

NATIONAL GOVERNORS' ASSOCIATION

85TH ANNUAL MEETING



**TULSA CONVENTION CENTER
TULSA, OKLAHOMA
AUGUST 15-17, 1993**

**NATIONAL GOVERNORS' ASSOCIATION
85TH ANNUAL MEETING
AUGUST 15-17, 1993**



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**1992-1993 COMMITTEES
AND TASK FORCES**

NATIONAL GOVERNORS' ASSOCIATION

Chairman - Governor Roy Romer
Vice Chairman - Governor Carroll A. Campbell, Jr.

1992-1993 COMMITTEES & TASK FORCES

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* *The chairman and vice chairman serve as ex-officio members of all standing committees and task forces.*

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Rafael Hernandez-Colon, Puerto Rico
Governor Howard Dean, Vermont
Governor Alexander A. Farrelly, Virgin Islands
Governor Booth Gardner, Washington

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1992-1993 COMMITTEES & TASK FORCES**

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Governor Terry E. Branstad, Iowa
Governor Joan Finney, Kansas
Governor John Engler, Michigan
Governor Arne H. Carlson, Minnesota
Governor Kirk Fordice, Mississippi
Governor Barbara Roberts, Oregon
Governor Bruce Sundlun, Rhode Island
Governor Ann W. Richards, Texas
Governor Booth Gardner, Washington
Governor Gaston Caperton, West Virginia

NATIONAL GOVERNORS' ASSOCIATION
1992-1993 COMMITTEES & TASK FORCES

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Governor John Engler, Michigan
Governor Arne H. Carlson, Minnesota
Governor John Ashcroft, Missouri
Governor E. Benjamin Nelson, Nebraska
Governor Bruce King, New Mexico
Governor Mario M. Cuomo, New York
Governor David Walters, Oklahoma
Governor Barbara Roberts, Oregon
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Governor Gaston Caperton, West Virginia
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Governor Pete Wilson, California
Governor Lowell P. Weiker Jr., Connecticut
Governor Michael N. Castle, Delaware
Governor Lawton Chiles, Florida
Governor John Waihee, Hawaii
Governor Evan Bayh, Indiana
Governor Terry E. Branstad, Iowa
Governor Brereton C. Jones, Kentucky
Governor Kirk Fordice, Mississippi
Governor Bob Miller, Nevada
Governor Jim Florio, New Jersey
Governor Robert P. Casey, Pennsylvania
Governor Ann W. Richards, Texas



AGENDA

**NATIONAL GOVERNORS' ASSOCIATION
85TH ANNUAL MEETING
TULSA, OKLAHOMA
AUGUST 15 - 17, 1993**

A G E N D A

SATURDAY, AUGUST 14:

8:00 am - 5:00 pm

GENERAL REGISTRATION

8:00 am - 6:30 pm

MEDIA REGISTRATION

10:30 am - 11:00 am

OPENING NEWS CONFERENCE

11:00 am - 1:30 pm

TASK FORCE ON STATE MANAGEMENT

Conference on Redesigning Government

Governor William F. Weld, Massachusetts, Co-chairman

Governor David Walters, Oklahoma, Co-chairman

- **The Imperatives to Resign Government**
Governor Roy Romer, Colorado

Guest: Former Governor William F. Winter, Chairman
National Commission on State and Local Public
Service

- **Models for Redesigning State Government:**

Developing Outcome-Based Performance Plans &
Measures

Governor Barbara Roberts, Oregon

Consolidating and Coordinating Human Services
Governor John Engler, Michigan

Privatizing Government Services and Assets
Governor William F. Weld, Massachusetts

***Reforming Management Systems
Governor David Walters, Oklahoma***

- ***Implications for Task Force Priorities for the Next Year
Perspectives from the Incoming NGA Chairman
Governor Carroll A. Campbell Jr., South Carolina***

1:45 pm - 5:00 pm

***TASK FORCE ON STATE MANAGEMENT
Conference on Redesigning Government
Implementation Workshops***

5:30 pm - 6:30 pm

SPECIAL HOST COMMITTEE RECEPTION

6:30 pm - 10:00 pm

***RECEPTION AND DINNER FOR GOVERNORS
AND HOST COMMITTEE***

7:30 pm - 9:30 pm

RECEPTION FOR MEDIA ATTENDEES

7:30 pm - 9:30 pm

***RECEPTION FOR GOVERNORS' SENIOR STAFF
AND INVITED GUESTS***

SUNDAY, AUGUST 15:

8:30 am - 5:00 pm

GENERAL REGISTRATION

8:30 am - 7:00 pm

MEDIA REGISTRATION

9:30 am - 11:00 am

BRUNCH FOR GOVERNORS & THEIR FAMILIES

9:30 am - 11:00 am

BRUNCH FOR GOVERNORS' PRESS SECRETARIES

11:30 am - 1:15 pm

***EXECUTIVE COMMITTEE
Governor Roy Romer, Colorado, Chairman***

- ***Update on Legislative Issues and Priorities***
- ***Consideration of Policy Positions***
- ***Reinventing Government
Guest: Albert Gore Jr., Vice President of the United States***

1:30 pm - 3:15 pm

***TASK FORCE ON HEALTH CARE
Governor Carroll A. Campbell, South Carolina, Co-chairman
Governor Howard Dean, Vermont, Co-chairman***

- ***State Initiatives in Health Care Reform
Guest: Nancy Barrand, Senior Program Officer
Robert Wood Johnson Foundation***

- **Governors' Roundtable on State Health Care Reform
Cost Control**
Governor Arne H. Carlson, Minnesota

Delivery System Changes
Governor Tommy G. Thompson, Wisconsin

The Politics of Health Care Reform
Governor Lawton Chiles, Florida
Governor Brereton C. Jones, Kentucky

- **Health Care Reform Means Workforce Reform**
*Guest: Edward H. O'Neil, Executive Director
Pew Health Professions Commission*

3:30 pm - 5:00 pm

GOVERNORS-ONLY WORK SESSION (Priority Setting)

6:30 pm - 9:30 pm

THE OIL BARON'S GARDEN GALA
(Welcome Reception for All Meeting Attendees)
Philbrook Museum and Gardens

MONDAY, AUGUST 16:

8:00 am - 5:30 pm

GENERAL REGISTRATION

8:00 am - 7:00 pm

MEDIA REGISTRATION

7:30 am - 9:00 am

REPUBLICAN GOVERNORS' ASSOCIATION MEETING

9:15 am - 11:15 am

OPENING PLENARY SESSION
Governor Roy Romer, Colorado, Chairman

- **National Health Reform: The Small Business
Perspective**

*Guest: John Motley, Vice President for Federal
Government Relations, National Foundation of
Independent Business*

- **Context for Health Care Reform**
Governor Howard Dean, Vermont
Governor Carroll A. Campbell Jr., South Carolina

- **Remarks from the President**
Guest: Bill Clinton, President of the United States

11:30 am - 1:15 pm

**GOVERNORS-ONLY LUNCH AND WORK SESSION
WITH PRESIDENT BILL CLINTON**

11:30 am - 1:15 pm

CHIEFS OF STAFF LUNCH AND WORK SESSION

11:30 am - 2:00 pm

**SEMINAR ON BUILDING PUBLIC SUPPORT FOR
EDUCATION REFORM**

Governors' Staff and Invited Guests

1:30 pm - 3:15 pm

TASK FORCE ON EDUCATION

Governor Roy Romer, Colorado, Co-chairman

Governor George Voinovich, Ohio, Co-chairman

- **Goals 2000: The Clinton Administration's Education Agenda**

Guest: Richard Riley, U.S. Secretary of Education

- **Standards: Where Are We? Where Are We Going?**
Governor Roy Romer, Colorado

**Guest: Marc Tucker, President, National Center
for Education and the Economy**

- **Building Support for Systemic Reform:
The Role of the Private Sector**
Governor George Voinovich, Ohio

Guest: John Ong, President, B.F. Goodrich

1:30 pm - 2:30 pm

**HEALTH CARE REFORM UPDATE FOR GOVERNORS'
HEALTH CARE AIDES**

3:30 pm - 5:30 pm

**COMMITTEE ON ECONOMIC DEVELOPMENT
AND COMMERCE**

Governor Jim Edgar, Illinois, Chairman

- **NAFTA Implementation and the Role of the States**
Governor Tommy Thompson, Wisconsin
Governor Ann Richards, Texas

- **Economic Growth and Development Incentives:
Discussion of Principles of Mutual Cooperation**
Governor Jim Edgar, Illinois
Governor Bruce Sundlum, Rhode Island

- **Workforce Development Programs:
Successful State Reform**
Governor Gaston Caperton, West Virginia

- **Report of Lead Governor on Transportation**
Governor Bob Miller, Nevada

- **Consideration of Proposed Policy Positions**

3:30 pm - 5:30 pm

COMMITTEE ON HUMAN RESOURCES
Governor Jim Florio, New Jersey, Chairman

- **Welfare Reform**

**Guest: David Ellwood, Assistant Secretary for
Planning and Evaluation
U.S. Department of Health and Human Services**

- **Workforce Development: An Overview from the
Employer Perspective**

**Guests: Alfred J. Cade, President and CEO, Caesars
Atlantic City**

**David Crawford, President and CEO Econsult
Corporation**

Diane R. Johnson, Staff Specialist, Jostens, Inc.

**Robert L. Wehling, Vice President of Public Affairs,
Proctor Gamble Worldwide**

- **Consideration of Proposed Policy Positions**

3:30 pm - 5:30 pm

COMMITTEE ON NATURAL RESOURCES
Governor Michael Sullivan, Wyoming, Chairman

- **The Summer of 1993: Impact on Agriculture**

**Guest: Mike Espy, Secretary, U.S. Department of
Agriculture**

- **Environmental Mandates: Protecting the Public on
Over-control**

**Guest: Bob Susman, Deputy Administrator,
U.S. Environmental Protection Agency**

- **American Transition to Alternative Fuels**

**Guests: Congressman Mike Synar, Chairman, House
Government Operations Subcommittee on
Environment, Energy, and Natural Resources**

**Bob Trumek, Senior Vice President for
Manufacturing, Engineering, and Technology, ARCO**

**Samuel A. Leonard, Director, Auto Emission
Controls, General Motors Corporation**

- *Consideration of Proposed Policies*

6:30 pm - 9:30 pm

OKLAHOMA FARE
(Reception and Dinner for All Attendees)
Discoveryland - Sand Springs, Oklahoma

TUESDAY, AUGUST 17:

7:30 am - 1:30 pm

MEDIA REGISTRATION

8:00 am - 12:00 noon

GENERAL REGISTRATION

7:30 am - 9:00 am

WESTERN GOVERNORS' ASSOCIATION MEETING

9:15 am - 11:45 am

PLENARY SESSION
Governor Roy Romer, Colorado, Chairman

- *Reinventing Government: An Imperative for States and Localities*

*Guests: Governor Jim Edgar, Illinois, President,
Council of State Governments*

*Representative Arthur Hamilton, President,
National Conference of State Legislatures*

*Senator Robert L. Connor, President-Elect,
National Conference of State Legislatures*

*Commissioner John H. Stroger Jr., President
National Association of Counties*

*Commissioner Barbara Sheen Todd,
First Vice President
National Association of Counties*

*City Manager Daniel Kelman, President-Elect,
International City/County Management Association*

*Mayor Donald M. Fraser, President
National League of Cities*

*Mayor William J. Alhana, Immediate Past President,
U.S. Conference of Mayors*

- *State Gubernatorial Initiatives*
Governor William F. Weld, Massachusetts
Governor David Walters, Oklahoma

- ***Legislative and Local Government Initiatives
The Role of Elected Leadership in Re-engineering
Government and Opportunities for Better
Intergovernmental Cooperation***
- ***Consideration of Policy Positions***
- ***NGA Distinguished Service Awards***
- ***Recognition of Departing Governors***
- ***The State Role in National Service***
- ***Guest: Eli Segal, Assistant to the President and
Director of the Office of National Service***
- ***Report of the Nominating Committee***
- ***Remarks of the 1993-1994 Chairman***

12:00 noon - 12:30 pm

12:30 pm - 1:00 pm

CLOSING NEWS CONFERENCE

***1993-1994 EXECUTIVE COMMITTEE AND STANDING
COMMITTEE CHAIRS***



EXECUTIVE COMMITTEE

**NATIONAL GOVERNORS' ASSOCIATION
85TH ANNUAL MEETING**



EXECUTIVE COMMITTEE

TAB 3

- **Summary of Issues and Briefing Papers** **G**
- **Federalism** **H**
- **Budget Reconciliation
(FY 1994 Budget Resolution)** **I**
- **Administrative Cost Cap** **J**
- **Housing Programs** **K**
- **Implementation of the Indian Gaming
Regulatory Act (IGRA)** **L**
- **National Service Trust Act** **M**

EXECUTIVE COMMITTEE

SUMMARY



*Legislative Issues
and
Briefing Papers*

ISSUE:

H. Federalism

The new policy position was originally adopted at the NGA-sponsored meeting held in November 12, 1992 in cooperation with other state and local organizations, and representatives of the business community. It was further discussed and amended at the February 2, 1993 winter meeting.

The policy calls for substantial reduction of the federal deficit over the next five to ten years as a major national priority. The purpose is to encourage savings that would free up capital for public and private investments that would increase productivity and produce jobs and national economic growth. According to the policy, the highest priority for deficit reduction is health care cost containment. In addition, the issues of strategic investment and accountability and efficiency in government programs should also be addressed. The policy stresses that economic stimulus measures must contribute to long-term productivity investments and must be concurrent with deficit reduction.

As the administration and Congress design a major deficit reduction plan, the Governors stand ready to back a strategy that will change direction for many entitlement programs.

ISSUE:

I. Budget Reconciliation (FY 1994 Budget Resolution)

Last June 25th, the Senate passed the President's budget. Amendments that were adopted of state importance include: the new 4.3 cent gas tax dedicated to the Highway Trust Fund; aviation fuels deleted from the new fuel tax; cut the Medicare savings by \$9 billion for a Senate Medicaid cut of \$58 billion (House cut is \$50 billion); optional authority given for

states to require immunization of AFDC children and bonus payments with high implementation; extension of the pay-as-you-go requirement that all new entitlement or tax cuts be deficit-neutral; freezing the total of all discretionary spending (domestic, defense, and foreign) at fiscal 1993 levels for the next five years for an additional savings of \$110 billion (same as House provision); inclusion of "Sense of the Senate" amendments that the conference report includes enterprise zones and permanent extension of mortgage revenue bonds and research and development tax credits; and raising of the small business expense exemption from \$10,000 to \$18,500 (House provision is \$25,000). Amendments failed that would have created a deficit reduction trust fund; that would have adopted the House entitlement control language; that would have deleted the gas and Social Security taxes; that would have imposed sequesters for future deficits in excess of the projections; and that would have protected defense from more cuts than projected.

The House has also completed action on most of the FY 1994 appropriations bill. Funds for discretionary programs goes up 7.7% over FY 1993 or by \$5.2 billion. The largest dollar increases are for highways, \$1.5 billion; mass transit, \$700 million, dislocated workers, \$551 million; HOPE housing, \$542 million; and Head Start, \$500 million. The House gave the President less than half of his additional requests for discretionary state-local programs. EPA wastewater funds may be cut by 40% to pay for the new safe drinking water program if enacted. The Department of Education only received a \$136 million net increase for its grant programs. Food Stamps is \$3 billion less than requested, while other safety net entitlement programs increase nearly twice as much as the total of all discretionary programs and account for 67% of all federal aid. Medicaid alone is now 40% of all federal assistance to state and local governments.

The House and Senate conferees begin reconciling their differences on the 1994 budget resolution after the July recess wherein, areas of disagreement and options for compromise will be clarified. Major state issues in conference include: ensure that the House provision on entitlement controls has realistic adjustments, without caps and without a shift of costs to the states; extend the effective date of the disproportionate share payment reductions; support the Senate provision that dedicates the new 4.3 cent gas tax to the highway trust fund and that maintains the exemption of state and local governments from fuel taxes; secure permanent extensions of mortgage revenue bonds and small issue development bonds, as well as tax credits for targeted jobs, education, and research and development; and support action for a one-year extension of the two-parent work requirement, Family Preservation Act, and

the enterprise zones.

NGA, on behalf of the Governors, expresses strong concerns to certain provisions in the Omnibus Budget Reconciliation Act. NGA urges the House to consider alternatives to the immediate AFDC administrative match funding reductions, such as a phase-in of the enhanced match. NGA believes that regarding the Food Stamp administrative funding reduction, the House proposal which would phase-in the match over a five-year period is a far more reasonable approach. NGA supports the Senate proposal to delay implementing the user fee (SSI payment) for one year at a minimum to allow states to begin adjusting to the impact of the shift of federal costs. In the reform of the Food Stamp Quality Control, NGA supports the House version with provisions that would change the method of calculating a state's penalty rate making the penalties more reasonable. However, NGA would like these additional reform provisions added to the QC system: authorizing an administrative law judge to consider good-cause waiver criteria; and addressing the statistical flaws in the QC system that affect the accuracy of the program.

NGA believes that although the above mentioned issues are very important and will dominate conference politics, they will only be positively addressed if a majority of the Governors register their views to their delegations and to the conferees as a whole. The Governors are urged to exercise their individual and collective bipartisan action.

In the budget reconciliation agreement, deficit reduction is \$496 billion instead of the \$500 billion target. Discretionary spending is freezed at FY 1993 levels with \$102 billion cut; a new 4.3 cent gas tax with no dedication to the trust fund but exemption states and local governments; Medicare cuts at \$55.8 billion, Earned Income Credit at \$20.8 billion, Enterprise Zones with \$3.5 billion (\$2.5 billion for tax incentives and \$1 billion in grants; and Medicaid, \$7.6 billion in savings. Not included are: the BTU Tax, dedication of the 4.3 cent new gas tax to the Highway Trust Fund, Entitlement Caps, and Taxation of foreign royalties.

BRIEFING PAPER:

- *Bureau of Budget & Management Research*

Guam is not opposed to federal or local deficit reduction. However, Guam believes that deficit reduction must be done with full knowledge of the potential impact on services provided.

The Territory will be realizing the impact of the federal deficit reduction proposals as it affects federally funded programs. In the past, reductions and/or loss of federal funding has resulted in the transfer of such funding to local financial resources. Presently, Guam is implementing strict cost-containment practices and is executing the mandated 8% reduction of the FY 1993 expenditures. For FY 1994, the Legislature mandated a 2% reduction of FY 1993 appropriated levels. However, due to revenue constraints, the administration has increased the percentage to 4% for the Executive Branch. The current financial condition of Guam dictates reductions in expenditures. Further burdens placed on the General Fund as a result of reductions in federal funding will adversely affect programs and services.

ISSUE:

J. Administrative Cost Cap

President Clinton's released economic plan would set the matching rates for the administrative costs for medicaid, Aid to Families with Dependent Children (AFDC), Food Stamps, and Supplemental Security Income (SSI) program at 50 percent starting in the second half of federal FY 1994. This proposal represents a cost shift to states at a time when they are least able to afford it.

As a requirement of participating in the Medicaid and AFDC programs, states must provide the administrative institutions necessary to operate the programs at the state level. The costs for developing the administrative capacity to run an efficient program is shared between the federal government and the states. In most cases, the two levels of government each pay 50% of administrative costs. The federal government pays a larger percentage for certain administrative activities and systems that it wishes to promote, like fraud and abuse control. Currently, about 30% of all Medicaid administrative costs are matched at an enhanced rate, while only 7% of all AFDC administrative costs receive matching rate of more than 50%. The Medicaid cap is expected to cost states about \$2.2 billion over the next 5 years, while the AFDC and the Food Stamp programs will cost states \$20 million each in FY 1994 under the proposal.

The administration's plan includes a proposal to charge states a user fee for administering state supplemental SSI benefits. For the most part, SSI is a federally administered and federally financed program. States may elect to administer their supplemental payments or contract with the Social

Security Administration (SSA) for federal administration of the state supplement. Under the current law, states do not pay the SSA for the costs they incur in administering the supplemental payments. The proposal requiring states to pay for administrative fee will compound further the financial burden being shifted to state government as a result of the capping proposal. The costs to the states is \$57 million in FY 94 and could increase to over \$200 million per year when fully implemented in 1998.

NGA is opposed to the 50% cap for the reimbursement rate on administrative costs associated with the Medicaid, Food Stamps, AFDC, and the SSI programs. NGA has urged Congress to retain the current special match rates and not implement a fee for the federal administration of state supplements to SSI. States also support a one-year delay in implementing the new federal per person monthly fee for the administration of state programs that supplement the SSI program.

In the budget reconciliation agreement, the Food Stamp and AFDC Administrative match was capped to 50 percent, which is a \$205 million loss to states for AFDC. The Administrative Fees for states SSI supplements was passed which cost states \$710 million.

BRIEFING PAPER:

- *Department of Public Health & Social Services*

According to the Department, any proposal to reduce the administrative cost cap should be discouraged for this would only mean additional financial burden to the states. This proposal, however, will not have any negative impact on Guam. The Territory has a more serious problem of having an imposed cap on the total funding of \$3.8 million. In client benefits, Guam matches 67% local to 33% federal instead of 75% federal to 25% local match.

- *Bureau of Budget & Management Research*

The agency believes that any shift in federal to local funding will have an adverse impact since the General Fund revenues are expected to be below the FY 1994 expenditure requirements. In Guam, the Governor has imposed a 4 percent reduction in order to avert a fiscal crisis. The agency does not support an increase in local matching ratios for administrative costs to Medicaid, AFDC, Food Stamps, and SSI programs as proposed in the President's plan. Such an increase will further aggravate the existing precarious financial situation of the

General Fund.

ISSUE:

K. *Housing Programs*

Congress reauthorized for two years the Home Investment Partnership Act, otherwise known as the HOME Program. Authorization is at \$2.1 billion in FY 1993 and \$2.2 billion in FY 1994. Changes were also made in the Comprehensive Housing Affordability Strategies (CHAS) in order to participate in the federal housing and community development programs. The changes, however, only made the efforts more difficult because HUD had waived the CHAS regulations for states in the first two program years, with the states facing problems in developing their next CHAS. For FY 1993, the HOME is funded at \$1.0 billion while for FY 1994, the President has proposed a \$1.06 billion funding.

NGA urges Congress for a \$1.5 billion minimum funding for HOME in FY 1994. In addition, NGA recommends that program regulations should be developed to permit states the flexibility needed to operate an effective partnership with the federal and local governments. NGA also seeks for a permanent extension of the low-income housing tax credit and mortgage revenue bond program.

The Housing and Community Development Act of 1992 made several amendments to the HOME program to include: the use of HOME funds by states to support operating expenses of community housing development organizations; an increase in the per unit subsidy in high cost areas; the elimination of new construction restrictions; the elimination of rental production set-aside; the tenant-based rental assistance no longer tied up to public waiting lists; the 10 percent limit of HOME funds could be used for administrative purposes; the simplification of the rent pricing requirements; the clarification of homeownership resale provisions; the lowering of matching rates and not restricting them to state funds in HOME funded projects; some bond proceeds to count as match; and permission of match reductions for fiscal distress. During the House and Senate debates on budget reconciliation, a partial extension of tax-exempt bonds and credits for housing has resulted. However, Governors are urged to push for a permanent extension by registering their views to the whole conferees.

The House has passed the VA/HUD/IA appropriations bill with the following FY 1994 program funding levels: HOME - \$1.25 billion; HOPE - \$109 million; and CDBG - \$4.223 billion. The

low-income housing tax credit is extended permanently while the mortgage revenue bonds was extended by the Senate for two years.

BRIEFING PAPER:

- ***Guam Housing & Urban Renewal Authority***

GHURA agrees that a national partnership which encourages a closer cooperation among the federal, state and local governments is important if the goal for increased supply of affordable housing is to be effectively achieved.

For the first time this year, Guam is participating in the HOME program with a special allocation of \$1.2 million, approved as a result of Typhoon Russ and to be used in providing housing as a relief for the disaster. Under the regular HOME program allocation, Guam will only receive \$817,000 for the first year and this will be used in the acquisition of an existing four-plex rental unit. The insular areas as a whole is allocated 1 percent of the total HOME funds appropriated by Congress. GHURA recommends that the Governor supports authorization of a \$2.2 billion for the FY 1994 HOME program; increase of funding level for the insular areas; and greater flexibility for the insular areas in the use of HOME monies. GHURA also supports the permanent extension of the mortgage revenue bonds and the low-income housing tax credit.

As there are many federally owned properties nationwide, GHURA recommends that Guam applies for such properties under the HOPE program to be used for government offices such as medical referral offices; transition homes for displaced and homeless adults and youths; training and counseling sites; as "homestead" homes for low-income Guam citizens wishing to move to the mainland or in search of jobs or seeking special training or education. GHURA calls for the Governor to urge NGA to advise Congress to insure that CHAS regulations after the first two years is modified so that the HUD imposed data requirements needed in preparing CHAS documents does not become overly expensive for public housing authorities to collect and analyze. GHURA also urges the Governor's support in reducing barriers nationwide and locally which prevent low-income families from homeownership. GHURA also believes in the concept of providing states and territories a lump sum grant with flexible regulations to enable states and insular areas to address their housing problems.

ISSUE:

L. Implementation of the Indian Gaming Regulatory Act (IGRA)

The Governors are deeply concerned about several issues that have arisen in the implementation of the Indian Gaming Regulatory Act (IGRA) of 1988. The Act says that tribes cannot engage in certain kinds of gaming (such as casino-style gaming) without a compact with the state. However, states remain very concerned about the spread of casino-style gambling in states where those activities are not allowed on non-reservation land. Some recent court decisions have also favored tribes' views that if a state can run a lottery (in the same class as casino gaming), a tribe can operate casino-style games.

The Governors' recently adopted policy says that tribal compacts should not conflict with state laws. The policy calls for Indian gaming activities to conform to state law; be subject to gubernatorial concurrence before noncontiguous land can be acquired for gaming purposes; and to amend IGRA to provide alternative dispute resolution mechanisms designed to keep these conflicts out of court and to apply the "good faith" clause to all parties. NGA also proposes that an aggressive federal-state effort is needed to help the tribes with economic development and also to put tribal economic development on the Governors' agenda.

NGA convened a Governors-only meeting in Washington, D.C. last May with congressional leaders to focus on legislative changes that would clarify the Governors' policies with regard to IGRA. Other succeeding meetings were also held attended by NGA working group on Indian Gaming, senators, attorneys general, and tribal government leaders. In the last meeting held July 2nd, discussions focussed on changes to IGRA, bearing in mind the three main issues of concern to Governors as provided in the adopted policy. The consensus is the drafting of legislation and the establishment of a joint working group with representatives from states, tribes, and federal officials to develop recommendations on scope of gaming and other issues.

Legislation to amend IGRA has been introduced in the House and Senate. The House version includes: a moratorium on new compacts until necessary regulations to implement IGRA are in place; prohibits gaming on lands acquired by tribes after IGRA enactment; and forbids a tribe from suing a state directly.

The Senate bill limits compact negotiations to those class II and class III games authorized under state law for commercial

purposes only; this precludes tribal negotiations for games permitted for charitable purposes. The Senate proposal also restricts Indian gaming to those lands taken into trust by the date of IGRA enactment, and to those tribes recognized before IGRA enactment, and redefines the application of the good faith negotiation standards.

The Governors convey their desire to work with Congress to improve the implementation of the Act and to resolve the conflict between states and tribes as quickly as possible because continued conflict is unproductive for both states and tribes.

ISSUE:

M. National Service Trust Act

The Governors support the administration's national services plan created through the enactment of the National Service Trust Act. The plan would grant a third of its total funding to independent commissions appointed by the Governor in each state to support service programs, another third, will be awarded to states in an effort to encourage innovative service programs, while states would compete for the remaining third of the funds for national service.

The Governors believe that the bill allows states to supplement existing service activities while also encouraging innovative service activities through competitive grants.

NGA policy, in support of the bill seeks to promote a strong partnership between federal, state, and local governments, as well as with the volunteer and business communities, to emphasize the importance of community-wide involvement in state service efforts; recognize the multitude of existing state service provider systems and programs and seek to complement them, as well as encourage new and innovative programs; and develop a federal national service program that is operated primarily by states and provide for the consideration with states for those programs that are not found by state service commission.

Both the House and Senate have heard hearings on this issue and floor action is expected prior to the August recess. In anticipation for enactment of the legislation, a task force has been created to begin work on its implementation. NGA has been asked to serve on the working group.



FEDERALISM

The National Governors' Association calls for a substantial reduction of the federal deficit over the next five to ten years as a major national priority and is willing to stand shoulder to shoulder with President Clinton and Congress to make the tough decisions that will be required to meet this challenge. The annual deficit must be reduced to encourage savings to pay for investment to increase productivity and the standard of living. This will free up capital so that the private sector can make the investments necessary to produce jobs and grow the economy for the future.

There is only a short window of opportunity to act on this issue, and the Governors are committed to help build a national consensus so that national policymakers will have the political will to act.

The highest domestic priority for deficit reduction is health care cost containment, which should be done in partnership with state and local governments. The Governors are ready to work with the new President and Congress to find an equitable solution to this problem.

We also must address the issues of strategic investment and improved accountability and efficiency in government programs. While we recognize that the major source of productivity change is private capital formation, sufficient public investments must parallel the private investment. The stimulus package must be part of a long-term strategy and be adopted concurrent with a commitment to deficit reduction.

The Governors believe that economic stimulus measures must contribute to long-term productivity investments. Specifically, we would urge increased funding and greater flexibility for existing programs, such as the Intermodal Surface Transportation Efficiency Act, the Clean Water Act, the Community Development Block Grant, and the Resource Conservation and Recovery Act. All of these programs are job centered and are targeted to projects already designed and identified as state and local priorities.

Toward these ends we have agreed to work together and with the administration and Congress to develop specific proposals for the consolidation and simplification of existing governmental programs. We also propose to work with Congress and the new administration to establish a new national investment strategy to address critical needs in human resource development and public infrastructure.

The Governors are prepared to work actively to provide the information needed to develop a strong sense of public will to make the tough choices needed to preserve the future well-being of the nation.

Time limited (effective February 1993-February 1995).

Adopted February 2, 1993.

BEMP Supplementary Comments on Budget Reconciliation (Federal Deficit Reduction) See January 25, 1993 comments attached.

The impact of federal deficit reduction proposals will be realized by the Territory of Guam as it affects federally funded programs and activities. Historically, reductions and/or loss of federal funding, has resulted in the transfer of such funding from federal to local financial resources. At this time, the Government of Guam is implementing strict cost-containment practices (as outlined in Executive Order 87-02) as well as executing the mandated 8% reduction of FY 1993 expenditures. For FY 1994, the Legislature mandated a 3% reduction of FY 1993 appropriated levels. Because of revenue constraints, this percentage was increased by the Administration (for the Executive Branch) to 4%.

As evidenced by the foregoing, the financial condition of the Territory dictates reductions in expenditures. Further burdens placed on the General Fund as a result of reductions in federal funding will adversely affect programs and services. Guam is not opposed to federal or local deficit reduction. However, it must be done with full knowledge of the potential impact on services provided.



gpc
August 5, 1993



MEMORANDUM

**TO: Washington Representatives
NGA State Contacts**

FR: Jim Martin

RE: BUDGET RECONCILIATION AGREEMENT

Deficit Reduction	\$496 billion, not \$500 billion
Discretionary Spending Freeze	\$102 billion cut by freezing at fiscal 1993 levels
Tax Increase for Individuals	January 1, 1993, from 31-36 percent for taxable income over \$115/140,000
Gas Tax	4.3-cent new increase; no dedication to the trust fund but exemption for state and local governments
	2.5-cent current; dedicated to the highway trust fund on October 1, 1995; 2 cents for highways, one-half cent to mass transit
Medicare Cuts	\$55.8 billion
Administrative Fees for State SSI Supplements	Passed - \$710 million cost to states
Business Meals Deduction	50 percent
Cellular Property Tax Exemption	Dropped due to Byrd Rule
Child Support Enforcement	Requires states to establish paternity
Earned Income Credit	\$20.8 billion (House had \$28 billion)
Employer Education Credit	July 1992 through December 1994
Enterprise Zones	\$3.5 billion (\$2.5 billion for tax incentives and \$1 billion in grants via Title XX Social Services Block Grant)

Entitlement Controls and Deficit Trust Fund	Executive Order of the President <u>and</u> new Rule for Congress requiring action on President's recommendation
ERISA Waivers for 4 State Health Plans	Deleted due to Byrd Rule
Family Preservation	\$1 billion for state services to keep families intact, with \$48 billion in fiscal 1994
Food Stamp and AFDC Administrative Match	50 percent cap - \$205 million loss to states for AFDC
Food Stamp Increase	\$2.5 billion (House had \$7 billion)
Food Stamp Quality Control	New sliding scale penalty; administrative law judge decision final
Foster Care	\$121 million for independent living, data collection, and training
Low Income Housing Tax Credits	Permanent extension
Mortgage Revenue Bonds	Permanent extension
Pay-As-You-Go Requirement	Included for all new entitlements or tax cuts that increase the deficit
Research and Development Credit	July 1, 1992 to June 30, 1995
Rural Electric Area Preemptions	Dropped due to Byrd Rule
Small Business Expensing Deduction	\$17,500
Small Issue Development Bonds	Permanent extension
Social Security Tax Threshold	Raise to \$34/44,000 level
Student Loan Defaults	Phased-in - 60 percent direct government loans and 40 percent private; state penalties for rates over 20 percent - \$300 million over five years
Targeted Jobs Credit	July 1992 to December 1994
Two-Parent Work Requirement Delay	Dropped due to <u>Byrd</u> Rule

Medicaid	\$7.6 billion in savings
Assets Transfers and Estate Recovery	Restrictions to save \$1 billion
Payments to Disproportionate Share Hospitals	Restricted by fiscal 1995 to save \$2.2 billion over five years
Emergency Medical Assistance to Undocumented Aliens	Dropped
Immunizations	\$500 million over five years for free immunizations for all Medicaid, Indian, migrant, community health center, and non-insured children
Maintenance of Effort for State Medicaid Fraud Control Units	Included
Personal Care Services Mandate	Eliminated to save \$4.2 billion
Prescription Drug Formularies Under State Plans	Permitted
Prohibition for Prior Authorization of New Drugs	Removed the prohibition
State Insurance Programs for Long-Term Care Eligibility	Dropped
Third Party Payments Identification and Collection, Medical Child Support, and Health Clearinghouse	Included to save \$618 million
Tuberculosis Patients' Optional Coverage	Included at cost of \$205 million

Not Included**Btu Tax**

Dedication of the new 4.3-cent gas tax to the Highway Trust Fund

Entitlement Caps

Household workers Social Security tax threshold

Investment tax credits

Taxation of foreign royalties

BUDGET RECONCILIATION

NGA Objective

- NGA policy specifically calls for full funding of ISTEA and increased funding for the Clean Water Act. (Both of these programs are presently in jeopardy for fiscal 1994 appropriations.)

The House is in a crucial two-week phase when most of the specific decisions on line items of the President's fiscal 1994 budget will be made. The congressional budget resolution for fiscal 1994 was passed in early April. It set a total cap on discretionary spending and included instructions on how to achieve deficit reduction of \$343 billion over the next five years — mostly through revenues increases of \$245 billion and the balance in spending cuts. To date, the largest spending cut is a \$48 billion COLA freeze in payments to doctors and hospitals for services.

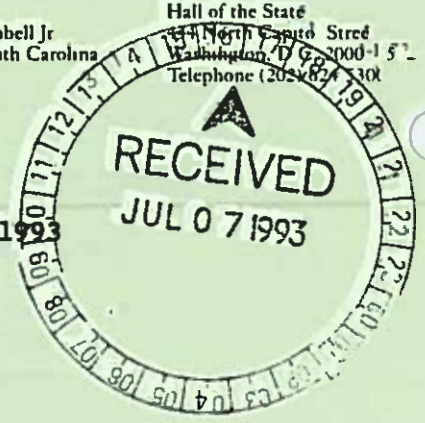
House committees, including the Ways and Means tax committee, must report by May 14 on all of the fiscal 1994 changes, which will then be packaged by the House Budget Committee and sent to the floor for a vote before the May 28 recess. This package would enact most of the President's fiscal 1994 budget and is expected to pass.

The Senate committees must report by June 18 under a similar fast track process, with a target for floor action before the August recess. This process is complicated by tight voting in the Senate Finance Committee, where disagreement exists over specific tax changes and the level of spending cuts vs. taxes.

The most significant impact on states will be savings directed at Medicaid, now being considered before the House Energy and Commerce Committee, and final spending levels for the highway obligation ceiling and the clean water state revolving loan fund program. Because the President's budget is over the congressional target for transportation by \$2 billion and below 1993 funding for clean water by \$700 million, states stand to lose \$2.7 billion in these vital infrastructure programs this year alone. If this were to happen, it would gut the President's infrastructure initiatives as called for by the Governors.

Note: See the chart at the back of this document for a comparison of current funding levels vs. the President's fiscal 1994 proposals for all major state and local assistance programs.

Contact: Jim Martin, 202/624-5315



July 2, 1993

TO ALL GOVERNORS:

House and Senate conferees on the fiscal 1994 budget resolution will begin reconciling their differences after their July 3-12 recess. Next week, congressional staff will begin to clarify areas of disagreement and options for compromise.

State input during House and Senate debates already has resulted in significant changes that benefit states. These include:

- no entitlement caps with automatic sequesters;
- return of the existing 2.5 cents of the federal gas tax, which is now used for deficit reduction, to the highway trust fund on October 1, 1995;
- Medicaid changes that repeal the mandate for personal care services, delete the requirement for prior authorization to provide new drugs, allow easier collection of third-party payments, and place limitations on physician referrals;
- partial extension of tax-exempt bonds and credits for housing, industrial development, education, jobs, and research; and
- real deficit reduction through a five-year freeze on discretionary spending at fiscal 1993 levels, a requirement that any new entitlement or tax cut be deficit neutral, and a requirement that the House formally vote on entitlement spending that is in excess of projections for the next five years.

Major state issues in conference include:

- Dedication of any new 4.3-cent gas tax to the trust fund. The Senate bill increases all transportation fuels, except jet fuel, by 4.3 cents a gallon and exempts state and local governments. By a vote of 66-32, the Senate voted to dedicate the gas tax portion to the highway trust fund. The House bill creates a Btu tax, which includes an estimated gasoline tax of 7.5 cents a gallon and which does not exempt state or local government or dedicate any of the gas tax funds to the trust fund.

Governors have always strongly supported the exemption of state governments from federal taxes and dedication of gas tax receipts to the highway trust fund.

Even though these funds would be dedicated to the trust fund, they would still be used for deficit reduction until the funds are obligated and appropriated. Since the spend-out is slow, most of the funds would contribute to deficit reduction in the first five years.

Action Needed. Governors must convince their delegations, and ultimately all conferees, that dedication of any gas tax receipts to the Highway Trust Fund and transit programs has served the nation well and is critical to future infrastructure investments.

- Entitlement Controls. Currently, there are no entitlement caps in either the House or Senate bill; however, the House bill has entitlement "controls." These controls consist of a target for total entitlement spending for each of the next four years, beginning with the fiscal 1994 budget resolution baseline, which includes projections to maintain current services and add new participants. If total entitlement spending levels as projected in the budget resolution are exceeded, the President must propose action in his next budget and Congress must vote on a bill that deals with the excess entitlement spending. The House bill has a very limited 2.7 percent inflation adjustment above the current service baseline.

Action Needed. If the House language is adopted, it should be improved so that the actual Consumer Price Index inflation adjustment be used for future projections.

- Medicaid. The program is affected in more than ten significant ways by each bill. Most changes are positive from the state viewpoint; however, they must be reconciled for the final conference report. Changes generally supported by NGA policy include Senate provisions that:

- give states the option to establish drug formularies (list of eligible drugs) and the calculation of drug rebate formulas;
- give states more authority to recover assets that were transferred illegally from individuals qualifying for Medicaid services; and
- postpone the effective date of the new limits on disproportionate share payments to public hospitals to state fiscal year 1996 (the House uses fiscal 1995).

Recent NGA policy supports a House provision for emergency Medicaid assistance to undocumented aliens for those states most affected. States oppose House provisions mandating a maintenance of effort for fraud and abuse units. Restrictions on state programs that encourage the purchase of long-term care insurance should be dropped from the House bill.

- Access to Childhood Immunizations. The House language establishes a new mandated entitlement to immunize children beyond the Medicaid program. The Senate chose not to establish a mandate, but a mechanism by which states may purchase vaccines at a reduced rate as part of Medicaid. In the House bill, states are mandated to create a registry and outreach program, as well as to ensure that Medicaid payment rates for immunization are adequate to enlist providers. These differences are expected to result in major revisions to both proposals in conference.
- Delay of the two-parent work requirement. The Family Support Act of 1988 requires states to enroll at least 40 percent of two-parent families in work activities in fiscal 1994, rising to 75 percent by fiscal 1997. Many states are unlikely to meet this target and may face significant sanctions. States facing this situation will likely prefer the House

bill, which delays this requirement by one year while states participate in the Administration's comprehensive welfare reform efforts. NGA policy supports a reciprocal obligation toward work by recipients; however, current economic conditions, which have resulted in unusually high two-parent welfare caseloads, provide a strong argument for a delay.

- Extension of tax-exempt bond and credit programs for housing, small issue development bonds, jobs, education, and research credits. NGA policy supports the House provisions that make these permanent, rather than the 24-month Senate extension from July 1, 1992, to July 1, 1994. The only reason for short-term extensions is the appearance of saving money. These programs are expected to be renewed next year as in past years.
- Food Stamps Quality Control. The provisions in the House bill change the method of calculating a state's penalty rate, thereby making penalties more reasonable, as called for in NGA policy. However, states are seeking additional reforms, such as addressing the statistical flaws in the system and authorizing an administrative law judge to consider good-cause criteria.
- New fees for state Supplemental Security Income (SSI) Programs. States support a one-year delay in implementing the new federal per person monthly fee for the administration of state programs that supplement the SSI program. This delay is provided for in the Senate bill.

Other conference issues that will affect states include:

- The level of increase for the earned income tax credit. The House has \$28 billion and the Senate has \$17 billion.
- The creation of empowerment and enterprise zones for inner cities and rural areas, found in the House bill.
- State penalty fees of \$300 million over five years based on the number of institutions with student loan defaults in excess of 20 percent. This is included in both bills. The Senate version requires states to pass these fees directly to institutions. The House bill makes the pass-through optional.

The major issues in the budget conference will center on the gas tax versus the Btu tax, or a new formulation of both; the level of cuts in Medicare, with the House at \$50 billion and the Senate at \$58 billion; the level of tax credits for small business investments; and the overall mix of spending cuts versus tax increases. Although these issues will dominate conference politics, the state issues will be positively addressed only if a majority of Governors register their views to their delegations and to the conferees. The individual and collective bipartisan action of the Governors carries significant weight when exercised.

Sincerely,


Raymond C. Scheppach
Executive Director

BBMR Comments of Administrative Cost Cap

As stated in our supplementary comments, any shift in federal funding to local funding, will have an adverse impact as the General Fund revenues are expected to be below FY 1994 expenditure requirements. As such, the 4% reduction has been imposed by the Governor in order to avert a fiscal crisis. If local matching ratios for administrative costs for medicaid, Aid to Families with Dependent Children, Food Stamps, and Supplemental Security Income program, are increased as proposed in the President's plan, such increases will further exacerbate the existing precarious financial posture of the General Fund.

BBMR recommends opposition to this proposal.

ADMINISTRATIVE COST CAP

Any proposal to reduce the administrative cost cap should be discouraged since this would only mean additional financial burden to the states. However, this proposal will not have a negative impact on Guam since we have a more serious problem of having an imposed cap on the total funding of \$3.8 million. In client benefits alone, which should be a 75%/25% federal to local match, Guam inversely matches it at 67% to 33% local to federal match.

Reconciliation
MEDICAID

June 14, 1993

The Honorable George J. Mitchell
Majority Leader
United States Senate
The Capitol, Room S-221
Washington, D.C. 20510

Dear Senator Mitchell:

The Governors are committed to a long-term strategy for significant deficit reduction done in concert with state and local governments. However, we are opposed to unilateral procedural actions that shift costs but fail to solve the underlying problems.

As the Senate Finance Committee begins work on its reconciliation bill, the nation's Governors oppose an entitlement cap on Medicaid that includes unrealistic future adjustments and an automatic sequester. Such actions would only shift federally mandated costs to state and local governments. States simply cannot absorb the additional costs and would be required to make cuts in other state programs such as education, training, and infrastructure, which are so critical to long-run economic growth.

With respect to the House provision to impose additional restrictions on disproportionate share payments, we urge you at a minimum to delay the effective date until each state's 1996 fiscal year. This would give states some ability to make changes over time without the severe disruption to their programs that would otherwise result. We also oppose any additional cuts in the Medicaid Disproportionate Share Hospital program until a fair resolution of the overall controversies around this program can be achieved — possibly one linked to enactment of more comprehensive health care reform.

In addition, we ask that you not make any additional reductions in the enhanced matching rates for administration of certain aspects of the Medicaid, AFDC, and Food Stamp programs. Such actions will result in a loss of health care for low-income individuals and will greatly reduce states' abilities to effectively administer programs that are known to be run extremely efficiently. These are the funds now used for state cost control procedures. Also, we oppose any provision that would assess a fee on states for the administration of SSI Supplementation programs.

The Honorable George J. Mitchell
June 14, 1993
Page Two

Legislating artificial caps or substantial reductions in health care programs for the poor is particularly inappropriate without looking more comprehensively at the nation's health care problems. Such actions should only be considered as part of a broader health care reform package and in the context of greater program flexibility for states.


We encourage you to include provisions that give states the option to establish meaningful Medicaid prescription drug formulary programs. In addition, we support provisions that limit individuals from transferring assets inappropriately to qualify for Medicaid services.

We look forward to working with you as you craft the remaining portions of your deficit reduction package.

Sincerely,



Governor Roy Romer
Chairman



Governor Carroll A. Campbell Jr.
Vice Chairman

April 30, 1993

**ADMINISTRATIVE
COST CAP**

The Honorable Dan Rostenkowski
Chairman
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515-6348

Dear Mr. Chairman:

We appreciate the efforts of the President and Congress to reduce the deficit, and pledge our commitment and support in achieving this goal. However, we are concerned about the President's recent proposal to cap the federal reimbursement rate at 50 percent for all administrative costs associated with the Medicaid, Food Stamps, Aid to Families with Dependent Children (AFDC) programs, and the Supplemental Security Income (SSI) program. This proposal represents a cost shift to states at a time when they are least able to afford it. The Medicaid cap is expected to cost states some \$2.2 billion over the next 5 years; and AFDC and the Food Stamps programs will cost states \$20 million each in FY 1994 under this proposal. It will hinder severely state efforts to effectively administer their programs; retard state efforts to investigate fraud, waste and abuse; and likely will result in offsetting cuts in other program areas.

The proposal has the potential to undermine the ability of states to carry out other mandated activities pursuant to these federal entitlement programs. For example, most states have invested in a Medicaid data processing system that tracks data on beneficiaries and providers in claims processings. The Medicaid Management Information Systems (MMIS) was established to ensure that data systems among states had sufficient uniformity and administrative sophistication to meet the growing data and financial needs of both the federal and state governments. States entered into multiyear contracts with vendors to develop and operate their computer systems. Reducing federal funds at this point could have a serious and costly impact on states trying to honor those contracts.

The Food Stamps and AFDC programs also require data processing activities that improve program efficiency and control fraud. These efforts will suffer immensely from the capping proposal. The proposal could setback state efforts to curtail fraud just when many states are making great strides in this program area.

April 30, 1993


Page Two

In order to maintain the integrity of these programs, states will be forced to offset the proposed federal cuts, and at the same time produce a balanced budget. This is no easy task in these economic times.

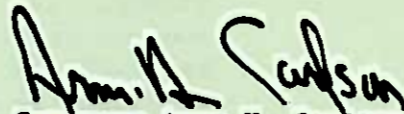
For the twenty four states which currently utilize the federal government's joint administration of the supplemental security program (SSP) and supplementary security income (SSI), the President's suggested administrative fee will compound further the financial burden being shifted to state governments as a result of the capping proposal. The administrative fee will cost the states \$57 million in FY 1994, and could increase to over \$200 million per year when fully implemented in 1998. In 1974, the federal government encouraged the integration of state supplements and the federal SSI program by agreeing to provide the administrative services for the integrated programs free of charge.

We strongly urge you to retain the current special match rates and not implement a fee for the federal administration of state supplements to SSI.

Sincerely,



Governor James Florio
Chairman
Committee on Human Resources



Governor Arne H. Carlson
Vice Chairman
Committee on Human Resources



GHURA

Guam Housing and Urban Renewal Authority
 P.O. Box CS Agana, Guam 96910
 (671) 477-9851 to 4 • Fax: (671) 477-4184

Josepli F. Ada
 Governor

Frank F. Blas
 Lieutenant Governor

Pilar A. Cruz
 Executive Director

Ricardo A. Calvo
 Deputy Director

JUL 20 1993

Board of Commissioners

MEMORANDUM:

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 Member

TO: The Governor

VIA: Acting Director, Bureau of Planning (BoP)

FROM: Executive Director

SUBJECT: Briefing Paper for 1993 National Governor's Association Meeting, August 15 - 17, 1993 in Oklahoma

The following is a briefing and our comments relative to issues and concerns on Housing proposed for discussion at the upcoming National Governor's Association Annual Meeting.

1. General

The Authority agrees that a national partnership which encourages a closer cooperation among the federal state and local governments is important if the goal for increased supply of affordable housing is to be effectively achieved.

2. HOME Investment Partnerships Program

Guam is participating this year for the first time in the HOME program. A special allocation of 1.2 million has been approved as a result of Typhoon Russ. This funding, however, is a one-time funding level, and is intended for use for providing housing as a relief for the disaster. Under the regular



The Governor

Re: Briefing Paper for 1993
National Governor's Association Meeting,
August 15 - 17, 1993 in Oklahoma

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HOME program allocation, Guam will only receive \$817,000 this first year. The Authority's application for this funding is for acquisition of an existing four-plex rental unit.

