



National Governors' Association

Winter Meeting

January 28-31, 1995

Washington, D.C.

Governor's Briefing Book

By Bureau of Planning

**NATIONAL GOVERNORS' ASSOCIATION
1995 WINTER MEETING
JANUARY 28-31**

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**NATIONAL GOVERNORS' ASSOCIATION
1995 WINTER MEETING
WASHINGTON, D.C.**

A G E N D A

SATURDAY, JANUARY 28:

9:00 am - 5:00 pm

NEWS MEDIA REGISTRATION

*Russell Room
Meeting Room Level*

9:00 am - 5:30 pm

GENERAL REGISTRATION

*Capital Foyer
Ballroom Level*

12:00 noon

OPENING NEWS CONFERENCE

*Salon E
Capitol Ballroom, Ballroom Level*

4:15 pm - 5:00 pm

ORIENTATION FOR STAFF OF NEW GOVERNORS

By Invitation Only

*Salon F
Capitol Ballroom, Ballroom Level*

5:00 pm - 5:30 pm

RECEPTION FOR STAFF OF NEW GOVERNORS

By Invitation Only

*Salon G
Capitol Ballroom, Ballroom Level*

6:00 pm - 7:30 pm

RECEPTION HONORING THE NATION'S GOVERNORS

By Invitation Only

**Hosted By: His Excellency Raymond Chretien, Canadian
Ambassador to the United States, and Mrs. Chretien**

*Embassy of Canada
501 Pennsylvania Ave., NW*

SUNDAY, JANUARY 29:

7:00 am - 6:30 pm

GENERAL REGISTRATION

*Capitol Foyer
Ballroom Level*

8:00 am - 6:00 pm

MEDIA REGISTRATION

*Russell Room
Meeting Room Level*

8:00 am - 10:00 am

SCHOOL-TO-WORK ROUNDTABLE

*Salon I
Grand Ballroom, Ballroom Level*

- *Discussion of School-to-Work in Economic Development*

*Governor Jim Edgar, Illinois, Co-Chair
Governor James B. Hunt Jr., North Carolina, Co-Chair*

- *Observations on Danish and German School-to-Work Systems*

*Governor Arne H. Carlson, Minnesota
Carl Weigell, CEO and Chairman of Motor Castings Company*

- *State Strategies for Involving Small and Medium Sized Businesses*

*Governor James B. Hunt Jr., North Carolina, Co-Chair
John Fitzsimmons, President, Maine Technical College System*

- *Next Steps for the Roundtable: Linkage with National Efforts*

Harry E. Featherstone, Chairman and CEO of Wal-Burt Co.

Guest: J.D. Hoyer, U.S. Department of Labor

9:15 am - 10:15 am

STAFF ADVISORY COUNCIL TO THE COMMITTEE ON HUMAN RESOURCES

*Salon H
Capitol Ballroom, Ballroom Level*

9:15 am - 10:15 am

STAFF ADVISORY COUNCIL TO THE COMMITTEE ON NATURAL RESOURCES

*Salon K
Capitol Ballroom, Ballroom Level*

9:15 am - 10:15 am

**STAFF ADVISORY COUNCIL TO THE COMMITTEE ON
ECONOMIC DEVELOPMENT AND COMMERCE**

Salon J

Capitol Ballroom, Ballroom Level

10:15 am - 12:15 pm

GOVERNORS - ONLY BRUNCH AND WORK SESSION

Salon F

Capitol Ballroom, Ballroom Level

10:15 am - 12:15 pm

PRESS SECRETARIES BRUNCH

Salon C

Capitol Ballroom, Ballroom Level

12:30 pm - 2:30 pm

PLENARY SESSION AND EXECUTIVE COMMITTEE

Salon III

Grand Ballroom, Ballroom Level

Governor Howard Dean, M.D., Vermont, Chair

- **Governors' Campaign for Children**

Challenges and Opportunities

*Guest: Dr. David Hamburg, President,
Carnegie Corporation of New York*

Focus on the States: Children Ready to Learn

*Governor Christine T. Whitman, New Jersey,
Co-Lead Governor on Education*

*Governor James B. Hunt Jr., North Carolina,
Co-Lead Governor on Education*

The Federal Perspective

*Guests: Carol Rasco, Assistant to the President
for Domestic Policy*

Congressional Speaker, TBD

- **Executive Committee Business**

2:45 pm - 4:45 pm

**COMMITTEE ON ECONOMIC DEVELOPMENT AND
COMMERCE**

Salon III

Grand Ballroom, Ballroom Level

Governor Stephen Merrill, New Hampshire, Chair

- **Surface Transportation Issues**

Governor Bob Miller, Nevada

**Guest: Representative Thomas E. Petri, Wisconsin,
U.S. House of Representatives**

**Honorable Federico Pena, Secretary, U.S.
Department of Transportation**

Senator John W. Warner, Virginia

- **Telecommunications Issues**

**Governor Terry E. Branstad, Iowa
Governor Jim Guy Tucker, Arkansas**

**Guest: Representative Jack Fields, Texas, U.S. House
of Representatives**

- **Consideration of Proposed Policies**

2:45 pm - 4:45 pm

COMMITTEE ON HUMAN RESOURCES

**Salon F
Capitol Ballroom, Ballroom Level**

Governor Mel Carnahan, Missouri, Chair

- **Topics and Speakers, TBD**
- **Consideration of Proposed Policies**

2:45 pm - 4:45 pm

COMMITTEE ON NATURAL RESOURCES

**Salon I
Capitol Ballroom, Ballroom Level**

Governor Mike Lowry, Washington, Chair

- **Panel Discussion Among Federal/State/Local Leaders On
Priority Environmental Issues**

**Guests: Administrator Carol M. Browner, U.S.
Environmental Protection Agency**

**State Leader, TBD
Local Leader, TBD**

- **Consideration of Proposed Policies**

5:30 pm - 6:30 pm

RECEPTION FOR ALL ATTENDEES

Garden Terrace Restaurant, Lobby Level

6:30 pm - 9:30 pm

RECEPTION FOR STAFF

7:30 pm

WHITE HOUSE DINNER

The White House

Governor and Spouses Only

MONDAY, JANUARY 30:

- | | |
|-----------------------------|--|
| 7:30 am - 9:00 am | DEMOCRATIC GOVERNORS' ASSOCIATION BREAKFAST MEETING |
| 7:30 am - 9:00 am | REPUBLICAN GOVERNORS' ASSOCIATION BREAKFAST MEETING |
| 8:00 am - 6:00 pm | NEWS MEDIA REGISTRATION
<i>Russell Room</i>
<i>Meeting Room</i> |
| 8:30 am - 4:30 pm | GENERAL REGISTRATION
<i>Capitol Foyer</i>
<i>Ballroom Level</i> |
| 9:00 am | BUS TRANSPORTATION FOR GOVERNORS DEPARTS FOR THE WHITE HOUSE
<i>E Street Entrance</i>
<i>Pennsylvania Avenue Level</i> |
| 9:15 am - 12:00 noon | MEETING WITH THE PRESIDENT - GOVERNORS ONLY
<i>The White House</i> |
| 9:30 am - 10:30 am | EDUCATION UPDATE
<i>Salon E</i>
<i>Capitol Ballroom, Ballroom Level</i>

<i>Governors' Staff Only</i> |
| 9:30 am - 11:30 am | CLINIC FOR NEW CHIEFS OF STAFF
<i>By Invitation Only</i>

<i>Salon A</i>
<i>Capitol Ballroom</i>
<i>Ballroom Level</i> |
| 10:30 am - 11:30 am | BRIEFING ON WELFARE REFORM ISSUES
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<i>Capitol Ballroom, Ballroom Level</i>

<i>Governors' Staff Only</i> |
| 10:30 am - 11:30 am | CORPORATE FELLOWS ISSUE BRIEFINGS
<i>Salon J, K, and H</i>
<i>Capitol Ballroom, Ballroom Level</i>

<i>Corporate Fellows Only</i> |
| 12:15 pm - 2:15 pm | GOVERNORS-ONLY LUNCHEON AND WORK SESSION
<i>Salon F</i>
<i>Capitol Ballroom, Ballroom Level</i> |

12:15 pm - 2:15 pm

CHIEFS OF STAFF LUNCHEON

*Salon E
Grand Ballroom*

12:15 pm - 2:15 pm

PRESS SECRETARIES LUNCHEON

*Salon C
Capitol Ballroom, Ballroom Level*

2:30 pm - 4:30 pm

PLENARY SESSION

*Salons II, III, and IV
Grand Ballroom, Ballroom Level*

Governor Howard Dean, M.D., Vermont, Chair

- *Discussion of Workforce Issues: Creating Jobs in Nontraditional Ways*

Governor Gaston Caperton, West Virginia

- *Discussion of Federalism Issues*
- *National Education Goals State Progress Report Awards*
- *Welfare Reform: The Congressional View*

Guests: Congressional Leaders, TBD

4:45 pm

AMTRAK MEETING

Governor Tom Carper, Delaware, Chair

Guest: Thomas Downs, President of Amtrak

TUESDAY, JANUARY 31:

7:30 am - 9:30 am

WESTERN GOVERNORS/WESTERN SENATORS BREAKFAST MEETINGS

*Salon E
Capitol Ballroom*

7:30 am - 2:00 pm

NEWS MEDIA REGISTRATION

*Russell Room
Meeting Room Level*

8:30 am - 12:30 pm

GENERAL REGISTRATION

*Capitol Foyer
Ballroom Level*

9:15 am - 11:45 am

PLENARY SESSION *

Salon III

Grand Ballroom, Ballroom Level

Governor Howard Dean, M.D., Vermont, Chair

- **Remarks**

*Representative Newt Gingrich, Georgia, Majority Speaker
Leader, U.S. House of Representatives [invited]*

- **Discussion of Farm Bill Issues**

*Governor Terry E. Branstad, Iowa, Co-lead Governor on
Agriculture*

*Governor E. Benjamin Nelson, Nebraska, Co-lead
Governor on Agriculture*

- **Committee Reports and Consideration of Proposed
Policies**

- **Remarks**

President Bill Clinton [invited]

** Special Security procedures will be in effect for this session.
Attendees are requested not to bring packages into the ballroom.
In addition, special reserved seating will be designated. Your
cooperation is appreciated.*

12:00 noon - 12:30 pm

CLOSING NEWS CONFERENCE

Salon E

Capitol Ballroom, Ballroom Level

**NATIONAL GOVERNORS' ASSOCIATION
1995 WINTER MEETING
WASHINGTON, D.C.**

ANCILARY METINGS

SATURDAY, JANUARY 28:

9:00 am - 12:00 noon

NATIONAL EDUCATION GOALS PANEL MEETING

*Salon I
Grand Ballroom, Ballroom Level*

5:00 pm - 7:00 pm

APPALACHIAN REGIONAL COMMISSION

*Salon E
Capitol Ballroom, Ballroom Level*

SUNDAY, JANUARY 29:

8:00 am - 9:00 am

**COUNCIL OF GOVERNORS' POLICY ADVISORS MEMBER
BREAKFAST**

*State Room
Meeting Room Level*

8:00 am - 10:00 am

OFFSHORE GOVERNORS' FORUM

*Salon A
Capitol Ballroom, Ballroom Level*

9:00 am - 10:30 am

**COUNCIL OF GOVERNORS' POLICY ADVISORS
EXECUTIVE BOARD MEETING**

*Salon A
Capitol Ballroom, Ballroom Level*

10:30 am - 12:30 pm

**STAFF ADVISORY COUNCIL TO THE SOUTHERN
GOVERNORS' ASSOCIATION**

*Salon B
Capitol Ballroom, Ballroom Level*

1:00 pm - 2:00 pm

NATIONAL GOVERNORS' SECURITY ASSOCIATION

*Justice Room
Meeting Room Level*

MONDAY, JANUARY 30:

7:30 am - 9:00 am

**DEMOCRATIC GOVERNORS' ASSOCIATION BREAKFAST
MEETING**

*Salon I
Grand Ballroom, Ballroom Level*

7:30 am - 9:00 am

REPUBLICAN GOVERNORS' ASSOCIATION BREAKFAST MEETING

*Crystal Room
Willard Hotel, 1401 Pennsylvania Avenue NW*

3:00 pm - 7:00 pm

SOUTHERN STATES ENERGY BOARD UTILITY ADVISORY COMMITTEE

*Salon K
Capitol Ballroom, Ballroom Level*

5:00 pm - 6:30 pm

SOUTHERN STATES ENERGY BOARD ASSOCIATE MEMBERS MEETING

*Salon K
Capitol Ballroom, Ballroom Level*

6:30 pm - 7:00 pm

WOMEN EXECUTIVES IN STATE GOVERNMENT RECEPTION

By Invitation Only

*Salon E
Capitol Ballroom, Ballroom Level*

TUESDAY, JANUARY 31:

7:30 am - 8:15 am

COALITION OF NORTHEASTERN GOVERNORS

*Salon C
Capitol Ballroom, Ballroom Level*

7:30 am - 9:00 am

COUNCIL OF GREAT LAKES GOVERNORS

*Salon K
Capitol Ballroom, Ballroom Level*

7:30 am - 9:00 am

MIDWESTERN GOVERNORS' CONFERENCE

*Salon H
Capitol Ballroom, Ballroom Level*

7:30 am - 9:00 am

SOUTHERN GOVERNORS' ASSOCIATION

*Salon F
Capitol Ballroom, Ballroom Level*

7:30 am - 9:00 am

WESTERN GOVERNORS' ASSOCIATION

*Salon E
Capitol Ballroom, Ballroom Level*

8:15 am - 9:00 am

NEW ENGLAND GOVERNORS' CONFERENCE

*Salon C
Capitol Ballroom, Ballroom Level*

9:30 am - 10:30 am

NATIONAL GOVERNORS' SECURITY ASSOCIATION

*Justice Room
Meeting Room Level*

NATIONAL GOVERNORS' ASSOCIATION

1994-1995 COMMITTEES

NGA EXECUTIVE COMMITTEE/CENTER BOARD OF ADVISORS

Governor Howard Dean, M.D., Vermont - Chairman
Governor Tommy G. Thompson, Wisconsin - Vice Chairman

Governor Roy Romer, Colorado Governor David Beasley, South Carolina
Governor Brereton C. Jones, Kentucky Governor Christine T. Whitman, New Jersey
Governor John Engler, Michigan Governor Michael O. Leavitt, Utah
Governor George V. Voinovich, Ohio Governor Gaston Caperton, West Virginia

Finance Committee

Governor Tommy G. Thompson, Wisconsin - Chairman
Governor John Engler, Michigan Governor Howard Dean, Vermont
Governor Gaston Caperton, West Virginia

Legal Affairs Committee

Governor E. Benjamin Nelson, Nebraska - Chairman
Governor Jim Guy Tucker, Arkansas
Governor George Allen, Virginia

Health Care Task Force

Governor Roy Romer, Colorado - Co-Chairman
Governor David Beasley, South Carolina - Co-Chairman
Governor Lawton Chiles, Florida
Governor Ben Cayetano, Hawaii Governor Mike Lowry, Washington
Governor Brereton C. Jones, Kentucky
Governor Arne H. Carlson, Minnesota
Governor Bill Janklow, South Dakota
Governor Michael O. Leavitt, Utah

Lead Governors on Federalism

Governor George V. Voinovich, Ohio
Governor Lincoln Almond, Rhode Island

NATIONAL GOVERNORS' ASSOCIATION

1994-1995 COMMITTEES

Governors Serving on the National Education Goals Panel

Governor Evan Bayh, Indiana - Chairman
Governor Roy Romer, Colorado Governor Jim Edgar, Illinois
Governor John Engler, Michigan Governor Arne Carlson, Minnesota
Governor Christine T. Whitman, New Jersey
Governor James B. Hunt Jr., North Carolina
Governor Michael O. Leavitt, Utah

COMMITTEE ON ECONOMIC DEVELOPMENT AND COMMERCE

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Governor George W. Bush, Texas - Vice Chairman
Governor A.P. Lutali, American Samoa
Governor Jim Guy Tucker, Arkansas
Governor Carl T.C. Gutierrez, Guam
Governor Jim Edgar, Illinois
Governor Evan Bayh, Indiana Governor Angus King, Maine
Governor Parris Glendening, Maryland
Governor Kirk Fordice, Mississippi
Governor Bob Miller, Nevada Governor George Pataki, New York
Governor Edward T. Schafer, North Dakota
Governor Froilan C. Tenorio, Northern Mariana Islands
Governor Lincoln Almond, Rhode Island
Governor Don Sundquist, Tennessee
Governor George F. Allen, Virginia
Governor Roy L. Schneider, Virgin Islands
Governor Gaston Caperton, West Virginia

Lead Governors on Telecommunications

Governor Jim Guy Tucker, Arkansas
Governor Terry E. Branstad, Iowa

Lead Governors on Trade

Governor Jim Edgar, Illinois
Governor George W. Bush, Texas

NGA Staff Contact: Tim Masanz (202) 624-5311

NATIONAL GOVERNORS' ASSOCIATION

1994-1995 COMMITTEES

COMMITTEE ON HUMAN RESOURCES

Governor Mel Carnahan, Missouri - Chairman

Governor Arne H. Carlson, Minnesota - Vice Chairman

Governor Pete Wilson, California

Governor Roy Romer, Colorado

Governor John Rowland, Connecticut

Governor Tom Carper, Delaware

Governor Lawton Chiles, Florida

Governor Zell Miller, Georgia

Governor Ben Cayetano, Hawaii

Governor Brereton C. Jones, Kentucky

Governor William F. Weld, Massachusetts

Governor John Engler, Michigan

Governor Marc Racicot, Montana

Governor Christine T. Whitman, New Jersey

Governor James B. Hunt Jr., North Carolina

Governor George V. Voinovich, Ohio

Governor Frank Keating, Oklahoma

Governor John Kitzhaber, Oregon

Governor Tom Ridge, Pennsylvania

Governor Pedro Rossello, Puerto Rico

Lead Governors on Crime

Governor Pete Wilson, California

Governor Bob Miller, Nevada

Lead Governors on Education

Governor Christine T. Whitman, New Jersey

Governor James B. Hunt Jr., North Carolina

Lead Governors on Welfare Reform

Governor Tom Carper, Delaware

Governor John Engler, Michigan

NATIONAL GOVERNORS' ASSOCIATION

1994-1995 COMMITTEES

COMMITTEE ON NATURAL RESOURCES

Governor Mike Lowry, Washington - Chairman
Governor Terry E. Branstad, Iowa - Vice Chairman
Governor Fob James, Alabama
Governor Tony Knowles, Alaska
Governor Fife Symington, Arizona
Governor Phil Batt, Idaho
Governor Bill Graves, Kansas
Governor Edwin W. Edwards, Louisiana
Governor E. Benjamin Nelson, Nebraska
Governor Gary Johnson, New Mexico
Governor David Beasley, South Carolina
Governor Bill Janklow, South Dakota
Governor Michael O. Leavitt, Utah
Governor Jim Geringer, Wyoming

NGA Staff Contact: Tom Curtis (202) 624-5389

Lead Governors on Agriculture

Governor Terry E. Branstad, Iowa
Governor E. Benjamin Nelson, Nebraska

STATE MANAGEMENT TASK FORCE

Governor Edward T. Schafer, North Dakota - Chairman
Governor Pedro Rossello, Puerto Rico - Co-Chairman
Governor Fob James, Alabama Governor Bob Miller, Nevada
Governor Jim Guy Tucker, Arkansas Governor Terry E. Branstad, Iowa
Governor John Kitzhaber, Oregon Governor Bill Janklow, South Dakota
Governor Lincoln Almond, Rhode Island
Governor James B. Hunt Jr., North Carolina
Governor John Engler, Michigan
Governor Kirk Fordice, Mississippi
Governor Edwin W. Edwards, Louisiana
Governor E. Benjamin Nelson, Nebraska

NGA Staff Contact: Doug Champion (202) 624-7872

**NATIONAL GOVERNORS' ASSOCIATION
1995 WINTER MEETING**

EXECUTIVE COMMITTEE

TAB C

1. **EC- 7: Proposed Amendment as Substitute to Health Care Reform**
2. **EC-10: Proposed Amendment as Substitute to HIV/AIDS**
3. **EC-11: Proposed Policy Position on Long-Term Care**
4. **EC-12: Proposed Policy Position on Medicaid**
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10. **EC-16: Proposed Reaffirmation of Out-of-State Sales Tax Collections**
11. **EC-17: Proposed Reaffirmation (with technical amendment) of Ethics in Government**
12. **EC-18: Proposed Reaffirmation (with technical amendment) of Equal Rights**

GOVERNOR'S BRIEFING BOOK

Executive Committee

1. EC-7: PROPOSED AMENDMENT AS SUBSTITUTE TO HEALTH CARE REFORM

BACKGROUND:

Although federal efforts to develop a consensus on national health care reform have been unsuccessful to date, states continue to be aggressive and move ahead on reform efforts. The proposal describes policy areas where additional federal support is needed to facilitate and accelerate the development of state-based efforts.

OBJECTIVE:

- Ensure additional federal support for state-based health care reform that target areas such as: the Employee Retirement Income Security Act (ERISA); the health insurance market; acute care services for low-income individuals and families; medical tort reform; and administrative simplifications.

GUAM'S POSITION:

▶ Department of Public Health and Social Services

The Department supports the positions delineated by NGA on Health Care Reform under the following areas:

- the multidimensional approach to reform of ERISA through statute and waiver authority;
- establishment of national minimum tort and liability standards, in an effort to reduce cost of defensive and provide appropriate levels of compensation for patients injured by medical negligence;
- research to develop outcomes and quality standards for use by providers and consumers so that meaningful, informed choices can be made in the health care arena; and
- for federal government to recognize, review, and support programs currently underway that are successfully addressing the issue of increasing and preserving access to primary care physicians in medically underserved and rural areas.

► **Guam Health Planning and Development Agency**

The agency agrees with the areas addressed in the proposed amendment which include problems with the Employee Retirement Income Security Act (ERISA) of 1974. The agency recommends the following:

- state and federal governments should work cohesively in health care reform to effectuate changes in helping the people especially those who are uninsured and underserved; and
- the language should reflect the states, territories and possessions of the U.S. since applicability to U.S. territories and possessions may be questioned.

► **Guam Memorial Hospital**

The Hospital supports the position taken by the NGA Executive Committee and agrees with the concept of state-based health care reform efforts. However, the Hospital recommends that Guam should take an aggressive look at how our health care delivery system can be reformed so that it meets the needs of our people. The Hospital intends to do this with the concerted efforts of all concerned so that with active participation, we would arrive at solutions and provide quality patient care to the people of Guam.

EC-7. HEALTH CARE REFORM

7.1 PREAMBLE

THE HEALTH OF OUR NATION DEPENDS ON THE HEALTH OF OUR PEOPLE AND TODAY, THE UNITED STATES HAS THE MOST SOPHISTICATED AND TECHNOLOGICALLY ADVANCED HEALTH CARE SYSTEM IN THE WORLD. HOWEVER, THE TECHNOLOGICAL EXCELLENCE OF OUR SYSTEM HAS COME WITH A PRICE. GROWTH IN THE AMERICAN HEALTH CARE INDUSTRY HAS EXCEEDED GROWTH IN THE OVERALL ECONOMY FOR ALMOST EVERY ONE OF THE LAST THIRTY YEARS. THE COST OF THIS EXTRAORDINARY GROWTH CONTINUES TO CONCERN GOVERNMENT, BUSINESSES, AND INDIVIDUALS. A GROWING NUMBER OF AMERICANS ARE WITHOUT HEALTH COVERAGE, WITH EVEN BASIC CARE BEYOND THE REACH OF MANY. WITH HEALTH CARE COSTS EXCEEDING GENERAL ECONOMIC GROWTH, COVERAGE DECLINING, AND COSTS SHIFTING TO A SMALLER PERCENTAGE OF AMERICANS WHO CAN AFFORD TO PAY, AFFORDABLE QUALITY CARE IS BECOMING MORE ELUSIVE. THE CHALLENGE THAT WE FACE IS TO EXTEND ACCESS TO AFFORDABLE QUALITY CARE TO ALL AMERICANS, INCLUDING THOSE IN UNDERSERVED AND RURAL AREAS, WHILE CONTAINING COSTS.

THE LAST SEVERAL YEARS HAVE SEEN INTENSE FEDERAL EFFORTS TO DEVELOP A CONSENSUS ON NATIONAL HEALTH CARE REFORM. THUS FAR, THOSE EFFORTS HAVE BEEN UNSUCCESSFUL. BY CONTRAST, THE REFORM EFFORTS OF GOVERNORS AND STATE LEGISLATORS HAVE BEEN MUCH MORE SUCCESSFUL. THE EMPHASIS OF GOVERNORS TODAY IS TO DEVELOP STATE-BASED HEALTH CARE REFORM EFFORTS.

IN ALMOST EVERY STATE, STRATEGIES HAVE BEEN IMPLEMENTED TO IMPROVE THE QUALITY AND AVAILABILITY OF HEALTH CARE. IN MOST STATES, THE REFORM EFFORTS HAVE BEEN FOCUSED TO ADDRESS A SPECIALIZED PROBLEM. IN SEVERAL NOTABLE CASES, THE STATE IS ENGAGED IN A COMPREHENSIVE EFFORT THAT IS LIKELY TO PROVIDE NEAR-UNIVERSAL COVERAGE FOR ITS CITIZENS. IN GENERAL, STATES ARE TESTING STRATEGIES TO RESTRUCTURE THE HEALTH CARE MARKET AND RESTRUCTURE THE PUBLIC PROGRAMS THAT SUPPORT THE MOST VULNERABLE CITIZENS.

7.1.1 PRIVATE MARKET. WITHIN THE PRIVATE INSURANCE MARKET, STATES HAVE ACTED TO ENHANCE ACCESS AND IMPROVE EQUITY FOR BOTH EMPLOYERS AND

EMPLOYEES. IN SOME STATES, FOR EXAMPLE, LIMITS HAVE BEEN PLACED ON PREEXISTING CONDITIONS EXCLUSIONS FOR CERTAIN MARKET SEGMENTS. SOME STATES ARE EXPERIMENTING WITH GUARANTEED ISSUE AND PORTABILITY OF COVERAGE WHERE INDIVIDUALS CAN BE ENSURED ACCESS TO COVERAGE AFTER CHANGING JOBS. AND WITHIN THE SMALL GROUP INSURANCE MARKET, A NUMBER OF STATES ARE ESTABLISHING MODIFIED COMMUNITY RATING SYSTEMS, WHILE TWO STATES HAVE MOVED TO A PURE COMMUNITY RATING.

MORE THAN SIXTEEN STATES ARE EXPERIMENTING WITH TAX INCENTIVES TO INCREASE COVERAGE. INCLUDED AMONG STRATEGIES ARE TRANSITIONAL TAX CREDITS TO SMALL BUSINESSES AND MEDICAL SAVINGS ACCOUNTS. THESE STRATEGIES ARE APPLICABLE ONLY TO STATE TAXES AND DO NOT AFFECT FEDERAL TAX LAWS.

FINALLY, SOME STATES ARE ENCOURAGING THE ESTABLISHMENT OF PURCHASING ALLIANCES OR GROUP PURCHASING POOLS. BY SPREADING RISK AND ENCOURAGING COMPETITION AMONG HEALTH NETWORKS AND INSURERS, ALLIANCES ARE ABLE TO OFFER AFFORDABLE COVERAGE TO INDIVIDUALS, THOSE WHO ARE SELF-EMPLOYED, AND PEOPLE WHO WORK IN SMALL BUSINESSES—THOSE WHO FIND IT MOST DIFFICULT TO PURCHASE AFFORDABLE COVERAGE. ALTHOUGH THESE PROGRAMS ARE STILL IN THEIR EARLIEST STAGES, THE RESULTS LOOK PROMISING.

7.1.2 PUBLIC PROGRAMS. THE MEDICAID PROGRAM REMAINS THE ONLY NATIONAL HEALTH CARE PROGRAM FOR THOSE WHO ARE POOR. ALTHOUGH THE PROGRAM SERVES MORE THAN 30 MILLION BENEFICIARIES ANNUALLY, MANY EXTREMELY POOR PEOPLE DO NOT QUALIFY FOR CARE.

SEVERAL STATES HAVE ACTED TO ELIMINATE THIS INEQUITY BY RESTRUCTURING THEIR MEDICAID PROGRAM. PROVISIONS OF THE SOCIAL SECURITY ACT, OF WHICH MEDICAID IS ONE PART, ALLOW STATES TO EXPERIMENT WITH THE PROGRAM SO THAT INDIVIDUALS NOT OTHERWISE ELIGIBLE FOR THE PROGRAM MAY BECOME SO. THESE PROVISIONS ALSO HAVE BEEN USED TO ENSURE THAT MEDICAID BENEFICIARIES RECEIVE CARE THROUGH SYSTEMS OF MANAGED CARE.

7.2 FEDERAL SUPPORT FOR STATE-BASED HEALTH CARE REFORM

STATES HAVE MADE SIGNIFICANT PROGRESS IN REFORMING THEIR HEALTH CARE SYSTEMS; HOWEVER, MUCH MORE NEEDS TO BE DONE. THE NATION'S

GOVERNORS CALL UPON THE PRESIDENT AND CONGRESS TO WORK WITH STATES TO FACILITATE AND ACCELERATE THE DEVELOPMENT OF STATE REFORM EFFORTS.

7.2.1 EMPLOYEE RETIREMENT INCOME SECURITY ACT. ALTHOUGH THE GOVERNORS ARE EXTREMELY SENSITIVE TO THE CONCERNS OF LARGE MULTISTATE EMPLOYERS, THE FACT REMAINS THAT ONE OF THE GREATEST BARRIERS TO SOME STATE REFORM INITIATIVES IS THE EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA).

ERISA WAS ENACTED IN 1974 AND APPLIES TO EMPLOYEE BENEFITS PLANS, INCLUDING EMPLOYEE HEALTH PLANS. ERISA PROVIDES FOR A COMPLETE FEDERAL PREEMPTION OF STATE LAWS THAT "RELATE TO" EMPLOYEE HEALTH PLANS. UNDER THE MCCARRAN-FERGUSON ACT, STATES RETAIN THE ABILITY TO REGULATE INSURANCE CARRIERS, SUCH AS INDEMNITY PLANS AND HEALTH MAINTENANCE ORGANIZATIONS. HOWEVER, STATES ARE POWERLESS TO REGULATE OR OTHERWISE AFFECT EMPLOYEE HEALTH PLANS THAT "SELF-INSURE" UNDER ERISA RATHER THAN BUY INSURANCE.

SELF-INSURANCE WAS VERY RARE WHEN ERISA WAS ENACTED, BUT IT NOW COVERS ALMOST HALF OF THE EMPLOYEES IN THE UNITED STATES WHO RECEIVE HEALTH BENEFITS. THIS PROLIFERATION OF SELF-INSURANCE, COUPLED WITH THE FEDERAL COURTS' BROAD INTERPRETATION OF THE REACH OF ERISA PREEMPTION, HAS MADE ERISA A FORMIDABLE BARRIER TO STATES WISHING TO IMPLEMENT CERTAIN HEALTH CARE REFORM.

ERISA PREEMPTS ALL SELF-INSURED HEALTH PLANS FROM STATE REGULATIONS AND SUBJECTS THOSE PLANS ONLY TO FEDERAL AUTHORITY. AS A RESULT OF JUDICIAL INTERPRETATIONS OF ERISA, STATES ARE PROHIBITED FROM:

- ESTABLISHING MINIMUM GUARANTEED BENEFITS PACKAGES FOR ALL EMPLOYERS;
- DEVELOPING STANDARD DATA COLLECTION SYSTEMS APPLICABLE TO ALL STATE HEALTH PLANS;
- DEVELOPING UNIFORM ADMINISTRATIVE PROCESSES, INCLUDING STANDARDIZED CLAIM FORMS;
- ESTABLISHING ALL-PAYER RATE-SETTING SYSTEMS;

- ESTABLISHING A STATEWIDE EMPLOYER MANDATE;
- IMPOSING A LEVEL PLAYING FIELD THROUGH PREMIUM TAXES ON SELF-INSURED PLANS; AND
- IMPOSING A LEVEL PLAYING FIELD THROUGH PROVIDER TAXES WHERE THE TAX IS INTERPRETED AS HAVING AN IMPERMISSIBLE DIRECT OR INDIRECT IMPACT ON SELF-INSURED PLANS.

7.2.1.1 STRATEGY FOR REFORM. A MULTIDIMENSIONAL APPROACH TO REFORM COULD BE TAKEN THAT INCLUDES FLEXIBILITY FOR STATES DIRECTLY IN THE ERISA STATUTE, AND THROUGH NEW WAIVER AUTHORITY.

- **STATUTORY FLEXIBILITY.** CONGRESS MAY ACT QUICKLY TO HELP STATES BY INCLUDING FLEXIBILITY DIRECTLY IN STATUTE. THIS MAY BE ACCOMPLISHED THROUGH STATUTORY DIRECTIVES TO THE FEDERAL EXECUTIVE BRANCH REGARDING NATIONAL UNIFORMITY. SPECIFICALLY, A STATE WOULD BE PERMITTED TO IMPOSE REQUIREMENTS ON SELF-FUNDED PLANS IF THE STATE WAS WILLING EITHER TO ADOPT AND BUILD UPON MINIMUM NATIONAL STANDARDS OR WORK WITHIN SOME TYPE OF FEDERAL FRAMEWORK. THE FEDERAL EXECUTIVE BRANCH WOULD BE INSTRUCTED TO WORK WITH STATES TO IDENTIFY AND DEFINE THOSE STANDARDS.

THIS APPROACH HAS THE POTENTIAL FOR BROAD APPLICABILITY BUT IS MOST RELEVANT TO ADMINISTRATIVE SIMPLIFICATIONS AND INSURANCE REFORM. FOR EXAMPLE, STATES AND THE BUSINESS COMMUNITY GENERALLY AGREE ON THE NEED FOR UNIFORM CLAIMS AND DATA REPORTING PROCEDURES. IN ORDER TO ENCOURAGE UNIFORMITY IN HEALTH PLAN ADMINISTRATIVE REQUIREMENTS, THE U.S. SECRETARY OF LABOR, IN CONSULTATION WITH THE U.S. SECRETARY OF HEALTH AND HUMAN SERVICES AND THE STATES, COULD BE DIRECTED TO COMPILE, PUBLISH, AND PUBLICIZE EXISTING NATIONAL STANDARDS FOR CLAIMS PROCESSING FORMATS AND PROCEDURES FOR DATA REPORTING. IF A STATE SELECTED ONE OF THE EXISTING STANDARDS, IT WOULD BE PERMITTED TO IMPLEMENT THAT STANDARD AND INCLUDE SELF-FUNDED PLANS. THIS TYPE OF DIRECTIVE ALSO COULD BE EXTENDED TO QUALITY AND UTILIZATION REVIEW PROCEDURES.

TO FACILITATE THE PROCESS, THE LEGISLATION SHOULD BE STRUCTURED TO RELY ON EXISTING NATIONAL STANDARDS. WHERE NONE EXIST, THE LEGISLATION COULD DIRECT THE EXECUTIVE BRANCH TO DEVELOP THEM. HOWEVER, IF THE EXECUTIVE BRANCH FINDS IT NECESSARY TO DEVELOP A NATIONAL STANDARD, STATES SHOULD BE GIVEN LIMITED FLEXIBILITY DURING THE DEVELOPMENT PERIOD SO THAT THEY CAN MOVE AHEAD WITH THEIR INNOVATIONS.

- **WAIVER AUTHORITY.** IN ADDITION TO DIRECT STATUTORY FLEXIBILITY, CONGRESS SHOULD ESTABLISH DIRECT WAIVER AUTHORITY IN ERISA. WAIVER AUTHORITY WOULD BE MOST APPLICABLE FOR STATES THAT WISH TO DEVELOP ALTERNATIVE FINANCING AND COST-CONTROL STRATEGIES THAT ARE NOW PRECLUDED BY THE STATUTE. WAIVER AUTHORITY COULD HAVE THE FOLLOWING PARAMETERS.
 - THE SECRETARY OF THE U.S. DEPARTMENT OF LABOR WOULD HAVE THE AUTHORITY TO REVIEW AND GRANT ERISA WAIVERS.
 - THERE WOULD BE NO PROHIBITION AGAINST REPLICATING OTHER STATE ERISA WAIVERS. HOWEVER, EACH STATE WOULD HAVE TO SUBMIT A WAIVER APPLICATION.
 - WAIVERS WOULD BE APPROVED FOR AN INITIAL FIVE-YEAR PERIOD WITH FIVE-YEAR RENEWALS THEREAFTER.
 - WAIVER APPLICATIONS WOULD BE SUBMITTED BY THE GOVERNOR.
 - AS A CONDITION FOR WAIVER APPROVAL, THE STATE WOULD HAVE TO DEMONSTRATE THAT THE STRATEGY HAS THE SUPPORT OF THE STATE'S LEGISLATURE.
 - FOR STATES MAKING REQUESTS FOR EXEMPTIONS IN THE AREAS OF FINANCING OR COST CONTROL, THE STATE'S WAIVER APPLICATION WOULD HAVE TO INCLUDE A PLAN FOR EXPANDING COVERAGE AND A STRATEGY FOR DOCUMENTING THE STATE'S PROGRESS TOWARD ACHIEVING THAT GOAL.

7.2.2 THE HEALTH INSURANCE MARKET. WITH THE ENACTMENT OF THE MCCARRAN-FERGUSON ACT IN THE 1930S, A STATE'S PREROGATIVE TO REGULATE HEALTH INSURERS HAS BEEN RECOGNIZED BY FEDERAL LAW.

HOWEVER, SINCE ERISA'S ENACTMENT IN 1974, THAT DELINEATION OF STATE AND FEDERAL RESPONSIBILITIES HAS BEEN BLURRED. ERISA PROVIDES THAT SELF-FUNDED SINGLE EMPLOYER OR TAFT-HARTLEY JOINTLY ADMINISTERED PLANS ARE EXEMPT FROM STATE REGULATION. STATES CANNOT ESTABLISH MINIMUM SOLVENCY AND CAPITAL REQUIREMENTS FOR THESE SELF-FUNDED PLANS. THEY CANNOT ENSURE THAT EMPLOYEES AND DEPENDENTS IN SELF-FUNDED PLANS RECEIVE THE BASIC CONSUMER PROTECTIONS THAT ARE OFFERED TO THOSE IN COMMERCIAL STATE-REGULATED PLANS; NOR CAN THEY ENSURE THAT THOSE IN SELF-FUNDED PLANS HAVE REMEDIES AVAILABLE WHEN PROBLEMS ARISE OVER COVERAGE DECISIONS AND OTHER MATTERS. STATES, ATTEMPTING TO MAKE THE PRIVATE INSURANCE MARKET MORE STABLE AND EQUITABLE, ARE PROHIBITED FROM IMPOSING GUARANTEED ISSUE OR LIMITATIONS ON PREEXISTING CONDITIONS EXCLUSIONS REQUIREMENTS ON SELF-FUNDED PLANS. AS SUCH PLANS PROLIFERATE, THEY REPRESENT A GROWING SHARE OF THE TOTAL HEALTH CARE MARKET AND GREATLY ERODE THE ABILITY OF STATES TO REGULATE THE PRIVATE HEALTH CARE MARKET. THE FEDERAL GOVERNMENT MUST ACT TO RECTIFY THE SITUATION.

THE NATION'S GOVERNORS CALL ON THE FEDERAL GOVERNMENT TO CORRECT THESE INEQUITIES BY ADOPTING ONE OR MORE OF THE FOLLOWING OPTIONS.

- CONGRESS SHOULD ESTABLISH NATIONAL HEALTH CARE STANDARDS FOR SELF-FUNDED PLANS THAT ARE SIMILAR TO THOSE IMPOSED BY STATES ON COMMERCIAL PLANS. IF CONGRESS IS UNWILLING TO DEFINE LEGISLATIVE STANDARDS IN ERISA, THE U.S. DEPARTMENT OF LABOR SHOULD BE GIVEN THE AUTHORITY TO DEVELOP REGULATIONS THAT, AT THE VERY LEAST, ESTABLISH ESSENTIAL CONSUMER PROTECTIONS AND REMEDIES STANDARDS FOR SELF-FUNDED PLANS.
- ANECDOTAL EVIDENCE SUGGESTS THAT CONSUMER PROTECTIONS PROBLEMS ARE MORE LIKELY TO ARISE IN SMALL SELF-FUNDED PLANS. CONGRESS COULD LIMIT SELF-FUNDING AUTHORITY TO BUSINESSES ABOVE A CERTAIN SIZE. BUSINESSES BELOW THAT LIMIT WOULD BE REQUIRED TO FOLLOW STATE LAWS. THE U.S. DEPARTMENT OF LABOR WOULD NEED TO ENFORCE STANDARDS FOR THOSE PLANS THAT REMAIN UNDER ITS JURISDICTION.

THE GOVERNORS ALSO SUPPORT STANDARDS THAT RESULT IN PORTABILITY OF COVERAGE, GUARANTEED RENEWABILITY OF POLICIES, LIMITATION ON BOTH MEDICAL UNDERWRITING AND PREEXISTING CONDITIONS EXCLUSIONS, AND OPPORTUNITIES FOR STATES TO ESTABLISH MEANINGFUL AND EQUITABLE RATING SYSTEMS.

IF CONGRESS CHOOSES TO SET MINIMUM NATIONAL STANDARDS, THEY SHOULD BE DEVELOPED WITH STATE OFFICIALS IN CONSULTATION WITH REPRESENTATIVES OF AFFECTED SMALL BUSINESSES, INSURERS, AND CONSUMERS.

7.2.3 ACUTE CARE SERVICES FOR LOW-INCOME INDIVIDUALS AND FAMILIES. IRRESPECTIVE OF THE HEALTH CARE REFORM STRATEGY, A PUBLIC SECTOR ROLE WILL REMAIN IN THE FINANCING AND DELIVERY OF SERVICES TO THE POOR, THE ELDERLY, AND PEOPLE WITH DISABILITIES. THE MEDICAID PROGRAM IS THE VEHICLE CURRENTLY USED TO FINANCE SUCH CARE. TODAY, MEDICAID STRUGGLES TO SERVE A WIDELY DIVERSE POPULATION WITH A BROAD ARRAY OF SERVICES. IT IS NOT ONLY DIFFICULT TO EFFECTIVELY ADMINISTER, BUT ALSO PROHIBITIVELY EXPENSIVE.

THE GOVERNORS BELIEVE THAT THE MEDICAID SYSTEM HAS BECOME A RIGID AND OVERLY COMPLEX PROGRAM. ITS BIAS TOWARD INSTITUTIONAL CARE PREVENTS STATES FROM PROVIDING PREVENTIVE AND PRIMARY CARE IN SETTINGS MOST APPROPRIATE FOR ITS BENEFICIARIES, AND ELIGIBILITY FOR THE PROGRAM IS DOMINATED BY ARCANE RULES THAT PENALIZE ALL WHO INTERACT WITH IT.

THEREFORE, THE GOVERNORS ENVISION A STRATEGY THAT WOULD ALLOW THE STATES TO MANAGE PUBLIC RESOURCES IN A MORE EFFICIENT AND EFFECTIVE MANNER THAN IS CURRENTLY POSSIBLE THROUGH MEDICAID.

7.2.3.1 PROGRAM STRUCTURE. MANY STATES BELIEVE THEY CAN MAKE BETTER USE OF THEIR MEDICAID DOLLARS BY RESTRUCTURING THEIR MEDICAID PROGRAMS. SPECIFICALLY, SOME STATES WOULD RATHER OFFER A CORE BENEFITS PACKAGE TO LOW-INCOME PEOPLE WITHOUT TYING THE PROGRAM TO ELIGIBILITY FOR CATEGORICAL PROGRAMS. THIS MAY BE A BETTER APPROACH THAN THE CURRENT MEDICAID STRUCTURE, WHICH PROVIDES A VERY COMPREHENSIVE PACKAGE TO THOSE WHO ARE CATEGORICALLY ELIGIBLE, BUT LEAVES MANY LOW-INCOME PEOPLE WITHOUT ANY INSURANCE AT ALL. IN

ADDITION, SOME STATES WOULD LIKE TO OFFER SLIDING SCALE SUBSIDIES SO THAT LOW-INCOME PEOPLE CAN PURCHASE HEALTH INSURANCE ACCORDING TO THEIR ABILITY TO PAY. THE FEDERAL GOVERNMENT SHOULD ENCOURAGE THESE INNOVATIONS.

7.2.3.2 ENTITLEMENTS AND FINANCING. STATES AND THE FEDERAL GOVERNMENT SHOULD SHARE IN FINANCING THIS PROGRAM. STATES SHOULD BE GIVEN THE OPTION TO OPERATE THIS PROGRAM AS AN INDIVIDUAL ENTITLEMENT OR AS AN ENTITLEMENT TO STATES. AS AN INDIVIDUAL ENTITLEMENT, THE PROGRAM WOULD OPERATE IN A MANNER SIMILAR TO THE CURRENT MEDICAID PROGRAM AND ANYONE QUALIFYING FOR THE PROGRAM WOULD HAVE TO BE SERVED.

AS AN ENTITLEMENT TO STATES, THE FEDERAL GOVERNMENT'S FINANCIAL EXPOSURE WOULD BE ESTABLISHED BY AN UPPER LIMIT ON AVAILABLE FEDERAL DOLLARS. STATE CONTRIBUTIONS TO THIS PROGRAM ALSO WOULD BE LIMITED BY THE FEDERAL UPPER LIMIT. IN OPERATING IT AS AN ENTITLEMENT TO STATES, INDIVIDUALS COULD QUALIFY FOR THE PROGRAM; HOWEVER, PARTICIPATION WOULD BE LIMITED BY AVAILABLE STATE AND FEDERAL FUNDS.

STATES COULD NOT OPERATE THESE PROGRAMS WITH FUNDS THAT ARE SUBJECT TO ANNUAL FEDERAL APPROPRIATIONS. RATHER, THE FINANCING STRUCTURE SHOULD APPEAR IN STATUTE AND BE TREATED AS A PERMANENT APPROPRIATION.

7.2.3.3 STATUTORY CHANGES TO THE SOCIAL SECURITY ACT. STATES HAVE BEGUN TO LOOK SERIOUSLY AT COMPREHENSIVE SYSTEMS OF HEALTH CARE WHERE THE ARTIFICIAL CATEGORICAL BARRIERS OF MEDICAID ARE REMOVED AND WHERE THEY CAN ESTABLISH STATEWIDE NETWORKS OF CARE FOR MEDICAID BENEFICIARIES. UNFORTUNATELY, THERE ARE NO PROVISIONS IN THE SOCIAL SECURITY ACT THAT CAN BE USED TO ESTABLISH SUCH PROGRAMS ON AN ONGOING BASIS.

CURRENTLY, STATES HAVE BEEN DEVELOPING THESE MORE COMPREHENSIVE NETWORKS THROUGH THE RESEARCH AND DEMONSTRATION PROVISIONS OF SECTION 1115(A) OF THE SOCIAL SECURITY ACT. SECTION 1115(A), HOWEVER, WAS DESIGNED FOR RESEARCH PURPOSES AND HAS SOME IMPORTANT LIMITATIONS. STATES MUST DEMONSTRATE, THROUGH THE APPLICATION PROCESS, THAT THEY ARE TESTING AN INNOVATION. THE LAW REQUIRES AN EVALUATION THAT, IN SOME CASES, REQUIRES CONTROL GROUPS.

PROJECTS APPROVED UNDER THE 1115(A) PROCESS ARE APPROVED FOR A LIMITED TIME PERIOD, USUALLY THREE TO FIVE YEARS AT THE DISCRETION OF THE ADMINISTRATION, AND REQUIRE SPECIAL STATUTORY CHANGES TO GO BEYOND THE DEMONSTRATION PERIOD. FINALLY, THESE PROJECTS MUST BE COST NEUTRAL OVER THE LIFE OF THE PROJECT. SECTION 1115(A) IS ESSENTIAL TO ENSURE THE TESTING OF ALTERNATIVE HEALTH AND SOCIAL POLICIES.

HOWEVER, THE CURRENT STATUTE FALLS SHORT BY REQUIRING STATES WHO WANT TO CONTINUE A SUCCESSFUL EFFORT TO CONTINUALLY REAPPLY FOR AND RENEW THEIR WAIVERS. IN SHORT, ONCE A STATE HAS PROVEN THAT ITS RESEARCH PROJECT WORKS, IT CANNOT CONTINUE WITHOUT PURSUING DEMONSTRATION GOALS AND WAIVER RENEWALS FOR A PROGRAMMATIC EFFORT OR WITHOUT SPECIAL TREATMENT IN FEDERAL LAWS UNDERTAKEN BY CONGRESS. EXISTING SECTION 1115(A) WAIVERS SHOULD BE GRANDFATHERED INTO THIS NEW SYSTEM.

THE GOVERNORS SUPPORT CHANGES TO THE SOCIAL SECURITY ACT TO PERMIT THESE TYPES OF PROGRAMS TO BE APPROVED IN A MANNER SIMILAR TO THE "PLAN AMENDMENT PROCESS" UNDER MEDICAID, WHERE THE STATE DESCRIBES THE PLAN AND, ONCE APPROVED, IT BECOMES A PERMANENT PROGRAM SUBJECT TO ROUTINE FEDERAL OVERSIGHT. IF THIS STRATEGY IS NOT CHOSEN, THE WAIVER APPLICATION PROCESS MUST BE STREAMLINED, THERE MUST BE NO RESEARCH AND DEMONSTRATION REQUIREMENTS, AND THE WAIVERS MUST BE APPROVED FOR FIVE YEARS AND BE RENEWABLE NO LESS THAN EVERY FIVE YEARS. MOREOVER, THE EXECUTIVE BRANCH MUST BE INSTRUCTED TO STREAMLINE THE WAIVER OVERSIGHT PROCESS AND SHORTEN REVIEW AND APPROVAL PERIODS.

7.2.4 MEDICAL TORT REFORM. REFORM OF THE MEDICAL TORT SYSTEM SHOULD BE UNDERTAKEN WITH A VIEW TOWARD ACHIEVING HIGH-QUALITY AND APPROPRIATE CARE. IDEALLY, THE MEDICAL TORT REFORM WILL REDUCE THE COST OF DEFENSIVE MEDICINE AND PROVIDE APPROPRIATE LEVELS OF COMPENSATION FOR PATIENTS INJURED BY MEDICAL NEGLIGENCE. TOWARD THAT END, THE FEDERAL GOVERNMENT SHOULD ESTABLISH NATIONAL MINIMUM TORT AND LIABILITY STANDARDS. STATES COULD ESTABLISH MORE RESTRICTIVE STANDARDS IF THEY SO CHOOSE. THE FEDERAL GOVERNMENT, WORKING WITH STATES, ALSO MUST CONSIDER ALTERNATIVE DISPUTE

RESOLUTION STRATEGIES THAT COULD BE USED TO REDUCE THE COSTS OF LITIGATION.

- 7.2.5 RELIEF FROM ANTITRUST STATUTES. MORE AND MORE AMERICANS ARE RECEIVING THEIR CARE THROUGH HEALTH DELIVERY NETWORKS. ESTABLISHING THESE NETWORKS REQUIRES NEW APPROACHES TO COOPERATION AMONG PROVIDERS AND BUSINESSES THAT HERETOFORE HAVE BEEN COMPETITORS. CONGRESS AND THE ADMINISTRATION MUST WORK WITH THE STATES TO ACCOMMODATE THIS NEW HEALTH CARE ENVIRONMENT WHILE ENSURING THAT COMPETITION REMAINS IN THE MARKETPLACE.
- 7.2.6 OUTCOME AND QUALITY STANDARDS. IF MEANINGFUL CHOICES ARE EVER TO BE MADE IN HEALTH CARE, RESEARCH MUST BE SUPPORTED TO DEVELOP OUTCOMES AND QUALITY STANDARDS FOR USE BY PROVIDERS AND CONSUMERS ALIKE. ALSO, INFORMATION SYSTEMS MUST BE DEVELOPED THAT INCLUDE PRICE AND QUALITY INFORMATION FOR ALL PROVIDERS AND CONSUMERS OF HEALTH CARE SERVICES IN A GIVEN GEOGRAPHIC AREA. THE FEDERAL GOVERNMENT AND THE STATES MUST COOPERATE IN THE DEVELOPMENT AND IMPLEMENTATION OF SUCH STANDARDS.
- 7.2.7 ADMINISTRATIVE SIMPLIFICATIONS. THE ADMINISTRATIVE COMPLEXITY OF THE CURRENT SYSTEM MUST BE REDUCED. THE NATION MUST MOVE TOWARD UNIFORM CLAIMS FORMS AND UNIFORM STANDARDS FOR ELECTRONIC DATA INTERCHANGE.
- 7.2.8 PUBLIC SECTOR HEALTH CARE DELIVERY. ALTHOUGH THE GOVERNORS SUPPORT THE DELIVERY OF CARE THROUGH THE PRIVATE HEALTH CARE SYSTEM, THERE ARE SOME AREAS IN THE COUNTRY THAT HAVE AN INADEQUATE NUMBER OF HEALTH CARE PROVIDERS OR SERVICES. IN OTHER AREAS, THE PRIVATE SYSTEM DOES NOT PROVIDE SERVICES TO LOW-INCOME INDIVIDUALS AND FAMILIES, AND THESE PEOPLE SEEK CARE THROUGH PUBLIC CLINICS. IN THESE CIRCUMSTANCES, FEDERAL AND STATE GOVERNMENTS HAVE PROVIDED FOR THE DELIVERY OF PERSONAL HEALTH CARE SERVICES. THE GOVERNORS BELIEVE THAT THIS PUBLIC HEALTH CARE SYSTEM SHOULD BE CONSIDERED IN ANY BUDGET STRATEGY AND COORDINATED WITH THE PRIVATE HEALTH CARE SECTOR, WHEREVER POSSIBLE.
- 7.2.9 ENHANCE OPPORTUNITIES FOR PRIMARY CARE PRACTICE. THE MEDICAL EDUCATION SYSTEM IS NOT PREPARING THE PROVIDERS THAT ARE NEEDED FOR

A HEALTH CARE SYSTEM WITH A FOCUS ON PREVENTIVE AND PRIMARY CARE. STATES ARE CURRENTLY EXPERIMENTING WITH A WIDE VARIETY OF INITIATIVES THAT ADDRESS THE CRITICAL ISSUE OF INCREASING PRIMARY CARE PRACTICE, ESPECIALLY IN RURAL AND URBAN MEDICALLY UNDERSERVED AREAS. THESE INITIATIVES INCLUDE DATA COLLECTION TO BETTER UNDERSTAND THE DISTRIBUTION OF, AND NEED FOR, PROVIDERS IN SPECIFIC LOCATIONS; LOAN REPAYMENT PROGRAMS TO PRACTITIONERS WHO PRACTICE IN UNDERSERVED AREAS; AND TECHNICAL ASSISTANCE PROGRAMS TO ENHANCE PRIMARY CARE DELIVERY SYSTEMS IN UNDERSERVED LOCATIONS.

THEREFORE, THE GOVERNORS RECOMMEND THAT THE FEDERAL GOVERNMENT RECOGNIZE, REVIEW, AND SUPPORT PROGRAMS CURRENTLY UNDERWAY IN STATES THAT ARE SUCCESSFULLY ADDRESSING THE ISSUE OF INCREASING AND PRESERVING ACCESS TO PRIMARY CARE PHYSICIANS IN MEDICALLY UNDERSERVED AND RURAL AREAS. MOREOVER, THE GOVERNORS RECOMMEND THAT THE FEDERAL GOVERNMENT PROVIDE INCENTIVES FOR STUDENTS, PHYSICIANS, AND MID-LEVEL HEALTH PROFESSIONALS TO SERVE IN PRIMARY CARE PROFESSIONS, PARTICULARLY IN RURAL AND UNDERSERVED AREAS.

