are necessary to address the human effects of the change that is occurring.

States have significant responsibilities, in the federal system, for educating its citizens, training and retraining its workforce, promoting job creation and providing basic human services. Governors are in key positions to orchestrate the diverse systems involved in anticipating change, managing change and minimizing the adverse effects of change.

16.2 Principles

The following principles should guide the development of a national worker adjustment strategy:

16.2.1 **Needs.** The Governors should have discretionary authority to develop worker adjustment programs that address the unique needs of the workers, the businesses, and the communities in their states.

16.2.2 **Recipients.** The program should be broad enough to allow states to assist workers, regardless of the cause of their dislocation (technological change, international competition, market forces, etc.). This may include dislocated farmers, unemployment insurance recipients and exhaustees, potentially dislocated workers, and other structurally unemployed individuals.

16.2.3 **Reemployment Assistance.** The need to provide workers with reemployment assistance as early as possible is of paramount importance in helping them find new jobs. Early intervention strategies operate most effectively in a cooperative environment where information is shared among labor, management and government.

16.2.4 **Service Alternatives.** Displaced workers may need a variety of services and assistance in order to successfully adjust to change. Governors should be allowed to choose from a variety of service alternatives including: educational services, training alternatives, job search assistance, support services and income support.

16.2.5 **Coordination of Services.** Funds allocated by the federal government should be made available to assist states in implementing worker adjustment programs that are designed to both prevent job loss and facilitate reemployment of dislocated workers. States should be allowed to develop interdisciplinary approaches to worker adjustment by coordinating the employment and training, education, economic development, human services, and unemployment systems. States recognize the importance of reserving a small percentage of the funds at the national level to address unanticipated dislocations; and multistate dislocations, however, the majority of the funds should be allocated to the states.

16.2.6 **Labor Data.** The federal government can assist states and business by collecting and disseminating information on local labor trends that will facilitate anticipatory responses by states. Current data is not sufficient or pertinent enough to effectively anticipate occupational and industrial growth and decline.

Adopted February 1987.

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* To be amended at a later date

NATIONAL GOVERNORS' ASSOCIATION
EIGHTY-FOURTH ANNUAL MEETING
1992

COMMITTEE ON INTERNATIONAL TRADE AND FOREIGN RELATIONS

TAB 7

COMMITTEE ON INTERNATIONAL TRADE
AND
FOREIGN RELATIONS

Summary of Issues and Briefing Papers

ISSUE:

- ***Federal-State Partnership in International Trade Policy and Promotion***

NGA calls for a clear definition of the federal-state partnership in international trade policy and promotion through dialogue with federal agencies and through the development of federal legislation. Additionally, NGA would also want a clearer communication link between Governors' offices and the federal government on matters concerning implementation of the General Agreement on Tariffs and Trade (GATT), North American Free Trade Agreement (NAFTA), and other trade agreements. The Governors claim they need more information about the availability of federal/international resources and about innovative state practices to help ensure more efficient use of state funds. As for NGA, its activities would be designed to identify opportunities for improving effectiveness of the Governors in trade missions and overseas operations, to help the Governors with media/constituent/legislature relations concerning trade and investment, and to clarify and formalize the Governors' role in implementing international trade agreements.

NGA emphasizes the need to keep the federal/state partnership strong by enhancing federal actions. NGA calls on the federal government to make trade a priority. NGA urges Congress that in reauthorizing trade promotion programs, the focus would be on trade functions that only the federal government could provide. The federal government should continue to play a critical role in export promotion. The federal government should also make certain that the U.S. are not being out-gunned in worldwide economic competition, make U.S. trade intelligence the best in the world, improve state-by-state trade data, and achieve better interagency cooperation at federal level.

State officials have played important advisory roles in the ongoing negotiations within both the Uruguay round and NAFTA but although the advisory role is appropriate for trade negotiations, a more formal partnership is called for during implementation of trade agreements. This is especially crucial when GATT disputes increasingly affect state laws and state practices. Disputes citing state laws could increase when new rules are developed concerning environmental and safety

standards, economic development subsidies, government procurement, and regulation of services. Whatever the outcome of trade negotiations underway, state policies and programs are increasingly being scrutinized for how they affect international trade. This represents a critical new challenge to the state-federal partnership. In the upcoming decades, U.S. strength in international trade will continue to be a key determinant of the country's prosperity. The nation's fortunate numerous trade opportunities, dynamic Pacific Rim market, emerging free market economies in Eastern Europe and the former Soviet Union, and liberalizations in the economies of Mexico and South America provide businesses with an unprecedented array of possibilities for trade. The continuous role of Governors in fostering trade and cultural ties with other nations could help U.S. businesses remain strong in an increasingly competitive world economy.

BRIEFING PAPER:

Department of Commerce

The collection of data on state-by-state international trade activities is considered as an indispensable trade promotion service that the federal government must provide. Guam has difficulty collecting import data from the Customs Territory of the United States. If Guam was included in the export data from the U.S. Custom Territory, the Territory's export figures to Guam would represent Guam's imports. Such inclusion would be consistent with the treatment of imports from Guam to the Territory.

The concerned federal agencies should provide annual reports on U.S. exports of goods and services, by state of origin, port of departure, and country of ultimate destination; and U.S. imports of goods and services by country of origin, U.S. port of first acceptance, and state of ultimate destination. Shipments from the Customs Territory of the United states to the Territory of Guam should be included as exports of the United States.

1. *Update on the General Agreement on Tariffs and Trade (GATT)*

The most important impetus for the establishment of a new trade policy partnership is the expanding number and scope of trade agreements which the United States has already established or is negotiating. Included are the U.S.-Canada Free Trade Agreement reached in 1988 and the General Agreement on Tariffs and Trade (GATT) negotiations.

Currently, states have been involved in the negotiation of the U.S.-Canada Free Trade Agreement. The recent GATT case filed by Canada against state laws that govern the sale, distribution, marketing, transportation, and taxation of beer and

wine of over 40 states initiates an important trade policy trends in the next decade. In the case, the GATT dispute settlement panels have held state laws to be illegal barriers to international trade, and the GATT adopted its panel decision in favor of Canada's complaint. NGA claims that the U.S. Trade Representative (USTR) allowed adoption and did not even exercise its right to block the adoption despite the very significant constitutional issues raised by the case. Procedures for implementation of the GATT panel's decision are now being worked out.

NGA feels that it was entirely inappropriate for the GATT panel to base a decision on its own interpretation of the relative powers of states and the Executive Branch as established by the U.S. Constitution, and the U.S. government should not endorse a GATT decision that rest on a GATT panel interpretation of our Constitution. The main point of the problem is that the federal government, by endorsing the GATT decision, has taken the position that the President may suspend state law by his unilateral decision, that is the President may preempt state law by exercising the Commerce clause powers of the Constitution. The Governors recommend that in light of the disappearing notion of states' rights and the states' concerns regarding the potential effect of international trade talks on state health, safety, and other regulatory laws, there is a need for additional consideration of the issues raised by the Canada "Beer II case ". Even if NGA is being assured that USTR fully supports the rights of states, a way should be found to prevent GATT panels from basing decisions on interpretations of state-federal relations. Additionally, in order to prevent similar intrusions by GATT panels in the future, a mechanism should be devised that will prevent panels from doing this from the onset of a case.

2. ***Update on North American Free Trade Agreement (NAFTA)***

The President may conclude the ongoing negotiations of the North American Free Trade Agreement with Canada and Mexico on July 15, and may notify Congress of his intent to sign an agreement prior to the upcoming NGA annual meeting in August.

The United States is committed, both in the Uruguay Round and in the NAFTA, not to weaken U.S. environmental and health protection. The President has emphasized in his response in Congress that he will not agree to weaken U.S. environmental and health laws or regulations as part of the NAFTA and that the U.S. will maintain enforcement of these laws and regulations.

Nontariff barriers are also the focus of attention in both the NAFTA and the Uruguay Round negotiations. These nontariff barrier issues include: licensing/trade in service, import and export quotas, subsidies and product standards, procurement, trade disputes, and new trade policy partnership.

The NAFTA will contain binding rules on services although the NAFTA will only

apply to the United States, Canada, and Mexico. The USTR requests each Governor to list concerning laws and regulations in his state that may come under the coverage of the new agreement on trade in services which is expected to be concluded in the near future. The information is necessary because of the way NAFTA will apply at the state and local level. The agreement imposed a number of substantive obligations, such as a rule prohibiting government discrimination against services companies from the NAFTA countries. However, in each case, countries may exempt existing laws and regulations that do not conform with these obligations by listing them in its "schedule" to the agreement. All practices which need to be included in the U.S. schedule should be identified, otherwise they could be challenged if non-conforming. Those that are in the list will be "granfathered" so that practices can remain in effect without contravening the NAFTA. Services accounts for a large share of our nation's economic output and employment. If negotiation for better access to foreign markets for U.S. services companies is successful, this large and growing sector of our economy will be enhanced.

BRIEFING PAPER:

Department of Commerce

The Department believes that any United State trade agreement which provides access to foreign markets should cover Guam. Guam should have no less access to the U.S. market than provided to any nation under a trade agreement. Guam's position is non-controversial but this give assurance that Guam would not be forgotten as it happened in the U.S.-Canada Trade agreement. Guam benefits from the opening of international trade but a trade war would hurt Guam because of the impact on the world economy. Guam's protectionist interests in preserving U.S. trade restricts is considered weak.

If all U.S. trade restrictions cease, Guam would lose some unstable and unskilled jobs in textiles. It is foreseen that textiles in Guam is a declining industry. Currently, Guam generates an excess of unskilled jobs. It is the department's belief that Guam's support of free trade will be to the island's best interest. Guam will gain credibility when demanding market access.

Guam should be working that we are included in any U.S. access to the Canadian and Mexican markets. Cooperation from governors of other territories and commonwealths may be solicited toward this end. Guam's interest in access to the Canadian and Mexican markets may appear academic but trade opportunities are hard to forecast as illustrated by "sashimi" grade tuna becoming a major export of Guam to Japan.

ISSUE:

- ***Democratic/Economic Reforms Around the World***

Democratic/economic reforms around the world requires a response to the growing demand for state involvement in establishing new trade relationships and providing technical assistance to emerging democratic governments. Governors are increasingly asked by federal officials and by other governments to assist in the transition of emerging democracies, each of which has tremendous market potential for American companies. NGA has and could continue to serve as a focal point for state activities, coordinating with other state and international organizations. However, the states look up to the federal government to provide the tools they need to help their businesses compete; a sound trade policy, market access, and reliable trade data.

States are developing new relationships with newly independent republics in the former Soviet Union. States have sponsored trade missions, developed trade promotion efforts targeted to the republics, developed cultural programs to foster better relations and participated in humanitarian assistance programs. Last year, twenty-seven governors made 49 trips to 21 countries in their efforts to help open doors to trade and improve foreign relations. States are also helping with private initiatives in the newly independent republics as illustrated by the "Russian Winter Campaign". A governors' trip to Brussels in October is being organized by NGA and being hosted by European Community (EC). The trip will feature briefings by high-level EC officials and parliament members about "EC 1992" - the removal of barriers to the exchange of goods, services, workers, and capital within and between members of the European Community.

ISSUE:

- ***Trade Expansion Act of 1992***

The House and Means Committee approved the Trade Expansion Act of 1992 (H.R. 5100), the main purpose of which is to reauthorize the Super 301 provisions of the 1988 trade act which allows the Administration to investigate and if appropriate, to retaliate against unfair trading practices of foreign countries. H.R. 5100 restricts the broad discretion the President currently has in deciding whether to exercise the Super 301 authority. The bill would force the Administration to identify annually countries with major trade barriers and target them for negotiations and retaliation. The Administration strongly opposes these changes.

Other provisions of bill H.R. 5100 include: mandate a Super 301 investigation regarding U.S. access to rice markets in Taiwan, Japan and Korea; streamline

customs procedures for processing merchandise; mandate an International Trade Commission to study how U.S. trade laws could be simplified; limit imports of machine tools from Taiwan to previously established levels pending agreement to extend the expired voluntary restraint agreement; require the President to negotiate trade laws that eliminate private anti-competitive practices in foreign countries; require the U.S. Trade Representative, within one year, to retaliate against countries found to be violating intellectual property rights, and etc. The most controversial provision that was withdrawn but will be offered on the House floor is an amendment that would establish a cap on Japanese import cars and require the United states to enter into negotiations with Japan to reduce the imbalance in the U.S.-Japan automotive trade. It is envisioned that the trade bill will become a vehicle for highly protectionist provisions, including measures to alter the <u>fast-track</u> procedures for trade agreements.

ISSUE:

- ***Proposal: Guam and Japan's Five Percent (5%) Tariff on Longline Catch***

The Territory of Guam would like to submit to NGA for consideration a proposal on the elimination of tariffs on fish transhipped through Guam and imported into Japan. The elimination of the tariffs would allow for the diversification of the longline fleet on Guam with the possibility of establishing a U.S. flag longliner fleet based on island. Guam is a beneficiary of Japan's Generalized System of Preferences (GSP). However, tariffs on fresh fish are not reduced under Japan's GSP.