The insular areas, which includes Guam, are allocated as a whole merely 1% of the total HOME funds appropriated by Congress. We wish to urge that a funding base of \$2.2 billion be authorized for all HOME monies in Fiscal Year 1994 and the funding level for insular areas be increased and that insular areas are authorized greater flexibility in the use of HOME monies.

3. Mortgage Revenue Bonds and the Low-Income Housing Tax Credit

We support the permanent extension of the above programs on the federal level and urge that the Governor establish a (Guam) local mechanism for the use of the low-income housing tax credit.

4. Fair Housing

We have no problems meeting the strategy requirements of most Fair Housing legislations and regulations.

5. Homeownership and HOPE Program

While federally owned properties on Guam is rather limited within the Territory, there are many federally owned properties nationwide. We perhaps should consider applying for some of the federal properties in California and other places to use for government offices such as for medical referral offices, as transition homes for displaced and homeless adults and youths, to use as training and counseling sites, as "homestead" homes for low-income Guam citizens wishing to move to the mainland or in search of jobs or seeking special training or education.



The Governor

**Re: Briefing Paper for 1993
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6. Comprehensive Housing Affordability Strategy

We wish to urge that the National Governor's Conference advise Congress to insure that the Comprehensive Housing Affordability Strategy (CHAS) regulations after the first two (2) years is modified to insure that the HUD imposed data requirements needed in preparing CHAS documents does not become overly expensive for public housing authorities to collect and analyze.

7. Regulatory Barriers to Affordable Housing

We also recognize that barriers such as these listed below impede the low income from homeownership and urge the Governor's support in reducing barriers nationwide and locally on Guam:

- (a) High property costs - Real household incomes especially renters and low-income families have fallen. Property costs increased more than 24% in real terms.
- (b) Most private lenders and institution require a downpayment of 10 - 20 percent. Even when Farmers Home Administration (FHA) insurance is available to reduce the downpayment to 5%, and as low as 1%, many low-income purchasers in high priced markets cannot afford the initial downpayment requirement.
- (c) Insufficient funds for closing costs - Charges for closing costs can go up to \$5,000 or more for lender original fees, title reports, insurance, appraisals, processing and legal fees.
- (d) Long-Term Affordability of a Home - Principal, interest, taxes and insurance payments required on a monthly basis are often high compared with the available income for a low-income household. Private lending institutions have not provided mortgage financing to home purchases where the monthly housing costs exceed 28% of the monthly gross income.



The Governor

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- (e) **Existing Debt of Prospective Purchasers are High - Many low-income families have high existing debt which effectively prevents them from obtaining private financing.**
- (f) **Access to Mortgage Money - In many communities, low-income people are locked out of many lending institutions because these households have insufficient credit or a blemished credit record.**
- (g) **Need for Property Repairs - Homes most available to low-income families tend to be located in neighborhoods where properties are poorly maintained and require a lot of maintenance. Thus low-income families normally have to do repair work on purchased properties.**
- (h) **Lack of Credit - Many low-income families have no credit history to speak of because they pay in cash.**
- (i) **Poor Credit - Many low-income families have a blemished credit history.**

We also suggest the concept of providing states and territories a lump sum grant with flexible regulations to enable states to address their mutual housing problems might be a better way of meeting the respective needs of states and insular areas with respect to housing.


PILAR A. CRUZ

HOUSING

NGA Objectives

- Retain a minimum of \$1.5 billion in fiscal 1994 funding.
- Develop program regulations that permit states the flexibility needed to operate an effective housing partnership with the federal government and local governments.
- Permanent extension of the low-income housing tax credit and mortgage revenue bond program.

The Senate Housing Subcommittee has held hearings on HOME, but no legislative vehicle is presently available for programmatic changes. Reconciliation may provide an opportunity, but the temptation will be to reduce funding, since the utilization of HOME funds is so low.

The Senate Appropriations Subcommittee on HUD is holding hearings next week on housing programs, including HOME.

The low-income housing tax credit and mortgage revenue bonds are covered in the section on tax-exempt financing.

The Housing and Community Development Act of 1992 made a number of important amendments to the HOME program. States can use HOME funds to support operating expenses of community housing development organizations; the per unit subsidy is increased in high cost areas; new construction restrictions are eliminated; the rental production set-aside is eliminated; tenant-based rental assistance no longer must be tied to public housing waiting lists; HOME funds can be used for administrative purposes (10 percent limit); rent pricing requirements are simplified; homeownership resale provisions are clarified; matching rates are lowered and not restricted to state funds in HOME funded projects; some bond proceeds now count as match; and match reductions are permitted for fiscal distress (specifics on state reductions are not yet available).

HOME is reauthorized for two years and authorized at \$2.1 billion in fiscal 1993 and \$2.2 billion in fiscal 1994. Changes were made in the comprehensive housing affordability strategies (CHAS), but the changes only made the effort more difficult. Since HUD had waived the CHAS regulations for states in the first two program years, states face significant problems in developing their next CHAS. HOME is funded at \$1.0 billion for fiscal 1993 and the President has proposed \$1.06 billion for fiscal 1994.

Contact: Tim Masanz, 202/624-5311



INDIAN GAMING

June 30, 1993

The Honorable Daniel Inouye
Chairman, Committee
on Indian Affairs
United States Senate
Washington, D.C. 20510

The Honorable John McCain
Vice Chair, Committee
on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Inouye and Senator McCain:

We appreciate your continuing efforts to work with interested parties to resolve important issues that have arisen in connection with the implementation of the Indian Gaming Regulatory Act of 1988 (IGRA). We were glad to have had the opportunity to meet with you and tribal government representatives in Tucson and were especially pleased with your intent to have a bill in place for Senate consideration before the August recess. We look forward to working with you and the tribal governments towards the successful completion of this process.

In preparation for the meeting on Friday, we wanted to review with you the Governors' fundamental concerns on implementation of IGRA. We regret that, due to the legislative schedules in several of our states, not all members of our working group are able to attend this meeting. We do, however, want to reiterate our support for reaching an early and satisfactory resolution of our concerns and are especially hopeful that there will be adequate opportunity on Friday to address the following issues.

Scope of gaming. Governors want clarification in the law that the types of games that are permissible are those expressly authorized by state law. Governors believe the statute should make clear that tribes can operate gaming of the same types and subject to the same restrictions that apply to all other gaming in each state. Also, we think the statute should address the distinction we perceive between charitable and commercial gaming.

It is particularly important to clarify the scope of gaming activities, so that states are not obligated to negotiate for games that are not expressly authorized by state law. Further, it is the view of the Governors that this principle should be the basis for resolving other issues such as: the effect of a state's charitable or social gaming laws on tribal gaming; whether tribes should be subject to the same limitations applied to non-Indian gaming; and the range of issues subject to negotiation in the compact process.

Senator Inouye and Senator McCain
June 30, 1993
Page two

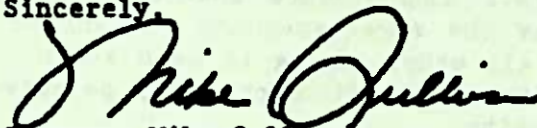
Good faith and an end to protracted litigation. Currently under IGRA, only the states are required to negotiate in good faith. Some states have been taken to court by tribes asserting that the simple failure to reach a compact agreement constitutes bad faith on the part of the state. IGRA should reflect not only that both sides must negotiate in good faith if a reasonable and effective compact is to be reached, but that states cannot be found in bad faith for negotiating within the boundaries of state law. IGRA also should provide mechanisms to resolve disputes, outside of court, in the event the initial compact negotiations fail.

Tribal acquisition of non-trust lands. Under the Bush administration, an Interior Department solicitor opined that tribal acquisition of non-trust lands for the purpose of conducting gaming activities requires the approval of the Governor in the state where the land is acquired. We accept this interpretation, however, judicial and administrative cases continue the controversy. Perhaps the timing of the Governor's concurrence, and the process through which a Governor concurs or declines to concur, should be clarified.

Other more technical issues have been raised, but we would request that you focus on these three main issues as being of the highest concern to the states. Also note that we see the resolution of the scope of gaming and good faith negotiation to be closely linked and believe they should not be considered independently.

Governors support the efforts of tribal governments within their states to pursue economic development opportunities. Governors have strong concerns about the role that gaming should play in those economic development strategies, and, indeed, in the overall culture of the state, and we want to work with you to improve the implementation of the act. We all have an interest in resolving this matter as quickly as possible, because continued conflict is unproductive for both states and tribes.

Sincerely,



Governor Mike Sullivan
Chairman
Working Group on Indian Gaming

c: Patricia Zell
Dan Lewis
Eric Eberhard

NATIONAL
SERVICE

May 7, 1993

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

On behalf of the National Governors' Association, we write to express our support for the National Service Trust Act. This initiative embodies one of our most valued American traditions — working together to help one another — and we applaud your efforts to work with the states to provide a variety of meaningful service opportunities that reflect the needs of our communities, the states, and the nation.

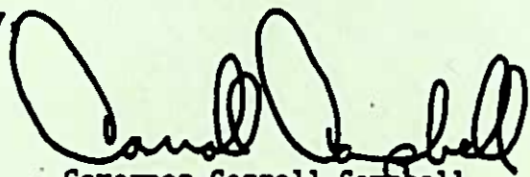
We support the strong state and federal partnership for providing service opportunities proposed in the bill. The bill is structured to permit states to supplement existing service activities, while also encouraging the development of innovative service activities through a competitive grant program. The proposal draws on current gubernatorial leadership that is promoting state service projects by asking the Governors to appoint the proposed state commissions on national service. We also are pleased by the involvement of state agency heads in the work of the commission to ensure that programs funded by the commissions complement and support existing state activities. In addition, for those states that have proven to be the real leaders in service activities, the bill recognizes existing state structures and provides flexibility and time for a transition to the new system.

At the federal level, we are pleased with the planned involvement of state service experts in the work of the proposed federal Corporation for National Service and with the opportunity to coordinate programs funded by the corporation with the appropriate state commissions.

We commend the Office of National Service for their cooperation in developing legislation that draws on the leadership of the states to support a national service initiative and we look forward to working with you toward the enactment of this important legislation.

Sincerely


Governor Roy Romer


Governor Carroll Campbell



TASK FORCE ON HEALTH CARE

**NATIONAL GOVERNORS' ASSOCIATION
85TH ANNUAL MEETING**



TASK FORCE ON HEALTH CARE

TAB 4

- **Summary of Issues and Briefing Papers** **G**
- **Health Care Reform Proposals:**
 - * **Health Insurance Purchasing Cooperatives (HIPC)** **H**
 - * **Interim Cost Containment** **I**
 - * **Medicaid FY 1994 Changes** **J**
 - * **Medicaid Waiver Authority** **K**
 - * **Medicaid Donation and Tax Regulations** **L**

TASK FORCE ON HEALTH CARE



SUMMARY

Legislative Issues and Briefing Papers

ISSUE:

- *Health Care Reform Proposals*

Beginning with a national meeting on health care costs, NGA has been playing an active role in the development of a proposal for national health care reform. NGA's initial cooperative efforts with state and local officials, and with business leaders were instrumental in identifying areas of consensus. Since then, Governors have been intimately involved with the President's Health Care Task Force and the various working groups created by the Task Force. There were several meetings between the Governors and Task Force officials, and a number of issue papers, surveys, and other activities were designed to provide gubernatorial input.

NGA is working toward securing enactment of federal legislation to facilitate state innovation in service delivery and cost containment in the Medicaid program and increasing the capacity of the states to influence the direction of national health care reform and to begin the implementation of reform opportunities at the state level. Publications describing state health care initiatives and reviewing the waiver process were developed to assist states in state-level reform. Although NGA was unsuccessful in efforts to enact legislation containing broad waiver authority during the 102nd Congress, work to increase flexibility continues. At President Clinton's direction, the Health Care Financing Administration (HCFA) has been working with the states to develop a simplified waiver process and to explore the need for legislative changes. Negotiations pertaining to revisions in the final regulations regarding provider taxes and the disproportionate share program have been reopened. NGA will continue to work with the President's Health Care Task Force and once the Task Force has submitted its recommendations, NGA expects to consider interim and final policy, setting forth the Governors' positions on those recommendations.

The Clinton Administration's health care reform proposals include the following critical issues:

H. Health Insurance Purchasing Cooperatives (HIPC):
The State Versus the Federal Role

One of the early decisions that the President's Health Care Task Force must make is the respective role of states and the federal government in administering a reformed health care system, and the structure of the health insurance purchasing cooperatives (HIPC) is one of the most critical. The purpose of the HIPC is to bring together small businesses and individuals in a state so that they have greater market power in negotiating with networks of physicians, clinics, and hospitals that come together as an accountable health plan (AHP). HIPC might also include state employees and the acute care portion of Medicaid or a new program for low-income individuals. The ability of the HIPC to negotiate cost-effective benefit plans with a number of AHP is an essential component of managed competition.

In order to give guidance to the President's Health Care Task Force, NGA drafted a policy paper which outlines a state perspective on HIPC structure and governance. The Governors are also requested to provide their views and comment.

NGA believes that HIPC should be created at the state level giving states significant flexibility in designing the structure, operation, and accountability of the cooperatives. The health care markets exhibit significant regional and local variation, and states must be given the administrative tools necessary to contain costs, and management of the HIPC is one tool. Since our nation has no experience with purchasing cooperatives that cover more than a small portion of the purchasing market, states must be allowed to experiment with different ways of organizing the cooperatives. Assuming also that large employers choose to operate within the pool or their own ERISA plan, concerns are raised about risk selection and cross subsidies. With variation in the market, states must be allowed to experiment ways to make the systems work. Health care experts disagree about many key features of cooperative design, the federal government should allow for different, coherent proposals to develop in different states rather than develop a compromise.

It is important for the federal government to develop an overall framework and national standards for HIPC. Some of these standards are: to require each state to create at least one HIPC by specific date but if state fails, the federal government could contract with an entity in the state until such time that the state ultimately creates the HIPC; define a minimum set of functions for the HIPC; with an employer mandate, to require small businesses with up to 100 employees and the self employed enroll in the HIPC; require all state government employees to enroll in the HIPC; require states to have a fiduciary responsibility to employers and enrollees who participate through HIPC or in other ways; and define insurance guidelines for risk adjustment and underwriting used by the HIPC.

BRIEFING PAPER:

- *Department of Public Health & Social Services*

The Department supports approval of the policy statement on HIPC as written. On provision that the federal government should provide for a waiver process for states (including territories) wishing to pursue national goals through health care reforms outside of managed competition, and allowing individual state to opt out if the budget or regulatory burdens are too onerous, Guam would have the freedom to choose to participate. Flexibility of design for HIPC would allow states and territories to provide for unique political, geographical, and cultural situations. The possibility of including Medicaid in the HIPC program may also allow Guam to be relieved of the burden the cap on Medicaid coverage has placed.

Guam is also taking the following positions on points raised in the policy statement:

- States should have the option to decide whether to include Medicaid or a program for low-income individuals in HIPC;
- States should have the option to include state and local government employees in HIPC;
- The State should have the option to decide the firm size (for mandatory inclusion in HIPC) without a federal minimum;
- The reasonable number of months to pass legislation to create HIPC is: 18 months; and
- The reasonable number of months to have a fully

operational HIPC that has enrolled a significant percentage of the market and is negotiating contracts with AHP is: 24 months.

● *Guam Health Planning and Development Agency*

According to the Agency, since Guam is a territory of the United States, its people deserve a guaranteed quality health care at an affordable cost. The agency supports the policy on HIPC for to contain health care costs, Guam's health insurance should be under the control of HIPC which should set up standards on health services offered. The agency recommends provision that if an employee is unable to work due to a terminal illness and is incapable of paying health insurance premiums, that said employee should continue to have insurance coverage to be subsidized by federal programs during the duration of his illness.

I. Interim Cost Containment

The Health Care Task Force is considering a number of options for controlling health care costs during the next two to three years prior to full implementation of managed competition. The Task Force views that short-term cost controls may be necessary to: minimize the potential for health care providers to raise prices in anticipation of longer term controls or competitions; hold cost increases below projected levels and recapture or redirect some of the "savings" to fund subsidies for the currently uninsured when universal access is implemented; and further reduce the federal deficit.

NGA believes, however, that while there may be some good arguments for short-run controls, no approach is very satisfactory because it is very difficult to apply controls in a fair and equitable way. States would categorically oppose any attempt to control federal costs in the short-run by capping the federal contribution to Medicaid and states might just be able to support a short-term price freeze on all medical care prices while the newly restructured health care system is implemented and organized. NGA has no current policy on short-run price controls but raised the following policy points important to states, for the Governors to consider:

- States would rather focus on long-run implementation of the new program than on short-run cost control. The Governors believe that interim cost containment is an issue between the federal government and providers.
- States that have their own well-developed ratesetting systems or those that may want to accelerate the implementation of global budgeting should be allowed to "opt-out" if they want to implement an alternative approach as long as they meet the general goals of the national cost control strategy.
- Even with a short-run control strategy implemented nationally, states should be given the option to request for early removal of controls as long as they meet some objective criteria. Such an approach may provide an incentive to accelerate the formation of accountable health plans.
- Cost control measures should be implemented resulting in a systemwide control and not in shifting costs from one payor to another to avoid the risk of shifting cost to Medicaid. At the same time, states must also be able to implement managed care systems for Medicaid beneficiaries.
- Controls should be adjusted to favor primary care physicians and special exemptions available for rural and inner city providers.
- Governors would like a rapid and smooth transition from interim cost controls to full-fledged managed competition without a wholesale disruption of their health care system.

BRIEFING PAPER:

- *Department of Public Health & Social Services*

According to the Department, the position that NGA takes is

that, the states do not want to be accountable for interim cost containment while they are building capacity for managed competition. A policy point is raised though, similar to that stated in the HIPC policy statement which the department supports. It proposes a state opt-out for states wanting to implement an alternative approach, and an early removal of controls once some objective criteria are met.

One policy point important to the department is the implementation of cost control measures. NGA stresses that these measures must be implemented in such a way that results in system-wide control and not in shifting of costs from one payor to another. Guam is already working under managed care/cost control, and the local government absorbs the costs that exceed the funding cap set for Medicaid. Guam supports this policy point with suggestion that in addition to cost control measures, the government deals with the inequity of treatment between states and territories with respect to Medicaid funding.

- *Guam Health Planning and Development Agency*

The agency believes that as short-term health care cost containment is "central" in the U.S., Guam should be placed "central" in the priority of this issue. The agency states that in Guam, the welfare, wellness, and worth of the people are dependent upon the control of health "harassment" factors on the health providers and government, education, economy, insurance, recreation, federal, and lifestyles. The following health "harassment" control factors would address Guam's needs in the short-term health care cost containment: establish an inter-island health policy; establish a medical ethics committee; control medical fragmentation; control wide variation of physician practices; standardized insurance charges on health providers; develop and promote quality health program services - control federal demands on Guam's health projects, that is Guam must be involved in the national budget and program planning; promote personal responsibility to wellness; and continue to do comprehensive health research on health status, program and manpower needs, and program efficiency and effectiveness.

J. Medicaid FY 1994 Changes

The House Subcommittee on Health and the Environment has approved Medicaid legislation to be included in the 1994 Omnibus Budget Reconciliation Act. NGA supports the provision that would change personal care services from a mandate to a state option under Medicaid. Furthermore, NGA also

supports the provision to establish limitations on the ability of wealthy individuals to transfer assets to become eligible for Medicaid. However, NGA opposes the provision of significant limitation on state Disproportionate Share Hospital (DSH) programs with an emphasis on limiting state and county public hospitals. The Subcommittee chose not to reduce enhanced Medicaid administrative match as proposed by the President, and NGA also opposes this elimination of enhanced administrative match. NGA is willing to support the provision that will establish federal parameters for health maintenance organizations that contract with Medicaid programs, and the one that will give states the option to establish prescription drug formularies, if amendments will be made to make it more flexible for states.

The Health Care Task Force is restructuring the health care services for low-income people that would make some major changes to the current Medicaid program. Current Medicaid recipients of acute care services would be folded into the HIPC, while Medicaid long-term care would be left unchanged as the acute care system gets implemented.

NGA policy has divided the current Medicaid program into the following separate programs:

The Institutional Long-Term Care - NGA feels that on the long-run, this should be federalized, either becoming a social insurance program or by accelerating the development of private long-term insurance. However, meanwhile, the program should maintain its entitlement nature and continue as a federal/state program with current matching rates. Target populations include: the elderly, persons with physical disabilities, and persons with developmental disabilities.

Home and Community Based Long-Term Care - Currently, individuals can get this kind of care under Medicaid in two ways. They may receive personal care services if the state chooses to offer this optional service which is an entitlement available to Medicaid enrollees who has the need or through special waivers which states can limit the population who receives the package of home and community

based waiver services. NGA feels that on the long-run, this program should be federalized using either the social insurance approach or private long-term care insurance. In the short-run term, states should be given more flexibility to offer the services in the Medicaid.

Acute Care - NGA asserts that Medicaid population receiving acute care should be folded into care purchased through HIPC as quickly as possible and once with HIPC and upon losing their Medicaid identity, they become part of the overall low-income population eligible for subsidized health care. Although there would be no supplemental benefits package for the low-income population, the federal and/or state government could identify additional services that might be available to special population, e.g. medical transportation in rural areas or inner cities. There would be no individual entitlement to these services but would be financed through a separate federal grant program indexed to growth in the states' new program for low-income individuals.

Despite significant changes in health care delivery and financing, a period will remain where states must continue to administer their Medicaid programs under current statutes and regulations. During this period, the Governors will continue to pursue flexibility in the program to include waiver simplification, allowing managed care to be part of the regular program rather than a waiver, more flexibility in establishing reimbursement rates, and rollback of some of the mandates imposed on states over the last decade. NGA urges the Governors to express their views on the issue of changes made in the Medicaid program.

BRIEFING PAPER:

- *Department of Public Health & Social Services*

Guam is placed in a unique situation, from a very low-capped federal funding of \$2.5 million to the federal medical assistance percentage (FMAP) computation of 50%/50%. While it is to Guam's advantage because some HCFA mandates remain optional for Guam, it is also a disadvantage because Guam is

already feeling the pinch of a state overmatch and an expensive cost shift through Guam's medically indigent program. Guam should just wait what the final changes should unfold. If the current federal funding and the FMAP continue, Guam should be allowed more flexibility in its administration of the Medicaid Program. Guam should not be forced to implement mandates that will result to unaffordable cost shifting to Guam.

Guam supports NGA positions regarding the FY 1994 Medicaid changes.

K. Medicaid Waiver Authority

A year ago, the State Care Act of 1992 (S. 3180) was introduced in the Senate. The proposed legislation, which was supported by NGA would have given states extended Medicaid and Medicare waiver authority, as well as establish limited waiver authority under the Employee Retirement Income Security Act (ERISA). The legislation also would have established a simplified review and approval process for demonstration applications. However, the legislation was never reported out of committee or voted on by the full Senate.

There were also two serious attempts to pass Medicaid waiver simplification in the Senate this past year. Both were supported by NGA. The Medicaid Coordinated Care Improvement Act of 1992 (S. 3191) would have amended Medicaid statutes so that it would be easier for states to use coordinated care programs and allow states to contain costs and improve access to quality coordinated care services. States would have been able to establish risk based managed care programs and primary care case management programs without having to operate under the administratively complex and burdensome waiver process. The proposed legislation was never reported out of the committee. Another proposed legislation, the Medicare and Medicaid Amendment Act of 1992 (S. 3274) was introduced to include a multitude of changes to both the Medicare and the Medicaid programs. Among the provisions of the Medicaid program were several changes that would have made it easier for states to administer managed care waivers. However, following introduction of the legislation, it was amended to the Urban Aid Package (HR 11) and the Medicaid provisions were removed before final consideration by the full Senate.

Currently, the President is most interested in broader waivers of Medicaid and Medicare programs and has requested that a list be developed describing health reform waiver proposals either currently under consideration by the Department of Health and Human Services or under development in the states.

NGA policy aims at simplifying the Medicaid waiver process so that states will be able to implement cost effective and innovative services delivery systems in Medicaid. NGA's representatives are working with HCFA on streamlining the Medicaid waiver approval process by delineating the specifics of the President's directive to HHS on simplifying the waiver approval procedure. The group discussions focus on simplifying research and demonstration waivers, freedom of choice waivers, and home-and-community-based waivers.

BRIEFING PAPER:

- *Department of Public Health & Social Services*

Guam believes that implementation of simplified waiver applications will be a good incentive for states to be more creative in developing affordable and better alternatives to existing health care delivery system. As the states are experiencing an increasing growth in the aged and the disabled population, it is just logical to expect an increased need for institutional care. DPHSS, however, suggests that states should be able to request for waivers to implement community based long-term care instead of the more expensive institutional type of care. Locally, Guam has only one skilled nursing facility with limited bed capacity, and it does not have federally certified intermediate care facility as an institutional long-term care.

L. Medicaid Donation and Tax Regulations

The Governors had several problems with the provider tax, voluntary contributions, and disproportionate share regulations that were published last November 1992. However, negotiations with the Department of Health and Human Services (HHS) to make changes in those regulations are now complete and NGA is anticipating that states can assume that the agreement will be implemented in new interim final regulations shortly. The agreement gives states

more flexibility to tax providers of health care and more latitude to seek waivers of certain provider tax provisions. State DHS spending that is under the 12% DHS cap will be allowed to grow at the same rate as overall Medicaid program spending. The negotiations were a result of a commitment President Clinton made to Governors early this year.

The proposed changes are contingent upon the approval of the Governors as well as the Secretary of HHS and the Office of Management and Budget. NGA urges the Governors to review carefully the following tentative agreements to their proposals as implications of these interim final regulations may affect a state Medicaid program:

- to allow full growth for low DHS states and delete provisions of the current regulation relating to the national limit;
- In calculating the DHS allotments for FY 1993, to modify the regulations to assure that states with legitimate but partial amendments in 1992 get full-year allotments for 1993;
- For additional flexibility where proposal calls for a change from 75/75 rule to 90/90, the regulation remains as published in November 1992;
- To change the compliance date of the 6% hold harmless test from April 1, 1993 to July 1, 1993;
- To modify the language in the regulation of outstationed eligibility workers--other direct costs, to refer generally to the cost of outreach activities applicable to outstationed eligibility workers and the category of disallowed costs will be revised to eliminate the costs of advertising campaigns that are attributable to outstationed eligibility workers;
- For additional provider classes, a list of services by licensed providers will be added such as: dental, podiatric, chiropractic, optometric/optician,

psychological, therapist, and other services reasonably defined;

- For private grants proposal, the regulation remains as published on November 1992;
- For waiver standards, the waiver of the broad based requirement was revised; some criteria were added to favorable treatment under the waiver standards; and to permit waivers of the uniformity requirement;
- There will be no change to the regulation of the waiver-pooling arrangement, except the addition of the new waiver criterion described in the previous item;
- Confirmation provided to NGA that withholding (tax) rules would be applied prospectively; and
- Waivers will be provided from the uniform and broad based requirements in the case of variations in licensing and certification fees (with limitation) and the waivers should be granted automatically so that states do not have to apply for them.



GOVERNMENT OF GUAM
AGANA, GUAM 96910

MAY 10 1993



Memorandum

To: Director, Bureau of Planning
From: Director, Department of Public Health & Social Services
Subject: Comments on National Governors Association Policy Statement on Health Insurance Purchasing Cooperatives: The State Versus the Federal Role

After reviewing the policy statement of the National Governors Association concerning Health Insurance Purchasing Cooperatives (HIPC), I believe the policy statement, as written, should be approved for the following reasons:

1. The policy statement states that the federal government should provide for a waiver process for states (and presumably Territories) wishing to pursue national goals through health care reforms outside of managed competition, and should allow individual states to opt out if the budget or regulatory burdens are too onerous. This allows Guam to choose to participate, rather than forcing us to.
2. The policy statement supports significant flexibility of design for a Health Insurance Purchasing Cooperative; thus allowing states (Territories) to provide for unique political, geographical, and cultural situations.
3. While a significant proportion of Guam's population have some type of health insurance coverage (nearly 77 percent of the civilian population according to the 1991 Behavioral Risk Factor Survey), the proportion who do not is higher than the nationwide average, and includes those who do not meet the financial qualifications for government-sponsored coverage. This "gap group" must have some access to affordable coverage; a group purchase of insurance resulting in lower purchase and/or premium costs will provide basic coverage to this group. The possibility of inclusion of Medicaid in the HIPC program may allow Guam to be relieved of the burden the cap on Medicaid coverage has placed on us.

I also believe that the DPH&SS should take the following positions on the additional points raised in the policy statement:

1. States should have the option to decide whether to include Medicaid or a program for low-income individuals in HIPCs.
2. States should have the option to include state and local government employees in HIPCs.



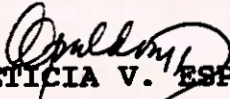
3. The state should have the option to decide the firm size [for mandatory inclusion in HIPC] without a federal minimum.

4. The reasonable number of months it would take to pass legislation to create HPCs is: 18 months.

5. The reasonable number of months to have a fully operational HIPC that has enrolled a significant percentage of the market and is negotiating contracts with Accountable Health Plans (AHPs) is: 24 months.

The positions are in harmony with those expressed in the briefing paper supplied to Governor Ada for the 1993 National Governors' Association Meeting.

Should you have any questions, please contact me.


LETICIA V. ESPALDON, M.D.

CC: Chrono
CPHO

GOVERNMENT OF GUAM
GUAM HEALTH PLANNING AND DEVELOPMENT AGENCY
P.O. BOX 2950
AGANA, GUAM 96910
(671) 646-3918 OR 646-3920
FAX: (671) 646-4432

JUL 25 1993

Memorandum

To: Acting Director, Bureau of Planning

From: Deputy Director

Subject: Request for Briefing Papers: The 1993 National
Governors' Association Annual Meeting; Tulsa, Oklahoma;
15-17, August 1993

The proposed briefing paper is submitted as requested.


ADELIA Z. FERNANDEZ, M.D.

Attachment

Briefing Paper

**The 1993 National Governor's Association Annual Meeting
Tulsa, Oklahoma
August 15-17, 1993**

Guam is a Territory of the United States and its people deserves a guaranteed quality health care at an affordable cost. To meet the standard for quality health care with cost containment, the health insurance on island should be under the control of the Health Insurance Purchasing Cooperatives and should set up standards on health services offered. Additionally, if an employee is unable to work due to critical/terminal illness and is incapable of paying for health insurance premiums, employee should be able to have continued health insurance coverage subsidized by Federal programs during this inevitable situation.

HEALTH INSURANCE PURCHASING COOPERATIVES THE STATE VERSUS THE FEDERAL ROLE

Introduction

In most models, managed competition seeks to create competition between provider groups, while allowing states to manage and regulate delivery systems, within a federal framework that provides guaranteed health care access, coverage, consumer protection, and quality care at affordable costs for all.

In very general terms, Governors envision a managed competition structure that would include a federal or national entity to establish an overall framework, with states responsible for organizing and establishing a system of one or more Health Insurance Purchasing Cooperatives (HIPCs) or pools. At a minimum, HIPCs would purchase insurance coverage for small businesses, the self-employed, and individuals from a number of Accountable Health Plans (AHPs) that would compete on the basis of price, quality, and/or coverage. States would have maximum flexibility in defining the relationships and roles of state governments with HIPCs and AHPs.

In addition, the federal government should provide a streamlined waiver process for states wishing to pursue national goals through health care reform outside of managed competition and should allow individual states to "opt out" if federal budget or regulatory burdens are too onerous or unrealistic.

Health Insurance Purchasing Cooperatives

In managed competition, the Health Insurance Purchasing Cooperative (HIPC) is a major element for both cost containment and access expansion. Using tools such as minimum federal standards for benefits packages and federal requirements limiting risk adjustment, the HIPC provides a vehicle for small businesses, the self-employed, and individuals to consolidate purchasing power and obtain health care at affordable rates.

It is important for the federal government to develop an overall framework and national standards for HIPCs, but the states should be given significant flexibility in designing the structure, operation, and accountability of the cooperatives. Within the broad federal framework, states must be able to design their relationships with the HIPCs under their jurisdiction.

There are many reasons for extensive state flexibility. First, health care markets exhibit significant regional and local variation. Second, this country has no experience with purchasing cooperatives that cover more than a small portion of the purchasing market. These new cooperatives may cover a greater percentage of the market, which means that we must experiment with different ways of organizing the cooperatives. Third, assuming that large employers have a choice to operate within the pool or on their own (ERISA), significant concerns are raised about risk selection and cross subsidies. With such variation in the market, states must be able to experiment with different ways to make these systems work. Fourth, health care experts disagree about many key features of cooperative design. Rather than develop a compromise that may not work, the federal government should allow for different, coherent proposals to develop in different states.

The federal government would:

- Require each state to create at least one HIPC by a certain date. If a state fails to do so, the federal government could contract with an entity in the state until the state ultimately creates the HIPC. States can create additional HIPCs and they may want to allow competing HIPCs to be created.
- Define a minimum set of functions for the HIPCs.
 - The HIPCs will consolidate purchasing power in the health care market.
 - The HIPCs will enroll members, negotiate contracts with accountable health plans (AHPs), monitor contracts, and resolve consumer complaints.
 - The HIPCs will collect outcome, costs, and consumer satisfaction information on AHPs and make it available to employers and consumers.
- If there is an employer mandate, the federal government would require that all small businesses, e.g., up to 100 employees and the self-employed, enroll in the HIPCs.
- Require that all state government employees enroll in the HIPCs.
- Require states to have a fiduciary responsibility to employers and enrollees who participate through HIPCs or in other ways.
- Define insurance guidelines for risk adjustment and underwriting used by the HIPC.

It would be up to each state to determine:

- Whether the HIPC would be a quasigovernment agency, an entity of state government, or private. Also, the state would be able to specify the governance of the HIPC, i.e., whether it is administered by a board appointed by the government or by the members.
- How many HIPCs would be created in each state and the geographical jurisdiction of each. The state also may allow for private HIPCs. The federal legislation should allow for multistate compacts for HIPCs in areas that cross state borders.
- Which additional populations should be required to enroll in a HIPC. For example, it would be up to the state to require or allow the following groups to join voluntarily: a) medium-sized firms, e.g., 100-500 employees; b) large employers above 500; c) Medicaid acute care recipients or a new program for low-income individuals; d) local government employers; and e) Medicare recipients.
- Which incentives, mandates, and regulations would be required to assure coverage and cost containment, particularly in inner city and rural areas.

- How accountable health plans would be certified as meeting the federal guidelines regarding benefit packages and other standards.
- The number and type of accountable health plans to be offered.
- The extent of health planning responsibilities to be vested in a HIPC.

Currently, state governments have a major regulatory and administrative role in health care in their respective states. Many of these functions will continue after health care reform is enacted. However, there also will be a number of additional governmental functions that will be necessary to successfully implement health care reform. Determining which general governance responsibilities should be in the HIPC and which should be in other state government agencies should be left to states.



DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES

GOVERNMENT OF GUAM
P. O. BOX 2816
AGANA, GUAM 96910



APR 14 1993

LCU

Memorandum

To: Director, Bureau of Planning

From: Director, Department of Public Health and Social Services

Subject: Comments on Policy Statement: Interim (Health Care) Cost Containment

Attached please find our response to your request for comments on the National Governor's Association Policy Statement: Interim (Health Care) Cost Containment. As requested, we have used the ballot included with the package.

The National Governors Association has stated in the letter accompanying the staff paper that they have no position on the issue of short-term cost controls. The letter briefly describes the three options receiving the most serious consideration, and the degree of involvement of the states.

The paper takes the position that states do not want to be accountable for interim cost containment while they are building capacity for managed competition. It also proposes a state opt-out for states wanting to implement an alternative approach, and an early removal of controls once some objective criteria are met. These positions are similar to those stated in the paper on Health Insurance Purchasing Cooperatives (HIPC), where states are proposing latitude and flexibility in the design of HIPCs to address concerns unique to each state, and allowing states the freedom to not participate if doing so would place too onerous a burden on them.

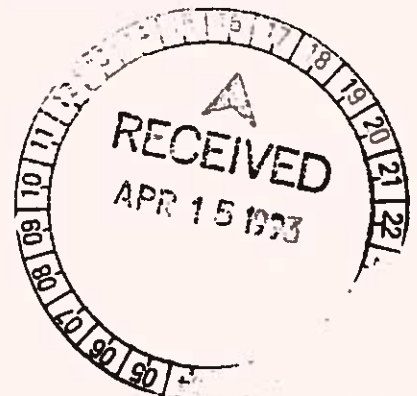
One important policy point in the paper is the implementation of cost control measures. The paper stresses that these measures must be implemented in such a way that results in system-wide control and not in shifting of costs from one payor to another. Guam is already working under managed care/cost control, and the local government absorbs the costs that exceed the funding cap set for Medicaid. I think that for this reason we should approve the policy statement, with perhaps suggestions that in addition to cost control measures, the government deal with the inequity of treatment between states and territories with respect to Medicaid funding.

Should you have any questions about the comments, please contact my office.

[Signature]
LETICIA V. ESPALDON, M.D.

Attachments

CC: Director's Chrono
CPHO
Chrono
OPE Chrono



Soc Funda

Guam Health Planning and Development Agency
P.O. Box 2950
Agana, Guam 96910
(671) 646-3918 or 646-3920
FAX: (671) 646-4432

MEMORANDUM

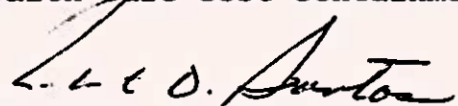
TO: Bureau of Planning
FROM: Executive Director
DATE: April 7, 1993
SUBJECT: Health Care Cost Containment



The policy statement that outlines short-term health care cost containment is central to the various states in the United States. Guam needs to be placed "central" in the priority of this issue. In Guam, the welfare, wellness, and worth of the people of Guam are dependent upon the control of health "harassment" factors on the health providers and government--education, economy, insurance, recreation, federal, and lifestyles. The control for health "harassment" factors are as follows:

- establish an inter-island health policy;
- establish a medical ethic committee;
- control medical fragmentations;
- control wide variation of physician practices;
- standardized insurance charges on health providers;
- develop and promote quality health program services;
- control federal demands on health projects on Guam (e.g., Guam must be involve in the national budget and program planning);
- promote personal responsibility to wellness; and
- continue to do comprehensive health research on health status, program and manpower needs, and program efficiency and effectiveness.

The above factors will address Guam's needs in the short-term health care cost containment.


Robert D. Santos, Ph.D

INTERIM COST CONTAINMENT

The nation's Governors are committed to serious attempts to control health care costs. We have endorsed limitations on the deductibility of health insurance benefits, changes to the medical liability system, and the creation of Health Insurance Purchasing Cooperatives, all measures that will help curb runaway health care spending. In addition, we have expressed support for the development of national expenditure targets, along with the development of the databases necessary to accurately project and track health care expenditures.

Managed competition offers an opportunity to control health care costs effectively, and without micromanagement of the health care delivery system. We heartily endorse movement toward integrating delivery systems, capitated reimbursement arrangements, and greater cost-consciousness on the part of health care purchasers.

The National Governors' Association has no policy on short-run price controls. However, the following policy points are important to states:

- States do not want to be accountable for interim cost containment. It would be too large a burden for states while they are simultaneously building capacity for managed competition. It is more important for states to focus on the long-run implementation of the new program rather than on short-run cost control. This should be an issue between the federal government and providers.
- There should, however, be a state opt-out for those states that want to implement an alternative approach as long as they meet the general goals of the national cost control strategy. This may include states that have their own well-developed ratesetting systems or those that may want to accelerate the implementation of global budgeting.
- Even with a short-run control strategy that is implemented nationally, states should have the option of requesting that controls be removed early provided that they meet some objective criteria. For example, a state could request that national price controls come off once a cooperative is fully operational and a given percentage of the population is enrolled in accountable health plans, and/or a global budget is operational. Such an approach may provide an incentive to accelerate the formation of accountable health plans.
- Cost control measures should be implemented in a manner that results in systemwide control and not in shifting of costs from one payer to another. There is considerable risk that such controls will shift cost to Medicaid and thus the Boren amendment must be alleviated or addressed. During this time period, states also must be able to more easily implement managed care systems for Medicaid beneficiaries.
- There should also be a way to adjust controls to favor primary care physicians and special exemptions should be available for rural and inner city providers.
- Governors would like to see the transition to managed competition take place as quickly as is possible, without a wholesale disruption of our health care system. It is, therefore, important to facilitate a rapid and smooth transition from interim cost controls to full-fledged managed competition. Care must be exercised so that short-run price controls do not become an impediment to the structural change that is required to implement managed care.

MEDICAID FY 1994 CHANGES

Guam's unique situation, from a very low-capped federal funding (of \$2.5 million) to the federal medical assistance percentate (FMAP) computation of (50%/50%) place Guam at both an advantage and disadvantage. It is an advantage in that some HCFA mandates remain to be options for Guam. It is a disadvantage in that Guam is already feeling the brunt of a state overmatch and an expensive cost shift through Guam's Medically Indigent Program.

Under the existing scenario, it would do well for Guam to just wait and see the significant final changes that will be unfolding in the months to come. Should the current federal funding and FMAP continues for Guam, then it should be allowed to exercise as much flexibility in administering its Medicaid program. Guam should not be forced to implement mandates that will result to unaffordable cost shift to Guam.

We are supportive of the NGA positions regarding FY1994 medicaid changes which are as follows:

1. Opposing the significant limitation on state Disproportionate Share Hospital programs with an emphasis on limiting state and county public hospitals;
2. Supporting a provision that would change personal care services from a mandate to a state option;
3. Supporting, with amendments that would allow flexibility, to establish federal parameters for health maintenance organizations that contract Medicaid programs;
4. Supporting, with amendments that would allow more flexibility, a provision to give states the option to establish prescription drug formularies; and
5. Supporting the provision to establish limitations on the ability of wealthy individuals to transfer assets to become eligible for Medicaid.

MEDICAID

(Fiscal 1994 Changes)

The Subcommittee on Health and the Environment of the House Energy and Commerce Committee approved Medicaid legislation to be included in the 1994 Omnibus Budget Reconciliation Act. The major provisions are as follows.

- A significant limitation on state Disproportionate Share Hospital programs with an emphasis on limiting state and county public hospitals. NGA opposes this provision.
- A provision that would change personal care services from a mandate to a state option under Medicaid. NGA supports this provision.
- A provision to establish federal parameters for health maintenance organizations that contract with Medicaid programs. NGA could support this provision with amendments that would make it more flexible for states.
- A provision to give states the option to establish prescription drug formularies. NGA could support this provision with amendments to make it more flexible for states.
- A provision to establish limitations on the ability of wealthy individuals to transfer assets to become eligible for Medicaid. NGA supports this provision.

The subcommittee chose not to reduce enhanced Medicaid administrative match as proposed by the President. NGA opposed the elimination of enhanced administrative match.

Contact: Carl Volpe, 202/624-7729

MEDICAID

The current Medicaid program should be divided into three separate programs as follows: 1) institutional long-term care; 2) home-and-community-based long-term care; and, 3) acute care. The first two should be maintained as two separate programs, while the acute care component should be folded into the new low-income program as quickly as possible.

Long-Term Care

Institutional Care. Over the long-run, this program should be federalized by either becoming a social insurance program or by accelerating the development of private long-term care insurance. For the near term, however, this program should maintain its entitlement nature and continue as a federal/state program with current matching rates. Populations served under this program would include the elderly, persons with physical disabilities and persons with developmental disabilities.

Home and Community Based Long-Term Care. Currently, individuals can get home and home and community based long-term care under Medicaid in two ways. First, they may receive personal care services, if the state chooses to offer this optional service. Or through special waivers, a state may offer a package of home and community based services. Under program rules, if a state offers the personal care service, it is an entitlement available to anyone enrolled in Medicaid who has the need. Because of the waiver, states can limit the population who receives the package of home and community based waiver services.

Over the long run, home and community based long-term care should be federalized using either the social insurance approach or private long-term care insurance. In the short-run, states should be given more flexibility to offer more home and community based care in Medicaid. However, due to the enormous amount of pent-up demand for these services, increased flexibility must be done carefully. Specifically, simply expanding the list of optional home and community base services beyond personal care would make any new service an entitlement. The increased program expenditures for these additional services would probably be unsustainable for states. Governors are however interested in making these services more available under the program, and strategies that could ensure flexibility while controlling program growth must be found. If, on the other hand, the federal government desires to expand home and community based services as an entitlement, it should be done so with 100 percent federal money.

As long as long-term care services are offered under Medicaid, the Governors support the current state/federal financing approach to the program. The Governors would not support a change to block grant financing with state matching requirements. Under such a financing scheme, there would be no guarantee that federal funds would keep pace with the service and population demands for long-term care that are expected over the next decade. The increasing costs of long-term care could too easily be shifted to states.

Acute Care

The Medicaid population receiving acute care should be phased into care purchased through a HIPC as quickly as possible. Once in a HIPC, however, Medicaid enrollees would lose their Medicaid identity. They would get the new nationally guaranteed benefit package, instead of the Medicaid benefit and would become a part of the overall low income population eligible for subsidized health care.

In general, there would be no supplemental benefits package for the low-income population. However, the federal and/or state government could identify additional services that might be available to special populations. (e.g. medical transportation in rural areas or inner cities). There would be no individual entitlement to these services. Instead, they would be financed through a separate federal grant program that is indexed to growth in the states' new program for low-income individuals. The allocation of the funds for services within the broad federal parameters of the grant would be up to each state.

Short-Term Flexibility

Despite significant changes in health care delivery and financing, a period will remain where states must continue to administer their Medicaid programs under current statutes and regulations. For this period, the Governors will continue to pursue as much flexibility in the program as possible including, but not limited to, waiver simplification, allowing managed care to be a part of the regular program rather than a waiver, more flexibility in establishing reimbursement rates, and rollback of some of the onerous mandates imposed on states over the last decade.

MEDICAID WAIVER AUTHORITY

Implementation of simplified waiver applications will be a good incentive for the states to be more creative in coming out with affordable and better alternatives to existing health care delivery system. The states are experiencing an increasing growth in the aged and disabled population. It is just logical to expect an increased need for institutional care. In anticipation of this, states should be able to request for waivers to implement community based long-term care instead of the more expensive institutional type of care. Guam has one skilled nursing facility with very limited bed capacity. It does not have federally certified intermediate care facility as in institutional long-term care versus community-based care.



GOVERNMENT OF GUAM
AGANA GUAM 96910

MAY 19 1993

RECEIVED

MAY 2 1993

MEMORANDUM

TO: Director, Bureau of Planning


FROM: Director, Department of Public Health & Social Services

SUBJECT: National Governor's Association Waiver Information Request

The Department of Public Health and Social Services does not have any outstanding requests for waivers under consideration by the Department of Health and Human Services. We have one issue that may not be considered waivable under Medicaid law, but may be put forth by the Governor in the future; indeed, it was included in the briefing paper prepared for the Governor for the National Governor's Association Winter Meeting in January 1993.

That issue is the requirement that Medicaid recipients receive services only from U.S. accredited health providers. The costs of sending our referrals to Hawaii and the U.S. Mainland are prohibitive, yet must be incurred for the treatment of Medicaid patients. It has been estimated that approximately 60% of our referral costs could be saved if Guam were allowed to send Medicaid patients to the Philippines or Japan for treatment. Some patients would even prefer to be treated in the Philippines than in Hawaii or the U.S. Mainland. As mentioned earlier, this requirement may not be waivable, but would ultimately allow for much more efficient use of our Medicaid dollars.

Should you have any questions about this subject, please contact my office.


PETER ALEXIS ADA
Acting



MEDICAID WAIVER AUTHORITY

NGA Objective

- Simplify the Medicaid waiver process so that states will be able to implement cost effective and innovative service delivery systems in Medicaid.

NGA has established a working group of six state representatives to meet with representatives of the Department of Health and Human Services (HHS). The groups have been meeting with the Health Care Financing Administration (HCFA), to work on streamlining the Medicaid waiver approval process by delineating the specifics of President Clinton's directive to HHS on simplifying the waiver approval procedure. The groups have been discussing ways to simplify research and demonstration waivers (1115(a)), freedom of choice waivers (1915(b)), and home- and community-based waivers (1915(c)), and also recommendations made by the Governors for removing statutory and regulatory barriers in the Medicaid program.

Medicaid Waiver Simplification

There were two serious attempts to pass Medicaid waiver simplification in the Senate this past year. Both were supported by NGA. In early August, Senators Moynihan and Durenberger introduced the Medicaid Coordinated Care Improvement Act of 1992 (S. 3191). This proposed legislation amended Medicaid statutes so that it would be easier for states to use coordinated care programs and allow states to contain costs and improve access to quality coordinated care services. States would have been able to establish risk based managed care programs and primary care case management programs without having to operate under the administratively complex and burdensome waiver process. Although there were two hearings in the Senate Finance Committee, the proposed legislation was never reported out of the committee.

About two weeks before adjournment, Senator Bentsen introduced S. 3274 the Medicare and Medicaid Amendment Act of 1992. This proposed legislation included a multitude of changes to both the Medicaid and Medicare programs. Among the Medicaid provisions were technical changes to the program as well as several minor changes in policy that would have helped states administer their programs more efficiently. Also included among the provisions were several changes that would have made it easier for states to administer managed care waivers. Following introduction of the legislation, it was amended to the urban aid package (HR 11) but the Medicaid provisions were ultimately removed before final consideration by the full Senate.

Contact: Carl Volpe, 202/624-7729



May 10, 1993

MEMORANDUM

TO: ALL GOVERNORS

FROM: Raymond C. Scheppach

RE: Waiver Information Request from President Clinton

On April 28th, President Clinton met with Governors of the NGA Health Care Task Force to discuss state issues relating to his national health reform proposal. As part of that discussion, the President asked if a list could be developed describing health reform waiver proposals either currently under consideration by the Department of Health and Human Services or under development in states. Governors Romer and Campbell have asked NGA to compile that information and forward it to the President. Could you please provide me with the following.

- A brief description of current waiver requests or requests you plan to submit in the near future.
- If the waiver request has been submitted, include the date that it was submitted. If you have yet to submit the waiver request, please indicate when you expect to submit it.
- Also, include a contact person for waiver requests.
- Please limit your response to one page for each waiver.