7.3 CONCLUSION

IN MANY STATES, GOVERNORS HAVE BEGUN TO MEET THE CHALLENGE OF REFORMING THEIR HEALTH CARE SYSTEM AND ARE BEGINNING TO LEARN ABOUT THE SUCCESSES AND FAILURES. THE FEDERAL GOVERNMENT SHOULD SUPPORT STATES AS THEY DEMONSTRATE DIFFERENT APPROACHES TO ACHIEVE UNIVERSAL ACCESS TO AFFORDABLE HEALTH CARE AND SHOULD EVALUATE CREATIVE COMPREHENSIVE APPROACHES TO HEALTH CARE REFORM.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

~~EC-7. HEALTH CARE REFORM: A CALL TO ACTION~~

~~7.1 Preamble~~

~~The nation's Governors are committed to comprehensive health reform that calls for a federal framework with significant state flexibility, and they will work with Congress and the administration to develop such a system. At the same time, however, the growing demand for affordable quality health care, coupled with the immediate budgetary pressures caused by the Medicaid program, requires immediate action. Virtually every Governor has some health reform initiative in progress. These include comprehensive state-based reform initiatives, programs that assist small businesses in securing affordable health insurance, programs that expand health care coverage to a greater number of uninsured poor, and programs that implement managed care networks for Medicaid beneficiaries.~~

None of these state initiatives are incompatible with national reform; instead, they continue to build a strong policy foundation for reform at the federal level.

~~7.2~~ Federal Barriers to State Health Care Reform

As states have moved ahead, their success has been limited by barriers resulting from current federal statutes. The nation's Governors call upon the administration and Congress to immediately remove those federal barriers.

~~7.2.1~~ Medicaid. By far, Medicaid represents the largest health care expenditure for states. On average, only spending for elementary and secondary education constitutes a larger portion of state budgets. Governors believe that irrespective of any national health reform strategy, Medicaid costs must be brought under control. Should Congress move to limit or cap the federal contribution to Medicaid, a move the Governors adamantly oppose, the Governors believe these changes and other relief will become even more urgent. The Governors recommend the following changes that will contribute to controlling these costs.

~~7.2.1.1~~ Managed Care Waivers. There is a national trend in health care service delivery toward systems of care. These systems or networks have been shown to provide cost-efficient care while ensuring that the patient has a reliable place from which to seek primary care and to which specialty care can be directed. Although the private sector is moving aggressively toward these networks, the Medicaid program continues to require states, in virtually all cases, to apply for a waiver from fee-for-service care in order to enroll Medicaid beneficiaries in such networks. And while the Bush and Clinton administrations have taken significant steps toward simplifying the application and renewal process, states still must apply for renewals every two years. Moreover, states have been unable to sustain networks where there is a predominance of Medicaid beneficiaries because, under current law, states are permitted only one nonrenewable three-year waiver to have beneficiaries served in a health maintenance organization (HMO) where more than 75 percent of the enrollees in the HMO are Medicaid beneficiaries. This requirement should be repealed.

If the nation is serious about controlling health care costs, it is essential to give states the opportunity to establish networks in Medicaid (including fully and partially capitated systems) through the regular plan amendment process. Governors recognize the special significance of consumer protections and assurance of solvency in establishing these systems of care and support federal guidance through the regulatory process.

~~7.2.1.2~~ Comprehensive Waivers. States have begun to look seriously at comprehensive systems of health care where the artificial categorical barriers of Medicaid are removed and where they can establish statewide networks of care for Medicaid beneficiaries. Unfortunately, there are no provisions in the Social Security Act that can be used to establish such programs on an ongoing basis.

Currently, states have been developing these more comprehensive networks through the research and demonstration provisions of the Social Security Act (Section 1115a). Section 1115a, however, was designed for research purposes and has some important limitations. States must demonstrate, through the application process, that they are testing an innovation. The law requires an evaluation that, in some cases, requires control groups. Projects approved under the 1115a process are approved for a limited time period, usually three to five years at the discretion of the administration, and require special statutory changes to go beyond the demonstration period. Finally, these projects must be cost neutral over the life of the project.

Section 1115a is essential to ensure the testing of alternative health and social policies. However, the current statute falls short by requiring statutory changes if a state wants to continue its successful effort. In short, once a state has proven that its research project works, it cannot continue without congressional action. Governors support changes to the Social Security Act so that a state may apply through the executive branch of government for renewable waivers of their innovations. This waiver process should be consistent with the streamlined approaches used by the Clinton administration and states should have to reapply for these waivers no less than every five years.

~~7.2.1.3~~ Boren Amendment. The Boren Amendment to the Medicaid provisions of the Social Security Act was passed in the early 1980s to give states greater flexibility in establishing reimbursement rates for hospitals and nursing homes and to encourage health care cost containment. Instead, it has led to havoc in the administration of Medicaid programs. Court decisions have interpreted the Boren Amendment to embody a restrictive and unrealistic set of requirements in setting reimbursement rates, and have in effect given judges the power to establish reimbursement rate levels and criteria. Because

of these decisions, states remain frustrated in their ability to bring some discipline to their budgets and have been thwarted in their attempts to achieve the original purpose of the amendment.

The nation's Governors believe that any coherent approach to national health reform must address the issue of the Boren Amendment. They believe that a statutory change to this amendment is an important tool necessary to bring Medicaid institutional costs under control. Therefore, the Governors urge the administration and Congress to adopt these or other changes to the Boren Amendment that will give states the relief they need.

Statutory and Regulatory Changes. The Governors agree that standards for establishing adequate reimbursement rates for hospitals, nursing facilities, and intermediate care facilities for persons with mental retardation (ICF/MRs) must be designed to promote access to care for Medicaid patients, quality of services, cost containment, and efficient service delivery. The Governors support a strategy that would replace the current cost-efficiency based standard in the Boren Amendment with provisions that establish "safe harbor" standards where a state meeting any of these "safe harbor" provisions would satisfy the statute. Standards might include the following.

- The payment rate is equal to the Medicare based upper payment limit.
- The payment rate is no less than the rate agreed to by the facility for comparable services paid for by another payer (e.g. payment rates for Medicaid patients would not have to be higher than rates paid by any large managed care plans or large business).
- Regarding nursing facilities, the aggregate number of participating licensed and certified nursing home beds in the state (plus resources devoted to home or community based care for the elderly) is at least equal to a specified percentage of the population age 65 or over.
- The reimbursement rate is sufficient to cover at least 80 percent of the allowable costs of all facilities in the class in the state in the aggregate, or is sufficient to cover the allowable costs of 50 percent of all facilities in the class in the state.
- The reimbursement rate is equal to a benchmark rate plus inflation no less than the rate of inflation for the overall economy according to a general index (national or state), such as the consumer price index (CPI) or the gross domestic product (GDP IPD). The benchmark rate would be the approved rate as of the date of enactment of the statute or the current rate approved by the Health Care Financing Administration (HCFA). This standard is satisfied by a rate methodology currently in effect and approved by HCFA that contains a provision for inflation adjustments.

The Governors also believe that the procedural requirements in the current Boren Amendment must be streamlined. Finally, the Governors support strategies that would reduce or eliminate the costs of prolonged and costly litigation.

-7.3.2-

Employee Retirement Income Security Act. Although the Governors are extremely sensitive to the concerns of large multistate employers, the fact remains that one of the greatest barriers to state reform initiatives is the Employee Retirement Income Security Act (ERISA). ERISA preempts all self-insured health plans from state regulations and subjects those plans only to federal authority. As a result of judicial interpretations of ERISA, states are prohibited from:

- establishing minimum guaranteed benefits packages for all employers;
- developing standard data collection systems applicable to all state health plans;
- developing uniform administrative processes, including standardized claim forms;
- establishing all payer rate setting systems;
- establishing a statewide employer mandate;
- imposing premium taxes on self-insured plans; and
- imposing provider taxes where the tax is interpreted as a form of discrimination on self-insured plans.

-7.3.2.1

ERISA Flexibility. Governors call on the administration and Congress to modify the ERISA statute to give states the flexibility they need to move ahead on health reform. This may be done either by establishing the flexibility directly in statute or through the establishment of waiver authority. The flexibility could include a requirement that the state demonstrate broad based support for the change, such as by passage of state legislation. States must be assured, however, that the flexibility is stable and not time limited.

-7.3- A Call to Action

The nation's Governors call upon President Clinton and Congress to pass health care legislation this year that includes, at a minimum, the following.

- 7.3.1 Insurance Reform.** The Governors support minimum federal standards that result in portability of coverage; guaranteed renewability of policies; limitations on both medical underwriting and preexisting conditions exclusions; and modified community rating that limits the variation in rates that different individuals and groups are charged.
- 7.3.2 State-Organized Purchasing Cooperatives.** Through purchasing cooperatives, affordable insurance products will be made available. States and the federal government must work together to ensure that states have flexibility in establishing and operating these cooperatives.
- 7.3.3 Core Benefits and Access.** In order to ensure portability of coverage, Governors believe that there must be a core benefits package that is comparable to those that are now provided by the most efficient and cost-effective health maintenance organizations. The cornerstone of this package must be primary and preventive care. All employers must make the core benefits package available to those employees who wish to purchase it. Although Governors do not agree on whether employers should be required to pay for any portion of the premium, Governors agree that coverage should be available.
- 7.3.4 Tax Deductibility of Health Care Premiums.** Health insurance premiums should be tax deductible to the value of the core benefits package regardless of who pays the premium. Governors do not support limiting health benefits; however, policies that afford benefits above the limit should be subject to taxation. The Governors do support tax changes that would correct the inequities now suffered by self-employed individuals. These individuals would be eligible to purchase fully deductible health insurance within the federal limit.
- 7.3.5 Low-Income Subsidies.** Low income families and individuals will require subsidies in order to afford health care. Governors support a streamlined eligibility process for these subsidies and believe that the subsidies must be sufficient to make this goal a reality. Governors also look forward to a system of subsidies that provides low income families and individuals with a core benefits package that Governors believe will be a more effective method for providing care than the current Medicaid program. This program could be financed partially through revenues resulting from limits on tax deductibility.
- 7.3.6 Changes to the Current Medicaid System.** Governors strongly believe that some critical changes to the Medicaid program must be made now to improve the cost efficiency of the program. Specifically:
 - States should have the ability to move their Medicaid populations into managed care settings through a plan amendment rather than through a waiver.
 - During the phase in of the new low income subsidy program, states must have the flexibility to establish new programs that expand eligibility to a larger indigent population. This flexibility would require additional waiver authority under Medicaid.
 - In addition, states have been unable to control the costs of reimbursement rates to institutional health care providers as a result of judicial interpretation of the Boren Amendment. States must be given legislative and regulatory relief from these interpretations in order to get better control of these costs.
- 7.3.7 Medical Malpractice and Liability Reform.** Another important step in developing a rational health care system is the modification of current medical malpractice and liability statutes. The Governors believe that minimum standards should be set by the federal government. Alternative dispute resolution is among the strategies that should be explored to reduce the amount of litigation in this area.
- 7.3.8 Relief from Antitrust Statutes.** More and more Americans are receiving their care through health delivery networks. Establishing these networks requires new approaches to cooperation among providers and businesses that heretofore have been competitors. The current antitrust statutes must be revised to accommodate this new health care environment.
- 7.3.9 Relief from the Employee Retirement Income Security Act.** ERISA must be modified to give states the flexibility they need to move ahead on state reform. At a minimum, Congress should enact ERISA waiver authority for states that meet certain criteria for health care reform.
- 7.3.10 Federally Organized Outcome and Quality Standards.** If meaningful choices are ever to be made in health care, research must be supported to develop outcomes and quality standards for use by providers

and consumers alike. Also, information systems must be developed that include price and quality information for all providers and consumers of health care services in a given geographic area.

~~7.3.11~~ **Administrative Simplifications.** The administrative complexity of the current system must be reduced. At a minimum, we must adopt a single national claims form and electronic billing.

~~7.3.12~~ **Conclusion.** We believe that these provisions should be included in any reform strategy. As Governors, we do not vary in our support of these changes, and we urge Congress and the President to act as quickly as possible.

Adopted February 1994.

BRIEFING PAPER
NATIONAL GOVERNORS' ASSOCIATION
EC-7: HEALTH CARE REFORM

In general, we support the positions delineated by the National Governors' Association on Health Care Reform. We also believe that, in the absence of progress by the Federal government, states and Territories should pursue reform efforts to extend access to affordable, quality health care to all Americans. Several of the efforts mentioned in the position paper may not be possible in a Territory of Guam's size and population base, such as the establishment of purchasing alliances or group purchasing pools for health insurance, unless such alliances and pools cross state boundaries.

Though we are not sure of the applicability of the Employee Retirement Income Security Act (ERISA) to Guam, it is apparent that real state-based health care reform initiatives cannot succeed unless changes are made. We support the multidimensional approach to reform of ERISA through statute and waiver authority.

We support the establishment of national minimum tort and liability standards, in an effort to reduce the cost of defensive medicine and provide appropriate levels of compensation for patients injured by medical negligence. We also support the adoption of alternative dispute resolution strategies that would reduce the costs of litigation.

We agree that research must be supported to develop outcomes and quality standards for use by providers and consumers so that meaningful, informed choices can be made in the health care arena. The development of standardized information systems, uniform claims systems, and uniform standards for electronic data interchange to reduce the administrative complexity of the health care system and improve ease of use by both providers and consumers alike must be supported.

It is the hope of the Government of Guam to move away from the direct provision of health care services through its Public Health Department, and toward the administration of Community Health Centers which offer fee-for-service primary care based on ability to pay. These Community Health Centers are and will be based in areas that are medically underserved, and are not in competition with private care providers. In both circumstances, there exists a need for preventive and primary care services that is rarely completely filled. Because of this unfilled need, we support the recommendation of the National Governors' Association that the Federal government recognize, review and support programs currently underway that are successfully addressing the issue of increasing and preserving access to primary care physicians in medically underserved and rural areas.

Guam Health Planning and Development Agency

Ahensian Mamplanehan Salut yan Inadilánte



GHPDA NO: 95-012

MEMORANDUM

To: Director, Bureau of Planning

From: Director, Guam Health Planning and Development Agency

Subject: Briefing Paper: EC-7: Health Care Reform, 1995 Winter Meeting of the National Governors' Association; Washington, D.C.; January 28-31, 1995

Attached for your review is the briefing paper for the Governor on the proposed policy position for consideration by the NGA Committee.

Please feel free to contact our Agency should there be any questions concerning the comments made on the briefing paper.


JOSEPH D. MENDIOLA

Attachment

EC-7: Health Care Reform

I. Background.

The Employee Retirement Income Security Act of 1974 established broad preemptive powers that prevents state insurance departments from regulating many of the arrangements offering health care in the market place.

It addresses three categories of health and welfare arrangements:

- (a) Single employee plans,
- (b) Taft-Hartley Trusts, and
- (c) Multiple Employer Welfare Arrangements (MEWAs).

Any insurance and welfare plan that does not fall within these three arrangements must comply with state or local laws. Currently, there are no known arrangements as defined by federal law that impacts on our island.

Other provisions or sections of the Act including the regulation derived from the Act, affects areas that could, when challenged, pose significant problems to us. It requires a more in-depth study since no government entity on Guam has ever delved into this subject nor its applicability in current programs. The Insurance, Banking, Securities and Real Estate Division of the Department of Revenue and Taxation has had the guidelines but never ventured past the cover. Nationally, the Act is administered with a dedicated attorney.

This is our synopsis on EC-7: Health Care Reform and where ERISA may possibly impact. There may be a debate on the matter but certainly more review by those concerned is encouraged.

II. Impact on Guam.

The challenge of health care reform is not isolated to the states alone but strongly inclusive with the needs of it's Territory, Guam. The economic boom within

the last 5 years have created havoc in our health care delivery system. The growth of the economy, combined with federal agreements with the pacific rim territories (e.g., Compact of Free Association with the Federated States of Micronesia), has significantly and dramatically impacted Guam's health care delivery system. Federal legislation impacting on health care and services at the national level directly affects the health care delivery system in this Territory.

The problem areas identified and discussed in EC-7: Health Care Reform and the recommendations given to minimize or eliminate these problems reflects a mirror image of the problematic areas on island. For example, approximately 16 to 20 percent of the island population are uninsured. On an island with an economy that is steadily growing, the percentage of uninsured individuals should be lower or very minimal. This demonstrates the reality on the escalating cost and affordability of health care and services. Another example is the rigidity and qualifying complexity of the Medicaid program. The inclination, under the Medicaid program, toward institutional care prevents states from providing preventive and primary care, and the eligibility rules are only known or understood by a few. Thus, the cost to provide adequate health coverage for low income families must be augmented by local funds from the government.

To illustrate this point, during FY94, there were 8283 enrollees in the Medicaid program. The total expenditures for the year was \$6,529,777.00. Under the Medicaid program, 50 percent of the expenditures would be shouldered by the Government of Guam while the other 50 percent shared by the federal government. Thus, Government of Guam's share of the expenditures was \$3,264,889.00 or \$394.17 per enrollee. The expenditures may appear reasonable and not astronomical for health care and services, but when compared to the amount of local funds provided under Guam's Medically Indigent Program (\$15,841,738.00 or \$2,092.42 per enrollee), the

expenditures for health care and services provided to low income residents are astounding.

The example shows the problems mentioned in paragraph 7.2.3.1 where the Medicaid structure with a comprehensive package for those categorically eligible but still leaves many low-income people without any insurance. In Guam's case, and as can be seen with the figures, the state and federal government should share in financing of the program but with the option to operate the program as an individual entitlement, similar to the Medicaid program, and anyone qualifying for the program would have to be served.

The Employee Retirement Income Security Act (ERISA) of 1974, as mentioned earlier, applies to employee benefits plans including employee health plans. This act has not significantly impacted the island's health insurance system. The insurance carriers have been competitive throughout their existence on island and no conflict has arisen or envisioned in regulating insurance carriers. However, cautionary and precautionary measures will be taken to deal with the Act based on the recommendations in paragraph 7.2 through 7.2.1.1. of EC-7: Health Care Reform. There is a need to develop standard data collection systems and uniform administrative process as well as the means of resolving problems over health insurance coverage decisions and other matters. It is for these reasons that we concur with the proposal "to allow a state to impose requirements on self-funded plans if the state was willing either to adopt and build upon minimum national standards or work within some type of federal framework." Furthermore, in reference to the health insurance market, the need for the state to resolve, stabilize and make equitable problems arising over coverage and other matters must be addressed through the adoption of the options mentioned in paragraph 7.2.2. Additionally, and with full concurrence, is supporting the standards that results in portability of

coverage, guaranteed renewability of policies, limitation on both medical underwriting and preexisting conditions exclusions, and opportunities for states to establish meaningful and equitable rating systems. Keeping on track with fair and equitable systems is achieving and maintaining a high quality and appropriate health care and services.

The recommended medical tort reform may reduce the cost of defensive medicine and provide appropriate levels of compensation for patients injured under medical negligence. However, when recommending that the federal government establish national minimum tort and liability standards, cautioned must be exercised to ensure that the minimum federal standards are not too costly or restrictive for isolated areas or territories. A situation may occur when the minimum national standards may, by itself, be restrictive for the state. Alternate dispute settlement strategies to reduce the cost of litigation must be researched thoroughly by both the federal and state agencies. Guam's isolation from the U.S. mainland can not afford a very restrictive standard which may hinder recruitment of health providers from the U.S. This factor is of utmost importance in this Territory since the medical education system is not available.

We do agree with the recommendation that the federal government recognize, review, and support programs that are successfully addressing the issue of increasing and preserving access to primary care physicians in medically underserved and rural areas. We also agree with the recommendation that the federal government provide incentives for students, physicians, and mid-level health professionals to serve in primary care professions.

III. Recommendations.

The Agency agrees with the areas addressed in EC-7: Health Care Reform. The areas, excluding the problems with the Employee Retirement Income Security Act

of 1974, were recognized and addressed by health professionals in several health forums and conferences. The state and federal government must work cohesively in health care reform to effectuate changes in helping the people, especially those who are uninsured and underserved. Furthermore, the language should reflect the states and territories and possession of the U.S., since applicability to U.S. territories and possessions may be questioned.

IV. Conclusion.

The plight of the situation through the eyes of state governments (state versus federal) can be seen as this:

The climate in Congress seems to be to honor the contract between the people and Congress in terms of 'unfunded' mandate and establishing a balance budget. Granted, the new Congress may have their way, reciprocally the state government should be given all latitude to address its local health care problems. It is not a matter of taking powers away from Congress but rather redirecting some of the concerns as a responsibility of the states within the new Congressional framework in tailoring the federal government.

**GUAM MEMORIAL HOSPITAL
POSITION ON HEALTH CARE REFORM
1995 NGA WINTER MEETING**

The Guam Memorial Hospital supports the position being taken by the NGA Committees on healthcare reform. It is the hospital's position that most healthcare reform will occur at the state or territorial level, rather than at the national level. This is because needs vary from state to state. As pointed out, many states have taken it upon themselves to begin their own reform. We believe that Guam should do the same thing. Because the hospital feels so strongly about this, it is in the process of applying for a federal grant that will lend support to this effort. The reform movement offers Guam an opportunity to correct many of the problems that exist in the way of healthcare delivery today. Because health is so important to the community, the Government of Guam should make every reasonable effort to assure provision for a more comprehensive healthcare delivery system for the people of Guam. The hospital's specific position on the various proposals offered is as follows:

7.1 PREAMBLE

The hospital agrees with the concept of state-based healthcare reform efforts. Specifically, Guam should address:

- **Universal coverage** - Approximately 35% of the patients treated at the hospital are in the self pay category. Because this is such a large percentage of patients, it contributes to the hospital's bad debt and ongoing subsidy of the hospital by GovGuam. Universal coverage as well as affordable coverage would reduce the need for GovGuam to subsidize the hospital.
- **Restructure of the healthcare market** - On the mainland, healthcare providers and insurers are building alliances as a way to offer a comprehensive set of benefits to patients and as a way to reduce costs through risk sharing. We believe that the people of Guam could benefit from similar arrangements. We plan to propose these ideas to the new Board and move in this direction with other providers and the insurance market.
- **Restructure public programs** - The public programs that exist on Guam present several problems for both the patient and the hospital. One, because the delivery system is under three separate government agencies, there is lack of patient coordination. This lack of coordination, results in less than optimal patient benefit for the money expended. It also inhibits an emphasis on preventive care. Preventive care would be less costly for the government in the long run. Two, the GovGuam claims adjudication and processing procedures are restrictive for the hospital and costly for the government due to the amount of administrative procedures inherent in the process. Lastly, GovGuam should explore additional opportunities to derive federal funding for public programs. Examples include participation in Medicare's prospective payment system and increasing the Medicaid cap.

7.1.1 PRIVATE MARKET

The hospital supports the idea of limits on pre-existing condition exclusions. These exclusions often result in hospital bad debt when insurers refuse to pay claims. In addition, with the recent change in legislation for the free care program, insurance companies may now choose to exclude these conditions if patients had these conditions prior to obtaining insurance. Other issues of concern on Guam are the timeliness of payments to all providers and rights of arbitration for insurance company denials. Many physicians refuse to accept certain types of insurance because of an insurance company's poor payment practices. The hospital cannot afford to turn people away. Given this fact, there should be fair business practices for all concerned.

7.1.2 PUBLIC PROGRAMS

The hospital believes that Guam should look at how Medicaid could be restructured so that more people would be eligible for benefits. As part of this, Guam should also look at the medically indigent program. Specific factors to be considered for these two programs include:

- Program delivery
- Financing
- Payment processing
- Anticipated benefits and outcome measurement

7.2 FEDERAL SUPPORT

As mentioned earlier, the hospital is in the process of applying for a federal grant to facilitate reform efforts. Based on preliminary discussions with the federal government, it appears that the federal government is supportive of our endeavors. Like us, they feel that Guam is a microcosm that the rest of the nation may possibly learn from. Guam provides the perfect laboratory to test reform efforts.

7.2.1 EMPLOYEE RETIREMENT INCOME SECURITY ACT

The hospital agrees that this act would prohibit state reform efforts. As such, Guam should look at what aspects of this act would pose potential problems for the island in the way of reform and then lobby for needed change.

7.2.1.1 STRATEGY FOR REFORM

All of the ideas presented for reform are excellent ideas. The island as well as the hospital would benefit from the items proposed. Examples include:

- Adoption of minimum national standards for self-funded plans.
- Administrative simplification - This is badly needed on Guam. It would reduce hospital administrative costs because it would prohibit the insurance companies from demanding itemized bills on all claims which poses problems for electronic claims processing, conducting billing audits on all hospital claims, making excessive copies of medical

records which exposes confidential information to possible redisclosure without patient consent, etc.

- Insurance reform - As mentioned above, reform needs to be undertaken so fairness is introduced into the relationship between the insurance company and the provider of care.
- Quality and utilization review procedures - This is another insurance practice which appears to be out of control on Guam. We should be moving towards a system whereby the hospital takes on more responsibility for this process with less dependence on the insurance companies. Current practices permit insurance personnel on our nursing units. This can be disruptive to the delivery of patient care. The insurance companies are reluctant to turn these procedures over to the hospital for three reasons. One, the insurance companies have minimal faith in our present programs. We are working to improve these programs so that we build credibility with the payers. Secondly, they are reluctant to turn these programs over to the hospital because the hospital is not accredited. Lastly, the insurance companies would prefer to see registered nurses/registered records administrators performing these procedures. Although the present situation is less than ideal, we would not be paid for services without them. Consequently, we allow them access, but we are working to change procedures to the mutual satisfaction of both.
- Standardized data collection - With our new information system, it is our intent to provide data on claims at a level which is necessary to be paid for a Medicare claim. Medicare has the most stringent data requirements. If we satisfy Medicare requirements, we will provide all the data necessary to process any hospital claim. There are intangible benefits to the hospital, insurance companies, and government by establishing procedures in this manner. The insurance companies will have far more complete data to analyze trends and establish insurance premiums. The hospital and the government can also begin to use this data for health planning purposes. The system is designed to capture data on all hospital encounters. Consequently, the government will have far more accurate, complete, and useful data than they had in the past. The insurance companies should be required to accept claims as required by Medicare on a uniform bill and with the data elements specified by Medicare for claims processing.
- ERISA waiver authority for alternative financing and cost control strategies (risk sharing).

7.2.2 HEALTH INSURANCE MARKET

The Government of Guam should analyze what impact ERISA may have on the territory. If the impact would constrain efforts to reform healthcare on Guam then the island should join the states in lobbying for change.

7.2.3 ACUTE CARE SERVICES FOR LOW INCOME

The hospital agrees that Medicaid promotes institutional care and does not do enough to stress preventive care. As a result of this, patients end up in the Emergency Department for primary care. In addition, Medicaid patients do not seek care until they are extremely ill. Once ill, the provision of services is much more intensive in nature, and costly, as compared to other patient populations. As the proposal points out, the public sector will always finance this population of patients. Due to this liability, Guam should look at innovative ways to treat these patients so that

the cost to the government is controlled. This would be true of medically indigent patients as well.

7.2.3.1 PROGRAM STRUCTURE

The hospital agrees that states and territories should have the flexibility to restructure their Medicaid program so that it meets the need of the individual locale. The state should also be able to define what benefits will be provided and offer assistance in obtaining healthcare coverage through the private and/or public sector.

7.2.3.2 ENTITLEMENTS AND FINANCING

Based on discussions with Public Health, it appears that Guam has a Medicaid cap that states do not have. Because of this cap, Guam gets less funding from the federal government. With our self pay population it appears that many within the community would benefit from this program. GovGuam should look at how our funding could be expanded to increase coverage and reduce the dependence on local funds. This analysis, along with the suggestions offered, should form the basis for future financing of Medicaid.

7.2.3.3 STATUTORY CHANGES TO THE SOCIAL SECURITY ACT

The hospital supports a comprehensive system for healthcare delivery. It appears that the Social Security Act could inhibit efforts towards this goal. This is the direction that healthcare is going. It is only a matter of time before Guam must face these changes. The hospital believes that we should be proactive on this matter. In order to move ahead, we should support any changes to this act which would jeopardize our ability to design a delivery system which would meet the needs of Guam.

7.2.4 MEDICAL TORT REFORM

Although the hospital has a controllable liability in the area of malpractice due to the Government Claims Act, physicians must practice on-island without malpractice insurance. This exposes these practitioners to a great deal of personal liability. The island should look at how all healthcare providers could be insured for malpractice at affordable rates. We believe that avenues could be established and should be explored. To make it affordable, tort reform should be taken into consideration.

7.2.5 ANTITRUST STATUTES

The hospital promotes the idea of health delivery networks. Networks have the potential to increase benefits to the population while constraining costs. However, creation of these networks can expose providers to possible antitrust. This is an area which the healthcare industry is extremely sensitive due to current laws.

7.2.6 OUTCOME AND QUALITY STANDARDS

The hospital supports the need for and use of outcome and quality standards. These standards establish public accountability and are necessary to assure ongoing improvement in patient care. However, like claims processing, these measures should be standardized. Without standardization, the current problems associated with claims processing will occur with the reporting of quality data. These standards should be developed at the GovGuam level with input from the various providers.

7.2.7 ADMINISTRATIVE SIMPLIFICATION

As mentioned above, we support administrative simplification in all claims processing procedures. We also fully support electronic claims processing as a way to reduce administrative costs and increase hospital cash flow through more timely payment of services.

7.2.8 PUBLIC SECTOR HEALTH CARE DELIVERY

As we are part of the public healthcare system, we wholeheartedly agree that the public healthcare system should be considered in any budget strategy and that this system should be coordinated with the private healthcare sector wherever possible.

7.2.9 PRIMARY CARE PRACTICE

Guam appears to have enough primary care physicians. Our greatest need is in the area of specialists such as oncology, orthopedics, cardiology, etc. There is also a severe shortage of nurses and allied health professionals such as physical therapists, radiologic technologists, respiratory therapists, medical technologists, registered records administrators, accredited records technicians, etc. Whatever benefits could be derived for Guam to alleviate these shortages should be undertaken. This could be both the establishment of allied health programs on Guam and recruitment of professional personnel. We are looking into starting a radiologic technologist program at the hospital. Other hospital-based programs should be explored and efforts should be made to coordinate efforts with Guam Community College and/or the University of Guam.

7.3 CONCLUSION

Like the states, Guam should begin to aggressively look at how the island's healthcare delivery system can be reformed so that it meets the needs of the island. It is the hospital's intention to do this. We do not believe we can do this alone. The best solutions will come from the concerted efforts of all concerned. In our efforts, we have invited all stakeholders to participate and we look forward to their active participation in helping us arrive at solutions that will provide quality patient care to the people of Guam.

GOVERNOR'S BRIEFING BOOK

Executive Committee

2. EC-10: PROPOSED AMENDMENT AS SUBSTITUTE TO HIV/AIDS

BACKGROUND:

The proposed policy amendment emphasizes the stigma of the human Immunodeficiency virus (HIV) and the acquired immunodeficiency syndrome (AIDS) which are critical public health problems.

OBJECTIVES:

- **A call for significant federal leadership in a comprehensive national education and prevention program as a central component of the nation's fight against AIDS.**
- **The authorization of the Ryan White Care Act, to address the disease.**

GUAM'S POSITION:

► Department of Public Health and Social Services

The Department supports the policy recognizing that AIDS/HIV are critical public health problems in the nation. However, the following are the Department's concerns:

- **states and territories should be given sufficient time to implement prevention strategies that evolve from the community planning process;**
- **we should be afforded the flexibility to design and implement prevention programs at the territorial level that meet our unique needs and are consistent with community values; and**
- **appropriate changes to the funding formula of the Ryan White Care Act should be made for the current formula uses total cases of AIDS to determine levels of assistance and does not recognize the impact of the disease on areas with smaller number of cases but higher rates of infection.**

EC-10. HIV/AIDS

10.1 PREAMBLE

THE HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS) ARE CRITICAL PUBLIC HEALTH PROBLEMS. NO STATE HAS BEEN UNTOUCHED BY THE DEVASTATING HUMAN AND ECONOMIC COSTS OF HIV AND AIDS. U.S. PUBLIC HEALTH SERVICE AND WORLDWIDE PROJECTIONS OF FUTURE INCIDENCE ARE STARTLING. IN SEPTEMBER 1994, MORE THAN 425,000 ACTIVE CASES OF AIDS WERE REPORTED IN THE UNITED STATES. IN 1991 AND 1992 ALONE, MORE THAN 220,000 PEOPLE DIED OF AIDS. STATE AND LOCAL GOVERNMENTS HAVE ALLOCATED SIGNIFICANT FINANCIAL RESOURCES TO THIS PROBLEM. IN FISCAL 1992, STATES SPENT \$401.9 MILLION ON HIV/AIDS PROGRAMS AND SERVICES BEYOND THOSE PROGRAMS FUNDED THROUGH THE MEDICAID PROGRAM. IN A NUMBER OF STATES, STATE AND LOCAL FUNDS FAR EXCEED FEDERAL SUPPORT. THE GOVERNORS STRONGLY BELIEVE, THEREFORE, THAT THE MAGNITUDE OF THE AIDS EPIDEMIC CALLS FOR STRONG ACTION BY ALL LEVELS OF GOVERNMENT, INCLUDING REAUTHORIZATION OF THE RYAN WHITE CARE ACT.

10.2 EDUCATION, PREVENTION, COUNSELING, AND TESTING

THE GOVERNORS RECOGNIZE THAT THE FEDERAL GOVERNMENT HAS MADE A SIGNIFICANT CONTRIBUTION TOWARD FUNDING AIDS RESEARCH AND PREVENTION ACTIVITIES. ALTHOUGH SCIENTIFIC PROGRESS HAS BEEN MADE, AN EFFECTIVE VACCINE OR A CURE FOR THE DISEASE REMAINS YEARS AWAY. IN THE ABSENCE OF A VACCINE OR A CURE, PREVENTION EFFORTS SUCH AS EDUCATION, PUBLIC INFORMATION, HIV COUNSELING AND TESTING, AND PERSONAL RESPONSIBILITY ARE THE MOST EFFECTIVE MEANS AVAILABLE TO PREVENT THE DISEASE FROM SPREADING FURTHER.

IN RECENT YEARS, STATE HEALTH DEPARTMENTS HAVE ASSUMED THE PRIMARY ROLE IN PLANNING AND COORDINATING HIV PREVENTION EFFORTS. ALL STATES ARE ENGAGED IN HIV PREVENTION COMMUNITY PLANNING WITH SUPPORT FROM THE CENTERS FOR DISEASE CONTROL AND PREVENTION. BEGINNING IN 1994, STATE AND TERRITORIAL HEALTH DEPARTMENTS HAVE BEEN REQUIRED TO IMPLEMENT A PLANNING PROCESS THROUGH WHICH THEY COLLABORATE WITH THEIR COMMUNITIES TO IDENTIFY UNMET NEEDS AND ESTABLISH PRIORITIES FOR HIV PREVENTION PROGRAMMING. IN GENERAL,

FEDERAL SUPPORT FOR PREVENTION EFFORTS HAS BEEN HELPFUL; HOWEVER, STATES MUST BE GIVEN SUFFICIENT TIME TO IMPLEMENT PREVENTION STRATEGIES THAT EVOLVE FROM THESE PLANNING ACTIVITIES. MOREOVER, STATES MUST HAVE THE FLEXIBILITY TO DESIGN AND IMPLEMENT PREVENTION PROGRAMS AT THE STATE AND LOCAL LEVEL THAT MEET NEEDS AND ARE CONSISTENT WITH COMMUNITY VALUES.

PREVENTIVE EFFORTS DIRECTED AT YOUNG PEOPLE—BEFORE THEY REACH THE AGE WHEN THEY MAY ENGAGE IN BEHAVIORS THAT PLACE THEM AT RISK OF INFECTION—ALSO ARE IMPORTANT. THE NATION'S YOUTH SHOULD BE AWARE OF THE RISK OF THE POSSIBLE SPREAD OF AIDS THROUGH INJECTION OF DRUGS. INFORMATION ABOUT AIDS SHOULD BE AN INTEGRAL PART OF SUBSTANCE ABUSE PREVENTION EFFORTS.

FINALLY, SPECIAL EDUCATION EFFORTS MUST BE MADE TO ENSURE THAT ALL MEMBERS OF THE MEDICAL AND HEALTH CARE COMMUNITY ARE KNOWLEDGEABLE AND HAVE CURRENT INFORMATION ABOUT AIDS PREVENTION. HEALTH PROVIDERS MUST BE MORE DILIGENT IN IDENTIFYING PEOPLE WHO ARE AT RISK OR WHO ARE INFECTED WITH HIV, PARTICULARLY IN POPULATIONS SUCH AS WOMEN AND ADOLESCENTS WHO ARE NOT AS FREQUENTLY RECOGNIZED AS AT RISK.

COUNSELING AND TESTING HAVE BEEN IMPORTANT COMPONENTS OF THE NATIONAL EDUCATION AND PREVENTION EFFORT. ACCESS TO COUNSELING SERVICES SHOULD BE AN INTEGRAL PART OF THE AIDS TESTING EFFORT, BOTH BEFORE AND AFTER TESTING AND REGARDLESS OF THE TEST RESULTS. COUNSELING AND TESTING REPRESENT MAJOR OPPORTUNITIES TO ENCOURAGE, ON A ONE-TO-ONE BASIS, THE BEHAVIOR CHANGES REQUIRED TO STOP FURTHER SPREAD OF THE HIV VIRUS. ALTHOUGH COUNSELING AND TESTING REMAIN IMPORTANT STRATEGIES TO ADDRESS THIS EPIDEMIC, THE NATION MUST CONTINUE TO SEEK ANY AND ALL STRATEGIES THAT WILL SUCCESSFULLY REDUCE THE TRANSMISSION OF HIV.

A KEY FACTOR IN CONTAINING THE SPREAD OF AIDS IS REDUCING THE USE OF INJECTION DRUGS. PROGRAMS SHOULD STRIVE TO ELIMINATE THE SIGNIFICANT WAITING TIME FREQUENTLY FACING BOTH THOSE WISHING TO RECEIVE TREATMENT FOR DRUG ABUSE AND THOSE DESIRING HIV TESTING AND COUNSELING. YET THE VAST MAJORITY OF DRUG USERS ARE NOT SEEKING TREATMENT. CONSEQUENTLY, OUTREACH SHOULD BE EXTENDED TO DRUG

USERS WHO ARE NOT CURRENTLY IN TREATMENT IN ORDER TO GET THEM INTO TREATMENT, ENCOURAGE THEM TO BE COUNSELED AND TESTED, AND EDUCATE THEM ABOUT THE DANGERS OF HIGH-RISK BEHAVIORS. ADDITIONALLY, APPROPRIATE MODELS TO ATTRACT DRUG USERS TO TREATMENT SHOULD BE DEVELOPED.

THE SOCIAL STIGMA ASSOCIATED WITH HIV/AIDS HAS CREATED A PARTICULAR PROBLEM FOR THE PREVENTION AND CONTROL OF THE DISEASE. OUT OF FEAR OF DISCRIMINATION, INDIVIDUALS WITH HIV AND AIDS WORRY ABOUT BEING IDENTIFIED. WITHIN THE CONTEXT OF SOUND PUBLIC HEALTH POLICY, STATES ARE ENCOURAGED TO REVIEW THEIR MEDICAL INFORMATION AND PRIVACY LAWS AND, WHERE NECESSARY OR APPROPRIATE, UPDATE THESE STATUTES TO SAFEGUARD THE RIGHTS OF TESTED INDIVIDUALS.

THE GOVERNORS ARE CONCERNED THAT INDIVIDUALS WHO TEST POSITIVE FOR HIV MAY FACE DISCRIMINATION, DESPITE THE FACT THAT ALL MEDICAL EVIDENCE TO DATE SHOWS THAT HIV CANNOT BE TRANSMITTED THROUGH CASUAL CONTACT. CLARIFICATION OF OR MODIFICATIONS IN LAWS SHOULD BE MADE WHERE NECESSARY TO PROTECT HIV-INFECTED INDIVIDUALS FROM INAPPROPRIATELY BEING DENIED OPPORTUNITIES IN AREAS SUCH AS EMPLOYMENT AND HOUSING.

10.3 RESEARCH

A COMPREHENSIVE NATIONAL EDUCATION AND PREVENTION PROGRAM, WITH SIGNIFICANT FEDERAL LEADERSHIP, MUST BE A CENTRAL COMPONENT OF THE NATION'S FIGHT AGAINST AIDS. AT THE SAME TIME, RESOURCES MUST BE DEVOTED TO RESEARCH—BOTH TO FIND A VACCINE FOR AIDS AS WELL AS TO DEVELOP A TREATMENT AND CURE FOR PRESENT AND FUTURE AIDS PATIENTS. THE FEDERAL GOVERNMENT HAS THE PRIMARY ROLE TO PLAY IN FUNDING AIDS-RELATED RESEARCH ACTIVITIES. THE GOVERNORS URGE THAT MONEY APPROPRIATED FOR AIDS RESEARCH BE USED EXPEDITIOUSLY AND THAT FUNDING PROVIDED FOR AIDS RESEARCH NOT BE MADE AT THE EXPENSE OF OTHER PUBLIC HEALTH PRIORITIES.

IN ADDITION TO THE SUBSTANTIAL COMMITMENT MADE BY THE FEDERAL GOVERNMENT, SOME STATES HAVE PROVIDED LEADERSHIP BY FUNDING AIDS RESEARCH WITH STATE DOLLARS. THE GOVERNORS URGE INCREASED COORDINATION BETWEEN FEDERAL AND STATE INITIATIVES IN THIS AREA TO

ENSURE THE MOST EFFICIENT USE OF RESEARCH DOLLARS. THE GOVERNORS ALSO URGE THE SPEEDY DISSEMINATION OF RESEARCH RESULTS TO THE SCIENTIFIC COMMUNITY, AS WELL AS PRACTITIONERS, TO ENSURE THAT RESEARCH FINDINGS CAN BE APPLIED AS EXPEDITIOUSLY AS POSSIBLE.

10.4 TREATMENT

OVER THE NEXT FEW YEARS, THE GROWING NUMBER OF AIDS AND AIDS-RELATED CASES WILL PLACE AN INCREASING STRAIN ON THE NATION'S HEALTH CARE DELIVERY SYSTEM. THE ESTIMATED COST OF TREATING A PERSON WITH HIV FROM THE TIME OF INFECTION TO DEATH IS \$119,000. FOR THOSE WHO RECEIVE NO TREATMENT UNTIL A DIAGNOSIS OF AIDS IS MADE, THE COST IS ESTIMATED AT \$69,000. NOW IS THE TIME TO BEGIN THE FISCAL AND CAPACITY PLANNING REQUIRED TO ADDRESS THESE FUTURE HEALTH CARE DELIVERY NEEDS. THIS SHOULD INCLUDE AN ASSESSMENT OF THE APPROPRIATE BURDEN OF AIDS HEALTH CARE COSTS THAT SHOULD BE BORNE BY THE PUBLIC AND PRIVATE SECTORS.

AT THE SAME TIME, WE NEED TO PROVIDE APPROPRIATE SERVICES TO THOSE INDIVIDUALS PRESENTLY SUFFERING FROM HIV INFECTIONS OR AIDS. ADEQUATELY ADDRESSING THE HEALTH CARE NEEDS OF AIDS PATIENTS REQUIRES ESTABLISHMENT OF A "CONTINUUM OF CARE," INCLUDING INPATIENT AND OUTPATIENT HOSPITAL SERVICES, CARE IN NURSING HOME AND ALTERNATIVE RESIDENTIAL SETTINGS, HOME CARE, HOSPICE CARE, PSYCHOSOCIAL SUPPORT SERVICES, AND CASE MANAGEMENT SERVICES. MANY STATE AND LOCAL GOVERNMENTS HAVE LED THE WAY IN PROVIDING HEALTH CARE SERVICES FOR PEOPLE WITH AIDS; HOWEVER, MORE RESEARCH IS REQUIRED TO DETERMINE THE MOST HUMANE AND COST-EFFECTIVE WAY OF PROVIDING AIDS-RELATED CARE. THE FEDERAL GOVERNMENT HAS FUNDED SEVERAL DEMONSTRATION PROJECTS TO DETERMINE MODELS FOR PROVIDING SERVICES TO AIDS PATIENTS. SUCH DEMONSTRATIONS SHOULD CONTINUE. FINALLY, AS THE NATION MOVES TOWARD NETWORKS OF HEALTH CARE, EFFORTS ARE NEEDED TO ENSURE THAT THE PREVENTION AND TREATMENT NEEDS OF PEOPLE AT RISK FOR OR INFECTED WITH HIV/AIDS ARE ADEQUATELY ADDRESSED IN MANAGED CARE SETTINGS. IN ADDITION, STRATEGIES MUST BE DEVELOPED THAT ENSURE THAT THOSE IN MANAGED CARE ARRANGEMENTS ALSO HAVE ACCESS TO OTHER SUPPORT SERVICES, SUCH AS SOCIAL SUPPORTS

AND HOME- AND COMMUNITY-BASED SERVICES, SO THAT THE CONTINUUM OF CARE IS MAINTAINED.

10.5 RYAN WHITE CARE ACT

THE GOVERNORS STRONGLY SUPPORT THE REAUTHORIZATION OF THE RYAN WHITE CARE ACT. FUNDS PROVIDED THROUGH THE ACT SUPPORT A NETWORK OF HEALTH CARE AND SUPPORT SERVICES IN CITIES AND STATES FOR PEOPLE LIVING WITH HIV INFECTION AND AIDS, ESPECIALLY THE UNINSURED WHO WOULD OTHERWISE BE WITHOUT CARE. THIS PROGRAM IS A CRITICAL ELEMENT IN AIDS PREVENTION, EDUCATION, AND TREATMENT EFFORTS BY STATES.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

~~G-17~~ AIDS

~~17.1~~ Preface

Acquired Immune Deficiency Syndrome (AIDS) is today the nation's number one public health problem. No state has been left untouched by the devastating human and economic costs of this fatal disease. U.S. Public Health Service and worldwide projections of the future incidence of the disease are startling. By the year 1991, it is expected that there will have been over 270,000 AIDS cases in this country alone—and 179,000 deaths. The Governors strongly believe that the magnitude of the present and future AIDS epidemic calls for concerted and immediate action by all levels of government in response to this public health crisis.

~~17.2~~ Education and Prevention

The Governors recognize that the federal government has made a significant contribution toward funding AIDS research and prevention activities. Although scientific progress has been made, availability of an effective vaccine and cure for the disease are apparently years away. In the absence of a vaccine and a cure, prevention efforts such as education, public information, and counseling are the most effective means available to prevent the disease from spreading further. The federal government, in cooperation with state and local governments, the educational community, professional and services organizations, and the private sector, must take the lead on a national AIDS education campaign designed to prevent the further spread of the disease.

This education and prevention campaign will necessarily require an increased commitment of federal resources. Although this is an era of tight federal budgetary constraints, the seriousness of the problem calls for an increased federal investment. Further, funds appropriated by Congress in a given year should be expeditiously spent as part of an aggressive campaign to slow the spread of the disease. These resources should be devoted to a coordinated effort at the federal level to educate the general populace as well as segments of the population at particular risk.

Moreover, assistance should be provided to state and local governments, as well as community-based organizations, to assist them in this national education and prevention effort. If we are to be successful in changing attitudes and behaviors, this education campaign must use a variety of channels to reinforce the basic message of how to prevent the spread of AIDS. It will also be important to provide for evaluation of alternative approaches and their efficacy.

Similarly, AIDS educational efforts should not be limited to those areas presently experiencing a high incidence of AIDS. AIDS is a national public health problem which knows no geographical boundaries. Educational efforts in low incidence areas can play an important role in halting the spread of the disease.

Just as the federal government must provide additional funding and leadership in promoting a national AIDS awareness effort, so do state governments have a central role to play in educating citizens about AIDS. In addition to funding, states should identify education needs within the state and coordinate the expenditure of state and federal dollars so that education efforts address specific community needs.

The Governors recommend that these educational efforts be designed in such a way that they reach both the general public as well as particular groups within the population identified as being at high risk. A priority for AIDS education efforts should be those people whose behaviors place them and their sexual partners at particular risk of becoming infected with the virus.

Preventive efforts directed at our young people—before they reach the age when they may engage in behaviors that place them at risk of infection—are also important. It is essential that AIDS education be provided in the schools, by incorporating this information into the health education curriculum wherever possible. Likewise, our nation's youth should be aware of the risk of possible spread of AIDS through I.V. drug use. Information about AIDS should be an integral part of substance abuse prevention efforts.

Finally, special education efforts must be made to ensure that all members of the medical and health care community are knowledgeable about AIDS. Such information is important to help health care workers provide effective care, to help them protect themselves against infection, and to guarantee that they can provide accurate information and counseling to their patients concerning the disease and how to prevent it. Similarly, education initiatives should be targeted to public safety personnel.

-17.3- Counseling and Testing

As part of this national education and prevention effort, increased resources must also be devoted to counseling and testing for the HIV antibody. Access to counseling services should be an integral part of the AIDS testing effort, both before and after testing and regardless of the test result. Counseling and testing represents a major opportunity to encourage, on a one to one basis, the behavior changes required to stop further spread of the HIV virus.

A key factor in containing the spread of AIDS is reducing intravenous drug abuse. Programs should be expanded to eliminate the significant waiting time frequently facing both those wishing to receive treatment for drug abuse and those desiring HIV testing and counseling. Yet the vast majority of drug users are not seeking treatment. Consequently, outreach should be extended to drug users not now in treatment to: get them into treatment; encourage them to be counseled and tested; and educate them about the dangers of high risk behaviors. Additionally, appropriate models to attract drug users to treatment should be developed.

Maintaining the confidentiality of HIV test results is a major concern of the Governors. Within the context of sound public health policy, states are encouraged to review their medical information and privacy laws and, where necessary, update these statutes to safeguard the rights of individuals tested.

The Governors are also concerned that individuals who test positive for the AIDS virus may face discrimination, despite the fact that all medical evidence to date shows that AIDS cannot be transmitted through casual contact. Clarification or modifications in law should be made where necessary to protect HIV positive individuals from inappropriately being denied opportunities in areas such as employment and housing.

-17.4- Research

A comprehensive national education and prevention program, with significant federal leadership, must be a central component of our nation's war against AIDS. At the same time, increased resources must be devoted to research—both to find a vaccine for AIDS as well as develop a treatment and cure for present and future AIDS patients. The federal government has the primary role to play in funding AIDS related research activities. The Governors urge that money appropriated for AIDS research be used expeditiously and that funding provided for AIDS research not be made at the expense of other public health priorities.

In addition to the substantial commitment made by the federal government, some states have provided leadership by funding AIDS research with state dollars. The Governors urge increased coordination between federal and state initiatives in this area to ensure the most efficient use of research dollars.

Treatment

Over the next few years, the growing number of AIDS and AIDS-related cases will place an increasing strain on our nation's health care delivery system. Estimates place the cost of caring for AIDS patients in the year 1991 at as much as \$16 billion. Now is the time to begin the fiscal and capacity planning required to address these future health care delivery needs. This should include an assessment of the appropriate burden of AIDS health care costs which should be borne by the public and private sectors.

At the same time, we need to provide appropriate services for those individuals presently suffering from AIDS. Adequately addressing the health care needs of AIDS patients requires establishment of a "continuum of care," including inpatient and outpatient hospital services, nursing home and alternative residential settings, home care, hospice care, psycho-social support services, and case management. Many state and local governments have led the way in providing health services for persons with AIDS; however, more research is required to determine the most humane and cost-effective way of providing AIDS-related care. The federal government has funded several demonstration projects to determine models for providing services to AIDS patients. The Governors urge increased federal support for state and local projects designed to develop the most efficient means of delivering AIDS care.

Moreover, the Governors recommend changes in the Medicaid program so that this program can better serve the needs of AIDS patients. Specifically, the Governors support liberalization of the current home and community-based waiver program so that states can more readily use this option to provide services to AIDS patients. State authority to provide appropriate support services for any Medicaid-eligible persons with AIDS should be contingent only upon filing information and assurances regarding state policies for service coverage and case management. States are encouraged to take advantage of such Medicaid options and to provide a range of community-based care, including hospice services.

Coordinated Strategy

AIDS is a disease which poses a wide range of ever-changing issues which cut across typical state agency jurisdictional lines. To address the many challenges posed by AIDS, states are encouraged to develop interagency task forces to develop a coordinated strategy to respond to AIDS. To assist states in these efforts, the Governors urge funding of a federal clearinghouse for state and federal AIDS education, research, health care, and services initiatives. Such a clearinghouse would be invaluable as states grapple with the ever-changing problems raised by this disease.

Finally, the Governors support efforts towards the establishment of a federal AIDS commission to guide the national response to the AIDS crisis. The commission should include representatives from the many interested parties touched by the AIDS crisis, including state representatives and community-based organizations. Such broad representation is necessary if the commission is to provide the leadership required to wage a coordinated fight against this deadly disease.

Adopted July 1987; reaffirmed February 1992.

BRIEFING PAPER
NATIONAL GOVERNORS' ASSOCIATION
EC-10: HIV/AIDS

The Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS) are critical Public Health problems in the nation. In recognition of the severity of these problems, we support the positions delineated by the National Governors' Association on HIV/AIDS.

As participants in the HIV Prevention Community Planning process, we agree and support the position of the National Governors' Association that Federal support for prevention efforts has been helpful but that states and territories must be given sufficient time to implement prevention strategies that evolve from the community planning process. We also must be afforded the flexibility to design and implement prevention programs at the Territorial level that meet our unique needs and are consistent with community values.

Counseling and testing have been very important components of the Territorial education and prevention effort, as well as that of the nation. In recognition of their importance in providing opportunities to encourage the behavior changes required to stop further spread of the HIV virus, we support the expansion of outreach, counseling, and testing services to injection drug users, and the development of models to attract drug users to treatment. We support the inclusion of AIDS prevention education as an integral part of substance abuse prevention efforts. We also agree that special education efforts must be made to ensure that all members of the medical and health care community are knowledgeable and have current information about AIDS prevention.

We also support the position of the Association that money appropriated for AIDS research be used expeditiously, and that funding provided for AIDS research not be made at the expense of other Public Health priorities. We agree that increased coordination between Federal and state initiatives in the area of AIDS research to ensure the most efficient use of research dollars is needed, and also urge the speedy dissemination of research results to the scientific community and practitioners.

The increasing number of AIDS and AIDS-related cases will put an enormous strain on the limited health-care delivery system in the Territory over the next few years. We strongly agree that fiscal and capacity planning is needed now to address these future health care delivery needs. We support the continuation of funding for demonstration projects to determine the most humane and cost-effective way of providing health care services for people with AIDS, and we strongly support the reauthorization of the Ryan White Care Act, after appropriate changes to the funding formula are made. The current formula uses total cases of AIDS to determine levels of assistance, and does not recognize the impact of the

disease on areas with smaller numbers of cases, but higher rates of infection.

In addition to the positions supported above, the Territory of Guam encourages the use of Federal funding to establish infrastructure and training in the area of sentinel surveillance for HIV/AIDS. More precise and thorough monitoring is needed to take a proactive and focused approach in outreach and prevention efforts to make the best use of available funds and stop the spread of the disease.