BRIEFING PAPER:

Department of Commerce

The Department has cited advantages of the proposal. The elimination of the tariff imposed on tuna captured by vessels flagged to third countries is important for the growth of Guam's transshipment industry. The imposed tariffs hinder the development of the U.S. flagged fleet operating out of Guam that would provide greater revenue for the island than those foreign fleet. The crew of the U.S. flagged vessels and their families would probably live in Guam, thus would pay taxes and spend their salaries here. Also,the vessels are likely to purchase more provisions on island. Estimated local purchases by a U.S vessel would probably sum up to $19,000 versus $11,00 to $13,000 by a foreign vessel. The elimination of tariffs is to Guam's best economic interest.

TRADE DATA FOR STATES
AND FOR GUAM
Position Paper
Guam Department of Commerce
July 7, 1992

Guam has had difficulty collecting import data from the Customs Territory of the United States. If Guam were included in the export data from the U. S. Customs Territory, the Territory's export figures to Guam would represent Guam's imports. Such inclusion would be consistent with the treatment of imports from Guam to the Territory.

The National Governors' Association under the heading "H-2. PROMOTION AND EXPANSION OF INTERNATIONAL TRADE" has taken a position concerning trade data. To address Guam's need for import data, a recommended modified position follows. The modification is underlined.

2.2.4 **Trade Data.** An indispensable trade promotion service that the federal government must provide is the collection of data on state-by-state international trade activity. Specifically, federal agencies should provide annual reports on U. S. exports of goods and services, by state of origin, port of departure, and country of ultimate destination; and U. S. imports of goods and services by country of origin, U. S. port of first acceptance, and state of ultimate destination. <u>To be consistent with import data, shipments from the Customs Territory of the United States to the Territory of Guam should be included as exports of the United States.</u>

It is essential that these data be provided on an accurate and timely basis. In addition, effective means should be found for disseminating information on trade opportunities identified by overseas federal personnel. State trade promotion programs are heavily dependent upon this information, and the federal government alone is in a position to provide it.

DEPARTMENT OF COMMERCE
DIPATTAMENTON I KUMETSIO

NORTH AMERICAN FREE TRADE AGREEMENT
(UNITED STATES-MEXICO-CANADA)
BRIEFING PAPER

The discussion is based on the following premisses.

1. Any United States trade agreement which provides access to foreign markets should cover Guam. Germane to tactics in dealing with the federal government, the other Territories and the U. S. Commonwealths may have a similar wish to be covered.
2. Guam should have no less access to the U. S. market than provided to any nation under a trade agreement.
3. Guam's position on these matters is non-controversial but Guam can be forgotten as occurred in the U. S.-Canadian agreement.
4. Guam benefits from opening of international trade and a trade war would hurt Guam because of the impact on the world economy. Specifically, Guam's prosperity depends on Japan's and the Asian Newly Industrialized Economies' prosperity. The international trading system is critical to these economies.
5. At the moment, Guam's protectionist interests in preserving U. S. trade restricts is weak.

The last premiss may require explanation. If all U. S. trade restrictions ceased, Guam would loose some unstable and unskilled jobs in textiles. Those in watch assembly are already lost. The number of jobs vary greatly from month to month but average about two hundred. Under the best future, textiles is a declining industries for Guam. Further, Guam currently generates an excess of unskilled jobs. As a judgement of proportion, we believe that its in Guam's interest to take the magnanimous position in support of free trade. The gain for Guam of freer world trade would be defuse but significant. Further, Guam gains credibility when demanding market access.

Guam's Access to the Canadian and Mexican Markets

Relevant to the North American Free Trade Area negotiations, Guam does not have access to the Canadian market under the bilateral Canada-U.S. agreement. The U. S. Trade Representative's statement before the U. S. Senate Committee of Finance includes "...both the United States and Canada agree that the U.S.-Canada free trade agreement sets a floor for commitments between the two countries. Trilateral negotiations will give us an opportunity to improve and expand the U.S.-Canada free trade agreement;..." [Feb 6, 1991, p. 11].

Guam's interest is to be included in any U. S. access to the Canadian and Mexican markets. That is, the U.S.-Canada agreement should be improved to include Guam's access to the Canadian market. This position apparently has not registered outside of Guam. That is, we have yet to receive a statement concerning this position from the U. S. trade representative nor from any organization dealing with the North American Free Trade Area negotiations.

Guam's inclusion in the market opening measures is such a simple and small position that it is likely to be ignored and forgotten. We recommend that Guam's position be repeated at forums such a the National Governors' Association National Conference until it is recognized by the Office of U. S Trade Representative.

Cooperation on access to Canada and Mexico from the Governors of the other territories and of the commonwealths may be solicited. The following comments may assist in solicitation. In the Virgin Islands, the feeling towards access to the Canadian market is mixed. With access, Virgin Islands' rum would be sold to Canada. If the sales are diverted from the U. S. market, however, the Islands' Government would lose tax revenue. Puerto Rico has protectionist concerns about the trilateral agreement. Puerto Rico's significant exports to the Customs Territory of the U. S. may meet Mexican competition. The Governors of the CNMI and American Samoa may need to be persuaded that the issue is not academic. Sales from American Samoa's tuna cannery to Canada, however, may be eminent.

Guam's interest in access to the Mexican and Canadian market may appear academic; but trade opportunities are impossible to forecast. For example, no one predicted in 1985 that sashimi grade tuna would be a major export of Guam to Japan. If Japan restricted such imports to a greater extend than currently, the industry would never have developed.

Guam's Access to the U. S. Market

Through the agreement, better access by Canada and Mexico to the U. S. market than Guam now has is possible. Such access is most likely for textiles and other goods governed by quotas outside of GATT. With little effort on Guam's part, we believe that Guam will be provided equivalent access when the trade treaty passes Congress.

COMMITTEE ON INTERNATIONAL TRADE AND FOREIGN RELATIONS
NATIONAL GOVERNORS' ASSOCIATION

FORGING A NEW PARTNERSHIP IN TRADE POLICY BETWEEN THE FEDERAL AND STATE GOVERNMENTS

August, 1992

* Prepared on behalf of the Committee by Charles S. Colgan, Associate Professor of Public Policy and Management, Edmund S. Muskie Institute of Public Affairs, University of Southern Maine.

DRAFT July 10, 1992

SUMMARY

This paper proposes that a new partnership between the federal and state governments in the formulation and implementation of United States trade policy be created. The goals of this partnership will be to enhance the timeliness and accuracy of coordination between the federal and state governments in order to minimize conflicts and enhance the effectiveness of the United States in the international trade arena.

The key elements are:

(1) Continuation of the Intergovernmental Policy Advisory Committee (IGPAC).

(2) Establishment of an Intergovernmental Staff at USTR.

(3) Designation of Trade Policy Coordinators in the States.

(4) Improvement of Existing State Trade related Programs.

The evolution of trade policy has forced on states new and unfamiliar roles in international trade. Trade agreements now routinely cover such traditional areas of state responsibility as:

- Regulation of Service Industries such as Banking and Insurance
- Setting Product and Health and Safety Standards
- Subsidies and Economic Development
- Opening Government Procurement Markets to International Trade

State laws already have been held to be illegal barriers to international trade by dispute settlement panels. Trade policy in the future will be a regular feature of the agenda for state Governors and legislators. Meanwhile, the federal government's responsibilities for an effective trade policy can no longer be met without the states.

The new partnership will build on an existing firm foundation of informal cooperation between the federal and state governments in trade policy over the past five years. This cooperation has been adequate to past tasks, but the future demands can only be met effectively through a more formal and regular set of arrangements.

While additional federal expenditures will be required to implement the partnership, the costs are only a small fraction of the growth

in federal revenues that will result from more effective U.S. trade policy.

"Globalization" is a term that is ever more commonly applied to the American economy in the 1980s. But the increasing role of international trade, both exports and imports, in the growth of the American economy has been rather more a rising tide steadily approaching shore since the end of World War II. In the 1980s the waves began to crash on the shores of the government of the states and territories[1] as the tide of globalization continues to rise in the 1990s, state governments are finding new responsibilities and challenges that require a new partnership between the federal and state governments in the formulation and implementation of America's trade policy.

The most important impetus for the establishment of a new trade policy partnership is the expanding number and scope of trade agreements which the United States has already established or is negotiating. First there was the U.S.-Canada Free Trade Agreement reached in 1988. Currently there are negotiations for a North American Free Trade Agreement. In addition, multilateral efforts are underway to expand the General Agreement on Tariffs and Trade and establish a General Agreement on Trade in Services in the Uruguay Round of multilateral trade negotiations. Although trade agreements originally addressed tariffs on goods, these more recent initiatives take a comprehensive view toward a broad range of government behaviors -- so-called non-tariff measures -- that affect trade. New rules touch increasingly on areas of state jurisdiction such as the regulation of service industries, government procurement, and economic development programs.

The sheer expansion in the volume of trade between the United States and other countries, most of it enabled to some degree by trade policy changes adopted over the years, has created a significant volume of trade issues for state governments, including issues related to both negotiation and implementation of trade agreements:

> **Negotiation:** States have been involved in the negotiation of the U.S.-Canada Free Trade Agreement and the current multilateral and trilateral trade negotiations that head the U.S. trade agenda.
>
> **Implementation:** The recent GATT case filed by Canada against the beer and wine regulations of over forty states is the harbinger of what will unquestionably be one of the most important trade policy trends in the next decade: the identification of state government practices in trade disputes

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[1] Throughout this paper the issues relating to state governments may also be taken as applying to the United States Trust Territories of the American Samoa, Guam, the Northern Marianas, and the Virgin Islands and to the Commonwealth of Puerto Rico.

filed under GATT or other trade agreements to which the United States is party.

Because the success of United States trade policy increasingly depends on the state governments, those governments are having additional demands placed on them for which they have little experience, less expertise, and still less time and resources. While states have sophisticated and effective trade promotion programs, spending $97 billion in 1991, until now they had little or no role in trade policy. In just the past year, state governments have been asked to prepare comprehensive assessments of state statutes' international trade effects in three completely different areas for two separate negotiations. Trade disputes have resulted in the requirement that states completely overhaul whole sections of their laws relating to alcoholic beverages to conform to international trade rules. These kinds of demands will continue to grow in the future.

To date a series of ad hoc and advisory arrangements have served to link the state governments with the federal trade policy process, but it is clear to the Governors that these cannot adequately serve the nation in the future. The central element of new partnership must be increased capacity for communications and coordination between state governments and the federal trade policy system centered in the Office of the United States Trade Representative. This paper identifies those areas of international trade policy where state responsibilities are increasing, where trade agreements will affect state governments and can be expected to increase in the future, and then sets out the major elements of a new trade policy partnership between the federal and state governments.

Trade Policy Issues Affecting State Governments

Until the Tokyo Round of multilateral trade negotiations (1973-1979) the need for state government involvement in trade policy did not exist. Trade negotiations were almost exclusively directed at lowering the high tariffs that most industrialized countries had imposed during the depression, and tariff issues are the province of the federal government. Beginning in the Tokyo Round, however, nontariff barriers such as licensing, import and export quotas, subsidies, and product standards, areas traditionally state or joint state-federal responsibilities in the United States, began to be major subjects of international trade negotiations.

This trend accelerated with the U.S.-Canada Free Trade Agreement (FTA), the bulk of which addressed those nontariff barriers of greatest concern to the states. Nontariff barriers are the focus for much of the attention in both the North American Free Trade Agreement (NAFTA) and Uruguay Round negotiations. The following list of trade policy issues is drawn from the U.S.-Canada FTA, current General Agreement on Tariffs & Trade rules, and the publicly available documentation from the Uruguay Round and the proposed NAFTA.

Services

Trade in services is one of the fastest growing components of world trade, and this is expected to continue. The services sector is one of the most important areas for export growth for the United States, as well as being the source of most of the growth in employment in the United States over the past forty years. Yet there are still no generally accepted rules on trade in services granting the basic protections of rules such as national treatment (treating foreign suppliers the same as domestic providers) and transparency (administrative procedures that are open and accessible similar to those routinely used in the United States). These protections have been the foundation of trade in goods since the establishment of the GATT in 1947.

Restrictions on trade in services do not come in the form of tariffs, but in the form of licensing of providers, restrictions or prohibitions on the conduct of business in such industries as banking and insurance, public utility regulation (or monopoly provision by the government). The negotiations to establish a General Agreement on Trade in Services (GATS) covers more than thirty service areas, most of which are regulated in the United States by state governments.

Standards

The setting of standards for environmental and consumer protection is one of the most important functions of modern government. State governments are extremely active in the establishment of standards in these areas, as well as in the establishment of sanitary and phytosanitary standards to protect the health and safety of food and agricultural products.

While necessary to protect the health and safety of citizens and the environment, standards can also become disguised trade barriers. The long-running dispute over the size of knotholes allowed in plywood used in homes financed by the Government of Canada is an example; Canada claims the standard is necessary as a building safety standard, while the United States sees it as an unwarranted barrier to U.S. plywood exports. Another example is the dispute between the United States and the European Community over whether the use of artificial hormones to stimulate growth of beef cattle has any effects on human health.