The President was most interested in broader waivers of Medicaid and Medicare. If you require waivers of other Federal statutes, please include those as well. Please do not include standard Medicaid managed care waivers or Medicaid home- and community-based care waivers.

Please fax your responses to me at 202-624-5825 by May 19, 1993. If you have any questions, please contact me at 202-624-5320 or Carl Volpe at 202-624-7729.

REGULATIONS ON DONATIONS, TAXES, AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS

Governors Proposals and Tentative Agreements

The following is a listing of Governors' proposed changes to the regulation on donations, taxes, and disproportionate share hospital payments (published on November 24, 1992) and proposed agreements that have resulted from negotiations between NGA and the Department of Health and Human Services.

Growth for Low DSH States.

Governors' Proposal. Modify the interpretation of the statute to allow for program growth for low-DSH states without regard to the 12 percent national limit. Amend the Notice of Allotments and delete Section 447.298(g).

Proposed Agreement. Allow full growth for low DSH states. Delete provisions of current regulation Section 447.298(g) relating to the national limit.

Revise regulations and DSH notice to provide that final annual DSH allotments will be determined as of April 1 of each year based on the Secretary's estimate of total Medicaid expenditures for that year. (Because states may have been relying on later adjustments under the current regulation, this date may need to be later for FY 1993 in order to give states adequate notice of this change.) Expenditures by a state above the amount of the final allotments will be disallowed, but states that underspend their allotments will be permitted to make subsequent payments for that year up to the amount of their allotments if those payments are provided for in approved state plans.

Part Year DSH Amendments

Governors' Proposal. Several states made payments under legitimate DSH plan amendments in fiscal 1992 that began after October 1, 1992. In calculating the DSH allotments for fiscal 1993, HCFA used the actual 1992 expenditures for these plans, and these states were not given credit for that fact that these same plan amendments must cover a full fiscal year in 1993. Modify the regulations to assure that states with legitimate but partial plan amendments in 1992 get full-year allotments for 1993.

Proposed Agreement. This recommendation would require a change in the statute.

Additional Flexibility.

Governors' Proposal. Change the 75/75 rule to 90/90. The amendment comes in Section 433.68(f)(1).

Proposed Agreement. The regulation remains as published on November 24, 1992.

Six Percent Test.

Governors' Proposal. Change the compliance date of the six percent hold harmless test from April 1, 1993, to July 1, 1993. This change will allow the few states that must modify their tax program to comply with this regulation to do so during a legislative session. Section 433.68((f)(3)(ii)).

Proposed Agreement. The compliance date will be moved from April 1, 1993 to July 1, 1993.

Outstationed Eligibility Workers - Other Direct Costs.

Governors' Proposal. The regulations should be modified to include donations for other direct costs that are currently not allowable. For example, outreach campaigns.

Proposed Agreement. The language in the regulation will be modified to refer generally to the cost of outreach activities applicable to outstationed eligibility workers and the category of disallowed costs will be revised to eliminate the costs of advertising campaigns that are attributable to outstationed eligibility workers.

Additional Classes.

Governors' Proposal. Allow states to extend a permissible tax to any provider class, e.g., ICF/MR tax to community residences; hospital tax to ambulatory care centers; etc. Amendment would be to Section 433.56. Language would read: "Other categories of health care items or services not listed above to the extent they are the subject of the same tax, assessment or fee that is imposed upon one or more of the classes listed in subparagraphs (1) through (9) above."

Proposed Agreement. The following will be added to the list of recognized provider classes. Services to be included in the additional classes must be those by licensed providers or be otherwise reasonably defined.

Dental services

Podiatric services

Chiropractic services

Optometric/optician services

Psychological services

Therapist services - Defined to include physical therapy, speech therapy, occupational therapy, respiratory therapy, audiological services, and rehabilitative specialist services

Nursing services - Defined to include all nursing services, including services of nurse midwives, nurse practitioners, and private duty nurses.

Lab and x-ray - Defined as services provided in a licensed, free standing lab or x-ray facility. This would not include lab or x-ray services provided in a physician's office, hospital inpatient department, or hospital outpatient department.

Emergency ambulance services.

Ambulatory surgical centers - As defined for the Medicare program in Section 1832(a)(2)(F)(i) of the Social Security Act.

The preamble of the regulation will indicate that the Secretary will consider adding additional classes by further expedited rule making if states can demonstrate the need for additional designations and that any class or classes proposed for addition meet all of the following criteria:

- A. the revenue of the class is not predominantly from Medicaid and Medicare (not more than 50% from Medicaid and not more than 80% from Medicaid, Medicare, and other federal programs combined.)
- B. the class must be clearly identifiable, such as through designation for state licensing purposes, or being included as a provider in state plans, and
- C. the class must not be unique to the state -- it must be nationally recognized.

Private Grants

Governors' Proposal. Limit preamble discussion regarding private grants to nursing home patients to cases where the grants, together with the Medicaid reimbursement changes, are shown to be intended to and are reasonably certain to hold the facilities harmless from all effects of the tax. Confirm that there is no intention to interfere with legitimate private grant programs.

Proposed Agreement. The regulation remains as published on November 24, 1992.

Waiver Standards

Governors' Proposal. Eliminate the list of permissible credit/deductions and change the minimum ratio for meeting the "generally redistributive" standard to 80 percent.

Proposed Agreement.

- A. Revise the P1/P2 value (for waivers of the broad based requirement) from .95 to .90 for taxes that are enacted and in effect prior to July 1, 1993.
- B. Add the following three criteria for favorable treatment under the waiver standards (Section 433.68(e)(1) and (2):
 1. financially distressed hospitals (waivers from broad based and uniform requirements), but only
 - financially distressed is defined in state statute,
 - not more than 10 percent of non-public hospitals in the state meet the definition,
 - if standards for determining financially distressed status are uniformly applied to all hospitals in the state;

2. regional variations in tax rates (to permit waivers of the uniformity requirement), but only if the regions are coterminous with generally recognized political boundaries within the state (such as counties or other entities of similar size) and not special boundaries such as hospital taxing districts (Current existing regional variations in any state would be grandfathered for special treatment under the uniformity test by applying a B1/B2 value of .85 for waivers to permit such variations.);
3. psychiatric hospitals.

Waiver-Pooling Arrangements

Governors' Proposal. Add a provision to permit waivers for regional variations in tax rates, or for exclusion of non-participating facilities, under a system for funding hospital uncompensated care costs through a pooling arrangement. Amendment to Section 433.68(e)(3).

Proposed Agreement. There will be no change to the regulation. However, pooling arrangement addressed by the addition of the new waiver criterion described in the previous item.

Withholding Tax

Governors' Proposal. Confirm that a letter recently issued to the National Governors' Association regarding new rules for withholding will only be applied prospectively.

Proposed Agreement. Confirmation was provided to NGA that withholding rules would be applied prospectively.

Variations In Routine Licensing and Certification Fees

Governors' Proposal. This item was not on the original Governors' list but was proposed by NGA based on concerns from states.

Proposed Agreement. Waivers will be provided from the uniform and broad based requirements in the case of variations in licensing and certification fees for provider where the amount of the fee is not more than \$1000 annually per provider and the total amount raised by the state from the fee is used in the administration of the licensing and certification program. The regulation should grant these waivers automatically so that the states do not have to apply for them.

**NATIONAL GOVERNORS' ASSOCIATION
85TH ANNUAL MEETING**



TASK FORCE ON EDUCATION

TAB 5

- **Summary of Issues and Briefing Papers** **G**
- **Goals 2000: Educate America Act** **H**
- **Reauthorization of the Elementary and Secondary Education Act of 1965** **I**

TASK FORCE ON EDUCATION

SUMMARY



Legislative Issues and Briefing Papers

ISSUE:

H. Goals 2000: Educate America Act

H.R. 1804, the President's education reform package (Goals 2000: Educate America Act) was introduced in the House on April 22. Two hearings were held on the bill and was reported out of the Subcommittee on Elementary, Secondary and Vocational Education in May.

NGA supports President Clinton's expressed opposition to a number of amendments that would weaken the National Education Goals Panel and strengthen the federal role in opportunity-to-learn standards. However, a number of negative amendments were even added over the opposition of the President and the Governors. The Senate bill, S. 1150 is scheduled for consideration after the July recess. Although it contains a number of provisions that are opposed by some Governors, the bill is far more favorable to the states.

In general, both the House and the Senate bills contain the following provisions:

Title I and II of H.R. 1804 would codify the six national education goals and the National Education Goals Panel. In addition, the bill would also create a National Education Standards and Improvement Council (NESIC) to oversee the development and certification of national voluntary content and student performance standards, a national voluntary system of assessments, and voluntary national opportunity-to-learn standards.

Title III creates a national formula grant program for state and local improvement in education. To participate in the program, states would submit a systemic reform plan for review by the Secretary of Education. The bill also includes a list of elements to be included in the plan. Under the plan, the state can request the waiver

of federal education program regulations for specified programs.

Title IV of the bill creates a National Skill Standards Board and calls for the development of national voluntary skill standards.

Governors are urged to support the Senate bill that has favorable provisions for the states. However, NGA proposes a number of amendments to the Senate bill that are essential to strengthen the legislation to support the work of states in systemic education reform.

- Title I: Oppose any changes to the goals and objectives. Since NGA has made a ten years commitment to the National Education Goals, NGA believes that they should not be changed in mid-course.
- Title II: Clarify that the certification of either state content and performance standards and/or opportunity-to-learn standards will not be mandated as a condition of participating in federal programs, obtaining waivers in federal programs, or receiving federal funds.
- Modify the opportunity-to-learn provision to clarify that while states must consider the factors contained in the opportunity-to-learn standards certified by NESIC, states must be able to pick and choose the specific criteria that will be used to meet the opportunity-to-learn standards.
- Title III: Modify the language requiring states to show schools' progress towards meeting the state's opportunity-to-learn standards.

NGA believes that our nation needs to establish high standards and then rely on performance and outcomes to measure progress towards them; all children can learn and must be provided the opportunity and assistance to achieve high standards; and classrooms, schools, districts, and states must be able to tailor their curricula and programs to assist students to achieving high standards. NGA promises to remain committed to the six national education goals and to the need to ensure that every student is given the opportunity to meet the high standards proposed by the legislation but firmly believes in the need to preserve the opportunity for diversity in state approaches to meeting the challenge.

BRIEFING PAPER:

- *University of Guam*

The University of Guam supports NGA's educational policy and the principles put forth by the Governors in the reaffirmation of their commitment to achieving the six educational goals. The University believes that the Governors' concern regarding the apparent attempts to circumscribe the voluntary nature of both curricular content at the state level and the opportunity-to-learn standards is well addressed. According to UOG, the states and territories must retain the latitude to accommodate their sovereign best interest and should not allow the federal government to take control of all public education by affirming federal educational funding on compliance to national standards for both content and methodology as this is contrary to the Constitution. UOG supports NGA position that the federal focus on outcomes and not inputs.

On the role of higher education in the improvement of community educational efforts, UOG's policy follows an open admissions policy wherein every student that graduate from high school is permitted to enroll in the University. However, in recognition of the problems created by varying qualities of preparation by the various high schools on Guam, an extensive developmental program to address weakness in the preparation of the incoming students was created. In addition, through counseling and advisement programs for students at the high school level and through cooperative programs with Guam and regional high schools, the quality of secondary curricula has improved. Establishing stringent admission standards would just cause more harm than good.

UOG believes that increasing admission requirements is not advisable at this time. In the event that such requirements are needed in the future, UOG is advising against assigning any more than a minor role to the use of standardized testing since such tests are generally both culturally and ethnically biased and the norm for these tests do not reflect accurately the Pacific Islands demographics.

The College of Education, and UOG faculty have been significantly involved in the reform efforts of the Department of Education. The focus of the efforts is, however, on regional concepts rather than "national standards". The University has instituted a fairly extensive support services for the low-income and minority students. The University also has Federal Trio programs that provide counseling, advisement, and tutoring for students from secondary level through university graduation. There is also developmental program in English and Mathematics for students with preparation

deficits. Over the years, the University has improved its retention rate but there is an on-going effort to upgrade or redesign existing programs and to develop new approaches, however, budget allocations are limited.

At this time, the University is doing all possible to fulfill its commitment to the National Education Goals and efforts are continuing toward this end. Obviously, with more manpower and budget allocation, more could be done. The University reiterates, however, that its focus will continue to be on outcome assessment rather than nationally developed input structures and on regional and local needs and context rather than national standards.

● *Department of Education*

Although there is no formal adoption or action taken, Guam reaffirms its commitment to the national education goals. According to DOE, Guam should agree with NGA in supporting H.R. 1804 and the work of the National Education Goals Panel which is designed to build national consensus for education improvement and reporting annually on progress made in achieving the goals.

Guam supports Title I and the portion of the bill that will enhance the role of the panel in reviewing and approving the voluntary national standards and the criteria for assessments. Guam also supports certification of assessments that may be developed by some governing body and the student performance on locally developed and adopted assessment instruments as a means of measuring state or territory's progress towards the goals. However, Guam believes that not all goals could be achieved by using student outcomes as the sole means of assessment. Other factors that might be considered include: concentration of language other than English; kind of students in the district; and the impact, in Guam's case, federal legislation on immigration from the freely associated states.

Guam's future funding of federal programs must not be strictly tied up to implementation of provisions in the opportunity-to-learn standards. Outlying entities must have flexibility when applying these standards because of our different needs and problems than most mainland schools. Guam, like most states, will require additional funding to implement meaningful reform, such as, the use of technology and reform of school organizations. Title III should be flexible enough to allow Guam and the other territories to obtain long range technical assistance at little or no cost as they implement reform policies.

● ***Guam Community College***

The College asserts its commitment to achieving the national education goals and supports codification of these goals under Title I and II of the proposed legislation. For the purpose of furthering achievement of the national education goals, the college entered into a group agreement with the Department of Education through funding support from the U.S. Department of Education Territories and Freely Associated States Educational Grant Program. The joint effort is intended to improve student performance through principles of applied learning, career guidance, career education, and professional development for educators.

The college recognizes the following efforts of local educational governing bodies and major educational institutions in the Territory that have enhanced the achievement of the national education goals:

- * The Guam Department of Education's "Blueprint for Excellence" which established Alternative Learning Paths (ALPs) for secondary students.
- * The establishment of the Guam Joint Board of Education Task Force on Vocational Education.
- * DOE Secondary Curriculum Reform and Drop-Out Prevention Project.
- * Guam 2000: People and Programs in Partnership, a three-day career in-service institute for DOE's Alternative Learning Paths and Tech Prep Model Program conducted during February 1993.

ISSUE:

I. Reauthorization of the Elementary and Secondary Education Act of 1965

The 103rd Congress will be reauthorizing the Elementary and Secondary Education Act (ESEA) of 1965 and hearings have already begun. ESEA gives state and local education agencies funds to provide supplemental services primarily to disadvantaged students, and support for school improvements. Today, it is the largest federal program serving elementary and secondary special populations students. In 1992, more than \$8.6 billion or 30% of the Department of Education's budget was allocated to the Act and thirty-nine of the 46 ESEA programs were actually funded. The legislation will be rewritten and a complete review of each program will be

undertaken to give NGA the opportunity to provide substantive input as to how these programs could be strengthened or eliminated. Congress wants to involve the new administration in the reauthorization process and is awaiting the administration's policy recommendation.

The ESEA programs were last reauthorized by the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, which also amended several education programs that fall outside the ESEA programs. Based on NGA policy, the Governors are asking that the following considerations be given to align the federal programs with state systemic reform efforts:

- Continue support for the development of a national voluntary system of standards and permit work on model assessment systems to begin at the federal level;
- Support the state focus on schools;
- Help states concentrate on the schools with the greatest need;
- Help states reward performance;
- Let parents be teachers;
- Strengthen the federal commitment to research and information collection and dissemination;
- Enhance the use of new technologies in the classroom;
- Help states develop the capacity of our educational systems to meet the challenges posed by systemic reform; and
- Provide the states with the flexibility to experiment with reform efforts; give states the means to make the necessary midcourse corrections as states learn from their experience.

Governors share a strong commitment to improving the nation's educational system. As ESEA programs touch the lives of millions of students, NGA hopes that Congress will share that same commitment and will reauthorize the Act taking into consideration NGA's input.

The statement on educational policy by the NGA is clearly one that we can and should support. The three principles put forth by Governors Romer and Campbell on the first page of their memorandum are bedrock principles to which all educators can subscribe. The Governors' concern and caution regarding the apparent attempts to circumscribe the voluntary nature of both curricular content at the state level and the opportunity-to-learn standards is well taken. In a nation as diverse as the United States of America, and particularly for the island of Guam, it would be a tragedy to establish a single mandatory body of curricular content and a mandatory set of approaches to presenting that content. The States and Territories must retain the latitude to accommodate their sovereign best interests. There is a real danger that the Federal Government may, by positing all federal educational funding on compliance to national standards for both content and methodology, take effective control of all public education. This would certainly be contrary to the spirit, if not the letter, of the Constitution. We should be a very vocal proponent of the NGA position that the federal focus should remain on outcomes and not inputs.

Also included in the briefing documents is a USDE statement on the role of higher education in the improvement of community educational efforts. Examples of specific and exemplary actions by institutions of higher education are presented and nine questions of higher education are posed. I will respond to these questions in terms that are consistent with Government of Guam law and Board of Regents policy.

- Can admissions standards for your college, or for all colleges in our area, be strengthened? Can incoming students be required to take more core courses in high schools?

Both this question and the examples in the text make the tacit assumption that raising university/college standards will exert a force in drawing up high schools to higher standards. Despite the anecdotal evidence cited and the statement that "many believe" there is little if any solid evidence that such is the case. The education process is inextricably intertwined with the political, social and cultural fabric of our nation and there are no simplistic answers to any educational dilemma. Raising higher education standards may have a salutatory effect in one context and a less beneficial effect in another.

On Guam, by both law and Board policy, the University follows an open admissions policy. Every student that graduates for high school on Guam or in the Micronesian region is permitted to enroll in the University. As the only four-year institution of higher education within the region and the only chance many of these student will ever have at a higher education, we feel this policy is both appropriate and right. At the same time, the University, in recognition of the problems created by the widely

varying qualities of preparation by the various high schools on Guam and in the region, has taken a two-pronged approach towards resolution of the issue. At the University we have created an extensive Developmental program to address weakness in the preparation of the incoming students. In addition, the University, through counseling and advisement programs for students at the high school level and through cooperative programs with Guam and regional high schools, has worked to improve the quality of secondary curricula.

The University is attempting to meet the educational needs of students on Guam and throughout the region as well as the skill and training needs of private and governmental entities and we believe that we have established a reasonable means of attaining those needs. We believe at this time that establishing stringent admission standards would cause much more harm than good.

- Could tests of student knowledge and performance in core subject areas be made part of the college admissions process?

For reasons cited above, we do not believe that an increase in admission requirements is advisable at this time. In the event that such requirements are instituted in the future, we would strongly advise against assigning any more than a minor role to the use of standardized testing. Such tests are generally both culturally and ethnically biased and the norms for these tests do not reflect the Pacific Islands demographics accurately.

- Which faculty members, admissions officers, or others on your campus should be part of our community's efforts to rethink curricula, teacher learning and student assessment in light of emerging national standards?

The College of Education is already in the fourth year of a reformulation process that is resulting in significant changes in teacher education. This process has involved Department of Education personnel from its inception. The effort, however, has not been focused on "emerging national standards" but rather on the unique needs and nature of the Pacific region. While many features of the new curricular orientation in the College are similar to those espoused by mainland reformers, many are unique. For example, there is more focus on cooperativeness and reciprocity, as a reflection of those elements in Pacific cultures, than is usually found in mainland reform curricula.

By the same token, College faculty have been significantly involved in the reform efforts of the Department of Education. College faculty have helped design assessment instruments and procedures, establish pilot projects and model classrooms and schools, and serve as members of a wide variety of committees, including certification standards review, within the Department. Members of the Student Counseling Office and the Registrar's Office at the University are both involved in counseling and advisement programs at the school level.

- What are Colleges in our area now doing to help K-12 teachers deepen their knowledge of subjects they teach? What else could be done? Create summer institutes and school year follow-up?

The College of Education, through the Center for Continuing Education and Off-Island Programs, offers an extensive program of inservice coursework, workshops and institutes on Guam and throughout the Micronesian region. The Individually Developed Program (IDP), a teacher training degree outreach program for Micronesian educators, has over 1500 students enrolled. Workshops, courses and summer institutes run on a continuous basis on Guam.

Virtually all of these activities are dependent on external funding and much more could be done if the budget existed to hire College of Education faculty to be assigned strictly to regional inservice efforts. As the on-campus student body increases, the need for inservice faculty will greatly increase.

- What are colleges that train most of our new teachers doing to upgrade or redesign teacher training programs in light of emerging national standards or state curriculum frameworks?

As discussed earlier in this paper, the College of Education and the Department of Education are cooperating in a variety of activities aimed at change and reformulation. The focus of the efforts is, however, on regional concepts rather than "national standards". The College of Education maintains close liaison with the Department of Education to assure that the training of new teachers and Territorial curriculum frameworks are complementary.

- Are faculty from disciplines such as mathematics, the sciences, arts, history, geography, English, foreign languages, and others working with teacher training faculty to improve teacher training?

College of Arts and Sciences faculty are an integral part of the teacher training program. President Leon Guerrero has publicly stated that teacher training is a University responsibility, not limited to the College of Education. Content area faculty have been involved in the College reformulation effort as well as the day-to-day conduct of methods classes.

- Is your college taking steps to attract low-income and minority students into college? What is being done to help these students succeed in college and earn a degree?

Attracting low-income and minority students to the University of Guam is clearly not a problem. The University has instituted a fairly extensive array of support services for these students. There are several Interdisciplinary classes designed to orient students towards university work. The University also has Federal Trio

programs that provide counseling, advisement and tutoring for students from secondary level through university graduation. In addition there is the extensive Developmental Program in English and mathematics for those students with preparation deficits. Over the past several years, the University has improved its retention rate, but much more needs to be done. There is an ongoing effort to upgrade or redesign existing programs and to develop new approaches, however, budget allocations are limited.

- Is your college encouraging community service among students? If so, how?

Community involvement is a basic element of island cultures and thus both faculty and students at the University are deeply involved in all aspects of community life on both a professional and social basis. The university encourages these activities through the dissemination of opportunities and the advertisement of activities and efforts undertaken for public awareness.

- How else might your college help our community reach the National Education Goals?

We feel that at this time the University is doing all possible to fulfill its commitment to the National Education Goals. We will continue our efforts to this end. Obviously, with more manpower and budget allocation more could be done, but in an era of stringent budgets this is probably not practical. We do reiterate that our focus will continue to be on outcome assessment rather than nationally developed input structures and on regional and local needs and contexts rather than national standards.



OFFICE OF THE DIRECTOR

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GOVERNMENT OF GUAM
P.O. BOX DE
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Linda



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

CONRAD STINSON
Deputy Director

July 23, 1993

MEMORANDUM

To: Director, Bureau of Planning
From: Director, Department of Education
Subject: Briefing Paper for 1993 National Governors' Association Annual Meeting

Attached for your review and disposition is the Department of Education's contribution to the briefing paper for the 1993 National Governors' Association Annual Meeting in Tulsa, Oklahoma on August 15-17, 1993.

Should you have any questions or comments on the contents of the attachment, please feel free to contact me at 472-8901, ext. 312.

FRANKLIN J.A. QUITUGUA, Ph.D.

Attachment



Commonwealth Now!

Briefing Paper
Guam Department of Education
July 20, 1993

Guam reaffirms its commitment to the national education goals. However, no formal adoption or action on these goals has taken place. Neither the Territorial Board of Education nor the Guam Legislature have adopted these goals.

Guam needs to support Governor Romer and Campbell's position as articulated in the May 6, 1993 letter to Secretary of Education Richard Riley. Namely this position supports H.R. 1804 and the work of the National Education Goals Panel which is designed to build national consensus for education improvement and reporting annually on progress made in achieving the goals.

Guam supports Title I and the portions of the bill dealing with the Goals Panel, especially with regard to the enhanced role that the panel will play in reviewing and approving the voluntary national standards and criteria for assessments.

Guam supports certification of assessments it may develop by some sort of governing body. Guam supports student performance on whatever assessment instruments are developed or adopted locally as one means of measuring a state's (territory's) progress towards the goals. However, not all goals lend themselves well to using student outcomes as the sole means of assessment. There are other contextual data that must be taken into consideration; concentration of language other than English students in a district, the impact, in Guam's case, of federal legislation on immigration from the freely associated states.

Guam's future funding of federal programs must not be strictly tied to implementation of provisions in the opportunity-to-learn standards. Outlying entities must have flexibility when applying these standards since we have differing needs and problems than most U.S. Mainland schools.

Most states, and Guam is no exception, will require additional funding to implement meaningful reform; use of technology, reformulation of our school organizations, etc. Title III should be flexible enough to allow Guam and the other Territories to obtain long range technical assistance at little or no cost to the Territories as they implement reform policies.

August 3, 1993

Mr. Michael Cruz
Acting Director
Bureau of Planning

Dear Mr. Cruz:

In response to your request for assistance in preparing briefing papers for use by the Governor at the 1993 National Governors' Association Annual Meeting, in Tulsa, Oklahoma, August 15-17, the following comments are submitted in reference to the Goals 2000: Educate America Act:

Guam Community College is firmly committed to achievement of the National Education Goals as outlined in AMERICA 2000, the President's national strategy for educational achievement. Furthermore, the College supports codification of these goals under Title I and II of the proposed legislation.

As a demonstration of this commitment, the College entered into a group agreement with the Guam Department of Education during May 1993 for the purpose of furthering the achievement of National Education Goals #2, 3, and 5 through funding support from the U.S. Department of Education Territories and Freely Associated States Educational Grant Program. This joint effort is intended to improve student performance through principles of applied learning, career guidance, career education, and professional development for educators.

The College additionally recognizes that achievement of the National Education Goals has been further enhanced over the past several years through the efforts of local educational governing bodies and through collaborative efforts between major educational institutions in the territory. These efforts include:

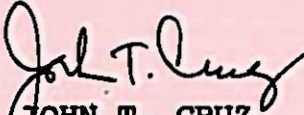
1. The Guam Department of Education's BLUEPRINT FOR EXCELLENCE which established Alternative Learning Paths (ALPS) for secondary students.
2. The establishment of the Guam Joint Board of Education Task Force on Vocational Education.
3. The Guam Department of Education Secondary Curriculum Reform and Drop-Out Prevention Project.



COMMONWEALTH NOW!

4. GUAM 2000: PEOPLE AND PROGRAMS IN PARTNERSHIP, a three-day career in-service institute for the Guam Department of Education's Alternative Learning Paths and Tech Prep Model program, conducted during February 1993.

If the College can be of further assistance in this preparation effort, please do not hesitate to contact me.


JOHN T. CRUZ
President

July 20, 1993

The Honorable Ted Kennedy
Chairman
Committee on Labor and Human Resources
United States Senate
632 Hart Office Building
Washington, D.C. 20015

Dear Mr. Chairman:

As you prepare to take S. 1150, the Goals 2000: Educate America Act, to the floor for consideration by the Senate, we ask that you take into consideration a series of amendments which we believe would strengthen the legislation reported by the Senate Committee on Labor and Human Resources in important ways. In addition, we would like to comment on the amendments that may be offered to the bill on the Senate floor.

While we have some concerns that we believe must be addressed, the National Governors' Association prefers S. 1150 over H.R. 1804. As reported by the House Education and Labor Committee, NGA finds H.R. 1804 unacceptable. We offer these comments and the enclosed proposed amendments as means of strengthening S. 1150 to ensure the support of the nation's Governors and hope that you will consider our proposed amendments as friendly.

Our first concern deals with the modifications to the goals and objectives. We understand that a number of amendments may be offered to add additional goals and objectives to the original six education goals. Without commenting on the worth of proposed changes, the National Governors' Association strongly objects to changes in general. We believe that a great deal of work has gone into building support for the existing goals and, as a result of this support, they have successfully served as the foundation for many education reform initiatives around the nation. To change the goals at this time draws into question the long-term commitment that we have made to achieving them. The nation's Governors agree with the President in his June 3 letter to William D. Ford on this issue and point out that the states are free to adapt the goals to their own needs. In fact, many states have done so. We urge you to endorse the national education goals as they stand and allow the nation to continue its progress towards reaching them.


Senator Ted Kennedy
July 22, 1993
Page Two


Second, we propose a number of amendments to the Senate bill that we believe are essential to strengthen the legislation to support the work of states in systemic education reform. This package of amendments contains the following provisions:

- Clarification that the certification of state content, performance, and opportunity-to-learn standards will not be mandated as a condition for state participation in any federal education programs;
- A modification to the provision on assessment certification to clarify that a single state, a group of states, or another entity could present a system of assessments for certification by the National Education Standards and Improvement Council (NESIC) if the material contained in the assessment reflected the national content standards certified by (NESIC) or, when presented by a single state, reflect the material in the national certified content standards or that particular state's content standards if certified by NESIC;
- A modification to the opportunity-to-learn standards provisions to assure that state and local prerogative is maintained in permitting states and locals to select the appropriate methods to assess a school's capacity and performance. In addition, states and locals should be permitted to select the appropriate methods to assist those schools that are not performing to meet the categories prescribed in the opportunity-to-learn section of the bill; and
- A modification to Title III to permit states to report the progress of schools in achieving the state opportunity-to-learn standards.

We believe that these amendments are essential and urge you to incorporate them into the committee amendment. Enclosed are further descriptions of these amendments. We would be glad to discuss these provisions with you if you have further questions.

Sincerely


Governor Roy Romer
Chair
National Governors' Association


Governor Carroll A. Campbell Jr.
Vice Chair
National Governors' Association

Enclosure

Amendments proposed to § 1150:

Title I:

Oppose any changes to the goals and objectives. We made a ten year commitment to the National Education Goals and we believe that they should not be changed in mid-course.

Title II:

Amendment: Clarify that the certification of either state content and performance standards and/or opportunity-to-learn standards will not be mandated as a condition of participating in federal programs, obtaining waivers in federal programs, or receiving federal funds. This language would be added in both the section on content and performance standards and opportunity-to-learn standards.

Amendment: Clarify that a single state, a group of states, or another entity could have a system of assessments certified as long as the assessment reflects the national content standards certified by NESIC or the state content standards certified for an individual state.

Amendment: Modify the opportunity-to-learn provision to clarify that while states must consider the factors contained in the opportunity-to-learn standards certified by NESIC, states must be able to pick and choose the specific criteria that it will use to meet the opportunity-to-learn standards. The consortia charged with developing national opportunity-to-learn standards could also develop a menu of model criteria. States could select the appropriate criteria for the purpose of assessing a school's capacity and performance. We would provide language that speaks to the need to recognize the diverse ways in which states might help school improve.

For example, the federal list includes the "quality and availability of curriculum, instructional materials, and technologies". Under our proposal this standard would remain, but states would have the discretion to choose the most appropriate way to achieve it.

Title III:

The Senate bill requires that, as a condition of participating in the State Systemic Reform grant program, a state must establish a strategy and timeline for adopting opportunity-to-learn standards and a strategy and timeline for achieving the state's opportunity-to-learn standards in every school in the state.

Amendment: Modify the language to require that the state be required to show schools' progress towards meeting the state's opportunity-to-learn standards.

See Linda



March 30, 1993

Human Resources Group
Patricia Sullivan, (202) 624-7723

REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Summary

The Elementary and Secondary Education Act of 1965 (ESEA) gives state and local education agencies funds to provide supplemental services, primarily to disadvantaged students, and support for school improvement. This important legislation will be rewritten during the next eighteen months. Hearings in Congress have already begun.

Background

The Elementary and Secondary Education Act (ESEA) was first enacted in 1965 as part of the War on Poverty. With its passage, the federal government became involved for the first time in providing services to elementary and secondary school students. Today, after multiple amendments since first enacted, ESEA remains the largest federal program serving such students. In fiscal 1992, more than \$8.6 billion, or 30 percent of the Department of Education's budget, was allocated for the act. Thirty-nine of the 46 ESEA programs were actually funded. These programs support the educational and related service needs of children from special populations, including educationally disadvantaged, migrant, and disabled students. In addition, the programs provide funds for education improvement through state block grants, support educational improvement in mathematics and science education, provide drug abuse prevention programs, and support bilingual education activities.

Timelines

Congress will reauthorize ESEA during the 103rd Congress, which began in January 1993. This two-year process will allow a complete review of each program and provide the opportunity for organizations such as NGA to provide substantive input as to how these programs could be rewritten, simply strengthened, or, perhaps, eliminated. The process started in the House of Representatives with extensive hearings that began in February. Hearings will be held in Washington and around the country by the House Committee on Education and Labor. The committee will introduce a bill in late spring with plans to clear the bill in the House by the summer of 1993. The Senate Committee on Labor and Human Resources will move along on a somewhat slower

infoletter

track. Because Congress wants to involve the new administration in the reauthorization of this important piece of legislation, this timeline is subject to change depending on how quickly the administration develops a policy recommendation.

The ESEA programs were last reauthorized by the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988. This legislation also created or amended several education programs that fall outside the ESEA programs, including impact aid, Star Schools, the Adult Education Act, the National Center for Education Statistics, and the National Assessment of Education Progress (NAEP). Many of these programs may be further amended.

Issues

The following issues are expected to be discussed during the ESEA reauthorization:

- **What steps should be taken to develop a national set of standards and assessments, including school delivery standards?**

While seven groups have been awarded contracts to develop content standards, there is still some question as to how the federal government should proceed in developing a new system of assessments. In addition, many members of Congress believe that work on assessments should not begin until a system of school delivery standards is developed to ensure that students have an opportunity to learn the materials on which they will be assessed.

- **Consolidation or reorganization of the many programs authorized under ESEA.**

ESEA authorizes more than 46 programs that provide services to elementary and secondary school-age students. Could these services be provided more efficiently if some of the programs were consolidated?

- **Balancing flexibility for states and local governments with accountability for the federal government.**

States and local education agencies often argue that the federal education programs are too prescriptive and require burdensome paperwork to ensure complete compliance with the law. At the same time, the Congress remains concerned that the funds are not being spent appropriately.

- **Coordinating family services in schools, including comprehensive health services.**

Children's advocates argue that poor health and limited access to social services often prevent disadvantaged students from learning. By using school facilities to provide services, such barriers to student success would be reduced. Others question if the school facility is the appropriate place to provide such services.

School-to-work transition.

How can the federal government assist students in making the transition from school to work, especially for those student who do not choose to attend college?

How can the federal government become an advocate for more than just disadvantaged students?

Currently, the federal government targets most of its services on disadvantaged students. Is it possible to expand that role to support the success of all students?

How can the federal government, through ESEA, support systemic reform?

How can the federal government use its resources to encourage state-level systemic reform? What technical assistance can be provided to states?

How can the federal government encourage states to equalize financial resources across school districts?

Some members of Congress believe that the federal investment in education, however small, should be used as a tool to equalize funding.



TASK FORCE ON STATE MANAGEMENT

**NATIONAL GOVERNORS' ASSOCIATION
85TH ANNUAL MEETING**



TASK FORCE ON STATE MANAGEMENT

TAB 6

- **Summary of Issue** **G**
- **Redesigning State Government:
The Challenge of Streamlining and
Restructuring Government** **H**

TASK FORCE ON STATE MANAGEMENT

SUMMARY



State-Oriented Management Issue

ISSUE:

H. Redesigning State Government: The Challenge of Streamlining and Restructuring Government

NGA stresses that in order to restore public confidence in our institutions and to build public support for the tough choices that must be made to reduce the deficit and to make the strategic investments necessary to restore our competitiveness, state governments must change the way they do business.

For the above reason, NGA Chairman Governor Roy Romer's goal of "redesigning state government" was assigned to NGA State Management Task Force, charged to develop an action agenda to effectively redesign state government so that it is more mission-driven, efficient, and responsive to the citizens. The Agenda is geared to include activities to assess and highlight models and approaches that work, bring together Governors and staff to share successes and develop workable strategies, and help provide assistance in tailoring and implementing these strategies to a particular state or system.

The Task Force efforts on the challenge of "streamlining and restructuring government" focus on developing a four-step work plan that includes: inventory of creative initiatives; analysis of reported initiatives for gubernatorial priorities and possible models; conduct strategy groups for priority areas to develop action strategies; and conduct a national conference at which implementation strategies and replication models will be shared. The following four strategy group areas and hosts were developed by the Task Force.

- * Michigan Governor John Engler - Human services consolidation/coordination;
- * Oklahoma Governor David Walters - Reforms to reinvent government;

- * Massachusetts Governor William F. Weld - Privatization;
- * Oregon Governor Barbara Roberts - Outcome-based performance plans/measures.

The four strategy groups worked to share and analyze "best practices," refined own-state strategies, agreed on a model approach, and developed an action plan that could be adapted and used by any Governor. Strategy group results will be included in a report that will be published and discussed at a Task Force National Conference on Redesigning Government on August 14, 1993, preceding the NGA Annual Meeting.

Other political and private-sector leaders also took part in the efforts to help overhaul traditional government systems at the federal, state, and local levels. The Alliance for Redesigning Government was organized and will provide a forum for public officials and community leaders across the country who want to share innovative ways to redesign government systems and rebuild public service. Currently, the "Alliance" is working with NGA and other groups to design a prototype human investment budget for states. "A National Information and Service Delivery System- A Vision for Restructuring Government" in the information age is also presented by the Steering Committee of the State Information Policy Consortium, composed of NGA, the National Conference of State Legislatures, and the Council of State Governments. The theme provides scenario in which technology and information can be used to re-engineer and streamline government operations at all levels and would serve as a catalyst for the on-going discussions of the Strategy Groups and a guide for future actions to meet the challenges and opportunities posed to government and the society by the information age.

NGA 's Task Force on State Management is working and sharing the Governors common goal of making the government at all levels more effective and responsive. Strategy Group models will be reviewed and initiatives on how model approaches can be adopted will be discussed during the Annual Meeting.



July 16, 1993

To State Management Colleagues:

Recognizing the key role Governors play in the leadership and management of state government, the National Governors' Association established a permanent task force on state management in August 1992. Their first year's work will culminate in a conference on redesigning state government to be held in conjunction with the Governors' annual meeting in Tulsa, Oklahoma. The conference is scheduled for Saturday, August 14, at the Tulsa Convention Center. You are cordially invited to attend.

The task force formed four strategy groups to examine state approaches to redirect and redesign the way government conducts business in the following critical areas: human services consolidation/coordination; management systems reform; outcome-based performance plans/measures; and privatization. Each strategy group has collaborated on a product that will be presented and discussed by the Governors at the conference.

The conference is divided into two major sections. In the Governors' plenary session (11:00-1:30), the Governors will consider the imperatives to redesign government, discuss common challenges, and review model approaches and strategies initiated by several Governors. Highlights of the reports of our four task force strategy groups will be summarized by the host Governors, as context for what should be a very active discussion among all participating Governors.

In the implementation workshops (1:45-5:00), conference attendees will have the opportunity to discuss how the model approaches can be adapted to meet the unique needs and challenges in states. The workshops will be led by the staff members of the featured strategy groups.

In addition, Governors have been invited to showcase their major initiatives to redesign state government in an exhibition format. The exhibit area will be available for viewing during the Saturday conference and again on Sunday.

A conference brochure and special registration form are enclosed. We hope that you can attend this valuable meeting. If you have any questions, please call Kelly Donley French in NGA's Office of State Services at 202/624-7818.

Sincerely,

Doug Champion
State Management Task Force Coordinator



July 12, 1993

TO ALL GOVERNORS:

This year's work of the NGA State Management Task Force culminates in a conference on redesigning state government, to be held on Saturday, August 14, in Tulsa, Oklahoma. A conference brochure is enclosed. We invite your full participation, in the following ways:

- Attend the Governors' plenary session from 11:00 a.m. to 1:30 p.m.
- Have your key state staff and other management-oriented state officials attend that session and implementation workshops that continue until 5:00 p.m. that afternoon.
- Agree to have an exhibit for your state to showcase your major innovations in redesigning government, to be featured in the conference center gallery hall on Saturday and Sunday.

In the Governors' plenary session, we will consider the imperatives to redesign government, discuss common challenges, and review model approaches and strategies initiated by several Governors. Highlights of the reports of our four task force strategy groups will be summarized by the host Governors, as context for what should be a very active discussion among all participating Governors.

In the implementation workshops, your representatives will have the opportunity to discuss how the model approaches can be adapted to meet the unique needs and challenges of your state and administration. The workshops will be led by the staff members of the featured strategy groups.

For the exhibits, we will reserve a booth for each interested Governor to mount a poster display of state management innovations and provide written materials during the conference and first full day of the NGA annual meeting. We ask that you make available a knowledgeable representative to staff your exhibit from 2:30 to 4:30 on Sunday afternoon to consult with interested parties.

To All Governors
July 12, 1993
Page Two

Exhibit specifications and a form to indicate your anticipated attendance and representation in the conference and exhibits have been sent to your designated staff contact to NGA. We strongly encourage your active participation.

Sincerely,

William F. Weld

William F. Weld
Governor of Massachusetts

David Walters

David Walters
Governor of Oklahoma

State Management Task Force Co-Chairs

Enclosure



**COMMITTEE ON ECONOMIC
DEVELOPMENT AND COMMERCE**

**NATIONAL GOVERNORS' ASSOCIATION
85TH ANNUAL MEETING**



**COMMITTEE ON ECONOMIC DEVELOPMENT
AND
COMMERCE**

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COMMITTEE ON ECONOMIC DEVELOPMENT
AND
COMMERCE



SUMMARY

*Legislative Issues
and
Briefing Papers*

ISSUE:

H. Implementing Legislation for NAFTA Agreement

The North American Free Trade Agreement (NAFTA) was signed on December 17, 1992 by the United States, Canada, and Mexico. In Canada, NAFTA has been approved by the House of Common and awaits Senate approval. In Mexico, passage of NAFTA is virtually assured since the Mexican Congress is controlled by the party of President Salinas de Gortari. However, Mexican policy makers will be watching developments in the U.S. before taking final action on the agreement. The NAFTA text is designed to reduce or eliminate barriers to trade among the three countries.

The effective date for the NAFTA Agreement is January 1, 1994, pending congressional approval since implementation of the agreement requires changes to domestic laws. President Clinton has made it clear that although he supports NAFTA, he will not seek Congressional approval until side agreements on environment, labor, and import surges have been concluded.

On June 30, 1993, the U.S. District Court of Washington, D.C. has ruled that the President cannot proceed with implementation of NAFTA without filing an Environmental Impact Statement (EIS) in compliance with the National Environmental Policy Act (NEPA). Since preparation of an EIS could take months or even years, this will delay progress in the NAFTA implementation. The Justice Department will appeal the ruling, saying it interferes with the President's ability to negotiate international agreement for the United States. If the ruling stands, congressional approval could not be achieved by the end of the year when the NAFTA agreement is scheduled to go into effect.

Before the ruling, USTR was pursuing negotiations with Mexico

and Canada on separate agreements for the environment and labor issues. These side agreements would be included in a package with legislation implementing the NAFTA agreement concluded last year. The package would be submitted to Congress for a vote targeted for the Fall. USTR, however, will proceed with the timetable despite the ruling.

States on the other hand are working with negotiators on the side agreement calling for stronger role for states in dispute settlement and other trilateral environmental enforcement efforts. A similar effort on labor negotiations is also underway. Individual Governors numbering about 40 to 50 as surveyed are expressing their support for NAFTA.

NGA has supported the development of the NAFTA Agreement and has monitored the progress of the negotiations. Now, NGA is preparing to be involved in the development of implementing legislation. NGA Economic Development and Commerce Chairman, Governor Jim Edgar and Lead Governors on Trade, Governor Tommy Thompson and Governor Ann Richards have assumed responsibility for monitoring NAFTA's progress and ensuring that state concerns are incorporated into the implementing legislation. NGA policy approved at the winter meeting revised and updated the Governors position on NAFTA, expressing general support for implementing NAFTA, provided that the environment and labor issues are addressed. NGA wants to ensure that implementing legislation establishes formal mechanisms for coordination and communication between the states and the federal government, particularly in settling disputes that challenge state laws. Areas of potential dispute will likely occur over state regulation of environmental standards, services, investment, and government procurement.

BRIEFING PAPER:

- *Department of Commerce*

According to the Department, their comments on NAFTA issues are the same with those they submitted during the 1993 Winter Meeting.

The Department believes that any United States trade agreement which provides access to foreign markets should cover Guam as well as other U.S. territories and commonwealths. Trade opportunities are hard to forecast, and restricting access of territories and commonwealths to foreign markets could deprive them of some prosperous trade opportunities. On the other hand, Guam's access to U.S. market should not be less than those accorded to foreign nations under the trade agreement.

Relevant to the negotiations, Guam does not have access to Canadian market under the bilateral U.S.-Canada agreement. However, a trilateral negotiations could give Guam an opportunity to improve and expand the U.S.-Canada free trade agreement. Guam's interest is to be included in any U.S. access to Canada and Mexican markets but this position has not been expressed by the U.S. Trade Representative or by those dealing with the trilateral negotiations. The department recommends that the Governor attends one of NGA's hearings on the trilateral talks and other forums to repeat Guam's position until it is recognized by the Office of the U.S. Trade Representatives. The Governor should also solicit cooperation from Governors of other territories and commonwealths regarding issue of access to Canadian and Mexican trades. Guam would gain credibility when demanding market access.

Currently, Guam has tariff-free access to the U.S. market provided products satisfy "U.S. Customs Product of Guam criteria". If the Uruguay round eliminates quotas such as those on textiles, the U.S. will eliminate the machinery for issuing quotas, thus Guam would also gain access.

- *Guam Environmental Protection Agency*

According to the Agency, NAFTA is not relevant to Guam. NAFTA deals with reducing or eliminating trade barriers with Canada and Mexico. However, the agency recommends that the Governor supports the general objective for the implementation of NAFTA.

- *Guam Economic Development Authority*

The Agency believes that although Guam does not maintain direct trade relations with Canada, Mexico, and the U.S., NAFTA may establish trade policies conducive to, and supportive of local export efforts. Therefore, the agency recommends support of the NAFTA agreement.

The NAFTA establishes several important principles for service trade; the non-discriminatory treatment, right of non-establishment, and the transparency and prior comment in rule making. According to the Agency, the NAFTA agreement will generally apply to state and local regulations affecting service providers. However, the U.S. has maintained its policy to grant an extension period to exempt certain non-federal service restrictions. While states have two years to list service preferences they wish to exempt from the principles otherwise applicable to the service category, the

local government regulations may not be listed to be exempted. Similarly, both Canada and Mexico would be entitled to negotiate withdrawal of benefits otherwise granted in NAFTA if they felt unfairly restricted by the exemptions.

The NAFTA prohibits performance requirements, specific export levels, minimum domestic content preference for domestic source, trade balancing, technology transfer and product mandating. These principles do not apply to federal government procurement, export promotion or foreign aid. The agency believes that any effort to harmonize the standards of the three countries must include participation of the states. The states should be able to set or retain standards higher than federal or international minimums as long as they are non-discriminatory and scientifically based.

According to the agency, care should be provided in developing the dispute settlement process. Currently, the process of notifying the state or the Governor is unclear if a state law is being challenged. It is also unclear to what extent the state participates in the preparation and defense of a case, its options in the event state interest differ from that of the federal government and which NAFTA dispute mechanism applies. The Territory should be asking for its current and future status where NAFTA is concerned.

As Guam's agricultural products are almost for local consumption only, NAFTA will have a minimal influence on Guam's agricultural industry unless trade advantages of both Canada and Mexico change materially. In the case of a decreased trade barriers between the three countries. Guam's potential ability to compete may be affected. The territory will need to reevaluate the effectiveness of its current Qualifying Certificate program, low interest loans, and favorable lease arrangements, and whether these are enough to offset Mexico's advantages in low labor costs, literate workforce and proximity to the U.S..

To protect our future industries, Guam should follow closely the progress of NAFTA and should develop an appropriate list of both trade barriers and service preferences for local goods and services which restrict and improve local economic diversification.

ISSUE:

I. Surface Transportation Full Funding

The new NGA transportation policy is a resolution that calls on the Administration and Congress to provide full funding of

the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) which authorizes funding for roads and bridges, highway safety and transit programs, highways, and a part of the transit programs being financed out of the Highway Trust Fund, with flexibility to move substantial amounts of highway funding to transit. ISTEA authorized more than \$20 billion a year for highways and \$5 billion a year for public transit.

In FY 1992, although the transit program was fully funded, highway funding fell \$1.7 billion short of the ISTEA-enacted level. ISTEA authorization for FY 1993 for highways totaled 20.5 billion, and for transit \$5.2 billion. Regrettably, Congress appropriated only \$18.0 billion and \$3.8 billion respectively, cutting \$3.9 billion from the \$25.7 billion in ISTEA authorizations. The shortfall includes \$2.5 billion for highways and \$1.4 billion for transit. In addition, \$6.4 billion remained inaccessible due to obligation limits.

The House will consider the FY 1994 transportation appropriations recommendations (H.R. 2940). The legislation includes a \$17.2 billion obligation ceiling, with \$2.1 billion outside the ceiling, an increase of \$1.3 billion over the current year's spending but still \$700 million short of the ISTEA authorization levels. Also provided is the \$4.5 billion in total transit funding, with an increase of \$677 million over the current \$3.8 billion, but below the ISTEA-authorized level of \$5.1 billion. The House committee proposal also includes a \$300 million cut in the current funding of \$1.8 billion for airport improvement grants. Transportation received the largest FY 1994 increases for discretionary programs.

NGA calls on Governors for their strong and undivided support to influence an immediate appropriations action in both houses of Congress in fully funding ISTEA for FY 1994 and to complete favorable action on the ISTEA funding contained in the supplemental appropriations for FY 1993. The NGA resolution recommends that the Transportation Secretary expedite implementation of ISTEA's provisions to produce quick preventive action to repair and restore transportation infrastructure. Giving states greater flexibility, including streamlined procedures and relaxation of matching requirements, would ensure that ready-to-go projects could get underway immediately. There is a significant gas tax increase proposed in the House. However, the House even proposes to drop dedication of the 2.5 cent gas tax to the Trust Fund which is contrary to provision now contained in both the House and Senate bills. Most likely, Congress will pass a 6 to 7 cent gas tax without devoting any of it to the financing transportation infrastructure.