GOVERNOR'S BRIEFING BOOK

Executive Committee

3. EC-11: PROPOSED POLICY POSITION ON LONG-TERM CARE

BACKGROUND:

The demand for long-term care will continue to grow in the United States for the next half century because of America's aging population. The proposed policy calls for a more integrated approach to long-term care that supports the availability of a continuum of services, including home- and community-based care so that placement in nursing homes can be prevented or delayed for as long as possible.

OBJECTIVE:

- A comprehensive approach to long-term care and to recognize the importance of a viable market for long-term care insurance and managed care networks that address long-term care needs.

GUAM'S POSITION:

▶ Department of Public Health and Social Services

The Department did not present its position on this policy but provided the following information:

- the department contracts semi-community/home-based services, such as: limited managed care, hot meals, temporary home for the homeless, and assistance on daily living activities for senior citizens;
- Guam has privately-owned day care facility for the elderly and the disabled, contracted by the government to take care of 33 recipients;
- Guam does not provide state-run and/or federal funded residential facilities for people with mental illness; and
- Medicaid can neither afford nor provide for long-term care services for its old age and disabled eligible except for a maximum of 180 days of inpatient skilled nursing care.

EC-11. LONG-TERM CARE

11.1 PREAMBLE

THE U.S. POPULATION IS AGING; PEOPLE ARE LIVING LONGER AND IMPROVEMENTS IN MEDICAL TECHNOLOGY HAVE EXTENDED LIFE FOR MANY WITH SEVERE DISABILITIES. THESE DEMOGRAPHIC TRENDS AND TECHNOLOGICAL ADVANCES, WHEN CONSIDERED TOGETHER, SUGGEST THAT THE NEED FOR LONG-TERM CARE WILL CONTINUE TO GROW FOR THE NEXT HALF CENTURY. AS THIS DEMAND GROWS, SO WILL THE DEMAND FOR WELL-DESIGNED PRIVATE SAVINGS AND LONG-TERM CARE INSURANCE INSTRUMENTS, CAREFULLY INTEGRATED WITH RESPONSIVE, PUBLICLY FUNDED PROGRAMS. TYPICALLY, THE FRAIL ELDERLY AND PEOPLE WITH DISABILITIES REQUIRE BASIC SUPPORT FOR NORMAL EVERYDAY ACTIVITIES. THIS LONG-TERM CARE MAY BE PROVIDED EITHER THROUGH INSTITUTIONS (I.E., NURSING HOMES, RESIDENTIAL FACILITIES FOR PEOPLE WITH MENTAL ILLNESS, AND RESIDENTIAL FACILITIES FOR PEOPLE WITH MENTAL RETARDATION) OR A VARIETY OF HOME- AND COMMUNITY-BASED CARE SERVICES. IT ALSO IS IMPORTANT TO APPRECIATE THAT THERE IS A SIGNIFICANT AMOUNT OF FAMILY AND OTHER PRIVATE CAREGIVING ON BEHALF OF MANY CHRONICALLY ILL AND FUNCTIONALLY IMPAIRED INDIVIDUALS THAT SHOULD BE ACKNOWLEDGED AND SUPPORTED, RATHER THAN NECESSARILY REPLACED, AS BOTH PUBLIC AND PRIVATE POLICY OPTIONS FOR LONG-TERM CARE ARE DEVELOPED.

AMONG PUBLICLY FUNDED LONG-TERM CARE PROGRAMS, THERE ARE FOUR PRIMARY POPULATIONS SERVED—THE FRAIL ELDERLY, THE PHYSICALLY DISABLED, THE CHRONICALLY MENTALLY ILL, AND THE DEVELOPMENTALLY DISABLED. BECAUSE OF A LONG TRADITION OF DEVELOPING PUBLIC PROGRAMS AROUND CERTAIN POPULATION CATEGORIES, THE FUNDING STREAMS AND DELIVERY SYSTEMS FOR THESE POPULATIONS ARE DISTINCT AND TEND TO REFLECT THE UNIQUE NEEDS OF INDIVIDUALS IN EACH SUBPOPULATION.

VIRTUALLY ALL PUBLICLY FINANCED LONG-TERM CARE PROGRAMS ARE ADMINISTERED AT THE STATE OR LOCAL LEVEL, WITH THE LARGEST SHARE FUNDED BY THE MEDICAID PROGRAM. TO PAY FOR SERVICES, STATES OFTEN USE A COMBINATION OF FUNDS FROM MEDICAID, THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM, THE SOCIAL SERVICES BLOCK GRANT, THE OLDER AMERICANS ACT, THE COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT,

AND THE DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT, AS WELL AS STATE GENERAL REVENUES. BECAUSE PEOPLE WHO NEED LONG-TERM CARE ALSO MAY NEED SPECIALIZED HOUSING ASSISTANCE, STATES ALSO USE HOUSING AND URBAN DEVELOPMENT (HUD) RESOURCES, AS WELL AS SSI, TO PAY FOR CARE IN FACILITIES (SUCH AS BOARD AND CARE) THAT DOES NOT MEET INSTITUTIONAL MEDICAID DEFINITIONS.

ALTHOUGH A VARIETY OF PUBLIC PROGRAMS PROVIDE LONG-TERM CARE, MOST, INCLUDING MEDICAID, ARE AVAILABLE ONLY TO THOSE WITH LIMITED INCOME AND ASSETS. UNFORTUNATELY, WITH A HIGH DEMAND FOR THESE SERVICES, AND SEVERE LIMITS ON STATE AND FEDERAL FUNDING, MANY AMERICANS DO NOT QUALIFY FOR CARE. AS SUCH, THE BURDEN AND THE COST OF LONG-TERM CARE PRIMARILY FALL ON INDIVIDUALS AND THEIR FAMILIES. MOST AMERICANS BECOME AWARE OF THE PROHIBITIVE COSTS OF PROLONGED INSTITUTIONAL OR COMMUNITY-BASED LONG-TERM CARE ONLY WHEN CONFRONTED BY FAMILY ILLNESS. FEW ALTERNATIVES EXIST TO HELP PAY FOR INSTITUTIONAL CARE; EVEN FEWER ALTERNATIVES EXIST TO PAY FOR HOME- AND COMMUNITY-BASED CARE. IN MOST CASES, THE HIGH COSTS OF CARE ULTIMATELY FORCE PEOPLE TO SPEND THEIR LIFE SAVINGS AND THEN TURN TO MEDICAID FOR FINANCIAL ASSISTANCE.

CURRENT FEDERAL POLICIES ARE FRAGMENTED AND EMPHASIZE INSTITUTIONAL CARE. ALTHOUGH INSTITUTIONAL CARE MUST BE AVAILABLE TO AND AFFORDABLE FOR THOSE WHO NEED IT, FEDERAL POLICIES MUST BE REDESIGNED TO ENCOURAGE AVAILABILITY OF A CONTINUUM OF SERVICES, INCLUDING HOME- AND COMMUNITY-BASED CARE, WITH THE GOAL OF PREVENTING OR DELAYING ADMISSION INTO AN INSTITUTION FOR AS LONG AS POSSIBLE. THE INDEPENDENCE OF THE INDIVIDUAL MUST BE MAINTAINED AND ENHANCED TO THE MAXIMUM EXTENT POSSIBLE; FAMILY EFFORTS TO ASSIST THE INDIVIDUAL ALSO MUST BE SUPPORTED. MOREOVER, FEDERAL POLICY MUST ENCOURAGE AMERICANS TO PLAN FOR THEIR LONG-TERM CARE NEEDS. IN ADDITION TO PUBLIC PROGRAMS, THE FEDERAL GOVERNMENT SHOULD COORDINATE WITH STATES TO STIMULATE VIABLE, PRIVATE SECTOR LONG-TERM CARE INSURANCE PRODUCTS AND OTHER MEANS TO ASSIST INDIVIDUALS AND FAMILIES IN SECURING PRIVATE SOURCES OF PROTECTION AGAINST AT LEAST PART OF THE POTENTIAL COSTS OF LONG-TERM CARE.

11.2 A COMPREHENSIVE LONG-TERM CARE SYSTEM

IN RECENT YEARS, A NUMBER OF FEDERAL PROPOSALS WOULD HAVE ESTABLISHED A NEW FEDERAL PUBLICLY FINANCED HOME- AND COMMUNITY-BASED SERVICES PROGRAM. SUCH A PROGRAM WOULD FILL A MAJOR GAP IN THE FINANCING OF LONG-TERM CARE AND WOULD OFFER CONSUMERS AN ALTERNATIVE TO NURSING HOMES. ALTHOUGH A NEW PROGRAM WOULD GO A LONG WAY TOWARD ADDRESSING AN UNMET DEMAND, THE NEED FOR A COMPREHENSIVE APPROACH THAT INTEGRATES COMMUNITY-BASED AND INSTITUTIONAL LONG-TERM CARE REMAINS.

THE MOST COMPREHENSIVE APPROACH TO SUCH INTEGRATION WOULD OFFER A CHOICE OF SERVICES IN A RANGE OF SETTINGS AND WOULD PROVIDE A PLAN OF CARE TO ALL IN NEED. A REFORMED SYSTEM COULD COMBINE INDIVIDUAL RESOURCES, PRIVATE RESOURCES, AND PUBLIC FINANCING STREAMS AND REMOVE THE BIAS TOWARD INSTITUTIONAL CARE. UNDER THIS COMPREHENSIVE APPROACH, STATES WOULD RECEIVE FUNDING FROM A SINGLE SOURCE—MEDICAID, OR A NEW PROGRAM THAT INCORPORATES MEDICAID LONG-TERM CARE SERVICES—TO INTEGRATE NURSING FACILITY AND HOME- AND COMMUNITY-BASED SERVICES IN A SINGLE PROGRAM. STATES WOULD HAVE THE FLEXIBILITY TO USE THIS NEW FUNDING STREAM TO SUPPORT CARE PROVIDED TO PEOPLE WHO LIVE IN NURSING HOMES, IN OTHER CONGREGATE SETTINGS, OR IN THEIR OWN HOMES. STATES COULD ADMINISTER THE PROGRAM AS ONE INTEGRATED PROGRAM SERVING ALL POPULATIONS IN NEED OR THROUGH TWO OR MORE STATE AGENCIES SERVING SPECIFIC POPULATIONS. TO ACCOMMODATE SUCH A STRATEGY, CONGRESS, THE ADMINISTRATION, AND THE STATES SHOULD WORK TOGETHER TO:

- ENCOURAGE A CONSUMER-FOCUSED SYSTEM OF LONG-TERM HEALTH CARE;
- ELIMINATE THE INSTITUTIONAL BIAS OF CURRENT LONG-TERM CARE PROGRAMS;
- INCREASE THE SUPPLY OF LONG-TERM CARE OPTIONS, INCLUDING A RANGE OF COMMUNITY-BASED AND IN-HOME SERVICES;
- INTEGRATE DELIVERY SYSTEMS FOR INSTITUTIONAL, RESIDENTIAL, AND COMMUNITY AND IN-HOME SERVICES;

- ENSURE THAT ADEQUATE CONSUMER PROTECTIONS ARE ESTABLISHED FOR BENEFICIARIES;
- EMPHASIZE COST-EFFECTIVE TREATMENT IN THE LEAST RESTRICTIVE SETTING;
- INTEGRATE FEDERAL, STATE AND, WHERE POSSIBLE, PRIVATE FINANCING STREAMS TO PROVIDE CONTINUITY OF CARE;
- INTEGRATE HEALTH, SOCIAL SERVICE, AND HOUSING FUNDING STREAMS; AND
- STIMULATE DEVELOPMENT OF A VIABLE PRIVATE LONG-TERM CARE INSURANCE PRODUCT MARKET.

THE SYSTEM MUST BE AVAILABLE TO INDIVIDUALS OF ALL AGES WHO NEED ASSISTANCE IN THEIR ACTIVITIES OF DAILY LIVING, AND IT MUST BE CAPABLE OF PROVIDING A BROAD RANGE OF SERVICES, INCLUDING HOME- AND COMMUNITY-BASED CARE.

11.3 PRIVATE LONG-TERM CARE INSURANCE

IN RECENT YEARS, THERE HAS BEEN GROWTH IN THE AVAILABILITY OF PRIVATE LONG-TERM CARE INSURANCE. ALTHOUGH THE GROWTH OF THIS MARKET HAS BEEN SLOW AND HAS HAD MIXED SUCCESS, FOR THOSE WHO HAVE ACCESS TO AND CAN AFFORD SUCH COVERAGE, IT MAY REPRESENT A REASONABLE ALTERNATIVE TO PUBLIC FINANCING. OF PARTICULAR INTEREST ARE NEW EFFORTS IN SOME STATES TO CREATE A PRIVATE-PUBLIC PARTNERSHIP FOR LONG-TERM CARE INSURANCE THAT ALLOWS INDIVIDUALS TO PURCHASE STATE-CERTIFIED PRIVATE POLICIES AND THEN HAVE A PORTION OF THEIR ASSETS PROTECTED ONCE THE PRIVATE BENEFITS ARE PAID OUT AND PUBLIC FINANCING BECOMES NECESSARY. THESE PUBLIC-PRIVATE PARTNERSHIPS MUST BE PERMITTED TO CONTINUE, AND FEDERAL BARRIERS MUST BE ELIMINATED. IN ADDITION, AUTHORITY TO IMPLEMENT SUCH PROGRAMS MUST BE EXPANDED TO ALL STATES.

ALTHOUGH PUBLIC-PRIVATE INITIATIVES MUST BE SUPPORTED, THE GOVERNORS REMAIN CONCERNED ABOUT THE QUALITY OF MANY OF THE PRIVATE LONG-TERM CARE POLICIES THAT ARE CURRENTLY AVAILABLE. OFTEN, THE POLICIES HAVE LIMITED COVERAGE FOR HOME CARE AND LACK ADEQUATE CONSUMER PROTECTION PROVISIONS. FOR EXAMPLE, THEY OFTEN HAVE HIGH

LAPSE RATES, REQUIRE MEDICAL UNDERWRITING, ARE UNAVAILABLE TO PEOPLE WITH EXISTING DISABILITIES, OR ARE NOT PROTECTED AGAINST INFLATION. ALSO, SOME INSURERS HAVE NOT BEEN FORTHCOMING IN PAYING OUT BENEFITS. IN ADDITION, THEY ARE OFTEN SO EXPENSIVE TO PURCHASE THAT THEY ARE UNAFFORDABLE FOR A LARGE SEGMENT OF THE GENERAL POPULATION.

THE GOVERNORS, WITH THE STATE INSURANCE COMMISSIONERS, WILL WORK WITH THE INSURANCE INDUSTRY, CONGRESS, AND CONSUMER GROUPS TO ENSURE THAT COVERAGE IS AVAILABLE FOR HOME- AND COMMUNITY-BASED SERVICES, THAT MODEL CONSUMER PROTECTION STANDARDS ARE ADOPTED AND FOLLOWED, THAT POLICIES ARE AVAILABLE THAT ARE REASONABLE IN COST, THAT EFFECTIVE OUTREACH IS CONDUCTED REGARDING THESE POLICIES, AND THAT PUBLIC EDUCATION PROGRAMS ARE AVAILABLE REGARDING THE IMPORTANCE OF EARLY INDIVIDUAL PLANNING FOR LONG-TERM CARE NEEDS.

THE GOVERNORS RECOGNIZE THAT PRIVATE LONG-TERM CARE INSURANCE IS NOT A PANACEA FOR THE NATION'S LONG-TERM HEALTH CARE PROBLEMS. IN LIGHT OF THE LONGEVITY OF THE POPULATION, THE GROWING NEED FOR HOME- AND COMMUNITY-BASED CARE, THE AVERAGE LENGTH OF STAY FOR INSTITUTIONAL CARE, AND THE FIXED INCOMES OF THOSE MOST AT RISK OF NEEDING LONG-TERM CARE, THE GOVERNORS FURTHER RECOGNIZE THAT A SOLUTION IS NOT EASILY ACHIEVABLE AND THAT INTERVENTIONS THAT PROVIDE APPROPRIATE CARE, REAL PROTECTIONS, AND FISCAL GUARANTEES MUST BE CRAFTED.

11.4 MANAGED CARE AND LONG-TERM CARE

WITH THE PROLIFERATION OF NETWORKS OF CARE, THE NEXT LIKELY AREA FOR THE DEVELOPMENT OF INTEGRATED HEALTH CARE NETWORKS IS IN LONG-TERM CARE. THREE GENERAL STRATEGIES EXIST FOR THE APPLICATION OF MANAGED CARE PRACTICES TO LONG-TERM CARE. THE FIRST IS THE INTEGRATED CARE MODEL, WHICH ATTEMPTS TO COMBINE BOTH PRIMARY AND PREVENTIVE CARE, AS WELL AS HOME- AND COMMUNITY-BASED AND INSTITUTIONAL CARE, INTO A SINGLE INTEGRATED SYSTEM. THE SECOND IS THE PRIMARY/ACUTE CARE MODEL, WHICH FOCUSES SOLELY ON PRIMARY AND PREVENTIVE CARE BUT EXCLUDES LONG-TERM CARE SERVICES. THIS MODEL, WHILE TECHNICALLY NOT LONG-TERM CARE, IS EXTREMELY IMPORTANT

BECAUSE HEALTH CARE NETWORKS DO NOT HAVE MUCH EXPERIENCE PROVIDING PRIMARY AND PREVENTIVE CARE TO THE FRAIL ELDERLY AND PEOPLE WITH DEVELOPMENTAL OR PHYSICAL DISABILITIES—INDIVIDUALS WITH UNIQUE AND DEMANDING HEALTH CARE NEEDS. THE THIRD STRATEGY IS THE LONG-TERM CARE MODEL, WHICH FOCUSES ON INTEGRATION OF HOME- AND COMMUNITY-BASED CARE AND INSTITUTIONAL CARE BUT EXCLUDES PRIMARY AND PREVENTIVE CARE. COMMON TO ALL THREE MODELS IS THE GOAL OF PROVIDING QUALITY AND COST-EFFICIENT CARE IN THE LEAST RESTRICTIVE SETTING.

ALTHOUGH IN ITS INFANCY, STATES AND THE FEDERAL GOVERNMENT ARE CONDUCTING DEMONSTRATIONS TO ASSESS THE EFFICACY OF EACH OF THESE THREE GENERAL APPROACHES. THE GOVERNORS CALL ON CONGRESS AND THE ADMINISTRATION TO ENSURE THAT THERE IS SUFFICIENT FLEXIBILITY IN FEDERAL MEDICARE AND MEDICAID STATUTES SO THAT CONTINUED TESTING OF THESE MODELS CAN OCCUR. MOREOVER, THE GOVERNORS ARE COMMITTED TO WORKING WITH CONGRESS, THE ADMINISTRATION, AND HEALTH CARE PROVIDERS AND BENEFICIARIES TO ENSURE THAT NETWORKS OF CARE ARE PRACTICAL AND VIABLE FOR PEOPLE WITH DEVELOPMENTAL AND PHYSICAL DISABILITIES.

11.5 CONCLUSION

AS THE NATION ENTERS THE TWENTY-FIRST CENTURY, THE POPULATION NEEDING LONG-TERM CARE WILL CONTINUE TO GROW. FEDERAL AND STATE ACTION IS NEEDED NOW TO PLAN FOR THIS CERTAINTY. SOME TIME REMAINS TO DEVELOP AND ASSESS POLICIES THAT COULD LEAD TO COST-EFFICIENT, QUALITY MEDICAL AND SUPPORT SERVICES. HOWEVER, IF THIS TIME IS NOT USED WISELY, THE COSTS IN TERMS OF QUALITY OF LIFE FOR INDIVIDUALS AND THEIR FAMILIES, AND IN STATE AND FEDERAL SPENDING, COULD BE QUITE SUBSTANTIAL.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

Long Term Care

Guam has as of the last population count a total number of 140,000. This includes both the civilian and military population.

This island has one (1) thirty three (33)-bed maximum capacity skilled nursing care facility (SNF) and a limited bed-capacity mental facility both run by the Government; and a fifty nine (59)-bed capacity privately-run intermediate care facility (ICF) for senior citizens fifty five (55) years and above.

The Department of Public Health and Social Services under the Divisions of Public Welfare/Senior Citizens contracts semi-community/home-based services such as: limited managed care, assistance on daily living activities, hot meals, and temporary home for the homeless. In addition, the government administers an "Adult Protective Services" program that advocates for the protection of the elderly against abuse and neglect.

Guam has several non-profit, civic, religious and private organizations that fill to a certain extent the gap created by the limited government-funded services to the elderly. Guam has a privately-operated day care facility for the elderly and disabled contracted by the Government to take care of thirty three (33) recipients.

Guam does not provide neither state-run and/or federal funded residential facilities for people with mental illness and retardation nor a nursing home for custodial care. It does however, provide limited funding for residential/medical care of off-island referred "troubled" foster children.

Guam is unique compared to most continental states. Close and extended family ties are norms. Families are known to provide care for their own family members. Respite is requested within family circle and friends should it become necessary. I suppose that under this scenario, Guam can go a long way by being allowed federal funding to go on a demonstration on a home-based long-term care, something akin to the concept of a "nursing home without walls".

The federal matching capped program, Guam Medicaid, can neither afford nor provide for long term care services for its old age and disabled eligibles except for a maximum of 180 days of inpatient skilled nursing care.

GOVERNOR'S BRIEFING BOOK

Executive Committee

4. EC-12: PROPOSED POLICY POSITION ON MEDICAID

BACKGROUND:

The Medicaid Program continues to have the fastest-growing state expenditure representing more than 18% of the total state budget. Over the years, state-federal partnership in Medicaid has deteriorated to a point that now the states have limited flexibility in administering the program. The policy provides a series of programmatic recommendations to restore flexibility to states. These recommendations include: to allow more flexibility in establishing managed care networks; establishing institutional reimbursement rates; and designing and implementing home- and community-based care programs as an alternative to institutional long-term care.

OBJECTIVES:

- The reestablishment of state-federal partnership through a series of programmatic recommendations to restore important flexibility to states.
- To relax the unilateral cap on federal Medicaid spending and repeal certain unfunded mandates.

GUAM'S POSITION:

► Department of Public Health and Social Services

The Department supports the policy establishing state-federal partnership through a series of programs. The Department voices its concern on waiver applications which are so complicated and recommends that states and territories should be given flexibility to establish and administer through a plan amendment process but within federal guidelines.

EC-12. MEDICAID

12.1 PREAMBLE

THE MEDICAID PROGRAM IS A STATE/FEDERAL PROGRAM THAT SERVES AS THE PRIMARY SOURCE OF ACUTE HEALTH CARE COVERAGE AND LONG-TERM CARE FOR THE POOR. BECAUSE IT IS A NATIONAL PROGRAM SERVING MORE THAN 30 MILLION BENEFICIARIES, THE GOVERNORS BELIEVE THAT QUALITY SERVICES MUST BE PROVIDED AS EFFICIENTLY AND EFFECTIVELY AS POSSIBLE.

IN 1994 APPROXIMATELY \$141 BILLION WILL BE SPENT IN THE MEDICAID PROGRAM. OF THAT AMOUNT, ABOUT \$60 BILLION WILL BE STATE FUNDS. MEDICAID IS NOW ONE OF THE LARGEST COMPONENTS OF STATE BUDGETS, COMPRISING 18 PERCENT OF STATE SPENDING. NOT ONLY IS MEDICAID GROWING IN BOTH ABSOLUTE AND RELATIVE TERMS, IT REMAINS THE FASTEST-GROWING STATE EXPENDITURE. AS A RESULT, STATES ARE EXPERIENCING GREAT DIFFICULTY IN FINDING THE MONEY TO FUND MEDICAID. EVEN MORE IMPORTANT, PERHAPS, IS THAT INCREASED MEDICAID SPENDING MAKES IT DIFFICULT, IF NOT IMPOSSIBLE, TO INCREASE FUNDING FOR OTHER PRIORITIES, SUCH AS EDUCATION. FINDING WAYS TO CONTROL MEDICAID SPENDING IS A MAJOR PRIORITY FOR THE GOVERNORS.

MEDICAID FINANCING AND ADMINISTRATION ARE SHARED JOINTLY BY THE FEDERAL GOVERNMENT AND THE STATES. OVER THE PAST FIVE YEARS, FEDERAL POLICYMAKERS HAVE NARROWED THE ADMINISTRATIVE FLEXIBILITY OF STATES AND MADE LEGISLATIVE AND REGULATORY CHANGES THAT MANDATE GREATLY INCREASED STATE EXPENDITURES. AS A RESULT, STATES INCREASINGLY VIEW THEIR RELATIONSHIP WITH THE FEDERAL GOVERNMENT NOT AS A PARTNERSHIP, BUT AS A RELATIONSHIP IN WHICH STATES HAVE BEEN FORCED TO ACCEPT FEDERAL MANDATES THAT HAVE GREAT IMPACT ON STATE BUDGETS AND HEALTH POLICY INITIATIVES.

STATES MUST HAVE RELIEF FROM THE REAL AND PRESSING PROBLEMS PRESENTED BY THE MEDICAID PROGRAM IF THEY ARE TO MOVE FORWARD WITH LONG-TERM SOLUTIONS. THEREFORE, THE GOVERNORS CALL ON CONGRESS AND THE ADMINISTRATION TO WORK TO IMMEDIATELY ADDRESS THE PROBLEMS WITH THIS PROGRAM. INCLUDED AMONG THOSE SOLUTIONS MUST BE AN OVERALL REDUCTION IN FEDERAL STATUTORY AND REGULATORY MICRO-MANAGEMENT THAT HAS TYPIFIED THE PROGRAM IN THE LAST DECADE.

12.2 PROGRAMMATIC RECOMMENDATIONS

12.2.1 IMPOSE NO UNILATERAL CAPS FOR FEDERAL SPENDING ON MEDICAID ENTITLEMENTS. A UNILATERAL FEDERAL CAP ON THE MEDICAID PROGRAM WILL SHIFT COSTS TO STATE AND LOCAL GOVERNMENTS THAT THEY SIMPLY CANNOT AFFORD. THE GOVERNORS ADAMANTLY OPPOSE A CAP ON FEDERAL MEDICAID SPENDING. IF CONGRESS IS SERIOUS ABOUT REDUCING THE COSTS OF THE PROGRAM, THEY MUST REEXAMINE THE AUTHORIZING LEGISLATION THAT HAS BROUGHT THE PROGRAM TO THE CONDITION IT IS IN TODAY AND RESTRUCTURE THE PROGRAM TO MAKE IT CONSISTENT WITH CONGRESSIONAL SPENDING STRATEGIES.

12.2.2 ALLOW STATES GREATER FLEXIBILITY TO ESTABLISH MANAGED CARE NETWORKS. THERE IS A NATIONAL TREND IN HEALTH CARE SERVICE DELIVERY TOWARD ORGANIZED SYSTEMS OF CARE. THESE SYSTEMS OR NETWORKS HAVE BEEN SHOWN TO PROVIDE COST-EFFICIENT, QUALITY CARE WHILE ENSURING THAT THE PATIENT HAS A RELIABLE PLACE FROM WHICH TO SEEK PRIMARY CARE AND TO WHICH SPECIALTY CARE CAN BE DIRECTED. SYSTEMS OF COORDINATED CARE HAVE PARTICULAR BENEFITS FOR MEDICAID BENEFICIARIES. THESE SYSTEMS ENSURE A MEDICAL HOME FOR BENEFICIARIES, ENCOURAGE PRIMARY AND PREVENTIVE CARE, AND DISCOURAGE THE USE OF EMERGENCY ROOMS AND SPECIALISTS FOR ROUTINE MEDICAL CARE.

ALTHOUGH THE PRIVATE SECTOR IS MOVING AGGRESSIVELY TOWARD THESE NETWORKS, THE MEDICAID PROGRAM CONTINUES TO REQUIRE STATES, IN VIRTUALLY ALL CASES, TO APPLY FOR A WAIVER FROM FEE-FOR-SERVICE CARE IN ORDER TO ENROLL MEDICAID BENEFICIARIES IN SUCH NETWORKS. ALTHOUGH THE BUSH AND CLINTON ADMINISTRATIONS HAVE TAKEN SIGNIFICANT STEPS TOWARD SIMPLIFYING THE APPLICATION AND RENEWAL PROCESS, STATES STILL MUST APPLY FOR RENEWALS EVERY TWO YEARS. MOREOVER, STATES HAVE BEEN UNABLE TO SUSTAIN NETWORKS WHERE THERE IS A PREDOMINANCE OF MEDICAID BENEFICIARIES BECAUSE, UNDER CURRENT LAW, STATES ARE PERMITTED ONLY ONE NONRENEWABLE THREE-YEAR WAIVER TO HAVE BENEFICIARIES SERVED IN A HEALTH MAINTENANCE ORGANIZATION (HMO) WHERE MORE THAN 75 PERCENT OF THE ENROLLEES IN THE HMO ARE MEDICAID BENEFICIARIES. THIS REQUIREMENT SHOULD BE REPEALED.

IF THE NATION IS SERIOUS ABOUT CONTROLLING HEALTH CARE COSTS, IT IS ESSENTIAL TO GIVE STATES THE OPPORTUNITY TO ESTABLISH NETWORKS IN

MEDICAID (INCLUDING FULLY AND PARTIALLY CAPITATED SYSTEMS) THROUGH THE REGULAR PLAN AMENDMENT PROCESS. THE GOVERNORS RECOGNIZE THE SPECIAL SIGNIFICANCE OF CONSUMER PROTECTIONS AND ASSURANCE OF SOLVENCY IN ESTABLISHING THESE SYSTEMS OF CARE.

12.2.3 GIVE STATES GREATER LEEWAY IN CONTAINING THE COST OF HOSPITAL AND LONG-TERM CARE THROUGH THE BOREN AMENDMENT. THE BOREN AMENDMENT TO THE MEDICAID PROVISIONS OF THE SOCIAL SECURITY ACT WAS PASSED IN THE EARLY 1980S TO GIVE STATES GREATER FLEXIBILITY IN ESTABLISHING REIMBURSEMENT RATES FOR HOSPITALS AND NURSING HOMES AND TO ENCOURAGE HEALTH CARE COST CONTAINMENT. INSTEAD, IT HAS LED TO HAVOC IN THE ADMINISTRATION OF MEDICAID PROGRAMS. THE COURTS HAVE INTERPRETED THE BOREN AMENDMENT TO EMBODY A RESTRICTIVE AND UNREALISTIC SET OF REQUIREMENTS IN SETTING REIMBURSEMENT RATES AND HAVE IN EFFECT GIVEN JUDGES THE POWER TO ESTABLISH REIMBURSEMENT RATES LEVELS AND CRITERIA. BECAUSE OF THESE DECISIONS, STATES REMAIN FRUSTRATED IN THEIR ABILITY TO BRING DISCIPLINE TO THEIR BUDGETS AND HAVE BEEN THWARTED IN THEIR ATTEMPTS TO ACHIEVE THE ORIGINAL PURPOSE OF THE AMENDMENT.

12.2.3.1 STATUTORY AND REGULATORY CHANGES. THE NATION'S GOVERNORS BELIEVE THAT ANY COHERENT APPROACH TO NATIONAL HEALTH CARE REFORM MUST ADDRESS THE INFLEXIBLE PROVIDER REIMBURSEMENT STANDARD OF THE BOREN AMENDMENT. THEY BELIEVE THAT A STATUTORY CHANGE TO THIS AMENDMENT IS A NECESSARY TOOL TO BRING MEDICAID INSTITUTIONAL COSTS UNDER CONTROL. THEREFORE, THE GOVERNORS URGE THE ADMINISTRATION AND CONGRESS TO ADOPT THESE OR OTHER CHANGES TO THE BOREN AMENDMENT THAT WILL GIVE STATES THE RELIEF THEY NEED.

THE GOVERNORS AGREE THAT STANDARDS FOR ESTABLISHING ADEQUATE REIMBURSEMENT RATES FOR HOSPITALS, NURSING FACILITIES, AND INTERMEDIATE CARE FACILITIES FOR PEOPLE WITH MENTAL RETARDATION MUST BE DESIGNED TO PROMOTE ACCESS TO CARE FOR MEDICAID PATIENTS, QUALITY OF SERVICES, COST CONTAINMENT, AND EFFICIENT SERVICE DELIVERY. THE GOVERNORS SUPPORT A STRATEGY THAT WOULD REPLACE THE CURRENT COST-EFFICIENCY-BASED STANDARD IN THE BOREN AMENDMENT WITH PROVISIONS THAT ESTABLISH "SAFE HARBOR" STANDARDS, WHERE A STATE

MEETING ANY OF THESE "SAFE HARBOR" PROVISIONS WOULD SATISFY THE STATUTE. STANDARDS MIGHT INCLUDE THE FOLLOWING.

- THE PAYMENT RATE IS EQUAL TO THE MEDICARE-BASED UPPER PAYMENT LIMIT.
- THE PAYMENT RATE IS NO LESS THAN THE RATE AGREED TO BY THE FACILITY FOR COMPARABLE SERVICES PAID FOR BY ANOTHER PAYER (E.G., PAYMENT RATES FOR MEDICAID PATIENTS WOULD NOT HAVE TO BE HIGHER THAN RATES PAID BY ANY LARGE MANAGED CARE PLANS OR LARGE BUSINESSES).
- REGARDING NURSING FACILITIES, THE AGGREGATE NUMBER OF PARTICIPATING LICENSED AND CERTIFIED NURSING HOME BEDS IN THE STATE (PLUS RESOURCES DEVOTED TO HOME- OR COMMUNITY-BASED CARE FOR THE ELDERLY) IS AT LEAST EQUAL TO A SPECIFIED PERCENTAGE OF THE POPULATION AGE 65 OR OVER.
- THE REIMBURSEMENT RATE IS SUFFICIENT TO COVER AT LEAST 80 PERCENT OF THE ALLOWABLE COSTS OF ALL FACILITIES IN THE CLASS IN THE STATE IN THE AGGREGATE OR IS SUFFICIENT TO COVER THE ALLOWABLE COSTS OF 50 PERCENT OF ALL FACILITIES IN THE CLASS IN THE STATE.
- THE REIMBURSEMENT RATE IS EQUAL TO A BENCHMARK RATE PLUS INFLATION, NO LESS THAN THE RATE OF INFLATION FOR THE OVERALL ECONOMY ACCORDING TO A GENERAL INDEX (NATIONAL OR STATE) SUCH AS THE CONSUMER PRICE INDEX OR THE GROSS DOMESTIC PRODUCT. THE BENCHMARK RATE WOULD BE THE APPROVED RATE AS OF THE DATE OF ENACTMENT OF THE STATUTE OR THE CURRENT RATE APPROVED BY THE HEALTH CARE FINANCING ADMINISTRATION (HCFA). THIS STANDARD IS SATISFIED BY A RATE METHODOLOGY CURRENTLY IN EFFECT AND APPROVED BY HCFA THAT CONTAINS A PROVISION FOR INFLATION ADJUSTMENTS.

THE GOVERNORS ALSO BELIEVE THAT THE BOREN AMENDMENT IS NOT APPLICABLE WHEN A HOSPITAL ENGAGES IN RATE NEGOTIATIONS AS PART OF ITS PARTICIPATION IN A NETWORK SERVING MEDICAID BENEFICIARIES.

THE GOVERNORS ALSO BELIEVE THAT THE PROCEDURAL REQUIREMENTS IN THE CURRENT BOREN AMENDMENT MUST BE STREAMLINED.

FINALLY, THE GOVERNORS SUPPORT STRATEGIES THAT WOULD REDUCE OR ELIMINATE THE COSTS OF PROLONGED AND COSTLY LITIGATION.

12.2.4 ALLOW STATES TO MANAGE COSTS IN THE EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT (EPSDT) PROGRAM BY PROVIDING SERVICES WITHIN THEIR STATE MEDICAID PLAN AND SELECTING LESS COSTLY ALTERNATIVES FOR DIAGNOSIS AND TREATMENT WITHOUT RISKING QUALITY. UNDER CURRENT POLICY, STATES HAVE NO ABILITY TO LIMIT THE RANGE OR COST OF SERVICES REQUIRED IN THE EPSDT PROGRAM. THIS OPEN-ENDED REQUIREMENT IS DRIVING UP THE COST OF THE MEDICAID BUDGET AT UNCONTROLLABLE RATES. THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES NEEDS TO ISSUE RULES THAT ALLOW STATES TO EFFICIENTLY MANAGE CASE COSTS AND UTILIZE THE LEAST EXPENSIVE ALTERNATIVES FOR PROVIDING SERVICES WITHOUT REDUCING THE QUALITY OF CARE.

12.2.5 ENSURE THAT STATES WILL NOT BE EXPECTED TO IMPLEMENT ANY MEDICAID PROGRAM CHANGES UNTIL THE HEALTH CARE FINANCING ADMINISTRATION HAS PUBLISHED FINAL REGULATIONS TO GUIDE PROGRAM ADMINISTRATION. IN TOO MANY CASES, HCFA HAS FAILED COMPLETELY TO PUBLISH REGULATIONS ASSOCIATED WITH STATUTORY CHANGES IN THE MEDICAID PROGRAM OR HAS DONE SO AFTER MANY YEARS OF DELAY. TOO OFTEN, STATES HAVE HAD TO IMPLEMENT STATUTORY CHANGES AND IN SOME CASES, HAVE BEEN HELD FINANCIALLY ACCOUNTABLE FOR UNCLEAR LAWS, EVEN THOUGH HCFA FAILED TO PROVIDE CLARIFICATION THROUGH IMPLEMENTING REGULATIONS.

12.2.6 PROMOTE COST CONTROL AND EFFICIENCY. STATES SHOULD BE ENCOURAGED TO CONTINUE INNOVATIONS IN PROVIDER PAYMENT METHODS. THOUGH MEDICARE AND MOST PRIVATE PAYERS HAVE MOVED AWAY FROM COST-BASED REIMBURSEMENT, FEDERAL LEGISLATION HAS MANDATED THAT CERTAIN MEDICAID PROVIDERS BE PAID ON THE BASIS OF COSTS. MANDATORY "REASONABLE COST" REIMBURSEMENT STRATEGIES SHOULD BE REPEALED.

IN ADDITION, WITH RESPECT TO THREE PARTICULARLY TROUBLESOME MANDATES OVER THE LAST FOUR YEARS, THE GOVERNORS CALL UPON CONGRESS AND THE ADMINISTRATION TO MAKE THE FOLLOWING SPECIFIC, PROGRAMMATIC CHANGES.

- 12.2.7** ASSUME FULL FINANCIAL RESPONSIBILITY FOR ALL LOW-INCOME MEDICARE BENEFICIARIES WHO ARE NOT OTHERWISE MEDICAID-ELIGIBLE. SINCE THE PASSAGE OF THE MEDICARE CATASTROPHIC LEGISLATION IN 1988, THE FEDERAL GOVERNMENT HAS INCREASINGLY PASSED ON TO THE STATES THE RESPONSIBILITY TO PROTECT LOW-INCOME MEDICARE BENEFICIARIES (E.G., THE QUALIFIED MEDICARE BENEFICIARY PROGRAM). THE MEDICARE PROGRAM IS A FEDERAL PROGRAM AND THE FEDERAL GOVERNMENT SHOULD BEAR ALL OF ITS COSTS.
- 12.2.8** RECONSIDER THE NURSING HOME REFORM MANDATES IN THE OMNIBUS RECONCILIATION ACT OF 1987. CONGRESS MANDATED EXTENSIVE NEW QUALITY ASSURANCE MEASURES FOR THE MEDICAID NURSING HOME PROGRAM. THE STATUTORY LANGUAGE PERMITS LIMITED STATE FLEXIBILITY AND PUTS CONGRESS IN THE POSITION OF MICRO-MANAGING THE PROGRAM. IN ADDITION, CONGRESS SHOULD REPEAL THE PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW (PASARR) REQUIREMENTS. SINCE ENACTMENT, STATES HAVE FOUND PASARR TO BE EXTREMELY COST-INEFFICIENT AND HAVE DEVELOPED OTHER STRATEGIES TO ENSURE THE APPROPRIATE PLACEMENT OF INDIVIDUALS WITH DISABILITIES. IN ADDITION, THE SPECIALIZED ANNUAL RESIDENT REVIEW FOR MENTAL ILLNESS AND MENTAL RETARDATION IS DUPLICATIVE OF EXISTING ANNUAL REVIEW PROCESSES.
- 12.2.9** MAKE AUDIT AND DISALLOWANCE POLICIES MORE EQUITABLE. UNDER CURRENT LAW, FEDERAL AUDIT AND DISALLOWANCE REQUIREMENTS DO NOT DISCRIMINATE BETWEEN VIOLATIONS OF "OBSCURE POLICIES" AND THOSE THAT HAVE DIRECT HARM TO BENEFICIARIES. THE STATUTE SHOULD BE REVISED TO PROHIBIT FEDERAL PRACTICES THAT IMPOSE HEAVY PENALTIES WHEN THE VIOLATION CONSTITUTES NO BENEFICIARY HARM.
- 12.2.10** ALLOW GREATER FLEXIBILITY IN MEDICAID HOME- AND COMMUNITY-BASED CARE (HCBC) PROGRAMS. HOME- AND COMMUNITY-BASED CARE IS AN IMPORTANT ALTERNATIVE TO INSTITUTIONAL CARE FOR THE ELDERLY AND PEOPLE WITH CHRONIC AND DISABLING CONDITIONS. CURRENTLY, EVERY STATE IN THE COUNTRY HAS AT LEAST ONE HCBC PROGRAM. EXISTING MEDICAID STATUTES REQUIRE STATES TO ESTABLISH AND ADMINISTER THESE PROGRAMS THROUGH WAIVERS. THE STATUTES MUST BE REVISED TO GIVE STATES THE AUTHORITY TO ADMINISTER HCBC PROGRAMS THROUGH A PLAN AMENDMENT PROCESS. HOWEVER, STATES MUST BE ABLE TO RETAIN THE AUTHORITY TO LIMIT THE

NUMBER OF BENEFICIARIES RECEIVING MEDICAID HOME- AND COMMUNITY-BASED CARE. FINALLY, CONGRESS AND THE STATES MUST WORK TOGETHER TO RESTRUCTURE THE MEDICAID PROGRAM TO ELIMINATE THE INCENTIVE TO PLACE BENEFICIARIES IN INSTITUTIONAL CARE WHEN COMMUNITY CARE WOULD BE MORE APPROPRIATE AND POSSIBLY MORE COST-EFFICIENT.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

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Medicaid

Guam Medicaid aside from being a 50/50 matched program, federal funding is capped. Under this scenario, Guam is placed in a dilemma regarding adoption of additional unfunded federal mandates. What this does to the Territory is a definite unaffordable shifting of cost to the local government.

The cumbersome requirement for States/Territories to request for waivers in almost all situations and renewals despite the availability of good experiences from these waivers, is a deterrent for Guam to be more innovative. Waiver applications should be made more simple. Or else, give the State/Territories the flexibility to establish and administer through a plan amendment process but within broad Federal guidelines.

GOVERNOR'S BRIEFING BOOK

Executive Committee

5. EC-13: PROPOSED POLICY POSITION ON CONFERENCE OF THE STATES

BACKGROUND:

This is a current interim policy position adopted by the Executive Committee on December 19, 1994, thus the association, by rule, is required to approve it at the winter meeting.

The policy proposes that state legislatures pass a "Resolution of Participation" in a conference of the states that would develop a "States' Petition" as a new form of communication between the states and Congress. Once adopted by a majority of the states, the petition would be presented to Congress for action.

OBJECTIVE:

- For all state legislatures to develop recommendations for constitutional and/or statutory changes that would ensure the appropriate balance between federal and state governments.

GUAM'S POSITION:

- No briefing papers were provided by agencies.

EC-13. CONFERENCE OF THE STATES

THE NATIONAL GOVERNORS' ASSOCIATION SUPPORTS THE CONVENING OF A NATIONAL CONFERENCE OF THE STATES DURING THE LATTER PART OF 1995. THE PURPOSE OF THE CONFERENCE IS TO DEVELOP RECOMMENDATIONS FOR CONSTITUTIONAL AND/OR STATUTORY CHANGES THAT WOULD ENSURE THE APPROPRIATE BALANCE BETWEEN FEDERAL AND STATE GOVERNMENTS. EACH STATE WOULD BE REPRESENTED BY A BIPARTISAN DELEGATION COMPOSED OF THE GOVERNOR AND STATE LEGISLATORS. RECOMMENDATIONS ADOPTED BY THE CONFERENCE WILL BE SUBMITTED TO EACH STATE FOR FORMAL ENDORSEMENT AND, WHEN APPROVED, FORMALLY SUBMITTED TO CONGRESS FOR ACTION.

THE CONFERENCE WOULD BE CREATED AS A SEPARATE TIME-LIMITED ENTITY. A STEERING GROUP MADE UP OF REPRESENTATIVES FROM THE NATIONAL GOVERNORS' ASSOCIATION, THE NATIONAL CONFERENCE OF STATE LEGISLATURES, AND THE COUNCIL OF STATE GOVERNMENTS WILL DEVELOP A STANDARD CALL FOR THE CONFERENCE AND PROPOSE ARTICLES OF INCORPORATION, BY-LAWS, AND OPERATING PROCEDURES TO BE ADOPTED BY THE CONFERENCE. THE GOVERNORS CALL ON ALL STATE LEGISLATURES TO PASS THE "RESOLUTION OF PARTICIPATION" IN THE CONFERENCE OF THE STATES DURING THE EARLY PART OF THEIR 1995 LEGISLATIVE SESSIONS. ONCE TWENTY-SIX STATES ADOPT THE CALL, THESE STATES WOULD CONVENE FOR THE PURPOSE OF FORMALLY INCORPORATING THE CONFERENCE.

*Current interim policy position approved by the Executive Committee on December 19, 1994.
Time limited (effective Winter Meeting 1995-Winter Meeting 1997).*

GOVERNOR'S BRIEFING BOOK

Executive Committee

6. EC-4: PROPOSED REAFFIRMATION OF POLICY POSITION ON INDIAN GAMING

BACKGROUND:

No action has been taken on this issue after numerous negotiation meetings aimed at resolving the conflicts arising out of the implementation of the Indian Gaming Regulatory Act (IGRA) of 1988.

A revised version of a Senate bill was made in August of 1994 to amend IGRA. The revised bill discarded the scope of gaming and process framework developed through months of negotiations between states and tribal government representatives. It was replaced with scope of gaming language similar to the original IGRA and a fast-track compacting process for tribes. While the Governors opposed the revised legislation, currently, the Senate intends to revise further the language of the bill and requests gubernatorial input.

NGA's policy on amending IGRA will be held over to allow Governors to review and revise their policy position based on new information gained through the negotiation process and recent court decision.

OBJECTIVE:

- To develop policy in time for the 1995 Annual Meeting.

GUAM'S POSITION:

- The policy has no impact on Guam, thus, no input was requested from the agencies

EC-4. INDIAN GAMING

4.1 Preamble

The implementation of the Indian Gaming Regulatory Act (IGRA) of 1988 has generated several issues of serious concern to Governors. These issues must be satisfactorily resolved, or it will be impossible to realize the objectives of the act. Although the process established by the act has yielded some successes, it also has led to conflict and litigation that are not productive for either the states or the tribes and that tend to threaten overall state-tribal relations.

Governors support the efforts of Native Americans to create better and more prosperous lives, and they desire good relations with tribes located within their states. Governors do not seek to prevent Native Americans from pursuing any opportunity available to other citizens of their states. At present, however, some Governors find themselves in the position of being expected to negotiate Indian gaming compacts that would be in conflict with the laws of their states and beyond the requirements of IGRA.

4.2 Recommendations

To reduce conflict between states and tribes, several key issues arising from IGRA must be resolved. To this end, the nation's Governors take the following positions.

- It must be made clear that tribes can operate gaming of the same types and subject to the same restrictions that apply to all other gaming in the state. In particular, it should be clarified that a state is not obligated to negotiate a compact to allow a tribe to operate any and all forms of Class III gaming simply because a state allows one form of Class III gaming. Only those games expressly authorized by state law should be permitted.
- The meaning of "good faith" in the act should be clarified and applied to both states and tribes, and the burden of proving the allegation should rest with the party alleging that the other side is not acting in good faith. Mere inability to agree upon a compact should not indicate bad faith by either party. In particular, a state's adherence to its own laws and constitution should not be regarded as bad faith. Clarification and expansion of the "good faith" standard would result in both parties having an equal interest in satisfactorily concluding a compact, rather than putting one party at a disadvantage.
- There must be clarification of the ability of a state to bar gaming on property taken into trust subsequent to the effective date of the Indian Gaming Regulatory Act. The U.S. Department of the Interior now has acknowledged that a Governor's concurrence is required before noncontiguous land can be acquired for gaming purposes. The ability of a Governor to give partial concurrence to a tribe's proposal to take land into trust for gaming purposes, such as when a Governor is willing to authorize the playing of some types of games but not others, should be recognized. Additionally, the secretary of the interior should establish procedures to permit the views of all affected Governors to be heard when a gaming proposal has impacts across state lines.

*Time limited (effective Winter Meeting 1995-Winter Meeting 1997).
Adopted February 1993.*

GOVERNOR'S BRIEFING BOOK

Executive Committee

7. EC-6: PROPOSED REAFFIRMATION (WITH TECHNICAL AMENDMENT) OF POLITICAL SELF DETERMINATION FOR PUERTO RICO

BACKGROUND:

The National Governors' Association has continuously supported Puerto Rico's request for a plebiscite regarding its status either as a state of the Union, a commonwealth, or independent status. The Executive Committee, once again in this policy, endorses the right of the people of Puerto Rico to political self-determination made freely by majority vote. NGA urges Congress to enact legislation responsive to the will of the people of Puerto Rico

OBJECTIVE:

- To recognize and support Puerto Rico's right to political self-determination.
- To support plebiscite proposed for after 1996 to allow the expression of the will of the people of Puerto Rico.

GUAM'S POSITION:

► Commission on Self Determination

The Commission supports the reaffirmation, for like Guam, Puerto Rico is also fighting for its political status.

EC-6. POLITICAL SELF-DETERMINATION FOR PUERTO RICO

The people of Puerto Rico, who are natural-born citizens of the United States, enjoy the same individual liberties as all American citizens, including the right to protect and enhance their local cultural and linguistic heritage and to conduct their affairs in accordance with a local constitution compatible with the United States Constitution. Many Governors represent constituencies that include American citizens of Puerto Rican descent. Tens of thousands of Puerto Ricans have served our nation with distinction in every United States military conflict of this century, earning numerous decorations, including four posthumous medals of honor, and rising in several instances to the ranks of general and admiral. The residents of none of the fifty states, prior to their admission to the Union, sustained as many combat casualties defending United States interests as have the American citizens of Puerto Rico in World War I, World War II, Korea, and Vietnam. Athletes, scholars, artists, entrepreneurs, professionals, and laborers of Puerto Rican origin have contributed, and continue to contribute, to the spiritual and physical enrichment of the United States.

The final and permanent political status of Puerto Rico remains under discussion among the island residents, and it is essential that the American citizens of Puerto Rico decide for themselves their political status. The National Governors' Association recognizes and endorses the right of the people of Puerto Rico to political self-determination made freely by majority vote of the people of Puerto Rico, either as a state of the Union, a commonwealth, or independent status.

The National Governors' Association supports and recognizes the importance of SELF DETERMINATION BY THE PEOPLE OF PUERTO RICO AS TO THE STATUS OF PUERTO RICO. ~~the historic January 1989 call by the leaders of Puerto Rico's major political parties for a new referendum on Puerto Rico's political status.~~ The National Governors' Association also supports a ~~proposed~~ plebiscite PROPOSED FOR AFTER 1996 to allow the expression of the will of the people of Puerto Rico. The National Governors' Association urges the United States Congress to enact legislation responsive to the will of the people of Puerto Rico.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

Adopted August 1978; revised February 1989; revised and reaffirmed February 1993 (formerly Policy A-6).

POLICY REAFFIRMATION

Policy EC-6

Political Self-Determination for Puerto Rico

The policy revision and reaffirmation for Puerto Rico is an amendment to a policy originally adopted by the NGA in 1978 (revised in 1989 and 1993). The revision sought at the Winter Meeting 1994 reflects changes to replace language adopted in relation to a 1989 plebiscite in Puerto Rico.

The revised language supports and recognizes the importance of:

self determination by the people of Puerto Rico as to the status of Puerto Rico.

The proposed policy reaffirmation has been adopted by the Staff Advisory Committee of the Executive Committee of the NGA and is expected to be adopted in the NGA Plenary session on January 31st without controversy.

GOVERNOR'S BRIEFING BOOK

Executive Committee

8. EC-14: PROPOSED REAFFIRMATION OF THE COMMONWEALTH STATUS FOR GUAM

BACKGROUND:

The Executive Committee recommends reaffirmation of NGA's support of legislation designating Guam as a commonwealth. The draft Commonwealth Act has been reintroduced by Guam's Congressional Delegate to Congress. The crusade towards passage of the draft is on-going for the people of Guam and until the draft Act becomes a law, request for reaffirmation of the policy position will continue to be an NGA issue.

OBJECTIVE:

- To gather Governors' support and to urge Congress and the Administration to work with the Government of Guam to develop and enact appropriate legislation designating Guam as a Commonwealth.

GUAM'S POSITION:

► Commission on Self Determination

The Commission supports the proposed reaffirmation of Guam's quest for political status which calls for an expedited action by the United States government.

REAFFIRM

EC-14. COMMONWEALTH STATUS FOR GUAM

It is a basic principle of American democracy that the sovereignty of a government be derived from a consensus of its citizens. The people of Guam have voted to change their political status to that of a commonwealth. The National Governors' Association urges the administration and Congress to work with the government of Guam on an expedited basis to develop and enact appropriate legislation designating Guam as a commonwealth.

*Time limited (effective Winter Meeting 1995-Winter Meeting 1997).
Adopted February 1985; reaffirmed August 1991 (formerly Policy A-11).*

POLICY REAFFIRMATION

EC-14. Commonwealth Status for Guam

The NGA policy position on *Commonwealth for Guam* was originally advanced by Governor BORDALLO in 1985 and supported for reaffirmation by Governor ADA in 1992. The policy position notes that sovereign government derive from the consent of its people and calls for expedited action by the U.S. government in adopting a Commonwealth for Guam.

The proposed policy reaffirmation has been adopted by the Staff Advisory Committee of the Executive Committee of the NGA and is expected to be adopted in the NGA Plenary session on January 31st without controversy.

GOVERNOR'S BRIEFING BOOK

Executive Committee

9. EC-15: PROPOSED REAFFIRMATION OF PUBLIC PAY AND PENSION PLANS

BACKGROUND:

The Executive Committee recommends reaffirmation of this policy. The policy states that the issues are the primary responsibility of states and local governments. The policy also calls upon the federal government to revise the Fair Labor Standard Act with regard to state and local government concerns.

OBJECTIVES:

- To assure reduction or relaxation of federal preemption and excessive regulations of state and local public pension plans.
- To revise the Fair Labor Standards Act by incorporating concerns regarding overtime compensation, exemption of administrative employees, and calculation of salary base.

GUAM'S POSITION:

► Department of Labor

The Department abstains from giving comments on the reaffirmation of this policy for the following reasons:

- the state and local governmental (public) pension plans are excluded from coverage under the Employee Retirement Income Security Act (ERISA) of 1974; and
- the Guam Department of Labor has no jurisdiction over public pensions, i.e. Government of Guam Retirement Fund, Civil Service and Federal Employees' Retirement Systems, military pensions, and bonuses.