States are expected to face claims by other countries that their standards are barriers to trade and will have to participate in negotiations to harmonize standards with other countries in order to maintain needed protections with minimal trade distortions.

Subsidies

The United States has long complained about the subsidization of production by foreign governments; there has been a law permitting the levying of duties to offset ("countervail") the benefits of subsidies since 1897. Establishing international rules to restrict the use of subsidies was a major part of the Tokyo Round agreements and of the U.S.-Canada FTA. Improvements to these rules is a major objective of the United States in both the Uruguay Round and NAFTA negotiations.

Concern about the effects of subsidized imports on the ability of U.S. companies to compete in world markets has been shared by Governors, but there is also a recognition that virtually all states undertake economic development programs, elements of which may be considered subsidies under some interpretations of the trade rules. State governments are concerned that rules of subsidies must provide a balance, addressing the need to protect against subsidized imports while not eliminating the ability of states to offer assistance in areas such as research and development and job training.

Procurement

The opening of national government procurement markets to international trade has been an important element in the expansion of world trade over the past twenty years. The major frontier in the expansion of government procurement markets today is the inclusion of "subcentral" (i.e., state and local) government markets. In 1990, the European Community tabled an offer in the Uruguay Round procurement code negotiations offering to open its procurement at all levels of government, provided that the United States and other countries such as Japan and Canada match their offer.

State governments are being asked to commit to maintain open procurement markets and remove any "buy-local" preferences in their purchasing decisions in order that the U.S. may gain maximum possible access to the European and other markets. States have been asked to voluntarily participate in the procurement code. This has created some very difficult technical and legal questions for states concerning the roles of Governors and legislatures in making such commitments.

Trade Disputes

Increased world trade inevitably engenders disputes, and the volume of trade law is expanding to permit settlement of disputes. The expansion of trade rules in the areas just noted will inevitably involve states in trade disputes.

In the event that a trade dispute involving a state practice is brought against the United States, two issues arise: the role of states in the defense of the case, and the legal mechanism for the enforcement of an adverse decision.

To date only one case has been filed under the GATT against a state practice, Canada's case against state alcoholic controls on beer and wine in the spring of 1992. The GATT panel ruled against the United States, and procedures for implementation are now being worked out. Coordination between the state governments and the attorneys with the USTR Office of the General Counsel was undertaken on an informal basis, and some confusion arose because contacts between USTR and the states were variously maintained with the state attorneys general, Governors' offices, and state alcoholic beverage control agencies. Only one state actually accompanied the U.S. delegation to Geneva for the arguments of the case, although most Canadian provinces attended.

The issue of assuring compliance by state governments of decisions under the dispute settlement provisions of trade agreements is part of the general issue of how international trade law affects the subnational governments in a federal system. This is an evolving and controversial area of trade policy. The GATT recognizes the problem in Article XXIV (12):

> Each contracting party shall take <u>such reasonable measures</u> as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territories. (emphasis added)

The U.S.-Canada FTA also recognizes it, but in Article 103 sets a different standard:

> The parties to this Agreement shall <u>ensure that all necessary measures</u> are taken in order to give effect to its provisions, except as otherwise provided in this Agreement, by state, provincial, and local governments. (emphasis added)

The difference between these two provisions lies primarily in the GATT standard of "reasonable" measures and the FTA standard of "necessary" measures. The FTA standard thus appears somewhat stricter, but it should be noted that various interpretations of both are possible. For example, European and Canadian commentators have pointed to the Commerce and Supremacy clauses of the United States Constitution and argued that the federal government is obliged under either standard to force state compliance.

The panel that decided the Beer and Wine case against the United States reasoned that simply because the commerce and supremacy clauses exist in the American Constitution, state laws are not entitled to "grandfathering" under the GATT. While the United States government rejected this reasoning, it is significant that a GATT panel reached this conclusion in the first case ever brought involving state laws. The panel's ideas may well be a harbinger of future trends, especially in the context of a strengthened GATT dispute settlement mechanism.

The confrontations within the American federal system that would ensue from attempts to routinely preempt state laws have been avoided so far. It has been federal policy to coordinate trade policy with the states so that the issue of preemption has been avoided. But as the number and complexity of disputes grows in the future with the addition of more rules subject to disputes, the need for close coordination between state and federal governments must grow apace if potentially messy political and constitutional confrontations between federal and state governments are to be avoided.

A New Trade Policy Partnership

There is no question that the federal government has the principal responsibility for America's trade policy. A role for state governments is part of the continuing evolution of trade policy. When trade policy has traditionally focused on tariffs, which were once the major source of revenue for the federal government, Congress dominated the setting of trade policy. Over time, nontariff barriers rose in importance and trade policy increasingly became a matter for negotiation with our trade partners rather than unilateral action. Congress recognized that the President would have to take a much greater role and began to delegate more responsibility to the Executive Branch, first through the delegation of "proclamation authority" on tariff rates, and then through such procedures as "fast track" authority to enable a workable balance between Congress and the President in making trade policy.

The working arrangements to date may be characterized more on informal and casual communications than on regular coordination and contact. The most formal contact has been the Intergovernmental Policy Advisory Committee (IGPAC) established by Congress in 1974 and renewed in 1988. IGPAC consists of 32 state and local officials from around the country, fourteen of which are Governors.[2] The USTR has consulted regularly with the IGPAC and with its staff working group during the Uruguay Round and NAFTA negotiations, although staff turnover and shortages at USTR have occasionally reduced the efficiency of communication.

Prior to the establishment of IGPAC, the states had played an active role in advising the USTR during the negotiations leading to the U.S.-Canada Free Trade Agreement from 1985-1988. This took place primarily through regular meetings between American negotiators and the Governors and their staff through the National Governors' Association's Committee on International Trade and Foreign Relations. While the experience so far has been quite positive for both the federal and state governments, it likely will not be sufficient for the future. Only a limited number of states have so far been involved on a regular basis in trade policy development. A good example of how the current informal system is inadequate has been the negotiations to expand the GATT Government Procurement Code to subcentral governments. The European Community has proposed to cover all of its subcentral governments in the code if the United States does likewise. The federal government has wisely chosen to include the states on a voluntary basis rather than attempt to compel inclusion.

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[2] There are also two lieutenant governors, five state legislators, one elected commissioner, six elected county and municipal officials, and three appointed state officials.

But in order to get states to participate, an extensive education process has been required in order for states to understand what will be required of them should they participate. The USTR negotiators have had the dual responsibility of negotiating both with other countries in the code and with fifty state governments. After nearly two years of negotiations, only 28 states have indicated preliminary interest in participation, and only one Governor has made the formal commitment as of the writing of this paper (July, 1992). The result of the slow process is that European and other subcentral government markets (such as Canada) will probably be opened much more slowly or to a much smaller degree, reducing the export opportunities for firms throughout the United States.

A new trade policy partnership, from the states' perspective, must therefore have as its goals:

- Timeliness. Information about state government concerns and state laws affected by international trade must be communicated to the U.S. government in time to be useful in negotiations. Information about trade negotiations and federal concerns must also be communicated to the states in a timely manner.

- Accuracy. The federal government is faced with the daunting task of working with 50 state governments and hundreds of state agencies in coordinating trade policy. Information about state laws and policies must be accurate as well as timely.

- Minimization of Conflict through Communication. The only way that conflicts between federal and state interests can be minimized is through constant, effective communication that anticipates problems rather than attempts to resolve them after the problems have arisen.

- Enhanced Effectiveness of U.S. Negotiating Positions. As complex issues such as services, standards, and procurement rise in importance on the international trade agenda, America's ability to be effective in international negotiations will depend on the timeliness, accuracy, and minimal conflicts between the federal and state governments.

The bottom line must be assurances that international trade will lead to enhanced economic growth and welfare for Americans.

The new partnership must be able to effectively coordinate state and federal governments in all the major functions of trade policy: negotiation of trade agreements, implementation of trade agreements, and dispute settlement. To do this, the key is constant communication in each of these areas, and since all three may occur simultaneously,[3] there is a need for significant resources to assure effective and timely communication.

The following are the essential elements of the new trade policy partnership:

(1) IGPAC. The Intergovernmental Policy Advisory Committee should continue to be the centerpiece of the partnership. It has already proven a valuable tool, and includes not only state perspectives, but those of local governments as well.

(2) An Intergovernmental Staff at USTR. The Office of the United States Trade Representative has an extraordinarily challenging job, serving as America's point of contact with the more than 100 nations with which the United States conducts trade negotiations. It coordinates trade policy among a dozen federal agencies with interests in trade policy. As the central point of coordination on trade policy for the U.S. government, it is the appropriate link between the federal and state governments. Yet it is also one of the smallest federal agencies, with fewer than 170 full time staff.

USTR has worked hard to coordinate with the fifty state governments and with numerous local governments, but it is simply not realistic to expect it to expand its efforts to deal with the level of coordination with state and local governments on a part-time basis. Additional resources are needed.

For this reason, an intergovernmental staff should be established at USTR. Such staffs are common at all other federal agencies that have regular dealings with state and local governments, and it is now time for USTR to have this capacity. The intergovernmental staff should have three full time staff:

- An Assistant United States Trade Representative for Intergovernmental Relations with overall responsibility for communication and coordination. This would be the principal point of contact with USTR on intergovernmental trade policy issues for state and local governments, federal agencies, and foreign governments.

- A policy analyst who would assist the AUSTR by coordinating the IGPAC, educating state and local officials with respect to trade policy initiatives, and conducting research on relevant state and local policies.

- An attorney in the General Counsel Office with expertise in both state and local law and international trade law who

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[3] In the last half of 1991, negotiations were underway in both the NAFTA and Uruguay Round, the Canadian beer and wine case was before panel, and implementation steps were underway for the U.S.-Canada Free Trade Agreement.

would serve as principal legal resource for all issues involving state and local governments and trade.

An example of how this intergovernmental staff might function may be taken from the case cited above regarding procurement. As part of their duties, the AUSTR and policy analyst would have taken responsibility for preparing briefing papers for state officials on procurement, holding regional briefings for states (as opposed to one briefing in Washington), and regularly following up with Governors and other state officials to secure commitments and to work out the details of formal accession to the code. This would free the negotiators to continue their work with the other countries, while making sure the needs of the states were met in a timely manner.

The estimated annual cost of this additional staffing at USTR is $300,000.

(3) <u>State Trade Policy Coordinators</u>. Additional resources in the federal government are needed, but must be matched by additional resources at the state level. The states have the double burdens of both participating in the complex trade policy issues confronting the United States and developing a level of expertise in what has traditionally been an area well outside normal state government operations.

One of the most difficult challenges for national trade policy that affects the states is dealing with 55 governments,[4] and the hundreds of state agencies with responsibility for administering everything from alcoholic beverages to plumbers' licenses. Just as national trade policy has required the establishment of a central coordinator in USTR, effective participation by the states will require designation of state trade policy coordinators. These should be chosen by the Governor to serve as central points of contact in the state Capitols for USTR and other federal agencies dealing with states on trade policy issues. They would serve as the voice of the states on a day-to-day basis to the federal agencies, and the conduit for assistance requests from the federal government.

The reason why such a central single contact is required in all states may be seen in the Canadian GATT case against state beer and wine laws. When the case was filed, USTR developed a state contact list. In some cases the state contacts were from the Alcoholic Beverage Commissions (ABCs), in other cases the state attorneys general, and in still other cases the Governor. The problem that has arisen is that the ABCs and state attorneys general are good technical resources with respect to what state laws and practices. Their role is most appropriate during the preparation of the American defense in a dispute. But when the case was decided against the states, the Governors of many states were unaware of the case since they were not on the contact list. Yet they are the ones

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[4] Including the territories and Puerto Rico.

who must decide on the response in terms of changing the state laws held to be GATT-illegal. Single state trade policy coordinators could have assured that all relevant state officials were kept informed, while bringing those officials most appropriate to the stage of the dispute into action as required.

The designation of state trade policy coordinators can clearly be done by the states on their own initiative. Some states have already done so, primarily those states whose Governors sit on the IGPAC. For the most part, however, staff for these fourteen Governors have come from Governors' general policy or federal relations staffs; only a handful of states have staff with any more than the most cursory familiarity with international trade law and issues.

There may be significant problems if many states cannot or choose not to devote the resources necessary. <u>All</u> states are affected by the trade policy issues noted above and all states are at potential risk in trade disputes. Yet if states are unprepared to effectively participate, it is the nation as a whole that will pay the price of lost market opportunities. In the event that state practices are found in violation of trade agreements, it is the <u>federal</u> government (the legal party to the agreements) that may be obligated to pay compensation to the aggrieved trading partner. Trade policy, in other words, is a game which all must play, or all may pay the costs.