In a letter to Senate Finance Committee, NGA urges the

dedication of all current and future motor fuel tax revenues to the highway trust fund and to fully fund the President's infrastructure initiatives, especially the ISTEA. NGA calls on Governors to convince all conferees to dedicate additional gas tax revenues to the trust fund for in the past, dedication of the gas tax receipts to the Highway Trust Fund and transit programs has served the nation well and is critical to future infrastructure investments.

The President's proposed budget for 1994 included a full funding request of \$20.5 billion for highways and a 21 % increase in transit funding, but it exceeds the overall limits of the budget resolution, forcing choices on other cuts in order to fully fund ISTEA.

In the Budget reconciliation agreement, a new 4.3 cent gas tax increase was agreed upon with no dedication to the trust fund. The current 2.5 cent gas tax will be dedicated to the highway trust fund on October 1, 1995; 2 cents for highways and one-half cent to the mass transit.

BRIEFING PAPER:

● *Department of Public Works*

Guam strongly supports the position taken by NGA for full funding of the highway and transit programs authorized under ISTEA of 1991. According to DPW, ISTEA, as one of the most progressive highway transportation laws ever enacted, promotes strong coordination and cooperation among all transportation programs; promotes efficiency in program administration; and provides funding levels which have impacted our highway programs. DPW recommends that current funding levels for ISTEA should not be cut but maintained for it will enhance Guam's economic growth and positively impact on the existing and growing traffic congestion problems in our developing island community.

Prior to the passage of ISTEA 1991, all surface transportation legislation authorized only approximately \$4-5 million dollars annually to Guam. ISTEA now provides \$12-14 million annually until 1997. This new funding level for Guam has tremendously improved the Territory's capability to maintain and upgrade existing highways and bridges. It has also increased the possibility of building much needed new highways.

The island is making headway in the prevention and reduction of accidents on highways through the various available programs funded through ISTEA. However, the number of accidents occurring remains high due to the increasing number

of vehicles travelling the highways. Any reduction in funds will definitely have adverse impact on the programs offered to island residents which have helped reduce the number of accidents and fatalities on Guam.

- *Guam Mass Transit Authority*

The Mass Transit Authority strongly supports full funding for ISTEA although GMTA gets less than 10% of its funding from federal grants. The agency urgently needs additional assistance to fund additional expenditures required by the American With Disabilities Act (ADA). The Act requires a separate "paratransit" system and wheel chair lift on every vehicle bought after August 1990. This is an expensive burden on the agency with no additional federal grant. Guam is classified as a non-urban, and as such received only 10 to 20 percent of the funds received by jurisdiction classified as urban.

ISSUE:

- J. *Tax-Exempt Bond Financing*

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

On behalf of the Governors, NGA requests for the President's support on the recommendations of the Anthony Commission on Public Finance and to include them in his tax package. The major recommendations include: easing barriers against public-private partnerships utilizing tax-exempt bonds; limiting the impact of the arbitrage rebate on state and local government borrowing; broadening the range of state and local bonds that carry "bank deductibility of interest" as a means of getting banks back into the municipal bond market and increasing the demand for bonds; and raising the annual volume cap for state borrowing, which have been at the same level since 1986.

The House Ways and Means Committee started to mark-up the President's tax bill in May. The President's bill included NGA's suggestion of permanent extension of the mortgage revenue bond program and the low-income housing tax credit, and a two year extension of the small issue industrial development bond program. However, no relaxation of current

tax-exempt regulations restrictions were proposed. During the House and Senate debates on the FY 1994 budget reconciliation, a partial extension of the tax-exempt bonds was discussed. The House proposes a permanent extension of the mortgage revenue bonds while the Senate extended it from July 1, 1992 to July 1, 1994. Governors are urged to convince all conferees to decide a permanent extension for this program.

In the budget reconciliation agreement, permanent extension were granted to the Low Income Housing Tax Credits and the Mortgage Revenue Bonds.

BRIEFING PAPER:

- *Department of Revenue and Taxation*

The Territory fully supports the President's tax bill providing for permanent extension of the mortgage revenue bond program and the low-income housing tax credit. These programs would encourage the private sector to invest in mortgage revenue bonds which would enable states, cities, and countries to generate funds to build and improve infrastructure requirements. The low-income housing tax credit would provide incentive for money managers to shift funds into low-income housing construction.

ISSUE:

- K. *National Competitiveness Act of 1993
(Science & Technology Investments)***

Title IV of the 1993 Defense Appropriations Act provided approximately \$480 million for programs to help defense-dependent firms develop new technologies and/or new commercial uses for existing defense-related technologies. The legislation created statutory programs to support these activities.

The House adopted H.R. 820, the National Competitiveness Act of 1993. The bill would increase federal support for manufacturing extension centers and programs, support wider applications for the high performance computing network, provide federal support for greater adoption of total quality management through the National Science Foundation, enhance the advanced technology program, fund additional Hollings Centers (currently, there are seven manufacturing technology centers), establish a program for "patient capital" to provide venture capital to support technology ventures, and increase

funding for the National Institute of Standards and Technology (NIST) including support for additional work on benchmarking. The bill generally keeps with President Clinton's budget figures for FY 1994, but calls for significant increases in FY 1995.

The Senate Committee on Commerce, Science, and Transportation will also mark-up a comprehensive legislation, S. 4 on competitiveness, including most of the provisions mentioned in H.R. 820, and the so-called "Gore II" language, (telecommunications) intended to support research to develop a wider range of applications for the high performance computing network.

NGA supports provisions of the bill that strengthen the state-federal partnership in science and technology by structuring federal initiatives - such as manufacturing extension programs - to build on and support existing state programs, and provide incentives for more comprehensive state programs; permit flexibility in targeting programs to provide support for state priorities, including participation in proposed "High Performance Computing Networks". Governors are currently making efforts to transmit state views on technology and defense conversion issues to the federal government. Governors have designated state representatives for two state-federal science technology groups, the Science and Technology Council of States (STCS) and the NASA-States-Federal Agency Partnership Initiatives. Both groups promote state-federal cooperation on commercial applications of science and technology.

BRIEFING PAPER:

- ***Guam Economic Development Authority***

The Agency supports NGA's stand on provisions of the National Competitiveness Act of 1993. GEDA believes that the Act would reemphasize federal support for science and technology programs through increase support for manufacturing extension centers and programs, broad acceptance and application of hi-tech computing networks, adoption of total quality management through the National Science Foundation, an enhanced advanced technology program, funding additional Hollings Centers, establishment of venture "patient capital" to support technology projects, and increased funding for the National Institute of Standards and Technology. GEDA believes that emphasis should be placed on local government receiving the same opportunity to apply for the mentioned programs and should not be discriminated on the number of defense-dependent firms and displaced employees adversely impacted.

ISSUE:

● ***Financial Regulations***

L. Banking Legislation:

The House is expected to introduce a bill shortly on interstate bank branching. While on the Senate side, a bill, S. 371 has been introduced that would permit branching by acquisition of existing banks after one year; permit bank holding companies to establish new banks in other states after two years; and allow healthy state and national banks to move into new states after three years. Another bill, S. 810, was introduced that would give states three years to opt out of a nationwide interstate branching program through acquisition of existing banks and permit states to opt in to interstate bank branching using new banks.

The President's budget calls for significant funds to be generated by charging state banks for federal examinations. Currently, state examinations can be accepted by the Federal Deposit Insurance Corporation (FDIC), and they usually are. This proposal and the \$1.37 billion five year price tag attached to it suggests that the FDIC will soon begin to do their own separate examinations.

NGA believes that if state banks are forced to pay for two examinations while nationally chartered banks only pay one fee, state banks will be seriously disadvantaged, and state banking departments which make these examinations and depend on these fees for staffing will be seriously impaired. The Governors reaffirm their strong support for the viability of the dual banking system and preserving state authority in banking regulation.

BRIEFING PAPER:

● ***Department of Revenue and Taxation***

The Territory of Guam strongly supports the continuation of the dual banking system and the preservation of state authority in banking regulation. Under the system, the federal and the state governments could charter and regulate banks with the states having control over the entry of out-of-

state banks. Banks chartered in the Territory invest most of their capitals and deposits within the community, thus promoting credit availability, housing finance availability, and economic development. Locally, chartered banks are taxable under state laws.

Currently, state banks are billed by states for examination fees while nationally chartered banks are billed by a federal agency. No federal statute should authorize any federal agency to bill state banks for separate examinations conducted by a federal agency. This imposes a burden on state banks to pay for two examinations while nationally chartered banks only pay for one examination. Guam should urge that no state-chartered bank should be subject to federal audit or examination.

M. Insurance Regulation:

The House Committee on Energy and Commerce has introduced legislation (H.R. 1290) to partially preempt state regulation by creating a federal agency to establish federal standards and to regulate surplus lines, standards for agents and brokers, highly capitalized insurers, liquidations, and reinsurance. The bill provides that agents and brokers would regulate themselves through a National Association of Registered Agents and Brokers; an exemption from state regulation for insurers who provide commercial coverage to large buyers of insurance. A hearing on the bill last April revealed that only 18 states had met the newly revised standards for accreditation developed by the National Association of Insurance Commissioners. Further hearings will be taken up before the Subcommittee on Oversight and Investigations.

Bill H.R. 1257 was introduced by the House Committee on Banking, Finance, and Urban Affairs to elevate the office of the Federal Insurance Administrator to the status of an independent agency.

NGA has adopted a comprehensive statement on insurance regulation that opposes federal preemption of insurance regulation and calls for further action by states to improve existing state regulations and to foster improved interstate cooperation.

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. Guam should support funding requirements to improve state regulations and to foster interstate cooperation through the National Association of Insurance Commissioner (NAIC).

According to the Department of Revenue and Taxation, the insurance industry is better regulated by the states. The policy by NAIC of continuously raising the standards of accreditation by adoption of model laws and development of technical expertise of insurance regulatory personnel resulted in almost half of the states already meeting the standards for accreditation. This shows that with or without accreditation, states have been monitoring the insurance industry.

In Guam, the Insurance Commissioner is fully supported by the department in its effort to review the effectiveness of state regulatory system for the protection of the policy holders and the taxpayers. The Commission is in the process of revising the local insurance laws and regulations. The Commission is seeking cooperation with other states 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 the provide a climate for competition in the insurance industry.

N. Credit Reporting Consumer Protection:

H.R. 1510, a bill to establish federal standards for the regulation of consumer credit reporting agencies has been introduced. This bill does not contain language preempting existing state laws or regulations that are stronger than the federal standards. Also in the Senate, a similar bill, S. 783 has been introduced without preemption language.

NGA supports passage of the bills on behalf of the nation's Governors. The Governors are opposed to federal preemption of states laws protecting consumers from abusive and negligent actions of consumer credit reporting firms. The Governors claim that states have the right to enforce federal

credit reporting standards.

BRIEFING PAPER:

• *Department of Revenue and Taxation*

The department is recommending that the Governor supports passage of H.R. 1510 and/or S. 783 because neither one contains language preempting existing state laws or regulations that are stronger than the federal standards. Although currently, Guam has not enacted any statute regulating credit reporting, Guam like most states would like to retain the option to enact local statute regulating credit reporting. Guam believes that no matter how thoroughly federal laws are discussed and deliberated, there are instances when local conditions and trade practices prevailing in an area are ignored. Therefore, the Territory in supporting federal standards for regulation of consumer credit reporting, should be assured that such standards do not supersede existing state laws or regulations.

O. Uniform Federal Product Liability Law:

NGA, in a letter, requests the President to consider the Governors position in support of a uniform federal product liability law as he develops his economic program. NGA states that the current system impedes competitiveness and innovation and has become a "roadblock" to economic growth, the safety and welfare of consumers. NGA also believes that inconsistent product liability laws hurts interstate commerce and confuses manufacturers.

The Governors have also urged Congress to enact a federal product liability law as an economic stimulus that would not expend any federal funds but would reduce the cost of American goods. Although NGA policy does not endorse any particular legislation, the Governors ask that in the development of legislation, Congress should assess the impact of a uniform code on public safety and consumer protection standards.

Legislation, H.R. 1910 and S. 687 have been introduced in the House and the Senate to establish a uniform product liability code.

BRIEFING PAPER:

● *Guam Economic Development Authority*

The Agency supports provisions of the Uniform Product Liability Law. GEDA believes that nationally, liability insurance coverage has become increasingly expensive, more difficult to maintain, or is simply unavailable and has had a severely adverse impact on government entities, public and private organizations, businesses, and professionals. Coordination by federal, state, and local governments and the private sector is necessary to carefully develop product liability standards. Product uniformity helps to facilitate interstate commerce, enable insurers to predict accurately the potential liability of product manufacturers and insurers, and guarantee the needs of American businesses and consumers are met and protected.

DEPARTMENT OF COMMERCE
DIPATTAMENTON I KUMETSIO

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

April 12, 1991
Page 1 of 2

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 lose some unstable and unskilled jobs in textiles and watch assembly. The number of jobs vary greatly from month to month but average about two hundred. Under the best future, these are declining industries for Guam. Further, Guam currently generates an excess of unskilled jobs. As a judgement of proportion, we believe that it is 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 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].

As said in previous briefing papers, 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 represen-

tative nor from any organization dealing with the trilateral 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 the Governor attend one of the National Governors' Association hearings on the trilateral trade talks. We further recommend that Guam's position be repeated at forums 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 Island 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 CMI 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, 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. Vigorous expression now of concern about access to the U. S. market in relation to the trilateral agreement may interfere with Guam's inclusion in the U. S. access to the Canadian and Mexican markets.

Support of Negotiation of the Trilateral Free Trade Agreement

In support of negotiations, we recommend that Guam support passage through Congress of the extension of the "fast-track trade negotiating authority." "Fast-Track Trade Negotiating Authority" is the subject of a concurrent briefing paper.

GUAM ENVIRONMENTAL PROTECTION AGENCY

Issue: Implementing Legislation for NAFTA (North American Free Trade Agreement)

NAFTA is not relevant to Guam. NAFTA deals with reducing or eliminating trade barriers with Canada and Mexico.

Recommendation: Support general NGA objective for implementing NAFTA.

IMPLEMENTING LEGISLATION FOR NAFTA AGREEMENT

The NAFTA negotiations are an effort to eliminate or minimize tariff and non-tariff barriers to trade among the United States, Canada and Mexico. However, the success of these negotiations is contingent upon multiple changes to domestic law. Subsequently, because the legislative process can be a lengthy one and because amendments could serve to unravel an agreement, a "fast track", meaning special procedures established by Congress for reviewing legislation, was devised.

As part of this fast track process state and local governments must prioritize development of comments and recommendations which qualify their individual concerns. Although the Territory does not maintain direct trade relations with Canada, Mexico and the U.S., NAFTA may establish trade policies conducive to and supportive of local export efforts. For all service industries, the NAFTA establishes several important principles for services trade: non-discriminatory treatment; right of non-establishment; and transparency and prior comment in rule making. The principles of services chapter restates the need for non-discriminatory treatment and provides that most-favored nation (MFN) or national treatment must be accorded, whichever is better. The chapter also provides a clear non-establishment clause that a service provider can not be required to maintain a commercial presence (investment) to offer a service. Some reservation exists regarding the latter since this provides neither job creation nor material benefit to the local economy through flight of capital offshore.

The agreement will generally apply to state and local regulations affecting service providers. However, the U.S. has maintained its policy to grant an extension period to exempt certain non-federal service restrictions. States will have two (2) years to list all service preferences they wish to exempt from the principles otherwise applicable to the services category. Local government regulations which discriminate need not be explicitly listed to be exempted, but local governments would be prohibited from establishing new restrictions. Similarly, both Canada and Mexico would be entitled to negotiate withdrawal of benefits otherwise granted in NAFTA if they felt unfairly restricted by the exemptions.

Additionally, NAFTA prohibits performance requirements, specific export levels, minimum domestic content preferences for domestic sourcing, trade balancing, technology transfer and product mandating. These principles do not apply to federal government procurement, export promotion or foreign aid.

Any effort to harmonize the standards of the three countries must include the participation of the states. It is important to clarify the states should be able to set or retain standards higher than federal or international minimums as long as they are non-discriminatory and scientifically based.

Attention should be spent developing the dispute settlement process. Currently, if a state law is challenged, it is unclear what is the process for notifying the state, and specifically the Governor. It is also unclear to what extent the state participates in the preparation and defense of the case, what its options are in the event its interest differ from that of the federal government, and which NAFTA dispute mechanism applies. Consequently, the Territory should ask these exact same questions assuming both its current and future status.

As a small percentage of domestic product, Guam's agriculture industry is almost solely for local consumption. Unless comparative trade advantages of both Canada and Mexico change materially, the establishment of NAFTA will have minimal influence on our agricultural industry.

Likewise, as trade barriers between the three countries decrease, particularly between Mexico and the U.S., Guam's potential ability to compete may be affected. A Memorandum of Understanding dated May 3, 1992, between the U.S. Department of Labor and its Mexican counterpart outlines action plans to address prominent labor issues. Major issues identified within this MOU are disparities in health and safety regulations, disparity in minimum wage laws; and economic adjustment assistance for displaced U.S. Workers. Notwithstanding the resolution of these issues, the Territory will need to reevaluate the effectiveness of its current Qualifying Certificate program, low interest loans and favorable lease arrangements, and whether they are enough to offset Mexico's advantages in low labor costs, literate workforce and proximity to the U.S.

In the best interest of protecting our future infant industries, Guam should closely follow the progress of NAFTA and develop an appropriate list of both trade barriers and service preferences for local goods and services which restrict and improve local economic diversification.

NORTH AMERICAN FREE TRADE AGREEMENT

NGA Objective

- Ensure that implementing legislation establishes formal mechanisms for coordination and communication between the states and the federal government, particularly in settling disputes that challenge state laws. Areas of potential dispute will ~~likely~~ occur over state regulation of environmental standards, services, investment, and government procurement.

On June 30 a judge in the U.S. District Court of Washington, D.C. issued a ruling that will delay progress on implementation of the North American Free Trade Agreement (NAFTA). The judge (in Civil Action No. 92-2102 (CRR)) indicated that the President cannot proceed with implementation of NAFTA without filing an Environmental Impact Statement (EIS) in compliance with the National Environmental Policy Act (NEPA). In his 23-page ruling, Judge Charles R. Richey agreed with plaintiffs Public Citizen, Sierra Club, and Friends of the Earth who said proposed NAFTA legislation should be subject to NEPA requirements, given its potential significant effect on the environment, especially along the U.S.-Mexico border. Preparation of an EIS can take months, sometimes years. If the ruling stands, it could prevent the U.S. from achieving congressional approval by the end of the year, when the NAFTA agreement is scheduled to go into effect.

The Justice Department will appeal the ruling, saying it interferes with the President's ability to negotiate international agreements for the United States. But it will be at least a month before a hearing date will be set. First, the government will file a brief July 19, the plaintiffs will file a response by August 2, and then the government will refile August 10; only after that will a hearing be scheduled.

Before the ruling last week, the Office of U.S. Trade Representative (USTR) was pursuing negotiations with Mexico and Canada on separate agreements for the environment and labor issues. These side agreements would be included in a package with legislation implementing the NAFTA agreement itself, which was concluded last year. This package would be submitted to Congress perhaps as early as mid-July, with a vote by Congress targeted for the Fall. USTR has announced that it will proceed with this timetable despite the ruling.

States are working with negotiators on the side agreements. A small working group of state staff has submitted comments informally to environmental negotiators, calling for a stronger role for states in dispute settlement and other trilateral environmental enforcement efforts. A similar effort to advise on the labor negotiations is underway. Meanwhile, individual Governors are expressing their support for NAFTA. A Heritage Foundation survey indicated that 40 of the 50 Governors support NAFTA. NGA lead Governors are Governor Thompson and Governor Richards.

Contact: Jody Thomas, 202/624-7824

NORTH AMERICAN FREE TRADE AGREEMENT

NGA Objective

- Ensure that implementing legislation establishes formal mechanisms for coordination and communication between the states and the federal government, particularly in settling disputes that challenge state laws. Areas of potential dispute will likely occur over state regulation of environmental standards, services, investment, and government procurement.

Congressional hearings are underway in anticipation of implementing legislation for the North American Free Trade Agreement (NAFTA). The agreement was signed by President Bush and his counterparts in Canada and Mexico on December 17, 1992. The comprehensive text is designed to reduce or eliminate barriers to trade among the three countries. The effective date for the agreement is January 1, 1994, pending congressional approval since implementation of the agreement requires changes to domestic laws. The Office of the United States Trade Representative is currently drafting proposed implementing legislation to Congress and is expected to transmit it to the Hill in early June. The language will then be considered under "fast-track" procedures, which set time limits for House and Senate review and also prohibit any amendments.

President Clinton has said he supports NAFTA and does not plan to reopen negotiations. However, he has endorsed the current efforts to negotiate supplemental agreements to address matters related to the environment, labor, and the effects of import surges. Talks began in March and are continuing. In the meantime, the extent of congressional support for NAFTA is difficult to gauge but appears to be diminishing. While many members of Congress have indicated they will not take a stand on NAFTA until the side agreements are finalized, an increasing number have expressed doubts about the potential benefits of NAFTA for their constituents.

NGA Economic Development and Commerce Chairman Governor Jim Edgar and Lead Governors on Trade Governor Tommy Thompson and Governor Ann Richards have assumed responsibility for monitoring NAFTA's progress and ensuring that state concerns are incorporated into the implementing legislation. NGA policy approved at the winter meeting revised and updated the Governors position on NAFTA, expressing general support for implementing NAFTA, provided that the environment and labor issues are addressed.

Contact: Jody Thomas, 202/624-7824
Lydia Conrad, 202/624-5363

GOVERNOR JOSEPH F. ADA
LT. GOVERNOR FRANK F. BLAS



JUL 20 1993

MEMORANDUM

TO: Acting Director, Bureau of Planning

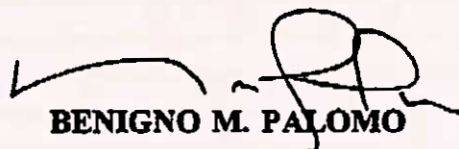
FROM: Director of Public Works

SUBJECT: Briefing Paper on Surface Transportation Funding for the Governor

Attached is our response to your memorandum of June 23, 1993 requesting our assistance in preparing a briefing paper for the Governor on surface transportation funding and any other related highway transportation issues that concern us.

The main issue our paper focused on was the possible reduction of appropriated funds for Fiscal Year 1994 for the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 by about \$2 billion dollars. The present funding authorization for ISTEA is \$20 billion annually but appropriations may only be \$18.4 billion.

Should you have any questions please contact Messrs. Marc A. Gagarin, P.E., Chief of Engineering, Division of Highways or Ray A. Torres, Chief Planner at 646-2109/646-3140 respectively.



BENIGNO M. PALOMO

Attachment

GOVERNOR'S BRIEFING PAPER ON SURFACE TRANSPORTATION FUNDING FOR HIGHWAYS

GUAM STRONGLY SUPPORTS AND FULLY STANDS BEHIND THE POSITION TAKEN BY THE NATIONAL GOVERNORS' ASSOCIATION FOR FULL FUNDING OF HIGHWAY AND TRANSIT PROGRAMS AUTHORIZED IN THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT (ISTEA) OF 1991. NO CUTBACKS OF FUNDING FOR ISTEA (ICE TEA) SHOULD BE ENACTED THROUGH THE LIFE OF THIS IMPORTANT SURFACE TRANSPORTATION LEGISLATION. ISTEA IS ONE OF THE MOST PROGRESSIVE PIECES OF HIGHWAY TRANSPORTATION LAWS EVER ENACTED AND IT PROMOTES STRONG COORDINATION & COOPERATION AMONG ALL TRANSPORTATION PROGRAMS, EFFICIENCY IN PROGRAM ADMINISTRATION AND MOST IMPORTANTLY, FUNDING LEVELS WHICH HAVE IMPACTED OUR HIGHWAY PROGRAMS. THE PRESENT FUNDING LEVELS OF ISTEA HAS BROUGHT WHAT USED TO BE JUST DREAMS FOR STATE AND TERRITORIAL LEADERS IN MEETING THE HIGHWAY INFRASTRUCTURE NEEDS OF THEIR CONSTITUENCY A STEP CLOSER TO REALITY. CURRENT ISTEA FUNDING AUTHORIZATIONS, IF MAINTAINED, WILL ENHANCE GUAM'S ECONOMIC GROWTH AND POSITIVELY IMPACT ON THE EXISTING AND GROWING TRAFFIC CONGESTION PROBLEMS IN OUR DEVELOPING ISLAND COMMUNITY. CURRENT FUNDING LEVELS FOR ISTEA MUST NOT BE CUT!

PRIOR TO THE PASSAGE OF THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991 ALL SURFACE TRANSPORTATION LEGISLATION AUTHORIZED ONLY APPROXIMATELY \$4-5 MILLION DOLLARS ANNUALLY TO THE TERRITORY OF GUAM. ISTEA NOW PROVIDES FUNDING UPWARDS OF \$12-\$14 MILLION ANNUALLY TO GUAM UNTIL 1997. THIS NEW FUNDING LEVEL FOR GUAM'S HIGHWAYS HAS TREMENDOUSLY IMPROVED THE TERRITORY'S CAPABILITY TO MAINTAIN AND UPGRADE ITS EXISTING HIGHWAYS AND BRIDGES AND IT HAS INCREASED THE POSSIBILITY OF BUILDING MUCH NEEDED NEW HIGHWAYS. GUAM HAS BEEN PROGRESSING IN ITS EFFORTS TO CATCH UP WITH THE HIGHWAY INFRASTRUCTURE DEMANDS OF ITS GROWING POPULATION AND GROWING ECONOMY BUT IT STILL HAS A LONG WAY TO GO.



Guam Mass Transit Authority

Government of Guam
P.O. Box 24383, GMF, Guam 96921
Telephone: 649-9846
Fax: 649-9247



15 January 1993

MEMORANDUM

TO: DIRECTOR, BUREAU OF PLANNING

FROM: PLANNER IV

SUBJECT: Priority Issue in the 1993 WGA Winter Meeting: Washington, DC., Jan 30-Feb 2, 1993

Per your request we respond as follows:

1. We strongly support full funding levels for Highways and Mass Transits. GMTA gets less than 10% of its funding from Federal Grants. This is due in part to the irrational withholding of dedicated tax monies that were collected for Mass Transit and should not impact on the Federal Deficit. Guam urgently needs additional dollars to fund the additional expenditures required by the Americans With Disabilities Act (ADA). A separate "Paratransit" system and wheel chair lifts on every vehicle bought after 26 August 1990 will cost well over \$500,000 every year from now on with no additional Federal grant funds. Meanwhile, billions of dollars earmarked for Mass Transit sit idle in the Federal Treasury.
2. Guam in particular, gets shafted by being classed as "non-urban." which means we get about 10% - 20% of the funds we would receive if we were simply classed as urban.
3. Thank you for soliciting our input on this disgraceful situation.


MACK N. EZZELL

FILE: EXBR: BUREAU OF PLANNING FY 93

FILE NAME: MACKBBMR

Surface Transportation Funding

NGA Objective

- Secure full funding of highway and transit programs authorized in the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 and continued dedication of gas taxes to the Highway Trust Fund and transit.

The House will soon consider the fiscal 1994 transportation appropriations recommendation reported out by its appropriations committee on June 24 (H.R. 2940, H. Rpt. #103-149). The legislation includes a \$17.2 billion obligation ceiling, with \$2.1 billion outside the ceiling, an increase of \$1.3 billion over the current year's spending but still \$700 million short of the ISTEA authorization levels. The bill also provides \$4.5 billion in total transit funding, with an increase of \$677 million over the current \$3.8 billion, but below the ISTEA-authorized level of \$5.1 billion. Additionally, the House committee proposal included a \$300 million cut in the current funding of \$1.8 billion for airport improvement grants. Funding for the Essential Air Service was also zeroed out, despite the Administration request for current annual funding of \$38.6 million. Even so, transportation received the largest fiscal 1994 increases for discretionary programs -- a major NGA victory.

On June 7, letters were sent to members of the House and Senate Appropriations Committees regarding funding for their state if appropriation levels were set at the level of the President's budget.

On June 16, NGA Chairman Romer, Governor Edgar, Chairman of the Economic Development and Commerce Committee, and Governor Bob Miller, Lead Governor for Surface Transportation, sent a letter (attached) to Senate Finance Committee members, as well as Senators Mitchell and Dole, urging the dedication of "all current and future motor fuel tax revenues to the highway trust fund and to fully fund the President's infrastructure initiatives, especially the Intermodal Surface Transportation Efficiency Act of 1991." (See "Budget Reconciliation" for further information on the proposed energy and gas tax issues.)

Governors have been asked to respond to a survey to determine their interest in developing NGA policy on the federal requirement for making transportation projects conform to air quality goals. The two executive branch organizations representing state air quality and state transportation officials have not been able to come to agreement on the contentious issue. The survey was due on July 2.

On April 20, Governor Edgar and Governor Bob Miller submitted a statement for the record before the Surface Transportation Subcommittee of the House Committee on Public Works regarding oversight of the ISTEA. The Governors outlined several state concerns: full funding of ISTEA, federal mandates, the development of the National Highway System, state relationships with Metropolitan Planning Organizations, a forthcoming NGA Clean Air/ISTEA conference, and the base state working group initiated to facilitate universal state participation in the International Fuel Tax Agreement and the International Registration Plan.

Contact: Charilyn Cowan, 202/624-7814
Lydia Conrad, 202/624-5363



Soe

April 15, 1993

Economic Development and Commerce Group
Contact: Charilyn W. Cowan, 202/624-7814



SURFACE TRANSPORTATION FUNDING FACES FIRST HURDLE FOR FISCAL 1994

Action Needed

Governors should immediately contact their key senators and representatives to urge full funding for the Intermodal Surface Transportation Efficiency Act (ISTEA). The so-called 602(b) allocations — which control subcommittee spending — will be made when Congress returns from the April recess. Without a favorable decision at this stage, full funding will be virtually impossible.

Issue

Despite universal support for fully funding ISTEA, it will only be possible if the transportation subcommittee receives large enough budget authority and outlay numbers in the appropriations allocation 602(b) process. The administration endorses full funding of \$20.5 billion for highways — and a 21 percent increase for transit — but exceeds the budget resolution's overall limits with its proposed budget for fiscal 1994. This will force tough choices.

Impact

Governors are undivided in supporting full funding for ISTEA, but securing it will require maximum effort. State capacity to fulfill public expectations for better highways, bridges, and transit systems is constrained even with full funding of ISTEA, but appropriations have fallen short of enacted levels. The highway funds at stake for each state, including the stimulus package, is shown on the chart (over). Gas tax and other revenues are collected and available to support full funding and maintain a prudent cash balance. NGA supports putting all gas tax revenues in the trust fund, including the 2.5 cents diverted to the general fund in the 1990 budget agreement, which would avert any cash shortage in 1995. If states do not secure full funding now, it will be harder to regain ground later.

Background

At the next step, the transportation appropriations bill will be written in May by the subcommittee. It will include the highway obligation ceiling and program funding for transit. The subcommittee will have to weigh full funding for ISTEA against competing claims to fund Coast Guard, air traffic control, high speed rail, and special projects. The \$18.4 billion highway obligation ceiling proposed for 1994 would be supplemented with about \$2.1 billion in funding exempt from the obligation ceiling, for total spending of \$20.5 billion. Dedicating all gas tax receipts to the trust fund will be considered in the budget reconciliation bill later in the spring.

Attachment

Action Letter



July 9, 1993

**The President
The White House
Washington, D.C. 20500**

Dear Mr. President:

We are writing to ask for your full support on a critical issue of mutual concern: obtaining full funding of the Intermodal Surface Transportation Efficiency Act (ISTEA) by increasing the obligation ceiling and dedicating any additional gas tax revenues to highway and transit accounts of the Highway Trust Fund.

When we met with you in February, we unanimously requested that you concentrate some investments in infrastructure, especially for transportation. Your budget called for full funding of ISTEA. However, we lost much from this increase when the stimulus package failed, and we are now in danger of losing even more through the budget reconciliation and appropriations bills.

If the fiscal 1994 budget resolution includes a gas tax increase, we urge you to support the dedication of any new gas tax revenues to the Highway Trust Fund and transit programs. This would maintain a longstanding and strong view of the Governors that gas taxes be dedicated to transportation. It would also help to provide full funding for ISTEA, as well as for key elements in your infrastructure investment proposals. Furthermore, it would bring about long-term productivity growth, create high-wage jobs, and provide specific benefits to taxpayers.

Even though these funds would be dedicated to the trust fund, they would still be used for deficit reduction until the funds are obligated and appropriated. Since the spend-out is slow, most of the funds would contribute to deficit reduction in the first five years. At the same time, dedication makes the commitment to infrastructure investments real and sends a clear message that Washington is giving the people what they have asked for in every poll taken of their views on the gas tax increase by using it ultimately for transportation.

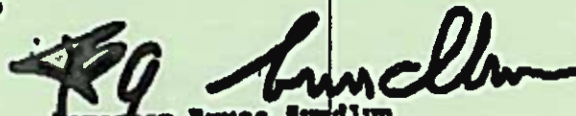
The President
July 9, 1993
Page Two

We appreciate your strong support for infrastructure in the past and we hope you can assist us in ensuring that if the final budget legislation includes new gas taxes, they will be dedicated to transportation.

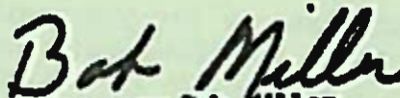
Sincerely,



Governor Jim Edgar
Chairman
NGA Committee on Economic
Development and Commerce



Governor Bruce Sundlun
Vice Chairman
NGA Committee on Economic
Development and Commerce



Governor Bob Miller
Lead Governor on Surface Transportation

NATIONAL GOVERNORS ASSOCIATION

Ray Romer
Governor of Colorado
Chairman

Raymond C. P. 1 3 *Mike*
Executive Director

Carroll A. Campbell Jr
Governor of South Carolina
Vice Chairman

Hall of the States
44 North Capitol Street
Washington, D.C. 20001-1502
Telephone (202) 624-1310



July 28, 1993

TO ALL GOVERNORS

The biggest unresolved state issue in the budget debate is the gas tax. There is likely to be a significant gas tax increase without any dedication of the revenues to the Highway Trust Fund. The House offer even proposes to drop dedication of the 2.5-cent gas tax that has been going to the general fund, reversing a provision now contained in both bills. This means that Congress appears to be on track to passing a 6- to 7-cent gas tax without devoting any of it to financing transportation infrastructure.

Your personal involvement is urgently needed. Specifically, it is important that all members, but especially Democratic members, convince Senator Daniel Patrick Moynihan and Rep. Dan Rostenkowski and their fellow conferees that any gas tax increase must be dedicated to the trust fund. This can be done without affecting the deficit reduction impact of the package. The conference committee will be making final decisions in the next two days. I urge you to act as quickly as possible.

Sincerely,

Bob Miller

Governor Bob Miller
Lead Governor on Surface Transportation

Attachment: 7/9/93 Letter to the President on full funding for ISTEA



TAX EXEMPT BOND FINANCING

The Territory of Guam fully supports President's tax bill providing for permanent extension of the mortgage revenue bond program and the low-income housing tax credit.

The approval of these programs would encourage the private sector to invest in mortgage revenue bonds. This would enable states, cities and counties to generate funds to build and improve infrastructure requirements. Similarly, low-income housing tax credit would provide the incentive for money managers to shift funds into low-income housing construction.

**TAX EXEMPT
BOND FINANCING**

April 27, 1993

The President
The White House
Washington, D.C. 20500

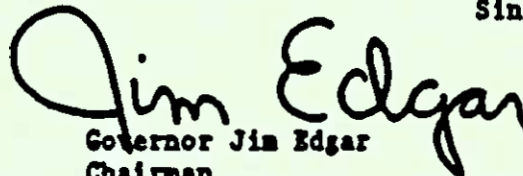
Dear Mr. President:

The National Governors' Association continues to support the recommendations of the Anthony Commission on which you and Governor Carroll Campbell served as task force chairs.

The Anthony Commission made several recommendations with regard to the federal treatment of tax-exempt bonds. These changes should be incorporated in your tax reform bill and would contribute directly to your long-term investment strategies. A small amount of federal funds would leverage much more in state, local, and private investments.

We thank you for already including our suggestions in your FY 1994 budget with regard to small issue and mortgage revenue bonds, low income housing tax credits, education, and research and development credits.

Sincerely,



Governor Jim Edgar
Chairman
Committee on Economic
Development and Commerce



Governor Bruce Sundlum
Vice Chairman
Committee on Economic
Development and Commerce

cc: Secretary Bentsen
Mr. Rubin
Ms. Montoya

TAX-EXEMPT BOND FINANCING

NGA Objectives

- Extend the low-income housing tax credit, the mortgage revenue bond program, the small issue industrial development bond program, and the jobs, education, and research tax credit.
- Enact the recommendations of the Anthony Commission on Public Finance to permit states greater flexibility in infrastructure financing.

Governors Edgar and Sundlun, chair and vice chair of the Committee on Economic Development and Commerce wrote President Clinton asking him to support the recommendations of the Anthony Commission on Public Finance and to include them in his tax package. The major recommendations include easing barriers against public-private partnerships utilizing tax-exempt bonds, limiting the impact of the arbitrage rebate on state and local government borrowing, broadening the range of state and local bonds that carry "bank deductibility of interest" as a means of getting banks back into the municipal bond market and increasing the demand for bonds, and raising the annual volume cap for state borrowing, which have been at the same level since 1986.

The House Ways and Means Committee is scheduled to begin mark-up of the President's tax bill the week of May 10. The President has proposed permanent extension of the mortgage revenue bond program and the low-income housing tax credit, and a two year extension of the small issue industrial development bond program. No relaxation of current tax-exempt regulations or restrictions were proposed.

The Senate is scheduled to draft its version in mid-June. Final action is expected before the Congress recesses for the Fourth of July.

Contact: Tim Masanz, 202/624-5311

NATIONAL COMPETITIVENESS ACT OF 1993

The NGA's support for the National Competitiveness Act is based upon the strengths afforded to states governments through state-federal partnerships in science and technology. The National Competitiveness Act would reemphasize federal support for all such programs through increased support for manufacturing extension centers and programs, broad acceptance and application of hi-tech computing networks, adoption of total quality management through the National Science Foundation, an enhanced advanced technology program, funding additional Hollings Centers, establishment of venture "patient capital" to support technology projects, and increased funding for the National Institute of Standards and Technology (NIST).

Emphasis should be placed on local governments receiving the same opportunity to apply for these programs and should not be discriminated solely by on the number of defense-dependent firms and displaced employees adversely impacted. Under Title IV of the 1993 Defense Appropriations Act provided \$480 Million for eleven (11) programs designed to help defense-dependent firms develop new technological and commercial uses for defense related technologies. In general, the resources provided through these programs have three (3) major activity areas:

1. Technology Development, which create new technologies or use existing technology to develop new products and processes;
2. Technology Deployment; which includes manufacturing extension services that provide technical and management assistance, referrals, transition work through pilot projects, and information services to small businesses, particular defense dependent firms; and
3. Manufacturing, Education and Training, which includes developing new engineering curricula, establishing practice-oriented MBA programs, funding centers focused on retraining the manufacturing workforce, engineering internships, and additional support to existing manufacturing centers.

State governments are eligible to apply directly for funding under three (3) programs:

1. Regional Technology Alliances Assistance Program; a program designed to apply and commercialize dual-use technologies. The alliances are intended to bring together federal, state and industry resources to regional service areas. An alliance is defined as one or more firms and a sponsoring agency. DoD will provide up to 50% funding for a maximum of six (6) years for each project.

2. Manufacturing Extension Program; a program which assists small manufacturers in modernizing and improving their production processes. Applicants are encouraged to make use of all available resources, including state programs. DoD will provide up to 50% of funding for a maximum of five (5) years.

3. Defense Dual-Use Extension Program; a program which helps defense-dependent firms develop dual-use capabilities. Federal, state and local governments, regional entities, private entities and non-profit organizations may submit proposals to provide such services. Funds may be used to provide technical assistance, help access information, and provide loan guarantees to small businesses. DoD will provide up to 50% of project funding in the first year, 40% in the second, and 30% in the third.

States may also access the other remaining programs. The Defense Dual-Use Critical Technology Partnerships Program, the Commercial Military Integration Partnerships Program, and the Defense Advanced Manufacturing Technology Partnership Program will fund the research and development activities of eligible firms and/or non-profit research corporations. While state government agencies may not apply, the state can facilitate such relationships among firms and between firms, government, and research organizations called for in the program announcement. Also, state funds can be used as match.

Of all the programs, the Small Business Innovation Research Program (SBIR) is the only one which does not require 50% matching funds. It is a program which assists federal agencies in setting aside a percentage of their research budget for awards to small businesses. After soliciting and evaluating proposals, each agency awards grants to determine the technical feasibility of the proposed research and development concepts. These awards are referred to as Phase I funding. SBIR awards do not require matching funds.

Official solicitation requesting proposals for these programs were due approximately the end of July, with initial awards planned for September 1993. It is unknown whether federal agencies are still willing to discuss potential programs and projects with any interested parties at this late date.

Infoletter



March 25, 1993

**Economic Development and
Commerce Policy Studies**
Contact: Marianne Clarke
(202) 624-5380

DEFENSE TECHNOLOGY CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

Summary

Last year, Congress authorized a number of programs to provide assistance to defense dependent firms, workers and communities to ease the impact of decreased defense spending. On March 10, 1993, the Department of Defense (DoD) announced plans to implement the technology portion of the defense conversion program. The program will provide \$480 million to support dual-use technology partnerships, manufacturing technology, regional technology alliances, manufacturing extension and assistance programs, and manufacturing education initiatives. States may be able to use some funds to support state defense conversion efforts, including support for state and local manufacturing extension services, and states can facilitate the efforts of businesses and educational institutions in accessing these funds.

Background

Title IV of the 1993 Defense Appropriations Act provided approximately \$480 million for programs to help defense-dependent firms develop new technologies and/or new commercial uses for existing defense-related technologies. The legislation created eleven statutory programs to support these activities. An interagency Defense Technology Conversion Council (DTCC) was established to administer the programs. DTCC is chaired by the Department of Defense's Advanced Research Projects Agency (ARPA) and includes the Department of Energy/Defense Programs, the Department of Commerce's National Institute of Standards and Technology (NIST), the National Science Foundation (NSF), and the National Aeronautics and Space Administration (NASA).

The March 10th announcement deals with funds for eight programs.

**Fiscal 1993 Title IV Appropriations
for Technology Reinvestment Project Programs (millions \$)**

Defense Dual Use Critical Technology Partnerships	\$81.9
Commercial Military Integration Partnerships	\$42.1
Regional Technology Alliances Assistance Program	\$90.5
Defense Advanced Manufacturing Technology Partnerships	\$23.5
Manufacturing Extension Programs	\$87.4
Defense Dual Use Assistance Extension Program	\$90.8
Manufacturing Engineering Education: Grant Program	\$43.6
Manufacturing Experts in the Classroom	\$ 4.6
Small Business Innovation Research Program	\$ 7.2
TOTAL	\$471.6

Eligible Activities

The program has three major activity areas: technology development, technology deployment, and manufacturing education and training. Each applicant must identify the activity most appropriate to a proposed project and match it with a statutory program as a funding source.

Technology development activities create new technologies or use existing technology to develop new products and processes. Eligible projects include:

- 1) those that demonstrate non-defense commercial viability of existing defense technologies;
- 2) the development of technologies with both defense and non-defense uses (i.e. dual-use technologies); and
- 3) commercial technologies that increase the affordability of existing and planned defense systems.

Eleven broad areas have been identified as key dual-use technologies for development. These areas are considered high priority, although proposals may be submitted in other areas. They include:

- Information Infrastructure
- Electronics Design and Manufacturing
- Mechanical Design and Manufacturing
- Materials/Structures Manufacturing
- Health Care Technology
- Training/Instruction Technology
- Environmental Technology
- Aeronautical Technologies
- Vehicle Technology
- Shipbuilding Industrial Infrastructure
- Advanced Battery Technology

Technology deployment activities include:

- 1) Manufacturing extension services that provide technical and management assistance to small (fewer than 500 employees) businesses with an emphasis on assisting defense-dependent firms. Services can include helping firms access training and consulting services, adopt technologies to improve products and processes, and translate research findings into new products.
- 2) Extension enabling services that link together providers of extension services with each other as well as with the developers of technology. Possible activities include information systems for locating technology sources to solve manufacturers' problems, training for extension field agents, and benchmarking.
- 3) Pilot projects aimed at improving the interactions between prime contractors or original equipment manufacturers and their suppliers.
- 4) Technology access services to help the private sector access technologies from defense and other government sources, including federal laboratories.

Manufacturing education and training activities include developing new engineering curricula, establishing practice-oriented master's degree programs, funding centers focused on retraining the manufacturing workforce, providing educational traineeships for defense industry engineers, creating one or more engineering education coalitions, and providing additional support to existing manufacturing centers.

Program Descriptions

State governments are eligible to apply directly for funding under three programs: the Regional Technology Alliances Assistance Program, the Manufacturing Extension Program, and the Defense Dual-Use Extension Program. These programs are described below.

States can play an important role in the remaining programs. The Defense Dual-Use Critical Technology Partnerships Program, the Commercial Military Integration Partnerships Program, and the Defense Advanced Manufacturing Technology Partnerships Program will fund the research and development activities of eligible firms and/or nonprofit research corporations. While state government agencies are not an eligible applicant, the state can facilitate the types of relationships among firms and between firms, government, and research organizations called for in the program announcement. In addition, state funds can be used as match. At the very least, the state can work to ensure that defense-dependent and technology-based firms are aware of the program announcement.

The manufacturing education and training programs will provide funds to institutions of higher education and consortia or such institutions. States may want to work with their colleges and universities and link them with businesses pursuing conversion strategies.

All awards will be made on a competitive basis. All of the programs, with the exception of the Small Business Innovation Research (SBIR) Program, require at least 50 percent matching funds.

Regional Technology Alliances Program. The Regional Technology Alliances Program is considered a technology deployment activity. The program is designed to support regional efforts to apply and commercialize dual-use technologies. The alliances are expected to bring together state, industry, and federal resources to provide services to regional clusters of associated firms. An alliance must include one or more firms and a sponsoring agency. The sponsoring agency can be an agency of state or local government, a nonprofit established by two or more states or local governments, a membership organization in which a state or local government is a member, or an institution of higher education designated by a state or local government. DoD will provide up to 50 percent of funding for a maximum of six years for each project funded. At least 50 percent of the funding must be non-DoD monies.

Manufacturing Extension Program. The Manufacturing Extension Program will assist small manufacturers in modernizing and improving their production processes. Eligible applicants include manufacturing programs of regions, states, local governments, and private, nonprofit organizations. The announcement emphasizes that proposers should make use of existing resources including state-funded programs, NIST Manufacturing Technology Extension Programs, and university-based state industrial extension programs. Many of these programs are described in 1991 NGA report, Increasing the Competitiveness of America's Manufacturers: A Review of State Industrial Extension Programs. DoD will provide up to 50 percent of funding for a maximum of five years.

Defense Dual Use Assistance Extension Program. This program helps defense-dependent firms develop dual-use capabilities. The federal government, regional entities, state or local governments, private entities, and nonprofit organizations may submit proposals to provide such services. Funding can be used to provide technical assistance, to help firms access information, and to provide loan guarantees to small businesses. DoD will provide up to 50 percent of project funding in the first year, 40 percent in the second year, and 30 percent in the third year.

Small Business Innovation Research Program (SBIR). A final program of interest to states is the SBIR Program. Under the SBIR program, federal agencies set aside a percentage of their research budget for awards to small businesses. After soliciting and evaluating proposals, each agency awards grants to determine the technical feasibility of the proposed research and development concepts. These awards are referred to as Phase I funding. It is important to note that SBIR awards do not require any matching funds. DoD plans to solicit proposals for Phase I SBIR projects as part of this defense conversion solicitation. This is outside the regular DoD SBIR solicitation. Since many states provide assistance to firms applying for SBIR awards, it is important that state organizations that assist small businesses be aware of the SBIR portion of the defense conversion program.

Schedule

The official solicitation requesting proposals for these programs will be published in the Commerce Business Daily and the Federal Register in mid-May. Proposals will be due approximately the end of July, with initial awards planned for September 1993. Until that date, the federal agencies are willing to discuss potential programs and projects with any interested parties.

Program contacts for federal programs related to the technology reinvestment project are listed in Appendix D of the program information package. Important contacts for states include:

Technology Reinvestment Program (DoD/ARPA), (703) 578-4212
Manufacturing Extension Partnership Program (NIST), (301) 975-3944
Engineering Directorate, (NSF), (202) 357-9707

Five regional briefings, including a special session for state officials, will be held at the following locations:

April 12, New York City, N.Y.

April 13, Detroit, Mich.

April 14, Orlando, Fla.

April 15, Dallas/Fort Worth, Texas

April 16, Los Angeles, Ca.

Information on the conferences will be sent to each Governor.

NGA Objectives

- Preserve state authority in banking and insurance regulation, including preserving the viability of the small banking system.
- Ensure that federal consumer credit reporting legislation does not preempt state legislation.
- Adopt uniform product liability legislation.

Banking Legislation. The President's budget calls for significant funds to be generated by charging state banks for federal examinations. Currently state examinations can be accepted by the Federal Deposit Insurance Corporation (FDIC), and they usually are. This proposal and the \$1.37 billion five year price tag attached to it suggests that the FDIC will soon begin to do their own separate examinations. If state banks are forced to pay for two examinations while nationally chartered banks only pay one fee, state banks will be seriously disadvantaged, and state banking departments, which make these examinations and depend on these fees for staffing, will be seriously impaired.

A bill has been introduced in the Senate on interstate bank branching and Rep. Vento is expected to introduce a bill shortly on the House side. In the Senate, S. 371, by Senator Dodd would permit branching by acquisition of existing banks after one year, permit bank holding companies to establish new banks in other states after two years, and allow healthy state and national banks to move into new states after three years. Senator Ford has introduced legislation (S. 810) that would give states three years to opt out of a nationwide interstate branching program through acquisition of existing banks and permit states to opt in to interstate bank branching using new banks (de novo).