The Department recommends that we urge the federal government to develop closer liaison with all levels of government to include the Government of Guam, before consideration of legislation that will impact the citizens of our territory.

EC-15. PUBLIC PAY AND PENSION PLANS

15.1 The State Role

The primary responsibility for providing and regulating state and local pay and pension plans rests with state government. States have a continuing process to update their pay and pension plans to meet the current needs of employees. State responsibility covers many issues that should not be preempted by uniform federal regulations, including reporting and disclosure rules; independent financial audits; actuarial evaluations; fiduciary responsibilities; plan consolidation; and portability.

In addition, state policies should address the goals of gender-neutrality, equal rights, and pay equity among job classes with similar levels of responsibility, skill, and effort.

15.2 The Federal Role

The Governors oppose federal preemption and excessive regulation of state and local public pension plans. In particular, federal laws and regulations should abide by the following principles:

- ensure that bona fide, nonelective benefits of public employee deferred compensation not be taxed until distributed;
- provide for pass-through FDIC deposit insurance of public retirement and deferred compensation plans;
- recognize the unique nature of public sector employment and pension plans for nondiscrimination, retirement savings tax incentives, benefit regulations, and investment standards; and
- revise proposed U.S. Department of Labor regulations implementing the Fair Labor Standards Act to incorporate state and local concerns with regard to overtime compensation, the exemption of administrative employees, and calculation of salary base. Legal actions and letter rulings should be suspended until these revisions are made.

*Time limited (effective Winter Meeting 1995-Winter Meeting 1997).
Adopted August 1991 (formerly Policy A-4).*



DEPARTMENT OF

LABOR

DIPATTAMENTON HUMOTNAT

J.M. Taljito, Director (Acting) • R.F. Zabalza, Deputy Director

Carl T.C. Gutierrez

Governor

Madeleine Z. Bordallo

Lieutenant Governor



JAN 24 1995

MEMORANDUM NO.: 95-092

TO: Chief Planner

FROM: Director

SUBJECT: Input on EC-15. PUBLIC PAY AND PENSION PLANS for the Upcoming
NGA's Meeting

Through Territory-Federal Cooperation, the application of the Fair Labor Standards Act (FLSA) to employees of state and local governments are jointly administered and enforced by the Wage and Hour Division of Guam Department of Labor and the Wage and Hour Division, Employment Standards Administration of the U.S. Department of Labor. Both agencies have made and continue to make many strides in the FLSA administration and enforcement to ensure equal rights, pay equity among job classes, overtime compensations, compensatory time, etc. in both public and private sectors.

Since the Guam Department of Labor has not had privity to the "revised proposed U.S. DOL regulations implementing the Fair Labor Standards Act to ...", we urge the suspension of this issue in its entirety until we have the opportunity to review what the revised proposals are and their impact to the Territory of Guam.

In respect to public pension plans, it is the Guam Department of Labor's observation that state and local governmental (public) pension plans are excluded from coverage under the Employee Retirement Income Security Act of 1974, popularly referred to as ERISA. Further, it is our observation that the Guam Department of Labor has no jurisdiction over public pensions, i.e. Government of Guam Retirement Fund, Civil Service and Federal Employees' Retirement



Commonwealth Now!

Input on **EC-15. PUBLIC PAY AND PENSION PLANS**

Dtd. 1/14/95

Pg. 2

Systems, military pensions, and bonuses and thus abstains from commenting on this policy at this juncture. However, we urge that the federal government develops a closer liaison with all level of government to include the Government of Guam before any consideration of legislation(s) that will impact that will impact the citizens of our territory.


J.M. TALJITO
(Acting)

GOVERNOR'S BRIEFING BOOK

Executive Committee

10. EC-16: PROPOSED REAFFIRMATION OF OUT-OF-STATE SALES TAX

BACKGROUND:

The Executive Committee recommends reaffirmation of the policy. In the 1992 decision of the Supreme Court, the North Dakota vs. Quill Corporation case, interstate sales tax collection was not a due process question but a Commerce Clause issue to be determined by Congress.

OBJECTIVE:

- To urge Congress to exercise its power to regulate interstate commerce and to grant states authority to collect the taxes owed on interstate mail transactions.

- ▶ **Department of Revenue and Taxation**

The Department of Revenue and Taxation supports the reaffirmation of the policy. However, it recommends the following:

- a request for an amendment to the principles adopted by the NGA should be made, deleting the "de minimus" rule which has an impact on Guam. Removal of the rule would subject all sales emanating from Guam for tax collection; and
- introduce legislation to amend the "use tax" law to remove the \$1,000/\$5,000 exemptions.

EC-16. OUT-OF-STATE SALES TAX COLLECTIONS

The National Governors' Association supports state efforts to pursue, through both the courts and federal legislation, provisions that would require large out-of-state mail order firms to collect sales and use taxes from their customers. Such action is necessary to restore fairness to competition between community and out-of-state mail transactions and to provide a means for the states to collect taxes that are owed under existing law.

Recent court cases—in particular, the North Dakota Supreme Court's decision regarding the Quill Corporation—have acknowledged the dramatic changes in direct marketing over the past twenty-four years by requiring that certain mail-order merchants collect a state's sales tax from their customers. The Governors call on states to continue their efforts to restore equity to the tax system by pursuing court action.

Federal legislation should conform to the following principles:

- apply to only large firms with national or single state sales of tangible personal property in excess of reasonable ~~de minimus~~ levels nationally and in each state;
- apply to firms engaged in regular, systematic solicitation of sales in a state;
- be imposed only when the state has established a uniform rate for the state, including any minimum, statewide, local sales tax rates;
- include reasonable return and remittance requirements of not more than quarterly; and
- apply the tax to the sales or use of tangible personal property.

The Governors call upon Congress to exercise its powers to regulate interstate commerce to grant the states authority to collect their own tax owed on these interstate mail transactions. Such action would restore fairness to competition between community and out-of-state mail transactions and provide a means for the states to collect already-owed taxes.

*Time limited (effective Winter Meeting 1995-Winter Meeting 1997).
Adopted July 1987; revised August 1991 (formerly Policy A-12).*

DEPARTMENT OF

CARL T.C. GUTIERREZ, Governor
MADELEINE Z. BORDALLO, Lieutenant Governor

REVENUE AND TAXATION

JOSEPH T. DUENAS, Acting Director
CARL E. TORRES, Deputy Director

GOVERNMENT OF GUAM

JAN 24 1995



MEMORANDUM

To: Governor of Guam

VIA: Chief Planner, Bureau of Planning

From: Director of Revenue and Taxation

Subject: Request for Briefing Papers: The 1995 Winter Meeting of the National Governors' Association

As per your request dated January 20, 1995, please find attached a Briefing Paper on "Out-of-State Sales Tax Collections" for your use during the National Governors' Association's Winter Meeting.

If you need additional information, please let me know.

JOSEPH T. DUENAS
Acting

Attachment

OUT-OF-STATE SALES TAX COLLECTIONS

Some Facts

Guam also imposes an excise tax upon persons in Guam who buy tangible personal property from out-of-territory vendors for use in Guam. The use tax rate is 4% of the value of goods. An exemption against the use tax of \$1,000.00 is allowed monthly with a \$5,000.00 annual cap.

Guam has found that out-of-territory vendors use both mail and telephonic means to receive orders from Guam customers. While the use tax levy is upon the purchaser, the Guam statute may require the out-of-state vendor to collect and remit the tax to the government of Guam.

Collection of Use taxes presents an administrative nightmare for the Department of Revenue and Taxation at the present time because of the exemption amounts, the filing requirements for small dollar amounts, document load, tracking of purchases and exemptions by individuals.

REVENUE ENHANCEMENT POLICY

In order for the Government of Guam to be a full beneficiary of any national legislation to force national retailers to collect Guam use tax, a remedial change to the principals stated in the NGA paper needs to be made. Moreover, a change to our own use tax law must be made. The following change to the principles should be sought:

1. The de minimis rule must be removed so that all sales emanating from Guam shall be subject to collections.

Our own use tax law needs to be modified to place our local retailers on an equal footing with their national competitors. The \$1,000/\$5,000 exemption must be repealed.

RECOMMENDATIONS

1. Request an amendment to the principles adopted by the NGA to delete the de minimus rule from its principles.
2. Introduce legislation to amend the use tax law to remove the \$1,000/\$5,000 exemption .

GOVERNOR'S BRIEFING BOOK

Executive Committee

11. EC-17: PROPOSED REAFFIRMATION (WITH TECHNICAL AMENDMENT) OF ETHICS IN GOVERNMENT

BACKGROUND:

The Executive Committee recommends reaffirmation of the policy which calls for every elected official to support actions to maintain citizen confidence in government. The democratic system embodies the capacity to reform and renew itself and to maintain the confidence, as well as the consent of the governed.

OBJECTIVE:

- To urge the federal government to make comparable reform in its procedures.

GUAM'S POSITION:

- No comments were made on this policy position.

REAFFIRM

EC-17. ETHICS IN GOVERNMENT

The first obligation of every elected official is to maintain citizen confidence in government. The democratic system has the capacity to reform and renew itself and to maintain the confidence, as well as the consent, of the governed.

States MAY WANT TO CONSIDER ~~should develop~~ the following:

- campaign finance regulations, free of loopholes, that provide for control of campaign contributions and expenditures and their complete and timely disclosure, review of public campaign financing, and strict enforcement of campaign finance reforms;
- stringent ethical codes for government officials that clearly define conflict of interest, ensure appropriate and timely disclosure of financial interests by public officials and candidates, and set up an adequate enforcement procedure;
- open meetings of all public decisionmaking bodies (except in limited, specific circumstances), penalties for officials who do not comply, and advance public notice and written minutes; and
- procedures governing the registration and full disclosure of lobbying activities by all special interest groups.

The federal government should make comparable reforms in its procedures.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

Adopted August 1980; revised July 1987; reaffirmed August 1991 (formerly Policy A-3).

GOVERNOR'S BRIEFING BOOK
Executive Committee

**12. EC-18: PROPOSED REAFFIRMATION (WITH TECHNICAL AMENDMENT) OF
EQUAL RIGHTS**

BACKGROUND:

The Executive Committee recommends reaffirmation of the principles embodied in the Equal Right Amendment which states that equality of rights under the law shall not be denied or abridge by the United States or any state on the basis of gender.

OBJECTIVE:

- To express support in the initiation of the amendatory process of the Equal Rights Amendment involving citizenship rights for women.

GUAM'S POSITION:

- ▶ No comments were made on this policy position.

REAFFIRM

EC-18. EQUAL RIGHTS AMENDMENT

In 1976 the National Governors' Association expressed support for ratification and implementation of the Equal Rights Amendment, which would constitutionally guarantee full citizenship rights and opportunities for women. In 1982 the drive for ratification fell short, and efforts to initiate the amendatory process were taken.

The National Governors' Association ~~supports these efforts and~~ reaffirms its support for the PRINCIPLES EMBODIED IN THE Equal Rights Amendment, I.E., THAT EQUALITY OF RIGHTS UNDER THE LAW SHALL NOT BE DENIED OR ABRIDGED BY THE UNITED STATES OR ANY STATE ON THE BASIS OF GENDER.

*Time limited (effective Winter Meeting 1995-Winter Meeting 1997).
Adopted August 1982; revised July 1987; reaffirmed February 1992 (formerly Policy A-5).*

**NATIONAL GOVERNORS' ASSOCIATION
1995 WINTER MEETING**

**COMMITTEE ON ECONOMIC DEVELOPMENT
AND
COMMERCE**

TAB D

- 1. EDC- 6: Proposed Amendments on "Military Base Closure, Disposal, and Reuse" (Value vs. Cost of Military Bases)**
- 2. EDC-18: Amendment as Substitute to Economic and Community Development**
- 3. EDC-19: Proposed Policy Position on Governors' Principles on International Trade**
- 4. EDC-20: Proposed Policy Position on Fast Track Trade Negotiation Authority for the President**
- 5. EDC-21: Proposed Policy Position on Surface Transportation**
- 6. EDC -22: Proposed Policy Position on Rail Transportation Safety**
- 7. EDC -23: Proposed Policy Position on Affordable Housing**
- 8. EDC-24: Proposed Amendments on Uniform Product Liability Code**
- 9. EDC- 2: Proposed Reaffirmation of Governors' Principles to Ensure Workforce Excellence**

GOVERNOR'S BRIEFING BOOK
Committee on Economic Development and Commerce

1. EDC-6: PROPOSED AMENDMENTS ON "MILITARY BASE CLOSURE, DISPOSAL, AND REUSE" (VALUE vs. COST OF MILITARY BASES)

BACKGROUND:

The amendments included the word "closure" to the title of the existing policy and added a new section "Value vs. Cost of Military Bases". The base closure and realignment process was implemented in 1990 when Congress enacted legislation establishing the Base Realignment and Closure (BRAC) Commission. This is for an orderly process of reducing or eliminating obsolete and superfluous military bases and facilities. The added section emphasizes that the primary factor in decisionmaking process for the closure of military bases is national security.

In the policy, the Governors believe that economic development and job creation must be the primary factors governing the disposal of military properties. However, the Governors are concerned that the base closure process has become driven by consideration of short-term federal budgetary constraints at the expense of long-term national security needs. The approach has become a potential threat to our nation's defense preparedness and it is also inconsistent with the 1990 law which chartered the BRAC Commission.

It is difficult to estimate the federal impact of the amendment since if fewer bases are closed than originally planned, Department of Defense expenditures may rise. Even if bases are closed with savings realized, additional funds may still have to be allocated to ensure adequate defense infrastructure, thereby causing a net increase in spending.

OBJECTIVES:

The Governors are willing to work with the Department of Defense and the BRAC Commission during this last of the three rounds of base realignment and closures as required by the 1990 Act. NGA calls for the following objectives:

- To approach the process based on the provision of the 1990 Act, making national security and defense infrastructure the paramount factor in its decision-making.
- For Congress and the Administration to carefully consider whether or not the BRAC Commission's final report will result in a defense infrastructure capable of meeting our nation's long-term security interest.

GUAM'S POSITION:

► Bureau of Planning

The Bureau supports the proposed amendments. It is in the best interest of Guam that base closure or realignment is first considered in terms of whether our defense infrastructure will meet our long-term national security.

Guam also states that the military control of about one-third of our land is surplus to federal needs and is an infringement on our island's ability to develop and control our economy. Analysis shows that the military needs only less than half of the land they currently control. Guam wants about 27,000 acres for immediate return.

EDC-6. MILITARY BASE CLOSURE, DISPOSAL, AND REUSE

6.1 Preamble

The efficient CLOSURE, disposal, and effective reuse of surplus military properties continue to remain important economic issues for states, territories, and affected communities, particularly as the federal government begins another round of military base realignments and closings. The Governors believe economic development and job creation must be the primary factors governing the disposal of military properties. Therefore, the Governors call on the federal government to improve existing military property disposal procedures. Although the President's Five-Point Plan and the fiscal 1994 Department of Defense (DoD) Authorization Bill enacted by Congress represent important progress, additional legislation is needed to further expedite the process, remove barriers in existing laws and DoD practices, ensure timely environmental cleanup of closed bases, and provide incentives for timely commercial reuse of surplus military property.

6.2 VALUE VS. COST OF MILITARY BASES

IN 1990 WHEN CONGRESS CREATED THE BASE REALIGNMENT AND CLOSURE (BRAC) COMMISSION, IT REQUIRED THE COMMISSION TO MAKE NATIONAL SECURITY THE FIRST AND MOST IMPORTANT FACTOR IN ITS DECISIONMAKING PROCESS. THE GOVERNORS ONCE AGAIN STAND READY TO WORK WITH OFFICIALS FROM THE U.S. DEPARTMENT OF DEFENSE AND THE BRAC COMMISSION DURING THE LAST OF THE THREE ROUNDS OF BASE REALIGNMENTS AND CLOSURES AS REQUIRED BY THE 1990 ACT. THE GOVERNORS RECOGNIZE THAT THIS LAST ROUND WILL RESULT IN MORE DRAMATIC CHANGES IN OUR NATION'S DOMESTIC DEFENSE INFRASTRUCTURE THAN THE PREVIOUS TWO ROUNDS. GIVEN THIS, THE GOVERNORS URGE THE BRAC COMMISSION TO MAKE QUESTIONS OF NATIONAL SECURITY AND DEFENSE INFRASTRUCTURE THE PRIMARY FACTOR IN ITS DECISIONMAKING PROCESS, RATHER THAN SHORT-TERM BUDGETARY SAVINGS. JUST AS IMPORTANT, THE GOVERNORS URGE CONGRESS AND THE ADMINISTRATION TO CAREFULLY CONSIDER WHETHER OR NOT THE BRAC COMMISSION'S FINAL REPORT WILL RESULT IN A DEFENSE INFRASTRUCTURE CAPABLE OF MEETING OUR NATION'S LONG-TERM NATIONAL SECURITY INTERESTS.

6.3 Strategic Planning and Implementation

6.4 Property Disposal

6.5 Property and Land Appraisals

6.6 Environmental Cleanup

6.7 Cooperation and Coordination with State, Territorial, and Local Governments

*Time limited (effective Winter Meeting 1995-Winter Meeting 1997).
Adopted August 1993; revised February 1994 and July 1994.*

Subject: Military Base Closure Disposal and Reuse Draft Policy
Comments

The Bureau of Planning supports the draft policy on the Base Realignment and Closure Commission Process. It is in the Territory of Guam's interest that base closure or realignment is first considered in terms of whether our defense infrastructure will meet our long-term national security interest. We support this concept because it would not be in the community's best interest to close a base and then condemn the land or other property a few years later to support defense expansion.

The second issue the Territory has with this policy is one-third of Guam is controlled by the military. It is our stance that this control of land is surplus to federal needs and is an infringement on the Territory's ability to develop and control our economy. We can demonstrate that the analysis of long and short term federal needs will show that they will need less than half the land they currently control (44,000 acres less 27,000 acres we want returned).

We are also encouraged that some functional realignment of bases with different military departments are occurring. The military and the rest of federal government must look at the long term consolidation or realigning of their departments with their land use plans.

GOVERNOR'S BRIEFING BOOK
Committee on Economic Development and Commerce

2. EDC-18: AMENDMENT AS SUBSTITUTE TO ECONOMIC AND COMMUNITY DEVELOPMENT

BACKGROUND:

As a means of creating jobs and expanding economic opportunity to improve or maintain the quality of life in each state, the proposed policy summarizes the Governors' top priorities, to include: full funding for transportation programs; swift passage of federal telecommunications legislation; increased flexibility in the use of tax-exempt financing and an increase in the state-by-state volume cap; removal of unnecessary and duplicative regulatory barriers on businesses in order to promote economic and community growth, and a requirement for an assessment of the impact of jobs, investment, and income of decisions that increase or decrease the burden of government on businesses; effective implementation of NAFTA and GATT; permanent extension of the research and development tax credit; launching of a national rural development policy; consolidation and coordination of federal grant and loan programs, including job training programs; implementation of the federal empowerment zone program; and support of the state-federal competitiveness programs.

The policy does not have any significant federal fiscal impact. This policy would increase spending related to tax-exempt financing and the research and development tax credit which are both instrumental in increasing economic growth.

OBJECTIVES:

The Governors, with the following objectives call for federal action in support of state community and economic development efforts in accordance with NGA policies:

- Ensure full funding and implementation of ISTEA, retention of state autonomy in directing public transportation resources, and implementation of the Clean Air Act.
- Passage of telecommunications legislation that will accelerate deployment of telecommunications services.
- Changes in federal law to increase state flexibility in the use of tax-exempt financing in public-private infrastructure and development efforts and to bring banks and insurance companies back into market.

- Streamline federal regulatory review of investment requirements, delegate program authority to the states, and require an economic impact analysis that incorporate assessment of the impact on jobs, investment, and income.
- For U.S. Trade Representative, to provide adequate assistance to states on effective implementation of NAFTA and GATT.
- The Farm Bill should launch a national rural development policy which clearly defines rural and economic development initiatives and goals.

GUAM'S POSITION:

► Department of Commerce

The Department supports the amendment for the following reasons:

- the proposed block grants approach to programs is desired for it would provide Guam greater flexibility in allocating funds to critical areas;
- environmental issues need to be fully addressed in relation with the need for sustainable development; and
- Guam is associated with a very competitive region, Asia, and it is important that regulatory procedures and requirements do not result in loss of competitiveness.

► Territorial Planning Council

The Council supports the proposed amendment and recommends Guam's agreement in principal with the policy. However, the Council questions the following:

- deletion of "agricultural research", "management assistance", and "competitiveness programs" from the list of state economic development programs. Guam may want these retained, as well as other programs promoted by Guam such as: agriculture and aquaculture extension, military facilities conversion, state tax waiver programs.

EDC-18. ECONOMIC AND COMMUNITY DEVELOPMENT

18.1 PREAMBLE

EFFECTIVE COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGIES ARE TOP PRIORITIES OF THE GOVERNORS AS A MEANS OF CREATING JOBS AND EXPANDING ECONOMIC OPPORTUNITY TO MAINTAIN OR IMPROVE THE QUALITY OF LIFE IN THEIR STATES. STATE ECONOMIC DEVELOPMENT EFFORTS COVER A WIDE RANGE OF PROGRAMS, INCLUDING BUSINESS PARTNERSHIP PROGRAMS, TOURISM PROGRAMS, TECHNOLOGY TRANSFER AND DIFFUSION, SMALL BUSINESS ASSISTANCE, INTERNATIONAL TRADE PROMOTION, JOB TRAINING, AND REGULATORY STREAMLINING TO REMOVE BARRIERS TO GROWTH FOR THE PRIVATE SECTOR. THE GOVERNORS CALL FOR THE FOLLOWING FEDERAL ACTIONS TO SUPPORT STATE COMMUNITY AND ECONOMIC DEVELOPMENT EFFORTS.

18.2 RECOMMENDATIONS

- A. THE GOVERNORS RECOMMEND FULL FUNDING AND IMPLEMENTATION OF THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991, RETENTION OF STATE AUTONOMY IN DIRECTING PUBLIC TRANSPORTATION RESOURCES, AND IMPROVEMENTS IN THE IMPLEMENTATION OF THE CLEAN AIR ACT, ALL IN ACCORDANCE WITH NATIONAL GOVERNORS' ASSOCIATION (NGA) POLICY.
- B. THE GOVERNORS RECOMMEND SWIFT PASSAGE OF FEDERAL TELECOMMUNICATIONS LEGISLATION THAT WILL ACCELERATE THE DEPLOYMENT OF TELECOMMUNICATIONS SERVICES, IN ACCORDANCE WITH NGA POLICY. TO ACHIEVE THAT GOAL, THE LEGISLATION MUST PROTECT UNIVERSAL SERVICE, LEAVE STATES WITH THE ABILITY TO MANAGE THE TRANSITION FROM TODAY'S HIGHLY REGULATED ENVIRONMENT TO A PROCOMPETITIVE ENVIRONMENT, AND RETAIN STATE AND LOCAL GOVERNMENTS' ABILITY TO MANAGE PUBLIC RIGHTS-OF-WAY.
- C. STATES BEAR THE MAJOR RESPONSIBILITY FOR THE CONSTRUCTION AND MAINTENANCE OF INFRASTRUCTURE NECESSARY FOR CONTINUED NATIONAL ECONOMIC GROWTH. THE GOVERNORS CALL FOR CHANGES IN FEDERAL LAW TO INCREASE FLEXIBILITY IN THE USE OF TAX-EXEMPT FINANCING IN PUBLIC/PRIVATE INFRASTRUCTURE AND DEVELOPMENT

EFFORTS, TO BROADEN THE MARKET FOR MUNICIPAL BONDS TO BRING BANKS AND INSURANCE COMPANIES BACK INTO THE MARKET, TO PERMANENTLY AUTHORIZE SMALL-ISSUE INDUSTRIAL DEVELOPMENT BONDS, AND TO INCREASE THE STATE-BY-STATE VOLUME CAPS.

D. COMMUNITY AND ECONOMIC GROWTH AND DEVELOPMENT ARE LARGELY DETERMINED AND INFLUENCED BY ACTIONS TAKEN BY INDIVIDUAL CITIZENS, ENTREPRENEURS, BUSINESSES, AND INDUSTRIES. FOR THESE GROUPS, MULTIPLE LAYERS OF REGULATORY REVIEW, PERMITTING, AND UNCOORDINATED GOVERNMENT REQUIREMENTS ARE A BARRIER TO INVESTMENT IN COMMUNITIES. THE FEDERAL GOVERNMENT SHOULD DO THE FOLLOWING.

- STREAMLINE FEDERAL REGULATORY REVIEW SO AS NOT TO DELAY ECONOMIC DEVELOPMENT IN THE STATES. REGULATIONS SHOULD BE FINAL FOR AN ESTABLISHED TIME BEFORE COMPLIANCE IS REQUIRED. FEDERAL REVIEWS SHOULD BE DONE ON REAL-TIME SCHEDULES.
- DELEGATE PROGRAM AUTHORITY, WHEREVER POSSIBLE, TO THE STATES, INCLUDING REGULATIONS WITHIN FEDERAL PROGRAMS TO ENABLE BUSINESSES TO SUBMIT TO ONE LAYER OF REVIEW. THE FEDERAL GOVERNMENT SHOULD FOCUS ON SETTING GOALS, ALLOWING STATES TO DEFINE HOW THEY ARE BEST ACHIEVED IN EACH SITUATION.
- REQUIRE ASSESSMENT OF THE IMPACT ON JOBS, INVESTMENT, AND INCOME OF DECISIONS THAT INCREASE OR DECREASE THE BURDEN OF GOVERNMENT ON BUSINESSES.

E. EFFECTIVE IMPLEMENTATION OF BOTH THE NORTH AMERICAN FREE TRADE AGREEMENT AND THE GENERAL AGREEMENT ON TARIFFS AND TRADE WILL REQUIRE A STRONG PARTNERSHIP WITH THE OFFICE OF THE U.S. TRADE REPRESENTATIVE (USTR). THE GOVERNORS ASK USTR TO PROVIDE STATES WITH ADEQUATE ASSISTANCE IN THESE MATTERS.

F. FEDERAL TAX LAW ALSO INFLUENCES BUSINESS AND INDIVIDUAL INVESTMENT DECISIONS. THE FEDERAL GOVERNMENT SHOULD MODIFY THE FEDERAL TAX CODE TO ENSURE A CLIMATE CONDUCTIVE TO LONG-TERM GROWTH AND INVESTMENT IN COMMUNITIES, INCLUDING PERMANENT EXTENSION OF THE RESEARCH AND DEVELOPMENT TAX CREDIT.

G. THE GOVERNORS RECOGNIZE THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AS THE BEST CURRENT EXAMPLE OF AN EFFECTIVE FEDERAL/STATE/LOCAL ECONOMIC DEVELOPMENT PARTNERSHIP. TO MAKE FEDERAL ASSISTANCE PROGRAMS MORE EFFECTIVE IN PROMOTING ECONOMIC AND COMMUNITY DEVELOPMENT, THE FEDERAL GOVERNMENT SHOULD DO THE FOLLOWING.

- **LAUNCH, IN THE 1995 FARM BILL, A NATIONAL RURAL DEVELOPMENT POLICY THAT CLEARLY DEFINES RURAL AND ECONOMIC DEVELOPMENT INITIATIVES AND GOALS, INCLUDING MORE EFFECTIVE TARGETING OF FEDERAL RESOURCES THROUGH GREATER RELIANCE ON STATES THROUGH PROGRAMS SUCH AS THE NATIONAL RURAL DEVELOPMENT PARTNERSHIP, INCREASED FLEXIBILITY FOR STATES IN USING FEDERAL PROGRAMS, AND IMPROVED COORDINATION OF FEDERAL PROGRAMS WITH STATE SERVICES. ONE IMPORTANT GOAL SHOULD BE THE ESTABLISHMENT OF A STABLE FARM CREDIT SYSTEM, BECAUSE A NEW GENERATION OF PRODUCERS SHOULD BE ENTERING FARMING TODAY AND RURAL COMMUNITIES ARE WORKING TO ATTRACT NEW INDUSTRY.**
- **CONSOLIDATE AND COORDINATE FEDERAL GRANT AND LOAN PROGRAMS CURRENTLY LOCATED IN A NUMBER OF DIFFERENT FEDERAL AGENCIES. FEDERAL PROGRAMS SHOULD PROMOTE AN EFFECTIVE INTERGOVERNMENTAL PARTNERSHIP AND INCLUDE INCENTIVES FOR INTEGRATING HUMAN SERVICES AND HUMAN CAPITAL RESOURCES WITH COMMUNITY AND ECONOMIC DEVELOPMENT PROGRAMS TO PROMOTE GREATER SELF-SUFFICIENCY, INDEPENDENCE, AND EMPOWERMENT.**
- **CONSOLIDATE AND STREAMLINE FEDERAL JOB TRAINING PROGRAMS IN ACCORDANCE WITH THE "GOVERNORS' PRINCIPLES TO ENSURE WORKFORCE EXCELLENCE."**
- **ADOPT FEDERAL AFFORDABLE HOUSING LEGISLATION CONSISTENT WITH NGA POLICY.**
- **IMPLEMENT THE FEDERAL EMPOWERMENT ZONE PROGRAM IN A MANNER COORDINATED AND CONSISTENT WITH STATE STRATEGIC PLANS AND ECONOMIC DEVELOPMENT EFFORTS. TO THE GREATEST**

EXTENT POSSIBLE, THE FEDERAL ZONES SHOULD BUILD ON STATE PROGRAMS TO MEASURE THE EFFECTIVENESS OF COMBINED STATE AND FEDERAL PROGRAMS AND TAX INCENTIVES.

- CONTINUE TO WORK WITH STATES TO SUPPORT PROGRAMS TO IMPROVE THE COMPETITIVENESS OF THE NATION'S MANUFACTURERS THROUGH THE MANUFACTURING EXTENSION PARTNERSHIP.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

-18.1 Preamble

~~Economic and community growth and development is determined and influenced by actions taken by individual citizens, businesses, industries, and private developers. They have a significant impact on the creation of jobs, the production of goods and services, the use of natural resources, and the distribution of the population. However, the policies and actions of federal, state, and local governments also have a large impact. All levels of government should adopt policies and initiate actions that will guide and influence private development decisions in a manner consistent with community needs and values. Efforts to ensure the long-range health and vitality of communities within each state should be undertaken within a comprehensive framework that stresses conservation and revitalization of existing communities and ensures the orderly, planned development of new and growing communities.~~

~~Economic and community development strategies for the 1990s must respond to the challenge posed by competing demands for scarce resources. For this reason, a policy of balanced national growth that recognizes the need to allocate both public and private resources more carefully to achieve long-term growth and stability must be adopted. In addition, resource productivity—to obtain more and better jobs, goods, and services using limited resources—must be improved.~~

~~Wide variations exist among states and regions in terms of specific development needs and objectives. A policy of balanced national growth must be designed to encourage a balance of people, jobs, and public services in large and small cities and counties and rural areas. In addition, the concept of balanced growth implies that growth in one state or region should not occur at the expense of another state or region. Simply reshuffling existing jobs and industries from one state or region to another fails to achieve net growth for the nation as a whole and imposes significant economic and social costs on communities experiencing dislocations.~~

~~Within a framework of a balanced national growth policy, specific attention should be given to the following problem and opportunity areas.~~

-18.2 Economic Development Finance

- 18.2.1 Preamble.** During the 1980s, general revenue sharing was eliminated and federal funding for capital construction and economic development programs was scaled back. States have responded with the use of tax-exempt financing, public-private partnerships, and other innovative financing mechanisms. The federal government should support states in these efforts through consolidation and coordination of existing federal economic development resources to ensure that such resources can be integrated with state development programs.

- 18.2.2 Intergovernmental Cooperation.** Because of the relative scarcity of funds, it is imperative to coordinate economic development resources and authorities at each level of government. Although the major tools for achieving economic development and balanced national growth are largely in place, problems of duplication, fragmentation, and competition among various programs and levels of government prevent the consistent application of these tools to state and local development needs.

~~The federal government should consolidate economic development funds with a view toward increased state involvement in the allocation and administration of the funds. The state role in administering the Small Cities Community Development Block Grant program is a first step toward greater coordination of development resources. Specific areas where such consolidations should be~~

considered include state and local planning assistance programs, business loan and loan guarantee programs, water and waste facilities grants and loans, industrial and economic development grants and loans, and other federal public works and community infrastructure grants and loans. An administrative review should be undertaken to identify and eliminate duplicative federal planning and reporting requirements. In addition, administrative arrangements should be developed to require that state and local plans funded by one federal agency are adhered to by other federal agencies in funding related programs or activities within the state and local jurisdiction.

States should be responsible for developing comprehensive economic development strategies that guide state and federal funding and investment decisions. In developing these strategies, states should consult with local officials and the private sector, and should provide mechanisms for ongoing citizen participation. States are ideally positioned to provide technical and managerial assistance to local governments and other substate delivery agents in the planning and implementation of economic and community development strategies. To the extent possible, day-to-day responsibility for program planning and administration should be at the local or substate level, with states serving as a source of information and technical assistance for local development efforts and ensuring that statewide delivery systems are responsive to local needs and capabilities.

18.2.3- Targeting Resources. Factors such as poverty and unemployment, as well as other factors that gauge the physical and economic health of a community, should be considered in defining distressed areas and in allocating resources for economic development. Programs should be targeted not only to places in need, but also to people in need, in both growing and declining areas. The concept of targeting must therefore include securing a significant portion of the positive job creation benefits of economic development for the unemployed, underemployed, and disadvantaged. The location of a new business in a depressed area should result in increased employment opportunities for local residents. Similarly, improvements in the physical infrastructure of a community should lead to the creation of new jobs for the people who live there. Widely varying federal eligibility criteria and resource allocation formulas often make this type of targeting difficult.

The federal government should define eligibility criteria for economic development programs consistently. Although eligibility requirements and resource allocation formulas should reflect the overall objectives of specific federal programs and the population to be served, considerable room exists for the development of more uniform eligibility requirements. In allocating resources, states should be given flexibility to define distressed areas and to set priorities for federal resources within their boundaries.

As a part of their statewide development plans, states should develop an overall strategy for targeting federal and state resources, as well as private investment, to distressed areas, and for expanding employment opportunities for economically disadvantaged individuals. State tax and regulatory programs, as well as economic development grants, loans, and subsidy programs, should be reviewed periodically to ensure consistency with the targeting provisions of the statewide development plans. States also should explore the potential for public-private ventures, such as community development corporations, as a job creation strategy in distressed areas.

18.2.4- Tax-Exempt Financing. In recent years, Congress and the administration have significantly limited the ability of state and local governments to issue tax-exempt financing for undertaking traditional governmental activities and pursuing other public purpose, governmentally determined policy objectives. These constraints have increased the cost of tax-exempt financing so significantly that state and local governments' annual increased interest and administrative expenses nationally amount to millions of dollars. These increased costs affect the financing of roads, bridges, schools, and sewers, as well as the funding of housing, higher educational facilities, airports, energy facilities, and economic development. In addressing this issue, the Governors support the recommendations of the Anthony Commission on Public Finance.

States and localities need more flexibility to utilize tax-exempt financing than is permitted under present law. Congress should return the private business use test and private security or payment test to 25 percent of bond proceeds. States, especially in light of the volume cap, should be permitted to decide the purposes for tax-exempt bond usage. The sunsets for mortgage revenue bonds and small issue industrial development bonds should be eliminated. The purposes for which small issue industrial development bonds may be used should be expanded. State and local governments should be able to use qualified hazardous waste facility bonds for nuclear and toxic waste facilities, including treatment of effluent. Restrictions imposed on public power output facilities bonds should be eliminated. Changes should be made to permit tax-exempt bonds to be used in a greater number of public-private partnership projects.

Volume cap restrictions should not apply to any part of general obligation or traditional revenue bonds, no matter what the use. The volume cap for private activity bonds should be raised to a reasonable level. Bond proceeds temporarily invested in nonproject higher yielding investments should never be rebated to the Treasury. Investment earnings, subject to reasonable limitations, should be permitted to be utilized in projects for which the bonds are issued, thereby reducing the amount that would otherwise need to be borrowed. Congress should eliminate restrictions on the number of refinancings of general obligation or traditional revenue bonds that may be undertaken if the refundings or advance refundings result in interest cost savings greater than the issuance cost of refinancings. State and local governments should not have to report to the Treasury on the issuances of their general obligation and traditional revenue bonds.

Congress should modify present law to maintain a viable market for tax exempt financing, in order to lessen increased reliance on individual investors. General obligation and traditional revenue bonds should not be subject to the Adjusted Current Earnings provisions of the alternative minimum corporate tax. Private activity bonds should be eliminated from the alternative minimum individual and corporate income taxes. There should be no tax on the discount on bonds when bought or held. Congress should retain the 2 percent safe harbor cap for corporations with outstanding debt that invest in tax exempt bonds, and should impose no fixed dollar limit on the safe harbor amount. Congress should restore bank deductibility for acquisition and carrying charges for tax exempt bonds. Congress should also eliminate the inclusion of bond interest in calculating the taxable income of property and casualty insurance companies.

Congress should make technical changes to provisions related to mortgage revenue bonds and multifamily residential rental project bonds in order to make housing more affordable. Changes improving economic feasibility should address such areas as income limits, definitions of distressed areas, and family size.

States should consider improved targeting of industrial development bonds to sectors and areas of need or distress, consistent with priorities established in the statewide development plan.

-18.2.5- Public-Private Partnerships. Although private interests and public needs do not always coincide, considerable opportunities exist for increased public-private cooperation in economic and community development. National economic and community development policies should give increased emphasis to the development of public-private partnerships that foster private growth and development in a manner consistent with legitimate public needs and purposes.

-18.2.6- The Role of Private Financial Institutions. New capital requirements and greater regulatory supervision in the savings and loan industry in combination with stricter policing of loan practices by regulators in the banking industry have produced tight credit markets in many areas. These worthwhile efforts, however, may lead to a reduction in the role that financial institutions play in economic and community development financing. The federal government and states should pursue regulatory policies that promote both sound financial institutions and capital availability for credit worthy purposes. The federal government should also devote sufficient resources to the enforcement of the Community Reinvestment Act to ensure that federally chartered financial institutions meet the reasonable lending needs of the communities in which they are chartered to operate. States should review the lending patterns of state-chartered financial institutions to determine whether an adequate flow of private capital exists for economic development in distressed areas, and should take appropriate actions to prohibit discriminatory lending practices and encourage community reinvestment.

-18.3- Small Businesses and Entrepreneurship

-18.3.1- Preamble. From a state and local economic development standpoint, small businesses offer considerable potential for ensuring economic diversity, stability, and long-term growth. However, small firms face significant problems and barriers. They typically have a more difficult time gaining access to capital, markets for their products, and transportation and distribution networks needed to reach remote domestic or international markets. Government regulations frequently create disproportionate paperwork and financial burdens for small firms. Small businesses face greater difficulties recruiting and maintaining a skilled workforce, obtaining needed raw materials and equipment, and adjusting to seasonal or cyclical fluctuations in demand for their goods or services. Finally, many small businesses fail because their operators lack the basic managerial and entrepreneurial skills necessary to develop a successful enterprise.

-18.3.2- The Federal Role. The federal government should continue to expand its efforts to finance and provide technical assistance to small businesses. Although federal and state government attempts to expand

the availability of venture capital have met with some success, there is still inadequate access to seed capital. The federal government should undertake an expanded effort to increase seed capital availability for small businesses. The current network of small business investment companies (SBICs) and minority enterprise small business investment companies (MESBICs) provides a valuable source of financing for small business ventures. The federal government should better coordinate the wide variety of minority business development programs in close coordination with state efforts. To reduce the debt-equity ratios of small business financing vehicles, federal tax incentives should be made available for individual and corporate investment in equity securities issued by SBICs and MESBICs.

Federal efforts to provide technical and managerial assistance should be continued and expanded. Matching grants should be provided for state small business assistance programs. Congress and the administration should place emphasis on the use of Economic Development Administration funds for initial capitalization of nonfederal revolving loan funds for business development. Since state and local governments have a better understanding of small business opportunities and needs in local areas, more flexibility should be given in the allocation of these funds.

Federal regulations and forms should be designed to minimize paperwork and compliance costs for small businesses. The Office of Management and Budget, in its review of proposed regulations and forms, should give explicit consideration to the impact on small businesses.

- 18.3.3- The State Role.** States should ensure that state regulatory processes do not create unnecessary barriers for small businesses. To this end, states should consider establishing small business advisory councils that conduct systematic reviews of state government policies and programs affecting small businesses; small business "ombudsmen" within state government; one stop permitting systems that streamline state small business regulatory procedures; state-level small business conferences to gather views and ideas from the business community; small business set-asides in state procurement; and technical assistance and small business "extension service" programs. States should also continue business development finance programs that provide access to capital for small and minority-owned firms, such as public pension fund venture capital pools (provided adequate safeguards are established to protect the financial interests of state and local government employees), state-chartered venture capital corporations, development credit corporations, and other programs.

-18.4- Infrastructure and Development

- 18.4.1- Preamble.** Public infrastructure investment has not kept pace with need, resulting in the deterioration of basic public facilities in many older urban centers and a substantial lack of such facilities in many small communities and rural areas. Strengthening the nation's infrastructure will require a strong partnership among the federal government, states, local communities, and the private sector in capital planning, funding strategies, and management approaches.

- 18.4.2- The Federal Role.** The federal government should implement the following recommendations: provide more federal aid for maintenance, repairs, and improvements of existing public facilities; provide financial assistance fully commensurate with the costs imposed by federal standards affecting state and local facilities; accord priority in capital investment assistance programs to communities with the greatest need for aid; make funds available over a multiyear time period to make it easier to coordinate the federal financing of capital projects; assume primary responsibility for developing and testing alternative technologies for meeting public facility needs at the lowest costs; emphasize performance requirements rather than specific design criteria in establishing standards and requirements for public facilities; and permit sufficient flexibility for accommodation to local design needs and preferences.

- 18.4.3- The State Role.** States should assist smaller communities in financing public capital projects through efforts such as the use of state "bond banks" and state supervision of local borrowing to reduce borrowing costs and increase access to capital markets. States also can provide needed assistance to local communities in assessing alternative technologies in such areas as water and waste treatment facilities in order to improve the cost-effectiveness of local public infrastructure investments. Local community development and public infrastructure needs should be given priority consideration in the development of state capital budgets. In particular, repair and replacement needs should be carefully weighed against new construction needs.

-18.5- Human Development Services and Economic and Community Development

Changes in the American economy and the increasingly global nature of competition have highlighted the need for a sophisticated and adaptable workforce. At the same time, the declining size

of the labor force in the post baby boom era calls for greater labor force participation by women, minorities, and immigrants. Meeting these challenges requires a greater integration of economic development and human development services. How well government, business, and labor work together to meet these demands will determine the nation's success in the global marketplace.

Specific emphasis should be given to the following: the need for elementary and secondary schools to provide students with the basic skills necessary to function and adapt in a sophisticated and continually changing workplace; the importance of support services such as day care, skill development, and job change facilitation to encourage greater labor force participation; and the need for a flexible workplace to accommodate older workers and workers with children. Consideration should be given to the recommendations of the National Governors' Association's Excellence at Work initiative.

-18.6- Special Needs of Local Government

-18.6.1- Preamble. Pollution, poor public school systems, fear of crime, congestion, high taxes, physical decay, and the need for space have contributed to a continuing out-migration of people and industry from many cities and counties. Unemployment, particularly among minority youth, remains persistently high in many major areas. Confronted with eroding tax bases and increasing demands for public services, officials have been forced to defer needed capital improvements, while at the same time experiencing a shortage of resources to deal with haphazard land development and inadequate public services and education facilities. Even in otherwise healthy and growing local communities, the problems of poverty and urban distress are evident and require solution.

-18.6.2- Federal-State Coordination. The federal government should improve the effectiveness of its resources by combining them with state programs and resources. Federal urban development programs should include provisions that permit and encourage meaningful state participation. States should have a major role in planning, coordination, and technical assistance activities. It is particularly important that federal strategies for urban economic revitalization support appropriate state coordination of relevant functions, such as transportation improvement, location of state facilities, and state financing of industrial and commercial development. Further, federal policies and programs should avoid creating a federal presence that inhibits or discourages state local cooperation in urban community development and revitalization efforts.

-18.6.3- Enterprise Zones. Federal and state government also can work together in the use of enterprise zones. The concept of enterprise zones should be implemented on a pilot basis at the federal level to determine the effectiveness of this approach to community redevelopment needs. 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.

-18.6.4- Distressed Areas. States should formulate development plans that devote adequate attention to the needs of distressed urban jurisdictions. Appropriate state agencies should regularly review existing procedures for coordination of state investments, programs, and other economic and community development activities to promote maximum development benefits for the poor and unemployed in distressed urban areas. State efforts in export promotion and industrial development should give high priority to expansion of business opportunities in distressed urban areas. Development plans should use innovative approaches to encourage private sector growth and investment in distressed urban areas. Possible approaches include the provision of targeted tax incentives, business incubators, and customized employment and training programs.

-18.7- Special Needs of Small Communities and Rural Areas

-18.7.1- Preamble. The U.S. rural economy is experiencing continuing problems in the agricultural and nonagricultural sectors. Several developments have led to these problems: lower prices for agricultural commodities, lower prices for forest products, and increased international competition in rural manufacturing industries such as apparel, textiles, wood products, and leather goods. Federal assistance has concentrated on the agricultural side of the rural economic development problem. Although federal commodity programs play a critical role in the rural economy, little emphasis has been placed on the needs of other sectors of the rural economy, which must take up the slack if the rural lifestyle is to remain a viable one. Off farm employment in noncommodity sectors such as manufacturing,

tourism services, and retail trade has played an increasingly important role in providing a livelihood for farm residents. The main challenge for federal and state government is to build local capacity for economic development in the nonagricultural sectors of the rural economy.

- 18.7.3- Federal-State Coordination.** The federal government operates more than two dozen economic and community development programs that benefit rural communities. The number and narrow focus of the programs often make it difficult for communities to respond to their own unique needs. A more flexible system is needed. Although the small communities portion of the Community Development Block Grant program gives states an important role in administering funds, most federal rural initiatives bypass state government.

The federal government should restructure its rural development programs with the intent of consolidating programs and giving state governments a greater role in the distribution and administration of funds. The consolidation could be done through an Office of Rural Economic Development in the U.S. Department of Agriculture or another federal agency. Coordinative activities should be aimed at increasing the responsiveness and effectiveness of these existing programs in dealing with current rural community problems. Second, existing programs that assist or have the potential to assist rural communities could be refined and/or consolidated to increase their efficiency. Finally, under limited circumstances, and recognizing budgetary constraints, increased federal funding might be provided for existing or new rural community development and assistance programs. In the process of coordinating services, the following principles should be pursued. First, where appropriate, federal assistance for rural community development should be granted directly to states. Second, maximum flexibility should be provided for Governors to define specific rural community development activities, to designate appropriate state and local recipients for financial and technical assistance, and to encourage financial participation and support from other public and private sector entities.

States should give priority consideration to establishing state-level small community and rural development councils. Such councils should be intergovernmental and public-private partnerships that focus on state-local priorities, provide advice in the formulation of statewide community and economic development strategies and related state plans and programs, and review program design and delivery system needs in small and rural areas.

- 18.7.3- Building Local Capacity.** Many small communities do not have the capacity to plan, implement, and monitor economic development initiatives. Federal planning and technical assistance programs should be focused substantially on joint state-federal actions aimed at meeting capacity-building needs. To accomplish this, federal funds should be adaptable and flexible to meet diverse and changing economic conditions in rural communities.

- 18.7.4- Diversification.** The focus of rural community economic development programs should be rural businesses and entrepreneurs in sectors that have the most potential to generate new jobs and diversify the rural economy. The following elements should be considered for inclusion in a shared state-federal rural community economic development program: revolving loan programs for rural businesses; seed capital funds to provide equity funding for new business startups in rural areas; funding and technical support to create local small business incubators; technology transfer centers that provide rural businesses with access to information on state and local initiatives to stimulate productivity and technology development in rural business ventures; and technical assistance programs for entrepreneurs and existing businesses seeking to expand. Specific technical assistance activities could include assistance for entrepreneurs in business plan development and in identifying sources of public and private sector financing; technical assistance to local communities in establishing "local venture forums" and other investor-entrepreneur networking mechanisms; and state permit and regulatory assistance programs.

- 18.7.5- Isolation.** State rural development strategies should emphasize the economic effects of the isolation of remote rural areas. Special consideration should be given to the unique transportation infrastructure needs of these communities.

-18.8- Economic Adjustment

- 18.8.1- Economic Dislocation.** Problems created by industrial plant closings and relocations, or by the closing of major defense installations or termination of defense contracts, pose perhaps the most serious challenge for economic and community development policies and programs. The sudden loss of a major employer can produce devastating consequences for a community and can contribute to or exacerbate long-term economic decline in a local area. In addition, the ripple effects of isolated shutdowns often are felt throughout the state and regional economy. Though some dislocation is

inevitable in a free enterprise system, the effects of large-scale layoffs and the sudden loss of economic activity in a local community are too severe to be overlooked. Government policies need to be responsive to the problems associated with economic dislocations.

The federal tax code should be modified to provide increased incentives for firms to rehabilitate existing plants and equipment. The federal government should undertake expanded research and technical assistance to explore the possibility of using economic development and business loan programs, including trade adjustment assistance programs, to facilitate employee ownership and community ownership as an alternative to plant closings.

States should continue to pursue strategies of economic diversification to reduce excessive reliance on any specific industry as the basis for the state economy. Cost-benefit consideration should be given to state tax incentives, as well as other financing mechanisms, for rehabilitation of industrial facilities. When major closings are imminent, states should serve as a catalyst for bringing community leaders, government officials, and representatives of the private sector together to develop contingency plans and adjustment strategies. In addition, states can provide job search and relocation assistance, as well as other employment and training services, to workers unemployed as a result of a shutdown.

18.8.2- Economic Conversion. Changes in Eastern Europe provide our nation with an important opportunity to reduce military spending and reinvest those dollars toward the long-term growth of the U.S. economy. But military cutbacks also pose a serious threat to many of those who have supported the defense needs of our national security, especially small and medium-sized businesses.

Governors can most effectively fashion strategies to respond to the diverse needs of communities, businesses, and workers faced with military cutbacks. During the first half of the 1980s, Governors crafted comprehensive development initiatives to assist key industries battered by foreign competition, and obsolete management styles and technologies.

Governors have field-tested strategies, proven programs, and experienced personnel and delivery systems already in place. But federal assistance will be needed to complement state resources and efforts in the face of a national problem of this magnitude.

18.8.2.1- A State-Federal Partnership. Although federal budget limitations are real, immediate assistance is necessary to allow for an orderly transition, especially for small and medium-sized businesses and workers. A successful federal strategy should anticipate dislocations and provide for a rapid response through state delivery systems. For effective implementation, Governors must receive timely notification and be aware of both prime contractors and subcontractors in their states that are at risk because of Pentagon spending shifts.

Advanced planning is crucial to assist in transition before the full effects of military cuts are felt. States should be involved in community planning to ensure that state resources are utilized to their fullest potential. The Department of Defense Office of Economic Adjustment should provide financial assistance to Governors for statewide planning. Such assistance could support innovative state efforts to introduce military firms to commercial markets.

The federal government should support state efforts through targeted enhancement of current federal programs. To be eligible for funding, states would have to work closely with local communities, workers, and businesses to fashion comprehensive assistance strategies targeted to defense-impacted areas.

Defense workers represent a highly skilled and specialized sector of the workforce with unique needs. Federal assistance is needed to support customized state job training initiatives for defense workers to help them transform their skills for the commercial marketplace before dislocation occurs.

But job training alone will not ensure full transition. The first place many displaced workers will turn for assistance will be state job service offices. These highly specialized workers will require comprehensive referral, job search, and job matching assistance. If substantial employment dislocations occur, the federal government should expand state Employment Service operations.

Governors also recognize that defense contractors and subcontractors are largely involved in the manufacture of highly sophisticated products. These businesses, especially the subcontractors, need help in transforming their manufacturing technologies from military to commercial production. States have aggressive technology transfer networks that can serve as a conduit for this transformation. The federal government should work in partnership with these state programs.

Because small business defense contractors will be especially vulnerable to Pentagon spending shifts, the federal government should take the following steps.

- Expand the Small Business Innovation Research (SBIR) program to support the commercial development of these technologically sophisticated businesses.

- When expanding Small Business Administration (SBA) assistance to defense-reliant firms, do so in coordination with state efforts. Increased federal support for state Small Business Development Centers should be included with the expansion of SBA assistance to enhance state services to defense-impacted areas.
- Broaden the function of Department of Defense Procurement Technical Outreach Centers to include assistance with small business conversion. The centers should work in tandem with state export assistance offices to explore new markets for small businesses impacted by military cuts.

-18.8.3- Base Closings. The federal government should provide state and local officials with advance notice of planned closings or realignments of defense installations, and should provide sufficient lead time and financial assistance for local economic adjustment strategies. A percentage of the cost savings realized through the closing or realignment of defense installations should be allocated for mitigation assistance to communities affected by military closings. The Federal Property Disposal Act should be amended to permit states and communities to receive title to excess real property for purposes of providing new job opportunities in communities where defense closings create or contribute to severe unemployment problems.

-18.9- Promotion of Cultural and Historical Resources

-18.9.1- Arts and Cultural Resources. Because of the importance of the arts, it is imperative that federal, state, and local policies foster the best possible environment for the freedom of artistic expression, enabling the arts to continue to contribute to the cultural, educational, and economic well-being of communities in the most effective manner.

The federal government should continue to play a leadership role in providing public support for the arts and other cultural resource programs and activities. Consideration should be given to establishing an incentive program that would provide federal dollars on a matching basis to state and local governments that commit new dollars to the arts. Increased coordination among federal agencies is necessary to integrate the arts into a broad range of federal programs that affect economic and community development.

States should encourage and support programs to revitalize and stabilize communities, both urban and rural, through the creation of community cultural awareness and the development of an environment that fosters cultural growth. States should emphasize the economic advantages of supporting arts and cultural activities and should encourage the support that corporations, foundations, public interest organizations, and private citizens provide for arts activities. In their annual budgets, state governments should provide adequate funds for the coordination of state-sponsored artistic endeavors and programs designed to assist the aged, the gifted and talented, the handicapped, and institutionalized persons. Governors should assume the lead in ensuring that the arts are a major component of elementary and secondary education programs. When planning new government structures, states should provide funds for works of art that will be carefully integrated into the design of those buildings.

-18.9.2- Historic Resources. The federal government should continue to provide assistance for the development of states' historic resources. The state-federal partnership approach embodied in the National Historic Preservation Act and the operations of the Advisory Council on Historic Preservation are examples of programs that are efficient and that reduce both conflict and the loss of resources. The Governors strongly endorse continued funding for the protection of historic resources through the Historic Preservation Fund. To ensure an adequate and predictable endowment for the long-term preservation of historic resources, the fund should be converted into a true trust fund. State historic preservation programs should continue to emphasize the retention, restoration, rehabilitation, and reuse of architecturally or historically significant structures and sites. States should also use cultural resource inventories to identify historically significant sites to provide vital information to industry and government agencies. Such inventories can expedite needed development or redevelopment, protect the states' natural and cultural heritage, and mitigate potential conflicts among competing resource uses.