There is thus some justification for federal financial support of the state trade policy coordinators. This might be done through a cost share grant program, similar to other programs that have been established to provide states with adequate resources to meet national needs. There are many examples when issues of national concern require development of state-level expertise and participation. Often, the legislation includes assistance grants to provide financial assistance to states on a matching basis to fund the necessary staff, travel, and other costs. For example, in the 1970s when development of the outer continental shelf oil and gas resources was a national priority, Congress provided for assistance grants to coastal states through the Coastal Energy Impact Program. Numerous other examples of such programs exist in the environmental protection area.

Grants could be distributed to states for the purpose of funding staff, travel, and other direct costs of participating in trade policy development and implementation. To reflect higher start-up costs, the grants might be provided on a higher federal-state matching basis to begin, with the state share increasing over time. To keep the federal costs of administering such a program low, an agency with existing state grants programs could be selected as the administering agency.

(4) <u>Improvement of Existing State Trade Related Programs</u>. The states' role in trade policy formulation and implementation is a relatively new one, but there are state activities that have been important parts of America's trade strategy for many years, and as such they are integral to the economies of the states and the nation.

States are actively involved in promoting export opportunities and assisting businesses to take advantage of the world market. Coordination with federal export promotion activities of the International Trade Administration's United States and Foreign Commercial Service exists in all states. States are actively involved in helping firms, particularly small- and medium-sized firms, learn how to identify foreign markets for their products and how to enter those markets. Governors routinely lead trade promotion missions throughout the world, and the state trade offices established in more than ___ countries are now a major part of the United States' commercial presence abroad.

The involvement of states in trade policy provides the opportunity to plan and prepare for the market opening opportunities created by initiatives such as the Uruguay Round and the NAFTA. By doing so, the ability of the United States to take full advantage of its trade policy is greatly enhanced.

The other side of the trade opening possibilities is the question of adjustment to the economic realities brought about by changing trade policies. Trade adjustment assistance has been funded by the federal government because it is clear that the benefits of liberalized trade come with costs. Trade adjustment assistance for workers has been an important federal policy since the completion of the Tokyo Round in 1979. Reform and expansion of trade adjustment assistance programs will be required after the conclusion of the NAFTA or Uruguay Round negotiations. The Administration has pledged to propose such reforms, and their development should be considered an essential part of the new partnership.

For it has been state government departments of labor that have been the primary deliverer of services under the trade adjustment programs. Moreover, trade adjustment is but one part of the training needs, and education programs are state responsibilities. State involvement in trade policy assures that the specific needs created by new initiatives such as the NAFTA are met as efficiently as possible.

The four items mentioned above represent the foundation for a new federal-state partnership on trade policy. Two questions may be raised regarding these proposals. One concerns how the emerging role of the states in trade policy will fit with that of Congress. The American system of government gives to the Congress, particularly the Senate, the job of representing the interests of the state in the formulation of federal policies. This has raised in the minds of some the potential for conflicts between the state governments and the Congress and a question of whether an appropriate role exists for the state governments. There are several reasons why this should not be a concern:

(1) State governments will play a key role in the ability of the United States to meet <u>national</u> trade policy goals. Expansion of markets abroad in such areas as services and government procurement depends on the states to efficiently and effectively act.

(2) Most of the proposed new trade policy partnership is framed in terms of relations between the Executive Branch and the states; this reflects the focus of the partnership in the negotiation and implementation of trade policy, those aspects which are the Executive Branch responsibilities.

(3) The states have assumed a much larger role in trade expansion efforts over the past twenty years, as economic development efforts have focused on the growing importance of world markets. These efforts have significantly enhanced America's competitiveness in international trade.

(4) The benefits of international trade are frequently dispersed broadly across all citizens of the nation, while the costs are often concentrated in smaller regions. In adjusting to the economic changes created by trade, state governments play a key role in operating trade adjustment assistance and job training programs and in developing, through state programs and public universities, the new products and markets that provide the ultimate adjustments to the changing global economy.

The second question concerns the difficult issue of money. This proposal suggests the modest expenditure of federal dollars in a period of significant budget deficits, and no such proposal should be made lightly. But the costs of investing in this new partnership can result in increased efficiencies and expanded trade opportunities. The expansion of the U.S. economy resulting from increased trade can be expected to provide additional federal revenues.

The Future

The trade policy partnership outlined here builds on existing relationships and improves them so that they function more effectively. But the trade policy partnership should not be seen as limited to these areas. As that partnership evolves in the years ahead, it may be expected that the federal and state governments will find new ways to make the trade policy process work better. For example, states may bring their emerging expertise and experience in environmental protection and sustainable development to the trade policy process. Better understanding of the economic effects of changing trade policy might be achieved through consultation and cooperation in the development of national and state economic models that incorporate trade effects. Innovative use of technology may facilitate data bases and other information links on implementation matters. Improved coordination of trade development may also result.

America's hopes for using international trade to better the standard of living of Americans can no longer be met without the active and effective participation of the state governments. These proposals for a new trade policy partnership are the necessary first steps to make sure that the maximum possible advantage is taken of the global economy's expanding opportunities.

The Committee on International Trade and Foreign Relations recommends the adoption of amendments to three existing policy positions. Background information and fiscal impact data follow.

1. Promotion and Expansion of International Trade (Amendment to H-2)

   (Trade Disputes)

   The proposed amendment says that the federal government should work with states to clarify the state role in trade dispute settlements in matters that affect state government. More generally, the amendment calls for the establishment of an intergovernmental function on trade policy matters within the federal government to work with states on a permanent and ongoing basis and through a more formal process. Furthermore, the federal government should provide funding consistent with establishing this function.

   International trade agreements such as the U.S.-Canada Free Trade Agreement, the General Agreement on Tariffs and Trade (GATT), and the proposed North American Free Trade Agreement (NAFTA) increasingly concern themselves with more than tariffs, venturing into a range of federal government domestic policies that are deemed to have a trade effect. In addition, these international negotiations now address matters of state policy and state law. Recently state laws have been cited in trade disputes. (Canada's case before the GATT cites more than 200 laws regarding beer and wine in forty-eight states as being discriminatory.) Such citations are likely to continue as traditionally domestic policy areas, such as services regulations, government procurement, and subsidies, come under international rules.

   The federal government has made commendable efforts to reach out to state and local governments and consult with them in many areas. But there is no formal mechanism for communication and ongoing consultation. Because of the increased potential for state practices to be cited in trade disputes, states need to have a greater and clearer role in the trade dispute settlement process.

   The subject of trade disputes raises the more general issue of the changing federal-state relationship on trade policy. During the course of international negotiations, the U.S. government mechanisms for state involvement were primarily as advisers. As these agreements come home for implementation, it is time for a shift in the role for states. They will no longer be merely advisers to the negotiations but also partners in the implementation. The existing mechanisms that are meant to encourage consultation between federal and state government are inadequate to address issues that may arise during implementation.

H-2. PROMOTION AND EXPANSION OF INTERNATIONAL TRADE

2.1 Preface

2.2 The Federal Role

Many of the decisions most crucial to trade and foreign affairs fall within the jurisdiction of the federal government. The Governors affirm the primary role of the federal government in directing national policy in the areas of international monetary affairs, national defense, international development assistance, and foreign relations. Regulatory and oversight functions covered elsewhere in the committee's policy are also in the purview of the federal government.

2.2.1 **Trade Negotiations.** The federal government must take responsibility for ensuring that trade agreements and practices promote the free flow of goods in the international marketplace. Patterns of unfair or one-sided trade behavior should be countered with every legitimate means available to the federal government, and generally accepted rules governing this area should be developed through international negotiations.

2.2.2 TRADE DISPUTES. AS INTERNATIONAL TRADE AGREEMENTS INCREASINGLY ADDRESS MATTERS OF STATE POLICY AND PRACTICE, STATE LAWS MORE LIKELY WILL BE CITED IN TRADE DISPUTES. STATES SHOULD HAVE A CLEAR UNDERSTANDING OF THEIR ROLES AND RESPONSIBILITIES IN BILATERAL AND MULTILATERAL DISPUTE SETTLEMENT PROCESSES. THE GOVERNORS CALL UPON CONGRESS AND THE ADMINISTRATION TO WORK WITH STATES TO ESTABLISH CLEAR PRINCIPLES FOR STATE PARTICIPATION WITHIN CONSTITUTIONAL CONFINES IN THE ADJUDICATION OF INTERNATIONAL TRADE DISPUTES THAT CALL INTO QUESTION STATE LAWS AND PRACTICES. FURTHER, THEY SHOULD WORK TOWARD ESTABLISHING AND FUNDING A FORMAL MECHANISM FOR INCLUDING STATES ON A ROUTINE AND ONGOING BASIS IN TRADE POLICY MATTERS.

2.2.3 **Monetary Policy.** Another vital role of the federal government is to provide leadership in the world's financial system. Federal officials should work with their counterparts in other countries to stabilize world exchange rates, coordinate monetary and fiscal policy, and address the debt problems of developing nations.

2.2.4 **Trade Data.** An indispensable trade promotion service that the federal government must provide is the collection of data on state-by-state international trade activity. Specifically, federal agencies should provide annual reports on U.S. exports of goods and services, by state of origin, port of departure, and country of ultimate destination; and U.S. imports of goods and services, by country of origin, U.S. port of first acceptance, and state of ultimate destination.

It is essential that these data be provided on an accurate and timely basis. In addition, effective means should be found for disseminating information on trade opportunities identified by overseas federal personnel. State trade promotion programs are heavily dependent upon this information, and the federal government alone is in a position to provide it.

2.2.5 **Coordination with States.** Federal trade policy must recognize the role state government plays in promoting and facilitating international trade. Therefore, as a matter of policy, federal agencies with responsibility for developing trade initiatives should include state trade representatives on their advisory boards and should seek other opportunities for consultation and cooperation. Federal expertise and resources should be provided to the states as they develop programs in the areas of export finance, trade and investment promotion, and market analysis and development.

2.2.6 **Interagency Coordination.** The federal role encompasses responsibilities that provide the foundation for the trade initiatives of the private sector and state governments. Accordingly, it is vital that specific authority be vested in the federal government for coordinating federal trade policy. With the establishment of the Office of the U.S. Trade Representative in 1962, major strides were made in improving the coordination of federal trade negotiations. The federal government must continually seek opportunities for better coordination of its trade activities.

2.3 The State Role

2.4 State/Federal Partnership

3. <u>Focus</u>: <u>Democratic/Economic Reforms Around the World</u> requires a response to the growing demand for state involvement in establishing new trade relationships and providing technical assistance to emerging democratic governments.

<u>Context</u>: Governors are increasingly asked by federal officials and by other governments to assist in the transition of emerging democracies, each of which has tremendous market potential for American companies. NGA has and could continue to serve as a focal point for state activities, coordinating with other state and international organizations.

Trade Bill Update

The House Ways and Means Committee approved the Trade Expansion Act of 1992 (H.R. 5100) on June 16. The main purpose of the bill is to reauthorize the Super 301 provisions of the 1988 trade act which allows the Administration to investigate and, if appropriate, to retaliate against unfair trading practices of foreign countries. H.R. 5100 restricts the broad discretion the President currently has in deciding whether to exercise the Super 301 authority. The bill would force the Administration to identify annually countries with major trade barriers and target them for negotiations and retaliation. The Administration strongly opposes these changes.

The bill contains a number of miscellaneous provisions. The most controversial of which is an amendment offered by Rep. Sander Levin (D-Mich) that would establish a cap on Japanese car imports and require the United States to enter into negotiations with Japan to reduce the imbalance in the U.S.-Japan automotive trade. Rep. Levin withdrew the amendment, but will offer it on the House floor.

H.R. 5100 also would do the following:

- mandate a Super 301 investigation regarding U.S. access to rice markets in Japan, Korea, and Taiwan;
- streamline customs procedures for processing merchandise;
- mandate an International Trade Commission to study how U.S. trade laws could be simplified;
- limit imports of machine tools from Taiwan to previously established levels pending an agreement to extend the expired voluntary restraint agreement;
- require the President to negotiate trade laws that eliminate private anti-competitive practices in foreign countries;
- strengthen current law on circumvention of anti-dumping and countervailing duty orders;
- require the U.S. Trade Representative, within one year, to retaliate against countries found to be violating intellectual property rights;
- require sanctions against companies that aid countries in building nuclear weapons;
- restrict the use of waivers to the Generalized System of Preferences' (GSP) "three year rule" that requires a country to wait three years before reapplying for a preference under the GSP.

The Senate is monitoring the bill's progress in the House but has not decided yet whether to come forward with its own proposal. Some have noted that a comprehensive trade bill could become a vehicle for highly protectionist provisions, including measures to alter the fast-track procedures for trade agreements.

NGA-6/17/92

GUAM
and
JAPAN'S FIVE PERCENT TARIFF ON LONGLINE CATCH
by
Guam's Department of Commerce
July 6, 1992

"Japan levies a 5% duty (based on CIF value) on imported (non-Japanese caught) tuna" [Bartram et. al. p.14]. The duty or tariff does not apply to fish captured by Japanese flagged longliners and transshipped through Guam. It applies to tuna captured by vessels flagged to other nations such as Korea and the Republic of China. It would also apply to U. S. flagged vessels operating out of Guam.[1]

This tariff hinders growth and diversification of Guam's transshipment industry. It also hinders the development of a U. S. flagged fleet operating out of Guam. Thus, Guam seeks to have the elimination of this tariff on the U. S. Government agenda of the trade enhancement measures sought from Japan. The Governor of Guam has the support of the National Governors' Association towards this end and is seeking the support of the U. S. Trade Representative.