Insurance Regulation. Rep. Dingell, chairman of the House Committee on Energy and Commerce, has introduced legislation (H.R. 1290) to partially preempt state regulation by creating a federal agency to establish federal standards and to regulate surplus lines, standards for agents and brokers, highly capitalized insurers, liquidations, and reinsurance. Agents and brokers would regulate themselves through a National Association of Registered Agents and Brokers. The bill also provides an exemption from state regulation for insurers who provide commercial coverage to large buyers of insurance. Chairman Dingell held a hearing on April 28 and questioned why only 18 states had met the newly revised standards for accreditation developed by the National Association of Insurance Commissioners. The chairman announced further hearings on June 9 before the Subcommittee on Oversight and Investigations, which he also chairs.

Rep. Gonzalez, who chairs the House Committee on Banking, Finance and Urban Affairs, and Rep. Kennedy jointly introduced H.R. 1257, a bill to elevate the office of the Federal Insurance Administrator to the status of an independent agency.

Product Liability. Legislation has been introduced in the House and the Senate to establish a uniform product liability code: S. 657 whose chief sponsors include Senators Rockefeller, Danforth, Lieberman, Dodd, and Gorton; and H.R. 1910 with 36 co-sponsors, including Reps. Rowland, Carr, Dingell, Frank, Fish, Hastert, Glickman, and Michel.

Credit Reporting Consumer Protections. Rep. Kennedy has introduced H.R. 1510, a bill to establish federal standards for the regulation of consumer credit reporting agencies. This bill does not contain language preempting existing state laws or regulations that are stronger than the federal standards. In the Senate, Senators Bryan, Bond, and Riegle have introduced a similar bill (S. 783) without preemption language.

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.

Banking Legislation

The Territory of Guam reaffirms its strong support of the dual banking system and the preservation of state authority in banking regulation.

States must retain control over the entry of out-of-state banks. No interstate branching legislation should preempt the right of states to limit branching within a particular state or state taxing authority. Currently state banks are billed by states for examination fees. Nationally chartered banks are billed by federal agency for examination fees. No federal statute should authorize any federal agency to bill state banks for separate examinations conducted by federal agency thereby imposing a burden on state banks to pay for two examinations while nationally chartered banks only pay one fee for examination. In fact, our position should be that no state-chartered bank should be subject to federal audit or examination.

INTERSTATE BANK BRANCHING

THE NATION'S GOVERNORS REAFFIRM THEIR STRONG SUPPORT FOR THE CONTINUATION OF THE DUAL BANKING SYSTEM. THE GOVERNORS ALSO URGE CONGRESS AND THE ADMINISTRATION TO PERMIT NATIONAL BANKS TO BRANCH ACROSS STATE LINES INTO STATES THAT HAVE ADOPTED LEGISLATION PERMITTING SUCH BRANCHING. THIS "OPT IN" APPROACH TO INTERSTATE BRANCHING IS MOST CONSISTENT WITH THE DUAL BANKING SYSTEM AND PROVIDES THE GREATEST SAFEGUARDS THAT THE INDUSTRY WILL REMAIN RESPONSIVE TO BUSINESS AND CONSUMER NEEDS. FURTHER, IT PROVIDES GREATER ASSURANCE THAT STATE LAWS, REGULATIONS, AND PROCEDURES THAT APPLY TO NATIONAL BANKS WILL REMAIN IN PLACE AND NOT RESULT IN ANY UNINTENDED COMPETITIVE ADVANTAGE FOR EITHER STATE OR NATIONAL BANKS.

INTERSTATE BANKING HAS DEVELOPED ON THIS "OPT IN" BASIS, AND STATES HAVE DEMONSTRATED THEIR SUPPORT FOR CONTINUING TO EXPAND THIS CONCEPT. INTERSTATE BRANCHING WILL PROCEED IN A SIMILAR FASHION, WITH A FEW STATES TAKING THE LEAD, LEARNING FROM EXPERIENCE WHAT ARRANGEMENTS ARE MOST EFFECTIVE, AND PROVIDING MODELS FOR OTHER STATES TO FOLLOW. CONTRARY TO ASSERTIONS THAT THE "OPT IN" APPROACH WILL YIELD FIFTY DIFFERENT SETS OF REQUIREMENTS, MOST STATE PROGRAMS ARE RELATIVELY CONSISTENT ACROSS THE NATION, USUALLY BASED ON FOUR OR FIVE MODELS STEMMING FROM SIGNIFICANT DIFFERENCES IN SIZE AND ECONOMIC STRUCTURE AMONG THE FIFTY STATES.

* based upon Policy A-2

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.

Insurance Regulation

The Territory of Guam fully supports state regulation of insurance and opposes federal preemption of insurance regulation by states. The states including Guam will support state legislation and funding requirements to improve state regulations and to foster interstate cooperation through the National Association of Insurance Commissioner (NAIC).

States have insurance regulations properly in place. The NAIC is continuously raising the standards of accreditation in terms of adoption of model laws and development of technical expertise of insurance regulatory personnel. As a result, 20 states have already met newly revised standards for accreditation. However with or without accreditation states have been closely monitoring the insurance industry. The results speak for themselves. The insurance insolvencies are minuscule when compared to the savings and loans federal regulatory debacle resulting in hundred billion dollar bailouts. The insurance industry is better regulated by states.

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

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.

Credit Reporting Consumer Protection

The Territory of Guam fully supports federal standards for regulation of consumer credit reporting, provided that such standards do not supersede existing state laws or regulations.

States are quite competent to enforce credit reporting standards. States are opposed to federal preemption of state laws protecting consumers from abusive and negligent actions of consumer credit reporting firms.

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

UNIFORM PRODUCT LIABILITY CODE

Nationally, liability insurance coverage has become increasingly more expensive, more difficult to maintain, or simply unavailable and has had a severely adverse impact on government entities, public and private organizations, businesses, and professionals. Because of the lack of national uniform product liability standards, product manufacturers and insurers have experienced tremendous difficulty in overcoming inconsistent state product liability laws. Coordination by federal, state and local governments and the private sector is necessary to carefully develop such product liability standards. Uniformity on this issue helps to facilitate interstate commerce, enable insurers to predict accurately the potential liability of product manufacturers and insurers and guarantee the needs of American businesses and American consumers are met and protected.

Consequently, the principle provisions identified in S.640, the Product Liability Fairness Act, appear to serve in the best public interest. The three primary elements of S.640 are as follows:

1. Increased incentives for accident prevention by those who can best accomplish that goal;
2. Elimination of some unfairness and arbitrariness in the law, both for people who are injured and those who make products; and
3. Reduction of unnecessary legal costs.

Briefly, S.640 achieves these primary goals through a variety of changes in our current legal system as follows:

1. Establishes a statute of limitations which suspends toxic tort claims until such time as a claimant know both that he or she has been harmed and the cause. This provision ends the current substantial unfairness to injured persons;
2. Reduces unnecessary legal cost and putting money in the hands of injured persons more quickly through an expedited settlement provision that encourages businesses and victims alike to settle cases early;
3. Creates incentives for employers to maintain safe workplaces. Currently, the law in most states permits employers that have misused a product in the workplace to recover from the manufacturer, workers' compensation payments made to an injured employee through a mechanism called a "subrogation lien." S.640 ends this practice if a manufacturer shows by clear and convincing evidence that an employee's injury was due to employer fault;
4. By prohibiting punitive damages where the Food and Drug Administration (FDA) or the Federal Aviation Administration (FAA) has approved the product, creates an important incentive for companies to engage in full disclosure and compliance with all FDA and FAA regulations;

5. States to manufacturers of capital goods used in the workplace that their liability will not continue beyond twenty five (25) years. (This provision will not leave injured persons without compensation because it only bars product liability claims against capital goods manufacturers if the claimant is entitled to workers' compensation benefits. A similar provision in the European Community Product Liability Directive stipulates only ten (10) years); and

6. Denies recovery to people whose use of alcohol or illegal drugs is the predominant cause of their injury.



March 29, 1993

PRODUCT LIABILITY

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Just as the issue of medical malpractice and defensive medicine is a key component of our recent health care discussion with you, Governors also are concerned with our nation's product liability system. As you develop your economic program, we hope that you will consider the National Governors' Association position in support of a uniform federal product liability law.

The current system impedes competitiveness and innovation and has become a roadblock to economic growth and the safety and welfare of citizens and consumers. Inconsistent state product liability laws hurt interstate commerce and send diverse — and many times conflicting — messages to manufacturers. Consequently, the Governors have urged Congress to enact a federal product liability law as an economic stimulus that would not expend any federal funds, but would reduce the cost of American goods.

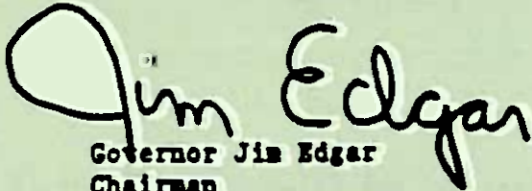
We do not need to tell you that decisions favoring federal preemption over state laws do not come easily for the National Governors' Association. NGA testimony before the Senate Commerce Committee during its hearings on a federal product liability bill, stated:

"NGA traditionally has opposed federal preemption unless there are 'highly compelling reasons to justify federal actions that require changes in policies adopted by state...officials.' (NGA Policy Statement, "Avoiding Federal Preemption of State Laws and Policies") In the area of product liability, the Governors believe such conditions exist."

While NGA policy does not endorse any particular piece of legislation, the Governors feel that a uniform product liability law would enhance interstate commerce and America's competitiveness, reduce prices to consumers, and prevent the discontinuation of necessary product lines. The Governors ask that in the development of such legislation, "Congress should assess the impact of a uniform code on public safety and consumer protection and, if deemed appropriate, enhance federal safety and consumer protection standards." (NGA Policy Statement, "Uniform Product Liability Code")

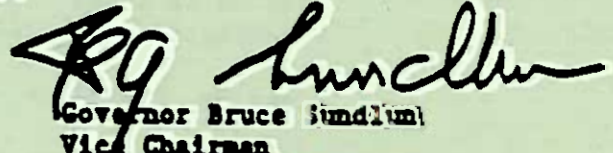
The President
March 29, 1993
Page Two

As always, the National Governors' Association stands ready to assist you in this and other areas of mutual concern. Please do not hesitate to contact us if we can be of further assistance.



Governor Jim Edgar
Chairman
Committee on Economic
Development and Commerce

Sincerely,



Governor Bruce Sundlun
Vice Chairman
Committee on Economic
Development and Commerce

Enclosure



COMMITTEE ON HUMAN RESOURCES

**NATIONAL GOVERNORS' ASSOCIATION
85TH ANNUAL MEETING**



COMMITTEE ON HUMAN RESOURCES

TAB 8

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COMMITTEE ON HUMAN RESOURCES

SUMMARY



Legislative Issues and Briefing Papers

ISSUE:

H. *Defense Conversion: FY 1993 Defense Authorization & Appropriations Act (Economic Adjustment Provision)*

The 1992 Defense Authorization Act and the 1992 Defense Appropriations Act both contained programs to address base closing, dislocated workers, and defense business conversion. However, due to differences between the two laws, in FY 1993, all the funds were appropriated to the Department of Defense (DOD). The Defense Authorization Act establishes legislative authority to fund defense programs, but it is the Defense Appropriations Act that provides the spending authority for these programs.

President Clinton recently announced a \$20 billion, five-year plan to help defense-related industries, workers, and communities convert from defense production work to commercial, civilian products and services. The plan reportedly allocates \$1.7 billion immediately for FY 1993 in four areas: worker training and adjustment; investments in communities hit by defense cut-backs; assistance for industries to develop technologies with dual military and commercial applications; and investments in research and development of new civilian technologies.

The Governors are currently making efforts to transmit state views on technology and defense conversion issues to the federal government. The Governors seek to ensure adequate funding for state and local efforts to turn closed military bases into productive properties; permit states flexibility in the use of funds to retrain workers dislocated by either base closing or the reduction on federal defense contracts; and coordinate federal efforts at defense business conversion with efforts already underway in states and support states wherever possible.

Military Base Closing:

The Department of Defense (DOD) Office of Economic Adjustment has provided help to most affected communities, but has not maintained as strong a responsibility to work closely with states. The President has approved the list of recommendations for base closing and realignments submitted by the Defense Base Closure Commission, however, the recommendations await ratification by Congress. A number of specific programs aimed at assisting the transfer of uniformed military personnel into civilian life are also in place, with all of them to be administered by DOD. The list of recommendations includes over 100 bases for closure and 40 bases for realignment to be closed over six years. An independent commission will review the recommendations and report its proposals to the administration. The base closing process could be stopped in 1993, if President Clinton rejects the commission's first proposal and a subsequent alternative plan, or if Congress rejects a plan forwarded by the administration. But the commission's plan can only be accepted as is or rejected. It can not be amended.

Governors are requested to make comments on this base closing issue since some states would be hardest hit by the recommended closing. NGA's Work Group on Defense Conversion met to discuss changes needed to federal policies related to base closing. These include policies on property disposal and environmental cleanups.

Dislocated Workers:

Over two-thirds of the \$150 million allocated to DOD in 1990 to be transferred to the Department of Labor (DOL) for defense workers retraining remains in the U.S. Treasury today. An additional \$50 million for transfer to the Department of Commerce's Economic Development Agency is in a similar situation. The 1992 legislation provided an additional \$75 million for transfer to DOL. The Department is working on a comprehensive redrafting of all existing worker readjustment programs, including defense worker programs and Trade Adjustment Assistance. The proposal is expected to be submitted to Congress but there is still a question of how much money will this comprehensive combined program receive.

Although Congress enacted several reforms to dislocated workers programs which are in line with NGA policy with provisions that NGA sought to include, yet, contrary to NGA policy, the new program sets up a funding stream through DOD, separate from existing Job Training Partnership Act (JTPA) program. The new program does not utilize the formula-grant approach advocated by many states since it is a federal discretionary program. New federal regulations for the JTPA

program implement extensive amendments that will require each state to review its JTPA system, including local private industry councils.

Defense Business Conversion:

The Advanced Research Projects Agency (ARPA) of DOD coordinated the release of President Clinton's new defense conversion initiative, the Technology Reinvestment Project (TRP), offering \$500 million in grants to firms, consortia, universities, states, and localities for a wide range of defense reinvestment activities. Principally, the funds can be used for technology development, to focus on critical technologies and dual uses; technology deployment, and manufacturing education and training.

Governors are encouraged to delegate representatives from their agencies that have responsibilities for defense conversion and related dual use technology programs, to attend a series of briefings to learn the details of TRP and how to obtain funding. The administration is on fast track for this program. Final changes were made by ARPA to its earlier document and will begin on proposal development. In the process of proposal development, it is important to understand the programs available and meet their goals, to include hard money matching funds if the project seeks more than \$1 million in federal funds, and show business support through matching funds.

BRIEFING PAPER:

- *Department of Commerce*

The Department believes that the overall conversion program is important to Guam. Of immediate interest is an initiative for training and alternative employment for separated military and civilian federal personnel and civilian defense industry workers. In a non-immediate sense, the conversion program provides precedence for future base closing and reduces resistance to conversion.

Significant alternative employment and education programs included in the economic adjustment provisions of the FY 1993 Defense Authorization and Appropriations Act and intended for personnel laid-off because of defense spending cuts, should be explored by the University of Guam, Guam Community College and the Department of Education for possibility of funding. Implementation of such programs on Guam would provide for Guam's sons and others who consider Guam home to return and

fill Guam's need for teachers and other personnel. A program for environmental studies scholarships, fellowships and grants may also be an opportunity for UOG while the one to assist separated military personnel prepare to pursue higher education may be of interest to GCC.

Guam does not have an immediate interests in other conversion programs. The return of NAS is a base consolidation without separation of personnel. For the country as a whole, conversion may increase employment and will increase economic growth.

During the 1993 NGA Winter Meeting, the department recommended that grants may be secured for Guam in the conversion of NAS to civilian airport use, while grants for planning the conversion of part of the Apra Harbor should also be considered.

- *Guam Economic Development Authority*

The Territory supports the NGA objective to ensure adequate funding for state and local efforts to turn closed military bases into productive properties, retrain dislocated and impacted defense workers and coordinate federal effort to convert defense businesses back into productive commercial mainstream.

GEDA believes that state and local governments should participate and maintain strong working relationship with the federal government in assuring the implementation of the various Defense Authorization Programs. Guam must continue to expand and diversify its economy through development of broader trading relations within the Pacific Islands. As reliance upon military spending may increase or decrease as a function of consolidation, attempts should be made to secure grants through the Advanced Research Projects Agency of DOD to stimulate technology development. Funding may be appropriated to the University of Guam to expand its manufacturing education and training programs as well as support national hi-tech resource and development projects. A more competitive partnership may be forged under the combined benefits of proximity to Pacific markets and U.S. stability.

ISSUE:

I. *Welfare Reform*

President Clinton has announced the development of a comprehensive welfare reform proposal that will "end welfare

as we know it." The proposal will establish a time limit on the receipt of welfare benefits, create job opportunities for those who will no longer be eligible for welfare benefits, increase efforts to collect child support, and expand the Earned Income Tax Credit. The President is creating a Task Force on Welfare Reform and invited Governors to work closely with his Task Force in the development of proposals. Congress is also interested in welfare reform but legislative proposals are unlikely to be considered pending the President's proposals.

NGA has established its own State Welfare Reform Task Force that will explore state concerns and will work with the President's Task Force. NGA is also working on developing a new proposed policy to pursue welfare restructuring strategies that will encourage self-sufficiency and deter long-term reliance on public assistance. Current state reform efforts include restructuring Aid to Families with Dependent Children (AFDC) programs to encourage work by increasing incentives; requiring recipients to engage in work, education, training, or community service after a time certain; increasing child support enforcement; adopting various approaches to encourage responsible behavior; and more flexible waiver policies that would enable states to have greater freedom to experiment.

The NGA Committee on Human Resources hosted two regional policy seminars to highlight state-level initiatives and to develop a proposed policy for consideration at the annual meeting. There is a general consensus among participants that an effort must be made to define more clearly the goal of AFDC to change program expectations to reflect the fact that AFDC is a temporary assistance program. "Making work pay" is a new phrase that refers to changing the way earned income is considered in the AFDC budgeting process. Under this area, welfare recipients who work should be better off financially than welfare recipients who do not work and parents who work full-time should be assured a income at least equal to the poverty level for their family. The current welfare system should be changed to include incentives for work and to enable those recipients to go to work to have a net increase in income.

There are also a variety of short-term changes that can be implemented immediately to improve state efforts to test innovative approaches to welfare and improve delivery of services. Although federal waivers should not necessarily be equated with reform, they do allow states to experiment with a variety of approaches to improving the welfare system.

An amendment added as part of H.R. 2118, the FY 1993 Supplemental Appropriations bill that would require states to enroll at least 10 percent of general assistance (GA)

recipients into an undefined state workfare program or face having their AFDC administrative funds cut by half was dropped by the Senate conferees from the bill. Governors oppose this provision for they claim that since GA programs are created, funded, designed, and administered wholly by states and countries with no involvement from the federal government, then it is inappropriate for the federal government to set policy for those GA programs.

BRIEFING PAPER:

• *Department of Public Health & Social Services*

The Department believes that the present welfare system needs to be redesigned and restructured to provide prevention and supportive services to enable individuals to be self-sufficient. If families continue to receive benefits without reciprocity in the form of service from able-bodied individuals, the nation will have an aberrant culture of dependency which is self-perpetuating. Currently, welfare recipients are not motivated to get out of assistance because the total benefits received exceeds the amount of money they will be earning by getting a job.

The Department is in support of the welfare reform proposals which include: making work pay, that is, rewarding recipients for work; time-limited benefits but to provision of support for those who work, to those who cannot work, and to the children of those who refuse to work; child support enforcement; and streamlining of services through the use of waiver process. However, relative to the Child Support Enforcement proposal, according to DPHSS, it did not include any improvement of policies and processes which presently leaves a family without support whenever its case is terminated due to receiving child support payments exceeding the current public assistance level. The present regulation requires that the child support amounts go to the government in reimbursement of past benefits given to the family instead of being given to the family for support for the month. Due to inconsistent amounts the family gets from absent parent, the government should consider ways of providing continued amounts of support as awarded by the court regardless of payment or non-payment from the absent parent. At the same time, legislation should be enacted to make sure that the absent parent ultimately pay for the awarded child support orders.

● *Agency for Human Resources Development*

AHRD believes that in assessing the current status of the welfare program implemented within the Territory, the feasibility of restructuring the program is necessary to ensure that all recipients who are able to work are at work rather than on welfare at the end of two years. To successfully accomplish this goal, the state and the federal governments should provide stringent policies and regulations governing the Welfare program.

According to AHRD, favorable response of welfare clients towards federally assisted programs for training and employment does not reflect a significant number. In addressing this problem, the agency's JTPA program has established strong and effective coordination with other state-administered human resource programs to ensure emphasis on the transitional nature of assistance that will be made available to enhance the effectiveness of services for employability for JOBS and welfare clients.

JTPA has been designed to provide emphasis on basic remedial skills coupled with quality practical hands-on skills under the OJT program. JTPA is structured to prepare welfare target groups for jobs and career-oriented occupations. Steps to increase incentives at the workplace will be emphasized on contract agreement for JTPA training program to ensure enhancement of work maturity skills and up-grading, supported by increased wages. To achieve these objectives, AHRD urges for flexibility in the design and implementation of the welfare programs. The extent of flexibility should be based on the Territory's population on welfare, social and economic status, and the trend of availability of jobs in the labor market from both the private and public sector communities.

ISSUE:

J. *Family Preservation and Support Act of 1988*

The House will soon consider a family support and preservation program that was approved by the Ways and Means Committee. The program would preserve the existing child welfare services program (Title IV b) and create an entirely new program targeted to parenting. The new program will be a capped entitlement that provides states \$1.34 billion over five years, with \$60 million available in the first year. The funding distribution to states is based upon the number of children in each state receiving food stamps. However, funding would require a 25% state match. It would also require that states spend money for both family support or

parenting, as well as family preservation services. The Ways and Means Legislation also contains \$35 million for use to assess the ability of state courts to be effective in responding to current pressures that impact family preservation. The funds require no match in the first year but requires a 25% match in the next three years. The bill also contains language to address the Suter Amendment, exactly the same language that was adopted in H.R. 11 in 1992.

Bill S. 596, has been introduced in the Senate, which contains all the provisions for family preservation programs adopted by Congress as H.R. 11 last year but was vetoed in November. The bill, now, is still pending in the Senate Finance Committee.

NGA seeks increased support for state efforts at family preservation and family support (parenting). NGA is opposed to the Suter Amendment which would expose states to expensive law suits under the AFDC, Medicaid, JOBS, and most child care services.

At the House meeting on welfare issues in the budget reconciliation conference, The Family Support Act of 1988 requires that states enroll 40 percent of two-parent AFDC families in work activities for at least 16 hours per week each month of FY 1994. These participation rates rise to 75% by FY 1997. Currently, states must meet combined participation rates for single-parent and two-parent cases of 11% in FY 93 and 15% in FY 94. States that fail to meet either those rates or the new UP (unemployed parent cases) rates will have their JOBS match rate reduced to 50% from its current level of 60% or their Medicaid matching rate, whichever is higher. The House version of reconciliation would delay the two-parent work requirements for one year. The Senate opposes such a delay. NGA urges the Governors to lobby against increase in participation rates or a bipartisan support for a compromise that includes the following policy changes:

- Target the UP participation rates on long-term UP cases rather than apply them to the entire UP caseload.
- Allow hours of employment to count toward meeting the UP rates. States should have the option of exempting from the requirement families where a parent is working at least 10 hours per week. A recipient who is working at least 30 hours per week should be excluded from the calculation when determining the UP participation rate.
- Use the same computation periods and calculation methods for the UP participation rates as has been

used for the basic JOBS participation rates.

In the budget reconciliation agreement, \$1 billion is granted for state services to keep families intact, with \$48 million in 1994. The two-parent work requirement delay was dropped due to the Byrd Rule.

BRIEFING PAPER:

- *Department of Public Health & Social Services*

The Territory fully supports the preservation of the existing child welfare services program and the creation of a new program targeted to parenting. Among the many highly effective programs with the common goal of assisting parents to meet the daily challenges of rearing families in today's society, none empowers parents as the Head Start Program does. Based on parent involvement and family enrichment, the Head Start program impacts on the families of the four years old children. In most cases, this is already late especially for at-risk families. However, based on Head Start principles of comprehensive services applied to pre-natal families, a demonstration model would ensure early intervention which is crucial to the welfare of young children.

The need to integrate resources and facilitate access for young families could be brought about through redesigning the existing Head Start model to serve families from the onset of conception to the time the children are ready for the elementary school experience. A combination of home-based and center-based approaches would ensure parent participation. However, to make the parent empowerment effective, it should not be allowed to terminate when the child enters elementary school. Parent involvement should be the focal component of the educational system and planned for the duration of the child's undergraduate experience and should be mandatory and designed to accommodate the parents' working schedules. The Office of Human Development and the Department of Education should come together and resolve the problems. Family preservation should be prioritized, should not be confined to one agency but rather, should be addressed by all who have a major role in shaping a child and a family's direction.

ISSUE:

- K. *Food Stamp Sanctions*

NGA supports bill H.R. 1195, the Food Stamp Quality Control

System Amendment of 1993, sponsored by a partisan coalition of 50 members of the House, including 9 members of the Agriculture Committee. The following objectives are embodied in the said bill:

- Change the error-rate target to a national average;
- Use "sliding scale" method for calculating penalties; and
- Eliminate the Food and Nutrition Service good-cause waiver process in favor of a system that authorizes an administrative law judge to consider good-cause criteria.

The first provision in the House bill changes the method of calculating a state's penalty rate, making penalties more reasonable as called for in NGA policy. However, states are seeking additional reforms such as addressing the statistical flaws in the system and authorizing an administrative law judge to consider good-cause criteria. The Governors claim that while there must be a quality control system, it should be equitable and statistically valid. NGA urges Congress to avert sanctions that could be levied against states because of inequitable provisions in the program. This is done by strongly supporting the reform bill.

In the budget reconciliation agreement, the 50 percent administrative cap was approved, Food Stamp increase is \$2.5 billion (House version is \$7 billion), and a new sliding scale penalty, and administrative law judge decision is final, under the Food Stamp Quality Control System Amendment.

BRIEFING PAPER:

- *Department of Public Health and Social Services*

The Department supports NGA's objective of changing the error-rate to a national average, "sliding scale" method for calculating penalties, and advocating the authorization of an administrative law judge to consider good-cause criteria. However, DPHSS recommends that the policy should provide that any penalties as a result of high error rates be used by the states to develop and implement a corrective action plan approved by the Food and Nutrition Services.

DEPARTMENT OF COMMERCE
DIPATTAMENTON I KUMETSIO

DEFENSE CONVERSION AND GUAM
Briefing Paper
July, 1993

An aspect of the federal program to assist conversion from defense to civilian use is of immediate interest to Guam. Of immediate interest is an initiative for training and alternative employment for separated military and civilian federal personnel and civilian defense industry workers. The overall conversion program is important to Guam in two non-immediate senses: it provides precedence for future base closings; and the program reduces resistance to conversion. Conversion benefits the US economy and, therefore, Guam.

Alternative Employment and Education Programs

The Economic Adjustment Provisions of the FY 1993 Defense Authorization and Appropriations Act includes significant alternative employment and education programs. The programs are for personnel laid-off because of defense spending cuts. It is critical that the University of Guam, the Guam Community College and the Department of Education explore the possibility of federal funding under the programs. Implementation of the programs on Guam would provide for Guam's native sons and others who consider Guam home to return and fill Guam's need for teachers and other personnel.

As a note for the meeting for the National Governor's conference, many states have native son sensibilities like Guam. These states also have an interest in programs to fill state labor needs from native sons living outside the state. Thus, the governors of these states would support implementation of the alternative employment and education programs in a manner to bring native sons home.

The Economic Adjustment Provisions of the FY 1993 Defense Authorizations and Appropriations Act underwrite the cost of preparing for teaching certification by separated civilian, military and defense industry personnel. Further, a portion of two-years of teaching salary may be underwritten. The Department of Education and the University of Guam may establish a program and promote it through the Guam clubs.

There is also a program for environmental studies scholarships, fellowships and grants. This program may be an opportunity for the University of Guam. A program to assist separated military personnel prepare to pursue higher education may be of interest to the Guam Community College.

Programs not of Immediate Interest to Guam

Guam does not have an immediate interests in other conversion programs. The return of NAS is a base consolidation without separation of personnel. The civilian use for the base and the

source of funding for conversion has been determined.

The other programs are important to Guam, however, in two respects: they set precedence for future closings on Guam; and they benefit the nation. The possibility of future Guam base closings requires no further discussion. For the country as a whole, conversion may increase employment and will increase economic growth. (Incidentally, on the average, conversions of military bases to civilian use increase employment at the facilities.) Having an assistance program for conversion reduces resistance to the conversion.

DEFENSE CONVERSION; FY 1993 DEFENSE AUTHORIZATION & APPROPRIATION ACT

Both FY 1993 Defense Authorization Act and Appropriations Act were designed to respond to the economic dislocation caused by declining defense spending. The Defense Authorizations Act established authority to fund defense programs, but it is the Defense Appropriations Act that provides the spending authority for these programs. Each year there are differences between the two laws which the DoD in the past had typically resolved through various mechanisms: informal discussions with staff and members; or formal requests for authorization, supplemental appropriation or rescission of appropriated funds. Consequently, because of the differences between the two laws, all the funds were appropriated to the DoD.

The Territory supports the NGA objective to ensure adequate funding for state and local efforts to turn closed military bases into productive properties, retrain dislocated and impacted defense workers and coordinate federal efforts to convert defense businesses back into productive commercial mainstream. In this regard it is imperative that the major features of the Acts materialize. The Defense Authorization Act authorizes over \$1.6 billion in defense spending (\$716 million each on workforce related measures and defense firm assistance, while \$202 million was spent on community assistance.

In the past, defense related economic adjustment targeted assistance to the workforce by funding job training programs and providing military personnel with educational opportunities. The Defense Authorization Act establishes new ones within DoD and includes separate incentives and transition assistance for active duty military, national guard and reserve personnel and DoD civilian personnel. It further amends Department of Labor Job Training Partnership Act by separate program to meet the training needs of separated military and civilian DoD and Department of Energy (DoE) personnel and displaced defense workers. Other programs include extending alternative employment and educational programs, reimbursement of costs for employer-provided training, underwriting the cost of preparing for teaching certification and funding for scholarships and fellowships.

The Authorization Act also provided DoD's Office of Economic Adjustment (OEA), whose function includes providing planning and implementation grants to communities. Although the Authorization Act authorized \$52 million, the Appropriations Act provided \$89.7 million reflecting an additional \$10 million for disaster relief planning. The DoD is reviewing the two Acts and trying to resolve the differences in funding levels and mandates for OEA.

Although the Defense Appropriations Act provides \$1.1 billion in appropriations for the authorized programs, these moneys were distributed to various titles of the Act. It did however provide \$5 million for the Defense Conversion Commission to continue its research and be the coordinating body responsible for the oversight of the defense conversion activities through FY 1993.

It is imperative that state and local governments participate in and maintain strong working relationships with the federal government in assuring the implementation of these various programs. Dialogue must continue throughout the base closure and transition period in order to secure equal status and opportunity to request funding from DOD and DOL for work force retraining, trade and technical assistance and any other federal assistance programs provided under the Act as such base realignment and closure may warrant.

Guam must continue to expand and diversify its economy through development of broader trading relations within the Pacific. As its reliance upon military spending may increase or decrease as a function of consolidation, attempts should be made to secure grants through the Advanced Research Projects Agency (ARPA) of DoD to stimulate technology development. As a suggestion, funding may be appropriated to the University of Guam to expand its manufacturing education and training programs as well as support national hi-tech resource and development projects. Alternative and renewable energy resource applications, such as OTEC, wind and solar, may excel under high quality marine biology facilities and deep ocean water resource (Marianas Trench). Further, more competitive joint partnerships may be forged under the combined benefits of proximity to Pacific markets and U.S. stability.

DEFENSE CONVERSION

NGA Objectives

- Ensure adequate funding for state and local efforts to turn closed military bases into productive properties.
- Permit states flexibility in the use of funds to retrain workers dislocated by either base closings or the reduction on federal defense contracts.
- Coordinate federal efforts at defense business conversion with efforts already underway in states and support states wherever possible.

The 1992 Defense Authorization Act and the 1992 Defense Appropriations Act both contained programs to address base closings, dislocated workers, and defense business conversion. However, due to the firewalls in place for fiscal 1993, all the funds were appropriated to the Department of Defense (DoD). Past experience has been uneven.

Military Base Closings. The DoD Office of Economic Adjustment has provided help to most affected communities, but has not maintained as strong a responsibility to work closely with states. The Defense Base Closure Commission is due to submit its list of recommendations for base closings and realignments to the President by June 1. A number of specific programs aimed at assisting the transfer of uniformed military personnel into civilian life are in place, with all of them to be administered by DoD.

Dislocated Workers. Over two-thirds of the \$150 million allocated to DoD in 1990 to be transferred to the Department of Labor (DoL) for defense worker retraining remains in the U.S. Treasury today. An additional \$50 million for transfer to the Department of Commerce's Economic Development Agency is in a similar situation. The 1992 legislation provided an additional \$75 million for transfer to DoL. The Department is at work on a comprehensive redrafting of all existing worker readjustment programs, including defense worker programs and Trade Adjustment Assistance. That proposal is expected to go to the Hill in the next 4 to 6 weeks. One remaining question is how much money there is for this comprehensive, combined program.

Defense Business Conversion. The Advanced Research Projects Agency (ARPA) of DoD coordinated the March 10 release of the Technology Reinvestment Project, offering over \$500 million to firms, consortia, universities, states, and localities for a wide range of defense reinvestment activities. Principally the funds can be used for technology development (with a focus on eleven critical technologies and dual uses), technology deployment, including manufacturing extension services, and manufacturing education. ARPA is coordinating this effort on behalf of DoD, the National Aeronautics and Space Administration, the National Institute on Standards and Technology in the Department of Commerce, the Department of Energy, and the National Science Foundation.

By May 10, ARPA will release final changes to its earlier document, and the clock will begin on proposal development. All proposals are due by July 23, and it is hoped that a significant amount of funds can be awarded before the end of the fiscal year, September 30. In preparing proposals, it is important to understand the programs available and meet their goals, include hard money matching funds if the project seeks more than \$1 million in federal funds, and to show business support through matching funds.

Contact: Tim Masanz, 202/624-5311

WELFARE REFORM

The present welfare system encourages dependency and is a growing cancer that will weaken the local community and ultimately our country as a whole. If not redesigned and restructured to provide prevention, and supportive services to enable individuals to be self-sufficient and if families continue to receive benefits without some reciprocity in the form of service from able-bodied individuals, we will have an aberrant culture of dependency which will be self-perpetuating.

As it is, we have a serious disincentive for recipients to get out of the welfare rolls since the total amount of benefits in food, shelter, financial maintenance and shelter needs often exceeds the amount of money they will be earning by getting a job. For an average family size of four (4), the family income will have to be at least \$15.00 an hour in order to maintain the level of basic needs provided from various programs.

We are, therefore, supportive of the welfare reform proposals which include 1) Making Work Pay which means rewarding recipients for work, 2) Time-limited Benefits but to provision of support of those who work, to those who cannot work, and to the children of those who refuse to work, 3) Child Support Enforcement and 4) Streamlining of services through the use of waiver process.

The only comment I will like to add is related to the Child Support Enforcement proposal which did not include the improvement of policies and processes which presently leaves a family without support whenever their cases are terminated due to receiving child support payments exceeding current public assistance level. Present regulations require that the child support amount go to the government in reimbursement of past benefits given to the family instead of being given to the family for support for the month. Because of inconsistent amounts families get from absent parents, the government should consider ways of providing continued amounts of support as awarded by the court regardless of payment or non-payment from the absent parents and at the same time enact legislations to make sure that these absent parents ultimately pay for awarded child support orders.



Job Training Services
Public • Private

July 27, 1993

MEMORANDUM

TO: Acting Director
Bureau of Planning

ATTN: Linda Cruz

FROM: Director
Agency for Human Resources
Development

SUBJECT: Comments on Welfare Reform

Submitted is AHRD's comments on "Welfare Reform" for the 1993 National Governor's Association Annual Meeting.


PETER S. CAIWO

AGENCY FOR HUMAN RESOURCES DEVELOPMENT
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WELFARE REFORM

In assessing the current status of the Welfare Program implemented within the Territory, the feasibility of restructuring the Welfare Program may be necessary to ensure that all recipients who are able to work are at work rather than on welfare at the end of two years. In successfully accomplishing these goals the state and federal government must provide stringent policies and regulations governing the Welfare Programs currently being administered by each state.

Although the Territory's current policy guides provide for limitation and restrictive prohibitions under its current regulations, favorable response of our Welfare clients towards federally assisted programs for training and employment does not reflect a significant number. In addressing this issue, the Agency for Human Resources Development, administering programs under JTPA, has established strong and effective coordination with other state administered human resource programs, to ensure emphasis on the transitional nature of assistance that will be made available to enhance the effectiveness of services for employability for JOBS and Welfare clients.

The Jobs Training Partnership Act (JTPA) programs have been designed to provide emphasis on basic remedial skills coupled with quality (practical hands-on skills) under the OJT program. This program has been structured to prepare Welfare target groups for jobs and career orientated occupations. Steps to increase incentives at the workplace will be emphasized on contract agreements for JTPA training program to ensure enhancement of work maturity skills and up-grading; supported with increased wages.

To effectively achieve these objectives, the state must be given flexibility in the design and implementation of welfare programs. To determine how much flexibility should be given to the state will be based on territory's population on Welfare, social and economic status and trend of availability of jobs in the labor market from both the private and public sector community..

WELFARE REFORM

NGA Objective

- Pursue welfare restructuring strategies that will encourage self-sufficiency and deter long term reliance on public assistance.

The President has announced his intention to develop a comprehensive welfare reform proposal that will "end welfare as we know it." The proposal is expected to establish a time limit on the receipt of welfare benefits, create job opportunities for those who will no longer be eligible for welfare benefits, increase efforts to collect child support, and expand the Earned Income Tax Credit, as well as take other steps to ensure that those who work are better off. At the NGA Winter Meeting the President invited the Governors to work closely with his task force in the development of proposals.

Although the President's task force has not yet been named, Governor Romey has named a state welfare reform task force consisting of five Governors, three state human service commissioners, and two legislators to explore state concerns and to work with the President's task force. Governor Florio chairs the state task force, and several planning meetings have been scheduled to develop issues and proposals for its consideration.

In addition, the Committee on Human Resources has been conducting a series of meetings designed to highlight state level initiatives and to develop new proposed policy for consideration by the Governors at the annual meeting in Tulsa.

While Congress is interested in welfare reform, it is unlikely that legislative proposals will be seriously considered pending the President's proposals.

Work will continue in preparation for meetings with the President's task force and the final drafting of proposed NGA policy.

Contact: Barry Van Lare, 202/624-5342

INCOME SECURITY

1. Job-Oriented Welfare Reform

We believe that public assistance programs must foster the creation, strengthening, and preservation of a solid family structure in which parents can do productive work and raise healthy children. They must provide incentives and opportunities for individuals to get the training they need and to seek jobs. It is our aim to create a system where it is always better to work than be on public assistance.

The Governors are convinced that the provision of genuine employment opportunities represents the surest route out of poverty for our nation's poor families and children. For this reason, the current system must be refocused to place primary emphasis on the placement of recipients into jobs and the removal of existing barriers to economic self-sufficiency.

Our approach to welfare reform is grounded in the notion that we can and must prevent dependency on welfare by strengthening the family and by aggressively providing opportunities for work. This preventive approach reflects our belief that investment in human development is a critical part of any agenda for economic growth. The initial costs of this investment may be somewhat higher than current expenditure levels, but we believe that public expenditures will eventually be lowered if we can target resources on programs that will reduce the need of children and their families to resort to the welfare system.

The federal government and the states must be prepared to invest in programs that address the many recognized needs which are factors in welfare dependency. A major NGA effort, titled *Bringing Down the Barriers*, is currently identifying strategies to help us address these problems at the critical stages of childhood and adolescence. Initial steps have been taken with public and private sector funds, but we must strengthen and further develop initiatives to reduce the incidence and consequences of teen pregnancy; increase the rate of high school completion and adult literacy; increase access to prenatal and primary health care for children and their families; increase the collection of child support from absent parents; improve parenting skills; and reduce alcohol and drug abuse. Sound preventive initiatives in these areas will pay off, we are convinced, in a reduced need for welfare assistance in the future.

1.1 **Emphasis on Jobs.** The Governors' aim in proposing a welfare reform plan is to turn what is now primarily a payments system with a minor work component into a system that is first and foremost a jobs system, backed up by an income assistance component. This must be the first step in any serious attempt to reform the welfare system. In addition to this immediate reform goal, our plan envisions an income assistance system which provides more adequate financial support for those unable to work, as well as for those taking the necessary steps to increase their employability.

1.2 **Joint Responsibility.** To achieve these goals, the Governor strongly believe that public assistance must be formulated in terms of a contract between government and the individual. Responsibility must flow in two directions in this relationship. The individual must be committed to undertaking a number of specific actions to prepare for and seek a job, with the objective of achieving self-sufficiency. In return, government must commit itself to investing in the employability of the individual and providing adequate income assistance.

This notion of a social contract recognizes that the welfare system serves individuals with a wide range and variety of needs. We cannot expect that uniform treatment of "caseloads" will meet individuals' circumstances with satisfactory results. The Governors believe that there is substantial gain in the notion of services and contracts tailored to individual families.

1.3 **Recipient Responsibility.** The major obligation of the individual in the public assistance contracts we propose is to prepare for and seek, accept, and retain a job. The Governors recommend that all employable welfare recipients must participate in an education, job training, or placement program and accept a suitable job when it is offered. Employable recipients include those with children age three or older.

In this way, we hope to prevent long-term welfare dependence by bringing into the employment stream parents who have been welfare recipients for relatively short periods of time. We also believe that this recommendation reflects current social and economic realities. As affordable, quality child care for younger children becomes available, we believe that recipients with children age one or older can successfully participate in an education or jobs program.

The Governors believe it is critical to give high priority to young, first-time mothers. Studies show that over 60 percent of AFDC mothers under age thirty had their first child as teenagers. In many cases, it is easier to train and find jobs for those individuals than for long-term recipients. For a relatively modest investment, there is the potential for substantial savings if these individuals can be diverted from the welfare system into the job stream. This would also tend to reduce the incidence of a second or third birth.

At the same time, the Governors believe that the employment needs of long-term welfare recipients must be addressed. As indicated by successful state employment and training initiatives, long-term welfare recipients can achieve self-sufficiency if given the necessary training and support services. Therefore, in designing our employment and training programs, we are likewise committed to helping these individuals reduce their dependence on welfare.

- 1.4 **Government Responsibility.** The principal responsibility of government in the welfare contract is to provide education, job training, and/or job placement services to all employable recipients. These services must be carefully structured so that they suit the employment needs of individual participants.

Government also has the obligation to provide adequate support services to individuals participating in the program, particularly the critical supports of child care and health care coverage. Parents cannot be expected to give up welfare if the loss of Medicaid jeopardizes access to health care for their families. Once a participant has found a job, support services should be provided for a transition period. The Governors support the development of initiatives through which people who are not covered by Medicaid and whose jobs do not provide health coverage can be provided health services, and we are ready to work with the Administration and Congress on this issue. For example, in our policy on "Health Care for Uninsured Individuals" we recommend an expansion of pooling arrangements, tax exemptions for health care premiums paid by unemployed workers for continuation coverages, and changes in tax policy such as equitable treatment for health care coverage of unincorporated businesses.

The Governors also recognize that unpaid child support represents a sizable resource for low income families and we will continue to strengthen current enforcement efforts. Toward that end, we are committed to full implementation of the 1984 Federal child support amendments. Moreover, the Governors will continue to explore other proposals, such as increased interstate cooperation and enforcement; extension of employment and training to non-custodial parents; and implementation of equitable support guidelines, to help ensure that individuals fulfill their basic parental responsibility of income support for their children.

- 1.5 **Individual Contracts.** The contract, in addition to expressing a key conceptual tenet of our approach to welfare reform, must be a central mechanism for implementing our recommendations. The contract implies a level of specificity generally not found in public assistance programs. Indeed, the Governors believe that job-oriented welfare reform cannot succeed unless it is "customized" to take into account the circumstances and needs of individuals and their families.

The most promising approach for implementing the contract is case management, in which the responsible government agency and caseworker broker and coordinate the multiple social, health, education, and employment services necessary to promote self-sufficiency and to strengthen family life. Several states have shown that we can personalize the bureaucracy through this approach, and that the one-to-one relationship provides enormously important incentives for both parties to succeed.

Finally, the contract must be enforceable. If the recipient does not meet his or her obligations under the contract, then the adult's portion of the assistance payment should be eliminated until he or she meets the terms of the contract. Support for the child would be preserved. Similarly, if government does not fulfill its obligations, then the contract would not be enforceable and full assistance to the entire family would continue.

- 1.6 **Funding.** The Governors believe that it is the proper role of the federal government to structure funding so that the governmental obligations of the welfare contract can be met. Funding for the education, job training, and placement programs for welfare recipients should be primarily federal, but retain a significant state contribution.

Under the current system, federal spending devoted specifically to the training and placement of welfare recipients represents substantially less than one percent of the amount spent for AFDC benefits. Nothing could indicate more dramatically the lack of jobs focus in our current program.

In implementing our welfare reform plan, it is critical that federal matching funds be made available for all services which are extended to recipients who are required to participate in the jobs

program. Further, the emphasis on jobs should be reflected in the federal matching rate. Ultimately, we believe that there should be a higher matching rate for the jobs program than for the income assistance program.

We are willing to be judged on our performance in spending federal and state funds on job training and placement programs. We are willing to work with the federal government to devise standards which reflect real measures of outcome - e.g., how many clients are getting into lasting jobs, and to what extent is welfare dependency reduced? But we oppose federal requirements that tell us how to implement job-related services. There is no one solution to the challenge of employability and job placement. The leading innovations have come from the states in this area, and the states must have maximum flexibility in designing their education, training, and employment programs for welfare recipients.

- 1.7 **FEDERAL WAIVERS. TO ENCOURAGE STATES TO DEVELOP AND IMPLEMENT INNOVATIVE ALTERNATIVES TO CURRENT WELFARE PROGRAMS, THE GOVERNORS CALL ON THE FEDERAL GOVERNMENT TO INSTITUTE AN INTERAGENCY REVIEW PROCESS FOR PURPOSES OF COORDINATING AND EXPEDITING STATE REQUESTS FOR WAIVERS FROM PROGRAM RULES. THIS PROCESS WILL PERMIT STATE SEEKING WAIVERS THAT INVOLVE SEVERAL PROGRAMS TO HAVE A SINGLE FEDERAL CONTACT RESPONSIBLE FOR MANAGING THE FEDERAL WAIVER APPROVAL PROCESS. ENCOURAGING STATE TO TEST ALTERNATIVE REFORM CONCEPTS GIVES POLICYMAKERS AT THE NATIONAL LEVEL A FIRMER FOUNDATION FOR THEIR DECISIONS.**

2. **Reform of Income Assistance**
3. **The Food Stamp Program**
4. **Low-Income Energy Assistance**
5. **Administrative Integration of AFDC and Food Stamps**
6. **Employment and Training for Welfare Recipients**
7. **The Supplemental Food Program for Women, Infants, and Children**

Time limited (effective February 1993-February 1995).

Adopted August 1980; revised February 1982, March 1983, July 1984, February 1985, August 1985, February 1986, February 1987, February 1989, and February 1990 (formerly Policy C-6).

FAMILY PRESERVATION AND SUPPORT ACT

The Territory of Guam fully supports the preservation of the existing child welfare services program and the creation of a new program targeted to parenting.

There are many programs in place with the common main goal in assisting parents to meet the daily challenges of rearing families in today's complex society. Although many are highly effective, none empowers parents as the Head Start program does. Based on a proven model for parent involvement and family enrichment Head Start begins its impact on the families of four year olds. In most cases, this is much too late, specially for at-risk families. A demonstration model, based on the Head Start Program principles of comprehensive services, applied to pre-natal families would ensure early intervention, which is crucial to the welfare of young children.

There is a need to integrate resources, and facilitate access for young families. This could be brought about through redesigning the existing Head Start model to serve families from the onset of conception to the time the children are ready for the elementary school experience. A combination of Home-Based and Center-Based approaches would ensure parent participation. But in order to have this parent empowerment be effective, it cannot be allowed to terminate when the child enters elementary school. Parent involvement must become a focal component of the educational system, and planned for the duration of the child's undergraduate experience. It should be mandatory, and designed to accommodate parents' working schedules. The Office of Human Development and the Department of Education must come together and articulate solutions to one of the nations's most significant problems. Family preservation must be a national priority, and it cannot be confined to one agency alone, rather, it be addressed by all who have a major role in shaping a child's persona, and a family's direction.

FAMILY PRESERVATION AND SUPPORT ACT

NGA Objective

- Increased support for state efforts at family preservation and family support (parenting).

The House Ways and Means, Subcommittee on Human Resources has adopted a new program in family support and preservation. The full committee will consider the language as part of its reconciliation legislation next week. The proposal would preserve the existing child welfare services program (Title IV b) and create an entirely new program. The program will be a capped entitlement providing states a total of \$1.34 billion over five years, with \$60 million available in the first year. Funds would be distributed to states based on the number of children in each state receiving food stamps.

The program would require a 25 percent state match. It would also require that states spend money for both family support or parenting, as well as family preservation services. The program permits the use of one percent of funds for demonstration projects.

In the Senate, Senator Rockefeller has introduced a bill, S. 596, which contains all the provisions for family preservation programs that were adopted by Congress last year as H.R. 11, which was vetoed in November. The bill is pending in the Senate Finance Committee, which will begin to markup its reconciliation legislation after the House committee has completed its work.

The Ways and Means Committee legislation also contains \$35 million for use over the next four years to assess the ability of state courts to be effective in responding to current pressures that impact family preservation. Funds require no match in the first year and a 25 percent match in the next three years. The bill also contains language to address the Suter amendment. It is the exact same language that was adopted in H.R. 11 in 1992.