-18.10- Balancing Economic Growth with Environmental Needs

-18.10.1- Preamble. Striking the necessary balance between economic development needs and environmental needs requires careful planning and allocation of resources. Increased emphasis must be given to the

development and use of renewable resources and other domestic resources as the basis for economic development so that the choices of future generations are not precluded by the development policies of today.

~~18.10.2~~ ~~The Federal Role. The federal government should continue its use of performance-based regulation. The concepts of emission banding, offsets, and trading provide greater flexibility in meeting specific air quality standards yet maintain the overall clean air goals. These methods of performance-based regulation should serve as a model for other areas of federal regulatory activity. Increased research and technical assistance is needed to identify and encourage ventures that use renewable and other domestic resources and alternative technologies. The federal government should disseminate information regarding successful models to state and local officials and should give priority to funding economic development projects that will lead to increased development and use of renewable resources.~~

~~18.10.3~~ ~~The State Role. States should give careful consideration to alternative land uses, preservation of natural resources, and citizen desires for recreation facilities and other amenities in making their economic development plans. A number of states offer assistance to firms in preparing environmental impact statements, a service that can help reduce development costs and barriers, particularly for small and medium-sized firms. Experiments with state environmental review teams also have shown positive results in helping communities assess environmental impacts. Similar approaches to expediting environmental reviews and reducing unnecessary barriers to economic development warrant state consideration.~~

~~18.11~~ ~~Adjustments to Economic Growth~~

~~18.11.1~~ ~~Preamble. Growth areas encounter enormous strains on their capacity to serve their enlarging communities. Many communities cannot keep up with the demand for housing, police and fire protection, transportation facilities, schools, and solid waste disposal. Fortunately, the problems of rapid economic growth do not require massive doses of federal funds for a solution. The growth that causes the problems is also capable, in the long term, of financing the remedies. However, short-term financial assistance, principally in the form of loans for community facilities, frequently is needed during the early stages of accelerated growth.~~

~~18.11.2~~ ~~The Federal Role. The federal government should, to the extent possible, avoid policies that create sudden, disruptive impacts on any single community. When federal policy does create an extremely high local growth rate, the federal government should assist the community in adapting to the new level of demand on their services. Communities experiencing sudden growth frequently need assistance in developing strategies for assuring that growth occurs in an orderly way and that the immediate demands for increased public services are met. The federal government should finance the collection and dissemination of information regarding successful community approaches to the challenge of sudden economic growth and should provide a central repository of information and technical expertise relating to the problems of unplanned growth.~~

~~18.11.3~~ ~~The State Role. States should help communities cope with the problems of growth and ensure that development costs and benefits are borne equitably among local communities. In some cases, state legislation is needed to permit local communities to share the costs of public facilities and services. States can provide needed assistance to growing communities, particularly smaller ones, in raising capital to finance the costs of growth. Specific approaches states should consider include state supervision of local government debt financing and the use of "bond banking" to improve credit ratings and to lower borrowing costs. Adjustments to growth place sudden strains on local government management and planning capacities. Technical assistance frequently is required to help localities with land use planning and local financial management techniques. States are in a good position to provide this type of assistance, particularly to smaller communities faced with problems of rapid growth.~~

Adopted July 1990; reaffirmed July 1994 (formerly Policy E-1).



DEPARTMENT OF
COMMERCE
DIPATTAMENTON I KUMETSIO



DC-EDP-020-95a



January 18, 1995

MEMORANDUM

To: Director, Bureau of Planning
From: Director of Commerce
Subject: The 1995 Winter Meeting of the National Governor's Association;
Washington, D.C.; January 28-31, 1995

The documents provided regarding the upcoming NGA meeting are general and with no specific background on how they were developed nor details on possible changes in positions from the previous status on the specific topics. The Department of Commerce has not been involved in the federal programs indicated. Therefore, our comments are limited to general brief views concerning the issues.

The promotion of international trade is an area that Guam should support. With the increasing trans-Pacific trade, Guam can potentially play an important role. Guam's interest with APEC and GATT should be highlighted at the NGA meeting. We are currently looking at opportunities to develop new linkages with the rapidly growing Asian economies. It should be stressed that Guam provides an opportune location for U.S. companies entering and doing business in Asia. Guam should be promoted as a corporate regional base for servicing the Asian markets, since Guam, as the Western most U.S. territory, provides the stability of the U.S. as well as U.S. quality of life with education and medical services comparable to the continental U.S.

The fast track negotiation facilitates negotiations in trade agreements which could capture certain advantageous arrangements. However, in agreements that may impact directly or indirectly on Guam there should be an opportunity for Guam to provide input before adoption.

The economic and community development proposed block grants approach to programs would be desired in that it would provide greater flexibility to Guam in allocating the funds to critical areas. The issue of a highly regulated business

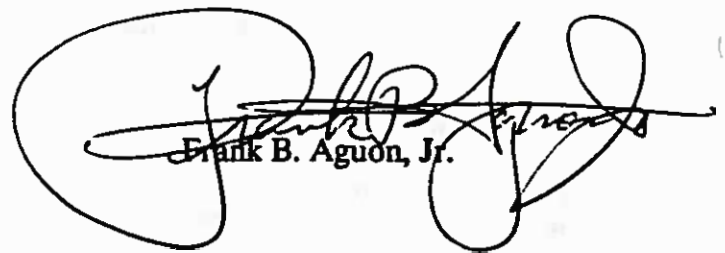


environment that is detrimental to economic development is an issue that should be addressed. In the very competitive region that Guam is associated with, namely Asia, it is important that regulatory procedures and requirements do not become counterproductive and result in loss of competitiveness. Environmental issues need to be fully addressed but not in isolation of the need for sustainable development of economic activities. There needs to be a balance between the two. The "one stop permitting" issue is an area that is being pursued by Guam at the local regulatory level. It would be helpful if this was also pursued at the federal level.

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If you have questions regarding the above comments, please contact me at my office.



Frank B. Aguon, Jr.

ERRITORIAL LANNING OUNCIL

JAM COMPREHENSIVE
VELOPMENT PLAN



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MEMORANDUM

To: Chief Planner, Bureau of Planning

From: Executive Assistant, TPC

Subject: Briefings for 1995 Winter Meeting of the
National Governor's Association, June 28-
31, 1995

Date: January 20, 1995

In reply to the request in your memo we received January 13, 1995, to prepare a briefing paper for the Governor regarding the Economic and Community Development Policy Paper for the NGA meeting, we provide the attached.

We welcome this opportunity to contribute to the preparation for this meeting. We hope to have more preparation time and better background information for future briefing and research opportunities to support the Governor at future NGA meetings and similar activities.


MARCEL G. CAMACHO

Attachment

ERRITORIAL PLANNING COUNCIL

Suite #103 - Reflection Center
222 Chalan Santo Papa
Agana, Guam 96910
Telephone (671)472-9770
Fax (671)472-9772

**NATIONAL GOVERNOR'S ASSOCIATION
WINTER MEETING
January 28-31, 1995**

DRAFT BRIEFING PAPER

TERRITORIAL PLANNING COUNCIL

Amendments to EDC-18: Policy on Economic and Community Development

In general, we recommend Guam's agreement in principal with the policies and amendments presented by the National Governor's Association and its SAC.

It may be best that Governor Gutierrez, as a new member of the NGA, be cautious in Guam's approach of recommending any amendments to the NGA policy statements. Since actual policy statements from the NGA July 1994 meeting are not available at this time for review and only amendments to parts of these statements are provided for our review, there is a danger of not understanding the full effects of amendments.

In some cases an apparent benefit to Guam may inhibit unforeseen opportunities for greater future benefits, or continuation of existing benefits. For example, Guam could advance a proposal for more autonomy in implementing the U.S. Clean Air Act in relation to vehicle emissions as part of the Intermodal Surface Transportation Efficiency Act (ISTEA). We could justify not needing the same vehicle emission controls as the U.S. Mainland, because of the excellent ambient quality of our air and the dilution of pollutants in the unpolluted air masses around us, etc. However, this could lead to observance by State representatives of the NGA that Guam already has a temporary moratorium on air quality emission standards for our power plants, which saves us costs of using more expensive fuels or treating pollutants in power plant stacks like all others must do. They could argue that we are receiving special treatment by USEPA that is denied their States and they could cause removal of our existing relief from certain federal regulations.

To be better prepared for issues, federal bills and policies to be discussed at future NGA meetings, we recommend the Governor's office establish continuous responsibility for such federal affairs with particular designated staff. The same staff might also coordinate Guam's participation in the Pacific Basin Development Council and Western Governor's Association.

We provide the following comments on the seven policy areas under the NGA Committee on Economic Development and Commerce:

1. We recommend that Guam generally supports the NGA policy for full funding and implementation of ISTEA, retention of State

autonomy in directing public transportation resources, and improvements in the implementation of the Clean Air Act. It can be noted that Guam has no jurisdictional problems or conflicts among State level and local and metropolitan governments concerning implementation of ISTEA. Guam's traffic congestion problems and mass transit service needs can better be addressed by the Department of Public Works and Guam Mass Transit Authority with full funding for ISTEA. The new computerized highway planning model established in DPW allows Guam to most efficiently plan and program funds for surface transportation improvements.

2. We hesitate to fully support the policy on passage of telecommunications legislation that will accelerate deployment of telecommunications services, because of our lack of understanding on implications of this law. Guam should support advancements in communications technology and deployment of such technology. The deregulation of the communications industry is increasing competitiveness and thus lowering our consumer costs in the short term. However, Guam should seek information on what subsidies and benefits to present island communications systems may be lost in this process. These could include availability of free PEACESAT access for certain purposes and availability of subsidies or loan guarantees for telecommunication infrastructure that may need to be developed by the remaining competitive private telecommunications networks rather than GTA in the future. Loss of ability to cross-subsidize may force private service suppliers to raise costs, especially within the relatively small economy of Guam.
3. With the increased dependence on bonds for infrastructure funding, Guam Should support the policy to change federal laws to increase flexibility in use of tax-exempt financing in public-private infrastructure and development efforts. We do not know at this time whether Guam's triennial property evaluation will allow Government of Guam's bonding system to meet immediate funding needs or whether Guam needs an increase in its cap, like the States do. The new Econometric Modeling System and improved budgeting decision system of the Guam Finance Commission and proposed Concurrency Management System and Capital Improvement Planning system of TPC may greatly improve Guam's sophistication in use of tax-exempt financing.
4. Guam should support the NGA policy for streamlining federal regulatory review of investment requirements and delegating program authority to the States. The creation of an economic impact analysis requirement may have benefits but could also create more bureaucracy and red tape and delays.
5. In the implementation of GATT and NAFTA, the NGA's call for the U.S. Trade Representative to provide adequate assistance to the States, should clearly apply to Guam as well as the States. Guam must be afforded equal access to this assistance

and equal access to markets available to the States. Guam's export of services to the region and of specific-pathogen-free shrimp to the world markets and possible future export of special products can be aided through GATT. Problems of any inconsistencies of Guam's restrictions on foreign access conflicting with GATT are not likely, but Guam must be aware of GATT requirements and could need assistance of the U.S. Trade Representative to clarify this. Current taxing authority of the Government of Guam must not be allowed to erode due to GATT. In the long range, lessening of international trade restrictions may make Guam's duty free status less of an advantage to attracting visitors.

6. The policy to establish a permanent and consistent research and development tax credit can help investment and would apply to Guam, but could be changed if desired when the Territory delinks from the U.S. Federal tax system.
7. Making the 1995 Farm Bill include increased flexibility for the States and Guam in using federal programs and consolidating federal programs should be supported. Within that bill, the NGA should press for emphasis on aquaculture within the support for agricultural research and development. Under the Conservation Reserve Program, Wetlands Reserve Program and related programs of USDA, mechanisms should be instituted for rewarding farmers and aquaculturists for their actions in conserving water quality, wetlands, soils and native vegetation. Improved consolidation and streamlining of federal programs and coordination with the States and Territories, with recognition of Guam for participation in any opportunities and benefits, should be supported.

As a side note, in reference to the introductory paragraph to the NGA policy amendments "For Consideration at January 10 SAC Meeting", we question why "agricultural research", "management assistance" and "competitiveness programs" were deleted from the list of state economic development programs. Guam may want these retained, and also perhaps add other programs promoted by Guam, such as agriculture and aquaculture extension, military facilities conversion, state tax waiver programs, etc.

GOVERNOR'S BRIEFING BOOK
Committee on Economic Development and Commerce

3. EDC-19: PROPOSED POLICY POSITION ON GOVERNORS' PRINCIPLES ON INTERNATIONAL TRADE

BACKGROUND:

In the policy, the Governors believe that the ratification of the North American Free Trade Agreement (NAFTA) and the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) will bring about needed trade growth and will open up business opportunities in the global marketplace for Americans. The Governors pledge to work with the federal government to facilitate state businesses' pursuit of such opportunities.

The federal fiscal impact from this policy is minimal, which calls for support for states to play an effective role in the implementation of NAFTA and GATT.

OBJECTIVES:

The National Governors' Association (NGA) supports the following objectives:

- Ensure an effective state role in the implementation of NAFTA and GATT especially in trade disputes involving state laws and practices.
- Enhance state role in promoting international trade and fostering improved foreign business relations.
- Support state agricultural market development programs; allow the states flexibility and discretion in seeking federal export promotion assistance that best serve individual state where small, medium, or agricultural businesses are concerned.

GUAM'S POSITION:

► **Department of Commerce**

The Department supports the policy with the belief that in an increasing trans-Pacific trade, Guam plays an important potential role. Guam is currently looking at opportunities to develop new linkages with the rapidly growing Asian countries, thus our interest with GATT and the Asian Pacific Economic cooperation (APEC).

EDC-19. GOVERNORS' PRINCIPLES ON INTERNATIONAL TRADE

19.1 PREAMBLE

TWO CRITICAL TRADE AGREEMENTS RECENTLY HAVE BEEN RATIFIED: THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) IN NOVEMBER 1993 AND THE URUGUAY ROUND OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT) IN DECEMBER 1994. NAFTA AND GATT WILL CREATE JOBS BY OPENING A WIDE RANGE OF OPPORTUNITIES FOR BUSINESSES TO EXPAND INTO FOREIGN MARKETS.

INTERNATIONAL TRADE INCREASINGLY HAS BECOME IMPORTANT TO STIMULATE U.S. ECONOMIC GROWTH AND JOB CREATION. SINCE 1986 IT IS ESTIMATED THAT INCREASED INTERNATIONAL TRADE IS RESPONSIBLE FOR TWO-THIRDS OF THE GROWTH IN THE U.S. ECONOMY. NAFTA CREATES THE SECOND LARGEST FREE-TRADE AREA IN THE WORLD WITH MORE THAN 360 MILLION CONSUMERS. GATT LOWERS WORLDWIDE TARIFFS BY ONE-THIRD AND LOWERS GLOBAL TAXES BY ABOUT \$750 BILLION. ONCE FULLY IMPLEMENTED, GATT IS EXPECTED TO INCREASE THE U.S. GROSS NATIONAL PRODUCT BY \$200 BILLION PER YEAR OVER TEN YEARS AND RESULT IN THE CREATION OF 1.4 MILLION JOBS. THE GOVERNORS' SUPPORT WAS CRITICAL TO THE SUCCESSFUL PASSAGE OF BOTH NAFTA AND GATT. AS JOB CREATORS AND EXPORT PROMOTERS, GOVERNORS WILL CONTINUE TO BE ACTIVE PARTICIPANTS IN THE FORMULATION OF TRADE POLICY.

19.2 RECOMMENDATIONS

THE UNITED STATES RECENTLY PARTICIPATED IN TWO SUMMITS OF CRITICAL IMPORTANCE TO FUTURE TRADE INITIATIVES. THE ASIA-PACIFIC ECONOMIC COOPERATION (APEC) SUMMIT, HELD IN NOVEMBER 1994 IN INDONESIA, CONCLUDED WITH A DECLARATION BY EIGHTEEN NATIONS TO ACHIEVE FREE TRADE IN THE REGION BY 2020. SOUTHEAST ASIAN NATIONS HAVE THE FASTEST-GROWING ECONOMIES IN THE WORLD. THE SUMMIT OF THE AMERICAS, HELD IN MIAMI IN DECEMBER 1994, ALSO CONCLUDED WITH A DECLARATION STRESSING THE NEED TO ACHIEVE FREE TRADE IN THE WESTERN HEMISPHERE BY 2005. LATIN AMERICAN NATIONS ARE EXPECTED TO BE THE UNITED STATES' LARGEST TRADING PARTNERS BY 2000.

THE GOVERNORS SUPPORT THE FOLLOWING TRADE POLICY OBJECTIVES.

- **THE FEDERAL GOVERNMENT SHOULD TAKE THE NECESSARY STEPS TO ACHIEVE FREE TRADE AND TO EXPAND EXISTING TRADE AGREEMENTS TO FURTHER THIS GOAL. THIS INCLUDES IMPLEMENTATION OF THE GOALS OF THE TWO RECENT TRADE SUMMITS.**
- **THE FEDERAL GOVERNMENT SHOULD ENSURE AN EFFECTIVE STATE ROLE IN THE IMPLEMENTATION OF NAFTA AND GATT, ESPECIALLY WITH RESPECT TO TRADE DISPUTES INVOLVING STATE LAWS AND PRACTICES AND ANY FUTURE TRADE AGREEMENT NEGOTIATIONS. EFFECTIVE STATE PARTICIPATION REQUIRES ADEQUATE TECHNICAL SUPPORT FROM FEDERAL AGENCIES.**
- **THE STATE ROLE IN PROMOTING INTERNATIONAL TRADE AND FOSTERING IMPROVED RELATIONS WITH THE PEOPLE AND BUSINESS COMMUNITIES OF FOREIGN NATIONS SHOULD BE ENHANCED.**
- **STATES SHOULD WORK WITH THE FEDERAL GOVERNMENT TO EXPAND CITIZEN UNDERSTANDING OF THE IMPORTANCE OF INTERNATIONAL TRADE AND WORK WITH THE PRIVATE SECTOR TO DEVELOP LIFETIME EDUCATIONAL OPPORTUNITIES THAT PREPARE AMERICANS TO COMPETE SUCCESSFULLY IN A CHANGING GLOBAL ECONOMY.**
- **STATES SHOULD WORK WITH THE FEDERAL GOVERNMENT TO ENSURE SUPPORT FOR STATE AGRICULTURAL MARKET DEVELOPMENT PROGRAMS, INCLUDING REGIONAL MARKETING ASSOCIATIONS, TO THE EXTENT ALLOWED UNDER INTERNATIONAL TREATIES.**
- **IF NONAGRICULTURAL FEDERAL EXPORT PROMOTION PROGRAMS ARE CONSOLIDATED, GOVERNORS SHOULD HAVE INPUT ON HOW THOSE RESOURCES WILL BE REDIRECTED TO STATE EXPORT PROMOTION PROGRAMS. GOVERNORS SHOULD BE PROVIDED WITH THE FLEXIBILITY AND DISCRETION TO TARGET FEDERAL EXPORT PROMOTION ASSISTANCE IN A WAY THAT WILL BEST SERVE THE NEEDS OF THEIR INDIVIDUAL STATES, SUCH AS THE PROMOTION OF SMALL AND MEDIUM-SIZED BUSINESSES OR AGRICULTURAL CONCERNS.**

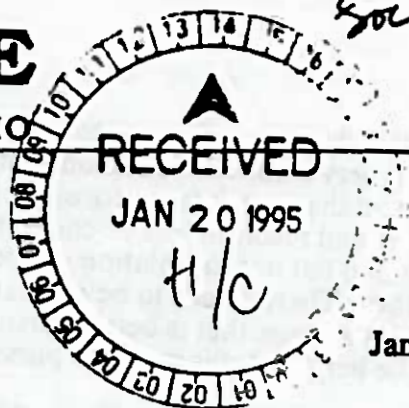
Time limited (effective Winter Meeting 1995-Winter Meeting 1997).



DEPARTMENT OF
COMMERCE
DIPATTAMENTON I KUMETSIO



DC-EDP-020-95a



January 18, 1995

MEMORANDUM

To: Director, Bureau of Planning
From: Director of Commerce
Subject: The 1995 Winter Meeting of the National Governor's Association;
Washington, D.C.; January 28-31, 1995

The documents provided regarding the upcoming NGA meeting are general and with no specific background on how they were developed nor details on possible changes in positions from the previous status on the specific topics. The Department of Commerce has not been involved in the federal programs indicated. Therefore, our comments are limited to general brief views concerning the issues.

The promotion of international trade is an area that Guam should support. With the increasing trans-Pacific trade, Guam can potentially play an important role. Guam's interest with APEC and GATT should be highlighted at the NGA meeting. We are currently looking at opportunities to develop new linkages with the rapidly growing Asian economies. It should be stressed that Guam provides an opportune location for U.S. companies entering and doing business in Asia. Guam should be promoted as a corporate regional base for servicing the Asian markets, since Guam, as the Western most U.S. territory, provides the stability of the U.S. as well as U.S. quality of life with education and medical services comparable to the continental U.S.

The fast track negotiation facilitates negotiations in trade agreements which could capture certain advantageous arrangements. However, in agreements that may impact directly or indirectly on Guam there should be an opportunity for Guam to provide input before adoption.

The economic and community development proposed block grants approach to programs would be desired in that it would provide greater flexibility to Guam in allocating the funds to critical areas. The issue of a highly regulated business

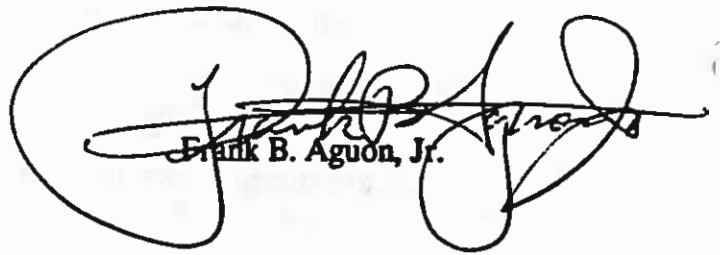


environment that is detrimental to economic development is an issue that should be addressed. In the very competitive region that Guam is associated with, namely Asia, it is important that regulatory procedures and requirements do not become counterproductive and result in loss of competitiveness. Environmental issues need to be fully addressed but not in isolation of the need for sustainable development of economic activities. There needs to be a balance between the two. The "one stop permitting" issue is an area that is being pursued by Guam at the local regulatory level. It would be helpful if this was also pursued at the federal level.

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Frank B. Aguon, Jr.

GOVERNOR'S BRIEFING BOOK
Committee on Economic Development and Commerce

**4. EDC-20: PROPOSED POLICY POSITION ON "FAST TRACK" TRADE
NEGOTIATION AUTHORITY FOR THE PRESIDENT**

BACKGROUND:

The policy expresses the Governors' support for the immediate reinstatement of "fast-track" negotiation authority for the President on trade agreements. The call for action is essential to help open foreign markets to increase U.S. trade to ensure that our nation does not lose market opportunities and jobs to other countries.

There is no federal fiscal impact from this policy.

OBJECTIVES:

- To achieve negotiating credibility necessary to conclude increasingly complex trade agreement.
- To enhance opening of markets worldwide, expand economic growth, and create jobs.

GUAM'S POSITION:

► **Department of Commerce**

The Department **supports** the reinstatement of the fast-track trade negotiation authority for the President. However, in the agreement that may impact directly or indirectly on Guam, we should be given an opportunity to provide input before adoption.

EDC-20. "FAST-TRACK" TRADE NEGOTIATION AUTHORITY FOR THE PRESIDENT

SINCE 1974 EVERY U.S. PRESIDENT HAS RECEIVED "FAST-TRACK" TRADE NEGOTIATION AUTHORITY FROM CONGRESS. "FAST-TRACK" AUTHORITY GIVES THE PRESIDENT THE NEGOTIATING AUTHORITY NECESSARY TO CONCLUDE INCREASINGLY COMPLEX TRADE AGREEMENTS. ULTIMATELY, AN AGREEMENT REACHED THROUGH A FAST-TRACK NEGOTIATION COMES TO CONGRESS FOR AN UP OR DOWN VOTE WITHOUT AMENDMENTS. HOWEVER, A FAST TRACK PROCESS DOES NOT LIMIT THE THOUGHTFUL CONSIDERATION OF THESE AGREEMENTS BY CONGRESS, THE STATES, AND U.S. CITIZENS. THROUGHOUT THE NEGOTIATION PROCESS, THE PRESIDENT IS REQUIRED TO CONSULT WITH CONGRESS, THE STATES—THROUGH THE INTERGOVERNMENTAL POLICY ADVISORY COMMITTEE—THE PRIVATE SECTOR, AND VARIOUS OTHER ADVISORY COMMITTEES.

WITHOUT FAST-TRACK AUTHORITY, U.S. ABILITY TO EXPAND AND OPEN MARKETS IN LATIN AMERICA, ASIA, AND WORLDWIDE WILL BE CONSTRAINED SIGNIFICANTLY, AND THE NATION WILL LIKELY LOSE MARKET OPPORTUNITIES AND JOBS TO OTHER COUNTRIES. TO SUPPORT THE OBJECTIVES OF OPENING FOREIGN MARKETS, EXPANDING ECONOMIC GROWTH, AND CREATING JOBS, THE GOVERNORS CALL FOR CONGRESS TO IMMEDIATELY RENEW FAST-TRACK TRADE NEGOTIATION AUTHORITY FOR THE PRESIDENT.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).



DEPARTMENT OF
COMMERCE
DIPATTAMENTON I KUMETSIO



DC-EDP-020-95a



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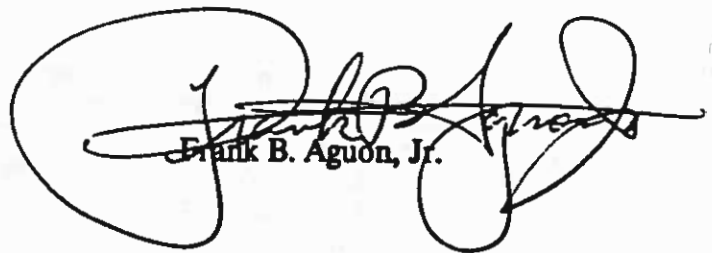
Commonwealth Now!

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Frank B. Aguon, Jr.

GOVERNOR'S BRIEFING BOOK
Committee on Economic Development and Commerce

5. EDC-21: PROPOSED POLICY POSITION ON SURFACE TRANSPORTATION

BACKGROUND:

The proposed policy is the first one written since the inception of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The Governors commit themselves to maintaining first-rate surface transportation system and believe that state governments should be the focal point in the organization and management of the nation's surface transportation system. It should be noted that both the state and local governments share the responsibility of transportation financing burden since the federal government's share has declined substantially. It is estimated that approximately \$290 billion is needed to meet the current backlog of highway and bridge improvements. ISTEA provided \$155 billion over a six-year period, but appropriations have fallen \$6 billion short of authorized levels over the past three years.

In light of the recent announcement by the Secretary of the Department of Transportation (DOT) regarding major departmental restructuring, Governors have raised concerns and recommended some changes in policy provisions dealing with providing adequate financing, maintaining state authority, and implementing effective program as they will be affected by the DOT restructuring.

OBJECTIVES:

- Establishment of sufficient transportation funding levels for fiscal 1996, particularly full and adequate funding of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991; and to maintain state authority within ISTEA to assure sound transportation system.
- Ensure timely congressional designation of the National Highway System (NHS).
- Implementation of the Clean Air Act without sacrificing transportation objectives.
- Establishment of an intermodal National Transportation System.

GUAM'S POSITION:

► Department of Public Works

The Department strongly supports the position taken by NGA for full funding of highway and transit programs authorized in ISTEA. The department believes that ISTEA is one of the most progressive highway transportation laws ever enacted by Congress based on the following:

- ISTEA promotes strong coordination and cooperation among all transportation programs, and demonstrates efficiency in program administration; and**
- higher funding levels for ISTEA have positive impact on Guam's highway programs.**

EDC-21. SURFACE TRANSPORTATION

21.1 PREAMBLE

THE GOVERNORS ARE COMMITTED TO MAINTAINING A FIRST-RATE SURFACE TRANSPORTATION SYSTEM. EFFICIENT, SAFE, AND PRODUCTIVE ROAD AND TRANSIT INFRASTRUCTURE AND OPERATIONS ARE CRITICAL ELEMENTS OF THE NATION'S ECONOMIC STRENGTH AND ARE ESSENTIAL FOR THE PERSONAL MOBILITY THAT IS CENTRAL TO THE AMERICAN QUALITY OF LIFE. STATE GOVERNMENTS, IN ADDITION TO THEIR FINANCING RESPONSIBILITIES, ARE CENTRAL TO THE ORGANIZATION AND MANAGEMENT OF THE NATION'S SURFACE TRANSPORTATION SYSTEM.

BY VIRTUE OF DECADES OF SOUND INVESTMENT AND WELL-ORGANIZED EFFORT, INVOLVING THE PRIVATE SECTOR AND GOVERNMENT AT ALL LEVELS, THE UNITED STATES HAS ENJOYED THE BENEFITS OF THE BEST TRANSPORTATION SYSTEM IN THE WORLD. TODAY, HOWEVER, BY ANY MEASURE AND FROM ANY POINT OF VIEW, THE LEVELS OF INVESTMENT IN SURFACE TRANSPORTATION ARE INADEQUATE AND THE FOCUS FOR FUTURE ACTION IS BLURRED. RECENT ESTIMATES PUT THE COST OF THE BACKLOG OF NEEDED HIGHWAY AND BRIDGE IMPROVEMENTS AT ABOUT \$290 BILLION. MORE THAN HALF OF THE NATION'S MAJOR ROADS ARE IN POOR OR FAIR CONDITION AND ARE IN NEED OF IMMEDIATE REPAIR.

INVESTMENT PER THOUSAND MILES TRAVELED ON THE NATION'S HIGHWAYS FELL MORE THAN 14 PERCENT BETWEEN 1986 AND 1992. STATE AND LOCAL GOVERNMENTS HAVE CONTINUED TO ASSUME THE LION'S SHARE OF THE TRANSPORTATION FINANCING BURDEN. THE FEDERAL GOVERNMENT'S SHARE HAS DECLINED SUBSTANTIALLY. FOR EXAMPLE, THE FEDERAL SHARE OF TRANSIT OPERATING REVENUE DECLINED FROM 17 PERCENT IN 1980 TO 6 PERCENT IN 1992, AND THE FEDERAL SHARE OF TRANSIT CAPITAL SPENDING DECLINED FROM 65 PERCENT IN 1988 TO 49 PERCENT IN 1992.

IN SHORT THE NATION HAS BEEN PUTTING LESS INTO ITS SURFACE TRANSPORTATION SYSTEM AND GETTING LESS FROM IT IN TERMS OF CONDITIONS AND PERFORMANCE. CONSEQUENTLY, IT HAS BECOME MORE AND MORE DIFFICULT TO ADDRESS PRIORITIES SUCH AS URBAN CONGESTION, RURAL ACCESS, AND INTERMODAL LINKS.

FULL IMPLEMENTATION AND FULL FUNDING OF THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT (ISTEA) OF 1991 IS THE FOUNDATION FOR ACHIEVING HIGH-PRIORITY SURFACE TRANSPORTATION OBJECTIVES. UNLESS ISTEA IS FULLY AND EFFECTIVELY IMPLEMENTED IN A MANNER THAT PROPERLY BALANCES NATIONAL, STATE, AND LOCAL NEEDS, RESOURCES, AND RESPONSIBILITIES, THE FUTURE STRENGTH OF THE NATION'S SURFACE TRANSPORTATION SYSTEM IS THREATENED.

21.2 PROVIDING ADEQUATE FINANCING

TO FULFILL ITS NECESSARY ROLE IN THE PARTNERSHIP NEEDED TO ENSURE THE FUTURE STRENGTH OF THE NATION'S TRANSPORTATION SYSTEM, THE FEDERAL GOVERNMENT MUST REVERSE THE DECLINE IN ITS SHARE OF TRANSPORTATION FUNDING. TO THAT END, THE GOVERNORS URGE THE FEDERAL GOVERNMENT TO DO THE FOLLOWING.

- 21.2.1 END FEDERAL GAS TAX DIVERSION.** THE NATION'S LONG-STANDING POLICY OF DEDICATING FEDERAL TRANSPORTATION-RELATED MOTOR FUEL TAXES AND EXCISE TAXES EXCLUSIVELY TO TRANSPORTATION PURPOSES SHOULD BE REINSTATED. THE REVENUES FROM THE 6.8 CENTS PER GALLON OF FUEL TAX REVENUES CURRENTLY BEING DIVERTED TO THE GENERAL FUND SHOULD BE RETURNED TO THE HIGHWAY TRUST FUND. THIS REPRESENTS MORE THAN \$9 BILLION A YEAR. THE 2.5-CENT DIVERSION SHOULD BE RETURNED TO THE HIGHWAY TRUST FUND IN 1995 AS REQUIRED BY LAW. THE ADDITIONAL 4.3 CENTS ALSO SHOULD BE RETURNED TO THE HIGHWAY TRUST FUND.
- 21.2.2 RESTORE THE INTEGRITY OF THE DEDICATED TRUST FUND.** ALL DEDICATED USER FEES AND THE INTEREST ACCRUED ON TRUST FUND BALANCES SHOULD BE PROMPTLY DISTRIBUTED FOR THEIR INTENDED PURPOSES. THESE COLLECTED FUNDS ARE URGENTLY NEEDED TO MAINTAIN AND IMPROVE THE CONDITION AND SAFETY OF THE NATION'S HIGHWAY, TRANSIT, AND BRIDGE SYSTEMS. THE GOVERNORS ALSO URGE RENEWED EFFORTS DIRECTED TOWARD COLLECTING THE MILLIONS OF DOLLARS IN USER FEES THAT ARE LOST EACH YEAR THROUGH TAX EVASION.
- 21.2.3 DEVELOP FINANCING INNOVATIONS TO INCREASE THE IMPACT OF AVAILABLE FUNDING.** THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991 PROVIDED NEW OPPORTUNITIES FOR STATES TO DEVELOP INNOVATIVE FINANCING OPTIONS. THE GOVERNORS APPLAUD ISTEA'S CREATIVE FINANCING

PROVISIONS AND OPPORTUNITIES IN THE FUTURE WITH FULL FEDERAL COOPERATION. THE FEDERAL GOVERNMENT ALSO SHOULD RECOGNIZE THAT EACH STATE HAS ITS UNIQUE FORM OF PUBLIC/PRIVATE PARTNERSHIPS, MAKING IT INAPPROPRIATE FOR THE FEDERAL GOVERNMENT TO ESTABLISH A UNIFORM, NATIONAL REQUIREMENT.

21.3 MAINTAINING STATE AUTHORITY

STATE GOVERNMENTS ARE CENTRAL TO THE ORGANIZATION AND MANAGEMENT OF TRANSPORTATION SYSTEMS THAT BOTH SERVE LOCAL COMMUNITIES AND THEIR RESIDENTS AND INTERCONNECT TO CREATE AN EFFICIENT NATIONAL SYSTEM. TO SUPPORT AND ENHANCE THE CONTINUED EFFECTIVENESS OF STATE TRANSPORTATION PROGRAMS, THE GOVERNORS URGE THE FEDERAL GOVERNMENT TO DO THE FOLLOWING.

21.3.1 MAINTAIN STATE GOVERNMENT AUTHORITY NEEDED TO ENSURE SOUND STATE TRANSPORTATION SYSTEMS. CONGRESS SHOULD NOT ACT TO WEAKEN THE PRIMACY OF STATEWIDE PLANNING AND PROJECT SELECTION AND THEREBY WEAKEN THE ABILITY OF STATES TO MEET THE DIVERSE NEEDS OF URBAN, SUBURBAN, AND RURAL COMMUNITIES. STATES HAVE A LONG HISTORY OF DRAWING UPON THE EXPERTISE OF THE FEDERAL AND LOCAL GOVERNMENTS AND METROPOLITAN PLANNING ORGANIZATIONS (MPOS). STATES WILL CONTINUE TO PROMOTE COOPERATIVE, JOINT DECISIONMAKING TO STRENGTHEN FEDERAL/STATE/LOCAL PARTNERSHIPS. CONGRESS SHOULD NOT ENACT MEASURES, SUCH AS FUNDING SUBALLOCATIONS TO URBAN AREAS AND REQUIRING PROPORTIONAL REPRESENTATION ON MPOS, THAT DISTORT STATEWIDE PRIORITIES AND PREEMPT STATE AUTHORITY.

21.3.2 PROVIDE FLEXIBILITY NEEDED TO RESPOND TO PARTICULAR CIRCUMSTANCES AND NEEDS. ISTE A WAS INTENDED TO PROVIDE STATES WITH GENUINE FLEXIBILITY TO MEET THE PRIORITY TRANSPORTATION NEEDS OF THE STATE AND ITS UNITS OF LOCAL GOVERNMENTS. FOR EXAMPLE, STANDARDS FOR THE NATIONAL HIGHWAY SYSTEM (NHS) SHOULD NOT BE UNIFORM, BUT SHOULD BE APPROPRIATE TO THE DIFFERENT CATEGORIES OF HIGHWAYS CONTAINED IN NHS. STATES WELCOME THIS FLEXIBILITY. INDIVIDUAL STATE PLANNING PROCESSES MUST DETERMINE THE RIGHT MIX OF INVESTMENTS. CATEGORICAL FUNDING REQUIREMENTS, RIGID PLANNING REQUIREMENTS, SET-ASIDES, AND SUBALLOCATION ERODE FLEXIBILITY AND UNDERMINE EFFECTIVENESS.

CONGRESS SHOULD STREAMLINE AND SIMPLIFY THE PROCESS THROUGH WHICH FEDERAL FUNDS FLOW TO STATES AND PROVIDE FLEXIBLE GRANT PROGRAMS TO ENCOURAGE EFFICIENT INTERMODAL SYSTEMS.

21.3.3 REFRAIN FROM IMPOSING UNFUNDED MANDATES. THE GOVERNORS OPPOSE UNFUNDED FEDERAL MANDATES AND SUPPORT EFFORTS TO ELIMINATE THEM. IN ADDITION, ALTHOUGH FLEXIBILITY IS IMPERATIVE, IT IS NO SUBSTITUTE FOR ADEQUATE INFRASTRUCTURE FUNDING. ANY CONGRESSIONAL EXPANSION OF FUNDING ELIGIBILITY MUST BE ACCOMPANIED BY AN INCREASE IN THE FEDERAL FINANCIAL COMMITMENT.

21.3.4 USE INCENTIVES, NOT SANCTIONS, TO ACHIEVE SPECIFIC SURFACE TRANSPORTATION OBJECTIVES. THE GOVERNORS STRONGLY BELIEVE THAT INCENTIVES TO ENCOURAGE THE ACHIEVEMENT OF NATIONAL GOALS ARE MORE EFFECTIVE AND PRODUCTIVE THAN SANCTIONS, PARTICULARLY IF THE SANCTIONS ARE NOT GERMANE TO THE GOALS SOUGHT. THE GOVERNORS OPPOSE THE USE OF SANCTIONS, AS WELL AS UNFUNDED FEDERAL MANDATES, AND URGE INSTEAD, WHERE APPROPRIATE, THE USE OF FEDERAL INCENTIVES TO STIMULATE STATES TO ADOPT NATIONAL STANDARDS.

21.4 IMPLEMENTING PROGRAMS

ISTEA IS THE KEY TO CARRYING OUT THE INTERGOVERNMENTAL PARTNERSHIP. TO MAKE THAT PARTNERSHIP WORK, THE GOVERNORS URGE THE FEDERAL GOVERNMENT TO DO THE FOLLOWING.

21.4.1 FULLY FUND AND IMPLEMENT THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991. ISTEA WAS ENACTED WITH GREAT PROMISE FOR EXPANDING AND UPGRADING INVESTMENT IN ROADS, HIGHWAYS, BRIDGES, AND MASS TRANSIT SYSTEMS. CONGRESS, HOWEVER, CONSISTENTLY HAS SET OBLIGATION LEVELS BELOW AUTHORIZED LEVELS, WHICH WERE ESTABLISHED TOO LOW TO MEET THE OBJECTIVES OF THE ACT. CONSEQUENTLY, ISTEA HAS NOT FULFILLED ITS POTENTIAL AND HAS NOT BEEN IMPLEMENTED AS ANTICIPATED. THE GOVERNORS ARE UNITED IN THEIR CONVICTION THAT THE SINGLE MOST EFFECTIVE INGREDIENT FOR EFFECTIVE IMPLEMENTATION OF ISTEA IS FULL FUNDING.

21.4.2 ELIMINATE FINANCIAL CONSTRAINTS. ALTHOUGH THERE IS A LEGITIMATE NEED TO ENSURE THAT LONG-RANGE PLANS ARE REALISTIC AND PRACTICAL, FINANCIAL FEASIBILITY PROVISIONS ARE COUNTERPRODUCTIVE. REQUIRING

IDENTIFICATION OF THE FINANCIAL MEANS FOR PROJECTS BEFORE NEED IS ESTABLISHED PRECLUDES PUBLIC CONSENSUS, AND IT FORCES DECISIONS ON NEW IDEAS BEFORE INFORMATION AND SUPPORT CAN BE DEVELOPED IN FAVOR OF THE COMMITMENT OF RESOURCES.

21.4.3 ENACT A NATIONAL HIGHWAY SYSTEM. THE GOVERNORS STRONGLY URGE CONGRESS TO FINALIZE ITS DESIGNATION OF NHS BY SEPTEMBER 30, 1995, AS REQUIRED BY ISTEA. AN EFFECTIVE PROCESS SHOULD BE INSTITUTED TO ALLOW FOR EXPANSION INCLUDING, BUT NOT LIMITED TO, GUARANTEEING SATISFACTORY INTERMODAL CONNECTIONS, AND ADEQUATE URBAN COVERAGE. STATES ALSO SHOULD HAVE THE FLEXIBILITY TO ADJUST NHS MILEAGE AS CONDITIONS DEMAND. THE NATIONAL HIGHWAY SYSTEM SHOULD PROVIDE THE FOUNDATION FOR ANY CONSIDERATION OF BROAD STRATEGIES FOR INTERRELATING THE VARIOUS MODES OF TRANSPORTATION, SUCH AS A NATIONAL TRANSPORTATION SYSTEM.

21.4.4 IMPLEMENT ENVIRONMENTAL REQUIREMENTS IN A WAY THAT DOES NOT SACRIFICE TRANSPORTATION OBJECTIVES. THE GOVERNORS STRONGLY SUPPORT ENVIRONMENTAL PROTECTION EFFORTS. IF GIVEN THE NECESSARY FLEXIBILITY, STATES CAN MEANINGFULLY ASSIST AND ADVANCE FEDERAL ENVIRONMENTAL EFFORTS, WHILE PRESERVING THE INTEGRITY OF A COMPREHENSIVE, INTEGRATED, USER-FINANCED NATIONWIDE SURFACE TRANSPORTATION PROGRAM. THE DUAL GOALS OF SENSIBLE ENVIRONMENTAL REGULATION AND ECONOMIC DEVELOPMENT ARE COMPATIBLE.

21.4.5 MAINTAIN A STRONG EMPHASIS ON SAFETY. SAFETY MUST BE A MAJOR CONSIDERATION IN ANY TRANSPORTATION INVESTMENT. THE GOVERNORS ARE ESPECIALLY CONCERNED ABOUT SAFETY ON THE NATION'S HIGHWAYS, WHERE THE HIGHEST NUMBER OF TRANSPORTATION DEATHS AND INJURIES OCCUR, AND THEY SUPPORT STRENGTHENED SAFETY PROGRAMS. FEDERAL AID REQUIREMENTS SHOULD BE SIMPLIFIED, AND EACH STATE SHOULD BE PERMITTED TO FOCUS FEDERAL HIGHWAY SAFETY RESOURCES ON ITS MOST PRESSING PROBLEMS.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

**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 BY CONGRESS AND IT PROMOTES STRONG COORDINATION & COOPERATION AMONG ALL TRANSPORTATION PROGRAMS, EFFICIENCY IN PROGRAM ADMINISTRATION AND MOST IMPORTANTLY, HIGHER 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 WILL HAVE A POSITIVE IMPACT ON THE EXISTING AND GROWING TRAFFIC CONGESTION PROBLEMS IN OUR DEVELOPING ISLAND COMMUNITY. CURRENT FUNDING LEVELS FOR ISTEA MUST BE MAINTAINED OR INCREASED!!

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 MADE THE POSSIBILITY OF BUILDING MANY 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.

GOVERNOR'S BRIEFING BOOK
Committee on Economic Development and Commerce

6. EDC-22: PROPOSED POLICY POSITION ON RAIL TRANSPORTATION SAFETY

BACKGROUND:

While the existing policy on rail transportation is scheduled to sunset at the winter meeting, a new policy will be written for consideration at the 1995 Annual Meeting. The new proposal will address only rail transportation safety. NGA believes that railroads are a major component of an integrated and efficient transportation system. NGA further believes that railroads provide cost-effective, fuel efficient, economically and environmentally sound transportation for people and goods. However, as rail safety is a serious concern to the states and the general public, the policy calls for the federal government to fund programs designed to reduce and incidence and severity of rail accidents particularly those involving hazardous materials.

OBJECTIVES:

- Assure the safe operation and maintenance of the rail transportation system, including the safe movement of hazardous materials.
- Ensure continued federal financing administered by the states to help preserve and improve essential local rail facilities and services.

GUAM'S POSITION:

- No briefing papers were provided by agencies.

EDC-22. RAIL TRANSPORTATION SAFETY

22.1 PREAMBLE

THE GOVERNORS BELIEVE THAT THE COMPETITIVENESS AND LONG-TERM ECONOMIC GROWTH OF THE NATION DEPEND UPON AN EFFICIENT AND SAFE TRANSPORTATION SYSTEM. RAILROADS ARE A MAJOR ELEMENT OF THAT SYSTEM. THEY PROVIDE COST-EFFECTIVE, FUEL-EFFICIENT, AND ECONOMICALLY SOUND TRANSPORTATION FOR PEOPLE AND GOODS THROUGHOUT THE NATION. A STRONG FEDERAL/STATE/LOCAL PARTNERSHIP IS ESSENTIAL TO ENSURE OPERATIONAL AND EMPLOYEE SAFETY, AS WELL AS EFFECTIVE EMERGENCY RESPONSE SYSTEMS.

22.2 RECOMMENDATIONS

22.2.1 INSPECTION. THE STATES AND THE FEDERAL GOVERNMENT HAVE ESTABLISHED A NATIONAL PROGRAM OF UNIFORM SAFETY STANDARDS AND ENFORCEMENT. STATES HAVE A VITAL INTEREST AND RESPONSIBILITY IN TRANSPORTATION SAFETY INSPECTION, AND THEY ARE ENCOURAGED TO PARTICIPATE.

22.2.2 INCIDENT MANAGEMENT. THE FEDERAL GOVERNMENT SHOULD ADEQUATELY FUND PROGRAMS DESIGNED TO REDUCE THE INCIDENCE AND SEVERITY OF RAIL ACCIDENTS, AND TO IMPROVE THE CAPABILITY OF STATE AND LOCAL AUTHORITIES TO ENFORCE APPROPRIATE REGULATIONS IN REACTION TO ANY INCIDENTS THAT OCCUR.

22.2.3 ENCOURAGEMENT AND EMPLOYMENT OF TECHNOLOGICAL ADVANCES. THE GOVERNORS ENCOURAGE FURTHER RESEARCH AND DEVELOPMENT EFFORTS TO IMPROVE SAFETY TECHNOLOGIES, INCLUDING THE APPLICATION OF INTELLIGENT TRANSPORTATION SYSTEMS TO COMMUNICATIONS-BASED TRAIN CONTROL SYSTEMS, SO THAT NEW TECHNOLOGY CAN BE APPLIED TO AREAS SUCH AS THE TRANSPORTATION OF HAZARDOUS AND NUCLEAR MATERIALS.

22.2.4 SHARED USE OF RIGHTS-OF-WAY. THE GOVERNORS ENCOURAGE THE INCREMENTAL DEVELOPMENT OF INTERURBAN PASSENGER SERVICE. THEY ALSO RECOGNIZE THAT RAILROADS HAVE LEGITIMATE CONCERNS OVER INCREASED LIABILITY AND JUST COMPENSATION RESULTING FROM THE POTENTIAL SHARED USE OF RAILROAD RIGHTS-OF-WAY.

22.2.5 GRADE CROSSINGS. THE GOVERNORS RECOGNIZE THE STATE ROLE IN GRADE-CROSSING SAFETY. EACH STATE'S ROLE IS DETERMINED BY ITS

EXPERIENCE, ITS ACCIDENT HISTORY, ITS GEOGRAPHY, AND ITS VARIOUS INTERGOVERNMENTAL ROLES AND RELATIONSHIPS. ALL OF THESE FACTORS PREVENT A SINGLE FEDERAL SOLUTION.

THE PROBLEM OF ACCIDENTS AT GRADE CROSSINGS CONTINUES TO BE A SERIOUS CHALLENGE, AND THE PREVALENCE OF GRADE CROSSINGS IS THE PRIMARY DETERRENT TO EFFECTIVE INTERMODAL AND PASSENGER RAIL HIGH-SPEED CORRIDORS. THE GOVERNORS ARE READY TO WORK CLOSELY WITH FEDERAL, LOCAL, AND PRIVATE AGENCIES TO DEVELOP AN EFFECTIVE STRATEGY TO SOLVE THIS PROBLEM. FURTHER, THE GOVERNORS BELIEVE THAT RAILROADS ARE RESPONSIBLE FOR INSTALLING AND ADEQUATELY MAINTAINING WARNING DEVICES AT HIGHWAY GRADE CROSSINGS AND THAT THE USE OF FEDERAL FUNDS TO INSTALL WARNING DEVICES OR OTHER SAFETY IMPROVEMENTS DOES NOT MITIGATE THAT RESPONSIBILITY.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

GOVERNOR'S BRIEFING BOOK
Committee on Economic Development and Commerce

7. EDC-23: PROPOSED POLICY POSITION ON AFFORDABLE HOUSING

BACKGROUND:

The new policy replaces the existing policy scheduled to sunset at the winter meeting. The policy addresses Governors' support for existing programs that demonstrate effective intergovernmental partnership and flexibility for mortgage revenue bonds and certificates and for the low-income housing tax credit. Our nation needs a federal commitment to affordable housing and to the housing needs of our poorest and most vulnerable citizens. It does not follow, however, that the department which has this principal responsibility - HUD - should function as it has. With major restructuring, HUD can do a better job of carrying out its missions.

Governors believe in integrating and coordinating public and private resources to produce effective affordable housing. They also believe that the HOME and CDBG program provide successful models of state-federal partnership that can be used in other housing and development projects. Governors, therefore, urge Congress and the Administration to continue the partnership and to work closely with states in addressing the issues and problems involved.

OBJECTIVES:

- Continued funding for the HOME Investment Partnership Program and increased flexibility in the HOME program.
- Promote programs that preserve and enhance affordable housing projects using new technologies to lower housing costs while removing unnecessary regulatory impediments to construction.
- Consolidation of the homeless assistance programs.

There is no federal fiscal impact from the policy.

GUAM'S POSITION:

► **Guam Housing Corporation**

The Guam Housing Corporation (GHC) strongly supports the continuance of the Home Investment Partnership Program (HOME) as it accorded the corporation the opportunity to utilize various federal and local funding

sources for the development of government land. Continued funding from the HOME and CDBG programs enable Guam Housing Corporation to:

- continue forging partnerships with private and non-profit organizations to improve housing options for low-income individuals, the homeless, the elderly, and those with special housing needs;

► **Guam Housing and Urban Renewal Authority**

The Agency supports the provisions of the policy position, however, the following "wish list" is provided:

- for the states and territories to use housing resources to help end welfare dependency and foster economic empowerment and independence;
- to be allowed to preserve our present housing stock and/or increase it by allowing Congress to enact programs that permit the leveraging of private and public sector funds and programs which remove unnecessary regulatory impediments to the construction of affordable housing; and
- for us to focus on output measures rather than detailed five year financial planning in support efforts to remove rigid planning requirements.

EDC-23. AFFORDABLE HOUSING

23.1 PREAMBLE

THE GOVERNORS SUPPORT THE INTEGRATION AND COORDINATION OF PUBLIC AND PRIVATE RESOURCES TO MAKE AVAILABLE EFFECTIVE, AFFORDABLE HOUSING SERVICES THAT RANGE FROM PREVENTING HOMELESSNESS TO PROMOTING HOMEOWNERSHIP AND THAT ENCOURAGE SELF-SUFFICIENCY AND PROMOTE ECONOMIC OPPORTUNITY. WELFARE REFORM SHOULD PERMIT STATES AND LOCAL GOVERNMENTS TO USE AFFORDABLE HOUSING RESOURCES TO HELP END WELFARE DEPENDENCY. AS MAJOR PARTNERS IN THE AFFORDABLE HOUSING ARENA AND AS MANAGERS OF A SIGNIFICANT PROPORTION OF HUMAN SERVICES PROGRAM DOLLARS, STATES ARE IN A UNIQUE LEADERSHIP POSITION TO COORDINATE THESE RESOURCES IN AN EFFECTIVE WAY TO END WELFARE DEPENDENCY AND PROMOTE ECONOMIC SELF-SUFFICIENCY.

23.2 SUPPORT FOR EXISTING PROGRAMS

THE HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) AND THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROVIDE SUCCESSFUL AND PROVEN MODELS OF A STATE-FEDERAL PARTNERSHIP THAT CAN BE USED IN OTHER HOUSING AND DEVELOPMENT AREAS. HOME WAS DESIGNED AS A FEDERAL/STATE/LOCAL PROGRAM, WITH STATES RECEIVING A SUBSTANTIAL SHARE OF THE FUNDING, HAVING THE FLEXIBILITY TO FIT HOME FUNDS INTO THE FULL RANGE OF HOUSING SERVICES, AND HAVING THE AUTHORITY TO SPEND FUNDS ANYWHERE WITHIN A STATE RATHER THAN ONLY IN RURAL AREAS. AS EFFORTS TO STREAMLINE AND CONSOLIDATE PROGRAMS CONTINUE, CONGRESS AND THE ADMINISTRATION SHOULD USE THESE PARTNERSHIP ASPECTS OF THE HOME PROGRAM AS A MODEL. THE GOVERNORS ALSO SUPPORT CONSIDERATION OF INCREASES IN THE LIMITS ON PERMANENT MORTGAGE REVENUE BONDS, MORTGAGE CREDIT CERTIFICATES, AND THE LOW-INCOME HOUSING TAX CREDIT PROGRAM.

23.3 FEDERAL HOUSING EFFORTS

THE GOVERNORS URGE CONGRESS AND THE ADMINISTRATION TO WORK MORE CLOSELY WITH STATES TO ADDRESS THE FOLLOWING PRIORITY ISSUES:

- CONSOLIDATE PROGRAMS AND STREAMLINE PROGRAM ADMINISTRATION TO BETTER EFFECT LOCAL CONTROL, ENSURING THAT EXISTING CONTRACTS ARE ADEQUATELY RESOLVED, AND TO INCREASE FLEXIBILITY FOR STATES IN ADMINISTERING FEDERAL PROGRAMS, INCLUDING AUTHORITY FOR STATES TO USE EXISTING LEGISLATIVE OR REGULATORY PROCEDURES WHEREVER POSSIBLE TO ACHIEVE FEDERAL PROGRAM GOALS;
- PROMOTE PROGRAMS THAT ARE LEVERAGED WITH PRIVATE SECTOR FUNDS, THAT PRESERVE THE AFFORDABLE HOUSING STOCK, THAT INCREASE THE USE OF NEW TECHNOLOGIES TO LOWER HOUSING COSTS, AND THAT REMOVE UNNECESSARY REGULATORY IMPEDIMENTS TO THE CONSTRUCTION OF AFFORDABLE HOUSING; AND
- DEVELOP CONSISTENT DEFINITIONS AND ELIGIBILITY CRITERIA, REMOVE SET-ASIDES AND RIGID PLANNING REQUIREMENTS, AND FOCUS ON OUTPUT MEASURES RATHER THAN DETAILED PLANNING DOCUMENTS.