In 1990, transshipment and other support for the vessels directly provided about 150 jobs for Guam residents. Spending on Guam was approximately $33 million. The tax revenue resulting from the industry was close to $3.5 million [Bartram et. al. p. 36].

Japanese regulation limits the growth of the Japanese fleet by limiting the number of Japanese flagged vessels permitted to transship through foreign ports. Vessels from Taiwan and Korea add to the fleet, providing competitive demands for Guam's port services. The non-Japanese flagged vessels provide some security against changes in Japanese fishing regulations regarding transshipment by Japanese vessels.

U. S. flagged vessels would provide greater revenue for Guam than the foreign fleet. The crew and their families would probably live in Guam; thus, the crew would pay taxes and spend salaries in Guam. In addition, U. S. flagged vessels are likely to purchase more provisions on island. Provisions include ship stores, ice, bait and fishing gear. Estimated local purchases by U. S. vessel would sum to $19,000 versus $11,000 to $13,000 for a foreign vessel [Bartram et. al. pp. 52-3].

The following figures illustrate the disadvantage that non-Japanese vessels have in the market. For a Japanese vessel, all-inclusive marketing costs are ten percent of sales; for non-Japanese vessels the figure is 15% of sales [Bartram et. al. p. 14]. The breakeven

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[1]. For now, Guam is a beneficiary of Japan's Generalized System of Preferences (GSP). Tariffs on fresh fish, however, are not reduced under Japan's GSP [Economic and Social Commission...].

price in 1990 for fish from Japanese vessels was about 500 yen per kilogram. For non-Japanese vessels the figure was in the range of 765 yen per kilogram [Bartram et. al. p. 82].

In conclusion, Guam has an interest in diversifying the Guam based longline fleet. Increasing the possibility of establishing a U. S. flag longliner fleet on Guam is also desirable. Towards these ends, Guam seeks the elimination of tariffs on fish transshipped through Guam and imported into Japan.

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NATIONAL GOVERNORS' ASSOCIATION
EIGHTY-FOURTH ANNUAL MEETING
1992

COMMITTEE ON JUSTICE & PUBLIC SAFETY

TAB 8

COMMITTEE ON JUSTICE AND PUBLIC SAFETY

Summary of Issues and Briefing Papers

ISSUE:

- ***B-2: Delinquency Prevention and Youth Offender Programs***

The policy is amended by adding that juvenile offender programs should integrate correctional and social services to facilitate the rehabilitation of youth. The amendment also states that any special programs designed by the federal government to deal with youth gangs and violent crime should be coordinated with the appropriate state agencies.

NGA urges Congress to continue current juvenile justice and delinquency prevention programs and make minimal changes when reauthorizing expiring juvenile justice law. The block grant program enables states to develop innovative programs to deal with youthful offenders, be they in rural or urban areas. Reauthorization of the Juvenile Justice Block Grant requires that this program provides money and incentives to states in the area of juvenile delinquency and delinquency prevention. States use these funds to comply with mandates to separate juveniles from adults in correctional settings, and also to provide funds for runaway youth, sexually abused youth, and problem youth in general.

BRIEFING PAPER:

Office of the Attorney General

The Territory responses positively and supports the rehabilitation of youthful offenders. Guam uses the Department of Youth Affairs (DYA) as a last resort to house minors who have committed serious offenses as well as those with numerous less serious offenses. Youth programs that promote mental health services, health care, family therapy and vocational training are steps towards rehabilitating many minors and these services are provided at DYA.

The Territory welcomes any special programs designed by the federal government to deal with youth involvement with gangs, illegal drug activities, and other forms of violent crimes because youth gangs continue to exist and grow in Guam and

violent crimes by minors have escalated and seems to be related to gang activities. Guam supports NGA's policy position which shows a serious commitment by the nation's governors to provide proper and adequate rehabilitation of youthful offenders and encouragement for developing programs in juvenile delinquency and treatment.

Guam Police Department

The Department is in support of the recommendation that juvenile offender programs should integrate correctional and social services to facilitate the rehabilitation of youth and that the programs be coordinated with the appropriate state/territorial agencies. In Guam, it has been recognized that delinquency and youth offenses are associated with economic, social, cultural, educational, ethnic, and legal factors and because Guam has become a melting pot of different nationalities, the juvenile problem became even more complex. One of the most current problems is the lack of fluency in the English language which create a barrier in communication, thereby neutralizing rehabilitation process. It is therefore essentially needed to develop correctional and social programs in the regional languages.

Police records show a sharp increase in juvenile cases in the last two years. The number of cases in 1990 were more than double over 1989 and 1991 record showed another 18% increase over 1991. The department believes that concerted efforts are necessary to resolve the problem. The entire community needs to play a part including such basic units as the family, school, social, ethnic, private and public sector institutions as well as legal and judicial organizations.

Department of Youth Affairs

The Territory of Guam has received and has benefitted from the Juvenile Justice and Delinquency Prevention Act funds. The funds has provided tremendous support to Guam's quest of turning the island's youth to law-abiding citizens and contributors of our society. Since 1970, the Act has been the only source of funding for the "Deinstitutionalization of Status Offenders Program" which provides appropriate, viable, and effective alternative service system to non-criminal youth. However, for fiscal year 1992, the Government of Guam is assuming the cost of providing such services and the federal funding will be used for other immediate needs to improve our juvenile justice system.

The Territory of Guam strongly supports the policy mandates of the Act, including the deinstitutionalization of status offenders, the separation of juveniles from adult offenders in secured facilities, the removal of juveniles from jails, lock-ups, and other adult facilities, and the continued focus on the over-representation of minority youth at the various stages of the juvenile justice process.

ISSUE:

- ***Proposed Resolution: Continuing the Attack on Violent Crime and Drug Abuse***

The amended resolution restates NGA policy that Congress should reauthorize the Anti-Drug Abuse Act, including the Drug Control and System Improvement Grant Program. As part of any crime package, Congress should include a provision reforming the current system of habeas corpus proceedings in order to restore finality to the criminal justice process. In addition, the crime package should empower states with flexibility to deal with crime problems without mandates, preemptions, and earmarking.

Reauthorization is needed for the Drug Control and System Improvement Block Grant Program that provides block grant funds for law enforcement programs in fighting illegal drug distribution and crime at the state and local level. The funds are distributed through designated agencies to deal with major drug trafficking and crime problems throughout the states, especially in urban areas.

The President's 1993 budget slightly increases funding for anti-drug abuse programs, mostly to reduce the supply of illegal drugs and to improve treatment and prevention services. However, most states would receive less funding for anti-drug abuse formula grants. The proposed budget includes $12.7 billion for federal anti-drug abuse activities in 1993, an increase of 6.5% over 1992 appropriations. More than 70% of those funds would be devoted to national and international law enforcement activities, with the remaining funds for drug abuse treatment and prevention activities. The President's budget would provide approximately the same level of funding for three major grant programs but the drug-free schools and communities formula grant would be cut by $10 million.

BRIEFING PAPER:

Office of the Attorney General

The Office of the Attorney General supports the reauthorization of the Anti-Drug Abuse Act, including the Drug Control and System improvement Grant Program. The Office has noted an alarming increase in homicides and the rise of crystal methamphetamine (ice), the most predominant illicit narcotics in Guam. Although there is no direct association between the two, the Office supports the need for sustained, increased, and unfettered flow of federal funding to fight violent crime and narcotics trafficking. The seriousness of these two trends justifies additional block grant monies. Guam's unique position, geographically, demographically, and sociologically, requires flexibility in the manner in which these funds are used locally.

The flow of "ice" from the Philippines is heavy because of the proximity between Guam and the Philippines and also because of the cargo and passenger traffic. Interdictive efforts focused on this drug and its supply route have to be developed and executed. The block grant funding should provide local authorities the flexibility to accomplish this end. All of the drugs coming into Guam arrive through international commerce. Local prosecutive efforts aimed at importation of contraband must be clearly supported. Federal statutes should be clarified to remove any question that federal drug laws preempt local prosecution of narcotics importation, and the authority of Guam to enforce its own customs laws should be likewise addressed. With regards to Guam's customs authority, the current Ninth Circuit law has not properly resolved whose customs laws Guam is enforcing, our own or the federal laws. In some past cases, the 9th Circuit rules that Guam enforces U.S. Customs Laws or the Guam's customs laws. Another issue which is now in its way to the 9th Circuit is whether Guam can employ National Guardsmen as assistants to customs enforcers. Again this is a question of whether Guam has independent customs authority or simply enforces federal policy in this area. The AG's Office recommends that the language as to Customs Authority that is currently in the Commonwealth Act be adopted now in an act of Congress to correct this problem. NGA's support for this provision may assist in getting further support, albeit indirect, for the Commonwealth Act as a whole.

The Office also urges that alcohol abuse must be dealt with now using federal drug block grants because of the so many incidence of serious crimes associated with intoxication. Alcohol abuse has been relegated to federal block grants dealing with highway safety and our island needs to be free to use federal grant money to combat alcohol abuse.

Guam Police Department

The Department urges that Congress reauthorize the Anti-Drug Abuse Act, including the Drug Control and System Improvement Grant Program and to refurbish, re-arm, and expand its purview to achieve optimum operational results. Provisions should also be provided to expand drug awareness program amongst the juvenile segment of our society, and also the rehabilitation program in each community commensurate with locally identified needs.

In Guam, the general trend of rise in violent crime and drug abuse has been felt, especially in some of its manifestations such as rape and aggravated assaults particularly in relations to substance abuse and alcohol offenses. The Guam Police Department has also achieved higher clearance rates of such crimes resulting in over-load of the court calendars. The increase in the volume of workload in the court system and the AG's Office requires a review and reform of the habeas corpus proceedings to revitalize the criminal justice process. In order for the judicial process to be optimally efficient, a certain degree of flexibility and freedom from

restraints of mandates, preemptions and earmarking is necessary. Many mandated constraints serve to open up legal loop-holes for offenders to slip through and negate the intent and purpose of the legal system.

Although marijuana is still the drug of choice in Guam, crystal methamphetamine or ice is becoming significant. Currently, Guam averages approximately 33% drug and alcohol related crimes of the total annual crimes. It is therefore important that anti-drug action be taken at the highest level. Strong, deterring anti-drug laws should be in place and law enforcement agencies be strengthened to minimize the impact of drugs and illegal substances. The law enforcement agencies should be allowed certain degree of judicious flexibility to function effectively.

Bureau of Planning

Guam supports the reauthorization of the Anti-drug Abuse Act of 1988 as a result of the impact drug trafficking plays in our society. Without the financial and technical assistance provided through the Act, Guam, the states, and other territories will not have the resources to control crime and drug abuse; develop drug enforcement and violent crime programs that will improve the apprehension, prosecution, adjudication, detention, and rehabilitation of drug and violent crime offenders; and improve the criminal justice system. Given that states and territories have limited resources, the resources provided through the Act is critical to addressing the most prevalent problems facing our nation today.

ISSUE:

- ***Defense Adjustment***

NGA has called for a partnership between the states and the U.S. Defense Department to aid the transition of defense-dependent businesses, workers, and communities to the civilian market place. NGA also has recommended changes in current adjustment programs in the U. S. commerce and labor departments to make defense adjustment programs more proactive, make delivery of funds more efficient and timely, and give governors the flexibility to coordinate state programs with Defense Department efforts. The House Armed Services Committee's defense authorization bill should include provisions for a defense adjustment program that would help defense-dependent businesses switch to producing consumer goods and services. NGA also calls on Governors to reach and inform the Senate Armed Services Committee of the impact to the states of the House Defense Authorization bill that would prohibit state dislocated worker units from using contractors to provide rapid response services.

The nation's governors have already begun to devise effective strategies to deal with defense-related dislocations. Many states have defense dislocation programs in place, however, defense downsizing is occurring at a time when states face dire fiscal conditions. In the past, congress has tried to provide defense adjustment assistance through special discretionary programs, but this approach has not released funds promptly. Also, federal restriction have greatly reduced the effectiveness of those efforts. As a result, states feel any new federal funds should be used to strengthen existing state programs rather than create federal programs.

The Defense Budget Project estimates that 23 states will lose more than 10,000 defense jobs, and only five states will lose fewer than 1,000 jobs. Virtually, every state has communities and/or regions that will experience serious dislocation. Each state's impact will be determined by characteristics of its defense industry, level of defense-related employment, and the general condition of its economy.

The President's proposal calls for spending an additional $1 billion for defense transition assistance between now and 1996. The amount is in addition to the $7.1 billion already allocated for transition assistance for fiscal year 1992 and 1993. The proposal focuses on helping DoD personnel with aspects that would assist defense-dependent communities, businesses, and workers.