July 21, 1993

MEMORANDUM

TO: Washington Reps./State Contacts

FROM: Julie Strawn

RE: Update on AFDC Two-Parent Work Requirements Issue in Reconciliation

This is to follow up on the July 8th memo which asked for state comments on proposed options for a possible compromise on the AFDC two-parent work requirement issue in reconciliation. As you know, the Family Support Act of 1988 requires that states ~~enroll~~ 40% of two-parent AFDC families in work activities for at least 16 hours per week each month of FY 94. These participation rates rise from 40% in FY 94 to 75% by FY 97.

Attached is a memo outlining a compromise that includes three policy changes that seemed to be most acceptable to key House and Senate conferees. These changes are: applying the UP rates to long-term cases rather than to all UP cases, allowing states to use part-time employment by UP families to meet the rates, and phasing in the monthly calculation of participation rates. We had to drop an additional option that many states supported, which would have allowed other JOBS activities, such as job search, education and job training, to count toward meeting the UP participation rates.

This compromise is currently circulating among key Senate Finance conferees. Senator Moynihan's staff have indicated that these proposed policy changes are the ones most likely to attract the Senator's support but we do not yet have a commitment that Senator Moynihan would offer this in conference. We would need bipartisan support for this compromise to be adopted because it is vulnerable to a Byrd Rule challenge on the Senate floor even if it is adopted in conference. Senate Republican staff will be discussing this proposed compromise at a ~~0:00:00~~ meeting on Thursday.

Proposal for Compromise on JOBS Two-Parent Participation Rates for Budget Reconciliation Conference

Issue: The Family Support Act of 1988 requires that states enroll 40% of two-parent AFDC families in work activities for at least 16 hours per week each month of FY 94. These participation rates rise from 40% in FY 94 to 75% by FY 97. Currently states must meet combined participation rates for single-parents and two-parent cases of 11% in FY 93 and 15% in FY 94. States that fail to meet either those rates or the new UP rates will have their federal JOBS match rate reduced to 50% from its current level of 60% or their Medicaid matching rate, whichever is higher. (The WIN portion of their JOBS funding falls from a 90% match to 50%.)

The combined impact of these requirements in FY 94 is that states will have to serve more single-parent families, many more two-parent families, and add about 125,000 more community work experience slots in each month of the fiscal year with only slightly more funding than they had in FY 93. If states fail to meet these requirements, they will lose at least \$150 million in federal JOBS funds in FY 94 alone.

The House budget reconciliation bill delays the UP requirement for one year; the Senate version does not address the issue. States are seeking a compromise which preserves the Act's emphasis on serious work and participation requirements for two-parent families, while making those requirements more feasible for states to meet given the current high caseloads and continued weak job growth.

Proposed

Compromise: The following three policy changes are suggested.

1) Target the UP participation rates on long-term UP cases rather than apply them to the entire UP caseload.

A significant portion of two-parent AFDC families leave welfare within a relatively short period of time on their own. Because two-parent AFDC cases must have a principal earner with a recent attachment to the labor force, by definition UP cases have recent work experience and are therefore least likely to need and benefit from the types of work activities mandated under the Family Support Act's UP participation requirement. Research on welfare reform programs bear this out: such programs have consistently had a smaller impact on two-parent families than on one-parent families.

Applying the UP participation rates to long term cases only would allow states to target UP cases that have generally been out of the labor force and could benefit most from work activities and other JOBS services. Congress could use the same definition for "long term" UP recipients as it used for the Family Support Act's targeting requirements: AFDC receipt for any 36 of the preceding 60 months.

In FY 1990, more than a third of UP cases (34%) had been open at least 37 months consecutively.¹ The proportion of UP families that have received AFDC for 36 of 60 months, regardless of whether those 36 months are consecutive, is almost certainly higher. No national data is available, but evaluation data from the SWIM program in San Diego

¹1992 Green Book, Overview of Entitlement Programs, Table 33, p. 676.

shows that during a 61-month follow-up period, 44% of UP families received assistance for at least 36 months.²

If 40% of the current UP caseload has received welfare 36 of the preceding 60 months, then under this proposal, states would have to enroll approximately 60,000 UP cases in work activities in each month of FY 94. This compares to an average of about 25,000 JOBS participants in work activities each month of FY 92. States would, therefore, have to more than double the number of participants in work activities each month in FY 94.

2) Allow hours of employment to count toward meeting the UP rates. States should have the option of exempting from the requirement families where a parent is working at least 10 hours per week. A recipient who is working at least 30 hours per week should be excluded from the calculation when determining the UP participation rate.

States believe that recipients should not be forced to leave paid, unsubsidized jobs in order to participate in unpaid, subsidized work. Currently recipients who work cannot be counted by states in any way to meet the UP participation rates. States cannot count them as participants for the rates and they cannot exclude them from the base of total mandatory cases used in calculating the rates.

The Family Support Act exempts AFDC recipients from JOBS if they are working 30 or more hours per week. There are several problems with this provision, however. First, UP recipients who work 30 or more hours per week, while personally exempt, are still counted as part of the state's base in determining the participation rate so such persons do not help a state meet its UP participation rates. Nor do recipients who work less than 30 hours per week help states meet their UP participation rates because of regulations which prohibit states from counting part-time work toward the 16-hours per week requirement for UP cases. Finally, other HHS rules stipulate that recipients who are not working when first enrolled in JOBS cannot qualify for the 30 hour per week exemption if they subsequently take a job.

3) Use the same computation periods and calculation methods for the UP participation rates as has been used for the basic JOBS participation rates.

This would give states adequate flexibility as they move to implement the UP participation rates. It would mean first computing rates on an annual basis in FY 94, then on a semi-annual basis in FY 95, on a quarterly basis in FY 96 and FY 97, and on a monthly basis in FY 98. Within each computation period, the participation rate is determined by adding a) the average monthly number of participants for the computation period, and b) the number of participants in the month of highest participation during the computation period, and dividing that total by c) twice the average monthly number of people required to participate.

These are the same phased-in computation periods and participation rate methodology as were used for the basic JOBS participation rates. The basic rates were calculated annually in FY 90, semi-annually in FY 91, quarterly in FY 92 and FY 93, and on a monthly basis thereafter.

²Unpublished data from the MDRC evaluation of the SWIM program. The study followed 1,341 UP families from 1985 to 1991.

FOOD STAMP SANCTIONS

We are supportive of NGA's objective of changing the error-rate to a national average, "sliding scale" method for calculating penalties and advocating the authorization of an administrative law judge to consider good-cause criteria. We will like to see a provision that any penalties as a result of high error rates be used by the states to develop and implement a corrective action plan approved by the Food and Nutrition Service.

Jr

May 7, 1993



The Honorable E. (Kika) de la Garza
Committee on Agriculture
1301 Longworth House Office Building
Washington, D.C. 20515-6001

Dear Mr. Chairman:

We would like to draw your attention to the need for reform in the Food Stamp quality control system. The reforms embodied in the Food Stamp Quality Control System Amendments of 1993, H.R. 1195, are most desirable. This bill is sponsored by a bipartisan coalition of 50 members of the House, including 9 members of the Agriculture Committee.

The major provisions of H.R. 1195 are: changing the error-rate target to a national average; using a "sliding scale" method for calculating penalties; and eliminating the Food and Nutrition Service (FNS) good-cause waiver process in favor of a system that authorizes an administrative law judge to consider good-cause criteria. These provisions are based on reforms enacted in 1989 to the Aid to Families with Dependent Children (AFDC) quality control system. This bill would also address statistical flaws in the quality control system which were suggested in the congressionally mandated study by the National Academy of Sciences.

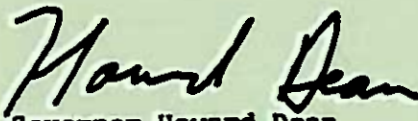
We strongly believe that there must be a quality control system to measure performance in administering a federal entitlement program, including reasonable penalties for excessive error rates. However, we also believe that the assessment of our state's performance should be measured by an equitable and statistically valid system.

Therefore, we urge you to attach H.R. 1195 to the first appropriate legislative vehicle moving through the House Agriculture Committee.

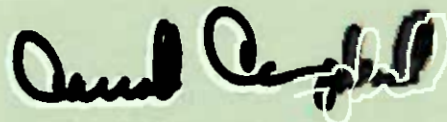
Sincerely,

J Florio
Governor Jim Florio
Chairman
Committee on Human Resources

Arne H. Carlson
Governor Arne H. Carlson
Vice Chairman
Committee on Human Resources



Governor Howard Dean
State of Vermont



Governor Carroll A. Campbell, Jr.
State of South Carolina



Governor Gaston Caperton
State of West Virginia



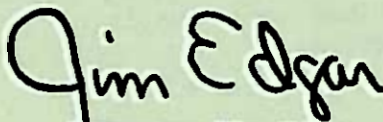
Governor Tommy G. Thompson
State of Wisconsin



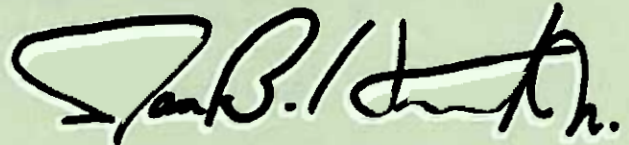
Governor Evan Bayh
State of Indiana



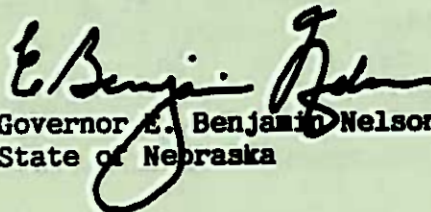
Governor Ned Ray McWhorter
State of Tennessee



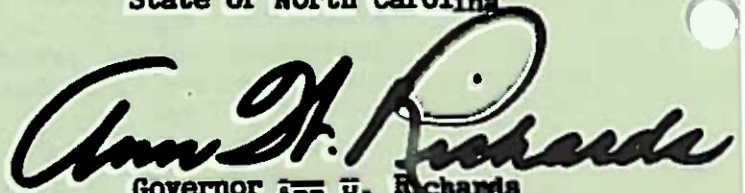
Governor Jim Edgar
State of Illinois



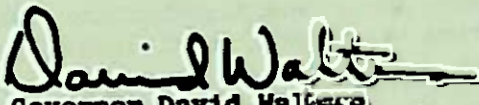
Governor James B. Hunt, Jr.
State of North Carolina



Governor E. Benjamin Nelson
State of Nebraska



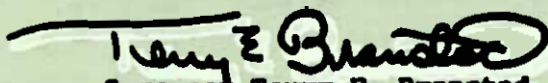
Governor Ann W. Richards
State of Texas



Governor David Walters
State of Oklahoma



Governor Brereton Jones
State of Kentucky



Governor Terry E. Branstad
State of Iowa



Governor Zell Miller
State of Georgia



COMMITTEE ON NATURAL RESOURCES

**NATIONAL GOVERNORS' ASSOCIATION
85TH ANNUAL MEETING**



COMMITTEE ON NATURAL RESOURCES

TAB 9

- **Summary of Issues and Briefing Papers** **G**
- **Clean Water Funding: Reauthorization of the Clean Water Act** **H**
- **Safe Drinking Water Funding: Reauthorization of the Safe Drinking Water Act** **I**
- **Clean Air Regulations** **J**
- **EPA Regulatory Reforms** **K**

COMMITTEE ON NATURAL RESOURCES

SUMMARY



NGA Legislative Issues and Briefing Papers

ISSUE:

H. Clean Water Funding: Reauthorization of the Clean Water Act

The Clean Water Act Reauthorization bill introduced in the Senate in 1991 was never marked up for legislation and the House never introduced a bill because of disagreement over wetlands policy. Now, the Senate Environment Committee has introduced reauthorization bill, S. 114. Some of the major provisions include: to authorize a minimum of \$2.5 billion per year through year 2000 for grants to state revolving funds; to establish new authority for watershed planning and management; to establish a new nonpoint source pollution control program; to exempt most communities under 100,000 in population from stormwater permitting requirements; and to require states to collect permit fees to cover 60% of costs related to administration of point source elements of state programs. The bill does not address wetlands, however, the committee plans to add wetlands language after the administration makes its recommendations.

The President proposed \$1.2 billion in FY 1994 for the Clean Water Act SRF, a \$100 million grant to Boston, Massachusetts, for sewage treatment construction and \$80 million for state non-point source grants. Compared with the FY 1993 funding level, the clean water SRF is cut by \$600 million to fund the new safe drinking water SRF. The House FY 1994 appropriations bill is passed appropriating \$1.25 billion for the state revolving loan fund, \$500 million for wastewater treatment grants to "hardship" communities and \$100 million for state nonpoint source pollution control grants. The Senate markup is not yet scheduled. The supplemental appropriation bill (P.L. 103-50) included \$35 million for rural sewage treatment construction grants and \$35 million for loans.

NGA policy advocates the reauthorization of the Clean Water Act and the appropriation of \$2 billion in fiscal year 1994

for the State Revolving Fund (SRF) which finances waste water treatment construction; the extension of federal commitment to provide capitalization grants for the SRF of \$5 billion or at least \$2 billion per fiscal year through the year 2000; the increase in funding for state nonpoint source pollution control program; and improving management of wetlands through streamlining of regulatory requirements and facilitation of state assumption of the wetlands program. NGA urges conferees that provisions of the policy should be considered during their deliberation.

BRIEFING PAPER:

- *Guam Environmental Protection Agency*

Under the State Revolving Fund (SRF), Guam receives \$1.1 to \$1.2 million each year for wastewater/sewer construction to PUAG, and about \$200,000 to Guam EPA consolidated grant per year. The agency recommends that the Governor supports NGA's objective for \$2 billion in FY 1994 SRF. Guam does not have any significant problems with the Clean Water Act, and GEPA recommends support for the reauthorization of the Act through year 2000 at \$5 billion.

- *Department of Agriculture*

At present, the Department of Agriculture does not participate in programs under the Clean Water Act for the recipient of the grant under the Act is the Guam Environmental Protection Agency. However, the department believes that it can and should participate under the Act for watershed and wetlands planning, protection, and management.

- *Public Utility Agency of Guam*

According to the Agency, the Clean Water Act State Revolving Funds (SRF) would not be practical for Guam. The SRF is a replacement of the U.S. Environmental Protection Agency Construction Grant Program which provided funding for wastewater collection and treatment projects and which was eliminated in the mainland in 1987. However, Congress had passed legislation allowing for the continuation of the Construction Grant Program for the Pacific Islands.

The Governors are seeking extension of the SRF funding because of the success of the program. On the other hand, PUAG fully supports another extension of the Construction Grant program,

which will expire in 1994, since currently, PUAG has three wastewater projects funded by the Grant.

ISSUE:

I. *Safe Drinking Water Funding: Reauthorization of the Safe Drinking Water Act*

The Governors strongly support the President's proposal to provide up to a billion dollars per year to states to assist in the provision of safe drinking water. These resources together with reform of the Safe Drinking Water Act will help assure that safe drinking water is available to all Americans at a reasonable cost.

NGA, in a policy urges Congress for the reauthorization of the Safe Drinking Water Act: to increase funding for state drinking water program administration; reform the drinking water statute to allow EPA to consider risk reduction benefits when it sets standards, thereby making the program more risk based and cost-effective; reform monitoring requirements to allow states greater flexibility; and replace the requirement to regulate 25 new contaminants every three years with a system based on occurrence in water and health risks. NGA is also looking forward to an appropriation of \$599 million for the new SRF as proposed in the President's budget to finance drinking water infrastructure.

There is growing pressure in Congress for changes to be made to the Safe Drinking Water Act. The Senate wants to develop reform proposals, while the House has indicated there will be no move for the bill if it includes reform of the standard setting process. The administration, however, is developing a report for Congress considering their position on a number of reauthorization issues.

President Clinton proposed \$599 million in FY 1994 and \$1 billion per year in FY 1995-1997 funding for a new drinking water revolving fund. The House Energy and Commerce Committee supports the introduced authorization legislation, H.R. 1701, for SRF, while H.R. 1865 has been reported by the Public Works and Transportation Committee. However, the two committees are in conflict concerning which has jurisdiction over the capital monies and it is not clear when either bill will move to the House floor. The Senate's authorization bill may get introduced based on the administration's recommendations. The drinking water revolving fund authorization bill might even be used as a vehicle for the reauthorization of the Safe Drinking Water Act. NGA hopes that an early agreement in the House could be reached for the Act to be reauthorized.

BRIEFING PAPER:

- ***Guam Environmental Protection Agency***

Guam EPA receives about \$150,000 per year under the Safe Drinking Water Act (SDWA). The agency believes, however, that PUAG will stand to benefit if a revolving fund for drinking water is authorized. GEPA recommends support of NGA's objective for new funding. The reauthorization of SDWA provides much needed funding under Guam EPA consolidated grant from USEPA and new monies for PUAG water projects in the hundreds of thousands level for Guam. GEPA recommends support of NGA's objective to include reform under the reauthorization.

- ***Public Utility Agency of Guam***

PUAG recommends that Guam supports the reform, reauthorization of the Safe Drinking Water Act, and greater funding for the new SRF. The Agency urges that NGA's effort in the modification of monitoring requirements to allow greater flexibility to the states should also be extended to Guam. PUAG does not receive any federal funds made available to Guam, for USEPA monies appropriated to Guam through the SDWA go to GEPA to fund its regulatory responsibilities. PUAG would like additional funding to be provided to the owner/operators of public water systems to meet the monitoring requirements. Unless the SDWA is modified, PUAG will need funding assistance to meet the new SDWA requirements which turn out to be very costly for PUAG.

ISSUE:

- J. Clean Air Regulations***

Air pollution from transportation creates a significant burden for states, especially in urban areas. As a result, urban areas must find new ways to control vehicle usage to meet air quality goals. The Clean Air Act Amendments of 1990 under the "transportation conformity" provisions, requires that transportation plans, programs, and projects funded or approved by the U.S. Department of Transportation (DOT) shall conform with State Implementation Plans (SIPs) in achieving or maintaining federal air quality standards. Failure to conform will result in withdrawal of federal approval and funding of transportation projects in the nonconforming areas. Also at stake are mandatory pollution control requirements on

businesses and the possibility of citizen lawsuits.

EPA is in rulemaking to define the criteria and procedures for determining conformity after which the states will implement. Specific issues under consideration include: geographic areas to which "conformity" should apply; the projects that conformity should cover; and the state agencies that should have responsibility for making conformity determinations. However, several areas of contention between the two executive branch associations representing state transportation and air quality officials were identified. Each organization believes certain parts of the rule should be administered in a significantly different manner. The two associations - the American Association of State Highway and Transportation Officials (AASHTO) and the State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials (STAPPA/ALAPCO) - have not been able to narrow the gap between their views.

NGA encourages EPA to finalize regulations governing state environmental agency review of state highway improvement plans, as well as other regulations necessary for efficient management of state air quality plans. NGA also proposes that because of the difference in views between AASHTO and STAPPA/ALAPCO, a transportation conformity policy will be developed considering the Governors' concerns.

NGA requests the Governors consensus whether NGA should weigh-in on the EPA rulemaking and be provided the opportunity to choose several options on the pending issues of concern.

BRIEFING PAPER:

- *Guam Environmental Protection Agency*

The agency states that the "transportation conformity" provision of the Clean Air Act Amendments of 1990 poses no significant problems for Guam. The agency recommends support of NGA's objective.

ISSUE:

- K. Environmental Protection Agency (EPA) Regulatory Reforms*

The Governors recognize that environmental protection will not succeed unless regulations are workable in a majority of communities. The Governors' new policy recognizes the cumulative demands of environmental regulations on state and

local capacity and identifies the primary problems as underfunding and inflexibility in federal regulations. The new policy endorses principles for improving state-federal environmental compliance, and they are: risk-based environmental regulations, implementation flexibility, assessment of cumulative impacts, and funding of all federal mandates. These recommendations would have a positive impact on states through full funding of federal mandates and greater flexibility for states, allowing more efficient use of state resources in carrying out federal requirements.

The Governors commend EPA's ongoing efforts to address state and local capacity problems and urge EPA to provide for maximum participation by state and local governments in the development of environmental rules. The Governors recommend amendments to the Administrative Procedures Act, Federal Advisory Committee Act, and other relevant statutes to allow states to participate as partners in EPA rulemaking for programs that states will administer under a delegation of authority.

Congress is also beginning to recognize the severity of state and local capacity problems, particularly with regard to small communities. The Senate passed S. 171 on May elevating EPA to the Department of Environmental Protection and adopted amendments include a requirement that all future EPA regulations have a cost-benefit analysis and risk assessment; creation of a central, one-stop ombudsman office for small governments, small business and farmers; and creation of a single federal agency responsible for wetlands decisions.

GUAM ENVIRONMENTAL PROTECTION AGENCY

Issue: Clean Water Funding/Reauthorization of the Clean Water Act

I. Clean Water Funding:

Guam receives approximately \$1.1 to \$1.2 million each year under State Revolving Fund (SRF) (wastewater/sewer construction) to PUAG; and about \$200,000 to Guam EPA consolidated grant (O & M budget) per year.

Recommendation: Support NGA objective for \$2 billion in FY 94 for SRF.

II. Reauthorization of the Clean Water Act:

Guam has had no significant problems with the Clean Water Act (CWA).

Recommendation: Support NGA objective to reauthorize CWA through Year 2000 at \$5 billion.



Department of Agriculture

P.O. Box 2950

Agaña, Guam 96910



ANTONIO S. QUITUGUA
Director

Director's Office	734-3942/43
Aquatic & Wildlife Resources	734-3944/45
Agricultural Development Svcs.	734-3946/47
Forestry & Soil Resources	734-3948
Animal & Plant Industry	734-3940/49

JOSE A. E. MANIBUSAN
Deputy Director

July 28, 1993

Memorandum

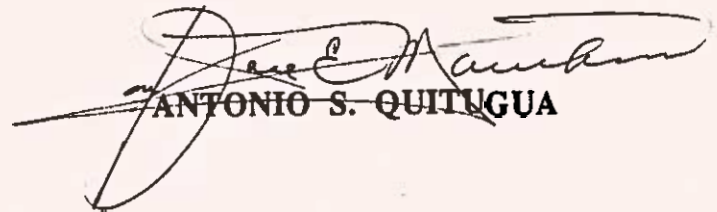
To: Acting Director, Bureau of Planning

From: Director of Agriculture

Subject: Briefing Paper on "Clean Water Funding/Reauthorization of the Clean Water Act"

The Department does not at present participate in programs under the Clean Water Act. The Department can, and should participate under the Act for watershed and wetlands planning, protection and management.

At present, the recipient for grants under the Clean Water Act is the Guam Environmental Protection Agency.


ANTONIO S. QUITUGUA



Bureau of Planning
Page 2

Extension of State Revolving Funds (SRF) for Wastewater Works

The USEPA Construction Grant program, which provided funding for wastewater collection and treatment projects, was eliminated in the mainland in 1987 and replaced by the SRF. Since the Government of Guam is essentially single tiered, the SRF would not be practical. Recognizing this, the U.S. Congress passed legislation allowing for the continuation of the Construction Grant program for the Pacific nations.

Noting the success of the SRF program, the Nation's Governors are seeking extension of program funding. Concurrently, PUAG would like to see an extension of the Construction Grant program. PUAG currently has three wastewater projects funded by USEPA Construction Grants. Extension of the Construction Grant program was scheduled only until Fiscal Year 1994. With the support of the EPA Region IX Office, PUAG is hopeful the U.S. Congress will again extend the availability of federal grants for Guam's wastewater projects. Your support as such is appreciated.

Your time and attention to these comments is appreciated.


JOSEPH F. MESA

CLEAN WATER ACT

NGA Objective

- Reauthorize the Clean Water Act to extend the federal commitment to provide capitalization grants for the wastewater State Revolving Fund of \$5 billion (at least \$2 billion) through the year 2000; increase funding for state nonpoint source pollution control programs; and improve management of wetlands through streamlining of regulatory requirements and facilitation of state assumption of the wetlands program.

The Senate Environment Committee has introduced a Clean Water Act reauthorization bill, S. 1114. Some of its major provisions are as follows.

- The bill authorizes a minimum of \$2.5 billion per year through the year 2000 for grants to state revolving loan funds. Congress can appropriate additional funds in any year that it meets deficit reduction targets. The Environmental Protection Agency (EPA) is directed to develop new grant allocation formulas based in part on eligible needs and in part on state participation in a new voluntary watershed planning program. States can use a portion of SRF funds for grants to disadvantaged communities.
- States are required to collect permit fees to cover 60 percent of costs related to administration of point source elements of state programs.
- The bill establishes new authority for watershed planning and management. The new program is voluntary, but portions of state revolving fund and nonpoint source monies are available only to states that participate.
- A new nonpoint source pollution control program is established. EPA is required to develop guidance for state programs and states must revise current strategies accordingly. States must require that all "new" nonpoint sources, as well as all sources in impaired watersheds, implement management measures to control polluted runoff, or comply with a "site-specific plan."
- The bill exempts most communities under 100,000 in population from stormwater permitting requirements.

The Senate Environment Committee is holding a series of hearings on the bill. It has already held hearings concerning funding issues, stormwater, combined sewer overflows, and toxics. It is scheduled to hold hearings in the next few weeks on watersheds, nonpoint source control, wetlands, and regional issues.

The House Environment and Public Works Committee currently plans to introduce a bill in September.

The Administration has convened a special task force to develop an Administration position on wetlands, due to report its recommendation in mid-July. On July 1, Langdon Marsh, Deputy Commissioner of the New York State Department of Environmental Conservation, testified to the task force on behalf of NGA.

The Senate Clean Water Act reauthorization bill does not address wetlands. The committee plans to add in wetlands language after the Administration makes its recommendations.

Contact: Tom Curtis, 202/624-5389
Karen Tyler, 202/624-8575

WATER RESOURCE MANAGEMENT

1. Principles

2. Grant Funding

3. Clean Water Infrastructure

3.1 Preface. The states applaud the initial success of the State Revolving Loan Fund and believe that the SRFs should remain the mechanism for wastewater infrastructure funding.

However, state water management needs are evolving, and the SRF program must be revised to accommodate changing state and national priorities. As states successfully address traditional infrastructure needs, they turn attention toward new issues, including the refurbishment of aging facilities; the special needs of financially disadvantaged small communities; and "second-tier" pollution problems highlighted by the 1987 Clean Water Act amendments and toward creative management techniques.

The Governors emphasize the magnitude of new responsibilities imposed on states under the 1987 amendments, and the importance of providing access to SRF funds to a broader population. States also stress the importance, in an era of tight funding constraints, of maximizing efficiency in the use of available resources.

3.2 Recommendations. In order to protect the nation's existing, substantial investment in wastewater treatment and to ensure continued progress toward meeting the goals of the Clean Water Act, the Governors make the following recommendations.

- ~~Congress should appropriate level funding of at least \$2.1 billion annually for state revolving loan funds through fiscal 1994.~~
- Given the magnitude of remaining needs, especially those associated with the unfunded requirements of the 1987 Clean Water Act amendments, and additional needs identified since enactment, Congress should extend the federal commitment to provide capitalization grants for STATE REVOLVING FUNDS SRFs of at least \$5 ~~\$2.1~~ billion per fiscal year through the year 2000.
- Statutes and regulations governing the administration of the SRF should be amended to make the SRF program more efficient, and SRF loans more accessible and competitive with market sources.
- Congress should recognize the special needs of small communities and provide assistance through appropriate amendments to SRF requirements.
- While Congress should finance water infrastructure needs strictly through the SRF program, grants may be appropriate for non-infrastructure water quality initiatives.

4. Point Sources

5. Nonpoint Sources

6. Groundwater

7. Stormwater

8. Drinking Water

9. Wetlands

10. Water Conservation

11. Floodplain Management

Time limited (effective February 1993-February 1995).
Adopted August 1991; revised February 1992 (formerly Policy D-6).

- II - CLEAN WATER STATE REVOLVING LOAN FUND

Program Description

The 1987 Clean Water Act revolutionized wastewater financing by eliminating the Construction Grant program and creating the State Revolving Loan Fund (SRF) to finance wastewater infrastructure in perpetuity. SRF, built with federal seed funding and a 20 percent state match, has been implemented in all fifty states, has been well accepted, and is hailed as a model for federal, state, and local cooperation. State-administered SRFs provide in perpetuity financing and expedited construction of environmental projects.

The act envisioned a six-year \$8.4 billion capitalization to be phased out in fiscal 1994. However, because of the effectiveness of SRF, Congress continues to fund the program -- \$2.48 billion in fiscal 1993, with all funds going to locally sponsored projects and a subset of \$490 million in grants for eleven specific municipalities. Revolving at the state level, SRF has a "multiplier" effect that can leverage two to five times the original investment in construction through bonds and loan repayments. In contrast, 55 to 75 percent of federal matching grants discourage local initiative and often reward noncompliance.

The Specific Proposal

SRF should be authorized and appropriated at the \$5 billion level annually in fiscal years 1994 to 1997, as originally authorized for wastewater by the Clean Water Act of 1972. This amount does not reflect the \$10 billion in increased mandates under the 1987 act or inflation. Because SRF is unique in its ability to provide capital investment and jobs (e.g., \$5 billion generates up to 350,000 jobs annually and more than two to five times that investment in projects over time), the long-term benefits are particularly attractive in SRF. The authorized level for this program in 1980 was \$5 billion.

Short-Term Needs

To ensure immediate investment, states need:

- elimination of the match requirements for any supplemental appropriation;
- eligibility for purchase of land/easements;
- elimination of restrictions on funding collectors and combined sewer overflows;
- elimination of disbursement restrictions under the letter of credit;
- extended repayment periods and blended principal subsidies with loans for small hardship communities;
- elimination of limitations on refunding/refinancing and cash payments;
- elimination of funding for project-specific grants; and
- eligibility for water supply projects in states currently meeting Clean Water Act requirements.

The Association of State and Interstate Water Pollution Control Administrators has documented wastewater needs in excess of \$10 billion in projects able to move immediately to construction.

Long-Term Needs

States are encountering significant difficulty in providing a 20 percent match. To address this and related concerns, there is a need to:

- simplify federal requirements;
- provide broad flexibility to extend repayment periods;
- increase the administration allotment above the 4 percent of an annual appropriation; and
- enhance eligibilities, provided funds are available above the \$5 billion level.

The nation's wastewater treatment needs documented by the states and the U.S. Environmental Protection Agency (EPA) exceed \$130 billion. With the inclusion of unfunded congressional mandates from the 1987 Clean Water Act (e.g., stormwater, pretreatment, combined sewer overflow, and toxic controls), this figure will exceed \$200 billion. SRF, with its leveraging potential, offers the most effective national vehicle for addressing these needs.

GUAM ENVIRONMENTAL PROTECTION AGENCY

Issue: Safe Drinking Water Funding/Reauthorization of the Safe Drinking Water Act (SDWA)

I. Safe Drinking Water Funding:

Guam EPA receives about \$150,000 per year under SDWA. PUAG stands to benefit if a revolving fund for drinking water is authorized similar to the waste water fund.

Recommendation: Support NGA objective for new fund.

II. SDWA Reauthorization:

Reauthorization provides much needed funding under Guam EPA consolidated grant from USEPA and new monies for PUAG water projects in the hundreds of thousands level for Guam.

Recommendation: Support NGA objective including call for reform/changes under reauthorization.



PUBLIC UTILITY AGENCY OF GUAM

Government of Guam
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MEMORANDUM

TO: Director
Bureau of Planning

AUG 05 1993

FROM: Chief Officer

SUBJECT: National Governors' Association Briefing Papers

Thank you for providing the Public Utility Agency of Guam (PUAG) information on topics to be discussed at this year's Governors' Conference. Though much of the material relates only to the U.S. mainland states, several topics involve Guam. I have taken the liberty to comment on the two topics that relate to PUAG --- drinking water and wastewater.

Safe Drinking Water Act (SDWA) Reform

PUAG would like to see Guam support this effort. The nation's Governors are proposing modification of monitoring requirements to allow greater flexibility to the states and should include Guam. Of federal funds currently made available to states (Guam), PUAG receives none. USEPA monies appropriated to Guam through the SDWA go to GEPA to fund their regulatory responsibilities. PUAG would like to see additional funding be provided to owner/operators of public water systems to meet the monitoring requirements. Unless the SDWA is modified, PUAG will need funding assistance to meet the new drinking water monitoring requirements.

PUAG has a tremendous responsibility to the people of Guam to assure our drinking water is and remains potable. However, sampling for possible contaminants is costly. For example, to meet the required testing of Guam's water for the presence of pesticides, volatile organic and inorganic compounds is estimated to cost PUAG \$70,000.00 per quarter. Although many of the compounds need to be sampled only once, annually or every three years, many pollutants must be tested quarterly.

PUAG therefore hopes Guam will support the amendment of the SDWA to allow greater funding and monitoring flexibility as is currently being sought by the Nation's Governors.



Commonwealth Now!

SAFE DRINKING WATER REFORM

NGA Objectives

- Reform the drinking water statute to allow EPA to consider risk reduction benefits when it sets standards, thereby making the program more risk based and cost-effective.
- Reform monitoring requirements to allow states greater flexibility.
- Replace the requirement to regulate 25 new contaminants every three years with a system based on occurrence in water and health risks.

There is growing pressure in Congress for changes to be made to the Safe Drinking Water Act. Senators Baucus and Chafee have asked Senate Environment Committee staff to develop a reform proposal during the August recess, with hearings beginning possibly in September. Representative Waxman, Chairman of the House Energy and Commerce Health Subcommittee, has indicated he will not move a drinking water bill if it includes reform of the standard setting process.

The Administration is developing a report that is due to Congress in early July, and therefore are considering their position on a number of reauthorization issues, including reform of the standard setting process.

Contact: Tom Curtis, 202/624-5389
Karen Tyler, 202/624-8575

**CLEAN WATER
AND
SAFE DRINKING WATER**
April 26, 1993

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2328 Rayburn House Ofc Bldg
Washington, DC 205150001

Dear Mr. Chairman:

The nation's Governors strongly support the President's proposal to provide up to a billion dollars per year to states to assist in the provision of safe drinking water. These resources are sorely needed now, along with substantive reform of the Safe Drinking Water Act, to help assure that safe drinking water is available to all Americans at a reasonable cost.

As you develop the details of the President's proposal, we urge you to consider the best way to ensure that federal monies in support of drinking water meet state needs and can be spent in a timely manner. Of overriding importance, we believe that the maximum degree of flexibility must be allowed states in the use of federal drinking water funds, consistent with the purpose for which they are provided. It is impossible from Washington to anticipate every need and circumstance in each state, but with appropriate flexibility, the states can invest drinking water funds wisely. In particular, we urge you to allow states the maximum degree of flexibility in selecting projects for support and in establishing procedural requirements. Eligible projects should include new or improved community water supply systems, whether publicly or privately-owned; construction needed to comply with any regulations promulgated under the Safe Drinking Water Act; and the consolidation or regionalization of existing systems where the state has found an economic, health, or environmental benefit to such consolidation.

We also believe that this flexibility should include the ability for the Governor to transfer some or all of the funds provided for wastewater to the support of drinking water projects or vice versa, and to combine the funds within a single SRF, depending upon the needs of the state. We do not believe or intend that this recommendation presupposes the jurisdiction of particular congressional committees over the drinking water SRF.

In addition, we urge you to consider waiving the state match requirement for drinking water funds for the first year. In many

states, the legislature has already met to act on the fiscal year 1994 budget, and will not reconvene until January 1994. Those states are unlikely to be able to participate in this program if there is a requirement for matching funds in fiscal year 1994.

The ability of the program to meet the needs of financially disadvantaged community water systems is also an important consideration. Some financially disadvantaged communities cannot now use the wastewater SRF, due to low economies of scale and other problems. It is critical for many reasons, including political support for the new program, that it avoid the limitations that currently hobble the wastewater SRF for these communities. We recommend that the drinking water program:

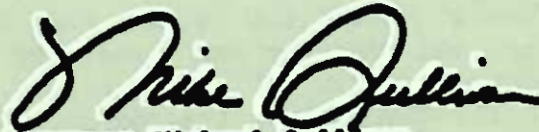
- 1) Allow costs associated with the purchase of land, easements, and rights-of-way necessary for infrastructure construction to be fully eligible for SRF funding. Expenses for these items are not currently fully eligible for reimbursement under the wastewater SRF, yet these expenses may represent a significant portion of total project costs, especially in rural areas and smaller communities. Such costs should be eligible for SRF financing.
- 2) Require loan repayments within thirty years generally, and up to forty years in financially hard-pressed communities, provided the loan repayment period does not exceed the useful life of the project. We believe the twenty-year repayment requirement for the current wastewater SRF makes it inaccessible to many financially disadvantaged communities, and often uncompetitive with market sources. Extending the loan repayment period reduces debt service to more affordable levels. And,
- 3) Allow states the flexibility to use SRF funds to establish principal subsidy programs to provide special assistance to financially disadvantaged communities. Such principal subsidy programs could be paid for with interest earnings on SRF monies set aside in a special account within the SRF and dedicated to reducing the debt service burden for a particular project. We emphasize that the principal of the fund would not be expended, and would remain available for lending to other SRF projects once the needs of a particular community were satisfied.

Finally, we suggest that payments of federal capitalization grants in support of SRFs be in no form other than cash. In the wastewater SRF, capitalization grants are paid to the state in letters of credit, and funds are not released to states until they are actually paid out to loan recipients as reimbursements for costs already incurred. This denies states the opportunity to earn short-term interest on grant funds and limits the ability to leverage additional funds.

We would note that at the earliest opportunity, the waste water SRF program should be amended so that it conforms to these same guidelines regarding eligibilities, loan repayment period, etc. We are committed to making such changes during the reauthorization of the Clean Water Act.

Thank you for considering our recommendations on the drinking water SRF. We look forward to working with you to make the President's proposal a reality.

Sincerely,



Governor Michael Sullivan
Chairman
Natural Resources Committee



Governor John R. McKernan, Jr.
Vice Chairman
Natural Resources Committee

GUAM ENVIRONMENTAL PROTECTION AGENCY

Issue: Clean Air Regulations (Transportation Conformity)

The Clean Air Act Amendments of 1990 "transportation conformity" provisions requires that transportation (highway) plans and projects funded or approved by U.S. Department of Transportation shall conform with (Guam's) State Implementation Plans (SIPs) in meeting air quality standards.

The "transportation conformity" provision poses no significant problems for Guam.

Recommendation: Support NGA objective.

NATIONAL
GOVERNORS'
ASSOCIATION

Hall of the States
444 North Capitol Street
Washington, D.C. 20001-0772
Telephone (202) 624-5700




April 23, 1993

Natural Resources Policy Studies
Contact: Heidi Snow, 202/624-5384

Please Deliver to the Governors' Chief of Staff

GOVERNORS HAVE UNTIL MAY 1 TO COMMENT ON "TRANSPORTATION CONFORMITY" RULE; FAILURE TO COMPLY WITH RULE COULD THREATEN HIGHWAY AND TRANSIT PROJECTS

Action Needed

Because of differing views by the national associations representing state air quality and transportation agencies, Governors' offices may wish to review concerns of the two state agencies and coordinate comments to the U.S. Environmental Protection Agency (EPA) on its proposed transportation conformity rule. The public comment period for this rule ends May 1, 1993. The rule describes procedures for states to ensure that transportation projects and plans do not hinder clean air goals. *The rules will be enforced by withdrawing federal approval and funding of all transportation projects in areas that do not conform to the State Implementation Plan (SIP) for air quality.* Moreover, nonconformity may hinder compliance with clean air goals, thereby subjecting the state to federal sanctions (e.g., loss of highway funds or restrictions on industrial growth) and imposition of additional emission reduction requirements.

Background

Required under the Clean Air Act of 1990 (CAA), "transportation conformity" refers to procedures for assuring that local transportation plans, programs, and projects funded or approved by the U.S. Department of Transportation (DOT) do not conflict with State Implementation Plans (SIPs) for achieving or maintaining federal air quality standards. In January 1993, EPA proposed a rule regarding criteria and procedures for determining conformity of transportation plans, projects, and programs with the SIPs.¹ The rule is not expected to be final until November 1993 (two years after the statutory deadline), after which states will have one year to implement the procedures.

The CAA defines a conforming transportation plan, program, or project as one that (1) does not result in or contribute to a new violation in the national ambient air quality standards (NAAQS) in any area; (2) does not increase the severity or frequency of an NAAQS violation; and (3) does not cause the delay in attainment of the NAAQS or other interim emission reduction goals or other milestones in any area.

¹ *Federal Register* 58, January 11, 1993, page 3768.

Implementation Alert

Primary Issues of Concern

The national associations representing state air quality officials (State and Territorial Air Pollution Program Administrators or STAPPA) and state transportation officials (American Association of State Highway and Transportation Officials or AASHTO) are both providing comments to EPA on the proposed rule. In several areas the views of these groups differ. While there are many issues of contention, three of the major ones concern:

- the areas to which conformity should apply;
- the projects that conformity should cover; and
- the state agencies that should have responsibility for making conformity determinations.

Areas to which Conformity Should Apply. The proposed rule requires conformity determinations to be made in (1) those areas that do not meet the NAAQS for more of five pollutants (referred to as nonattainment areas), and (2) in those areas that were previously nonattainment but are operating under a plan to maintain the standards (referred to as maintenance areas). STAPPA believes that this coverage is not sufficiently inclusive, since it exempts areas that may soon become nonattainment areas or that affect the air quality in areas that are currently nonattainment. STAPPA recommends conformity requirements should be extended to all attainment areas, so that all transportation plans, projects, and programs can be reviewed to ensure that future growth in emissions will not cause violations of the NAAQS. They recommend applying conformity in varying degrees, based upon three categories of attainment and, suggest that in many cases broad discretion and flexibility be given to air quality agencies to work with state DOTs and metropolitan planning organizations (MPOs) so that states can prevent the development of new nonattainment problems. In contrast, AASHTO opposes expanding the application of conformity outside nonattainment areas and believes it would result in overly burdensome regulations. Instead, AASHTO believes that vehicle- and non-road control measures should be applied in surrounding areas shown to contribute to air quality problems.

Applicability of Conformity to Projects that are Not Federally Funded or Approved. Under the proposed rule, only those projects that are federally funded or require federal approval will be delayed if a determination of nonconformity is made. Because nonfederal projects would not be affected when findings of nonconformity occur, STAPPA believes that certain private or state projects could be built that would hinder the state's ability to meet clean air targets, thus placing a greater overall control burden on the state. Because more than 70 percent of transportation projects are built without federal funds, STAPPA recommends that conformity apply to all projects that are funded, approved, or adopted by agencies that receive federal funds (including mass transit agencies, state transportation departments, and local agencies). AASHTO opposes expansion of conformity to nonfederally funded projects because they believe it would not contribute to air quality improvement and would unnecessarily disrupt project implementation.

Responsibility for Determining Conformity. Under the proposed rule, MPOs and the DOT are responsible for making conformity determinations, after consultation with state environmental regulators and EPA. Although "interagency consultation" is required, it is not defined by the proposal. STAPPA believes environmental agencies should have a concurring role in conformity determinations. AASHTO has commented that requiring concurrence or agreement of the air quality or environmental agencies is not desirable. However, they believe a provision to require that DOT respond to EPA or state air agency objections prior to making the conformity finding is reasonable.

Additional Information

For additional information, please contact: Heidi Snow, NGA Senior Policy Analyst, 202/624-5384
 William Becker, Executive Director, STAPPA, 202/624-7864
 Francis Francois, Executive Director, AASHTO, 202/624-5807
 Kathryn Sargeant, U.S. EPA, 313/668-4441

D-15. THE CLEAN AIR ACT

15.1 Preface

The Governors strongly support the reauthorization of the Clean Air Act to continue the national effort to attain and maintain ambient air quality standards that protect the public health and welfare. Streamlining the act, particularly through the greater delegation of administrative responsibility to the states, can go a long way toward ensuring that the goals of protection of public health and expansion of energy and economic development can be achieved simultaneously.

15.2 State Role

The Governors affirm that the states must have the primary responsibility and authority for the control and abatement of air pollution. States must not be precluded from setting standards more stringent than federal minimums or from acting in the absence of federal standards. This state authority should include both the design and implementation of air quality programs. The federal government should establish air quality standards and deadlines, and should review and certify the design of state implementation plans for air quality. The Governors favor a review of the federal government's process for establishing air quality standards in a timely fashion and consistent with congressional intent regarding the protection of public health. Further, when the time period for setting standards is lengthy, states should not be precluded from acting in the interim to protect public health. Audits of state performance should be carried out by the Environmental Protection Agency (EPA), but detailed federal review and approval is neither necessary nor desirable. In reviewing a state implementation plan, EPA should approve strategies that result in attainment of the ambient standard and that satisfy federal minimum technology standards. EPA should be given a reasonable time to review the state plan and should assume the burden of proof in disapproving any elements of it. If EPA does not act within such reasonable time, the state plan should be considered approved.

15.3 Policy for Areas Not Meeting the National Standards (Nonattainment Policy)

With greater responsibility, the states can and should be able to accommodate new industrial growth in nonattainment areas in accordance with a policy of achieving net air quality benefits and ensuring reasonable, steady progress toward attainment of the standards.

The Governors support the establishment of binding deadlines for the achievement of ambient air quality standards. The Clean Air Act should contain a provision allowing EPA to provide an extension for up to a statutorily specified period for areas with severe and persistent air quality problems. For an area to qualify for such an extension, increasingly more stringent control strategies would have to be implemented over time. Failure to implement such strategies successfully should result in federal sanctions, tailored to the magnitude and nature of the failure. Use of inspection and maintenance programs is an appropriate strategy that should be implemented in areas currently not in attainment with national air quality standards, or that fail to meet expected milestones under applicable EPA agreements. The Governors also encourage the use of effective tampering and misfueling control measures as a contribution towards attainment of national air quality standards.

The lowest achievable emission rate (LAER) requirement for new sources which emit more than 100 tons per year of any regulated pollutant in a nonattainment area is a limitation on economic development in urban areas with no significant improvements in air quality. In addition, it encourages urban sprawl. All new sources should be evaluated equally under the best available control technology. The LAER concept should be dropped. The Governors oppose the extension of nonferrous smelter deadlines.

15.4 Policy for Areas Cleaner than the National Standards (Prevention of Significant Deterioration Policy)

The Governors believe that the Clean Air Act must continue to rely upon Class I increments to protect against deterioration of air quality in areas of prime national interest, such as national parks and wilderness areas. In no case should any area cleaner than national standards be allowed to deteriorate into nonattainment status. In other areas cleaner than the national standards, a Class II

people live in these areas. Approximately 30 million of these people are particularly sensitive to the health effects of ozone.

Many states, acting individually, cannot achieve the national ozone standard. There is a need for strong national leadership by the federal government in order to address this major public health problem:

Therefore, the United States Environmental Protection Agency should take a number of aggressive actions including:

- Immediate development and implementation of a nationally comprehensive ozone control strategy building on state and federal plans and actions already in place;
- Work with states to maximize the effectiveness of our nation's air pollution control program;
- Define and adopt reasonably available controls on existing hydrocarbon air pollution sources, with special emphasis on areas where the emissions contribute to violations of the National Air Quality Standard for ozone without regard to whether they are in the same area or state as the violation;
- Expeditiously adopt additional motor vehicle control measures such as gasoline evaporation standards; more stringent regulations on trucks; nationwide onboard control of gasoline vapors; and strengthened test and certification procedures, including a cold start test at 20°F.
- Provision of guidance and alternatives to the states for initiating or improving automobile inspection and maintenance requirements as may be needed dependent on the severity of nonattainment.

15.8 Policy for Toxic Air Pollutants

The Governors support simplifying the current system for listing hazardous air pollutants under Section 112 of the Clean Air Act and believe EPA has been too slow in making listing decisions. The Governors believe that any air pollutant believed to be hazardous should be expeditiously reviewed, and if the administrator finds it to be a hazardous air pollutant under the meaning of Section 112, it should be immediately listed. The Governors support effective statutory deadlines requiring EPA to regulate toxic air pollutants on an expedited basis. Once such a pollutant has been listed, existing significant sources should be required to comply with control measures adequate to protect public health, and in no case less stringent than that provided by the best available technology, determined by the permitting agency. To assist states in permitting existing sources, EPA should publish control guidelines within two years of listing a pollutant and should implement a national air toxics clearinghouse on hazardous pollutants. Significant new or modified sources of listed pollutants should be required to comply with more stringent control measures than existing sources are required to meet. EPA should provide technology guidance to the states for new sources designed to achieve public health protection with an ample margin of safety. EPA should review such guidance for new sources periodically.

States should be explicitly authorized to require controls more stringent than the federal guidance. In addition, for hazardous pollutants determined to be of local rather than national scope, states should develop control strategies through a state implementation plan process. Federal technical assistance should be provided to states to develop such control strategies. Such control strategies should be federally enforceable. States should be explicitly authorized to act in instances where EPA has not promulgated a standard and a state has developed a control strategy to address an immediate problem.

15.9 Urban Visibility

The Governors recognize that impaired visibility due to air quality degradation is a growing concern in major urban areas of the United States. A strengthened research effort to provide a greater understanding of the broad causes of this phenomenon must be undertaken with the development of appropriate standards and control mechanisms. In areas where sufficient understanding of the problem exists, control measures should be implemented. The Governors further recognize the important role fine particulates play in urban visibility and urge the implementation of appropriate fine particulate standards.

Adopted August 1980; revised February 1982, August 1983, February 1984, July 1984, February 1985, February 1987, February 1989, and February 1990.

THE CUMULATIVE IMPACT OF ENVIRONMENTAL REGULATIONS

1. PREFACE

THE GOVERNORS SHARE THE COMMITMENT OF THE AMERICAN PEOPLE TO ENVIRONMENTAL PROTECTION. YET THE GOVERNORS ALSO REALIZE THAT WE DO NOT PROTECT THE ENVIRONMENT BY THE PROMULGATION OF RULES ALONE. SOMEONE MUST CARRY OUT THE RULES AND THAT "SOMEONE" OFTEN IS STATE AND LOCAL GOVERNMENT. THE GOVERNORS ARE CONVINCED THAT THE FUTURE SUCCESS OF ENVIRONMENTAL PROTECTION AND REMEDIATION DEPENDS ON CONSISTENT ATTENTION TO STATE AND LOCAL CAPACITY.