BEYOND THESE RECOMMENDATIONS, THE GOVERNORS URGE THE FEDERAL GOVERNMENT TO STRENGTHEN EFFORTS TO INCREASE HOMEOWNERSHIP. ONE APPROACH IS TO STRENGTHEN THE PUBLIC/PRIVATE PARTNERSHIP. FOR EXAMPLE, THE FEDERAL GOVERNMENT SHOULD STUDY EFFECTIVE INCENTIVES TO INCREASE THE CONSTRUCTION OF AFFORDABLE "STARTER" HOMES, WORK WITH STATES AND LOCALITIES TO IDENTIFY UNNECESSARY BARRIERS TO THE CONSTRUCTION OF AFFORDABLE HOUSING, AND CONSIDER OTHER STEPS THAT MIGHT UNLEASH THE RESOURCES OF THE PRIVATE SECTOR IN THE PURSUIT OF HOMEOWNERSHIP.

23.4 PROGRAMS SERVING THE HOMELESS

IN THE PAST, CONGRESS HAS CONSIDERED LEGISLATION TO BLOCK GRANT FEDERAL PROGRAMS FOR THE HOMELESS. THE GOVERNORS SUPPORT CONSOLIDATION, ASK THAT THESE PROGRAMS BE ADEQUATELY FUNDED, AND ASK THAT EFFORTS TO STREAMLINE AND CONSOLIDATE FEDERAL PROGRAMS TO SERVE THE HOMELESS AND TO PREVENT HOMELESSNESS INCLUDE AN EFFECTIVE STATE ROLE.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).



Guam Housing Corporation

P.O. Box 3457 • Agaña, Guam 96910 • Phone No. 649-GHC1-3 • Fax: 649-4420

Located on the 2nd Floor, Century Plaza, Tamuning

January 24, 1995



MEMORANDUM

TO: Chief Planner
Bureau of Planning

FROM: President
Guam Housing Corporation

SUBJECT: Governor's Conference on Affordable Housing

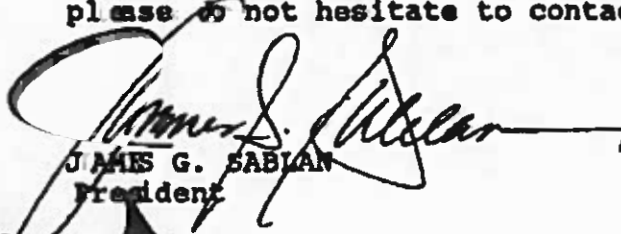
Guam Housing Corporation is fairly new in its involvement in the administration of any Federal Affordable Housing program. We, however, would like to provide our strong support for the continuance of the Home Investment Partnership Program (HOME) for it accorded the corporation the opportunity to utilize various federal and local funding sources for the development of government land.

As a recipient of \$3.56 million of grant funds under the Emergency HOME program, Guam Housing Corporation was given the opportunity to develop government land by constructing over 200 units for the purpose of providing rental units to individuals who have been displaced by recent typhoons and have become homeless and landless.

With continued funding from the HOME and CDBG programs, GHC will continue in forging partnerships with private and non-profit organizations to improve housing options for low-income families and individuals as well as the homeless, the elderly and others with special housing needs. Such programs encourages the community in the public and private sectors to work in developing and managing affordable housing by complementing their programs.

As part of our commitment and support of these programs, the corporation will continue to assess the territory's housing needs including rental housing, tenant assistance, homeowner rehabilitation and first-time homebuyers programs. We will continue to create other exciting opportunities for community action on affordable housing.

Should you desire additional information or have any questions, please do not hesitate to contact me directly.


JAMES G. SABLAN
President



GHURA

Guam Housing and Urban Renewal Authority
P.O. Box C5 Agaña, Guam 96910
Phones: (671) 477-9851 to 4 • Fax: (671) 477-4164

JAN 25 1995

MEMORANDUM:

TO: Chief Planner, Bureau of Planning

FROM: Executive Director

SUBJECT: Suggested Position & Briefing on the 1995 Winter Meeting of the National Governor's Association

1. We support the National Governor's Association position regarding the integration and coordination of public and private resources to deal with issues affecting affordable housing to private homeownership, prevent homelessness and encourage self-sufficiency and promote economic opportunity. We also wish to see states and territories use housing resources to help end welfare dependency and foster economic empowerment and independence.
2. We support the National Governor's Association position on requesting increases on the limits of mortgage revenue bonds, mortgage credit certificates and low income housing tax credit program.
3. We support the concept of consolidating programs to better effectuate local program control and increase territorial or insular area's flexibility in administering federal program. We need greater flexibility in administering federal programs and authority to use local legislative and regulatory procedures in handling such programs rather than federal policies and procedures.
4. We wish to be allowed to preserve our present housing stock and/or increase it by allowing Congress to enact programs that permit the leveraging of private and public sector funds and programs which remove unnecessary regulatory impediments to the construction of affordable housing. Guam has about 761 low income public housing units and about 2,000 vouchers/certificates using private landlord's housing units.
5. We urge Congress to use consistent definitions and eligibility criteria in all affordable programs. We support the effort to remove rigid planning requirements. We also wish to focus on output measures rather than detailed five year financial planning documents.

GHURA does not discriminate on the basis of handicap. The Research, Planning & Evaluation Administrator has been designated as Section 504 Coordinator. The Coordinator can be contacted at the above address and telephone numbers.



Chief Planner, Bureau of Planning

**Suggested Position & Briefing on the 1995 Winter Meeting
of the National Governor's Association**

Page 2 of 2

6. We urge the federal government to study ways to identify unnecessary barriers to the construction of affordable housing.
7. We support block grant federal program legislation for the homeless with adequate funding which addresses the issues of preventing homelessness.

We apologize for the delay in submitting our response. We are attaching some briefing materials on mortgage revenue bonds.

Herminia Dierking
HERMINIA D. DIERKING

Attachments

cc: Linda Segovia, Bureau of Planning

GOVERNOR'S BRIEFING BOOK
Committee on Economic Development and Commerce

8. EDC-24: PROPOSED AMENDMENTS ON UNIFORM PRODUCT LIABILITY CODE

BACKGROUND:

In the policy, NGA urges Congress to adopt a federal uniform product liability code that contains adequate consumer safeguards because of its implication for interstate commerce and economic growth. The amendments updates the policy by removing reference to the liability insurance crisis and to refocus on the issue of unpredictability that businesses face rather than insurers. The amendments also remove language regarding the regulation of insurance which is scheduled to sunset this winter meeting but will likely be discussed in a separate policy at the 1995 Annual Meeting.

There is no federal fiscal impact from this policy.

OBJECTIVE:

- Enactment of legislation in accordance with NGA policy.

GUAM'S POSITION:

► **Department of Commerce**

The Department supports the amendments believing that it would limit the risk of businesses from potential legal action.

EDC-24. UNIFORM PRODUCT LIABILITY CODE

The National Governors' Association recognizes THAT THE CURRENT PATCHWORK OF U.S. PRODUCT LIABILITY LAWS IS TOO COSTLY, TIME CONSUMING, UNPREDICTABLE, AND COUNTERPRODUCTIVE, ~~the growing national problem of the availability of affordable liability insurance. Liability insurance coverage has become increasingly more expensive, more difficult to obtain, or has simply become unavailable, resulting in a severely~~ adverse effect on AMERICAN CONSUMERS, WORKERS, COMPETITIVENESS, INNOVATION, AND COMMERCE. ~~government entities, public and private organizations, businesses, and professionals throughout the nation.~~

~~The National Governors' Association believes that the nature and extent of the problem of liability insurance requires the coordinated efforts of federal, state, and local governments and the private sector. Specifically, the National Governors' Association supports actively working to resolve this national issue through continued review and analysis of the problem, collection and dissemination of statistical and legislative data on federal and state programs and initiatives, and development of long term policy goals.~~

The issue of product liability reform increasingly has pointed to federal action as a way to alleviate the problems faced by SMALL AND LARGE BUSINESSES ~~product manufacturers with~~ regard to inconsistent state product liability laws. This lack of PREDICTABILITY ~~uniformity~~ makes it impossible for PRODUCT MANUFACTURERS ~~insurers to predict accurately~~ ASSESS THEIR OWN RISKS, LEADING TO THE DISCONTINUATION OF NECESSARY PRODUCT LINES, RELUCTANCE TO INTRODUCE PRODUCT IMPROVEMENTS, AND A DAMPENING OF PRODUCT RESEARCH AND DEVELOPMENT ~~the potential liability of product manufacturers and insurers.~~ AMERICAN SMALL BUSINESSES ARE PARTICULARLY VULNERABLE TO DISPARATE PRODUCT LIABILITY LAWS. FOR THEM, LIABILITY INSURANCE COVERAGE HAS BECOME INCREASINGLY EXPENSIVE, DIFFICULT TO OBTAIN, OR SIMPLY UNAVAILABLE. Further, the system causes inflated prices for consumer goods ~~the discontinuation of necessary product lines,~~ and adversely affects the international competitiveness of the United States.

Clearly, a national product liability code would greatly enhance the effectiveness of interstate commerce. The Governors urge Congress to adopt a federal uniform product liability code.

In establishing a uniform product liability code, 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.

~~The Governors further believe that the insurance industry of America provides an important and vital public service to consumers and the private sector. As we call for the adoption of a national uniform product liability code, we believe there must also be effective oversight of the insurance industry so as to guarantee that the needs of both American businesses and American consumers are met and protected. This is especially important in light of concerns that have been raised concerning rate increases, the availability of insurance, industry practices on cancellation and non-renewal of policies, coverage restriction, and reinsurance.~~

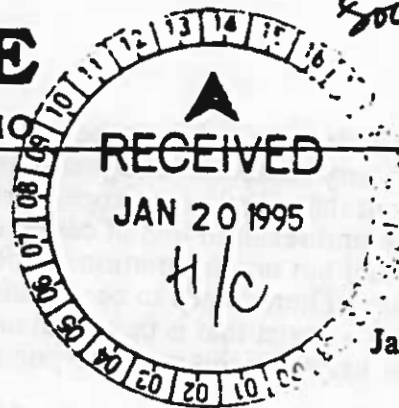
*Time limited (effective Winter Meeting 1995-Winter Meeting 1997).
Adopted August 1986; revised August 1991 (formerly Policy E-4).*



DEPARTMENT OF
COMMERCE
DIPATTAMENTON I KUMETSIO



DC-EDP-020-95a



January 18, 1995

MEMORANDUM

To: Director, Bureau of Planning
From: Director of Commerce
Subject: The 1995 Winter Meeting of the National Governor's Association;
Washington, D.C.; January 28-31, 1995

The documents provided regarding the upcoming NGA meeting are general and with no specific background on how they were developed nor details on possible changes in positions from the previous status on the specific topics. The Department of Commerce has not been involved in the federal programs indicated. Therefore, our comments are limited to general brief views concerning the issues.

The promotion of international trade is an area that Guam should support. With the increasing trans-Pacific trade, Guam can potentially play an important role. Guam's interest with APEC and GATT should be highlighted at the NGA meeting. We are currently looking at opportunities to develop new linkages with the rapidly growing Asian economies. It should be stressed that Guam provides an opportune location for U.S. companies entering and doing business in Asia. Guam should be promoted as a corporate regional base for servicing the Asian markets, since Guam, as the Western most U.S. territory, provides the stability of the U.S. as well as U.S. quality of life with education and medical services comparable to the continental U.S.

The fast track negotiation facilitates negotiations in trade agreements which could capture certain advantageous arrangements. However, in agreements that may impact directly or indirectly on Guam there should be an opportunity for Guam to provide input before adoption.

The economic and community development proposed block grants approach to programs would be desired in that it would provide greater flexibility to Guam in allocating the funds to critical areas. The issue of a highly regulated business



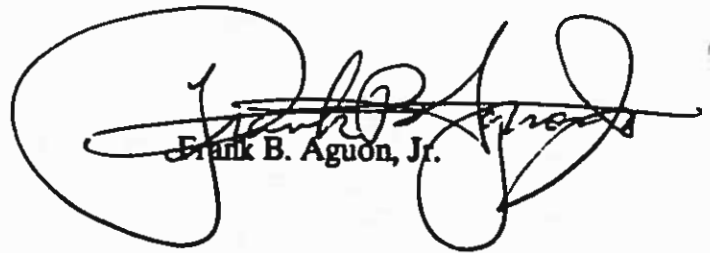
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environment that is detrimental to economic development is an issue that should be addressed. In the very competitive region that Guam is associated with, namely Asia, it is important that regulatory procedures and requirements do not become counterproductive and result in loss of competitiveness. Environmental issues need to be fully addressed but not in isolation of the need for sustainable development of economic activities. There needs to be a balance between the two. The "one stop permitting" issue is an area that is being pursued by Guam at the local regulatory level. It would be helpful if this was also pursued at the federal level.

A uniform product liability code would limit the risk of businesses from potential legal action. This reduction of risk in doing business may stimulate economic activity that previously was considered too risky under U.S. regulatory structure.

The 1995 Farm Bill addresses issues of interest to Guam, but with our limited agriculture activity most of the programs would most likely not apply or are not designed for the scale of agriculture in Guam. In the area of research and development, Guam might want to emphasize some of its unique requirements as an island based agriculture industry. In addition, the inclusion of funding support for aquaculture industry development and research should be pursued for inclusion.

If you have questions regarding the above comments, please contact me at my office.



Frank B. Aguon, Jr.

GOVERNOR'S BRIEFING BOOK
Committee on Economic Development and Commerce

9. EDC-2: PROPOSED REAFFIRMATION OF GOVERNORS' PRINCIPLES TO ENSURE WORKFORCE EXCELLENCE

BACKGROUND:

The Committee on Economic Development and Commerce and the Human Resources Committee recommend the reaffirmation of this policy position.

The principles call for changes in the nation's approach to workforce development, built upon partnerships between employers, labor, education, and all levels of governments. The Governors recognize that the nation is in a competitive economic position which require high-performance firms and workers. To successfully compete worldwide, America must improve its products, seek new markets, and invest in building world-class workforce.

OBJECTIVES:

- To strengthen partnership among business, labor, education, and all levels of government.
- States and federal governments to promote and make workforce development an integral component of national, state, and local economic development policies.
- For federal workforce development programs to be streamlined to eliminate barriers to effective service delivery.

GUAM'S POSITION:

▶ **Department of Labor**

The Department supports the reaffirmation of the policy for our island would also benefit in the promotion of high-performance firms and workers which would lead to our increased competitive capabilities.

▶ **Agency for Human Resources Development (AHRD)**

The Agency supports the reaffirmation of the policy. The Agency believes it is the correct course of action to strengthen competitiveness of our nation and is the way forward to economic prosperity.

HR-2. GOVERNORS' PRINCIPLES TO ENSURE WORKFORCE EXCELLENCE*

The Governors are vitally concerned with the competitive economic position of our states and the nation. A world-class economy will require both high-performance firms and workers. U.S. firms must upgrade production processes, improve products, seek new markets, and invest in workforce skills to compete successfully. Government should support these private sector modernization and quality improvement efforts, and must radically restructure its own strategies for delivering education and training services in order to build a world-class workforce. To ensure that these efforts succeed, we must strengthen partnerships among business, labor, education, and all levels of government and make workforce development an integral component of national, state, and local economic development policies. The Governors recommend the following principles to help ensure workforce excellence.

- States and the federal government should promote the development of high-performance work organizations by providing technical, financial, and training assistance to firms seeking to implement quality management improvement and modernization initiatives. Firms negatively affected by federal policy decisions, including defense downsizing and trade policy, should receive adjustment assistance. Federal assistance should be provided through state-based networks and build on existing state and local programs.
- Wholesale change in the nation's approaches to workforce development is needed in order to create a coherent, customer-driven, results-oriented workforce development system. This system should be understandable, accessible, and responsive to the needs of local and regional businesses, workers, job seekers, and students. Customers should be able to receive information about the full array of services available and be able to easily enter and re-enter the system at any point. This state-based system should be comprehensive, flexible, and designed to build on current strengths, and it should be managed at the local level to achieve desired results. A comprehensive national human investment policy should guide and support state and local efforts to implement such a system.
- Job training and education programs should be available to the entire workforce and business community as part of a continuum of lifelong learning. At every stage in their lives, people should have the opportunity to equip and re-equip themselves for productive work through school and work-based learning.
- Pathways for career development are needed for all young people. The workforce development system should effectively link education and work through career guidance, youth apprenticeship, and other options that enable young people to achieve the academic, occupational, and work-readiness skills needed for employment. Employers, unions, schools, colleges and universities, community-based organizations, and all levels of government must share the responsibility to ensure that such a system succeeds.
- Broadly agreed-upon, world-class workforce standards are essential to raising the level of achievement of individuals and to promoting continuous improvement in the quality of services provided. Measurable national standards developed by business, education, labor, and government should specify the knowledge and skills needed to succeed in the modern workplace. Assessment of individual and institutional performance should be based on these standards.
- National and state programs and policies should promote expanded private sector investment in workforce development and enhance the capacity of small and medium-sized firms to train their workers. Federal efforts should be designed to support state-based programs.
- Legislative action is needed to integrate multiple, targeted, federal workforce development programs into a comprehensive and flexible system. Specifically, current and proposed worker readjustment programs should be consolidated and delivered through this system.
- Federal workforce development programs should be streamlined to eliminate barriers to effective service delivery caused by inconsistent definitions, planning and reporting requirements, and accountability measures. Incentives, including access to waiver authority and



DEPARTMENT OF

LABOR

DIPATTAMENTON HUMOTNAT Juan M. Taijito, Acting Director *Rolando P. Zabala, Deputy Director

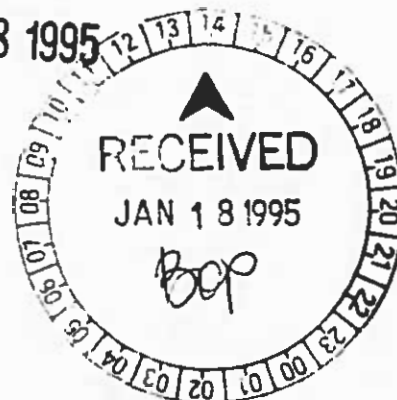
CARL T.C. GUTIERREZ

Governor

MADELEINE Z. BORDALLO

Lizutenant Governor

JAN 18 1995



MEMORANDUM NO.: 95-083

TO: Chief Planner, Bureau of Planning

FROM: Director

SUBJECT: Guam Department of Labor's Input for the Governor of Guam in Preparation for the Upcoming 1995 Winter Meeting of the National Governors' Association

Thank you for the opportunity to review and provide the attached responses (as enumerated) on EDC-2. GOVERNORS' PRINCIPLES TO ENSURE WORKFORCE EXCELLENCE.

Should you have any questions or need additional information please feel free to call me at 647-4111.


J.M. TAIJITO
(Acting)

Attachment



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ATTACHMENT

Following are the proposed policies for consideration by NGA Committees and the Guam Department of Labor's responses:

I. STATES AND THE FEDERAL GOVERNMENT SHOULD PROMOTE THE DEVELOPMENT OF HIGH-PERFORMANCE WORK ORGANIZATIONS BY PROVIDING TECHNICAL, FINANCIAL, AND TRAINING ASSISTANCE TO FIRMS SEEKING TO IMPLEMENT QUALITY MANAGEMENT IMPROVEMENT AND MODERNIZATION INITIATIVES. FIRMS NEGATIVELY AFFECTED BY FEDERAL POLICY DECISIONS, INCLUDING DEFENSE DOWNSIZING AND TRADE POLICY, SHOULD RECEIVE ADJUSTMENT ASSISTANCE. FEDERAL ASSISTANCE SHOULD BE PROVIDED THROUGH STATE BASE NETWORKS AND BUILD ON EXISTING STATE AND LOCAL PROGRAMS.

The Guam Department of Labor supports this concept. In order to respond to economic conditions, organizations invest heavily in training and continuous learning of their workers. Our territory must also be a stakeholder in the promotion of high-performance organizations. Locally, we need to expand the current employment and training programs in order that investment in training is balanced among all workers. We must also continue our efforts to help those individuals most in need of basic and occupational skills necessary to participate in the labor market.

II. WHOLESALE CHANGE IN THE NATION'S APPROACHES TO WORKFORCE DEVELOPMENT IS NEEDED IN ORDER TO CREATE A COHERENT, CUSTOMER-DRIVEN, RESULTS-ORIENTED WORKFORCE DEVELOPMENT SYSTEM. THIS SYSTEM SHOULD BE UNDERSTANDABLE, ACCESSIBLE, AND RESPONSIVE TO THE NEEDS OF LOCAL REGIONAL BUSINESSES, WORKERS, JOB SEEKERS, AND STUDENTS. CUSTOMERS SHOULD BE ABLE TO RECEIVE THE SYSTEM AT ANY POINT. THIS STATE-BASE SYSTEM SHOULD BE COMPREHENSIVE, FLEXIBLE, AND

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DESIGNED TO BUILD ON CURRENT STRENGTHS, AND SHOULD BE MANAGED AT THE LOCAL LEVEL TO ACHIEVE DESIRED RESULTS. A COMPREHENSIVE NATIONAL INVESTMENT POLICY SHOULD GUIDE AND SUPPORT STATE AND LOCAL EFFORTS TO IMPLEMENT SUCH A SYSTEM.

While we support this concept, we must on the local level be given the authority to strategically plan ways to transform the separated training and employment programs into an integrated and accountable workforce development system in order to be more coherent with the goal of any workforce development system - to help facilitate transactions taking place between job seekers, workers, and businesses in our local labor market. The involvement of businesses and workers must be aggressively pursued.

III. JOB TRAINING AND EDUCATION PROGRAMS SHOULD BE AVAILABLE TO THE ENTIRE WORKFORCE AND BUSINESS COMMUNITY AS PART OF A CONTINUUM OF LIFELONG LEARNING. AT EVERY STATE IN THEIR LIVES, PEOPLE SHOULD HAVE THE OPPORTUNITY TO EQUIP AND RE-EQUIP THEMSELVES FOR PRODUCTIVE WORK THROUGH SCHOOL AND WORK-BASED LEARNING.

The Guam Department of Labor supports this principle. We must continue to provide quality training and employment services to ensure that our people have access to the resources they require to successfully manage their job lives, and that businesses have access to the skilled workers and training resources they need to successfully compete. We must continue to evaluate and assess our vocational education system, apprenticeship training programs, JTPA programs, etc. to ensure that education and training are relevant to modern workplace.

IV. PATHWAYS FOR CAREER DEVELOPMENT ARE NEEDED FOR ALL YOUNG PEOPLE. THE WORKFORCE DEVELOPMENT SYSTEM SHOULD EFFECTIVELY LINK EDUCATION AND WORK THROUGH CAREER GUIDANCE, YOUTH

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APPRENTICESHIP, AND OTHER OPTIONS THAT ENABLE YOUNG PEOPLE TO ACHIEVE THE ACADEMIC, OCCUPATIONAL, AND WORK-READINESS SKILLS NEEDED FOR EMPLOYMENT. EMPLOYERS, UNIONS, SCHOOLS, COLLEGES AND UNIVERSITIES, COMMUNITY-BASED ORGANIZATIONS, AND ALL LEVELS OF GOVERNMENT MUST SHARE THE RESPONSIBILITY TO ENSURE THAT SUCH A SYSTEM SUCCEEDS.

Currently, the Guam Department of Labor, Guam Public School System, University of Guam, Guam Community College, and the Agency for Human Resources Development are jointly exploring new ways to strengthen the connections between school and work. This effort demonstrates our commitment to identify, establish, and promote alternative education approaches for our island's youths who are "at-risk" or do not pursue higher education. The implementation of Guam's TERRITORIAL SCHOOL TO WORK TRANSITION PROGRAM is being reviewed by all the stakeholders to ensure the incorporation of other school to work programs already in existence - Cooperative Education Program, Voc-Tech Prep, etc. The Apprenticeship Training Program, administered by the Guam Community College, will be used as a model to implement the "Youth Apprenticeship Training Program".

V. BROADLY AGREED-UPON, WORLD-CLASS WORKFORCE STANDARDS ARE ESSENTIAL TO RAISING THE LEVEL OF ACHIEVEMENT OF INDIVIDUALS AND TO PROMOTING CONTINUOUS IMPROVEMENT IN THE QUALITY OF SERVICES PROVIDED. MEASURABLE NATIONAL STANDARDS DEVELOPED BY BUSINESS, EDUCATION, LABOR, AND GOVERNMENT SHOULD SPECIFY THE KNOWLEDGE AND SKILLS NEEDED TO SUCCEED IN THE MODERN WORKPLACE. ASSESSMENT OF INDIVIDUAL AND INSTITUTIONAL PERFORMANCE SHOULD BE BASED ON THESE STANDARDS.

While we support this concept, there is a need to develop, adopt, and/or adapt a single comprehensive instrument to use for program review purposes that would incorporate widely recognized, generally accepted criteria that will focus on education and training quality, the continuous assessment and improvement of education and training practices, and assistance to PICS, Advisory Committees, contractors, service providers in the improvement of these practices within their programs.

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VI. NATIONAL AND STATE PROGRAMS AND POLICIES SHOULD PROMOTE EXPANDED PRIVATE SECTOR INVESTMENT IN WORKFORCE DEVELOPMENT AND ENHANCE THE CAPACITY OF SMALL AND MEDIUM-SIZED FIRMS TO TRAINING THEIR WORKERS. FEDERAL EFFORTS SHOULD BE DESIGNED TO SUPPORT STATE-BASED PROGRAMS.

It is the responsibility for every state, local, and federal government to assist every American business - large or small, local or global- in workforce development. It is, therefore an imperative that our government must expand to respond as an educational and economic force. This means a shared vision and a renewal of alliances among education, business, industry, and employment and training sectors to be responsive to both employers and employees.

VII. LEGISLATIVE ACTION IS NEEDED TO INTEGRATE MULTIPLE, TARGETED, FEDERAL WORKFORCE DEVELOPMENT PROGRAMS INTO A COMPREHENSIVE AND FLEXIBLE SYSTEM. SPECIFICALLY, CURRENT AND PROPOSED WORK READJUSTMENT PROGRAMS SHOULD BE CONSOLIDATED AND DELIVERED THROUGH THIS SYSTEM

The Guam Department of Labor supports the establishment of the one-stop career system. The basic component of the one-stop career system include: integration of employment and training programs, universal access to services by employers, and job seekers, customer choice of information, service and service providers.

VIII. FEDERAL WORKFORCE DEVELOPMENT PROGRAMS SHOULD BE STREAMLINED TO ELIMINATE BARRIERS TO EFFECTIVE SERVICE DELIVERY CAUSED BY INCONSISTENT DEFINITIONS, PLANNING AND REPORTING REQUIREMENTS, AND ACCOUNTABILITY MEASURES. INCENTIVES, INCLUDING

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ACCESS TO WAIVER AUTHORITY AND ADDITIONAL FEDERAL FUNDS. SHOULD BE PROVIDED TO STATE AND LOCAL GOVERNMENTS TO ESTABLISH A COMPREHENSIVE WORKFORCE DEVELOPMENT SYSTEM.

The Guam Department of Labor supports this because our current federal education and training system does not meet the needs of our economy as well as it could. Currently, individuals and employers face a baffling maze of education and training programs administered by several different federal agencies. There are no focal points for local coordination of program; and thus result in often duplicative services, uneven quality, and administrative inefficiency and lack of program accountability.



Job Training Services
Public • Private

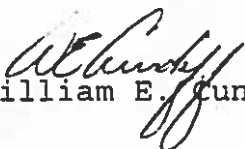
JAN 20 1995

TO: Chief Planner, Bureau of Planning
Attn: Linda E. Segovia

FROM: Director, Agency for Human Resource Development

SUBJECT: Input for 1995 NGA Winter Meeting

Attached is my input for Governor Gutierrez' 1995 NGA Winter Meeting. Please call me at the numbers indicated below if you have questions.


William E. Cundiff

AGENCY FOR HUMAN RESOURCES DEVELOPMENT
JOB TRAINING PARTNERSHIP ACT

2nd Floor GTC Bldg., Suite 212 • P.O. Box CQ Agana, Guam 96910
Telephone: (671) 646-9341 / 646-9336-8 • Telefax: (671) 646-9339



Commonwealth Now!

THE GOVERNOR'S PRINCIPLES TO ENSURE WORKFORCE EXCELLENCE IS DEFINITELY THE CORRECT COURSE OF ACTION TO STRENGTHENED THE COMPETITIVENESS OF OUR NATION AND IS "THE WAY FORWARD" TO ECONOMIC PROSPERITY.

IN RECENT TIMES, THERE HAS BEEN A GROWING INTERNATIONAL CENSUS THAT HUMAN DEVELOPMENT MUST BE THE CENTRAL OBJECTIVE AND FOCUS OF THE DEVELOPMENT PROCESS. THE EXPERIENCES AND LESSONS OF THE PAST DEVELOPMENT POLICIES HAVE CLEARLY DEMONSTRATED THAT AN APPROACH CENTERED ON ECONOMIC STABILIZATION AND AGGREGATE GROWTH WILL NOT SUCCEED IN BRINGING ABOUT THE KIND OF STRUCTURAL TRANSFORMATION THAT IS DESIRED UNLESS THAT APPROACH FORMS PART OF A BROADER STRATEGY DEVOTED TO HUMAN DEVELOPMENT. THE CENTRAL ELEMENT MUST BE TO FOCUS ON THE DEVELOPMENT OF PEOPLE, BOTH AS THE ULTIMATE GOAL OF DEVELOPMENT AND AS THE KEY INSTRUMENT IN ATTAINING THAT GOAL. AS SUCCINCTLY STATED BY THE 1991 WORLD BANK DEVELOPMENT REPORT, "THE EVIDENCE SHOWS THAT INVESTING HEAVILY IN PEOPLE MAKES SENSE NOT JUST IN HUMAN TERMS, BUT ALSO IN HARD-HEADED ECONOMIC TERMS."

RECOMMEND THE FOLLOWING PROPOSALS:

- o THE DEVELOPMENT OF GOOD WORK HABITS AND BASIC WORK SKILLS MUST START AT AN EARLY AGE. THROUGH LEGISLATION, UNITS IN GOOD WORK HABITS AND BASIC WORK SKILLS MUST BE TAUGHT IN SCHOOL STARTING FROM THE 9TH GRADE ALL THE WAY THROUGH TO GRADUATION FROM HIGH SCHOOL. EACH YEAR, THE LEVEL OF LEARNING SHOULD BE RE-ENFORCED BY STUDENT PARTICIPATION IN GOVERNMENT AND PRIVATE BUSINESSES SUMMER YOUTH PROGRAMS. IN JAPAN, CHILDREN ARE TAUGHT GOOD WORK HABITS AND BASIC WORK SKILLS EARLIER IN SCHOOL. PERHAPS, THIS IS A SIGNIFICANT FACTOR IN JAPAN'S TECHNOLOGICAL ADVANCEMENT.

- o AS AN INCENTIVE FOR PRIVATE BUSINESSES TO PARTICIPATE IN THE TRAINING, DEVELOPMENT AND EMPLOYMENT OF THOSE WHO ARE ECONOMICALLY DISADVANTAGED AND THOSE WHO FACE BARRIERS TO EMPLOYMENT, A TARGETED GROUP TAX INCENTIVE PLAN SHOULD BE IMPLEMENTED THROUGH LEGISLATION.

- o THERE IS ENTREPRENEURIAL TALENT AMONGST THE UNEMPLOYED, BUT BECAUSE OF LACK OF DIRECTION, IT IS NOT FULLY HARNESSSED. GENERALLY, MOST PEOPLE WOULD FIND IT HARD NOT TO BE SKEPTICAL ABOUT THE PROSPECTS OF TURNING THOSE WHO ARE UNEMPLOYED INTO BUSINESS OWNERS. AFTER ALL, GETTING INTO BUSINESS REQUIRES EXPERIENCE, SKILLS, CONTACTS, MONEY AND OTHER RESOURCES. HOW CAN THE UNEMPLOYED POSSIBLY ACQUIRE THOSE RESOURCES? THIS MANNER OF THINKING BETRAYS A MISUNDERSTANDING OF TWO VITAL FACTORS: THE BACKGROUNDS AND MOTIVATION OF ENTREPRENEURS AND THE NATURE OF THE UNEMPLOYED POPULATION. IN THE FIRST INSTANCE, ENTREPRENEURS DO NOT USUALLY COME FROM THE CRADLES OF SOFT, RICH LIVING. THEY OFTEN COME FROM PITS OF DISSATISFACTION, REBELLION AND STRUGGLE. THEY ARE PEOPLE WHO LOST THEIR JOBS; WHO HAVE HAD SO MANY JOBS THAT THEY NEVER WANT TO WORK FOR ANYBODY AGAIN. THEY ARE, IN A REAL SENSE, UNEMPLOYED BECAUSE THEY CANNOT, OR WILL NOT WORK FOR ANYONE ELSE. THIS SAME TYPE OF PERSON IS OFTEN FOUND AMONG THE UNEMPLOYED. THEY ARE FRUSTRATED, TENSE AND DISSATISFIED WITH THE WAY LIFE IS GOING. THEY ARE ANGRY ABOUT GETTING NOWHERE AND ARE DISILLUSIONED WITH THE SYSTEM. THEY WANT DESPERATELY TO CONTROL THEIR OWN LIVES. PERHAPS, ENTREPRENEURSHIP IS A WAY OUT. HIGHLY

RECOMMEND THAT AN ENTREPRENEURIAL INSTITUTE BE FORMED BY THE STATE GOVERNMENT WITH SUPPORT FROM THE FEDERAL GOVERNMENT TO PROVIDE TRAINING AND GUIDANCE FOR VENTURE INTO THE BUSINESS WORLD ESPECIALLY FOR THOSE WHO ARE UNEMPLOYED AND ARE ECONOMICALLY DISADVANTAGED AND FOR THOSE WHO FACE BARRIERS TO EMPLOYMENT. BUSINESS START-UP MONEY SHOULD BE AVAILABLE AND APPLICATION AND APPROVAL FOR SMALL LOANS SHOULD BE EASY. BIG BUSINESSES SHOULD NOT BE THE ONLY ONES TO CONTRIBUTE TO THE ECONOMY. IN SPITE OF THE MANY PROBLEMS ITALY HAS HAD IN THE LATE 70S INCLUDING THE CONSTANT PROBLEMS AND CHANGES IN THEIR GOVERNMENT, ITALY WAS NUMBER THREE IN THE WORLD IN ECONOMIC BOOM IN THE LATE 70S LARGELY DUE TO THE CONTRIBUTION OF SMALL BUSINESSES.

- o PRIVATE BUSINESSES MUST BE GIVEN THE OPPORTUNITY TO TAKE THE LEAD AND BE FULLY SUPPORTED BY STATE AND FEDERAL GOVERNMENT TO ASSESS TRAINING NEEDS BASED ON THE TYPES OF JOBS THAT ARE NEEDED TO STABILIZE AND GROW THE ECONOMY. THEY SHOULD ALSO BE GIVEN THE OPPORTUNITY TO GUIDE THE STATE AS TO WHICH REGULATION MUST BE FINE TUNED IN ORDER NOT TO HAMPER ECONOMIC PROGRESS.
- o TO WORK IN AN ENTRY LEVEL JOB AT OR A LITTLE ABOVE THE MINIMUM WAGE IS CERTAINLY NOT ATTRACTIVE AND IS, IN MANY INSTANCES, A REGRESSION FOR THOSE WHO ARE ECONOMICALLY DISADVANTAGED AND FOR THOSE WHO FACE BARRIERS TO EMPLOYMENT WHO ARE RECEIVING FOODS STAMPS AND WELFARE CHECKS. IT IS ESPECIALLY A REGRESSION FOR THOSE WHO HAVE CHILDREN. RECOMMEND THAT FOOD STAMPS AND WELFARE CHECK REDUCTION BE SUSPENDED UNTIL SUCH TIME THAT THE INDIVIDUAL HAS INCREASED EARNINGS EQUAL TO THE AMOUNT THAT WOULD HAVE BEEN IMMEDIATELY REDUCED UPON INITIAL EMPLOYMENT. THIS WILL SERVE AS

AN INCENTIVE TO CONTINUE EMPLOYMENT, AND WILL LEAD TO GRADUAL
REDUCTION IN WELFARE BENEFITS AND EVENTUALLY REMOVED FROM THE
WELFARE ROLLS.

**NATIONAL GOVERNORS' ASSOCIATION
1995 WINTER MEETING**

COMMITTEE ON HUMAN RESOURCES

TAB E

1. **HR- 3: Proposed Amendment on Immigration and Refugee Policy (Prosecution and Removal of Undocumented Felons)**
2. **HR- 4: Proposed Amendments on Income Security**
3. **HR- 5: Proposed Amendments on A Conceptual Framework for National Welfare Reform (Child Support Enforcement)**
4. **HR-11: Proposed Amendment on Army and Air National Guard (Recognizing and Restructuring of Military Forces)**
5. **HR-28: Proposed Policy Position on Child Care**
6. **HR- 2: Proposed Reaffirmation of Governors' Principles to Ensure Workforce Excellence**

GOVERNOR'S BRIEFING BOOK

Committee on Human Resources

1. HR-3: PROPOSED AMENDMENT ON IMMIGRATION AND REFUGEE POLICY (PROSECUTION AND REMOVAL OF UNDOCUMENTED FELONS)

BACKGROUND:

The amendment calls for additional Immigration and Naturalization Service resources for the early identification of illegal aliens in state criminal justice systems. The Governors urge the federal government to facilitate the transfer of illegal alien felons to their home countries to serve their sentences, noting that economic incentives from the federal government to these countries can be more cost effective than federal incarceration or reimbursement to state and local governments. Although there would be additional costs to the federal government, states believe that illegal immigration is a federal responsibility.

OBJECTIVES:

- Ensure that the federal government assumes the costs associated with illegal immigration.
- Ensure enactment of a rational and federally-funded refugee program.

GUAM'S POSITION:

► Department of Labor

Overall, the Department supports the proposed amendments. However the following are some of its recommendations:

- the federal government should consider establishing an Immigration Judge for the territories so as judicial processing and formal deportation hearings of illegal aliens are not hampered;
- should this policy fail to get the support of the federal government, Guam should aggressively pursue just compensation ~~from~~ the federal government for these prisoners, through the Bureau of Prisons; and
- instead of economic incentives for countries to take back their felons, the federal government should direct these resources to the state and local levels for prison facilities, public assistance, housing, education, and job training.

HR-3. IMMIGRATION AND REFUGEE POLICY

3.1 Immigration Policy

3.1.1 Preamble. The nation's Governors recognize the important contribution immigrants have made and continue to make to our nation. Although the federal government has the primary role in directing overall policy regarding immigration and refugees, the effects of such policy on local communities present challenges that cannot be ignored by the states. These challenges include demands for education, job training, social and health services, and other assistance designed to promote the integration of immigrants into our communities.

Decisions regarding the admission and placement of legal immigrants and refugees rest solely with the federal government. Similarly, the illegal entry of other individuals also is a direct responsibility of the federal government. When these decisions are coupled with federal mandates to serve both legal and undocumented immigrants and refugees in joint federal-state categorical assistance programs, the consequence is a significant increase in the state share of these program costs.

The federal government's unwillingness to provide adequate funding for refugee resettlement and immigrant assistance services has resulted in a dramatic shift of program costs from the federal government to state and local taxpayers. This reduced federal commitment has strained the states' ability to provide the programs and services necessary to promote economic self-sufficiency within the immigrant and refugee community.

Because immigration and refugee policy is under the sole jurisdiction of the federal government, the Governors believe that the federal government must be prepared to bear the costs of such policy.

3.1.2 Principles. Because immigration decisions have a broad influence upon our society and involve the states, the Governors urge Congress to consider the following principles in the deliberation and formulation of immigration policies.

- The decision to admit immigrants is a federal one that carries with it a firm federal commitment to shape immigration policy within the parameters of available resources we as a nation are determined to provide.
- The fiscal impact of immigration decisions must be addressed by the federal government. The states, charged with implementing federal policy, have shared and are sharing in the costs; however, there should be no further shift of costs to the states.
- Immigration policy shall be developed within the context of our national interest, which takes into consideration preservation of the family, demographic trends, economic development, labor market needs, and humanitarian concerns.
- Immigration decisions shall not discriminate against nor give preference to potential immigrants because of their nationality, race, sex, or religion.
- A basic responsibility of the federal government is to collect and disseminate timely and reliable statistical information on immigration and its consequences for the United States.
- The increase of the social and economic strength of our hemispheric neighbors is an efficient method to reduce migration.
- Immigration policies and administrative systems should be modernized and reviewed periodically to ensure that they are fair and workable.

3.1.3 Immigration Ceiling and Preference System. The National Governors' Association supports control of legal immigration at a level consistent with our national interest and resources, under a ceiling adjusted periodically by Congress as conditions warrant. The ceiling should continue to exclude immediate relatives of United States citizens, refugees, asylees, and aliens whose adjustment of status is not subject to immigration quotas under current or future laws.

The ceiling should provide for the separation of the two major types of immigrants—families and independent immigrants—into distinct admission categories. In designing the preference system, the principle of family unity should be preserved and the independent immigration system should reflect economic and labor market needs.

3.1.4 Prohibition on the Hiring of Illegal Immigrants. To help control illegal immigration, the employment of illegal immigrants should be prohibited. The federal government should develop enforcement mechanisms that will minimize the administrative burdens on employers and that do not discriminate against the employment of workers and potential workers. The appropriate federal

agencies selected to enforce this prohibition should have the resources necessary to carry out their task.

3.1.5 Legalization. The Governors urge the following.

- The federal government must provide full and timely reimbursement to state and local governments for costs incurred as a consequence of the legalization program. The Governors call upon the federal government to make available without further deferral the state legalization impact assistance funds (SLIAG) promised the states under the Immigration Reform and Control Act of 1986 (IRCA).
- States require maximum flexibility in determining and allocating resources to meet the needs of newly legalized aliens.
- The current legalization program provides the opportunity for illegal immigrants to become lawful residents. Because of insufficient national and community outreach efforts resulting from a compressed timetable as required by law, application deadlines should be extended.

3.1.6 Supplemental Worker Program. In implementing any supplemental worker programs, the federal government must conduct timely labor certifications to ensure labor availability in the event of labor shortages. This program should not cause displacement of American workers.

3.1.7 Cooperation with Western Hemisphere Countries. A workable immigration program must recognize and involve the major sending countries. The federal government must work cooperatively with Mexico and other western hemisphere countries in the development of mutually beneficial policies. The Governors believe that trade and investment policies are critical elements to reduce illegal immigration.

3.1.8 Research and Data Collection. Congress should direct the federal government to develop a reliable data system and strengthen the research capacity on migration and its consequences to the United States, especially concerning the immigration flow, estimate of illegal migration, and impact of immigration on states and local communities. To do so, better coordination of federal agencies is needed.

Congress should implement the findings of the panel on immigration statistics convened by the National Research Council in 1985.

In order to provide the necessary information on immigration flows and secondary migration, alien registration by the federal government must be reinstated. In addition, data collected should be analyzed and disseminated to the states in a timely manner for the purpose of planning, implementing and evaluating immigration policy.

3.1.9 Immigration Law Enforcement. The federal government should provide sufficient funding to the Immigration and Naturalization Service and other appropriate agencies to enforce the immigration laws, modernize management, and provide for an adequate and reliable data collection system.

3.1.10 Exclusion/Asylum Proceedings. Individual claims for asylum should be handled in a fair and expeditious manner. Prompt efforts should be made to address the current backlog problems.

3.1.11 Emergency Authority and Contingency Plan. As the President has contingency planning authority, the federal government must develop a contingency plan to deal with unanticipated flows of refugees or asylum applicants. The states expect an immediate federal government response to such a situation. Governors must be consulted in determining the role of the states. The states anticipate full federal reimbursement of any state and local costs.

3.1.12 Coordination with States. The Governors are concerned about the lack of information and adequate consultation on issues concerning immigration that affect the states. Federal agencies must develop ongoing communication mechanisms to inform and consult with states on both legal and illegal immigration matters.

3.1.13 Incarceration and Deportation Costs of Undocumented Alien Felons. Under Section 501 of IRCA, the federal government is authorized to reimburse state and local governments for the costs associated with the incarceration of undocumented alien felons. The Governors repeatedly have called on the federal government to appropriate the funds authorized under Section 501; however, no funds have ever been appropriated to assist the states and thus fulfill this federal obligation, despite rising costs in many states. The Governors believe Section 501 has proven to be an ineffective mechanism for fulfilling the federal government's responsibility to pay the correctional costs of undocumented felons.

The Governors call on the federal government to replace or amend Section 501 so that the federal government takes custody of undocumented felons convicted of state crimes. If federal incarceration is infeasible, the Governors call on the federal government to establish a billing mechanism to allow state and local governments to bill the federal government directly for the incarceration of undocumented felons.

- 3.1.14 Education Costs of Undocumented Aliens.** The Governors are concerned about the presence of ever larger numbers of undocumented children in our school systems. In a number of states, it has led to classroom overcrowding and has seriously exacerbated the funding crunch faced by public school systems. Because of the federal government's failure to provide funding for the education of undocumented children, Governors have had to cut back on other vital public services.

In the case of *Phyller v. Doe*, the U.S. Supreme Court upheld a lower court ruling striking down as unconstitutional a state law that denied educational services to undocumented children. The Court's narrow 5-4 decision was based in part on the absence of any "identifiable congressional policy" on the subject and "absent any contrary indication fairly discernible in the legislative record," the Court could "perceive no national policy that supports the state." The Court's dissenting opinion noted that the majority was "making no attempt to disguise that it is acting to make up for Congress' lack of effective leadership in dealing with the serious national problems caused by the influx of uncountable millions of illegal aliens across the border."

The Governors believe the *Phyller* decision was in fact a call for Congress to legislate in this area. Yet, since that ruling, the federal government has done nothing to set a national policy regarding the education of undocumented children. Instead, the federal government disingenuously cites *Phyller* as the final word. Meanwhile, state and local governments are forced to devote scarce resources to comply with a constitutional mandate born of federal inaction and irresponsibility.

The Governors are not advocating the denial of educational services to undocumented persons. The Governors oppose being a captive source of funding for the costs of educating millions of undocumented children. Therefore, the Governors call on the federal government to recognize its exclusive responsibility for costs associated with failed immigration policies by establishing a direct billing mechanism to ensure that any educational services provided to undocumented children are financed entirely by the federal government.

- 3.1.15 Study of Costs of Citizen Children.** Governors across the country are providing education, health, and social services to citizen children of undocumented immigrants at extremely high costs. However, the true costs are not known, as no systematic survey has been undertaken to examine these costs and the fiscal impacts on states of providing services to citizen children of undocumented immigrants. The Governors call upon Congress and the administration, working jointly with state budget officers, to undertake a study of these costs and to report back within one year, so that an accurate assessment can be made.

- 3.1.16 PROSECUTION AND REMOVAL OF UNDOCUMENTED FELONS.** ACCORDING TO A RECENT STUDY PUBLISHED BY THE URBAN INSTITUTE, THE SEVEN STATES MOST IMPACTED BY ILLEGAL IMMIGRATION HOUSED MORE THAN 21,000 ADULT ILLEGAL ALIENS IN THEIR STATE PRISONS IN MARCH 1994, AT AN ANNUAL COST OF NEARLY \$500 MILLION. THESE FIGURES DO NOT INCLUDE THE COST OF INCARCERATING ILLEGAL ALIENS IN YOUTH FACILITIES OR SUPERVISING PAROLED ILLEGAL ALIENS.

A SIGNIFICANT NUMBER OF THE ILLEGAL ALIEN FELONS HOUSED IN STATE PRISONS AND LOCAL JAILS ARE PREVIOUSLY CONVICTED FELONS WHO RE-ENTERED THE UNITED STATES AFTER THEY WERE DEPORTED. THOUGH ILLEGAL ALIEN RE-ENTRY IS A VIOLATION OF FEDERAL LAW—PUNISHABLE BY UP TO FIFTEEN YEARS IN FEDERAL PRISON—IT IS RARELY ENFORCED BY THE FEDERAL GOVERNMENT.

IN ADDITION, THE GOVERNORS ARE CONCERNED ABOUT THE LACK OF RESOURCES IN THE IMMIGRATION AND NATURALIZATION SERVICE (INS) DEVOTED TO EARLY IDENTIFICATION OF ILLEGAL ALIENS IN STATE CRIMINAL JUSTICE SYSTEMS. BECAUSE A LARGE NUMBER OF CONVICTED UNDOCUMENTED FELONS SERVE TIME IN LOCAL FACILITIES OR ARE PLACED ON PROBATION, THEY DO NOT COME TO THE ATTENTION OF INS AND THUS, ESCAPE FORMAL DEPORTATION. FORMAL DEPORTATION IS NECESSARY TO ENSURE THAT CONVICTED ALIENS WHO RE-ENTER CAN BE PROSECUTED UNDER FEDERAL LAW.

FINALLY, THE GOVERNORS BELIEVE THAT MORE EFFORTS SHOULD BE MADE BY THE FEDERAL GOVERNMENT TO FACILITATE THE TRANSFER OF ILLEGAL ALIEN FELONS TO THEIR HOME COUNTRIES TO SERVE THEIR SENTENCES. CURRENT TRANSFER TREATIES ARE UNWORKABLE BECAUSE THEY REQUIRE THE CONSENT OF THE PRISONER. ALSO, THERE IS LITTLE INCENTIVE FOR THE COUNTRY OF ORIGIN TO COOPERATE WITH THE UNITED STATES IN THE ENFORCEMENT OF TRANSFER TREATIES. THE GOVERNORS NOTE THAT ECONOMIC INCENTIVES FROM THE FEDERAL GOVERNMENT TO THESE COUNTRIES CAN BE MORE COST-EFFECTIVE THAN FEDERAL INCARCERATION OR REIMBURSEMENT TO STATE AND LOCAL GOVERNMENTS.

IN RESPONSE TO THESE CONCERNS, THE FEDERAL GOVERNMENT SHOULD UNDERTAKE THE FOLLOWING INITIATIVES:

- INCREASING ENFORCEMENT OF FEDERAL LAWS PERTAINING TO THE RE-ENTRY OF ILLEGAL ALIENS, ESPECIALLY THOSE THAT APPLY TO PREVIOUSLY CONVICTED FELONS;
- IDENTIFYING POTENTIALLY DEPORTABLE ALIENS EARLIER IN THE PROCESS TO ENSURE FORMAL DEPORTATION PRIOR TO RELEASE FROM STATE OR LOCAL FACILITIES;
- RENEGOTIATING PRISONER TRANSFER TREATIES AND THE REMOVAL OF THE REQUIREMENT THAT PRISONERS CONSENT TO BE TRANSFERRED TO THEIR COUNTRIES OF ORIGIN; AND
- CONSIDERING ECONOMIC INCENTIVES TO ENCOURAGE COUNTRIES OF ORIGIN TO TAKE BACK THEIR CRIMINAL CITIZENS.

3.2 Refugee Policy

3.3 Habitual Residents

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

Adopted February 1988; revised February 1992, February 1993, and February 1994 (formerly Policy C-14).



DEPARTMENT OF
LABOR
DIPATTAMENTON HUMOTNAT

JUAN M. TAIJITO, Acting Director
ROLANDO P. ZABALA, Deputy Director

CARL T.C. GUTIERREZ

Governor

MADELINE Z. BORDALLO
Lieutenant Governor

JAN 24 1995

MEMORANDUM NO.: 95-093

TO: Chief Planner, Bureau of Planning

FROM: Director

SUBJECT: Input on HR-3. IMMIGRATION AND REFUGEE POLICY

The following are the proposed policy for consideration by the NGA Committees and the Guam Department of Labor responses:

- **INCREASING ENFORCEMENT OF FEDERAL LAWS PERTAINING TO RE-ENTRY OF ILLEGAL ALIENS, ESPECIALLY THOSE THAT APPLY TO PREVIOUSLY CONVICTED FELONS.**

It is our opinion that as long as an illegal alien has to give consent to the U.S. Immigration Office to be deported/repatriated to original country for any reason, we will continue to see an increasing problem in our community. The nonexistence of an Immigration Judge in our Territory also hampers judicious processing and formal deportation hearings of illegal aliens. We recommend that the federal government considers establishing an Immigration Judge in the Territory of Guam.

- **IDENTIFYING POTENTIALLY DEPORTABLE ALIENS EARLIER IN THE PROCESS TO ENSURE FORMAL DEPORTATION PRIOR TO RELEASE FROM STATE OR LOCAL FACILITIES.**

We agree with this policy, however, the federal government must recognize that this will include all levels of government. We recommend the possibility of establishing a Territory-Federal Agreement to deputize some Government of Guam employees and provide federal funds to these agencies as well.



Commonwealth Now!

Input on HR-3. IMMIGRATION AND REFUGEE POLICY

Dtd. 1/24/95

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● **RE-NEGOTIATING PRISONER TRANSFER TREATIES AND THE
REMOVAL OF THE REQUIREMENT THAT PRISONERS CONSENT TO BE
TRANSFERRED TO THEIR COUNTRIES OF ORIGIN.**

We agree with this policy especially with the overcrowding situation in the Department of Corrections facilities. Should this proposed policy fail to get the federal government's support, it is our opinion that it would be in the best interest of the Territory of Guam to aggressively pursue just compensation from the federal government for these prisoners through the Bureau of Prisons, etc.

● **CONSIDERING ECONOMIC INCENTIVES TO ENCOURAGE COUNTRIES
OF ORIGIN TO TAKE BACK THEIR CRIMINAL CITIZENS.**

Economic incentives may be a good strategy to encourage some countries of origin to take back their criminal citizens. However, we believe that some countries refuse to take their citizens back especially criminal citizens. We recommend that instead of economic incentives, that the federal government direct these resources to the state and local levels for prison facilities, public assistance, housing, education, job training, etc.


J.M. TALJITO
(Acting)

GOVERNOR'S BRIEFING BOOK

Committee on Human Resources

2. HR-4:PROPOSED AMENDMENTS ON INCOME SECURITY

BACKGROUND:

The amendments make the following changes in the three areas of Income Security policy:

- strike portions of the income security policy that have been recently reviewed as part of the current NGA welfare reform policy.
- update of the food stamp policy, to remove some level of detail in recommendations such as: strongly oppose blanket restriction on waivers; urge greater consolidation and simplification of Food Stamps and Aid to Families with Dependent Children (AFDC) programs and related employment programs; support reform of the quality control system; and add a few specific recommendations on program administration.
- the proposed amendments add a new section establishing NGA policy on Electronic Benefits Transfer systems.

Specific recommendations on Food Stamp program administration may result in a small additional cost to the federal government.

OBJECTIVES:

- Preserve state waiver authority in the food stamp program.
- Ensure that states are not liable for benefit replacement costs in electronic benefit transfer (EBT) systems by exempting EBT for state-administered federal benefits from Regulation E of the Electronic Funds Transfer Act.

GUAM'S POSITION:

- ▶ No briefing papers were provided by agencies.