July 8, 1992

MEMORANDUM

TO: Director, Bureau of Planning

FROM: Attorney General

SUBJECT: National Governor's Association (NGA) ~~84th~~ Annual Meeting's Top Priority Issues; Response to your June 17, 1992 Memo re

The following input is provided in response to the subject memorandum.

DELINQUENCY PREVENTION

The "B-2. Delinquency Prevention and Youth Offender Programs" position paper amends the current policy regarding youth in a significant way. The amendment adds that juvenile offender programs should integrate correctional and social services to facilitate the rehabilitation of youth. It also states that any special programs designed by the Federal Government deal with youth gangs and violent crime should be coordinated with the appropriate state agencies. Each of these issues is discussed below in relation to our local perspective.

2.1 Preface. The amendment to this section mandates an active role in seeing that delinquency prevention programs and juvenile offender rehabilitation programs are developed. The amendment specifies that these rehabilitation programs integrate correctional and social services and take into account the public safety interests of the community, to facilitate the rehabilitation of youth. It further specifies that programs that work to promote mental health services, health care, family therapy and vocational training be encouraged.

Our youth correctional facility, the Department of Youth Affairs (D.Y.A.), is used as a last resort for minors who disobey the law. It houses both minors who have committed serious offenses as well as those who have committed numerous less serious offenses.

JAB0045/cmr

as well as those who have committed numerous less serious offenses.

The focus on rehabilitation of youthful offenders is positive and is supported by the Territory. Often a youth's behavior is governed by family background or family problems, educational problems or mental health and substance abuse problems. Youth programs that promote mental health services, health care, family therapy and vocational training would be an excellent step towards rehabilitating many minors.

These services are provided to most youth in D.Y.A. but usually upon order of the Court after an intensive investigation of the youth's needs. The D.Y.A. facility should not be used only to punish delinquent minors, but should also work at identifying the source of the behavior and services that can be provided to rehabilitate the minor. The focus on developing rehabilitative programs for <u>all</u> minors is supported by the Territory.

<u>2.1 Federal Program Principles</u>. The amendment to this section adds that special programs designed by the Federal Government to deal with youth involvement with gangs, illegal drug activities and other forms of violent crime should be coordinated with the appropriate state agencies responsible for youth policy development.

The territory welcomes any such programs. Youth gangs continue to exist and grow on Guam. Violent crimes by minors have seemed to escalate in the past year, and seem to be related to gang activities.

By coordinating special programs designed by the Federal Government to deal with these problems through the appropriate territory agency, the Department of Youth Affairs, the Territory will be able to more effectively deal with the problems. We have had a training seminar on "Community Mobilization to Reduce Youth Gang Violence and Drug Abuse," coordinated by D.Y.A. and the Department of Mental Health. Further programs could only enhance our awareness and ability to deal with the problem.

The NGA position paper shows a serious commitment by the nation's governors in support of rehabilitation of youthful offenders and encouragement for developing programs in juvenile delinquency and treatment.

We are in support of the recommendations that juvenile offender programs should integrate correctional and social services to facilitate the rehabilitation of youth and that the programs be coordinated with the appropriate state/territorial agencies.

It has been long recognized that delinquency and youth offenses are not only legal and/or judicial issues. These issues comprise of various factors such as:

Economic

Social/sociological

Cultural

Educational

Ethnic

Legal

and encompass a broad spectrum including mores of behavior and cultural values.

In our constantly changing world where most of our nation has become a melting pot of a great variety of nationalities, this problem has become even more complex.

Any resolutions to this problem would necessarily have to address all the factors listed above. This problem is two-fold.

First part of the problem is the fact of youth offenders and delinquency per se in its overall entirety.

Second part of the problem is its components such as groupings by age, education, ethnicity, language, economic status, etc.

On Guam, as in most other states, there is a pot-pourri of ethnic mix, each group having its distictive values and behavior patterns and problems.

One of the problems surfacing here now is the lack of fluency in the English language of some groups creating a barrier in communication and thereby neutralizing rehabilitaiton process.

Not only is it necessary to integrate the correctional and social services programs but as an essential adjunct it is also necessary to develop these programs in the regional languages where needed most. This policy should show enough flexibility in this area as well.

Of course, we agree that an appropriate state agency most qualified in these areas of work should coordinate the activities.

Our records show a sharp increase in juvenile cases in the last two years. The number of cases in 1990 were more than double over 1989. Last year (1991) showed another eighteen percent increase over the previous year.

We believe that concerted efforts are necessary to resolve this problem. The entire community needs to play a part including such basic units as the family, school, social, legal, ethnic, private and public sector institutions as well as the legal and judicial organizations.

Although the Police Department's role is confined to enforcing the law as it is written, it may perhaps be worthwhile to re-examine the existing laws and judicial aspects and tighten loose ends wherever deemed necessary to serve as effective deterrents.

POLICE DISPOSITION OF JUVENILES

	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991		
TOTAL	752	715	534	590	655	539	552	640	417	865	1022	7,281	(100.0%)
1. Handled within Department and Released	404	375	271	286	305	272	198	165	58	200	231	2,765	(38.0)
2. Referred to Juvenile Court or Probation Department	302	296	223	282	335	265	353	405	296	611	704	4,072	(55.9)
3. Referred to Welfare Agency	46	44	40	21	15	2	1	2	2	1	12	186	(2.6)
4. Referred to other Police Agency	0	0	0	0	0	0	0	0	0	0	0	0	(0.0)
5. Referred to Criminal or Adult Court	0	0	0	1	0	0	0	68	61	53	75	258	(3.5)

BRIEFING PAPER

The Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is the principal vehicle for the federal government's role in improving the quality of the juvenile justice system, and comes before Congress again in 1992 for re-authorization. This process is extremely important because it not only addresses the question of the continued force and viability of the Act, but also, because it focuses the attention of Congress on new issues and strategies for improving the effectiveness of the Juvenile Justice System.

As in the past, the Territory of Guam, has benefitted from the funds received which are geared towards the deinstitutionalization of status offenders, and mandates the removal of juveniles from adult jails and lock-ups among other vital issues.

On August 7, 1974, the President signed into law the Juvenile Justice and Delinquency Prevention Act of 1974 (Public Law 93415), and subsequently, the Anti-Drug Abuse Act of 1988, Title VII, Subtitle F - Juvenile Justice and Delinquency Prevention Amendments of 1988 (Public Law 100-690). The Act established federal assistance for state and local programs by authorizing the OJJDP Administrator to make formula grant funds available to assist in developing more effective juvenile delinquency programs, and to improve the juvenile justice system.

This, in itself, provides tremendous support to Guam's quest in turning the wheels of our island's youth to that of being law-abiding citizens and contributors of our society. The "Deinstitutionalization of Status Offenders" program provides an appropriate, viable and effective alternative service system to non-criminal youth. It responds to the needs of status offenders, persons-in-need of services/supervision, and similar youth. It will, in effect, provide a community based resource to which the judicial system can turn to in terms of non-secure detention. Since the early 70's, the Act was the only sole source of funding for this particular program. For fiscal year 1992, we are glad to announce that our local government is assuming the cost of providing such services, thus, releasing these funds for other immediate needs to improve our juvenile justice system.

The "Delinquency Prevention and Systems Improvement" program addresses the many aspects relating to juvenile delinquency which is regarded as a critical domestic social problem. It is not a new problem, and has been a heightened public concern about its prevention and control. The Territory of Guam has geared its effort towards reducing these unfortunate situations.

Professionals associated with juvenile delinquency and related areas agree that in no way can any one method or program of prevention or control, curb the problem of juvenile delinquency. The prevention and /or control of the total juvenile delinquency problem will require at the very best, several means and alternative methods in delinquency prevention.

The Anti-Drug Abuse Act of 1988 and the Juvenile Justice and Delinquency Prevention Act of 1974 are important tools in reducing juvenile delinquency and improving the juvenile justice system. Therefore, the Territory of Guam strongly supports the policy mandates of the Act, including the deinstitutionalization of status offenders, the separation of juveniles from adult offenders in secure facilities, the removal of juveniles from jails, lock-ups, and other adult facilities, and the continued focus on the over-representation of minority youth at the various stages of the juvenile justice process.

The Committee on Justice and Public Safety recommends the adoption of a resolution and amendments to one existing policy position. Background information and fiscal impact data follow.

1. <u>Delinquency Prevention and Youth Offender Programs</u> (Amendments to B-2)

   The policy is amended by adding that juvenile offender programs should integrate correctional and social services to facilitate the rehabilitation of youth. The amendment also states that any special programs designed by the federal government to deal with youth gangs and violent crime should be coordinated with the appropriate state agencies.

B-2. DELINQUENCY PREVENTION AND YOUTH OFFENDER PROGRAMS

2.1 Preface

Youth are among the nation's most valuable resources. Yet too many young people become involved in crime and delinquency, often permanently affecting their ability to become useful and productive adult citizens.

Governors must take an active role in seeing that delinquency prevention programs AND JUVENILE OFFENDER REHABILITATION PROGRAMS are developed. JUVENILE OFFENDER PROGRAMS SHOULD INTEGRATE CORRECTIONAL AND SOCIAL SERVICES AND TAKE INTO ACCOUNT THE PUBLIC SAFETY INTERESTS OF THE COMMUNITY, TO FACILITATE THE REHABILITATION OF YOUTH. The Governors encourage the development of youth programs that:

- WORK TO PROMOTE MENTAL HEALTH SERVICES, HEALTH CARE, FAMILY THERAPY, AND VOCATIONAL TRAINING;
- Work to improve respect for the law and law enforcement officials;
- Work to broaden the range of conventional ties available to youth, particularly in the areas of work and community service;
- Work to reduce youth perceptions of powerlessness; and
- Work to develop respect and confidence in the institutions and values of American society.

2.2 Federal Program Principles

Congress is to be commended for enacting the Juvenile Justice and Delinquency Prevention Act (P.L. 93-415) of 1974. The act provided resources AND ENCOURAGEMENT for developing programs in juvenile delinquency and treatment.

~~Because the problems caused by juvenile delinquency continue,~~ Congress AND THE ADMINISTRATION should continue the ~~program, and the Office of~~ Juvenile Justice and Delinquency Prevention PROGRAM, INCLUSIVE OF ~~should incorporate~~ the following principles ~~into its operation~~:

- The state agency designated by the Governor to develop a state's criminal and juvenile justice plan should coordinate all juvenile justice programs. No program should be funded directly under the act without the advice and comments of this agency.
- Discretionary grants should provide an equitable share of funds to rural and urban states for the development of juvenile justice programs.
- SPECIAL PROGRAMS DESIGNED BY THE FEDERAL GOVERNMENT TO DEAL WITH YOUTH INVOLVEMENT IN GANG AND ILLEGAL DRUG ACTIVITIES AND OTHER FORMS OF VIOLENT CRIME SHOULD BE COORDINATED WITH THE APPROPRIATE STATE AGENCIES RESPONSIBLE FOR YOUTH POLICY DEVELOPMENT.
- Rules, regulations, definitions, and responsibilities pursuant to the act must be reasonable and consider the impact on the states. Furthermore, they should be designed to encourage full participation in the program by all states.

CONTINUING THE ATTACK ON VIOLENT CRIME AND DRUG ABUSE

Background:
Two significant (but somewhat independent) trends in this area relate to an alarming increase in homicides, and the rise of crystal methamphetamine ("ice") as the predominant illicit narcotic in the Territory of Guam. In both 1990 and 1991 there were 10 homicides in the Territory. In the first 6 months of 1992 the same number was reached. This is obviously a serious increase.

Similarly, prior to 1989 there was no "ice" reported on the Island. In 1989 all of 4.0 grams was identified. In 1990 155 grams were seized. Currently, "ice" has become widely available and has been distributed in the Island's school system. Recently a single customs "bust" netted the seizure of 75 grams of crystal methamphetamine. There have been a number of large seizures in the last two years indicating an increased flow of the drug into Guam. The greatest cause for concern are the reports as to the availability of the drug on the street.

While no direct relationship between the rise in "ice" abuse and the homicide rate can be proven, both of these trends clearly support the need for the sustained, increased, and unfettered flow of federal funding to fight violent crime and narcotics trafficking. The seriousness of these two developments, in themselves and as broader social indicators, justifies additional block grant monies. Guam's unique position (geographically, demographically and sociologically) requires flexibility in the manner in which these funds are used locally.

Unlike drug trafficking in the U.S. Mainland, cocaine is not widespread in its availability. The logistics of transporting it to Guam from South America are an inherent barrier. Conversely, the flow of "ice" from the Philippines is heavy because of the cargo and passenger traffic (and proximity) between Guam and the Philippines. Interdictive efforts focused on this drug, and this supply route, have to be developed and executed.. Logically, block grant funding should provide local authorities the flexibility to accomplish this end.