UNDERFUNDED AND INFLEXIBLE ENVIRONMENTAL REGULATIONS OFTEN EXCEED THE FINANCIAL AND TECHNICAL CAPABILITIES OF THE GOVERNING AGENCIES THAT MUST IMPLEMENT THEM. WHILE THIS IS PARTICULARLY TRUE IN SMALL TOWNS AND RURAL AMERICA, IT IS BECOMING INCREASINGLY CLEAR THAT LARGE MUNICIPALITIES ALSO SHARE THESE PROBLEMS.

RESOURCES ARE FINITE, BUT CURRENT REGULATORY PRACTICES - WHICH MAY NOT INCLUDE THE FLEXIBILITY TO ADAPT TO DISTINCTIVE, SPECIFIC CHARACTERISTICS OF INDIVIDUAL AREAS - OFTEN PRECLUDE THE INTELLIGENT APPLICATION OF RESOURCES TO PROBLEMS.

2. SOLUTIONS

THE GOVERNORS RECOGNIZE THAT ENVIRONMENTAL PROTECTION WILL NOT SUCCEED UNLESS REGULATIONS ARE WORKABLE IN A MAJORITY OF COMMUNITIES. THE GOVERNORS SUGGEST THAT ADHERENCE TO THE FOLLOWING FOUR PRINCIPLES WOULD IMPROVE ENVIRONMENTAL COMPLIANCE NATIONWIDE, PARTICULARLY IN SMALL TOWNS AND RURAL AREAS.

- 2.1 RISK-BASED ENVIRONMENTAL REGULATION. AS RECOMMENDED BY THE SCIENCE ADVISORY BOARD OF THE ENVIRONMENTAL PROTECTION AGENCY (EPA), EPA SHOULD SET RISK-BASED PRIORITIES FOR ENVIRONMENTAL PROTECTION. EPA SHOULD TARGET ITS EFFORTS TO REDUCING THE MOST SERIOUS REMAINING RISKS TO THE ENVIRONMENT AND PUBLIC HEALTH. RISK IDENTIFICATION AND RESULTING ENVIRONMENTAL REGULATION SHOULD BE THE PRODUCT OF SCIENTIFIC STUDY.**

2.2 STATE AND LOCAL IMPLEMENTATION FLEXIBILITY. TOO OFTEN ENVIRONMENTAL RULES ARE WRITTEN TO A 'ONE-SIZE-FITS-ALL' STANDARD THAT DOES NOT ACCOUNT FOR REGIONAL VARIATION. INFLEXIBLE STANDARDS CAN LEAD TO INADEQUATE PROTECTION AND WASTED RESOURCES. THE GOVERNORS BELIEVE THE FOLLOWING.

- RULES SHOULD ACCOUNT FOR REGIONAL RESOURCE VARIATION, AND STATES AND LOCALITIES SHOULD HAVE THE FLEXIBILITY TO TAILOR IMPLEMENTATION TO LOCAL OR REGIONAL RESOURCE NEEDS. FOR EXAMPLE, THE GOVERNORS COMMEND THE RECENT PROPOSAL TO DISTINGUISH BETWEEN ARID AND HUMID ENVIRONMENTS IN ESTABLISHING STANDARDS FOR MUNICIPAL WASTE LANDFILLS. SUCH FLEXIBILITY SHOULD BE ALLOWED WHENEVER POSSIBLE IN OTHER PROGRAMS.
- STATE AND LOCAL GOVERNMENTS MUST HAVE THE AUTHORITY TO PRIORITIZE ENVIRONMENTAL PROBLEMS AND ALLOCATE RESOURCES ON A 'WORST-FIRST' BASIS.
- STATES SHOULD HAVE THE AUTHORITY TO SHIFT EPA-ADMINISTERED GRANT FUNDS AMONG PROGRAMS TO TARGET LOCAL PRIORITIES. FOR EXAMPLE, WESTERN STATES THAT RELY HEAVILY ON GROUNDWATER FOR DRINKING SUPPLIES BUT HAVE VERY LIMITED AIR QUALITY PROBLEMS MIGHT TRANSFER FUNDS FROM AIR PROGRAMS TO WATER PROGRAMS.

2.3 ASSESSMENT OF CUMULATIVE IMPACTS. EACH ENVIRONMENTAL REGULATION APPEARS TO BE DEVELOPED INDEPENDENT OF OTHER REGULATIONS WITHOUT CONSIDERATION OF THE CUMULATIVE REGULATORY IMPACT.

THE GOVERNORS URGE EPA TO INSTITUTE MORE INTEGRATION IN RULES DEVELOPMENT ACROSS PROGRAM AREAS. EPA SHOULD CONSIDER THE TIMING OF THE ISSUANCE OF RULES SO THAT COMMUNITIES CAN ADJUST TO ONE NEW REQUIREMENT AT A TIME, AND IT SHOULD CONSIDER THE CUMULATIVE IMPACT OF ALL RULES ON STATE AND LOCAL FINANCIAL AND TECHNICAL CAPACITY.

2.4 FUNDING OF ALL FEDERAL MANDATES. INCREASINGLY, ENVIRONMENTAL MANDATES ARE UNDERFUNDED. THE GOVERNORS STRESS THAT ESPECIALLY IN AN ERA OF TIGHT STATE BUDGETS, WHEN ENVIRONMENTAL INITIATIVES MUST COMPETE WITH A HOST OF OTHER FEDERALLY MANDATED SOCIAL PROGRAMS,

CONGRESS MUST ACCOMPANY ANY ENVIRONMENTAL MANDATES WITH THE FUNDS NECESSARY TO CARRY THEM OUT.

IN ADDITION, THE GOVERNORS URGE EPA TO EXPAND EDUCATION AND TRAINING PROGRAMS FOR STATE AND LOCAL GOVERNMENT OFFICIALS; EXPAND TECHNICAL ASSISTANCE; AND ASSIST IN TRANSFERRING ENVIRONMENTAL TECHNOLOGY FROM FEDERAL AGENCIES -- PARTICULARLY NATIONAL LABORATORIES -- TO STATE AND LOCAL GOVERNMENTS.

3. RESPONSE OF THE ENVIRONMENTAL PROTECTION AGENCY AND CONGRESS TO STATE AND LOCAL CAPACITY ISSUES

THE GOVERNORS COMMEND EPA'S ONGOING EFFORTS TO ADDRESS STATE AND LOCAL CAPACITY PROBLEMS, AND URGE EPA TO PROVIDE FOR MAXIMUM PARTICIPATION BY STATE AND LOCAL GOVERNMENTS IN THE DEVELOPMENT OF ENVIRONMENTAL RULES. THE ADMINISTRATIVE PROCEDURES ACT AND THE FEDERAL ADVISORY COMMITTEE ACT, AS WELL AS OTHER RELEVANT STATUTES, SHOULD BE AMENDED TO ALLOW STATES TO PARTICIPATE AS PARTNERS IN EPA RULEMAKING FOR PROGRAMS THAT STATES WILL ADMINISTER UNDER A DELEGATION OF AUTHORITY.

CONGRESS ALSO IS BEGINNING TO RECOGNIZE THE SEVERITY OF STATE AND LOCAL CAPACITY PROBLEMS, PARTICULARLY WITH REGARD TO SMALL COMMUNITIES. THE GOVERNORS STRONGLY SUPPORT THE PROVISIONS OF THE FEDERAL FACILITY COMPLIANCE ACT OF 1992 THAT ARE DESIGNED TO HELP TOWNS WITH A POPULATION OF LESS THAN 2,500 MEET ENVIRONMENTAL REQUIREMENTS.

Time limited (effective February 1993-February 1995).



ISSUES WITH STATE IMPACT

**NATIONAL GOVERNORS' ASSOCIATION
85TH ANNUAL MEETING**



**MISCELLANEOUS
Issues with State Impact**

TAB 10

- **Summary of Issues** **G**
- **Empowerment and Enterprise Zone Program** **H**
- **Line Item Veto Authority for the President** **I**
- **National Voter Registration Act** **J**
- **Lobbying Disclosure Act** **K**

MISCELLANEOUS

SUMMARY

Issues With State Impact



ISSUE:

H. Empowerment and Enterprise Zone Program

President Clinton's empowerment zone program was released to encourage businesses to invest in economically depressed areas. The program calls for 100 enterprise communities and 10 empowerment zones that will be eligible for \$1.0 billion in empowerment tax incentives over the first five years. They will also be receiving special priority for innovative federal programs. Funding for this program include \$500 million in existing funds targeted toward the zones and communities and another \$500 million in community policing funds. Another \$3 billion in existing funds will be targeted to the zones and communities by the administration. The empowerment zones will also be eligible for \$3 billion in employment and training wage tax credits for businesses that employ people who live within the zones. Other benefits include: DOE, to provide funding for 30 Enterprise schools; and \$200 million from HUD's Community Partnership Against Crime funds.

The enterprise zones and communities will be chosen through a challenge grant process: requiring nomination by states and/or local governments; comprehensive strategic plan that brings together the community, private sector, and government; and demonstration on how the community will reform the delivery of government services. In the enterprise communities, 65 will be in urban areas, 30 in rural, and 5 will be on Indian reservation. Of the empowerment zones, 6 will be in urban areas, 3 in rural and 1 on an Indian reservation. An Enterprise Board made up of cabinet secretaries serves as the point of contact for the communities to help them in the use of existing federal programs and resources.

The Governors' proposal seeks for the creation of empowerment and enterprise zones for inner cities and rural areas as found in the House bill and the enactment of a demonstration program that is linked to state enterprise zone programs for the most

efficient subsidy. NGA supports the proposal and the action for a one-year extension of the enterprise zones.

ISSUE:

I. *Line Item Veto Authority for the President*

NGA policy supports line item veto authority for the President, giving him enhanced rescission authority. By such authority, the President could rescind line items in each appropriations bill. The Enhanced Rescission Authority bill (H.R. 1578) that the House passed last May is in lieu of line item veto authority and a balanced budget amendment. The bill will move to the Senate on similar fast-track procedures. NGA urges the Governors to consider the effect on states of provisions found in the bill.

BRIEFING PAPER:

● ***Bureau of Budget & Management Research***

The Bureau of Budget and Management Research has no objection to the President's line item veto authority.

ISSUE:

J. *National Voter Registration Act*

The National Voter Registration Act (H.R. 2), requiring the states to register voters at state motor vehicle registration offices, at other state offices, and through the mail has been passed by Congress and was sent to the President for his signature. The Senate passed bill dropped provision requiring registration at welfare and unemployment offices although states are still allowed to do so. The Senate bill also exempts states with same-day registration at the polls and require proof of citizenship or residence to register. The House version of the approved bill requires states to provide a voter registration application to each applicant for a driver's license, as well as in all military recruitment offices and state welfare and disability offices but not at state unemployment offices. Employees of state offices are forbidden to coerce people to register while in these offices. Other provisions are the same as that of the Senate version.

The Governors are urged to consider the impact of the legislation on the states.

BRIEFING PAPER:

- ***Guam Election Commission***

It was the finding of the Commission that the National Voter Registration Act of 1993, as a whole does not apply to any territory of the United States, other than the District of Columbia. However, there are certain sections of the Act that have been passed into law by the Territory of Guam even prior to passage of the Act. Furthermore, the Commission believes that although the Act does not apply to Guam, it does not preclude the Territory from implementing certain sections of the Act or the Act as a whole. The Territory, however, has no duty to implement the Act.

ISSUE:

- K. Lobbying Disclosure Act***

The Lobbying Disclosure Act (S. 349) passed in the Senate and pending in the House requires all lobbyists to register with the U.S. Justice Department and disclose clients, issues, contacts with executive and legislative branch offices, income, and expenses. However, state and local elected officials, as well as their employees and organizations, are exempted from registering.

NGA policy supports the exemption of state and local government activities from lobbying requirements based on constitutional and federalism principles.

OTHER ISSUES WITH STATE IMPACT

EMPOWERMENT AND ENTERPRISE ZONES

NGA Objective

- Enactment of a demonstration program that is linked to state enterprise zone programs for the most efficient subsidy.

President Clinton's empowerment zone program was released by the Treasury Department May 4. The program calls for 100 enterprise communities and 10 empowerment zones, all of which will be eligible for \$1.0 billion in empowerment tax incentives over the first five years and will receive special priority for many innovative federal programs, including the Community Development Banks. All 110 will be eligible for \$500 million in existing funds that will be targeted toward the zones and communities, and an additional \$500 million in community policing funds.

An additional \$3 billion in existing funds will be targeted to the zones and communities by the Administration. The Department of Education has already committed funding for 30 Enterprise schools — 24 hour, year-round community centers within the zones. HUD has agreed to target \$200 million of its Community Partnership Against Crime funds (public safety and drug prevention) within the zones. In addition to these benefits, the empowerment zones will be eligible for \$3 billion in employment and training wage tax credits for businesses that employ people who live within the zones.

The enterprise zones and communities will be chosen through a challenge grant process that will require nomination by a state or a state and local government, and require a commitment to a comprehensive strategic plan that brings together the community, the private sector, and government and demonstrates how the community will reform the delivery of government services. Of the 100 enterprise communities, 65 will be in urban areas, 30 will be rural, and 5 will be on Indian reservations. Of the empowerment zones, 6 will be in urban areas, 3 in rural areas, and 1 on an Indian reservation.

An Enterprise Board, made up of relevant cabinet secretaries, will provide communities a single point of federal contact and have broad waiver authority to help in the use of existing federal programs and resources.

Contact: Tim Moran, 202/624-5311

LINE ITEM VETO

NGA policy supports line item veto authority for the President. On May 5, the House passed the rule for the enhanced rescission authority bill, H.R. 1578, by a vote of 212-208. The final bill passed by a vote of 258-157. This effort is in lieu of line item veto authority and a balanced budget amendment. The bill would require a vote by the full House within twenty legislative days. If the House votes "no", the rescission is dead; if "yes", the rescission moves to the Senate on similar fast-track procedures for an "up or down" vote. The President could rescind line items in each appropriations bill.

Contact: Jim Martin, 202/624-5315

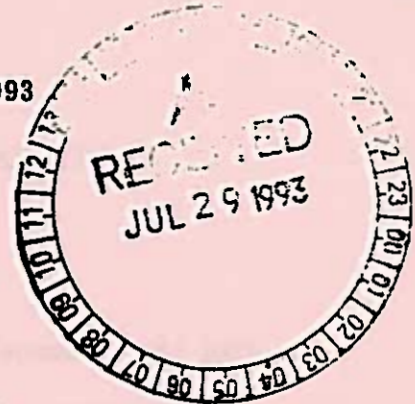


GUAM ELECTION COMMISSION
Territory of Guam

P.O. Box BG
Agana, Guam 96910



July 28, 1993



MEMORANDUM

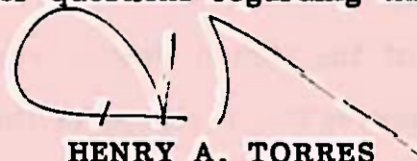
TO: Director, Bureau of Planning
FROM: Executive Director
SUBJECT: Briefing Paper re: National Voter
Registration Act of 1993

Attached as per your request is the Briefing Paper and a copy of Public Law 103-31, The National Voter Registration Act of 1993.

The Act as a whole does not apply to any other territory of the United States other than the District of Columbia under its definition of "States", however, there are certain sections of the Act that have been passed into law by the Territory of Guam previous to the Acts passage.

As a point of information, the Commission is seeking to attend the National Conference to be held in Los Angeles, California during the week of August 4 - 7, 1993. Although the Act does not apply to our jurisdiction, it is incumbent on the Commission to address other sections of the Act that may benefit the Territory in its implementation of election laws regarding both local and federal offices.

Should you have any further questions regarding this matter, please contact my office.



HENRY A. TORRES

Attachments



GUAM ELECTION COMMISSION

Territory of Guam

**P.O. Box BG
Agana, Guam 96910**



BREIFING PAPER

NATIONAL VOTER REGISTRATION ACT OF 1993

With the passage of Public Law 103-31, "An Act to establish national voter registration procedures for Federal elections, and for other purposes.", the Guam Election Commission began discussions on the applicability of the Act to our jurisdiction.

It was the finding of the Commission that the National Voter Registraton Act of 1993 does not apply to Guam based on it's definition of the term "State", defined as "a state of the United States and the District of Columbia".

Although the definition of "state" clearly excludes all other territories of the United States, other than the District of Columbia, it does not prevent the Territory of Guam from implementing certain sections of the Act or the Act as a whole. The Territory, however, has no duty to implement the Act.

NATOR VOTER REGISTRATION

NGA Objective

-) NGA policy supports voter registration efforts by elected officials at all levels of government but makes no specific reference to H.R. 2 OR its specific provisions.

The National Voter Registration Act (H.R. 2) report passed the House on May 5 by a vote of 259-164. The bill requires states to provide a voter registration application to each applicant for a driver's license, as well as in all military recruitment offices and state welfare and disability offices, but not state unemployment offices. Employees of state offices are forbidden to coerce people to register while in these offices. Registration by mail is also required. States with same day registration or with no voter registration requirements are exempt. The Senate will vote on the conference report shortly.

Contact: Jim Martin, 202/624-5315

LOBBYING DISCLOSURE

NGA Objective

- NGA policy supports the exemption of state and local government activities from lobbying requirements based on constitutional and federalism principles.

On May 6, the Senate passed the Lobbying Disclosure Act, S, 349, by a vote of 95-2. H.R. 823, with identical language, is pending in the House. On May 5, the Senate added an amendment by voice vote to require lobbyists to disclose twice a year all gifts, meals, and trips to members or staff worth more than \$20.00. The basic bill requires all lobbyists to register with the Justice Department and disclose clients, issues, contacts with executive and legislative branch offices, income, and expenses. State and local elected officials, as well as their employees and organizations, are exempt from registering as lobbyists. "Employee" is defined as someone who receives regular benefits, i.e., pension and vacation. Hired or contract lobbyists who work for state and local governments would be required to register.

Contact: Jim Martin, 202/624-5315



EXISTING POLICIES SCHEDULED TO SUNSET

**NATIONAL GOVERNORS' ASSOCIATION
85TH ANNUAL MEETING**



**EXISTING POLICY SCHEDULED
TO
SUNSET**

TAB 11

• **COMMITTEE ON ECONOMIC DEVELOPMENT
AND COMMERCE**

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E-10. ENTERPRISE ZONES

Thirty-seven states have initiated programs based on the "enterprise zone" concept, a mechanism for encouraging private sector job creation and revitalization in blighted areas of distressed cities and in rural areas, and in addition for strengthening job retention efforts in rural areas whose economies are depressed. A wide range of tax and regulatory provisions have been adopted in these states as incentives for development within the zones. As laboratories of the federal system, states are leading the way in testing, evaluating, and redesigning the concept of enterprise zones.

Because of the widespread interest in the program, it is important that steps be taken to implement on a pilot basis a federal enterprise zone program, both to strengthen and improve the incentives already available in state programs and to determine the effectiveness of this concept.

The primary objectives of enterprise zones should be to increase the rate of business formation; encourage expansion of newer, small firms; improve current efforts at job retention; and expand opportunities for disadvantaged workers in designated distressed areas. Federal enterprise zone legislation should set broad geographic targeting guidelines within which states can certify locally developed zone boundaries. A package of complementary federal, state, and local incentives; investments; and services should be developed for each designated zone and should be negotiated in a cooperative agreement among all affected levels of government.

The success of a federal program will depend upon the ability to leverage the existing and future state and local efforts directed at these same goals.

Adopted August 1989.

F-8. TRANSPORTATION OF HAZARDOUS MATERIALS

8.1 Preface

The safe transport of hazardous materials is a grave concern of all Governors. The nation's Governors recognize the risks that hazardous materials can pose and yet realize their important contributions to our nation's economy and its continued high standard of living. NGA supports a comprehensive and equitable regulatory approach to hazardous materials transportation that balances our commitment to public safety with our continued support for economic growth and productivity.

Sound policies for the safe transport of hazardous materials demand coordinated and cooperative efforts, both within government and between government and private industry. Strengthened state and local governmental participation in the formulation of hazardous materials transportation policy is vital. The success of these policies depends also upon support and assistance from the federal government.

8.2 National Policy

The nation's Governors call for the development of a comprehensive national hazardous materials transportation policy. This policy should address the following concerns: the establishment of necessary support programs; the allocation of responsibilities and resources among levels of government; the design of appropriate mechanisms of coordination among levels of government; and the need for federal funding to develop and foster compliance programs in appropriate state and local government agencies.

The National Governors' Association supports development of a joint hazardous materials transportation management program based upon:

- 8.2.1 Simplified Federal Administrative Regulations.** The scope and complexity of regulations governing packaging, container specifications, handling, labeling, and placarding of hazardous materials transportation diminish their effectiveness. They should be reviewed for streamlining and simplification.
- 8.2.2 Implementation and Effective Utilization of the Commercial Driver License Information System.** Financial support should be provided for developing and implementing the information system authorized by the Commercial Motor Vehicle Safety Act of 1986. Consideration should be given to specific identification and certification of drivers engaged in the transport of hazardous materials by highway.
- 8.2.3 Strengthened State Hazardous Materials Enforcement Programs, Including Developmental Support.** U.S. Department of Transportation programs support state efforts to improve hazardous materials enforcement and response activities. They should be improved and expanded.
- 8.2.4 Development and Use of Carrier Profile Systems.** Some states have adopted profile systems that log every violation by a motor carrier of general safety and hazardous materials laws and regulations. Full implementation of a shared federal/state management information system, called SAFETYNET, will permit states to access a national motor carrier network of carrier profiles reflecting nationwide inspection data.
- 8.2.5 Improved and Expanded Training Programs for Enforcement Personnel.** Although many states have ongoing programs, additional resource and technical support would enable a substantial improvement in the capability of enforcement personnel to ensure compliance with hazardous materials transportation regulatory programs. Additional training programs for state and local officials should be supported by the federal government.
- 8.2.6 Clarified State and Local Government Roles in Managing and Regulating Transportation Activities.** The Hazardous Materials Transportation Act of 1974 should be amended to reflect the capability of state and local agencies to carry out regulatory and enforcement programs with federal assistance.

- 8.2.7 **Improved Procedures for Conflict Resolution in Regulatory Responsibilities.** Early identification, review, and resolution of conflicts in carrying out regulatory responsibilities could be facilitated by instituting coordinated state and local procedures.
- 8.2.8 **Assignment of Primary Responsibilities for Emergency Response.** States must assume the lead role in developing effective state and local government response plans and capabilities. Prime federal responsibilities include regulating placarding to identify the type of material being transported and providing technical information, expertise, and supplemental financial support to assist in developing and maintaining an effective response capability.
- 8.2.9 **Emergency Response Training.** Comprehensive training programs for emergency response personnel should include first responders, technical response, and incident managers. Additional resources and technical support would contribute to improved response capability and to personnel safety and health. DOT program support to state and local governments should be expanded.
- 8.2.10 **Exclusive Federal Responsibility for Regulating the Security of Containers.** Containers should be designed and constructed to resist leakage and spillage, commensurate with the degree of hazard involved, in the event of an incident. The federal government should have the sole responsibility for regulating and approving packaging for transport.
- 8.2.11 **Financing Program Activities.** The federal government should establish a fund to provide a stable, assured source of revenue for financing programs related to administration, planning, training, equipment, enforcement, emergency response, research, and data collection. Revenues to finance the fund should include a special user fee assessed on the full array of carriers and shippers of hazardous materials, as well as container manufacturers and reconditioners. These revenues would be collected by the federal government and fully allocated to the states for implementation of programs.
- The establishment of such a fund should not be construed to absolve any responsible party from liability for cleanup costs. This should engage state and local governments as partners, building upon existing state programs and mechanisms, and should not preempt states from collecting their own fees.
- 8.2.12 **Fines for Repeat Violators.** Higher fines and/or sanctions should be established for those who repeatedly violate hazardous materials transportation safety regulations. Measures should be developed to strengthen enforcement of federal hazardous materials transportation regulations, which could include minimum penalty provisions. Federal revenues generated from fines for hazardous materials safety violations in air, rail, and highway transportation should be placed in a federal trust fund to help finance enforcement efforts.

Adopted August 1983; revised July 1987 and August 1989.

F-9. MOTOR CARRIER TRANSPORTATION

9.1 Motor Carrier Safety

- 9.1.1 Preface.** There is a growing public concern across the country about the number of accidents involving motor carriers, especially trucks. These accidents result in fatalities, injuries, and destruction of property, straining our human and economic resources. Because motor carrier transportation is essential to the health and welfare of the nation, the Governors recognize the need for comprehensive programs to provide for the safe and efficient movement of goods and people on our nation's highways.

The nation's traffic mix has changed dramatically in recent years. Passenger cars have gotten smaller, and there are growing numbers of light trucks and vans on the roads that are not yet subject to any federal motor carrier safety regulations. Longer, wider, heavier trucks are allowed on more roads. Thousands of new motor carriers have received operating authority from the Interstate Commerce Commission (ICC) since trucking deregulation.

Vehicle miles traveled have increased, creating unprecedented traffic volumes. Burgeoning congestion and gridlock create new safety problems such as lack of access for emergency vehicles and driver frustration.

The capital plant is growing old: the nation's infrastructure is deteriorating, as roadways reach the end of their design lives. Growing numbers of workzones for resurfacing, reconstruction, and rehabilitation projects require additional safety considerations.

Development of a comprehensive national policy on motor carrier safety will require a clear definition of the respective roles and responsibilities of the public and private sectors, as well as effective coordination among federal, state and local governments. Governors identify six initial components of such a national policy: elimination of commercial zone exemption; motor carrier/shipper responsibility; driver qualifications and licensing; vehicle inspection; public awareness and education; and coordination of effort.

- 9.1.2 Elimination of Commercial Zone Exemption.** The commercial zone exemption for federal motor carrier safety regulations is inconsistent with effective safety regulation. The exemption permits many trucks and drivers to operate within a designated urban area without being in compliance with federal regulations that apply to interstate carriers. Traffic conditions have changed dramatically since the exemption was written in 1935, and it should now be eliminated.

- 9.1.3 Industry Responsibility.** The economic impacts of safety, or lack of it, must be considered by both industry and government. Governors understand that responsible carriers and shippers recognize the cost effectiveness of safety. Results of a sound safety program can include improved efficiency and greater productivity, reduction in insurance claims and premiums, greater fuel economy, and minimization of property loss and damage. These effects are passed along to the business community and to consumers to benefit the entire economy.

Carriers must have adequate policies and programs to assure that drivers, vehicles and operations are safe. Shippers and carriers should not encourage their drivers to take unnecessary risks by setting unrealistic delivery schedules. States are encouraged to work with motor carriers and shippers to ensure compliance with federal and state laws and safety regulations.

- 9.1.4 Driver Qualifications and Licensing.** The Governors support implementation of a national system based on one-license/one-record for commercial drivers. States are currently addressing changes in licensing procedures in part due to enactment of the Commercial Vehicle Safety Act of 1986.

As states develop new or revised classified driver licensing systems, they should ensure that drivers demonstrate the ability to safely operate the vehicle under the conditions for which licensed.

While the Governors acknowledge a governmental role in setting guidelines, the motor carrier industry has primary responsibility for driver training. NGA urges the industry to continue to expand voluntary driver training programs. States are encouraged to develop training and enforcement programs, including compliance with rules of the road, drivers' hours of service, and detecting and prosecuting commercial motor vehicle drivers impaired by alcohol or drugs.

- 9.1.5 Vehicle Inspection.** Governors encourage state participation in state-based initiatives such as the Commercial Vehicle Safety Alliance (CVSA). CVSA is based on voluntary participation and reciprocity among state inspection authorities; it serves as a model program for collective state action in the safety area.

Another important initiative is the federally-sponsored Motor Carrier Safety Assistance Program (MCSAP). States that have joined MCSAP have adopted federal standards as state standards, providing a national minimum safety enforcement effort. MCSAP has enabled states to upgrade state motor carrier safety inspections, and has helped to focus enforcement efforts more consistently. In this regard, it holds significant potential as a planning and evaluation tool related to safety initiatives. In supporting extension of this program, NGA calls for full funding levels and full state participation.

- 9.1.6 Public Awareness and Education.** The unprecedented public attention on the role of large trucks in traffic crashes and resulting dangers offers an opportunity to educate the public about the importance of truck safety and to provide safe driving advice and information to motorists on sharing the road with trucks. While the private sector is taking the lead, there are also state/federal/private sector activities underway to address the problem.

States are encouraged to join with the private sector to explore all opportunities for incorporating motor carrier safety objectives into overall safety programs, and to widely disseminate information on safety initiatives. States may wish to evaluate driver's education programs to assess their adequacy in preparing motorists for driving in today's mixed traffic conditions.

- 9.1.7 Coordination of Effort.** All parties involved in the U.S. transportation system should make every reasonable effort to improve highway safety. Federal, state and industry officials must recognize there are increasingly limited resources devoted to implementing increasingly complicated safety programs, and activities must be targeted to achieve maximum benefit.

For each of the federally-funded safety programs, including MCSAP, the Section 402 State and Community Highway Safety Program, and the commercial driver's license program, there needs to be an effective federal/state/private sector partnership.

As states respond to the growing public concern over motor carrier safety, the need for adequate data has become more apparent. Any effective safety program must rely on accurate, reliable data for problem identification and evaluation. Currently, truck accident data are not collected on a uniform basis, nor are data necessarily properly integrated with other safety data in statewide recordkeeping systems.

The Governors support measures that seek to address these insufficiencies, including a comprehensive review of existing data bases and thorough analyses of causative factors, including the driver, the roadway, and the vehicle. A necessary first step is for states to collect information on truck accidents using the same data elements and the same definitions. These elements should include information on the driver, motor carrier, vehicle, roadway, environmental conditions, type of accident, accident events, involvement of hazardous materials, and accident results. The collection of standard accident data will enable the states and the federal government to reevaluate safety programs designed to reduce the volume and severity of truck accidents. Data regarding vehicle defects and other safety deficiencies obtained through the MCSAP and other inspection programs should be shared and integrated with reported accident data.

Safety questions have been raised about the design compatibility of roads and large trucks. The Governors believe that ongoing evaluation of truck accident data and research into improved truck safety equipment and other roadway/vehicle compatibility issues should provide a basis for assessing safety implications.

Truck and bus technology is changing rapidly. In order for the states and the federal government to guide technological change toward improving motor carrier safety, research and development partnerships between the private and public sectors should be considered. Emerging technologies in such areas as automatic vehicle identification, tachographs, vehicle underride defenses, and crash absorption capabilities should be thoroughly investigated.

Within the state, a spirit of shared responsibility and cooperation on an interagency basis will be necessary to carry out and evaluate provisions of federal safety laws. In particular, development of motor carrier licensing and testing standards to be administered in the states shall be improved when all state agencies responsible for any facet of truck safety are included in the implementation and evaluation process, along with industry representatives.

The Governors see intergovernmental cooperation as key to the success of these programs, but believe industry initiative and innovation should be equal partners in the movement toward a safer, more efficient and more productive environment for moving goods in the nation. State-industry cooperation, which is key to an effectively administered state safety program, can be enhanced by the use of state motor carrier advisory committees as a forum for improving motor carrier safety.

9.2 School Bus and Private School Bus Safety

- 9.2.1 Preface.** The transportation of school children on school buses and civic/social groups on private school buses demands the attention of all levels of government to develop comprehensive safety policies. Federal and state authorities should take the lead in developing comprehensive policies relating to the transportation of the public on school buses and private buses. Safety for the future is a mandate.

- 9.2.2 **Bus Driver Qualification and Licensing.** The Governors endorse the implementation of the commercial driver license required under the Commercial Vehicle Safety Act of 1986 and urge that bus drivers of both school buses and private school or civic buses be subject to its provisions. Only by demonstrating detailed knowledge and skills should a driver be entrusted to transport the children and citizens of our nation.

In taking steps to ensure that only qualified drivers are operating buses on our roadways, all governmental agencies are encouraged to work together to develop a monitoring system, such as the continuous monitoring of driver license status, that would help eliminate potential problem drivers.

- 9.2.3 **Bus Structure.** The National Governors' Association is concerned that school bus structure specifications are not uniform across the nation. While it recognizes that the states have specific needs, NGA urges the unified development of a higher level of federal minimum specifications for school buses, including the need for additional door, window, and roof exits, safer fuel systems, and less flammable bus interiors.

The Governors support the research efforts of the National Transportation Safety Board, the National Highway Traffic Safety Administration, and other federal agencies and encourage each state to review those groups' recommendations, including the retirement of school buses manufactured before April 1977 on a reasonable schedule.

All agencies should increase the coordination of their research efforts and seek the continued cooperation of industry in designing a safer school bus for the future. The Governors emphasize the need for concentrated research efforts into interior materials that will meet higher minimum burn rate standards than now exist.

- 9.2.4 **Private School Buses.** A substantial number of buses used in the nation's school districts is transferred into private use once they are retired. These buses are used by civic groups, YMCAs, churches, and others for their transportation needs. These buses are not subject to any minimum safety standards once put into private use, thus many are old and unsafe. All private buses should be required to pass an annual safety inspection for compliance with minimum vehicle safety equipment standards currently required under U.S. Department of Transportation motor carrier safety regulations.

9.3 State Taxation and Regulation

The Governors believe a solution can and should be found that simplifies reporting and administrative burdens on interstate motor carriers while not denying the states control over raising revenues needed for highways or their ability to protect those who travel on them. To this end, the Governors endorse the following set of principles.

- 9.3.1 **Taxation.** The freedom to structure state revenue systems is integral to the operation of state government. The Governors oppose all legislation that would either directly or through unilateral action by an administrative officer preempt state authority over sources of state revenues, state tax bases, or taxation methods. The Constitution and current federal law assign to the states certain highway responsibilities and liabilities. States finance the operation and maintenance of federal-aid highways, fully finance the cost of improvements for 80 percent of the nation's highway network, and are liable for the safety of highway users. Maintaining the authority to adopt, repeal, and change the rates, structure, and level of taxes is essential to the states' responsibility to support an adequate system of highways.

States tax all users to finance highway maintenance and repair. For heavy trucks, taxes fall into three major revenue sources: registration fees, taxes on fuel consumption, and taxes based either on vehicle axles or weight-distance. In addition, states and local governments levy a variety of taxes and fees on motor carriers beyond the three mainstays of highway financing. Since the two concepts of retaliation and uniformity of taxation procedures among states are inherently inconsistent, the Governors recommend the elimination of retaliatory taxes or fees used by one state to attempt to influence the tax policy of another state. The Governors are willing to consult with local and federal officials to eliminate, where possible, fees with one or both of the following characteristics:

- Taxes that provide revenues not used for highway purposes that impose a heavier burden on motor carriers than on other forms of transportation or commerce and industry generally;
- Taxes or charges that result in higher burdens on interstate motor carriers than on intrastate carriers for comparable vehicles, loads, and trips.

In light of the uncertainty regarding continued economic regulation of interstate motor carriers, the Governors encourage further exploration of the alternatives for simplification of registering for-hire motor carrier operating authority with the states.

9.3.2 Voluntary State Action. The Governors urge voluntary action by the states to harmonize administrative procedures for economic regulation of interstate commerce, collection of registration fees, and taxes. To the extent possible, one-stop operations, uniform definitions, and common forms and reporting procedures should be instituted by all states. It is expected that improved administration, including strengthened enforcement and audit procedures that would result from a uniform nationwide system, would produce additional revenue for both the states and the federal government.

The Governors urge each state to take action in cooperation with other states to ensure tax forms, calculations, due dates, mileage definitions, and other procedures are uniform, documentation carried in the cab or displayed on the outside of the vehicle is minimized including one set of license plates, and one form and one payment to a base state ensures registration valid in all states. The following are important specific elements of a successful action plan for achieving uniform procedures in interstate motor carrier taxation and regulation.

9.3.2.1 State Motor Carrier Advisory Committees. The Governors recommend establishing state advisory committees consisting of industry representatives and state officials to discuss administrative procedures, understand common interests, and address specific concerns. Successful administration of motor carrier programs requires effective communication between industry and states.

9.3.2.2 Registration. The Governors reaffirm their support for participation in the International Registration Plan (IRP). The IRP promotes procedural uniformity and simplification in the administration of motor carrier vehicle registration. Thirty-five states are currently members of the IRP. However, the remaining states now do not participate in the agreement for a variety of reasons, including anticipated loss of revenue, state administrative and organizational procedures, attention to state matters of more immediate concern, and concern with certain IRP requirements. These obstacles can and should be overcome to allow for participation by all states. However, the Governors oppose any proposal that places a financial burden on the member states or the federal government.

9.3.2.3 Fuel Use Tax Reporting. The Governors encourage the use of common fuel use tax reporting forms and procedures and the adoption of the six-point plan. Since gains in procedural uniformity can be made through state participation in a base state agreement, the Governors endorse the concept of a base state system for fuel use tax reporting and encourage participation by all states.

9.3.2.4 Interstate Operating Authority. The Governors urge a committee chaired by a member of the National Association of Regulatory Utility Commissioners (NARUC) and composed of state officials and motor carrier and insurance industry representatives be established to develop a model base state agreement for administering state operating authority requirements. The model agreement should conform with the provisions of P.L. 89-170 in applying the base state concept to the registration of interstate motor carrier operating authority and the issuance of credentials.

9.3.2.5 Mileage-based Taxes. The Governors recommend that officials from states currently assessing mileage based taxes work together to address uniformity issues. This cooperative state venture should include consideration of common definitions, common reporting requirements, use of common forms and a single vehicle identification number, development of a base state approach for mileage based tax reporting, and examination of means to develop simplified exemptions and common credentials or a single uniform credential for evidence of mileage tax registration.

9.3.2.6 Automation. The Governors encourage all states to continue working cooperatively to develop automated support services to reduce the cost and improve the effectiveness of fuel use tax reporting and registration procedures. Existing systems should be evaluated to determine the feasibility of using them as a basic structure.

9.3.3 State/Federal Consultation. The Governors are concerned that the federal/state consideration of motor carrier taxation and regulation may involve federal action affecting states adversely. The loss of revenues, invalidation of state authority, or unilateral alteration of certain state and local administrative procedures are unacceptable. Other actions that affect states must be considered only as a last resort, and only after consultation with state elected officials, and if still considered necessary, only in response to specific legislation. The role of federal rule-making agencies should be to perform their normal function of promulgating rules and regulations to implement this legislation. The Governors oppose any proposal to shift the responsibility for administering state commercial motor vehicle taxes and fees to the federal government.

H-10. TOURISM

10.1 Introduction

Tourism, a large and rapidly growing sector of the U.S. international trade account, is an important part of state economic diversification and rural development programs, as well as a leading employer in most states. It is the third largest retail industry in the nation. Tourism has enjoyed strong growth over the past decade; receipts increased 132 percent between 1978 and 1988.

10.2 National Tourism Policy

The Governors believe that tourism must be an integral part of an economic development strategy and advocate the development of both domestic and international tourism as a high economic priority. To this end, the national tourism policy should:

- Build on the strengths of the federal government, the states, and the private sector;
- Achieve full recognition of the role of tourism in international policies and programs; and
- Make available the resources of federal economic development programs to tourism projects undertaken by both public agencies and private businesses.

The federal government should incorporate the extensive experience, expertise, and capabilities of the states as it develops tourism policies and programs.

10.3 Facilitating International Travel

A key objective for U.S. tourism efforts must be to keep delays at ports of entry from becoming a deterrent to increasing international travel to our country. Federal agencies should effectively cut red tape and ease obstacles to travel in the United States in areas such as visas, passports, money exchange requirements, and customs congestion. Governors urge expansion of these programs, consistent with security and drug enforcement considerations. The current visa waiver pilot program and pre-inspection efforts are successful examples of programs that facilitate travel to the United States.

In addition, the federal government should establish programs to assist states and private industry in facilitating the travel of tourists from countries where language and cultural differences are significant.

10.4 Travel Data

The federal government has a unique role to play in the gathering and distribution of travel and tourism information. It should generate the baseline data needed by federal, state, and local policymakers and program managers that was provided by the National Travel Survey before it was discontinued. Data should support state and federal tourism marketing, tourism industry planning, air service, infrastructure planning, and international trade efforts.

10.5 Air Service

International air service is determined through bilateral negotiations between countries. States have a strong interest in decisions that affect domestic and international air service, as these are key elements in the tourism picture. Affected states should be consulted and invited to participate as advisers to U.S. negotiators.

10.6 Infrastructure

Infrastructure supports domestic and international tourism. It includes airports; highways; air service; signage; national parks, forests, and other public lands and scenic areas; monuments; and historic sites and buildings. Infrastructure planning and promotion, responsibilities shared by the states and the federal government, should incorporate analysis of tourism development needs at all stages.

10.7 USTTA

The U.S. Travel and Tourism Administration has been an energetic and effective promoter of international tourism, an able advocate for the nation's travel and tourism services industry, and a valuable partner for states working to expand their tourism business. It is essential that funding for USTTA be continued if the nation is to compete successfully in the world tourism market. Reflecting the importance of tourism to the U.S. economy, this funding should be appropriated by Congress from general revenues.

USTTA should continue to support state and multi-state regional initiatives among its highest priorities. USTTA should assist states that do not have international gateway airports to attract international tourism. In addition, USTTA should maintain and strengthen its overseas marketing operations. Other federal agencies, such as the Office of the U.S. Trade Representative, the U.S. and Foreign Commercial Service, the Department of Transportation, the Department of the Interior, and the Department of Agriculture should coordinate their efforts with USTTA to achieve national tourism policy goals.

10.8 State Role

For their part, states should ensure that their tourism programs are fully incorporated into their economic development initiatives. They should continue to seek ways to promote increased travel in the United States by American and international travelers. In particular, states should develop regional and other cooperative tourism promotion efforts in such areas as market analysis and advertising. State programs should also focus on activities essential to tourism development, including infrastructure improvement, environmental protection, and business investment.

Adopted August 1989.

B-6. COMBATING AND CONTROLLING DRUG ABUSE AND TRAFFICKING

6.1

Preface

Drug abuse and trafficking is a major problem facing American society. A recent White House Conference for a Drug Free America reported that 37 million Americans had used illegal drugs in the past year and that one in every ten Americans had used an illicit drug in the past month. This abuse of drugs costs American business more than \$60 billion a year in lost productivity, increased absenteeism, workplace accidents, rising medical costs, and theft. The illegal sales of drugs have been estimated to generate over \$100 billion a year in tax-free income to drug dealers and traffickers.

Drug abuse and trafficking are the root causes of much violent street crime and are contributing factors to innumerable other serious offenses. Drug traffickers represent a great threat to public safety because of the variety of criminal acts they engage in, including violent disputes over money and territory. They not only have potentially destructive effects on individuals and communities, but also pose unique and difficult problems for officials responsible for enforcing laws and maintaining public order.

The illicit drug problem goes far beyond state and even national boundaries. It is an international concern that can be controlled only if addressed in an international context. The administration should consider illegal traffic in drugs as a crucial element of foreign policy, especially when negotiating with and considering foreign aid for major source and transshipment countries. The State Department, U.S. Agency for International Development, and Drug Enforcement Administration foreign anti-drug operations must be given sufficient resources to be effective.

Individuals who traffic in large quantities of drugs for substantial profit merit treatment in the criminal justice system significantly different from the common street user. However, the drug control strategy must attack and punish the user as well. Court appearance by dealers who make astronomical profits can be assured only by setting high bail. Fines and prison terms can be effective deterrents if they are severe enough to counterbalance extensive profits. Forfeiture of any profit realized through drug trafficking must be a clear consequence of conviction. The administration and Congress deserve support for their efforts to stiffen provisions in the U.S. Criminal Code that apply to illegal traffic in drugs.

The amended Statute of Posse Comitatus, which was signed into law by the President in December 1981, and the Department of Defense appropriation for use of the National Guard in drug enforcement deserve support. The military should work with federal, state, and local officials in their efforts to control drug smuggling into the country and drug-related organized crime. These efforts must be complemented with a federal, state, and local comprehensive strategy to reduce the availability of illegal drugs and the adverse effects of drug abuse in society. This approach must include international cooperation, diplomatic initiatives, drug law enforcement, education, prevention, detoxification, client-based human services, treatment, and research. The following points should be considered in developing comprehensive sound policy to combat drug abuse and trafficking:

- There must be consistent exchange of information and ideas among the various disciplines that can have an impact on consumer demand. The ultimate long-term success of drug control efforts is not possible without a marriage of these disciplines, supported by an educated and involved public. Therefore, each state should consider establishing a Statewide Drug Policy Task Force involving leaders from the public and private sectors. This should be chaired by an individual who reports to the Governor.
- Our nation's Governors are in a unique position to launch an all-out assault on the demand for drugs. The Governors not only can marshal the resources of state government across departmental lines, but also can exercise the power and prestige of their offices to mobilize a statewide coalition cutting across both the public and private sectors. Such leadership can be enormously effective in enabling local elected officials, as well as whole communities, to take on the drug prevention challenge.

6.2

State Role

The Governors are sending a strong message that drug abuse can and must be abolished and that drug trafficking will not be tolerated. The Governors are a guiding force when the representatives of state agencies, local communities, business, industry, religious and civic institutions, the media, and law enforcement come together to develop a strategy for dealing with drug abuse and trafficking.

The Governors are playing a central role in mobilizing community and state government cooperation in a comprehensive effort to control drug abuse and trafficking, and the diversion of legally prescribed drugs for illicit purposes. This is being accomplished by:

- Directing state agencies to work together and cooperate in areas of education, prevention, treatment and rehabilitation, and law enforcement in addressing the problem;
- Encouraging local officials, community leaders, and citizens to get involved statewide to carry out an effective strategy; and
- Working with local governments and the business community to address the importance of such programs as drug-free schools and workplaces.

The steps toward developing an effective alliance against drugs at the state level include, but are not limited to, the following:

- The formulation, implementation, and coordination of a comprehensive plan for statewide campaign against drugs and alcohol abuse consisting of programs and initiatives relating to education, prevention, treatment, and law enforcement;
- A network of prevention centers to provide expert substance abuse services to local communities and of treatment facilities to provide opportunities for recovery, based on periodic statewide needs assessments; and
- An outreach program to make major media outlets, businesses, financial institutions, and celebrities full-fledged partners in the statewide campaign.

To be successful, a drug prevention campaign must be planned as an ongoing and long-term commitment, and to be sustained it must be community-based. Governors can play a key role in mobilizing local coalitions that are just as broad-based as the statewide alliance. They should include:

- Community advisory councils composed of locally elected officials, educators and coaches, law enforcement officers, parents, students, business leaders, religious leaders, personnel from prevention and rehabilitation centers, and local media representatives. These local councils are the driving force in tailoring initiatives to meet the needs of each community.
- A close working relationship, based on mutual trust and respect, between local educators and police. This relationship is critical to ensuring that prevention and enforcement initiatives do not compete with but complement one another. The respective players may find it helpful to agree on specific procedures or a written policy to guide members of their two institutions.
- A commitment to school-based prevention programs, including a substance abuse education curriculum, a drug-free school policy, and a student assistance plan that begins in kindergarten and continues through the twelfth grade. While an education campaign need not and should not be limited to the schools, it must at the very least include them, especially in the formative years. Community advisory councils should also be encouraged to draft or review school curriculum staff training and disciplinary codes and procedures that clearly communicate to students and parents the indications of substance abuse and sanctions for drug use or distribution during school hours, as well as substance abuse policies that spell out what is expected of school personnel.

Specific prevention programs that should be institutionalized include:

- Massive statewide awareness campaigns (e.g., Red Ribbon);
- School-based curriculum, student assistance programs, and drug-free school zones;
- Drug-free workplace programs for the public and private sector;
- Religious congregations' involvement in anti-drug programs; and
- Education for medical personnel about proper prescription practices.

6.3 Drug-Free Workplace

Drug abuse is one of the major problems in the nation today. It is the direct cause of immeasurable violent crime, human suffering, and phenomenal financial devastation. Drug abuse costs American business billions a year in lost productivity, increased absenteeism, workplace accidents, rising medical costs, and theft.

The federal government and numerous businesses have adopted drug-free workplace policies. The National Governors' Association supports all efforts to make this a drug-free nation and encourages all states to adopt a drug-free workplace policy.

In developing a drug-free workplace policy, states may wish to consider the following guidelines:

- Establish a clear and firm written policy that illicit drug use and illicit drug abuse will not be tolerated in the workplace;
- Explain that the goal of a drug-free workplace will be pursued for the safety and security of all members of the organization;
- Adopt pre-employment testing for at least law enforcement and safety sensitive positions according to the National Institute on Drug Abuse guidelines;
- Provide counseling and employee assistance programs;
- Ensure confidentiality regarding testing results, medical treatment, and rehabilitation records;
- Provide training to help personnel recognize the symptoms of drug use, explain supervisor and employee options, and monitor a drug-free workplace; and
- Provide drug education that explains drug laws, symptoms of drug use, and the effects drug abuse has on performance, conduct, safety, and personal and professional relationships.

Overall, any drug-free workplace policy should be administered in a fair, accurate, and consistent manner. It should recognize and receive widespread support, and must not abridge the rights of individuals.

6.4 Federal Role

The federal government can make an important contribution by accelerating implementation of these statewide demand reduction campaigns. Specifically, the Governors urge the federal government to channel into the war on drugs those forfeiture proceeds that are not now being plowed back into enforcement activities. No better use can be made of these illicit profits than to convert them to drying up the very demand upon which they depend.

The nation's Governors urge the President and Congress to increase federal funding for drug abuse education, treatment, prevention, and law enforcement efforts at the state and local levels of government. This would send an important message to Governors and other state and local officials that the federal government intends to follow through on its commitment to assist them in ridding the nation of the scourge of drugs. The Governors encourage full funding of the budget recommendations of the Congress in the Anti-Drug Abuse Act of 1988.

6.4.1 Military Bases. The Governors support the use of closed military bases or other federal properties and facilities suitable for conversion for use as federal drug prisons.

6.4.2 Intensified Eradication and Interdiction; Military Assistance to State and Local Governments. The federal government has exclusive responsibility for coordinating interdiction of drug shipments from foreign countries and assisting those countries in the eradication of drugs at the source. This should be a top priority of the federal government. Also, the administration and Congress are urged to expand the role of the military forces of the United States in air and sea interdiction efforts. This role should include all regions of the country and should represent a more significant effort than presently exists. This can be fostered through more frequent joint military and law enforcement missions and compacts promoting intergovernmental cooperation.