HR-4. INCOME SECURITY

-4.1- Job-Oriented Welfare Reform

-4.1.1 Preamble. The Governors 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 eventually will 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 that are factors in welfare dependency. A major National Governors' Association (NGA) effort, titled Bringing Down the Barriers, identified 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.

-4.1.2 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 job 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 that provides more adequate financial support for those unable to work, as well as for those taking the necessary steps to increase their employability.

-4.1.3 Joint Responsibility. To achieve these goals, the Governors 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 to 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.

-4.1.4 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, the Governors 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 job program.

The Governors believe it is critical to give high priority to young, first-time mothers. Studies show that more than 60 percent of Aid to Families with Dependent Children (AFDC) mothers below 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 also would 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.

- 4.1.5- 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 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 coverage, and changes in tax policy such as equitable treatment for health care coverage of unincorporated businesses. [See C-5, EC-3, and EC-5, for updated NGA health-related policy.]

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 noncustodial parents; and implementation of equitable support guidelines, to help ensure that individuals fulfill their basic parental responsibility of income support for their children.

- 4.1.6- 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.

- 4.1.7- 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 1 percent of the amount spent for AFDC benefits. Nothing could indicate more dramatically the lack of job focus in our current program.

In implementing our welfare reform plan, it is critical that federal matching funds be made available for all services that 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 that reflect real measures of outcome—for example, 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.~~

- ~~4.1.8 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 states seeking waivers that involve several programs to have a single federal contact responsible for managing the federal waiver approval process. Encouraging states to test alternative reform concepts gives policymakers at the national level a firmer foundation for their decisions.~~

4.2 Reform of Income Assistance

4.2.1 Preamble. The immediate goal of the Governors is to put into place INITIATIVES TO PREVENT WELFARE DEPENDENCY AND PROMOTE WORK. ~~the preventive initiatives and the jobs~~

~~programs recommended above.~~ As these begin to take effect, reducing dependency on welfare and restraining public spending on public assistance, we believe that reform of the basic cash assistance program, Aid to Families with Dependent Children, must be undertaken. It is our intent that the reforms in the income assistance program will be funded with savings realized through our preventive initiative and through our jobs program.

It is our equally important—if longer range—goal to provide adequate income support for families in which no individual can work. In some areas of the country and for some recipients, benefit levels are not adequate to meet minimal requirements. There is no systematic or uniform way of setting benefits, and levels are determined with little regard for the cost of meeting the basic requirements of supporting a family.

- 4.2.2 Family Need.** The Governors recommend that income support be based on a measure of family need, or family living standard. This standard would represent the cost of purchasing family essentials—food, housing, clothing, health care, etc. It would be determined on a state-by-state basis, using a nationally consistent methodology. Support should be provided for current AFDC recipients, plus two-parent families where that option is not available. Coverage should be increased gradually to all families living below the family living standard.

Given limited federal and state resources, this new income support payment must be phased in gradually. Initial payments should be set at a national minimum percentage of each state's family living standard. This percentage should be increased over time, as resources allow, with the goal being the payment of the full family living standard. Funding of the national minimum percentage should be primarily federal but retain a significant state match. If a state supplements payments above the national minimum, the federal match should start at current AFDC matching rates and increase as the supplement increases.

It is critical that benefits in this system be structured so that it is always financially better for the recipient to work than to receive cash assistance. The system must be designed carefully so that there are no disincentives for employers to provide wages above the minimum or to reduce or eliminate health care coverage.

We recognize that changes of the magnitude we have recommended may not be accomplished overnight. We also realize that our goals can be achieved in numerous ways. We are prepared to work with all of our partners in government and in the private sector to develop sound plans that will prevent and reduce the dependence of families on the welfare system.

4.3 The Food Stamp Program

- 4.3.1 Preamble.** Hunger continues to be a problem for millions of Americans despite ongoing government programs and private efforts. Hunger is not an isolated problem but one consequence of the larger

problem of poverty. Although food assistance programs have helped states to alleviate the problem, the incidence of hunger indicates the need for renewed commitment.

~~The National Governors' Association strongly supports the reauthorization of the Food Stamp Act. The Governors also support the extension of the Temporary Emergency Food Assistance Program (TEFAP), which serves many people in need such as the elderly and homeless.~~

The nation's Governors believe that changes are needed in the Food Stamp Program to improve the administration and cost-effectiveness of the program, to increase coordination with other assistance programs, and to better assist low-income families and individuals in need to obtain food and become economically self-sufficient. THE GOVERNORS SUPPORT PROGRAMS, SUCH AS THE FARMERS' MARKET COUPON PROGRAM, THAT INCREASE THE CHOICES OF FOOD ASSISTANCE RECIPIENTS. The Governors do not support proposals that would transform benefits into a block grant or reduce the federal commitment.

4.3.2

State Efforts. The Governors are committed to developing food stamp programs that work in the most productive and cost-effective ways possible. Toward this end, states have undertaken efforts to increase client self-sufficiency and reduce program complexity and other barriers recipients encounter. The Governors believe that states need continued flexibility to enhance these efforts. The federal government, states, local governments, and the private sector need to work together as partners to help those in need to become economically independent.

THE GOVERNORS VIEW WAIVERS OF FOOD STAMP STATUTES AND REGULATIONS AS ESSENTIAL TOOLS IN THESE STATE EFFORTS TO IMPROVE CLIENT SERVICES AND STREAMLINE PROGRAM ADMINISTRATION. THE FOOD STAMP PROGRAM IS AN INTEGRAL PART OF THE WELFARE SYSTEM AND THE GOVERNORS BELIEVE THAT CONTINUED STATE ABILITY TO INNOVATE FOOD STAMP POLICY IS AS CRITICAL TO NATIONAL PROGRESS ON WELFARE REFORM AS IS WAIVER AUTHORITY IN THE AFDC AND MEDICAID PROGRAMS. THE GOVERNORS FEEL STRONGLY THAT STATE FOOD STAMP WAIVER REQUESTS SHOULD CONTINUE TO BE CONSIDERED ON A CASE-BY-CASE BASIS WITHOUT ANY BLANKET RESTRICTIONS ON EXECUTIVE BRANCH AUTHORITY TO APPROVE PARTICULAR TYPES OF WAIVERS, SUCH AS CONVERSION OF FOOD STAMPS TO CASH BENEFITS OR TO WAGE SUBSIDIES.

4.3.3

Value of Benefits. The Governors are concerned that the current value of benefits to recipients not be reduced and that benefits be adjusted as necessary to reflect the increased costs of food. The Governors recommend that THE FEDERAL GOVERNMENT ~~Congress commission a study by an independent, nonpartisan organization to~~ reevaluate how benefits are determined, including CONDUCTING a review of the Thrifty Food Plan.

The Governors support the adoption of the following policies to assist recipients in their efforts to become self-sufficient.

- ~~The food stamp household definition should be simplified to allow groups other than those composed of spouses, parents, and their minor children to be separate households as long as they purchase and prepare meals separately. Individuals above age eighteen who are unable to purchase food and prepare meals due to a disability should be allowed separate household status provided the declared gross income of the other members does not exceed the poverty line by 100 percent.~~

- In determining benefit, all families should be treated equitably. For example, the cap on excess shelter costs should be removed, and the proration of benefit for families reapplying for food stamps within one month after their benefit have ended should be eliminated.
- The definition of an eligible student should be expanded to include those who receive financial assistance awarded on the basis of financial need.
- To encourage students to stay in school, rules applying to income exclusion should be treated the same as in AFDC.
- The limit on the value of vehicles that a household may own should be increased to reflect an annually adjusted standard that is based on the actual cost of low priced cars. Vehicles that are used to transport fuel or water for households with no external energy source or piped in water should be exempted.
- Payments that the Department of Housing and Urban Development provides to households living in subsidized housing to help defray utility expenses should be excluded.
- The use of food stamps should be allowed in restaurants to provide meals to the homeless.
- Food stamp recipients should be permitted to exclude income and resources that they have set aside under the Supplemental Security Income (SSI) Pass Plan for education, vocational training, or other activities that would help a client obtain self-sufficiency.
- Higher levels of federal reimbursement should be permitted for Food Stamp Employment and Training program participants' expenses such as transportation and uniforms.
- Households at risk because of recurring medical costs should be permitted a standardized medical deduction or a deduction based on actual costs, whichever is greater.
- States should be allowed to have a separate standard utility allowance for households that indirectly pay heating or cooling expenses without going through the Food and Nutrition Service's waiver process.

4.3.4

Program Consistency and Coordination. The Governors believe that the Food Stamp Program should work in conjunction with other assistance programs to assist families in poverty. Efforts should be made to reduce program complexity and federal barriers that impede states' coordination and administration efforts of the Food Stamp, AFDC, and other assistance programs. The Governors have invested substantial resources in their efforts to increase coordination of their income security systems and to improve the delivery of services to low-income people. Toward these ends, the Governors recommend the following: SUPPORT CONTINUED EFFORTS BY THE APPROPRIATE FEDERAL AGENCIES TO SIMPLIFY AND COORDINATE ASSISTANCE PROGRAM ADMINISTRATION BY CONFORMING WHEREVER POSSIBLE THEIR REGULATORY AND ADMINISTRATIVE POLICIES AND RESEARCH AGENDAS ACROSS PROGRAMS.

THE GOVERNORS BELIEVE THAT SUCH SIMPLIFICATION AND COORDINATION WOULD BE MUCH EASIER IF THE AFDC AND FOOD STAMP PROGRAMS [The Governors believe that administrative efficiency and program coordination could be improved if these two programs were administered by a single entity at the federal level. While such an approach would preserve the current program structure and include separate accountability to the various authorizing committees, it would facilitate the more efficient use of federal staff and ensure that a single federal agency was aware of the demands and requirements placed on state and local staff. It also would ensure that Congress was aware of such issues prior to the adoption of legislation.

The Governors therefore urge the administration and Congress to develop and enact legislation that would provide for the common administration of the AFDC and Food Stamp programs and that would authorize consistent funding for administrative costs between the two programs.] (Note: Text in brackets is existing policy language moved from Section 4.5.)

- Congress should establish a commission to examine current food stamp law, AFDC, and other public assistance programs to recommend mechanisms to increase coordination among these programs. The interrelationship between AFDC and Food Stamp programs, specifically the food stamp benefit adjustment required by AFDC benefit increases, should be reviewed. Additionally, the commission could work to ensure that statutory and administrative changes

~~in one program are not enacted without consideration of their impact on the other. Barriers in current federal law and regulations have impeded states' ability to integrate assistance programs that would result in a more effective use of resources.~~

- ~~• Congress should establish an interagency process to review all AFDC, Food Stamp, and other assistance programs' regulations proposed by the Department of Health and Human Services, the Department of Agriculture, and other relevant federal agencies and should require conformance wherever feasible.~~
- ~~• Changes made through this process should simplify administration and, at a minimum, maintain the current level of recipient benefits.~~

4.3.5

Employment and Training Programs. Although the Governors continue to support a strong emphasis on assisting food stamp recipients in obtaining employment, states need the flexibility to create food stamp employment and training programs that complement programs created under the Family Support Act's Job Opportunities and Basic Skills (JOBS) Training program OR UNDER NEW STATE AND FEDERAL WELFARE REFORM AND WORKFORCE DEVELOPMENT INITIATIVES. FEDERAL BARRIERS HAVE IMPEDED STATES' EFFORTS TO CREATE INTEGRATED WORKFORCE DEVELOPMENT SYSTEMS THAT INCLUDE THE FOOD STAMP EMPLOYMENT AND TRAINING AND JOBS PROGRAMS, AND THEREFORE NEED TO BE REMOVED. ~~Regulatory barriers have impeded states' efforts to integrate programs.~~

States need the flexibility to design programs that will adequately incorporate the resources of both programs, which will prove more cost-effective in the long run. Additionally, states must be allowed the flexibility given to them in the Food Security Act to design SYSTEMS programs that best meet their needs. ~~For example, states should have the option to give volunteers priority in their food stamp employment and training programs.~~

THE GOVERNORS CALL ON THE ADMINISTRATION TO SUPPORT WAIVERS THAT WOULD ALLOW EXEMPTIONS FOR FOOD STAMP EMPLOYMENT AND TRAINING PARTICIPANTS TO CONFORM TO EXEMPTIONS FOR JOBS PARTICIPANTS. THE CURRENT PARTICIPANT REIMBURSEMENT LIMIT ALSO SHOULD BE INCREASED TO REFLECT THE ACTUAL EXPENSES OF PARTICIPANTS IN EMPLOYMENT AND TRAINING PROGRAMS. THE CURRENT REIMBURSEMENT LIMIT OF \$25 PER MONTH IS SO LOW THAT MANY PARTICIPANTS INCUR EXPENSES OVER THIS AMOUNT AFTER ONLY A FEW DAYS.

~~The Governors are concerned with the mandate that performance standards be implemented for the Food Stamps Employment and Training program. Although states support the concept of evaluating employment and training programs based on outcomes, many factors that vary widely from state to state need to be studied to determine how performance is measured. Therefore, the Governors recommend that no food stamp employment and training outcome standards be imposed at least until the standards for the JOBS program are developed and reviewed.~~

4.3.6

Quality Control. The Governors support a strong federal-state quality control system that provides for a real partnership in controlling payment errors, ENHANCING PROGRAM INTEGRITY, AND PROMOTING IMPROVED PROGRAM MANAGEMENT. The Governors urge Congress to establish a fair and equitable system to assess state performance and encourage, rather than inhibit, management improvements. Quality control and similar administrative systems should be designed to aid accountability in the Food Stamp Program without removing essential resources from state and local human service budgets. THE SYSTEM SHOULD REWARD STATES FOR

IMPROVED PERFORMANCE, WHICH WILL RESULT IN CONSIDERABLE FEDERAL SAVINGS, IN A WAY THAT WILL ENCOURAGE ALL STATES TO IMPROVE PAYMENT ACCURACY AND OTHER MEASURES OF PROGRAM INTEGRITY.

The MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT ~~Hunger Prevention Act of 1988~~ made significant changes to the food stamp quality control system, many of which will assist states in improving their systems. The Governors still have concerns specific to the food stamp quality control system, including the DEVELOPMENT OF AN INCENTIVE-BASED PLAN; THE STATISTICAL METHODOLOGY FOR CALCULATING ERROR RATES; THE NATIONAL ERROR RATE TARGET; THE CONSIDERATION OF CASELOAD GROWTH, AUTOMATION, AND DEMOGRAPHIC CRITERIA IN DETERMINING ELIGIBILITY FOR GOOD-CAUSE WAIVERS; THE U.S. DEPARTMENT OF AGRICULTURE (USDA) AUTHORITY TO REVERSE AN ADMINISTRATIVE LAW JUDGE DECISION; AND THE LACK OF A STATUTORY RIGHT TO REINVEST PENALTY AMOUNTS. ~~treatment of the backlog of past sanctions and the current restrictions on appealing waiver denials.~~ The Governors believe that these issues should be resolved so states are not penalized based on an inequitable system. The spirit of ONGOING QUALITY CONTROL REFORM, AS EXEMPLIFIED BY MANY OF THE REFORMS ENACTED FOR THE AFDC PROGRAM ~~the AFDC quality control reform~~ should be reflected where possible in further refinements of the food stamp quality control system.

4.3.7 Program Simplification AND ADMINISTRATION. The Governors also believe that the present food stamp system is unnecessarily complex, and they support federal action to simplify the program and to improve the quality of administration. The Governors' specific recommendations include the following.

- Disregard the first \$50 of child support for food stamps as is currently done in AFDC REGARDLESS OF WHETHER IT IS COLLECTED THROUGH THE CHILD SUPPORT SYSTEM OR IS PAID DIRECTLY TO THE RECIPIENT.
- RESTORE THE 75 PERCENT ENHANCED MATCH RATE FOR STATE ADMINISTRATIVE COSTS FOR FRAUD CONTROL ACTIVITIES AND THE ENHANCED RETENTION RATES FOR COLLECTION OF CLAIMS.
- ELIMINATE THE REQUIREMENT THAT ELECTRONIC BENEFITS TRANSFER (EBT) SYSTEMS FOR DELIVERING FOOD STAMPS BE COST NEUTRAL. (THERE IS NO COMPARABLE REQUIREMENT THAT PAPER COUPON DELIVERY SYSTEMS BE COST-EFFECTIVE; THEREFORE, THE MANDATE FOR COST NEUTRALITY IN EBT SYSTEMS HAS THE PERVERSE EFFECT OF PENALIZING STATES THAT HAVE ACHIEVED THE GREATEST COST-EFFECTIVENESS IN THEIR COUPON SYSTEMS.)

- ELIMINATE THE PROHIBITION AGAINST REQUIRING AUTHORIZED RETAILERS TO PAY COSTS ESSENTIAL TO AND DIRECTLY ATTRIBUTABLE TO EBT SYSTEMS OPERATIONS. RETAILERS CURRENTLY BEAR COSTS ASSOCIATED WITH REDEMPTION OF FOOD STAMP COUPONS; STATE POTENTIAL TO IMPLEMENT EBT SYSTEMS WOULD BE ENHANCED BY THE AUTHORITY TO RECOUP FROM RETAILERS ANALOGOUS COSTS INCURRED UNDER EBT SYSTEMS.

- ~~Provide states with the option to utilize retrospective or prospective budgeting regardless of whether the state uses monthly reporting.~~
- Provide greater stability for the administration of the program by providing sufficient time for proper implementation of any statutory or regulatory change. Any changes, except for annual cost-of-living adjustments, should be provided to states as interim final or final regulations, with a mandatory effective date no earlier than the first of the month 180 days after publication of such regulations.
- ~~Verify a recipient's alien status only if an applicant cannot provide an Immigration and Naturalization Service (INS) document or provide one that is questionable. In addition, the head of the household should be allowed to attest to the eligible alien status of all other household members.~~
- ~~Give states the statutory authority to allow electronic benefit transfer systems to count as part of a state's administrative procedures. Currently states can use these systems only through special demonstration project authority.~~
- Allow improvements and changes needed in automated data processing systems to be eligible for enhanced federal reimbursement.
- ~~Repeal the requirement that states issue benefits for the first and second months in a single allotment.~~
- Allow the Food Stamp Program to be deemed in compliance with the Computer Matching and Privacy Act's thirty-day notification requirement and its independent manual verification requirement.
- Increase the minimum level provided for actionable claims.
- ~~Make recipients of general assistance (GA) categorically eligible for food stamps when the state administers the GA program and the state's GA eligibility criteria and verification requirements are equal to or stricter than AFDC eligibility criteria.~~
- ~~Give states the option to cash out benefits for SSI recipients.~~

4.3.8 **Program Outreach.** THE GOVERNORS BELIEVE THAT FEDERAL OUTREACH AND NUTRITION EDUCATION INITIATIVES SHOULD RECOGNIZE AND BUILD ON EXISTING STATE EFFORTS. SUCH OUTREACH AND EDUCATION ACTIVITIES ARE IMPORTANT COMPONENTS OF MANY STATE FOOD STAMP OPERATIONS AND THE GOVERNORS WOULD WELCOME INCREASED FEDERAL SUPPORT FOR THESE ACTIVITIES. THIS FEDERAL SUPPORT SHOULD BE AVAILABLE FOR A WIDE RANGE OF OUTREACH AND EDUCATION EFFORTS AS APPROPRIATE TO EACH STATE'S NEEDS AND NOT DUPLICATE EXISTING STATE-FUNDED INITIATIVES. ~~The Food Stamp Program cannot be effective if eligible persons are unaware of the program and of basic eligibility requirements. As a result, a federal program for outreach should be restored to ensure~~

~~awareness of the Food Stamp Program. These special efforts need to be made to ease the disparity between eligibility and participation for populations not being served adequately, such as the elderly.~~

- 4.3.9 Nutrition Assistance Program of Puerto Rico.** The Omnibus Budget Reconciliation Act of 1981 removed the commonwealth of Puerto Rico from the National Food Stamp Program and established a nutrition assistance block grant effective July 1, 1982. This block grant reduced federal funding by about 25 percent below the projected fiscal 1983 level and established a ceiling of \$825 million per year. This change affected more than 100,000 participants due to the program's stringent eligibility and certification requirements. Income limits were kept at the 1982 level. As a consequence, for a family of four, Puerto Rico's income limit is \$8,004, compared with the National Food Stamp Program's limit of \$11,652. Although Congress authorized cost-of-living adjustments to the block grant, these were not substantial enough to meet the nutritional needs of the participants.

The Puerto Rican government has developed a nutrition program administered through direct cash assistance, popularly known as food checks. This program minimizes administrative costs and provides maximum benefits to the needy. The Puerto Rico food check program has proved to be highly successful, so much so that it is strongly supported by both major political parties in Puerto Rico.

The National Governors' Association expresses its concern regarding the discriminatory treatment of American citizens residing in Puerto Rico and urges Congress to increase the block grant to provide benefits equivalent to the National Food Stamp Program or return U.S. citizens who live in Puerto Rico to full participation in the National Food Stamp Program.

4.4 Maintenance-of-Effort

- 4.4.1 Preamble.** The National Governors' Association believes it is essential that a federally funded, state-directed program be established to provide assistance to the nation's low-income population to enable them to cope more successfully with the problems of scarcity and dramatically increasing costs of energy. The Governors believe such a program should be constructed according to the following principles and considerations.
- 4.4.2 State and Federal Responsibility.** The problems to be addressed by this program will require a flexibility in response that programs administered directly from Washington cannot provide, but that programs administered by state governments can. State governments have a greater capacity to adjust delivery of program services with other similarly directed public and private programs. Accordingly, we believe that the funding for all aspects of this program should flow from the federal government to the Governors, who should be given responsibility for program design and management.
- 4.4.3 Implementation.** All levels of government involved in administering the program should be provided with adequate time to prepare carefully and completely for initial implementation and for implementation of any subsequent alterations. "Crash" programs usually cannot be as accurately targeted as intended, nor can they be as efficiently and economically implemented. Because it is often difficult for Congress to meet reauthorization schedules, it is likely that requiring annual reauthorization for a low-income energy assistance program will result in yearly program implementation on such a "crash" basis. Consequently, the program should be authorized for a period of several years. Congress should scrutinize the program's operation and rationale when it does consider reauthorization.
- 4.4.4 Maintenance-of-Effort Provisions.** The Governors commit themselves to the exclusive use of program funding to provide assistance to low-income persons in meeting energy costs. The Governors oppose maintenance-of-effort provisions that would apply to energy-related assistance programs and thus penalize states that have developed or may wish to develop such programs, or would arbitrarily prevent state modifications of payment levels in federally assisted income assistance programs not directed primarily toward energy needs.

4.4.5 Energy Needs. The federal program should allow Governors to fashion an assistance program in each state that addresses the critical energy-related needs in that state, including, but not limited to, those needs falling in two major categories:*

- cash (or quasi-cash) assistance to aid low-income individuals and families affected by the heightened costs of purchasing home energy, particularly for heating and, where excessive summer heat is a factor in threatening life and health, air conditioning; and for crisis assistance to aid those who are unable at any time to purchase energy for those same purposes, or for intervention in other ways in energy-related life- or health-threatening circumstances; and
- weatherization for low-income homes to reduce energy waste and to ensure that private and public funds invested in procuring energy are not poured perpetually into unnecessarily wasted energy.

4.4.6 Financial Assistance Forms. States should be authorized to provide financial assistance in the form of cash, vendor lines of credit, vouchers, special coupons (that is, "fuel stamps" or some equivalent), or any combination of these.

4.4.7 Draw-Down of Funds. State draw-down of federal funds to which the state is entitled must be allowed throughout the year and must not be limited to a "window" of only a few months as has been the case in previous federal crisis assistance programs.

4.4.8 Wage Limitations. Low-income energy assistance legislation should authorize relaxation or removal of the Comprehensive Employment and Training Act (CETA) average wage limitations where CETA labor is used in the weatherization program and should authorize states to use program funds for labor costs as well as material and administrative costs.

4.4.9 Eligibility. Any assistance provided under this program should not be counted as income for the purpose of determining eligibility for any income-tested program operated under federal law.

4.4.10 State Financial Assistance. No state financial assistance or "matching" should be required for any benefits paid through this program or for administrative costs, because program funding will be obtained from new tax revenues flowing solely to the federal government.

The Governors call upon both executive and legislative branch leaders to enact, implement, and operate a program of low-income energy assistance, based on the principles outlined in this statement, that provides substantial assistance to the eligible population. The need is real, severe, and growing. The National Governors' Association offers its cooperation and assistance toward this end.

~~4.5~~ Administrative Integration of AFDC and Food Stamps

~~The National Governors' Association favors a single, uniform income assistance program for all eligible persons in order to reduce the present programmatic and administrative complexity and duplication.~~

~~The Governors recognize that political and financial issues may delay programmatic integration. However, we believe that immediate steps should be taken to facilitate the administrative integration of the AFDC and Food Stamp programs. Although these programs generally are administered in an integrated manner at the state and local level, they are separately administered at the federal level. The results often are uncoordinated and conflicting directives and procedural requirements and unnecessary and duplicative supervisory and reporting requirements. Opportunities for shared systems, common research, and better program coordination often are missed as staffs of the two agencies address differing priorities and respond to conflicting congressional mandates. (Note: Remaining language was moved to section 4.3.4.)~~

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- * A broad program of education, advocacy, and counseling pertaining to energy conservation, self-help, use of alternative energy sources, and equipment maintenance should be established; it should apply to all population segments, giving special attention to needed links with the low-income program but not limiting its applicability to the low-income population.

~~4.6~~ Employment and Training for Welfare Recipients

~~4.6.1~~ Preamble. The National Governors' Association reaffirms that a national income security program is properly the responsibility of the federal government. However, until full implementation of a national income security policy, the Governors strongly support the continuation of an employment and training program for welfare recipients.

Under the current Work Incentive (WIN) and WIN Demonstration authority, states have developed successful work and welfare programs that have proven effective in helping AFDC recipients achieve economic self-sufficiency while at the same time reducing federal and state AFDC program costs. Building on these state experiences, the federal employment and training program should provide states with the flexibility to offer recipients employment and support services consistent with the goal of self-sufficiency while increasing the emphasis on state performance.

The Governors urge that the federal employment and training program for welfare recipients incorporate, at a minimum, the following elements.

~~4.6.2~~ Flexibility. States should be provided with maximum flexibility in program design. Such flexibility is essential in order to provide recipients with employment and training choices that best meet their individual needs. The work activities that states would be authorized to pursue include job search, job search training, supported work, work experience, grant diversion, education, training, and other federal training programs such as those authorized under the Job Training Partnership Act (JTPA). States also should be permitted to utilize funds for this program to provide support services, such as day care or transportation.

~~4.6.3~~ Performance Measures. States are committed to developing performance measures to help gauge program effectiveness. In developing performance measures, emphasis should be placed on indicators that measure outcomes of a state's employment and training program—for example, retention, number of job placements, and wage rates. Process measures, such as participation levels, are not an adequate indicator of program performance.

~~4.6.4~~ Administration. Governors should be provided flexibility to decide the proper agency or organization to administer the new program.

~~4.6.5~~ Funding Level. At a minimum, funding for the program should be at a level equal to the WIN appropriation in fiscal 1985. The provision of employment and training services for welfare recipients represents a cost-effective investment of federal and state dollars, with savings shared by both levels of government. The recent trend of reducing the federal share of work and welfare expenditures should be reversed.

~~4.6.6~~ Quality Control. States should not be liable for quality control (QC) penalties based on recipient nonregistration in employment and training activities. The emphasis in the state program should be on the placement of welfare recipients in jobs rather than the fulfillment of QC requirements that have no impact on benefit levels.

~~4.6.7~~ Employment and Training. The Governors urge that the current employment and training-related programs for AFDC recipients and applicants authorized by the Social Security Act, which are optional for states, be continued.

Governors recognize the need to work closely with the private sector and to maximize the use of existing federal employment and training opportunities in designing their program for welfare recipients, e.g., JTPA, employment services, and vocational education. Toward that end, the Governors urge that the federal Job Training Partnership Act be modified to permit a welfare department representative on the local private industry councils.

4.7 The Supplemental Food Program for Women, Infants, and Children

4.7.1 Preamble. Since its creation in 1972, the Supplemental Food Program for Women, Infants, and Children (WIC) has provided supplemental foods to millions of low-income women, infants, and children. Its success over time has been clearly shown, not only as a program that has limited the human suffering associated with the nutritional problems of children and pregnant women, but also as a program that has reduced government spending over time by preventing low-birthweight babies and undernourished children with health problems that would cost society substantial amounts of money.

Research by the U.S. Department of Agriculture has found that the program has resulted in a significant drop in the number of premature births to women in the program and a substantial

reduction in the late fetal death rate. In addition, it has been shown that women participating in the program are more likely to seek prenatal care early and more regularly.

Despite the WIC program's success, however, it has not fulfilled its optimal potential. Although 3.6 million women, infants, and children participate in the program, that is less than half of the individuals who are eligible. Issues regarding funding limitations and program coordination have prevented the WIC program from being as effective as it could be.

- 4.7.2 Funding Limitations.** A continuing problem within the WIC program has been low enrollment levels due to the limited funding from the federal government. Although funding for the WIC program has grown over the past several years, as a discretionary program, no state provides services to all of the women and children in their state who are potentially eligible. Although several states have income eligibility levels at the maximum of 185 percent of poverty, funding limitations have prevented them from serving the entire group.

Recently states have begun to seek competitive bids on their infant formula contracts. WIC purchases one-third of the total infant formula in the country. States have gained extraordinary savings through this process, with rebates ranging from 50 percent to 85 percent on their wholesale purchases.

Beyond the issue of overall funding, states have found that the ratio of nutrition services and administrative dollars to food dollars (i.e., 20/80) is too inflexible, particularly when such services as nutritional screening are considered an administrative cost. In addition, states have found the penalty for not spending all of their allocated funds in a given year to be unnecessarily restrictive.

- 4.7.3 Program Coordination.** In addition to funding limitations, coordination with other programs has been a problem. Many women on Medicaid, who are eligible for WIC, are unaware of the program. An underlying problem is that the WIC and Medicaid programs do not necessarily coordinate their efforts. Often they are located in different departments, which requires that a formal arrangement be established if regular communication is to occur. Coordination with other health programs often is limited as well.

The lack of coordination between the two programs leads to independent eligibility processes that do not encourage women eligible for both programs to enroll in both of them. If a woman goes to a health clinic to test for pregnancy, that health clinic may enroll her in the WIC program after making an eligibility determination, but Medicaid eligibility workers are rarely stationed in health clinics and therefore she is not enrolled in Medicaid at the same time. Further, the state, and therefore the clinic, may not have a policy of even referring the woman to a welfare office to seek Medicaid eligibility. Similarly, problems arise when a woman seeks Medicaid eligibility, but the Medicaid eligibility worker does not refer the woman to the WIC program. Each of these situations results from a lack of program coordination that could be avoided. Finally, due to the variation in eligibility rules, pregnant woman and children in the same circumstances can be eligible for Medicaid and not for WIC. For example, a pregnant woman can be treated as a family of two by Medicaid, but as a family of one by WIC.

- 4.7.4 Recommendations.** The National Governors' Association believes that the goal of the WIC program should be that each state reach their maximum number of women, infants, and children. In order to reach this goal, NGA recommends the following.

- Federal funding for the WIC program should be adequate to meet the needs of individuals at nutritional risk. This means that, within recognized budgetary constraints, federal funding for the program should continue to be increased over time.
- Cost-saving initiatives, such as competitive bidding for infant formula, should be encouraged as a method of lowering average program costs and allowing more individuals to be covered under the program. Any policy that allows the limited program dollars to be stretched further is good.
- States should be given maximum flexibility in the use of WIC funds in order to effectively serve those in need. Current requirements that restrict the balance between administrative and benefit spending should be modified. Rather than the current penalty system for states that do not spend all of their allotted funds, incentives should be provided. States should be afforded greater flexibility to carry over funds into the next year.
- States should coordinate the program policies and operations of the WIC and Medicaid programs. Communication between the different programs is a necessity in order to make the WIC program as effective as possible in benefiting infants, children, and pregnant women at nutritional risk. Special attention should be given to the coordination of outreach and

presumptive eligibility efforts given the recent changes in the Medicaid program. Coordination between the WIC program and other health programs also is important.

- States should automatically refer recipients of WIC and Medicaid from one program to the other. Although placing Medicaid eligibility workers in health clinics may expedite this process, at the very least making the recipient aware of the other program and where eligibility may be obtained is critical to improving program participation.
- The eligibility methodology used by each of the two programs should be more consistent.

4.8 Supplemental Security Income

4.8.1 Preamble. Established by the 1972 amendments to the Social Security Act, the Supplemental Security Income (SSI) program provides important income assistance to needy aged, blind, and disabled citizens.

The legislative history of the 1972 amendments shows the clear intent of Congress to encourage states to supplement, with state funds, the federal SSI payment by allowing for federal administration of the state supplement at no cost to the states. As a result, the majority of states supplement SSI payments with state funds.

4.8.2 State and Federal Responsibilities. Since the inception of SSI, the federal government has imposed increasingly greater restrictions on states' ability to structure state supplements. In most cases, state supplements are now mandated through maintenance-of-effort provisions; in the Omnibus Reconciliation Act of 1993, the federal government imposed fees on states for administering the state supplement.

The fees on states violate the original commitment made to states when SSI was established and impose federal responsibilities on state government. Although the Governors support deficit reduction and recognize the need to keep federal spending within available resources, responsible deficit reduction should not necessarily result in shifting costs to states.

The Governors urge the administration and Congress to honor the initial responsibilities set forth for the federal government when SSI was established.

4.9 ELECTRONIC BENEFITS TRANSFER

4.9.1 PREAMBLE. STATES HAVE BEEN LEADERS IN THE USE OF TECHNOLOGY TO IMPROVE DELIVERY OF PUBLIC SERVICES THROUGH SUCH INITIATIVES AS DISTANCE LEARNING, TELEMEDICINE, AND ELECTRONIC BENEFITS TRANSFER (EBT) SYSTEMS. IN RECENT YEARS, STATES AND LOCALITIES HAVE PILOTED EBT AS A MEANS OF PROVIDING CLIENTS WITH MORE CONVENIENT AND SAFER ACCESS TO BENEFITS AND IMPROVING THE ABILITY OF STATES TO MANAGE PROGRAMS AND PREVENT FRAUD. MORE RECENTLY, THERE HAS BEEN A MOVEMENT TO PROMOTE NATIONWIDE EBT SYSTEMS FOR SOME FEDERAL BENEFITS PROGRAMS IN THE NEAR FUTURE. THE LEGISLATIVE AND REGULATORY CHANGES THAT ARE BEING DEVELOPED BY THE FEDERAL GOVERNMENT TO SUPPORT NATIONAL IMPLEMENTATION OF EBT SYSTEMS HAVE FAR-REACHING IMPLICATIONS FOR FUTURE STATE INNOVATION IN THIS AREA.

4.9.2 FEDERAL SUPPORT FOR STATE INNOVATION. THE GOVERNORS SUPPORT EXPANDED USE OF EBT AND BELIEVE THAT ANY NATIONAL EBT INITIATIVE SHOULD CONTINUE TO ALLOW AND ENCOURAGE A VARIETY OF STATE APPROACHES TO EBT SYSTEMS. STATES SHOULD BE ALLOWED TO PROCEED WITH

EBT ON THEIR OWN TIMETABLES, WITH CONSIDERABLE DISCRETIONARY AUTHORITY OVER SYSTEM DESIGN DECISIONS SUCH AS WHICH TECHNOLOGY TO USE, WHICH BENEFITS PROGRAMS TO INCLUDE, STANDARDS FOR PROGRAM DELIVERY, AND WHICH FINANCIAL INSTITUTIONS AND CARD PROCESSORS TO USE. THE GOVERNORS AGREE THAT STANDARDS FOR TRANSACTION AND INTERNAL PROCESSING ROUTINES ARE BENEFICIAL FOR VOLUME PRICING AND INTERSTATE MOBILITY. THE GOVERNORS OPPOSE ANY FEDERAL MANDATES THAT WOULD REQUIRE STATES (EITHER DIRECTLY OR INDIRECTLY BY MAKING EBT IMPLEMENTATION A CONDITION OF OTHER FEDERAL FUNDS OR WAIVERS) TO DELIVER BENEFITS SUCH AS FOOD STAMPS OR AID TO FAMILIES WITH DEPENDENT CHILDREN THROUGH AN ELECTRONIC BENEFITS TRANSFER SYSTEM. THE GOVERNORS ALSO BELIEVE:

- THAT FEDERAL FINANCIAL SUPPORT FOR INITIAL AND ONGOING COSTS SHOULD BE AVAILABLE FOR A DIVERSE SET OF STATE APPROACHES, NOT JUST ONE MODEL;
- THAT STATES THAT HAVE ALREADY IMPLEMENTED EBT SYSTEMS SHOULD NOT BE FORCED TO RETROFIT THEIR SYSTEMS TO A SINGLE, NEW FEDERAL MODEL; AND
- THAT THE REQUIREMENT THAT EBT SYSTEMS FOR DELIVERING FOOD STAMPS BE COST NEUTRAL SHOULD BE ELIMINATED. (THERE IS NO COMPARABLE REQUIREMENT THAT PAPER COUPON DELIVERY SYSTEMS BE COST-EFFECTIVE; THEREFORE, THE MANDATE FOR COST NEUTRALITY IN EBT SYSTEMS HAS THE PERVERSE EFFECT OF PENALIZING STATES THAT HAVE ACHIEVED THE GREATEST COST-EFFECTIVENESS IN THEIR COUPON SYSTEMS.)

4.9.3 APPLICATION OF REGULATION E OF THE ELECTRONIC FUNDS TRANSFER ACT TO EBT. PROGRESS TOWARD WIDER USE OF EBT SYSTEMS HAS BEEN SLOWED RECENTLY BY THE MARCH 1994 DECISION OF THE FEDERAL RESERVE BOARD TO APPLY REGULATION E OF THE ELECTRONIC FUNDS TRANSFER ACT TO EBT PROGRAMS. THIS DECISION ESSENTIALLY CHANGED FEDERAL SOCIAL POLICY BY CREATING A NEW ENTITLEMENT TO REPLACEMENT OF LOST OR STOLEN WELFARE BENEFITS FOR EBT CLIENTS—A NEW ENTITLEMENT BENEFIT THAT CLIENTS WHO RECEIVE THOSE SAME WELFARE BENEFITS IN CASH OR COUPONS DO NOT HAVE.

ESTIMATES OF THE COST OF THIS NEW BENEFIT VARY WIDELY, BUT RANGE AS HIGH AS \$800 MILLION ANNUALLY.

ALTHOUGH THE BOARD'S DECISION CREATED THIS NEW ENTITLEMENT BENEFIT, IT DID NOT ADDRESS HOW THIS BENEFIT WOULD BE FINANCED. CURRENT STATUTORY AUTHORITY DOES NOT ALLOW THE FEDERAL GOVERNMENT TO REIMBURSE STATES FOR EBT BENEFIT REPLACEMENT COSTS, EVEN FOR THOSE WELFARE BENEFITS THAT ARE ENTIRELY FEDERALLY FINANCED, SUCH AS FOOD STAMPS. THIS IS TRUE DESPITE THE FACT THAT MOST OF THE ADMINISTRATIVE SAVINGS FROM EBT ACCRUE TO THE FEDERAL GOVERNMENT, NOT TO THE STATES.

GOVERNORS ARE NOT OPPOSED TO CONSUMER PROTECTIONS FOR EBT CLIENTS. IF THE CONSUMER PROTECTIONS OF REGULATION E ARE APPLIED TO EBT PROGRAMS, HOWEVER, THE GOVERNORS BELIEVE THAT CONGRESS MUST RECOGNIZE THAT THIS IS A NEW ENTITLEMENT BENEFIT AND ACT ACCORDINGLY TO FUND IT. OTHERWISE, IT WILL BECOME AN UNFUNDED MANDATE ON THE STATES, AND THE GOVERNORS WILL HAVE LITTLE CHOICE BUT TO HALT THEIR EFFORTS TOWARD CREATING EBT SYSTEMS FOR WELFARE CLIENTS.

IF CONGRESS IS NOT ABLE TO FUND THIS NEW ENTITLEMENT BENEFIT, THE GOVERNORS BELIEVE THAT THE ONLY ALTERNATIVE IS TO CLARIFY THAT CLIENTS WHO RECEIVE WELFARE BENEFITS THROUGH EBT ARE ENTITLED TO THE SAME PROTECTIONS AS CLIENTS WHO RECEIVE THE SAME BENEFITS IN CASH OR IN COUPONS. THE GOVERNORS RECOGNIZE THAT THERE MAY BE OTHER WAYS TO ADDRESS THESE PROBLEMS, BUT THESE OTHER MEANS WOULD NECESSARILY INVOLVE SOME UNKNOWN NEW COST BECAUSE THEY WOULD CREATE SOME LEVEL OF NEW ENTITLEMENT TO BENEFIT REPLACEMENT. UNTIL THE GOVERNORS HAVE A COMMITMENT FROM THE FEDERAL GOVERNMENT TO ASSUME THE COSTS OF ANY NEW EBT ENTITLEMENT BENEFITS, THE EXEMPTION APPROACH IS THE ONLY VIABLE SOLUTION.

*Time limited (effective Winter Meeting 1995-Winter Meeting 1997).
Adopted August 1980; revised February 1982, March 1983, July 1984, February 1985, August 1985,
February 1986, February 1987, February 1989, February 1990, February 1993, and February 1994 (formerly
Policy C-6).*

GOVERNOR'S BRIEFING BOOK

Committee on Human Resources

3. HR-5: PROPOSED AMENDMENTS ON A CONCEPTUAL FRAMEWORK FOR NATIONAL WELFARE REFORM (CHILD SUPPORT ENFORCEMENT)

BACKGROUND:

Many of the proposed additions to the child support section of the welfare reform policy are based on language moved from different sections within that policy or on language that was previously part of the free-standing child support enforcement policy which is scheduled to sunset. Provisions were added calling for greater state flexibility in several program areas.

To raise the child support federal matching rate would result in additional federal costs, however, the federal government would be partially reimbursed through increased collections of child support for welfare recipients.

The policy opposes some mandates that would result in increased costs to both federal and state governments.

OBJECTIVE:

- Secure enactment of national welfare reform legislation, such as, in child support enforcement to increase self-sufficiency.

GUAM'S POSITION:

- ▶ No briefing papers were provided by agencies.

HR-5. A CONCEPTUAL FRAMEWORK FOR NATIONAL WELFARE REFORM

- 5.1 Preamble**
- 5.2 Temporary Cash Assistance**
- 5.3 Earned Income Tax Credit**
- 5.4 Job Development**
- 5.5 Work and Community Service**
- 5.6 Additional Support Needs**
- 5.7 Program Coordination**
- 5.8 Child Support Enforcement**

The Governors believe that a more effective child support system is a critical component of welfare reform. Both custodial and noncustodial parents must accept primary responsibility for the support of their children.

The current child support enforcement system is not working very well. States do not have the tools or the resources to run a good system. Just 58 percent of eligible women have support orders and only half collect the full amount. This means that more than 70 percent of mothers who are entitled to child support either lack support orders or do not receive the full amount due under such orders.

States, counties, and localities have continued to make improvements in the establishment of paternity and support orders and in the collection of support. In particular, the Family Support Act of 1988 made important improvements to the child support system. However, the statistical data showing large arrearages and substantial differences in performance among states suggest that collections can be increased further with broader use of the more successful techniques. In addition, there are significant problems in the interstate enforcement of support obligations and areas where additional federal support could increase the effectiveness of state efforts.

The establishment and enforcement of support obligations are central parts of family law, an area long within the purview of state government. Similarly, many of the proposed enforcement techniques require changes in licensing, insurance regulation, and commercial law, also areas long under state purview.

The Governors urge federal action to improve child support enforcement in the following areas.

- 5.8.1 Improved Federal Collection Tools.** These tools include the following.
 - State governments need access to Internal Revenue Service (IRS) data.
 - IRS collection tools should be available to states.
 - Support obligations should be reported on a modified W-4 form.
 - Employers should be required to report new hires to state agencies via the modified W-4 form.
 - A national registry of new hires should be maintained.
 - A federal registry of support orders should be established and maintained.
 - A national computer database of locator information should be established and maintained.
 - Federal resources should support effective child support enforcement.

- 5.8.2 FEDERAL FUNDING ~~Performance-Based Incentives for State and Local Implementation.~~ THE FEDERAL GOVERNMENT SHOULD ADOPT FUNDING POLICIES THAT SUPPORT A FEDERAL-STATE PARTNERSHIP TO IMPROVE CHILD SUPPORT ENFORCEMENT. FUNDING PROVISIONS SHOULD NOT FOCUS ON PUNITIVE MEASURES THAT ERODE THIS PARTNERSHIP OR THAT REMOVE ESSENTIAL RESOURCES FROM**

STATES AND CHILD SUPPORT ENFORCEMENT AGENCIES. TO BOOST ENFORCEMENT SUCCESS, THE FEDERAL MATCHING RATE SHOULD BE RETURNED TO AT LEAST THE ORIGINAL LEVEL OF 75 PERCENT, AND THE 115 PERCENT INCENTIVE CAP ON NONWELFARE COLLECTIONS SHOULD BE REMOVED OR RAISED. THE EXISTING ENHANCED MATCH FOR PATERNITY ESTABLISHMENT LABORATORY COSTS SHOULD BE RAISED TO 100 PERCENT AND A FEDERAL ACCREDITATION PROGRAM FOR GENETIC TESTING LABORATORIES SHOULD BE ESTABLISHED. FEDERAL SUPPORT SHOULD BE AVAILABLE TO PROVIDE ADEQUATE TRAINING FOR ALL CHILD SUPPORT ENFORCEMENT PERSONNEL.

Incentives should be available to states for the successful completion of performance outcomes. Incentive funds should be earmarked for programs that serve children.

Areas of performance might include some of the following.

- Establishing paternity. A state establishes a system to voluntarily establish paternity and achieves improvements in this area.
- Applying national child support standards. A national commission with a strong state, county, and local role should be established by Congress to develop national standards for child support orders. Incentives that encourage states to achieve national standards are recommended.

Federal legislation should require Employee Retirement Income Security Act (ERISA) plans to conform to state law and regulations regarding the availability of medical support. ~~In the event National guidelines SHOULD be established prior to passage of universal access to health care, these guidelines would have to include~~ A provision for medical support, including reasonable limits on the additional costs that would be borne by the absent parent.

- Improving collections of child support. States, counties, and localities should receive incentive payments for reaching certain levels of collections that are agreed upon in advance. This could be accomplished through adversely affecting licenses, interdicting lump sum payments, and reporting to credit agencies.
- Timeliness of interstate collections.
- ~~Processing times at key decision points.~~
- Amount or percent of support collected.
- Establishing mediation services to resolve visitation issues.

Performance outcome measures should be developed in consultation with states, counties, and localities. They should be based on actual levels of achieved performance and should be tailored to individual state conditions. At least initially, the emphasis should be on improving performance outcomes rather than on reaching an arbitrary target.

5.8.3

DATA COLLECTION, RESEARCH, AND EXPERIMENTATION ~~Data Collection and Research.~~

Although there is strong evidence to support the effectiveness of a variety of enforcement tools, these data often are fragmented and are not designed to effectively answer questions about costs and benefits in specific circumstances or to allow for the careful evaluation of alternative approaches to a similar goal. More complete data and additional research on specific enforcement tools would both encourage action at the state level and improve decisionmaking.

The federal government should expand its data collection and research capacity and work cooperatively with states to develop priorities for future research. [The federal government should authorize and fully fund child support assurance demonstrations.] (Note: Text in brackets is existing policy language moved from section 5.8.8.)

5.8.4 INFORMATION Data-Processing Systems. The existing requirements for management information systems have developed over an extended period of time. In some cases, it appears that required matches between and among systems may be duplicative. In other cases, the systems may not provide access to the full range of available information.

The federal government should, in cooperation with states, undertake a comprehensive review of the management information needs of the program and develop recommendations both for the required interfaces between state systems and federal and state databases, and for the needed interfaces among state systems.

FEDERAL FUNDING SHOULD INCLUDE SUFFICIENT INCENTIVES, WITHOUT FUNDING CAPS, TO ALLOW FOR THE APPROPRIATE ADAPTATION OF INFORMATION SYSTEMS TO ANY PROPOSED REFORM. IN ADDITION, THE FEDERAL GOVERNMENT SHOULD PROVIDE REASONABLE TIMEFRAMES FOR SYSTEM PLANNING, DEVELOPMENT, AND IMPLEMENTATION EFFORTS. STATES SHOULD HAVE FLEXIBILITY IN DESIGNING INFORMATION SYSTEMS AND SHOULD NOT NECESSARILY BE REQUIRED TO ADAPT AN EXISTING SYSTEM.

THE FEDERAL GOVERNMENT SHOULD BE ACCOUNTABLE FOR PROVIDING TIMELY LEADERSHIP AND GUIDANCE TO THE STATES REGARDING ANY NEW SYSTEMS REQUIREMENTS. FOR EXAMPLE, A STATE'S IMPLEMENTATION TIMETABLE FOR RECEIVING ENHANCED FEDERAL FINANCIAL PARTICIPATION FOR SYSTEMS SHOULD NOT BEGIN UNTIL THE FEDERAL GOVERNMENT ISSUES FINAL GUIDELINES ON ANY NEW SYSTEMS REQUIREMENTS.

THE INITIAL PHASE OF IMPLEMENTING AUTOMATED DATA PROCESSING (ADP) SYSTEMS DID NOT GO AS RAPIDLY AS PLANNED BECAUSE OF LATE REGULATIONS, INCOMPLETE DEMONSTRATION PROJECTS, LACK OF CERTIFIED SYSTEMS FROM WHICH STATES COULD ADOPT A MODEL, AND A SLOW PROCESS APPROVAL. THERE SHOULD BE AN EXTENSION OF THE IMPLEMENTATION DEADLINE TO 1997 OR FIVE YEARS AFTER THE APPROVAL OF EACH INDIVIDUAL ADP, WHICHEVER COMES LATER. THE 90 PERCENT FEDERAL MATCHING RATE FOR ADPS SHOULD BE RETAINED FOR INITIAL IMPLEMENTATION COSTS.

5.8.5 Administrative Changes. It is recommended that the audit process be changed from process-oriented to outcome-oriented performance measures. The federal Office of Child Support Enforcement should conduct a study on minimum staffing standards. THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES SHOULD GRANT PERMANENT WAIVERS TO STATES ENABLING THEM TO PROVIDE QUARTERLY (RATHER THAN MONTHLY) NOTICES OF SUPPORT STATUS TO RECIPIENTS OF CHILD SUPPORT SERVICES. STATES SHOULD

BE ALLOWED THE FLEXIBILITY, WITHIN FEDERAL GUIDELINES, TO CHARGE OR NOT TO CHARGE AN APPLICATION FEE FOR SERVICES TO NON-AFDC RECIPIENTS.

- 5.8.6 Technical Assistance and Support.** Additional technical assistance from the federal government to states, counties, and localities is needed. Technical assistance must go beyond merely telling states and localities what they should do. Effective technical assistance requires an understanding of good practice and the ability to work with states and localities to help decisionmakers understand the benefits of such practices and to help tailor those practices to the political and administrative conditions of each state.
- 5.8.7 Improvements to Interstate Enforcement.** One-third of child support enforcement cases require interstate collection. Federal legislation should be enacted to adopt uniform interstate child support enforcement procedures to ensure that child support orders are enforced uniformly throughout the nation. IN ADDITION, THE FEDERAL GOVERNMENT SHOULD FULLY FUND DEMONSTRATION PROJECTS TO EXPLORE INTERSTATE PROCESSES WITH AND THROUGH THE TRIBAL COURTS FOR ENFORCEMENT OF TRIBAL AND STATE CHILD SUPPORT ORDERS.
- 5.8.8 ~~Continuing Experimentation.~~** (Note: Previous language moved to section 5.8.3.) **STATE FLEXIBILITY.** THE FEDERAL GOVERNMENT SHOULD TAKE INTO CONSIDERATION THE RESULTS OF EVALUATIONS, DEMONSTRATION PROJECTS, STATE BUDGET CAPS, AND STATE LEGISLATIVE CALENDARS WHEN DEVELOPING CHILD SUPPORT POLICIES. STATES SHOULD NOT BE REQUIRED TO IMPLEMENT CHANGES WITHOUT FINAL REGULATORY AUTHORITY AND SHOULD NOT BE PENALIZED WHEN THEY IMPLEMENT CHANGES IN ADVANCE OF REGULATIONS.

STATES SHOULD BE ALLOWED BROAD DISCRETION TO DESIGN AND ADMINISTER THEIR CHILD SUPPORT SYSTEMS. FOR EXAMPLE, STATES SHOULD HAVE THE FLEXIBILITY TO CHOOSE ADMINISTRATIVE OR COURT-BASED SYSTEMS OR TO CHOOSE LOCALLY OR CENTRALLY ADMINISTERED SYSTEMS.

STATES SHOULD HAVE THE FLEXIBILITY TO RESTRUCTURE THE \$50 CHILD SUPPORT DISREGARD TO USE THE FUNDS FOR ALTERNATIVE INCENTIVE PAYMENT PROGRAMS.

CURRENTLY, STATES SERVE ALL AFDC RECIPIENTS AND SERVE NON-AFDC RECIPIENTS UPON THE REQUEST OF EITHER PARENT. STATES ARE HARD-PRESSED TO PROVIDE ADEQUATE SERVICES TO THIS CASELOAD WITH THE LIMITED RESOURCES AVAILABLE. THE FEDERAL GOVERNMENT SHOULD NEITHER MANDATE NOR PROHIBIT THAT STATES SERVE THE ENTIRE CHILD SUPPORT POPULATION INCLUDING THOSE WHO HAVE NOT REQUESTED GOVERNMENT SERVICE. ANY SUCH MANDATE COULD DOUBLE CURRENT CHILD

SUPPORT CASELOADS AND WIPE OUT STATES' EFFORTS TO IMPROVE ENFORCEMENT.

- 5.8.9 Assistance to Noncustodial Parents.** The federal government should examine **INCREASED LINKAGES TO AND** eligibility for **EXISTING** job training and other services designed to improve earning capacity, and should consider eliminating disincentives to marriage, particularly for teenage parents.
- 5.8.10 Continued Evaluation and Implementation.** The Governors support continued evaluation and implementation of the broad range of paternity establishment and child support enforcement tools now in operation across the nation.

5.9 Transition

5.10 Implementation of Reform

*Time limited (effective Winter Meeting 1995-Winter Meeting 1997).
Adopted August 1993.*

GOVERNOR'S BRIEFING BOOK

Committee on Human Resources

4. HR-11: PROPOSED AMENDMENT ON ARMY AND AIR NATIONAL GUARD (RECOGNIZING AND RESTRUCTURING OF MILITARY FORCES)

BACKGROUND:

The amendment expresses the Governors' support for an Army National Guard force structure allowance of 405,000 in accordance with the review of force structure by the U.S. Secretary of Defense. The Governors believe that the Guard is at the right level to accomplish its dual mission, both at home for emergencies and disasters, and in combat support of the active forces.

The amendment is cost-effective because of the dual role of the national Guard. It has allowed the force structure of the standing army reduced with more reliance on the guard and the reserve.

OBJECTIVE:

- The drawdown should be in a way that minimizes the impact on the states' ability to response to domestic emergencies.

GUAM'S POSITION:

► Guam National Guard

The Guam National Guard supports the proposed amendment as it complements the established priorities of the National Guard and is in the best interest of Guam. The amendment protects existing Guam Army and Air National Guard units from further cuts. It also ensures that units with medical, engineer and civil disturbance capability are available to the territory in times of crisis.