Also unlike the "Lower Forty-Eight" all of the drugs coming into Guam arrive through international commerce. Local prosecutive efforts aimed at importation of contraband must be clearly supported. Federal statutes should be clarified to remove any question that federal drug laws pre-empt local prosecution of narcotics importation, and the authority of Guam to enforce its own customs laws should be likewise addressed. A recent court decision underscores this need. In People v. Villascrusis, Cr. 91-00089A (Dist. Ct. of Guam, App. Div. April 16, 1992), the Appellant raised the claim that the Federal Drug Control Act preempted local criminal enforcement of drug importation offenses. Although the Appellate Division resolved the issue in favor of Guam's enforcement, further statutory clarification of Guam's role would be useful.

This is especially so as to Guam's customs authority. The Territory's drug interdiction efforts are inextricably interwoven with our custom regulation authority. Current Ninth Circuit case law has not properly resolved whose customs laws we are enforcing, our own or the federal laws. *See* Guam v. Sugiyama, 846 F.2d 570 (9th Cir. 1988)(following Barusch v. Calvo, 685 F.2d 1199, 1201 (9th Cir. 1982) in holding that Guam enforces U.S. Customs law). *But see*, Sugiyama at 572 (Judge Skopil's dissent) (stating that the more correct interpretation of law is to find that Guam enforces Guam's customs laws). An issue which is now on its way to the Ninth Circuit, whether Guam can employ National Guardsmen as assistants to customs enforcers, may well turn on the question of whether Guam has independent customs authority, or simply enforces federal policy in this area. It is recommended that the language as to Customs Authority that is currently in the Commonwealth Act be adopted now in an act of Congress to correct this problem. [NGA support for this provision may assist in getting further support, albeit indirect, for the Commonwealth Act as a whole.]

As to Guam's rising homicide rate there are factors unique to Guam that mandate federal funding that is administered locally without "strings". Local demographics play a significant role in violent crime on the island. Aside from homicides which are directly related to drug trafficking [there are a number] these and other violent offenses tend to be related to both alcohol abuse and, to some degree, cross-cultural frictions. While a statistical base establishing these propositions has not been generated by this office, anecdotal evidence abounds. Prosecutor's dealing with violent offenses note that alcohol intake (on the part of the offender and often the victim) is the rule, not the exception. As is illustrated below, instances of violence that have as a contributory element cultural differences, are also not unusual.

Alcohol abuse has been relegated, it would appear, to federal block grants dealing with highway safety. For several reasons, this community needs to be free to use federal grant money to combat alcohol abuse. First, alcohol abuse is inseparable from drugs in what health care professionals understand as "substance abuse". There can be no question that one form of abuse feeds the other. Recent federal programs, and those undertaken in various states, have targeted young people as the front line which must be won back, or protected, in the war on drugs. Recent studies establish that alcohol continues to be a major drug of abuse among young people.

Federal drug control policy has shifted in recent years toward an effort to reduce the demand for drugs among the American population. Besides being a strategy that can effectively undermine drug dealers economically, this emphasis correctly recognizes that the underlying social problems must be dealt with if drug abuse is to be eliminated. The same socio-psychological circumstances that predispose a population (or individual) to abuse hard drugs generally encourage abuse of alcohol. If a demand side program is to be effective it must address all forms of substance abuse.

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which have no tradition of limited alcohol consumption. In some of these places, alcohol is simply illegal. Traditional controls that would restrict alcohol consumption may not be available to members of those communities once they arrive here. The cultural displacement of relocating to the relatively urban and international environment which Guam presents can further aggravate, on both a social and psychological level, the problems of substance abuse. For various reasons, alcohol appears to be the primary substance of abuse for these persons.

Anti-abuse programs that are developed to meet particular cultural needs are required. Programs addressing drug abuse and violent crime must also address cultural conflicts that are developing on Guam. A local man was recently convicted for the aggravated murder of a Chuukese male. What makes the offense most significant is that it was, quite simply, a racial hate crime. The defendant murdered the victim for the sole reason that he was Chuukese. A Chuukese man had killed the defendant's cousin some weeks before and other Chuukese (defendant's neighbors) had harassed and irritated him for months. But the defendant had never met the victim prior to the night he killed him, which he accomplished by bludgeoning him to death with a hammer on a dark roadside. Ironically, the victim had drunk so much alcohol that night that he was unconscious (and thus completely defenseless) when the attack occurred. The defendant had also drunk substantial quantities of alcohol that night. While the jury rejected his defense of intoxication (the evidence showed that the defendant had been capable of forming the intent necessary for the offense), one must wonder whether this man would have done such a thing if he had been sober. And had the victim been sober there is little doubt that he would not have been killed in this scenario.

Far from being a social lubricant, as it is often considered, in quantities of abuse alcohol exacerbates tensions that lead to events like that described above, as well as numerous domestic assaults, child abuse incidents, and generic aggravated assaults. Alcohol abuse must be dealt with using federal drug block grants and it must be dealt with now.

ELIZABETH BARRETT-ANDERSON
Attorney General

By: Frances Tydingco-Gatewood
Frances Tydingco-Gatewood
Chief Prosecutor

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Although minimal, the general trend of rise in violent crime and drug abuse has made itself felt on Guam, especially in some of its manifestations such as rape and aggravated assaults particularly in relations to substance abuse and alcohol related offenses.

Conversely, Guam Police Department has also achieved higher clearance rates of such crimes resulting in over-load of the court calendars. This increase in volume of work load in the Attorney General's Office as well as the court system necessitates a review and reform of the habeas corpus proceedings to revitalize the criminal justice process.

It is becoming increasingly obvious that for the judicial process to be optimally efficient a certain degree of flexibility and freedom from restraints of mandates, pre-emptions and earmarkings in necessary. Sadly, many of these mandated constraints serve to open up legal loop-holes for the offenders to slip through and negate the intent, spirit and purpose of the legal system.

On Guam, even though marijuana is still the drug of choice, and heroin/cocaine still exists, crystal methemphetamine (ice/shabu) is becoming more visible due perhaps to its increasing popularity in the Asia-Pacific region. Currently, Guam averages approximately 33% drug and alcohol related crimes of the total annual crimes.

It must be borne in mind that

a. except for isolated marijuana plantations, no other drugs are manufactured on Guam, therefore

b. most drugs are brought in from regional or national source locations

Drugs and other illicit substances are not an isolated or regional problem. These are national and international problems necessitating national and international corrective action. It is therefore imperative that anti-drug action be taken at the highest level to encompass all layers of drug trade, sale, consumption and rehabilitation. It is our opinion that strong, deterring, anti-drug laws should be put in place and the hands of the law enforcement agencies strengthened to minimize the impact of these substances. This again means allowing the LE agencies certain degree of judicious flexibility to function effectively.

Congress must re-authorize the Anti-Drug Abuse Act, including the Drug Control and System Improvement Grant Program, refurbish, re-arm, and expand its purview to achieve optimum operational results.

Provisions should also be made to expand drug awareness program amongst the juvenile segment of our society, as also the rehabilitation program in each community commensurate with locally identified needs.

GOVERNMENT OF GUAM
GUAM POLICE DEPARTMENT
U.S. TERRITORY OF GUAM

COMPARATIVE ANALYSIS OF ALCOHOL/DRUG RELATED INDEX CRIMES
1988 - 1991

A. Category	B. Offenses				C. Alcohol/Drug Related				D. Percent Related			
VIOLENT CRIMES	**1988**	**1989**	**1990**	**1991**	**1988**	**1989**	**1990**	**1991**	**1988**	**1989**	**1990**	**1991**
1. Murder	15	14	10	10	13	13	7	7	86.7	92.9	70.0	70.0
2. Rape	77	72	90	84	16	12	19	15	20.8	16.7	21.1	17.9
3. Robbery	38	39	44	64	29	28	35	46	76.3	71.8	79.6	71.9
4. Aggravated Assault	140	142	234	160	115	112	197	130	82.1	78.9	84.2	81.3
SUB-TOTAL	**270**	**267**	**378**	**318**	**173**	**165**	**258**	**198**	**64.1**	**61.8**	**68.2**	**62.3**
PROPERTY CRIMES												
5. Burglary	1021	906	925	774	383	315	327	252	37.5	34.8	35.4	32.6
6. Larceny-Theft	2553	3093	3344	3302	887	893	973	910	34.7	28.9	29.1	27.6
7. Auto-Theft	287	269	337	412	112	96	131	127	39.0	35.7	38.9	30.8
8. Arson	31	36	16	8	7	9	6	2	22.6	25.0	37.5	25.0
SUB-TOTAL	**3892**	**4304**	**4622**	**4496**	**1389**	**1313**	**1437**	**1291**	**35.7**	**30.5**	**31.1**	**28.7**
GRAND TOTAL	**4162**	**4571**	**500**	**4814**	**1562**	**1478**	**1695**	**1489**	**37.5**	**32.3**	**33.9**	**30.9**

Index Crimes are the eight offenses of Murder, Rape, Robbery, Aggravated Assault, Burglary, Larceny-Theft, Motor Vehicle Theft and Arson. The Crime Index Offenses as determined by the FBI, were selected as a measuring device because, as a group, they represent the most common local crime problem. The offenses of Murder, Rape, Robbery and Aggravated Assault make up the Violent Crime Category. The offenses of Burglary, Larceny-Theft, Motor Vehicle Theft and Arson make-up the Property Crime Category.

March 26, 1991

GUAM POLICE DEPARTMENT
U.S. TERRITORY OF GUAM
PLANNING, RESEARCH & DEVELOPMENT SECTION
CRIME ANALYSIS UNIT

COMPARATIVE ANALYSIS OF THE UCR INDEX, CRIME RATE, PERSONNEL STRENGTH, PROPERTY STOLEN AND RECOVERED AND OPERATING EXPENDITURES

1989 - 1991

I. UCR INDEX

	CATEGORY	CRIME INDEX OFFENSES			PERCENT CHANGE		CLEARANCES			PERCENT CLEARED		
A.	VIOLENT CRIMES	1989	1990	1991	89 vs 90	90 vs 91	1989	1990	1991	1989	1990	1991
1.	Murder	14	10	10	- 28.6	NC	8	6	7	57.1	60.0	70.0
2.	Rape	72	90	84	+25.0	-6.7	54	70	69	75.0	77.8	82.1
3.	Robbery	39	44	64	+12.8	+45.5	25	38	56	64.1	86.4	87.5
4.	Aggravated Assault	142	234	160	+64.8	-31.6	120	201	142	84.5	85.9	88.8
	Subtotal	**267**	**378**	**318**	**+ 41.6**	**-15.9**	**207**	**315**	**274**	**77.5**	**83.3**	**86.2**
B.	**PROPERTY CRIMES**											
1.	Burglary	906	925	774	+ 2.1	-16.3	294	339	297	32.4	36.7	38.4
2.	Larceny-Theft	3093	3344	3302	+ 8.1	-1.3	999	1155	1266	32.3	34.5	38.3
3.	Auto-Theft	269	337	412	+ 25.3	+22.3	64	97	98	23.8	28.8	23.8
4.	Arson	36	16	8	- 55.6	-50.0	5	3	6	13.9	18.8	75.0
	Subtotal	**4304**	**4622**	**4496**	**+ 7.4**	**- 2.7**	**1362**	**1594**	**1667**	**31.6**	**34.5**	**37.1**
	GRAND TOTAL	**4571**	**5000**	**4814**	**+ 9.4**	**- 3.7**	**1569**	**1909**	**1941**	**34.3**	**38.2**	**40.3**

II. CRIME RATE PER 1,000 POPULATION

			1989	1990	1991
A.	Resident Population		129,604	133,152	136,226
B.	Rates per 1,000 Population				
	1.	UCR Index	35.27	37.55	35.33
	a.	Violent Crimes	2.06	2.84	2.33
	b.	Property Crimes	33.21	34.71	33.00

Bureau of Planning
Briefing Paper

Reauthorization of the Anti-Drug Abuse Act of 1988

The Anti-Drug Abuse Act of 1988 was established to provide funding resources and other incentives to state and local levels of government to fight the flow of drugs into our society. The Drug Control and System Improvement Grant Program is inclusive and authorized by the Anti-Drug Abuse Act of 1988. The purpose of the DCSI grant is to provide formula grants to state and territory governments to carry out programs within the approved twenty-one (21) areas which improve the function of the criminal justice system and develop statewide coordinated and comprehensive attack strategies on drug trafficking and violent crime problems.

As a result of the impact drug trafficking plays in our society, Guam supports the reauthorization of the Act. Without the financial and technical assistance provided through the Act, Guam and the states and other territories will not have the resources to control crime and drug abuse; develop drug enforcement and violent crime programs that will improve the apprehension, prosecution, adjudication, detention and rehabilitation of drug and violent crime offenders; and improve the criminal justice system. Given that states and territories have limited resources, the resouces provided through the Act is critical to addressing the two most prevalent problems facing our nation today.

2. <u>Continuing the Attack on Violent Crime and Drug Abuse</u> (Resolution, based upon Policies B-1, B-4, and B-6)

The proposed resolution re-states NGA policy that Congress should reauthorize the Anti-Drug Abuse Act, including the Drug Control and System Improvement Grant Program. As a part of any crime package, Congress should include a provision reforming the current system of habeas corpus proceedings in order to restore finality to the criminal justice process. In addition, the crime package should empower states with flexibility to deal with the crime problem without mandates, preemptions, and earmarkings.