6.4.3 National Reaction. We must show that this is a very serious effort to combat drug abuse and trafficking in this nation. Over the past decade, numerous states have been adversely affected by the growing drug problem. These states have taken independent steps to combat the problem; however, their resource limitations, coordination difficulties, and geographic restrictions have hindered their effectiveness. The federal government, realizing the national ramifications of the drug problem, has conducted several significant operations.

6.4.4 Office of National Drug Control Policy. The Anti-Drug Abuse Act of 1988 created the Office of National Drug Control Policy with responsibility for developing a national drug control strategy through coordination with federal government agencies in consultation with state and local governments. The National Governors' Association supports this office and encourages the director to work with Governors and state and local officials to develop a comprehensive plan for combating drug abuse and trafficking. The plan should cover the full range of the nation's drug problems from prenatal care for pregnant drug-using women to increased penalties and incarceration options for trafficking offenders. Most important is the need for a balanced and integrated plan that appropriately prioritizes and funds the full continuum of education, prevention, treatment, and law enforcement.

- 6.4.5 **Centralized Information and Intelligence Database.** Law enforcement agencies involved in drug control have historically been hampered by lack of accessible and assessable intelligence information relating to illegal trafficking. A centralized system to receive, analyze, and disseminate information among state and local law enforcement agencies must exist if proactive, nonduplicative, and significant targeting efforts are to occur. Such a system must interact with similar systems in states and the federal government.
- 6.4.6 **Street Enforcement Activity.** Local law enforcement agencies must provide the immediate response to a variety of community demands in crime control. It is difficult for those agencies to dedicate already strained resources to provocative drug prevention and enforcement problems. Governors and legislators of the various states should apply maximum support and effort toward increasing resources (personnel and equipment) of local law enforcement agencies.
- 6.4.7 **Standard Legislation.** There is a great deal of disparity among the states' drug laws. There is evidence that smuggling organizations have taken advantage of some states' deficiencies in legal recourse and probabilities of detection, apprehension, and prosecution. Therefore, each state should establish a legislative committee of prosecutive, enforcement, judicial, and legislative members to examine and develop a comprehensive system of model and uniform laws dealing with the drug problem. Each state should also consider legislation requiring mandatory drug testing of drug offenders during probation, and while on parole or supervised release.
- 6.4.8 **Greater Prosecutorial Commitment.** Heavy court dockets and broad responsibilities minimize prosecutors' effectiveness in dedicating resources to the prosecution of major drug smuggling operations. Alternative approaches to drug prosecution and greater levels of coordination among circuits dealing with multijurisdictional organizations are needed. Prosecutors should take steps to expedite drug enforcement cases, as has been successfully accomplished in cases involving career criminals. Additional prosecutorial resources are needed to provide for dedication to prosecution of highly financed and well-defended drug organizations.
- 6.4.9 **Federal Penalties.** The Governors support efforts to increase the federal penalty for using a semi-automatic firearm during the commission of a violent crime or drug felony from five to ten years.
- 6.4.10 **Coordination of Efforts of Local Agencies.** There is generally no mechanism to provide for local and state agencies to pool their resources and work together on common drug targets. Equipped with the necessary legislation, agencies can draft contractual agreements to effect "joint force operations" or "mutual aid pacts" to expand resource and jurisdictional abilities to attack drug operatives. States should consider developing the necessary legislation for a "mutual aid system," whereby law enforcement agencies can contractually join together and pool their knowledge, resources, and skills toward investigatively attacking drug smuggling networks.

6.5 **Expanded Federal Role in Reducing International Drug Trafficking**

While the nation's Governors continue to combat the supply and demand for drugs through public awareness campaigns and increased funding for anti-drug programs in education, prevention, treatment, and law enforcement, international drug trafficking continues to flourish and expand its global impact.

The Governors support increased federal pressures against the efforts of the international drug cartels to expand their markets and their drug operations into other countries.

The Governors support the following federal actions and policies to reduce international drug trafficking:

- 6.5.1 **Development of a New Extradition Treaty with Colombia.** Efforts to prosecute major drug traffickers have been severely restricted since the Colombian Supreme Court ruled the extradition treaty with the U.S. to be unconstitutional in 1987. The Governors support efforts to reestablish an extradition treaty that will stand up under the laws and constitution of Colombia. Equally important, the Governors support U.S. law enforcement and military aid programs that work with the government of Colombia to fight retaliation by drug cartels against government officials, especially against members of the Colombian judiciary.
- 6.5.2 **Enhanced Role for the United Nations in the International War on Drugs.** The Governors strongly urge the President to push for a stronger and more visible role for the United Nations in condemning international drug trafficking and in developing political and economic sanctions against those countries and organizations who aid or profit from international drug trafficking.
- 6.5.3 **Third World Debt Reduction.** Efforts such as the "Brady" plan that are intended to reduce the domestic financial strain caused by international debt obligations on illegal drug producing countries such as Bolivia, Colombia, and Peru should be pursued by the administration and Congress. The Brady plan includes cooperative and voluntary efforts by the U.S. Treasury, the World Bank, and the International Monetary Fund to provide financial incentives to commercial banks to forgive portions of these loans to help finance domestic economic reforms.

- 6.5.4 Country Certification for U.S. Aid.** The Governors urge the administration and Congress to significantly tighten procedures for certifying foreign countries for eligibility to receive U.S. aid based on their cooperation with U.S. surveillance, interdiction, and eradication efforts. Because the amount of U.S. aid to some uncooperative countries may be relatively inconsequential, the U.S. should develop other sanctions against those countries whose governments participate in, or benefit from, international drug trafficking.
- 6.5.5 Call for a Hemispheric Drug Summit.** The Governors urge the President to convene a Hemispheric Drug Summit for the heads of state of all countries in North, Central, and South America patterned after the Annual International Drug Enforcement Conference. This summit should be designed to demonstrate hemispheric support for the war on drugs and to develop regional drug surveillance, intelligence, and interdiction compacts. Such compacts and cooperative efforts would demonstrate an awareness of and opposition to the drug cartel efforts to expand their drug growing and processing operations into other countries such as Brazil and Ecuador; to reroute their drug supply lines in the U.S. through different coastal and air traffic patterns; and to expand their markets beyond North America to the European community.
- 6.5.6 Continued Support for National Guard Drug Surveillance Role.** The Governors urge the President and Congress to continue federal funding for the expanded role of the National Guard in the war on drugs. The Governors further urge Congress to ensure that the process for approving state plans for National Guard drug interdiction efforts be streamlined to ensure that available funds are distributed to states within thirty days following submission of a plan to the National Guard Bureau. The Governors also support existing federal law that restricts the use of the National Guard in effecting personal arrests and personal searches.

Adopted August 1982; revised March 1983, August 1986, and August 1989.

B-13. A NATIONAL STRATEGY ON THE PRISON CROWDING PROBLEM

13.1 Preface

Controlling crime, particularly violent crime, is primarily a state and local responsibility. Consequently, the responsibility for punishment and treatment of the majority of offenders also falls to state and local governments. State efforts to reduce and intensify enforcement of laws for the most serious violent criminal offenders have consequences for all functions of the criminal justice system. Combined with demographic and socioeconomic changes occurring throughout the nation, the resulting dramatic increase in the number of offenders under correctional supervision has far exceeded the capacity of state and local correctional systems, leading to a variety of problems – most notably, prison crowding.

The lack of adequate custodial space in the nation's prisons and jails is clearly detrimental to the administration of justice. Overpopulation of correctional institutions and jails negates the effectiveness of management, programs, security, and architectural systems and can endanger offenders, staff, and the public at large. When the population of a correctional program or facility exceeds capacity, maintaining legal, safe, and reasonable conditions of confinement and supervision becomes increasingly difficult and often impossible.

The nation's Governors believe that the criminal justice system should make every effort to ensure maintenance of a humane environment for prison inmates. The elements of a humane environment include provisions for clean and sanitary living, work, and dining facilities; appropriate medical and dental care; adequate exercise space and time; sufficient numbers of appropriately trained staff; and an offender classification system that will assure placement of offenders in the least restrictive setting possible consistent with public safety and the needs of the offender.

The Governors believe that there must be a balanced response to the prison crowding problem in the nation's correctional systems. Care must be taken in the development of both long- and short-term solutions to address the problem and maintain public safety. Solutions must take into account the concern of victims and the general public, and balance them against the requirement of humane treatment of offenders, and give due consideration to funding constraints. A continuum of punishments for crime, ranging from incarcerating individuals in secure facilities to the placement of individuals in community programs, must be a feature of each state's program to manage its correctional population.

13.2 Understanding the States' Unique Problems

A crucial first step in addressing prison crowding in any state is to do a careful assessment of the problem and its causes, as well as the resources available in the correctional system to address the problem. A state's correctional system does not just consist of prisons, but is a large and complex array of institutions, people, and programs. Rather than being the result of careful planning, most correctional systems have developed through an evolutionary process, often dating back as much as a century. Prison crowding is often just the most visible sign of inadequacies in the corrections system or criminal justice system as a whole.

While problems exist in every state's correctional system, the nature of the problems and their causes can vary dramatically from state to state and locality to locality, depending on the age of the prison facilities, the amount of funding that has been invested in corrections programs in the past, the kinds of policy changes the state has made that have an impact on corrections, e.g., mandatory sentencing laws, and even the attitudes of citizens and public officials. Too often, state and local decisionmakers are given overly simplistic explanations about the reasons for prison crowding in order to justify a particular type of correctional reform. Governors must demand careful, detailed analysis of hard data on the corrections system in their state before making decisions about solutions. Such data are often very difficult and expensive to collect, but are worth the effort because of the improved quality of decisionmaking they permit.

13.3 Developing a Strategy for Reform

Just as the causes of crowding will vary from jurisdiction to jurisdiction, so accordingly will the solutions. A clear understanding of the opportunities for change in the corrections system based on careful data analysis can lead to the development of strategies that can successfully reduce prison crowding.

Too often, the commitment to address prison crowding wanes at the point where solutions are identified, and inadequate planning is done to ensure that implementation occurs successfully. Governors should resist the temptation to adopt a single "quick fix" solution to crowding. For example,

new prison construction can take four to six years to complete from the date that option is chosen, and prison crowding will only worsen in the interim without additional efforts. Alternatives to incarceration often have failed because they attempt to do too much or try to solve the entire problem of prison crowding, rather than focusing on areas where they are most clearly effective and most politically feasible.

Often, several changes will need to be made to different parts of the system, with each change focusing on a particular type of offender, in order to effectively deal with the overall problem. For example, an intensive probation program for priority offenders, a minimum security prerelease program to reduce the length of stay in prisons, changes in mandatory sentences to focus them on truly serious offenders, and the construction of a new correctional facility for serious, violent offenders might be combined as the most appropriate strategy of addressing a particular state's prison crowding problem.

13.4 Educational Programs

There is growing concern over the illiteracy rate among the prison population. According to the Correctional Education Association, 75 percent of inmates in U.S. prisons are functionally illiterate. Over 90 percent of these individuals are released back to the community after completing their sentence still functionally illiterate.

Opportunities should be available for prison inmates to participate in relevant and comprehensive educational, vocational, and social skills training programs and job placement activities that are fully coordinated and integrated with other components of the correctional process. Public and private sector resources may be used to maximize the development, implementation, coordination, and evaluation of these programs. Care should be taken to see that evaluations of the efficiency and effectiveness of program performance is based on measurable goals and objectives. These programs should include mechanisms that provide positive reinforcement for successful participation and individual achievement, which may take many forms--from tangible rewards such as time credits that reduce the length of sentence to less tangible incentives such as special events and activities that reward constructive behavior through recognition and praise.

Continuous monitoring and job placement, where possible, could also be a part of an educational program. Programs provided by the correctional system should be integrated as much as possible with existing resources in the community.

13.5 Construction of New Facilities

The public must be better informed about this problem so that it will support needed responses, including the provision of adequate prison space. States must have sufficient prison space to confine offenders deemed to be a serious risk to the public. When offenders pose no serious danger to the community and incarceration is not necessary, states and localities should alleviate prison crowding through the development and use of alternative forms of punishment. Where necessary and appropriate to house serious offenders, capital construction, renovation, and conversion of facilities for prisons should be supported.

13.6 Prison Industries and Privatization in Corrections

Prison crowding has resulted in extensive idleness among prison populations. Idleness not only can result in a volatile situation, but also is a simple human waste. A recent report from the National Institute of Corrections states: "An industrial prison is a civilized, closed community in which offenders who must be incarcerated are housed and for whom the principal activity is productive work for which a wage is paid comparable to or approaching that paid in the outside community for similar work. Such a prison, by relying on the work ethic to make the prison experience as normal as possible, provides an alternative role for prisoners, a role which gives them the opportunity to see themselves as part of the system rather than the more traditional role in which they are viewed as bodies to be just watched and counted." As an alternative, states may wish to use work as an incentive with the wage to be paid part of the incentive package. In this instance, wages do not have to approach those of the community at large, and income generated can be used to expand training opportunities, reduce the taxpayer's burden for prisons, or reimburse victims of crime.

States also may wish to explore the option of contracting out the operation of prisons or other correctional programs. Private enterprise would be expected to run prisons in an approach similar to the way it now operates hospitals, drug and alcohol treatment programs, or job training programs for government. There would be a written contract detailing both the role of the private company and the

role to be retained by government. Private companies would bid for contracts under which they would be responsible for the secure housing, feeding, medical care, and training of a specified number of inmates. Contracts should include clear statements of the responsibilities and obligations of all parties in such areas as liability (of both the government agency and the private individual or organization), bonding, staffing levels and qualifications, program quality and quantity, fiscal auditing, performance evaluation of staff and operations, and terms of renewal or termination of contract. It should be noted that presently there is no experience of a private firm operating an entire medium or maximum security prison facility in the nation.

States should approach this option with great care and forethought. Agencies and contractors alike must understand that the ultimate responsibility and authority for correctional operations resides with the government. States have the obligation to regulate the activities of contractors and to hold them accountable for their actions. Numerous liability questions could develop from injury or other suits brought by inmates or from assaults or other crimes committed against staff.

The private sector must not be viewed as an easy means for dealing with the difficult problem of prison crowding. It should be viewed as a resource for providing relief through contracting for certain correctional programs in prisons, or managing certain low-risk facilities.

13.7 Operational Improvement in Managing Liability Problems

From a management perspective, special attention must be directed to the matter of state and local officials' liability in prisoner lawsuits. One of the most significant trends in the law today is the readiness of federal and state courts to grant compensation for deprivations by state and local officials of newly recognized, federally based individual rights. This willingness translates into the threat of potential liability arising from a wide variety of existing practices. In the past few years, state and local governments have come to be regarded as the greatest potential sources of revenue for correction or compensation for these perceived injustices. Inmates have brought thousands of lawsuits for billions of dollars in penalties against Governors, state officials, wardens, and guards in state and local prisons and jails.

One possible response to this trend is the development of inmate grievance procedures. Such procedures should be designed to meet the dual objectives of protecting the rights of inmates and reducing the number of suits filed against correctional administrators. Inmate grievance procedures also can provide an effective means of identifying management deficiencies within correctional institutions. Through the development of appropriate policies, procedures, and training, correctional administrators can reduce the prospects for adverse judgments in litigation. Development of grievance procedures and policies, however, will not prevent lawsuits relating to more fundamental problems in prison design and management.

13.8 Comprehensive Community Corrections

Comprehensive community corrections are statewide programs designed to address the correctional crisis of crowding. These programs consist of state subsidies to local jurisdictions for the purpose of diverting low-risk, non-violent offenders from major state institutions. Several states currently have community corrections programs.

In promoting the concept of community corrections, states may wish to consider the following basic principles:

- Community corrections must promote offender accountability, principles of due process and fairness, and concepts of proportionality and equity in the administration of punishment.
- Community corrections must be based on clearly specified objectives for public safety, punishment of the offender, consideration for victims, reparations for the crime committed, and treatment of the offender.
- Community corrections must encompass the same discretion that is shared by other elements of the criminal justice system, and the discretion must be bounded and administered within an explicit, publicly stated policy.
- Community corrections must provide services that are open to public scrutiny, and the community should be encouraged to participate in decisions and issues related to these services.
- Community corrections must strive to achieve cost-effective services without endangering the community or jeopardizing the quality of services.

In the final analysis, community corrections programs must be accountable to the local communities in which they are operating. The neighborhoods from which the offender came and to which the offender will return must be convinced that safety will be maintained and that the offender will be appropriately punished.

13.9 Summary

This policy paper describes and offers a philosophy and options for dealing with the difficult problem of prison crowding. These options suggest both short- and long-term policy developments. One action that could help relieve the pressure of prison crowding in the short term is examining the function of parole. Changes in the criteria used by the "parole board" in making parole decisions, as well as some modifications of the classification system, might alleviate some crowding.

The use of alternative punishments, such as restitution, community service, intensive probation, and home incarceration, also will direct some offenders away from secured prison facilities and thereby reduce prison population pressures. Use of alternatives must be part of a good system of classification and risk prediction, however, to ensure the public safety.

An obvious long-term response to the prison crowding problem is the decision to construct new prison cells. However, this response involves tremendous costs. A decision to build new cells should be based on projections of the need for future prison capacity. Construction time and other issues involved in siting and financing the prison construction project also must be considered.

Overall, the strategy for dealing with prison crowding has three broad policy avenues:

- Reducing the demand for prison capacity by diverting a portion of this demand to alternative punishment;
- Regulating the demand for prisoner space through actions to control prisoner intake and release;
- Expanding prison capacity through new construction.

Overall, corrections, as a component of the justice system, must strive to implement court-ordered supervision pursuant to law enforcement and, when necessary, detention of those accused of unlawful behavior prior to adjudication; to assist in maintaining the integrity of law by administering sanctions and punishments imposed by courts for unlawful behavior; to offer the widest range of correctional options, including community corrections, probation, and parole services, necessary to meet the needs of both society and the individual; and to provide humane program and service opportunities for accused and adjudicated offenders that will enhance their community integration and economic self-sufficiency, and that are administered in a just and equitable manner within the least restrictive environment consistent with public safety.

Whatever option is selected for dealing with the prison crowding problem in a correctional system, systemwide planning should be part of the development. Correctional policy must be developed first by state and local governments, then extended to the national level, perhaps evolving into a national policy. The policy must not be developed by Congress (even if Congress decides to make funds available for aid in the construction of state prisons), the administration, or any national organizational structure. Federal agencies such as the National Institute of Corrections should provide technical support and consultation to states, but they must never develop and promote correctional policy in states. Rather, there must be a concerted effort by states to find a common ground that can be developed into a national correctional policy. This policy is intended as a step in this direction.

Adopted February 1982; revised February 1985, August 1985, and August 1989.

B-21. ALTERNATIVE SENTENCES AND SANCTIONS FOR OFFENDERS

21.1 Preface

The overall mission of criminal and juvenile justice, which consists of law enforcement, courts, and corrections, is to enhance social order and public safety. Individuals convicted of violating the social order through unlawful behavior should be assured of certain and swift punishment. They should receive a speedy and just trial consistent with constitutional requirements. This includes the assistance of counsel for indigent persons who otherwise could not afford counsel.

21.2 Accountability Modes

Judges should be provided with an array of sanctions that will protect the public, ensure punishment, and provide an accountability to the public. To accomplish this, states may wish to consider a sentencing accountability mode that:

- Structures the overall system of sentencing to provide a wide array of sanctions along a continuum from unsupervised custody to intermediate options to secure correctional facilities;
- Ensures the incapacitation of violent offenders; and
- Links all sentencing policies to resources required to place them in operation, thus permitting a realistic cost assessment prior to implementation of the policies.

21.3 Classification Process

In developing the accountability mode, states should have a classification process in place. This process begins when a person is arrested, charged, and convicted of a crime, and it continues through release from correctional supervision. A strategy of this type is undertaken for sound practical reasons. First, offenders are individuals who present different risks and needs; and second, limited resources are used wisely because different levels of security and degrees of supervision cost different amounts of money.

Under an accountability mode approach, an offender will be held accountable to the criminal justice system, and the criminal justice system, in turn, will be held accountable to the public.

21.4 Sentencing Guidelines

Along with the accountability mode of sanctions, states may also wish to consider sentencing guidelines. Comprehensive sentencing guidelines could help reduce sentencing disparity, eliminate unnecessary confinement at inappropriate security levels, establish more rational sentencing policies, and help states better manage limited correctional resources. For example, sentencing guidelines recommendations could set fixed presumptive terms for felony and serious misdemeanor populations, indicating the sanction along the continuum of sanctions to be applied (i.e., from probational unsupervised custody to prison). Guidelines should be based on an appropriate combination of offense and offender characteristics (as in the classification process) and allow judges to depart from them only in exceptional cases, when they can provide written reasons explaining why the sentence chosen is more appropriate or more equitable than that provided in the guidelines. States may also consider establishing a thorough and rigorous monitoring of this process.

21.5 System Impact Assessment

Prior to developing sentencing guidelines or an accountability mode, a state may want a quantitative estimate of the impact of these changes on the prison population and the resources required to implement them. Also, states may wish to consider assessing the impact of any proposed legislation on correctional services, and indeed the entire criminal justice system. A recent report of a Special Committee on Criminal Justice in a Free Society of the American Bar Association comments: "Legislation that increases the number of crimes and length of prison sentences without also providing for additional police, prosecution, and defense services, as well as correctional services, must be seen as a futile, counterproductive gesture."

Overall, carefully crafted alternative sentencing and sanctions for offenders can ensure public safety and preserve resources. States may wish to consider accountability modes, sentencing guidelines, and criminal justice system impact statements as they attempt to deal with the problem of prison crowding.

Adopted August 1989.

C-21. MENTAL HEALTH

21.1 Adults with Serious Mental Illness

21.1.1 Preface. The nation's Governors strongly believe that a national commitment is needed to deal with the increasingly urgent problems faced by adults with serious mental illness. Over the past twenty years great strides have been made in the effort to provide appropriate community care for persons with mental illness. Having made such progress, however, the Governors now believe that the nation must increase its effort to resolve these problems. During the same period that deinstitutionalization has occurred, many barriers have interfered with the ability of the states to establish and expand community-based support systems. More than half of the 2 million Americans with serious and persistent mental illness reside in the community. Such people face difficulties in securing employment, housing, and entitlements that would lead to an independent lifestyle. Far too often consumers and families are not involved in the designing of programs or the delivery of services.

The ideal mental health system would provide case management and coordinated outpatient, rehabilitation, employment and training, housing, and emergency services, as well as high quality inpatient treatment, for persons with serious mental illness. Each of these contributes to a comprehensive service system that can respond to the individual needs of persons with mental illnesses. More coordination is needed among federal agencies regarding policies affecting people with serious mental illness. While some efforts have been made to improve the situation, far more remains to be done to assure integration of adults with serious mental illness into the mainstream of American society.

21.1.2 Income and Employment. Consistent state and federal policies must be developed to support a person's goal of independence through increased income and meaningful employment. Work is the means by which persons with mental illness can assist themselves and establish independence, as is true for all Americans. The objective for public programs should be to assist these individuals in obtaining jobs and keeping them -- not specially created or sheltered jobs, but competitive jobs in the mainstream of the economy.

The federal benefit programs for the disabled, Supplemental Security Income (SSI) and Social Security Disability Income (SSDI), should adopt more flexible requirements and simplify the application process for mentally ill persons. SSDI should adopt policies to encourage persons to work. Rehabilitation and employment efforts should be more closely linked with the process of applying for benefits. The current system of benefits fosters dependence, rather than independence, and reforms should continue to be pursued to change the direction of the incentives.

There are several ways this might be done. For example, the vocational rehabilitation system, which is currently designed for preparing persons for jobs and is time-limited and focused on sheltered work, should provide a better balance between getting a job and maintaining a job for persons with episodic illnesses. States should give greater priority to seriously mentally ill persons in Job Training and Partnership Act (JTPA) programs. Federal funds should support different and unique designs of rehabilitative services. Ultimately, emphasizing funding for work sites and long-term employment will produce the largest benefits for persons with serious mental illness.

21.1.3 Community Support System. A strong community support system is necessary for persons to live successful and productive lives in their communities. People with serious mental illness need long-term clinical and personal support. Such support should be provided in the community and be organized around people's needs and not the places in which services are typically provided. Clearly, case management is an essential part of any effective community support system.

Both federal and state policy should be directed to developing community support programs. The services and technical assistance activities of the National Institute of Mental Health Community Support Program should continue to receive support from the federal government because the program has been successful in achieving many of its objectives. The Medicaid program, however, continues to drive the service system to over-utilize institution-based services and medical technologies and away from community services that are often more effective and can prevent long-term institutionalization. The Medicaid program should be changed to allow for more community-based care.

Despite the benefits of community care, however, there is still a need for treatment provided by public and private psychiatric hospitals. Traditionally, funding and oversight for these institutions has

come from the states as a necessary component of the system of caring for persons with serious mental illness. States should continue to support such facilities and provide oversight to ensure that they are providing high quality care and that they are used only when such care is appropriate and where such facilities are integrated into the larger community.

- 21.1.4 **Housing.** A consistent housing partnership at the state and federal levels must be developed in order to provide decent, safe, affordable, and accessible housing that is well integrated into the community. The goals of such programs should be to provide permanent housing; however, we do recognize the need for temporary and transitional housing. A successful community support and housing program will lead to the elimination of the homeless problem for persons with serious mental illness. Federal housing programs should encourage normal integration rather than housing segregated from, or different than, the larger community. Currently, these programs are not coordinated and their activities do not match. Further, the proliferation of select separate programs continues to exacerbate the problem.

Housing for persons with mental illness, in and of itself, should not be designed as a treatment program. Necessary support and clinical services should be provided for persons with mental illness and not tied to where they live. Also, tax incentives, such as credits, should be considered as a method of providing affordable permanent housing for this population. Finally, discrimination against persons with serious mental illness should not be allowed within any federal housing program.

- 21.1.5 **Education, Training, and Research.** Human resources and research are critical components of any successful system for persons with serious mental illness, and both, therefore, must be continually fostered. Providing quality service is dependent on a state system's capacity to recruit and retain the quality and quantity of necessary staff. To meet this need requires a concerted coordinated effort on the part of federal, state, and local governments, and the private sector.

In addition, there is a need for increased public education efforts to reduce the stigma often associated with mental illness. Such public education efforts can go a long way in reducing discrimination against persons with mental illness.

Federal and state programs that fund the education and training of mental health professionals need to be coordinated. More collaboration is needed between state mental health authorities and colleges and universities. State-of-the-art information on service delivery, shifts in state priorities for service development, and the result of recent research needs to be shared. Efforts to recruit professionals must also be enhanced at both the federal and state level. More emphasis needs to be given in clinical training on serious mental illness service needs within the public system. The federal role in training programs has barely been kept alive over the past few years and needs to be enhanced. Special emphasis in training programs should be given to the delivery of services to culturally diverse minority groups.

Substantial new funding must be committed to research in biomedical and clinical outcome research. Such research could significantly reduce the utilization of higher cost treatments. Priority needs to be given to services systems research that focuses on outcomes, including housing, employment, social supports, and increased tenure in the community. Another area of research that needs continued support is small scale experimental studies of community support programs that provide policymakers with a better understanding of how community support systems should be designed and implemented. While much of the state of the art in research is coming from the states, the National Institute of Mental Health should play a major role in bringing this information together. In an era of limited resources, dollars spent on research are some of the most effective spent, since research provides policymakers with new solutions. However, federal services dollars, such as those expended for state service demonstrations, should not be diverted to these research efforts. Rather, new funds are needed for research and evaluation of new and unique service efforts.

21.2 Children with Serious Emotional Disturbance

- 21.2.1 **Preface.** The Governors strongly believe that a national commitment is needed to deal with the problems faced by children with serious emotional disturbance and their families. Although great strides have been made in understanding these children's problems and how to treat them, as a nation, we have not yet translated this knowledge into an effective system to assist these children and their families in a comprehensive manner. That commitment must be forthcoming.

The Governors believe that an ideal system should provide a comprehensive array of services that are based on the needs of the child and family. Since most of these children require services from multiple systems, the roles and responsibilities of each system must be clearly delineated to eliminate gaps and duplication in service.

21.2.2 Child and Family. Major changes are needed to change the focus of state program structures so that they are child-centered and family-focused. This simple, but often overlooked, principle will require states to reevaluate their policies, program planning, and funding mechanisms in order to meet the complex and changing needs of individual children and their families, including the specific needs of minority and culturally diverse populations. The system changes must result in a process that ensures that joint planning and decisionmaking occurs across all child-serving systems. This process must include providing the opportunity for the active participation of the child and the child's family.

21.2.3 Mental Health Programs. The mental health system must be strengthened to include a broad array of community-based treatment alternatives. Current mental health programs focus too heavily on either outpatient counseling, which is often limited, or on inpatient/residential beds. More intense nontraditional services are needed to assure the availability of a complete program array. These services include therapeutic foster care, day treatment, intensive home-based services, respite care, and mobile crisis services.

Case management can assure that these services are provided in a coordinated manner. The array of services must be available to all children with serious emotional disturbance, regardless of which public system they are in.

21.2.4 Integrated Service Delivery. Better integration of the service system is essential to meet the needs of children with serious emotional disturbance. The problems associated with serious emotional disturbance cut across the bureaucratic, fiscal, and policy boundaries of the child welfare, juvenile justice, special education, alcohol and drug abuse, and mental health systems. Each system focuses on its mandate rather than focusing on the child and family in need, and therefore the child receives limited and inappropriate treatment. States must require the various child-serving agencies to plan, develop programs, and fund services responsive to the needs of each child with serious emotional disturbance.

21.2.5 Funding. Funding of services for children with serious emotional disturbance must be flexible enough to respond to individual needs. More than any other single factor, the methods of funding mental health and related services have limited the states' ability to provide responsive and effective mental health services. Present federal and state funding streams encourage discrete and categorical support that is too rigid to respond to complex individual needs. Overall funding inadequacies exacerbate these problems.

A disturbing trend, which has escalated recently, is the increase in the number of admissions to inpatient private psychiatric hospitals of children and adolescents. This trend has been caused in large part by private insurance and Medicaid coverage of such services, in the absence of coverage for, or availability of, community care alternatives. Coverage and reimbursement methods, both public and private, must be revised and made more responsive to the needs of the child. Federal, state, and local authorities must find ways to elevate the priority of community-based services to children with serious emotional disturbance and determine ways that funding for needed community-based services can be obtained.

21.2.6 Research and Evaluation. Research and program evaluation on behalf of children with serious emotional disturbance must be enhanced. Research in this area should be targeted to identify effective treatments and services that result in positive outcomes for children. Such formal research needs to be complemented by ongoing evaluations of new and existing services at the state and local level.

21.2.7 Training. Improved relations are needed between universities and the various public sector agencies involved with these children to ensure that the professionals are appropriately trained and utilized. There are insufficient numbers of well-trained professionals to meet the needs of children with serious emotional disturbance. States should work with universities to enhance their understanding of and responsiveness to children with serious emotional disturbance and the publicly funded systems that

serve them. Universities need to encourage students to pursue careers in children's community mental health in order to meet the human resource needs of emerging service and treatment programs. Recruitment and training of professionals must reflect and respond to the cultural and ethnic diversity of the populations to be served.

- 21.2.8 **Advocacy.** Advocacy on behalf of children with serious emotional disturbance must also be enhanced. Efforts by various groups of interested parties have begun to change this situation, but increased support may be necessary to further their successes. Advocates, especially families, can then become informed partners in implementing necessary changes in states' child-serving systems of care.

A commitment to moving forward in multi-system service and program development, enhanced roles for children and their families, creative funding strategies, and strengthened research, professional development, and advocacy will assure a more positive future for America's children.

Adopted February 1989; revised August 1989.

C-22. COMMUNITY SERVICE

22.1 Preface

Community service is an ideal that embodies one of our most valued American traditions: working together to help one another. The nation's Governors applaud the renewed interest in and enthusiasm for community service that is sweeping the country. We believe that opportunities for community service should be available to all of our citizens at every stage of life. Developing citizenship skills and social responsibility should be a major objective of our children's education, providing our young people with an ethic of civic service that can be carried into adulthood.

As Governors, we face enormous challenges in our communities. Programs that provide opportunities for citizens to perform service are unique because they benefit both the service provider and the service recipient. Volunteers are vital resources in solving some of our most difficult problems and the service projects are needed and of real value to the community. However, volunteer service cannot and should not replace existing jobs or government services.

All over the country, people are working together to meet many of our pressing social and environmental challenges. School and campus-based programs, full-time service and conservation corps, and part-time community programs are fulfilling basic needs such as rehabilitating housing for the poor, mentoring students in school, providing in-home care to the elderly, and more. It is the states, counties, schools, colleges, universities, and community-based organizations that are building the national network of community service. The time has come, however, for national leadership to fortify this grass-roots effort.

22.2 Principles

The nation's Governors support a national service program that encourages a variety of meaningful service opportunities, reflecting real needs of our communities, our states, and our country. The Governors stand ready to work toward a national program that is guided by the following principles:

- Promote a strong partnership between federal, state, and local governments, as well as with the volunteer and business communities, to emphasize the importance of community-wide involvement.
- Recognize the multitude of existing federal, state, and local programs and seek to expand and enhance their capabilities.
- Encourage creativity and diversity among service programs so citizens of all ages have the opportunity to serve through elementary and secondary school programs, part-time college campus programs, full-time compensated programs, and part-time community-based programs. Assistance to enable individuals and programs to achieve their goals should be provided.

Based on these principles, we offer the following recommendations:

22.3 Promote Federal-State-Local-Private-Nonprofit Partnership

22.3.1 **Independent Entity.** Establish a program of national stature with a nationally recognized independent entity similar to the Corporation for Public Broadcasting or the Smithsonian Institution Trust that would receive federal as well as private funding. It should operate with maximum flexibility and minimum federal procedures or regulations.

22.3.2 **Central Focal Point.** Make this independent entity the central focal point for state and local governments, for individuals and groups throughout the country actively engaged in service. As the major point of contact, the entity would collect and disseminate program information, promote service opportunities throughout the country in public, private, and nonprofit sectors, provide technical assistance, and publicize exemplary individuals, programs, and organizations.

22.3.3 **Evaluation, Research, and Protection.** Develop appropriate mechanisms and capacity for evaluation, monitoring, oversight, and research and ensure the non-displacement of paid workers and adequate protection for the volunteer from abuse or liability.

22.4 Recognize Key State Role

- 22.4.1 State Role.** Recognize the key role states are playing in promoting and providing service opportunities, and provide states the flexibility to act as the primary facilitator of service programs to ensure coordination, public-private cooperation, and sustained resources.
- 22.4.2 Statewide Strategy.** Provide gubernatorial leadership to involve interested persons and organizations including nonprofit and community-based organizations, the private sector, and others in developing a statewide strategy reflecting the state's priorities for community service based on state and local needs, and existing resources and programs.
- 22.4.3 Competitive Process.** Make funds available for states, through a competitive process that encourages innovative workable proposals, to leverage state-private-nonprofit resources including in-kind contributions. Provide appropriate oversight and auditing of state and locally operated programs using federal funds. Funds for community service should supplement existing federal programs.
- 22.4.4 Public-Private Support.** Encourage states to develop public and private support for community service and to utilize funds from existing programs whose objectives are compatible with the principles of community service.

22.5 Include Critical Program Components

- 22.5.1 Variety of Opportunities.** Provide for all types of service opportunities, including full-time service corps and part-time volunteer activities for adults of all ages and for elementary and secondary school students, and develop citizenship skills through school-based volunteer programs. Keep programs open to individuals of all ages and skill levels and encourage diversity of participants within peer work groups.
- 22.5.2 Encouragement.** Encourage and enable individuals to participate in service activities with support such as credentialing, school credit, modest stipends, and public recognition to underscore the high value our nation places on community service.
- 22.5.3 Training.** Ensure proper training for program participants and supervisors and adequately prepare the community agencies and organizations that the participants will serve using existing resources and programs, when available and appropriate.
- 22.5.4 Service Learning.** Include job skills and work habits development, service learning, and remedial education, when appropriate for the participant, in the service program. Provide an opportunity for the participant to reflect on what has been learned as a result of their service activities.

The Governors believe strongly in the value of community service in that it benefits both the service provider and the recipient. As Governors, we want to provide all of our citizens with a variety of service opportunities that will allow them to contribute to their community throughout their lives

Adopted August 1989.

D-35. RECREATION RESOURCES

35.1 Introduction

National demand for outdoor recreational opportunity is constantly expanding while recreational resources are being steadily diminished and degraded by overcrowding, environmental pollution, and conversion to other uses. This is particularly true of resources within physical and economic reach of the vast majority of urban populations. The expansion, development, and management of recreational space and facilities is an urgent national challenge.

Access to parks, beaches, playgrounds, and historic sites, and to more remote forests, mountains, and shorelines, is essential to the health and well-being of America's citizens. Open space preserved in as natural a state as possible assures protection of wildlife and serves other vital ecological and environmental functions. Also, outdoor recreation is a major contributor to national economic growth.

The 1987 Report of the President's Commission on Americans Outdoors found America's natural and recreation resources seriously threatened and called for immediate action at national, state, and local levels. The report proposed a national partnership to stimulate and coordinate public and private strategic planning for recreational resource conservation and development. It called for substantially increased public and private investment in recreation space and facilities, including the creation of a dedicated national trust that would provide a minimum of \$1 billion a year for these purposes.

The National Governors' Association considers the report of the President's commission to be an accurate reflection of a broad national consensus as expressed to the commission in public hearings, written citizen and organizational submissions, and the thirty-two state assessments and fifty state comprehensive outdoor recreation plans reviewed by the commission. The Governors urge that the report form the basis for a new national recreation policy and a national commitment to the long-term preservation and expansion of our recreational resources.

In the development of a new national outdoor recreational policy, the Governors believe that priority should be given to the following:

35.2 Creation of a Federal Trust Fund

The Governors welcome the current discussions in the Congress regarding creation of a successor to the Land and Water Conservation Fund and the Historic Preservation Fund. Congress should establish such a mechanism to provide a predictable endowment and stable source of funding for the preservation and enhancement of the nation's recreational and historical resources. Dedicated revenues from Outer Continental Shelf oil leasing should be the principal source of capital for such a trust and can be expected to provide for the growth increment required to make \$1 billion or more in annual funding eventually achievable. The Governors endorse the principle that proceeds from nonrenewable natural resource depletion should be reinvested in natural and capital resources of permanent value to the nation.

35.3 Allocation of Federal Funding

Grants from the Land and Water Conservation Fund and the Historic Preservation Fund have been matched by state and local governments. Future funding from the proposed national trust should be based on a required minimum allocation of at least 40 percent to state and local programs and continue a matching requirement. In determining the division of funding between federal agencies and the states, and in establishing guidelines for any discretionary allocation on an annual basis, the Congress should give priority to state and local jurisdictions that provide matching funds and where the needs for close-to-home recreation opportunities are most acute.

35.4 Federal Responsibility and Partnership

America's natural and historic heritage is national in significance and scope just as the need and demand for recreational space and facilities transcend state boundaries. Experiencing our natural and historic heritage is important to our well-being as a society, and all Americans need to have the opportunity to enjoy and participate in outdoor recreation. Federally managed public lands and

resources serve a critical function in meeting these recreational needs, but federal responsibility should extend well beyond federal lands to include participation with states, local governments, and private organizations in developing a coordinated and cooperative national program to provide recreational opportunity for all citizens. New federal institutional arrangements are needed to give greater visibility and authority to recreational program administration, assure adequate financial assistance to the states, and foster innovative state, local, and private program partnerships.

35.5 Americans Outdoors

The President's Commission on Americans Outdoors proposed a broad range of initiatives to be undertaken in both the public and private sectors, including the creation of state funds comparable to the proposed national trust, the development of a national network of linear parks and greenways, and the coordination of federal and state public investment decisions to give priority to natural and recreational resource protection. The states, through the National Governors' Association, should intensively review the commission's recommendations and develop an action strategy to promote implementation of those found to have special merit.

35.6 Railroad Rights-of-Way

The National Governors' Association believes that where consistent with state law and recognizing the concerns of adjacent land owners, it is in the public interest to conserve and maintain abandoned railroad corridors whenever suitable for use as public trails and greenways, for other public purposes, or for possible future rail use. The U.S. Department of Interior, the Interstate Commerce Commission, the U.S. Department of Agriculture, and the U.S. Department of Transportation should assist state and local governments by explaining how programs administered by these agencies can be used to retain abandoned railroad rights-of-way in public use and ownership to the maximum extent possible. The Governors encourage the use of land and water conservation fund monies where appropriate to support abandoned rail corridor acquisition, development, and maintenance to enable appropriate public uses. Such efforts can help achieve the goal of the President's Commission on Americans Outdoors of establishing "a continuous network of recreation corridors which could lead across the country."

Adopted August 1988, revised August 1989.

D-49. EMERGENCY RESPONSE, LIABILITY, AND REGULATION OF PETROLEUM PRODUCTS AND HAZARDOUS SUBSTANCES

49.1 Preface

Spills of petroleum products and hazardous substances have occurred and will occur that may impact one or several states. These spills can be of a magnitude beyond the ability of the state or several states to respond, and will require the prompt involvement of the federal government.

Existing federal regulations and programs have proven inadequate to either prevent or provide for adequate federal response to spills of petroleum products and hazardous substances. Spills of this magnitude may affect the natural and economic resources of several states, including public and private water supplies, requiring the involvement of the states and federal government to contain and clean up the spill and to prevent endangerment to public health.

Existing mechanisms in federal law have proven insufficient to permit decisive action, particularly in the initial stages of an incident.

Therefore, the Governors make the following recommendations:

49.2 Federal Funds

Congress should direct the Environmental Protection Agency to revise the National Contingency Plan to make federal funds automatically available whenever there is either:

- A major discharge, as defined by the revised National Contingency Plan, whether or not a responsible party is identifiable and cooperative; or
- A spill of any lesser magnitude that presents an immediate threat and has the potential to affect two or more states, upon the request of the Governors of those states or their representatives on the Regional Response Team; or affect one state, upon the agreement of the federal on site coordinator and the Governor's representative to the Regional Response Team that immediate action is necessary to protect health and the environment.

49.3 Contingency Plans

Federal and state agencies should undertake a comprehensive review of existing contingency plans and upgrade them to adequately reflect the nature and volume of oil traffic for inland waterways and coastal areas, the amount of personnel and equipment needed to respond to emergencies, and state-of-the-art technology to respond to spills. Contingency plans should reflect the potential for environmental catastrophe and should provide for timely mitigation and remedial action for potential spills.

49.4 Response Resources

The U.S. Department of Transportation should in consultation with the states establish a nationwide computer inventory of oil spill equipment and experts so that the location of necessary resources can be determined promptly, and resources quickly deployed. Spill trajectory models should be developed for major ports and sensitive coastal areas, along with a national database of geographical, meteorological, and oceanographic characteristics of coastal areas nationwide to aid in spill cleanup activities.

49.5 Response Action

The federal government should:

- Take timely and coordinated response action where the responsible party fails to act immediately;
- Return cleanup activities to the responsible party only after a clear plan has been approved by the state and federal governments.
- Recognize the authority of a state official to initiate federal response actions, and
- Ensure that the responsible party shall be financially liable for cleanup costs and funding for response actions in all cases.

49.6 Cleanup Standards

Congress should enact legislation requiring that cleanup of petroleum spills and other hazardous substances meet federal requirements and any more stringent state standard, requirement, criteria, or limitation applicable under an affected state's environmental laws.

49.7 Damage Assessment Formulas

Damage assessment processes under state and federal law should be revised to more accurately reflect losses to natural resources such as long term losses to ocean and coastal habitats and the general benefits of coastal ecosystems, as well as other values such as recreational, commercial, fisheries, and tourism.

49.8 International Protocols

The United States should ratify the Protocols of 1984 to amend the international convention on civil liability for oil pollution damage, and to amend the international convention on the establishment of an international fund for compensation for oil pollution damage only if the ratification and implementing legislation preserves full state remedies and authorities.

49.9 Oil Spill Liability

Congress should enact comprehensive oil spill liability and compensation legislation that:

- Provides financial assurance and strict liability for responsible parties and a domestic response fund to ensure that the full amount of response costs and damages can be obtained;
- Authorizes the President to exceed the maximum amount available from the domestic spill fund to cover cleanup activities when necessary;
- Preserves the states' rights to finance, administer, and use their own oil spill funds;
- Preserves state laws and liability limits;
- Allows states direct draw authority to obligate up to \$1 million from the Domestic Spill Fund to immediately activate oil spill cleanup operations;
- Provides, in the event that Congress fails to establish a comprehensive fund, appropriation to the cleanup fund established under Section 311(k) of the Clean Water Act or another mechanism, of sufficient resources for state and federal response and damage assessment activities.

49.10 Penalties

Civil and criminal penalties under existing state and federal law should be reexamined to determine whether they are adequate to deter accidental spills.

49.11 Spill Response Research

The federal government should provide funds and personnel resources for research in order to develop and improve technologies to solve the known limitation in spill control and removal activities.

49.12 Financial Responsibility

The responsible party must demonstrate capability to assume full financial responsibilities for the cleanup costs of a spill incident.

49.13 Tax Deductions

Corporate tax deductions for spill cleanup costs should be eliminated for the responsible party where the spill is caused by a negligent or intentional act.

49.14 Tanker Safety

The Department of Transportation and Coast Guard, in consultation with the states, should review the desirability of safety improvements for tankers, including ship design and on-board stowage of oil spill control equipment; and review the desirability of operational changes, including changes in tanker escorting practices, pilotage, and regional coastal deployment of oil spill control equipment.

49.15 Vessel Control Systems

The Coast Guard, in consultation with the states, should reevaluate and, where appropriate, reinstate vessel control systems for high-risk areas where vessel traffic and natural resources warrant such measures.

49.16 Notification About Spills

The Environmental Protection Agency should establish regulations that would require immediate notification by the EPA or the Coast Guard of all states affected or potentially affected by a major spill of petroleum products or hazardous substances and invite participation by those states on the response team without regard to EPA regional boundaries.

49.17 National Minimum Standards

Congress should direct the Environmental Protection Agency to develop national minimum standards to ensure that new above-ground bulk storage tanks for petroleum products and hazardous substances are designed and installed so as not to endanger public health and safety, and provide a schedule for inspection and any necessary improvements of individual bulk storage tanks of 50,000 gallons or more.

Adopted February 1988; revised August 1989.

G-4. RESEARCH, TECHNOLOGY, AND INNOVATION

Agricultural research and the dissemination of research results are essential to the development and maintenance of a vibrant food system. Agricultural research must be supported commensurate with its economic and social importance.

Efficient result oriented expenditure of agricultural research funds can be increased by state identification and coordination of common research goals; increased multistate projects; and shared demonstration projects to test the effectiveness of new technologies.

Technology application programs should integrate the production, marketing, and financial components of farm business with emerging food and fiber sector innovations -- including biotechnological advances, transportation and telecommunication technologies, food processing, marketing, and storage.

Because of continued pressure on research funding, the Governors support self-help efforts by commodity groups, in the form of check-offs, provided that adequate oversight is provided. Check-off funds should not be used for lobbying on policy matters.

Adopted August 1983; revised August 1986, July 1987, and August 1989.

G-5. NATURAL RESOURCE CONSERVATION AND MANAGEMENT

5.1 Preface

State and federal programs should support conservation and management which ensures sustainable agricultural production and a quality natural environment. We support programs which lead toward nondegradation of the nation's natural resources.

Over 900 million acres of rangeland, forest, and farmland provide a broad array of multiple use benefits to society. Recreational opportunities, open space tourism, wildlife habitat, water, air, and soil quality can be maintained at the same time society's demands for food and fiber are achieved. Obtaining these benefits requires proper management. Proper management of these national resources is impeded by depressed economic conditions of farmers and ranchers. Rangeland, forestland, and farmland protection are areas where intergovernmental cooperation is critical to meet the complex and varying needs of our citizens while fostering the wise use of our agricultural lands.

The federal-state partnership in natural resource protection designates responsibilities on both partners. Governors continue to believe that states must exercise the lead responsibility for natural resource protection and management through the design and implementation of strategies consistent with federal law. The capacity to meet environmental responsibilities requires continuing reasonable federal support.

5.2 Natural Resource Conservation Principles

We believe the following principles should guide the development of natural resource conservation and management:

- Long-term, cost-shared programs which provide equitable public-private relationships must be established and maintained. The Conservation Reserve should be continued beyond the 1990s and the sodbuster and swampbuster provisions should be maintained. The ASCS Waterbank Program should be adequately funded to provide financial incentives to preserve wetlands. Also, recognizing that high interest rates and debt load prohibits many farmers from utilizing the Department of Agriculture's Conservation Reserve Program, the program should be changed to allow farmers to receive the present value of their ten-year Conservation Reserve Program, payments up front through bond issues initiated by individual states' bonding authorities. This will provide debt-burdened farmers leverage against their debt.
- We believe the Conservation Reserve eligibility requirements should be expanded to lands where water quality benefits will result. In addition, there must be a uniform policy on wetlands for all federal programs.
- Under no circumstances should sodbuster and swampbuster provisions prohibit accepted practices on individual farms historically endorsed by SCS, such as maintenance of historic drains or farming small depressions; penalize conservation practices such as rotation of legumes or rotation of pastures; require penalties which are not commensurate with the infraction; or allow a system of filing anonymous complaints.
- Accurate assessment of local needs should determine program elements; federal funds should be provided by block grants for program implementation.
- Farm programs should be evaluated for the impact they have on conservation practices, and conservation farmers should not be penalized by any price support program.
- Flexible federal programs for idled acres must provide necessary forage targeted according to need for livestock herds during natural disasters without damaging the land. Federal reductions in payments should not exceed the forage value.
- Federal and state funds for conservation programs should be targeted to the areas where soil erosion, water quality, and related resource management problems are most severe. Authorized federal funds for natural resource programs should be appropriated so that states can better design, implement and enforce agricultural programs that are consistent with environmental quality. Federal support for on-going projects determined essential by the states should not be terminated to accomplish these targeted goals.
- We encourage the use of ethanol fuels to help cities comply with the provisions of the Clean Air Act.