RESOLUTION*

CONTINUING THE ATTACK ON VIOLENT CRIME AND DRUG ABUSE

CONGRESS AND THE ADMINISTRATION MUST CONTINUE TO FIGHT DRUG ABUSE AND TRAFFICKING IN THE NATION. THE ANTI-DRUG ABUSE ACT OF 1988 PROVIDED RESOURCES AND OTHER INCENTIVES TO BATTLE THE SCOURGE OF DRUGS IN OUR NATION. THAT ACT SHOULD BE EXTENDED AND REAUTHORIZED, INCLUSIVE OF THE DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM. THIS PROGRAM SHOULD CONTINUE IN ITS CURRENT STATE, WITH BLOCK GRANT FUNDS GOING TO STATE AGENCIES FOR THE DEVELOPMENT OF A STATEWIDE COORDINATED AND COMPREHENSIVE ATTACK ON THE DRUG TRAFFICKING AND VIOLENT CRIME PROBLEMS. THE GOVERNORS WILL CONTINUE TO WORK WITH OFFICIALS OF LOCAL GOVERNMENT AND THE PRIVATE SECTOR TO DEVELOP PROGRAMS AND POLICIES THAT DEAL WITH DRUG ABUSE AND THE PROBLEM OF URBAN VIOLENT CRIME.

CONGRESS AND THE ADMINISTRATION SHOULD DEVELOP A COMPREHENSIVE VIOLENT CRIME FIGHTING PACKAGE, INCLUSIVE OF A PROVISION REFORMING THE CURRENT SYSTEM OF HABEAS CORPUS PROCEEDINGS CONSISTENT WITH NGA POLICY B-6, WHICH REQUESTS THAT "FINALITY BE RESTORED TO THE CRIMINAL JUSTICE PROCESS AND A PROPER RESPECT FOR STATE COURT FACTUAL DETERMINATIONS."

FURTHERMORE, IN DEVELOPING A CRIME PACKAGE, CONGRESS SHOULD EMPOWER STATES WITH AS MUCH FLEXIBILITY AS POSSIBLE TO DEAL WITH THE CRIME PROBLEM. MANDATES, PREEMPTIONS, AND EARMARKINGS WILL ONLY FRUSTRATE THE IMPLEMENTATION OF THE BLOCK GRANT PROGRAMS.

* based upon Policies B-1, B-4, and B-6

DEFENSE ADJUSTMENT

NGA Objectives

- Programs should be proactive. Defense adjustment programs, both new and existing, should allow states to use funds proactively to prevent dislocations, rather than requiring them to wait until dislocations occur.

- If funding is made available, it should be directed, where possible, to programs based on proven approaches. Federal assistance should support and enhance these approaches, rather than devote resources to developing new and competing federal programs.

- Program funding must be delivered quickly.

- Programs should be flexible. If new federal funds are made available to states for defense adjustment, states should have broad flexibility in using the funds to address their own unique adjustment problems.

On May 21, a Senate Democratic task force led by Senator Pryor, released a report outlining a comprehensive strategy to assist workers, communities, industries, and firms in adjusting to lower levels of national defense spending. The report contains 37 different proposals for federal action by separate federal departments and agencies, including those noted below.

Reinvesting in Defense Workers

- Continue the Defense Conversion Adjustment (DCA) program by extending the current obligation of $150 million through FY 1997 and supplement the program this year by adding additional funds from the Department of Defense (DoD) budget.

- Amend JTPA Title III Economic Dislocation Worker Adjustment Assistance to allow workers from military facilities to receive services up to 12 months before the scheduled closure or realignment.

- Allow states to reimburse formula funds with DCA funds if they have provided "rapid response" services to defense workers and have depleted state discretionary reserves.

- Permit active duty military personnel to take a one-year leave of absence with pay to pursue courses of instruction or education either within or outside the military. Instruction would be funded through the Montgomery GI Bill.

- Encourage military personnel who accept early retirement to take approved public sector jobs by allowing them to increase their military years of service credit by one year for each year of public service, up to a total of 20 years.

Helping Communities Adjust

- Increase staff levels and grant authority at the Office of Economic Adjustment (OEA).

- Extend the spending authority for the Economic Development Administration (EDA) through FY 1997 on the current $50 million scheduled to expire September 30, 1993 and require EDA to streamline its application process and press for better coordination with OEA.

- Provide direct, low interest loans through the Small Business Administration to small businesses adversely affected by base closings or contract terminations.

- Allow needy school districts to receive an additional year of phased-out funding.

- Urge review of various tax incentives to stimulate economic activity in geographic areas hit hardest by reductions in defense spending.

- Encourage joint periodic reviews by the Senate Armed Services Committee and the Senate Committee on Environment and Public Works on the base closing policies and regulations of DoD's Environmental Restoration Program.

These proposals, as well as additional proposals in the task force's report, will be forwarded to the appropriate Senate committees for legislative action. The report is likely to form the basis of several different pieces of legislation, rather than a single, comprehensive defense adjustment bill. It is anticipated that legislation will be drafted and moved before the August recess, with funding proposals to be attached to separate departmental appropriation bills as they move through the Senate.

On May 28, the President outlined the Administration's proposal that calls for spending an additional $1 billion for defense transition assistance between now and 1996. This amount is in addition to the $7.1 billion already allocated for transition assistance for fiscal years 1992 and 1993. The proposal predominantly focuses on helping DoD personnel, although there are some aspects that would assist defense-dependent communities, businesses, and workers. The proposal includes the following provisions:

- a $90 million increase in the Department of Education's alternative teacher certification program;
- a $200 million expansion of G.I. bill benefits;
- a $50 million increase in the budget of DoD's Office of Economic Adjustment that provides adjustment planning assistance for communities;
- an expansion of DoD job search and placement assistance to allow participation of DoD civilian and contractor employees;
- expansion of the use of defense personnel and facilities to assist Department of Education and Department of Labor education and job training programs; and
- greater funding for technology transfer for dual-use technologies.

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NATIONAL GOVERNORS' ASSOCIATION
EIGHTY-FOURTH ANNUAL MEETING
1992

COMMITTEE ON TRANSPORTATION, COMMERCE, AND COMMUNICATIONS

TAB 9

COMMITTEE ON TRANSPORTATION, COMMERCE, AND COMMUNICATIONS

Summary of Issues and Briefing Papers

ISSUE:

- ***Resolution: Transportation Funding***

  Upgrading the nation's transportation infrastructure is critical to our international economic competitiveness, but budget constraints from the continuing inability to control federal deficit have led to scaled back funding in each of the first two years. NGA has succeeded in gaining increased transportation appropriations in recent years and is making similar effort in the larger structural budget development to ensure that transportation spending is not arbitrarily foreclosed because other parts of the budget are farther out of control.

  The highway obligation ceiling was increased from $14.4 billion to $16.67 billion when the House added $2.25 billion for highways in the fiscal 1993 transportation appropriation bill. The House transferred $400 million in savings from foreign aid, violating the 1990 budget agreement. The total highway spending is now $19.7 billion. The bill also funds transit at $4.1 billion, restoring the $800 million cut by the administration and adding $257 million. However, highway and transit funding is still about $2 billion short of the amount enacted in last year's Surface Transportation Act. The Governors should urge their Congressional delegations to support full funding for state transportation programs authorized in last year's surface transportation law. Without funding, states may find that the flexibility provided in the Act doesn't offer much relief when funding is severely restricted.

  In the Intermodal Surface Transportation Efficiency Act, a governor has no specific role in choosing routes for the new 155,000-mile National Highway System, a decision crucial to a state's economic development future. Governors are urged to assess the route selection process in their states already in progress. Some agencies could make recommendations independently.

ISSUE:

- ***Executive Order:*** ***Privatization of DOT Public Transit and Highways***

  Public Transit and Highway programs are among those that are included in the President's Executive Order on Infrastructure Privatization to encourage and remove obstacles to the sale of state-owned public works projects that were partly financed with federal funds. The Executive Order asks federal agency heads to provide greater financial flexibility to state and local governments that would like to sell or least local infrastructure.

The Committee on Transportation, Commerce, and Communications recommends the adoption of one resolution. Background information and fiscal impact data follow.

1. <u>Surface Transportation Financing</u> (Resolution, based upon Policy F-1)

Under the new surface transportation legislation, the highway program was authorized at more than $18 billion in apportionments and allocations to the states, including an obligation ceiling for fiscal 1992 of $16.8 billion for those programs subject to obligation controls.

The Office of Management and Budget's "scorekeeping" of the legislation required the Federal Highway Administration to administratively reduce the obligation limitation available to the states to $15.7 billion. Unlike any other sequestration, which is across the board for all domestic programs, the legislation included a provision to reduce the highway obligation ceiling if projected outlays from any other authorizations in the bill exceeded the outlay targets for the transportation bill. A number of items, including an extraneous provision authorizing $457 million to transfer and upgrade federal office building facilities in New York City, caused an reduction in the obligation ceiling. Enacting an amendment to eliminate this authorization in this new law would free up approximately $900 million in additional obligation authority.

This resolution endorses early action to rectify the unintended consequences of the excess authorizations and supports full funding at authorized levels for surface transportation programs that are subject to the appropriations process.

The Governors have long-standing policy supporting the principle that annual obligation ceilings should be set no lower than transportation trust fund receipts, including interest, and that the trust fund balances should be spent down. The balance in the combined Highway Trust Fund at the start of fiscal 1992 was $19.5 billion, including $10.2 billion in the highway account and $9.3 billion in the mass transit account. Projected income to the combined Highway Trust Fund during fiscal 1992 was initially anticipated to add receipts of $19.4 billion, including $16.8 billion to the highway account alone and $1.6 billion in combined trust fund interest. These revenue and interest projections are being reestimated and adjusted downward in the President's 1993 federal budget.

TRANSPORTATION FUNDING

NGA Objectives

- Full funding for surface transportation programs authorized by the new law in fiscal years 1992 and 1993.

- Restore the fiscal year 1992 highway obligation ceiling to its enacted level -- $16.8 billion.

- Reauthorization of the Airport Improvement Program (AIP), with expansion of the state block grant program to more states. The aviation trust fund balance should be used to increase the current $1.9 billion annual AIP obligation authority.

Surface Transportation

Agreement by the House and Senate to the budget resolution (H. Con. Res. 287), which provided overall spending targets for FY 1993, led to 602(a) allocations to the appropriations committees. The full committees are now allocating the outlays by subcommittee -- 602(b) allocations -- within the constraints of the discretionary budget cap assumed within the budget resolution. Outlays are particularly squeezed in the transportation category because of substantial funding increases in prior years (the bills are now being paid), the pressure to restore proposed funding cuts in Amtrak and mass transit, and the high rates of outlays in operating programs, such as air traffic control, mass transit, Amtrak, and Coast Guard drug interdiction. Governor Tommy Thompson recently wrote to all Governors asking them to contact their Congressional delegations to urge them to support full funding for transportation now or face less funding in fiscal year 1993. The highway obligation ceiling is especially vulnerable.

Airport Reauthorization

On May 19, the House voted 410-2 to approve H.R. 4691, a two-year reauthorization of the airport program with a small increase in the obligation ceiling from the current $1.9 billion level to $2 billion in fiscal 1993. The current program is due to expire on September 30. The House Public Works and Transportation Committee reported the bill (H. Rpt. 102-503) on April 30.

Senator Ford, Chairman of the Aviation Subcommittee of the Senate Commerce, Science and Transportation Committee, held a May 5 hearing on their legislation. The Aviation Noise Improvement and Capacity Act of 1992, S. 2642, is a three-year bill introduced on April 30 that sets a $2.5 billion annual funding level for airport improvement grants. The proposal does not include the State Block Grant Pilot program.

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RESOLUTION*

SURFACE TRANSPORTATION FINANCING

CONGRESS ADOPTED LANDMARK SURFACE TRANSPORTATION AUTHORIZATION LEGISLATION LAST YEAR. THE PRESIDENT SIGNED THE NEW LEGISLATION INTO LAW AND HAS URGED THE STATES TO EXPEDITIOUSLY SPEND THE FUNDS MADE AVAILABLE TO PROVIDE JOBS IN A PERIOD OF ECONOMIC STAGNATION.

THE NATIONAL GOVERNORS' ASSOCIATION CALLS UPON CONGRESS TO PROVIDE SUFFICIENT FUNDS SO THAT THE STATES CAN USE THE FULL AMOUNTS AUTHORIZED FOR SURFACE TRANSPORTATION UNDER THE NEW LEGISLATION IN FISCAL 1992 AND 1993.

* based upon Policy F-1

PRIVATIZATION OF FEDERALLY-FUNDED INFRASTRUCTURE

On April 30, the President signed an Executive Order on Infrastructure Privatization to encourage and remove impediments to privatization of federally-financed infrastructure owned by state and local governments. Assets covered include EPA projects, HUD public housing, DOT public transit, budget operations, and highways. Airport privatization is not mentioned in the Executive Order.

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