HR-11. ARMY AND AIR NATIONAL GUARD

- 11.1 Preface**
- 11.2 Training**
- 11.3 Control of the Guard**
- 11.4 Training and Equipment**
- 11.5 Reorganizing and Restructuring of Military Forces**

Changes in Eastern Europe and the arms negotiations have caused the U.S. Department of Defense to evaluate force structure in light of budgetary constraints. It is recognized that there will be military force structure cuts and some of these cuts may be in National Guard units.

Further, Governors believe that military force reductions prorated across the entire military structure may not be the most cost-effective means of achieving a strong national defense in peacetime. Moving from the active military components into the reserve components could achieve budget savings while continuing to provide for the defense of the nation in a national emergency. Historically, our nation has relied on the National Guard as a mobilization base. National Guard units have achieved high readiness levels, providing a real mobilization asset on short notice. Some units, such as military police, Army and Air Guard air defense, tactical air units, and air transportation units, provide excellent immediate capability for lower peacetime operating costs than active service units.

THE GOVERNORS SUPPORT AN ARMY NATIONAL GUARD FORCE STRUCTURE ALLOWANCE OF 405,000, AS APPROVED BY THE U.S. SECRETARY OF DEFENSE IN THE "BOTTOM-UP" REVIEW AND THE ARMY "OFFSITE" AGREEMENT.

THE GOVERNORS REMAIN COMMITTED TO A NATIONAL GUARD THAT PROVIDES THE GOVERNORS OF THE STATES AND TERRITORIES WITH SUFFICIENT FORCES THAT HAVE THE ORGANIC CHAINS OF COMMAND, EQUIPMENT, AND CAPABILITIES NECESSARY TO MEET THE FEDERAL AND STATE MISSIONS OF THE NATION. THE GOVERNORS BELIEVE THAT THE 405,000-FORCE STRUCTURE IS THE MINIMUM PRUDENT NUMBER.

THE NATIONAL GUARD HAS NOT BEEN IMMUNE FROM POST-COLD WAR FORCE REDUCTIONS. IN FACT THE NATIONAL GUARD TODAY IS AT THE SAME FORCE STRUCTURE LEVEL AS PRIOR TO WORLD WAR II WITH THE SUPPORT OF THE PRESIDENT, THE U.S. SECRETARY OF DEFENSE, AND THE U.S. SECRETARIES OF THE ARMY AND AIR FORCE, WE HAVE BEEN ABLE TO MAINTAIN AN ARMY AND AIR NATIONAL GUARD THAT IS CAPABLE OF MEETING OUR NATIONAL SECURITY NEEDS AND OF ENSURING THAT THE GOVERNORS HAVE UNDER THEIR COMMAND THE RIGHT MIX AND NUMBERS OF FORCES TO MEET THE MYRIAD EMERGENCY AND DOMESTIC MISSIONS THAT ARE UNIQUE TO THE NATIONAL GUARD. THE GOVERNORS BELIEVE THE NATIONAL GUARD WILL CONTINUE TO BE THE PRIMARY RESERVE FORCE IN OUR COUNTRY AND WILL CONTINUE TO PLAY A CRITICAL ROLE IN PEACE AND WAR.

THE NATIONAL GUARD IS AT THE RIGHT LEVEL TO ACCOMPLISH ITS MISSIONS HERE AT HOME AND IN SUPPORT OF THE ACTIVE FORCES. THE NATIONAL GUARD'S STRENGTHS ARE ITS PEOPLE, ITS UNIQUE STATE AND FEDERAL TIES, ITS UNIQUE DUAL MISSION, AND ITS COST-EFFECTIVENESS AND COMBAT READINESS. IT IS THE NATIONAL INSURANCE POLICY FOR DOMESTIC AND FOREIGN EMERGENCIES.

~~The Defense Department's recently announced Army National Guard force structure level of 405,000 represents the absolute minimum level acceptable to the Governors. The Governors are convinced that no further cuts can be made safely from the force structure without jeopardizing the guard's ability to respond to national and state emergencies. Going below this floor could adversely affect the ability of the Army National Guard to train and develop personnel, effectively manage career opportunities, provide opportunities for upward mobility for women and minority groups, support the war on drugs, and make the most cost effective contributions to national defense.~~

~~We must ensure that sufficient structure remains to respond to both federal and state missions. Engineering, medical, airlift, military police, and transportation units are particularly important. It is imperative that these National Guard units be resourced to maintain a readiness level that provides the capability to meet the needs of the states and the nation.~~

~~Overall, the National Guard continues the involvement of the citizens in national defense, provides a low cost, quality defense that is essential in times of national emergencies, and simultaneously furnishes a force to meet community and state emergencies. Therefore, the Governors believe that no restructuring of military forces should occur without a cost benefit analysis that takes into account the dual role of the National Guard, and a review of any proposed reductions of units with appropriate state officials.~~

11.6 Equal Opportunity in the National Guard

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

Adopted August 1986; revised July 1990, February 1991, August 1992, and February 1994 (formerly Policy B-5).



DEPARTMENT OF THE ARMY
HEADQUARTERS, GUAM TERRITORIAL AREA COMMAND
GUAM ARMY NATIONAL GUARD
622 EAST HARMON INDUSTRIAL PARK ROAD
FORT JUAN MUNA, TAMUNING, GUAM 96911-4421



REPLY TO
ATTENTION OF:

January 22, 1995

The Adjutant General

Bureau Of Planning
Government of Guam
Agana, Guam 96910

SUBJECT: HR-11: Army and Air National Guard (Reorganizing and Restructuring of Military Forces) Briefing Paper

The requested briefing paper on subject above and additional information are enclosed as follows:

TAB A Bureau of Planning Routing and Transmittal Slip Requesting Briefing paper on HR-11

TAB B Briefing Paper

TAB C Priorities of the National Guard by Lieutenant General Edward D. Baca, Chief, National Guard Bureau (NGB)

TAB D Common Acronyms

Sincerely,

Ramon Q. Sudo
Colonel, Guam National Guard
The Adjutant General

BRIEFING PAPER

ISSUE: Reorganizing and Restructuring of Military Forces

DISCUSSION:

1. Lieutenant General Edward D. Baca, Chief, National Guard Bureau, supported by National Guard leadership from the 54 States and Territories has established three top priorities for Fiscal Year 96 and beyond. They are:

a. Stabilizing the Force Structure. The recent Off-Site Agreement between The Department of the Army, National Guard and the Army Reserve has realigned the Reserve Component Force Structure. This realignment provides Combat and Combat Support (CS) units to the National Guard and Combat Service Support (CSS) units to the Army Reserve. Additionally, the National Guard was provided a force structure mix of CSS units for its State/Territorial missions. The intent of the force structure mix is to provide each Governor with medical, engineer, civil disturbance and aviation assets to support domestic missions. The Guam Guard currently has units capable of providing medical, engineer and civil disturbance support to the Territory.

b. Full Time Support. Overall, National Guard units are currently funded at 60 percent of its full-time manning requirements. Full time support is at a crisis point. More Active Duty guardsmen and military technicians are scheduled for additional downsizing, cutting further into the heart of our day-to-day operations. It should be clearly understood that the lack of full time support personnel adversely affects the readiness of our units. Further, personnel cuts scheduled for FY96 through FY01 will have an economic impact resulting in loss of jobs and a decline in the quality of life. The downward trend in full time support presents a serious challenge to our ability to perform both our national defense and domestic mission.

c. Resourcing the Requirement. We must secure adequate funding to do all the things required to be a vital partner in the Total Force. This means that we must have enough Operations and Maintenance dollars for training, readiness and operational requirements. Adequate funding enhances our overall capability to perform our missions.

2. HR-11. Army and Air National Guard (Reorganizing and Restructuring of Military Forces) supports the National Guard's priority of Stabilizing the Force Structure.

a. It supports the "bottom up" review and the "Off Site" agreement that stabilizes the Force Structure between the Guard and Reserve.

b. It supports the idea that Governors must have under their command the right mix of forces to meet emergency and domestic missions.

c. It supports the idea that the National Guard is at the right level. Implicit to this thought is that the Guard should not sustain further cuts below the 405,000 level.

3. Recommendation. Support HR-11 as it complements the established priorities of the National Guard and is in the best interest of Guam. It protects existing Guam Army and Air National Guard units from further cuts. Additionally, it ensures that units with medical, engineer and civil disturbance capability are available to the territory in times of crisis.

COL RAMON Q. SUDO
21 January 1995

GOVERNOR'S BRIEFING BOOK
Committee on Human Resources

5. HR-28: PROPOSED POLICY POSITION ON CHILD CARE

BACKGROUND:

Other than some provisions included in the welfare reform policy, NGA has no child care policy. The association is currently working on proposing additional policy on child care as a result of the pending reauthorization of the Child Care Development Block Grant and the proposed changes in the federal child care programs under welfare reform.

OBJECTIVES:

- To consolidate federal child care programs into a single program based on the Child Care Development Block Grant program.
- A maximum flexibility for states in paying for different categories of care at different payment levels depending on the quality of care.

GUAM'S POSITION:

- ▶ No briefing papers were provided by agencies.

HR-28. CHILD CARE

28.1 PREAMBLE

THE GOVERNORS BELIEVE THAT THE EXPANSION OF QUALITY CHILD CARE OPPORTUNITIES IS VITAL TO THE ECONOMIC GROWTH OF THE NATION AND CRUCIAL FOR THE WELL-BEING OF THE NATION'S FAMILIES AND CHILDREN. THE GOVERNORS ALSO RECOGNIZE THAT DRAMATIC AND ONGOING CHANGES IN OUR SOCIETY WILL CONTINUE TO FUEL A GROWING DEMAND FOR QUALITY CHILD CARE OVER THE NEXT DECADE.

IN RESPONSE TO THIS GROWING NEED, THE STATES AND THE FEDERAL GOVERNMENT HAVE CREATED PROGRAMS TO PROVIDE QUALITY CHILD CARE OPPORTUNITIES FOR LOW-INCOME FAMILIES. ONE OF THE FEDERAL INITIATIVES, THE CHILD CARE DEVELOPMENT BLOCK GRANT (CCDBG) DISTRIBUTES FUNDS TO STATES TO PROVIDE CHILD CARE SERVICES FOR LOW-INCOME FAMILIES, AS WELL AS TO SUPPORT ACTIVITIES TO IMPROVE THE OVERALL QUALITY AND SUPPLY OF CHILD CARE IN THE STATE. NO STATE MATCH IS REQUIRED UNDER THIS PROGRAM.

THE GOVERNORS BELIEVE THAT CCDBG IS A HIGHLY SUCCESSFUL PROGRAM THAT TOGETHER WITH STATE AND LOCAL INITIATIVES HAS SUBSTANTIALLY INCREASED THE SUPPLY AND THE QUALITY OF CHILD CARE SERVICES FOR LOW-INCOME FAMILIES.

28.2 RECOMMENDATIONS FOR THE REAUTHORIZATION OF THE CHILD CARE DEVELOPMENT BLOCK GRANT AND MODIFICATIONS TO OTHER FEDERAL CHILD CARE PROGRAMS

BASED ON THE EXPERIENCES AND INTERESTS OF STATES IN PROVIDING HIGH-QUALITY CHILD CARE SERVICES, THE GOVERNORS OFFER THE FOLLOWING RECOMMENDATIONS TO THE ADMINISTRATION AND THE CONGRESS IN ADDRESSING ISSUES OF CHILD CARE IN THE FIRST SESSION OF THE 104TH CONGRESS.

28.2.1 CREATE A SEAMLESS CHILD CARE SYSTEM. THE GOVERNORS URGE CONGRESS TO MOVE TOWARD A MORE SEAMLESS SYSTEM INCORPORATING ALL OF THE FEDERAL CHILD CARE PROGRAMS. IN GENERAL, THEY BELIEVE THAT CCDBG SHOULD BE THE FOUNDATION FOR THAT SEAMLESS SYSTEM AND THAT OTHER FEDERAL CHILD CARE PROGRAMS, SUCH AS THE TITLE IV-A, TITLE XX, AND

AT-RISK CHILD CARE PROGRAMS, SHOULD BE CONSOLIDATED WITH CCDBG TO FORM A SINGLE CHILD CARE SYSTEM OPERATED BY THE STATES.

SUCH A CONSOLIDATION WOULD PERMIT STATES TO BETTER COORDINATE STATE AND FEDERAL CHILD CARE PROGRAMS AT THE STATE LEVEL AND THEREFORE OPERATE A MORE SEAMLESS CHILD CARE SYSTEM. BASED ON THE CCDBG REQUIREMENTS, THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES SHOULD WORK WITH STATES TO DEVELOP A STANDARDIZED REPORTING FORM THAT CAN BE USED BY STATES FOR REPORTING ON THE USE OF FEDERAL CHILD CARE FUNDS.

IN ADDITION, THE GOVERNORS CALL FOR THE ELIMINATION OF THE 75 PERCENT OF STATE MEDIAN INCOME CAP REQUIREMENT FOR CCDBG ELIGIBILITY AND INSTEAD PERMIT STATES TO DETERMINE ELIGIBILITY AS UNDER THE AT-RISK CHILD CARE PROGRAM. AS PART OF THE STATE PLAN, THE STATE CAN JUSTIFY TO THE SECRETARY OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES ITS DEFINITION OF AN ELIGIBLE FAMILY IN THE CONTEXTS OF ITS OWN CHILD CARE INITIATIVES AND OVERALL CHILD CARE NEEDS IN THE STATE.

28.2.2 INCREASE STATE FLEXIBILITY. THE GOVERNORS RECOMMEND THAT STATES BE GIVEN THE FLEXIBILITY TO PAY PROVIDERS LESS THAN THE LOCAL MARKET RATE WHEN QUALIFIED CARE IS AVAILABLE AND/OR WHEN THE LOCAL MARKET RATE (AS DEFINED BY THE SEVENTY-FIFTH PERCENTILE OF LOCAL RATES) HAS ARTIFICIALLY INFLATED LOCAL CHILD CARE PRICES. THIS WILL PERMIT STATES TO SERVE MORE FAMILIES WITH LIMITED CCDBG DOLLARS AND ALLOW THEM TO RESPOND IN THE MOST APPROPRIATE MANNER BASED ON THEIR UNIQUE NEEDS.

STATES ALSO SHOULD BE GIVEN THE FLEXIBILITY TO SET DIFFERENT STATEWIDE LIMITS FOR DIFFERENT CATEGORIES OF CARE. SOME CATEGORIES OF CARE, SUCH AS BEFORE-SCHOOL, EVENING, OR PART-TIME CARE, OFTEN ARE IN SHORTER SUPPLY AND THEREFORE CAN BE MORE EXPENSIVE THAN TRADITIONAL FULL-TIME DAY CARE. BY PERMITTING STATES TO SET DIFFERENT STATEWIDE LIMITS FOR DIFFERENT CATEGORIES OF CARE, STATES CAN PURCHASE HIGHER COST CARE WITHOUT PAYING INFLATED RATES FOR TRADITIONAL CARE. IN ADDITION, STATES SHOULD HAVE THE OPTION TO PAY PROVIDERS MORE THAN THE LOCAL MARKET RATE FOR HIGHER QUALITY CARE. THIS WILL PROVIDE AN INCENTIVE FOR PROVIDERS TO INCREASE THE QUALITY OF CARE AVAILABLE IN ALL TYPES OF CATEGORIES.

THE GOVERNORS CALL FOR GREATER FLEXIBILITY IN THE ALLOCATION OF FUNDS FOR THE PROVISION OF CHILD CARE SERVICES AND ACTIVITIES TO IMPROVE THE QUALITY AND AVAILABILITY OF CHILD CARE (75 PERCENT) AND FOR ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE AND TO INCREASE THE AVAILABILITY OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CHILD CARE SERVICES (25 PERCENT). UNDER THE CURRENT CCDBG, FUNDS ARE ALLOCATED 75/25 BETWEEN THESE TWO SETS OF ACTIVITIES. ADDITIONAL SET ASIDES ARE INCLUDED WITHIN THE SECOND FUNDING CATEGORY. IF SUCH A STRUCTURE IS MAINTAINED, THE GOVERNORS BELIEVE THAT STATES SHOULD BE PERMITTED TO REALLOCATE UP TO 10 PERCENT OF THE FUNDS BETWEEN THESE TWO CATEGORIES AND THE SET ASIDES WITHIN THE 25 PERCENT CATEGORY SHOULD BE ELIMINATED. STATES SHOULD BE PERMITTED TO USE THESE FUNDS FOR ANY OF THE ALLOWABLE ACTIVITIES UNDER CURRENT LAW.

- 28.2.3 IMPROVE PROGRAM ADMINISTRATION.** IN AN EFFORT TO REDUCE THE COSTS OF ADMINISTERING CCDBG, THE GOVERNORS CALL FOR ENHANCED FEDERAL FUNDING TO AUTOMATE CHILD CARE TRACKING AND PAYMENT SYSTEMS. SUCH AN AUTOMATED SYSTEM COULD BE USED NOT ONLY TO ADMINISTER CHILD CARE PROGRAMS, BUT ALSO TO COORDINATE CHILD CARE SERVICES WITH OTHER FEDERAL PROGRAMS THAT SUPPORT CHILDREN AND THEIR FAMILIES.

THE GOVERNORS APPLAUD THE PROPOSAL OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES TO INCREASE THE ADMINISTRATIVE COSTS IN CCDBG TO 15 PERCENT. HOWEVER, GREATER FLEXIBILITY NEEDS TO BE GIVEN TO STATES IN TERMS OF WHAT IS CONSIDERED AN ALLOWABLE ADMINISTRATIVE EXPENSE, ESPECIALLY IN THE AREA OF LICENSING AND PROVIDER MONITORING.

- 28.2.4 USE STATE STANDARDS.** THE CHILD CARE DEVELOPMENT BLOCK GRANT INCLUDES HEALTH AND SAFETY STANDARDS THAT ALL PROVIDERS MUST MEET. THESE STANDARDS ARE RELATED TO THE PREVENTION AND CONTROL OF INFECTIOUS DISEASES, BUILDING AND PHYSICAL PREMISES SAFETY, AND MINIMUM HEALTH AND SAFETY STANDARDS APPROPRIATE TO THE PROVIDER SETTING. IN SOME CASES, THESE STANDARDS EXCEED WHAT IS REQUIRED BY CURRENT STATE LAW. THE GOVERNORS RECOMMEND THAT PROVIDERS FUNDED BY CCDBG BE REQUIRED TO COMPLY WITH HEALTH AND SAFETY STANDARDS AS PRESCRIBED UNDER STATE LAW.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

GOVERNOR'S BRIEFING BOOK
Committee on Human Resources

6. HR-2: PROPOSED REAFFIRMATION OF GOVERNORS' PRINCIPLES TO ENSURE WORKFORCE EXCELLENCE

BACKGROUND:

The Human Resources Committee and the Committee on Economic Development and Commerce recommend the reaffirmation of this policy position.

NOTE: Please check under the Committee on Economic Development and Commerce.

EDC-2. GOVERNORS' PRINCIPLES TO ENSURE WORKFORCE EXCELLENCE*

The Governors are vitally concerned with the competitive economic position of our states and the nation. A world-class economy will require both high-performance firms and workers. U.S. firms must upgrade production processes, improve products, seek new markets, and invest in workforce skills to compete successfully. Government should support these private sector modernization and quality improvement efforts, and must radically restructure its own strategies for delivering education and training services in order to build a world-class workforce. To ensure that these efforts succeed, we must strengthen partnerships among business, labor, education, and all levels of government and make workforce development an integral component of national, state, and local economic development policies. The Governors recommend the following principles to help ensure workforce excellence.

- States and the federal government should promote the development of high-performance work organizations by providing technical, financial, and training assistance to firms seeking to implement quality management improvement and modernization initiatives. Firms negatively affected by federal policy decisions, including defense downsizing and trade policy, should receive adjustment assistance. Federal assistance should be provided through state-based networks and build on existing state and local programs.
- Wholesale change in the nation's approaches to workforce development is needed in order to create a coherent, customer-driven, results-oriented workforce development system. This system should be understandable, accessible, and responsive to the needs of local and regional businesses, workers, job seekers, and students. Customers should be able to receive information about the full array of services available and be able to easily enter and re-enter the system at any point. This state-based system should be comprehensive, flexible, and designed to build on current strengths, and it should be managed at the local level to achieve desired results. A comprehensive national human investment policy should guide and support state and local efforts to implement such a system.
- Job training and education programs should be available to the entire workforce and business community as part of a continuum of lifelong learning. At every stage in their lives, people should have the opportunity to equip and re-equip themselves for productive work through school and work-based learning.
- Pathways for career development are needed for all young people. The workforce development system should effectively link education and work through career guidance, youth apprenticeship, and other options that enable young people to achieve the academic, occupational, and work-readiness skills needed for employment. Employers, unions, schools, colleges and universities, community-based organizations, and all levels of government must share the responsibility to ensure that such a system succeeds.
- Broadly agreed-upon, world-class workforce standards are essential to raising the level of achievement of individuals and to promoting continuous improvement in the quality of services provided. Measurable national standards developed by business, education, labor, and government should specify the knowledge and skills needed to succeed in the modern workplace. Assessment of individual and institutional performance should be based on these standards.
- National and state programs and policies should promote expanded private sector investment in workforce development and enhance the capacity of small and medium-sized firms to train their workers. Federal efforts should be designed to support state-based programs.
- Legislative action is needed to integrate multiple, targeted, federal workforce development programs into a comprehensive and flexible system. Specifically, current and proposed worker readjustment programs should be consolidated and delivered through this system.
- Federal workforce development programs should be streamlined to eliminate barriers to effective service delivery caused by inconsistent definitions, planning and reporting requirements, and accountability measures. Incentives, including access to waiver authority and

additional federal funds, should be provided to state and local governments to establish a comprehensive workforce development system.

- *Identical to Policy EDC-2. The Committee on Human Resources and the Committee on Economic Development and Commerce have joint jurisdiction over this policy.*

*Time limited (effective Winter Meeting 1995-Winter Meeting 1997).
Adopted February 1993.*

**NATIONAL GOVERNORS' ASSOCIATION
1995 WINTER MEETING**

COMMITTEE ON NATURAL RESOURCES

TAB F

- 1. NR- 3: Proposed Amendment on Solid Waste (State Planning)**
- 2. NR- 4: Possible Amendment on Water Resource Management (Wetlands - The Regulatory Program - Compensation of Property Owners)**
- 3. NR-11: Proposed Amendment as Substitute to 1995 Farm Bill**
- 4. NR-15: Proposed Amendments on Safe Drinking Water**
- 5. NR-16: Proposed Policy Position on Recreations Resources**
- 6. NR-17: Proposed Reaffirmation (with technical amendment) on Geologic Mapping**

GOVERNOR'S BRIEFING BOOK

Committee on Natural Resources

1. NR-3: PROPOSED AMENDMENT ON SOLID WASTE (STATE PLANNING)

BACKGROUND:

The role of the states in managing solid waste with respect to source reduction, recycling, state planning, and limiting waste importation is being addressed in the existing policy. The amendment endorses the states' authority to use waste flow controls as part of their efforts to achieve self-sufficiency in waste management. The authority which enable states and localities to direct waste generated within their jurisdiction to a particular facility was found by the U.S. Supreme Court to violate interstate clause. An amendment will delete "potential long-term liability costs" as a justification for a waste import fee.

There is no direct state fiscal impact from the policy.

OBJECTIVES:

- Elimination or reduction of excessive federal mandates imposed on state and the local governments that have had, and should continue to have , primary jurisdiction over their waste management.
- Ensure state authority to impose fees on waste imports and to impose bans in limited circumstances.

GUAM'S POSITION:

- ▶ No briefing papers were provided by agencies.

NR-3. SOLID WASTE

3.1 Preamble

3.2 Source Reduction

3.3 Recycling

3.4 State Planning

3.4.1 Each State, Alone or in Cooperation with Other States, Should Manage the Waste Produced Within Its Borders in an Environmentally Sound Manner. This goal requires states to take responsibility for the treatment and disposal of solid waste created within their borders to eventually eliminate the transportation of unwanted waste sent over state lines for treatment or disposal.

It should be the national policy for each state to promote self-sufficiency in the management of solid waste. STATES SHOULD BE ALLOWED TO USE REASONABLE METHODS TO ACHIEVE THEIR GOAL OF SELF-SUFFICIENCY, INCLUDING THE USE OF WASTE FLOW CONTROL. Self-sufficiency is a reliable, cost-effective, long-term path and generally reflects the principle that the citizens ultimately are responsible for the wastes they create.

As states phase in programs to ensure self-sufficiency, Congress should require the federal government to pursue aggressively packaging and product composition initiatives and to identify and foster creation of markets for recyclable or recycled goods. Federal assistance in these waste reduction endeavors is critical to developing national waste reduction and recycling programs to achieve self-sufficiency.

Similarly, the federal government must mandate national minimum performance standards for municipal solid waste disposal facilities. Otherwise, some states may resolve capacity crises brought about by export limitations by keeping open landfills that otherwise should be closed. Also, the lack of minimum standards may encourage exports, because it might be cheaper, even taking into consideration transportation costs, for a community in a state with stringent regulations to ship to nearby states that do not have the same requirements.

The development of solid waste management plans should be the primary responsibility of the states and local governments, and the Governors urge EPA to assist states in the development of comprehensive and integrated planning and regulatory programs through financial and technical assistance. Such plans should include a ten-year planning horizon and should be updated at least every five years. These plans should include a description of the following:

- the waste management hierarchy that maximizes cost-effective source reduction, reuse, and recycling of materials;
- the planning period;
- the waste inventory;
- the relationship between state and local governments;
- municipal solid waste reduction and recycling programs;
- a waste capacity analysis for municipal solid waste (which in no way should resemble a capacity assurance requirement similar to Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act, or CERCLA);
- the state's regulatory program;
- the process for citizen participation; and
- self-certification that the state has necessary authority to implement these program elements.

EPA review of plans should be limited to a check for completeness based on elements specified in this policy and raised by EPA during the public comment period of the draft plan. EPA does not have the ability or the resources to take on the solid waste planning and management responsibilities that fall under the historical and rightful domain of state and local governments. Moreover, EPA's intrusion into the planning process (in a manner similar to Subtitle C of the Resource Conservation

and Recovery Act, or RCRA) would frustrate and impede the planning process already underway in many states.

States should retain authority to implement and enforce Subtitle D programs upon passage of legislation reauthorizing RCRA, and new program elements in this legislation should be automatically delegated to states. Should a state fail to submit a complete plan, EPA should assume responsibility for the permitting and enforcement portion of a state solid waste management program after the state is given the opportunity to appeal and correct any deficiencies.

3.5 Interstate Transportation of Solid Waste

A certain level of waste exportation can be expected as states work toward self-sufficiency in waste management and as short-term capacity crises arise. However, importing states have the right to expect that unwanted imports will be reduced as quickly as possible. The authority to levy surcharges and to impose limitations on imported waste can help ease the burdens of the host state and can act as incentives to exporting states to develop sufficient in-state capacity.

3.5.1 Fees on Waste Imports. Congress should authorize states to impose a surcharge on waste imported for disposal at facilities permitted to handle municipal solid waste. This fee would recognize such host state burdens as the assumption of the additional cost of ensuring the proper management of imported waste, as well as the potential long-term liability costs of its disposal. A maximum allowable fee should be established by federal law, and receiving states should be permitted to set one fee level within that allowable fee cap for all imported nonhazardous solid waste disposed of at facilities handling municipal solid waste.

3.5.2 Restrictions on Waste Imports. Because state government is responsible for ensuring that state waste management practices, including disposal capacity planning, protect the interests of all state citizens, Governors must be able to act on their own initiative in certain circumstances to limit nonhazardous solid waste imports to facilities permitted to dispose of municipal solid waste. Governors also should be authorized to limit or freeze waste import levels in consultation with local governments in order to address concerns at specific disposal facilities.

Authority to impose surcharges and restrictions on imported waste should not be linked to federal review of solid waste management plans or other requirements. This inappropriately places the burden on importing states, which most need this relief, and is impractical given EPA's level of resources.

3.6 Technical Standards

3.7 Industrial Wastes

3.8 Special Wastes

3.9 Role of State and Local Governments

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

Adopted July 1990; revised August 1991 and February 1993 (formerly Policy D-9).

GOVERNOR'S BRIEFING BOOK

Committee on Natural Resources

2. NR-4: POSSIBLE AMENDMENT ON WATER RESOURCE MANAGEMENT (WETLANDS-THE REGULATORY PROGRAM - COMPENSATION OF PROPERTY OWNERS)

BACKGROUND:

Possible amendments will be discussed at the winter meeting. The subject for discussion may be that the current policy recommendation on the taking of private property which holds that questions of compensation for such takings belong to the jurisdiction of the courts and that congress should not legislate a definition of a taking.

OBJECTIVE:

- The need for improved protection of the nation's wetlands and support for development of a comprehensive national wetlands protection strategy to promote preservation, conservation, and wise management of this vital resource.

GUAM'S POSITION:

► Department of Agriculture

The Department **supports** the proposed amendment and recommends no changes or addition to the language of the policy. The support is based on the following reasons:

- agrees that wetlands classification systems should not only be one nationwide system but be treated and classified on the local level according to specific local usage;
- the current stand of Governors on Water Resource Management meets standards of CZM and the Nonpoint Pollution Control;

► Bureau of Planning

Overall, the Bureau **supports** the amendment on the policy but expresses the following concerns:

- the Bureau presumes that the policy will be altered radically or could

be eliminated altogether as this is a mainstream Democratic viewpoint.

- **Guam may have the distinction of having the poorest set of wetlands protection and management measures in any U.S. jurisdiction. Our laws on wetlands are almost non-existent, and we have never successfully prosecuted a violator nor collected a wetlands violation fine for degradation of our resources.**
- **Wetlands law, rules and regulations to address today's needs have drafted and introduced in the past Guam Legislature, but were never seriously considered by the majority.**

**NOTE: SECTION 4.9.4.4 OF THIS POLICY
MAY BE AMENDED AT THE
1995 NGA WINTER MEETING.**

NR-4. WATER RESOURCE MANAGEMENT

4.1 Principles

4.2 Grant Funding

4.3 Clean Water Infrastructure

4.4 Point Sources

4.5 Nonpoint Sources

4.6 Groundwater

4.7 Stormwater

4.8 Drinking Water

4.9 Wetlands

4.9.1 Preamble. Wetlands in their natural state serve important ecological and socioeconomic functions that are either costly or impossible to replace. They provide habitat for wildlife, mitigate flooding, and maintain water quality by filtering out sediments and other pollutants.

The Governors recognize the need for improved protection of the nation's wetlands and support development of a comprehensive national wetlands protection strategy to promote preservation, conservation, and wise management of this vital resource. The Governors believe that a comprehensive strategy should involve a broad range of both regulatory and nonregulatory programs and a wetlands research program with key emphasis on developing effective methods of wetlands restoration and creation and of assessing the functions and values of wetlands.

The Governors believe this comprehensive strategy should reflect five general principles.

- First, protection efforts should be coherent and coordinated to make the most efficient use of scarce resources and minimize inconsistency among federal, state, and local programs.
- Second, wetlands management should be integrated with other resource management programs such as flood control, allocation of water supply, protection of fish and wildlife, and stormwater and nonpoint source pollution control.
- Third, wetlands delineation criteria and management policies should recognize the significant regional variance in the resource. Many wetlands functions and values derive from the location of wetlands in the watershed and the relationship of wetlands to other land and waters. Management policies must be tailored to local hydrologic and ecological conditions.
- Fourth, the Governors note that land use regulation is traditionally a state and local function and believe that increased state involvement in wetlands protection programs will further all of the above three principles and that the regulatory program should be designed to facilitate state assumption.
- Finally, the Governors believe the national strategy should recognize the unique situation encountered by the state of Alaska. Alaska has a tremendous amount of wetlands—more than the rest of the United States combined—and wetlands constitute as much as 75 percent of the landscape. Many already are in public ownership, and there has been a low historic loss rate—less than one-tenth of 1 percent. Because of certain geographic characteristics unique to the state (it is arctic and subarctic, with development constrained to limited geographic areas), policies and procedures that are reasonable in the coterminous states are not always applicable in Alaska. Yet needs do arise that may impact on Alaska's wetlands resource.

In lieu of direct application of all these following recommendations in Alaska, the Governors recommend that the appropriate government agencies and stakeholder groups in Alaska work cooperatively to develop regional wetlands strategies that accommodate sustainable wetlands protection and sustainable economic growth for the state.

- 4.9.2 Goals.** The Governors believe that the goal of the national wetlands protection strategy should be no net loss of wetland resources. The Governors recommend that Congress include in the Clean Water Act a national wetlands protection goal to achieve no net loss of the nation's remaining wetlands base, as defined by acreage and function, and to restore and create wetlands where feasible to increase the quantity and quality of the nation's wetlands resource base.

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

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

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

- 4.9.3 Definition of Wetlands.** The Governors stress that the definition of wetlands and delineation criteria must be workable and scientifically valid, and should recognize regional variance in the resource. The Governors make the following recommendations.

- Congress should write into the law the definition of wetlands currently included in EPA's Clean Water Act Section 404(b)(1) guidelines—"those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions."
- Congress should not legislate specific wetlands delineation criteria, but should establish a procedure for administering agencies to develop regional delineation guidelines in consultation with the states and an independent scientific advisory committee. The Federal Manual for Delineating and Identifying Wetlands should be regionalized to scientifically define wetlands based on regional variations.
- Efforts should continue to ensure that agencies at all levels of government use equivalent definitions for regulatory purposes and to ensure that all staff are provided with appropriate training for implementing field delineation techniques.

- 4.9.4 The Regulatory Program.** The Governors urge the administration to consider changes to Clean Water Act Section 404 to make the program more workable. The Governors also make the following specific recommendations.

- 4.9.4.1 The Scope of Regulation.** The Governors hold that the scope of regulation in federal and state programs should be expanded to explicitly address the following activities in wetlands: dredging, filling, removal or excavation of soils, drainage or flooding, and destruction of plant life or habitat.

The Governors also believe that the scope of regulation should be restricted, under certain circumstances, in application to artificial wetlands. Specifically, the Governors believe the following.

- Artificially induced wetlands, such as those resulting from and incidental to ongoing agricultural practices but not used for mitigation of wetlands loss, should not be counted in the nation's wetlands base.
- Wetlands created and maintained solely for use in resource management, such as for stormwater abatement, should be exempt from regulation as long as they are used and managed for their intended purpose. The owner or manager of such a managed wetland should be under no obligation to ensure the long-term persistence of wetlands functions and values. Wetlands created and managed for waterfowl production should be exempt from regulation for operation and management activities, but should remain subject to regulation for conversion to nonwetlands because waterfowl depend on consistent availability of habitat.

- 4.9.4.2 Mitigation Policy.** Mitigation should be an essential component of wetlands management, and Congress should include a statement of mitigation policy in the Clean Water Act.

The Governors believe that regulatory policies should include a clear preferred sequence of mitigation options that begins with avoidance of adverse impacts on wetlands and the reduction of unavoidable adverse impacts and allows the use of environmental compensation only as a last resort, while allowing regulators sufficient flexibility to approve practical options that provide the most protection to the resource and that balance the effects of such actions on the total human environment, recognizing socioeconomic factors. The Governors recognize that definitions of avoidance of adverse impacts and reduction of unavoidable adverse impacts must be tailored to regional circumstances.

The Governors emphasize that mitigation will work only with provisions for strict enforcement, long-term financing, and careful monitoring of mitigation projects to ensure their success.

The Governors support the use of mitigation banking provided that: 1) mitigation banks are used in a manner consistent with the sequencing requirement, strictly to mitigate unavoidable wetlands impacts; 2) impacts are mitigated on site when possible; 3) banks are located in the same watershed or ecological region as the wetlands impacts they mitigate; and 4) banks provide in-kind replacement of wetlands functions and values lost.

4.9.4.3 Wetlands Classification Systems. The Governors oppose imposition of a national classification system, but believe that classification systems tailored to individual watersheds may be a useful tool in developing regional and local resource management plans.

4.9.4.4 Compensation of Property Owners. The Governors believe that interpretation of the Fifth Amendment of the Constitution concerning the taking of property by government is the appropriate province of the courts, and that legislative requirements are not warranted. The Governors believe that Congress should not legislate a definition of compensable taking of private property through the Clean Water Act or otherwise. A statutory definition of a compensable taking would have far-reaching implications for state and local zoning, land management, and public health laws of all kinds.

4.9.4.5 Delegation of Authority Among Federal Agencies. The Governors support streamlining the permitting process. However, the Governors stress that each federal agency responsible for the implementation of wetlands programs currently has a specific interest in the protection of the resource and makes a unique contribution to the program. Concentration of authorities in one federal agency would necessitate restructuring of that agency and reallocation of resources.

The Governors may support delegation of Clean Water Act Section 404 authorities to one federal agency after a comprehensive study of the impacts of concentration and development of a plan for the necessary reorganization. In any case, the role of each federal agency should be more clearly defined, and replication of responsibilities should be reduced.

4.9.5 Nonregulatory Approaches to Protection. The Governors stress that a national wetlands protection strategy must involve nonregulatory programs, an essential complement to the regulatory program. The Governors support continued and additional emphasis on resource management planning; programs to promote wetlands restoration and creation; development of tax incentives to encourage wetlands protection; public acquisition of wetlands; public education and management outreach programs; wetlands mapping and tracking systems; and efforts to reduce incentives to wetlands conversion.

4.9.5.1 Resource Management Planning. The Governors believe that regional resource management planning is a valuable mechanism to recognize regional variance in wetlands resources and to integrate wetlands protection with other resource management efforts.

The Governors believe that Special Area Management Planning, as currently authorized under the Coastal Zone Management Act, should be authorized under the Clean Water Act, and that states should have flexibility to use funds authorized under Clean Water Act Sections 319, 106, 205(j), and 604(b) to support wetlands management planning.

4.9.5.2 Wetlands Restoration and Creation. Congress should establish a national strategy to coordinate and promote restoration of degraded wetlands systems involving participation of federal agencies, state and local government, and the private sector. The North American Waterfowl Management Plan, administered by the Fish and Wildlife Service, and wetlands conservation provisions of the 1990 Food Securities Act serve as potential models for such a strategy.

The Governors support provisions of the 1990 Food Securities Act that encourage wetlands protection. In particular, the Governors encourage Congress to fund the Wetland Reserve Program to its full authorized level.

4.9.5.3 Tax Incentives. Congress should review the federal tax code to identify opportunities to establish incentives to encourage wetlands protection.

- 4.9.5.4 Public Acquisition.** Acquisition programs at all levels of government, both alone and in partnership with the private sector, should accelerate acquisition of valuable wetlands.
- 4.9.5.5 Public Education.** Public education focused on the value of wetlands and the structure of regulatory programs will increase public support for the program and the ability to predict the outcome of regulatory decisions. The Governors support expansion of federal, state, and private education and outreach programs.
- 4.9.5.6 Mapping.** The Governors support continuation and improvement of current national wetlands inventory mapping efforts as well as efforts to disseminate such maps to landowners and to those responsible for wetlands and land use planning.
- 4.9.5.7 Reduction of Incentives to Conversion.** The federal government should conduct a thorough assessment to identify key federal programs causing wetlands degradation.
Local governments should examine their full range of development controls to identify and modify those that intentionally promote wetlands conversion.
States should identify opportunities to reduce unintentional incentives for wetlands conversion.
- 4.9.6 State Programs.** The Governors believe that increased state involvement in wetlands policymaking and program administration will increase program efficiency and efficacy. States can effectively integrate wetlands protection with other state-administered water programs and can tailor wetlands programs to unique regional circumstances.
- 4.9.6.1 State Assumption.** The Governors assert that the Clean Water Act should encourage state assumption of the Section 404 wetlands regulatory program, which would provide an excellent opportunity to simplify and consolidate permitting procedures.
While it is possible for states to assume management of the Section 404 program, few states have applied and only one state has received full program authorization. The lack of federal funding for assumed state programs and other conditions of assumption that are perceived as rigid are the primary reasons for the lack of state interest. Therefore, the Governors make the following recommendations.
- The federal government should establish clear goals for wetlands protection. In the context of a resource management plan approved by EPA, states should have flexibility in designing programs to achieve these goals, tailoring management policies to local hydrologic and ecological conditions.
 - States should be allowed to assume discrete and clearly identifiable portions of the Section 404 regulatory program as they develop the capability to do so, rather than requiring the entire program to be delegated at one time.
 - Qualified states that have effective processes for coordinating their review with the Corps of Engineers for permits that may affect navigable waters should be allowed to assume all Section 404 responsibilities, including those in navigable waters and adjacent wetlands. The corps would reserve its rights to protect navigational servitude and national defense, but would work with the states to confine its role to interstate and national issues.
 - Each state receiving delegation of the Section 404 program should negotiate a method of federal oversight appropriate to its circumstances. Oversight in the form of an annual program audit should be a negotiable option. Oversight on a sliding scale should be permitted.
 - Federal agencies should temporarily loan employees to states assuming the Section 404 program to help train state staff.
 - The corps should be encouraged to issue state program general permits and to issue general permits for geographical areas as well as for classes of activities. State program general permits are an alternative method for states to assume partial responsibility for wetlands regulation and should be explicitly sanctioned.
- 4.9.6.2 Intergovernmental Coordination.** To facilitate effective intergovernmental coordination, the Governors recommend that federal agencies responsible for wetlands regulation jointly establish a state-federal coordinating committee to develop and evaluate new wetlands management techniques and cooperative state, federal, and local wetlands programs.
- 4.9.6.3 State Wetlands Conservation Plans.** State and local governments and regional agencies, with the financial and technical support and cooperation of the relevant federal agencies, should develop and implement state wetlands conservation plans and outline appropriate state and regional strategies. The Governors recommend that Congress encourage EPA to continue support for state plans and provide funds for their development and implementation.

4.9.7

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

- Congress should require federal consistency with state wetlands conservation plans and programs.
- Federal and state governments should require or initiate mitigation for the direct and indirect wetlands alterations caused by projects that they construct, maintain, sponsor, or support.
- EPA should establish procedures for verifying compliance with wetlands mitigation provisions identified in federal environmental impact statements.
- Federal agencies should recognize the costs of satisfying state wetlands mitigation requirements established by state statute as legitimate project costs in any project subject to federal cost sharing.
- Congress should establish wetlands restoration and creation as part of the mission of the Corps of Engineers, the Bureau of Reclamation, the Soil Conservation Service, the Federal Highway Administration, and other federal agencies as appropriate.

4.10 Water Conservation

4.11 Floodplain Management

Time limited (effective Annual Meeting 1994-Annual Meeting 1996).

Adopted August 1991; revised February 1992, February 1993, and July 1994 (formerly Policy D-6).

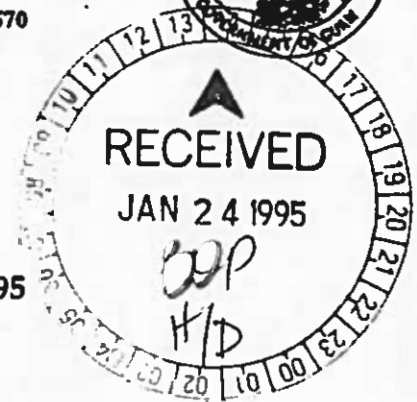


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MICHAEL W. KUHLMANN
Acting Director



January 24, 1995

Memorandum

To: Director, Bureau of Planning
From: Director of Agriculture
Subject: Comments on Briefing Papers
(Re: Governor's Winter Meeting)

I have reviewed the wetlands portion of the briefing paper for the Governor and have the following comments:

1. I agree with 4.9.4.3 that classification should not only be one nationwide system but rather treated and classified on the local level according to specific local usage of wetland areas.
2. The current stand of the Governors on Water Resource Management meets the standards of Coastal Zone Management and the Non Point Pollution Control.
3. The briefing paper is in consonance with the Ecosystems Management Guidelines and needs no revision.
4. I recommend no changes or additions.


MICHAEL W. KUHLMANN
Acting



Commonwealth Now!

WETLANDS

Several points concerning or related to NR-4 Water Resource Management are made as follows.

1. NR-4 will probably be altered radically, or could be eliminated altogether, as this is a mainstream Democratic Party viewpoint.
2. Since its writing, conservative Republicans have gained the majority of Governor's offices as well as Congress, and they have already voiced opposition to environmental protection & management.
3. Section 4.9.4.4 will most certainly be changed as the conservative Republican view is to consider such community protection and management measures as "takings" (community rights and needs should be subservient to absolute individual property rights, no matter what the consequence on today or tomorrows community).
4. Guam may have the dubious distinction of currently having the poorest set of wetlands protection and management measures in any U.S. jurisdiction. Our laws on wetlands are almost non-existent, we have never successfully prosecuted a violator (relying instead on federal intervention to protect our resources), and have never collected a wetlands violation fine (except as voluntarily given) for degradation of our resource.
4. Wetlands law, rules & regulations to address today's needs have been drafted, and were introduced by former Senator Manibusan in the past several Guam Legislatures, but were never seriously considered by the majority.
5. If Guam supports the NGA recommendations, they will be asking the federal government and State governments to do that which we have been unwilling to do ourselves.

GOVERNOR'S BRIEFING BOOK

Committee on Natural Resources

3. NR-11: PROPOSED AMENDMENT AS SUBSTITUTE TO 1995 FARM BILL

BACKGROUND:

The policy defines the (Governors' concerns regarding reauthorization of the Farm Bill in 1995 that will allow producers to take advantage of new international market opportunities in light of the passage of NAFTA and GATT. As budget is the center issue of the bill which affect discretionary spending for programs such as conservation, rural development, and research, the Governors support a thorough review of these farm support programs. The Governors believe agriculture constitutes one of the largest sector of U.S. economy, and the industry is noted for maintaining a consistent positive balance of trade. The Governors urge Congress to enhance the industry's position by passing the Farm Bill.

OBJECTIVES:

The following are some of the objectives which the Governors support for the Farm Bill:

- Ensure states stewardship and greater flexibility in allocating federal grants to accommodate state priorities and also in coordinating the myriad of federal programs requirements.
- Reauthorization of the Conservation Reserve Program (CRP), Wetlands Reserve Program, and watershed protection programs, etc., at current funding levels and to combine all these programs with CRP to form one integrated program and block grant.
- To support and modify effective marketing and development programs to meet new demands and changes in the domestic and international markets brought about by passage of NAFTA and GATT.
- To strengthen agricultural research and extension programs and urge USDA to maintain emphasis on the technology transfer mission to farmers.

GUAM'S POSITION:

► Department of Agriculture

The Department supports the amendment and recommends that the bill

should continue to support agriculture with programs that give equitable treatment to the agricultural industries of all states and territories, in particular, distant insular areas like Guam. The department further supports most of the objectives endorsed by NGA.

► **Department of Commerce**

The Department supports the amendment to the bill but expresses the following:

- believes that the bill addresses issues of interest to Guam, but with our limited agricultural activities, most of the programs would mostly not apply or are not designed for the kind of agriculture we have.
- supports research and development that may be applicable to us with our unique requirements, as well as funding support for aquaculture industry.

► **Guam Environmental Protection Agency**

The Agency supports the basic content of the proposed policy but raised concern on the following:

- emphasis of efforts on NAFTA, Export Enhancement Program, Foreign Market Development, etc., more likely benefit the industry and corporate farms and have little economic benefit to the family-based farming operation.

NR-11. 1995 FARM BILL

11.1 PREAMBLE

AGRICULTURE, INCLUDING THE WIDE VARIETY OF INDUSTRIES INVOLVED IN FARM INPUTS AND OUTPUTS, CONSTITUTES ONE OF THE LARGEST SECTORS OF THE U.S. ECONOMY. IN 1992 THE FOOD AND FIBER INDUSTRIES, WHICH INCLUDE PRODUCERS OF FARMING EQUIPMENT AND SUPPLIES, PROCESSORS, TRANSPORTERS, MANUFACTURERS, RETAILERS, AND THE FINANCIAL AND INSURANCE SERVICES INDUSTRIES THAT SERVE THEM, COMPRISED ALMOST 16 PERCENT OF THE GROSS NATIONAL PRODUCT. THE AGRICULTURE INDUSTRY ALSO IS NOTABLE FOR MAINTAINING A CONSISTENT POSITIVE BALANCE OF TRADE. THE GOVERNORS URGE CONGRESS TO ENHANCE THIS POSITION BY PASSING A FARM BILL IN 1995 THAT WILL ALLOW PRODUCERS TO TAKE ADVANTAGE OF NEW INTERNATIONAL MARKET OPPORTUNITIES IN LIGHT OF THE NEW TRADE AGREEMENTS. ENVIRONMENTAL STEWARDSHIP AND RURAL DEVELOPMENT ALSO SHOULD BE FEATURED IN THE 1995 FARM BILL, WITH AN INCREASED EMPHASIS ON COORDINATING THE MYRIAD FEDERAL PROGRAMS AND REQUIREMENTS. THE GOVERNORS RECOMMEND THAT CONGRESS ESTABLISH PILOT PROGRAMS TO EXPLORE INNOVATIVE POLICY OPTIONS FOR FUTURE CONSIDERATION. CONGRESS MUST ALSO AFFORD STATES GREATER FLEXIBILITY AND AN INCREASED ROLE IN THE ALLOCATION OF FEDERAL GRANT MONIES TO ACCOMMODATE STATE PRIORITIES. THIS NEW STRENGTHENED STATE/FEDERAL PARTNERSHIP IS CRITICAL TO MORE EFFICIENT AND EFFECTIVE DELIVERY OF PROGRAMS.

11.2 RECOMMENDATIONS

11.2.1 COMMODITY PROGRAMS. ALTHOUGH BUDGET ISSUES ARE AN OVERRIDING FACTOR IN THE CURRENT POLITICAL AND ECONOMIC ENVIRONMENT, IT WOULD BE A GREAT DISSERVICE TO THE AMERICAN FARMER AND THE AMERICAN TAXPAYER TO ALLOW BUDGET CUTS ALONE TO DICTATE AGRICULTURAL POLICY. U.S. AGRICULTURAL POLICY ATTEMPTS TO ACHIEVE A VARIETY OF OFTEN CONFLICTING GOALS. THESE GOALS INCLUDE EFFORTS TO DO THE FOLLOWING:

- MINIMIZE DISTORTIONS IN THE MARKETPLACE;
- FOSTER EFFICIENT, FAMILY-BASED AGRICULTURE;

- AVOID INTERFERENCE WITH INTERNATIONAL MARKET OPPORTUNITIES;
AND

- PURSUE NATURAL RESOURCE CONSERVATION GOALS.

HARMONIZING THESE GOALS IN THE CONTEXT OF A SHRINKING BUDGET IS A CHALLENGE FOR THE 104TH CONGRESS.

THE GOVERNORS SUPPORT A COMPREHENSIVE REVIEW OF AGRICULTURAL POLICY TO ENSURE THAT THE FARM BILL INCORPORATES THE MOST EFFICIENT MEANS OF ACCOMPLISHING ESTABLISHED GOALS. THE GOVERNORS ENDORSE FARM SUPPORT PROGRAMS THAT FOSTER A RURAL AMERICA THAT INCLUDES FAMILY-BASED PRODUCTIVE CAPACITY AND THAT ARE CONSISTENT WITH RESOURCE CONSERVATION GOALS. THE GOVERNORS SUPPORT INCREASED FLEXIBILITY IN AGRICULTURAL PROGRAMS TO ALLOW FARMERS TO MAKE MARKET-RESPONSIVE PRODUCTION AND MARKETING DECISIONS.

WITH RESPECT TO DAIRY PROGRAMS, THE GOVERNORS URGE THAT THE FEDERAL MILK MARKETING ORDER SYSTEM BE REFORMED. THE CURRENT SYSTEM IS COMPLEX AND OUTDATED AND SHOULD BE MODIFIED TO REFLECT CHANGES IN TECHNOLOGY AND COSTS. THE GOVERNORS ALSO RECOMMEND THAT CONGRESS GIVE STATES FLEXIBILITY TO CREATE MULTISTATE MARKETING AGREEMENTS IN ORDER TO ENHANCE FARM PRICES WITHIN THEIR BORDERS. SUCH AUTHORITY WOULD NOT BE INTENDED TO PERMIT STATES TO ERECT TRADE BARRIERS.

11.2.2 NATURAL RESOURCES CONSERVATION AND STEWARDSHIP. FARMERS, BY THE NATURE OF THEIR WORK, ARE CLOSE TO THE LAND AND DESERVE THEIR REPUTATION AS THE "FIRST ENVIRONMENTALISTS." NONETHELESS, THE MULTITUDE OF EXISTING ENVIRONMENTAL REQUIREMENTS AND THE NEED TO ENSURE GENUINE STEWARDSHIP OF THE NATION'S NATURAL RESOURCES POSE ONE OF THE MOST SIGNIFICANT CHALLENGES AND OPPORTUNITIES FACING AGRICULTURE TODAY.

THE GOVERNORS BELIEVE THAT THE CONSERVATION RESERVE PROGRAM (CRP) HAS BEEN OF SIGNIFICANT VALUE TO FARMERS, COMMUNITIES, THE NATION, WILDLIFE, AND THE ENVIRONMENT ITSELF, AND THAT IT SHOULD BE REAUTHORIZED AT CURRENT FUNDING LEVELS. IN ADDITION, THE U.S. DEPARTMENT OF AGRICULTURE (USDA) OPERATES A NUMBER OF OTHER ENVIRONMENTALLY ORIENTED PROGRAMS, SUCH AS THE WETLANDS RESERVE

PROGRAM AND WATERSHED PROTECTION PROGRAMS, THAT ALSO SHOULD BE REAUTHORIZED AT CURRENT FUNDING LEVELS. ALL OF THESE PROGRAMS SHOULD BE COMBINED WITH CRP INTO ONE INTEGRATED PROGRAM WITH CONSOLIDATED FUNDING. IT SHOULD BE FULLY INTEGRATED WITH THE GOALS AND OBJECTIVES OF THE CLEAN WATER ACT, WITH A PRESUMPTION THAT AN INTERESTED STATE CAN OPERATE THE PROGRAM, IN WHOLE OR IN PART, UNDER DELEGATION, WITH MAXIMUM FLEXIBILITY GIVEN TO GOVERNORS FOR IMPLEMENTATION. THE FOCUS OF THIS INTEGRATED PROGRAM SHOULD INCLUDE ENVIRONMENTALLY SENSITIVE LANDS SUCH AS PRIOR CONVERTED WETLANDS, EXISTING WETLANDS, RIPARIAN ZONES, AND AREAS SENSITIVE TO GROUNDWATER CONTAMINATION. THE PROGRAM SHOULD ALLOW FARMERS AND RANCHERS TO DEVELOP A HOLISTIC FARM RESOURCE MANAGEMENT PLAN AND OBTAIN "ONE-STOP" APPROVAL. PROGRAM PRIORITIES SHOULD BE SET BY THE STATES, GIVING FIRST CONSIDERATION TO THE PROTECTION OF DRINKING WATER SUPPLIES. PROGRAM FUNDS SHOULD BE TARGETED TO FARMERS AND RANCHERS FOR PROJECTS THAT PROVIDE NATURAL RESOURCE AND WATER QUALITY BENEFITS. FARMERS AND RANCHERS WHO PARTICIPATE IN SUCH A PROGRAM SHOULD BE ENTITLED TO CERTAINTY THAT IF THEY IMPLEMENT MEASURES CONSISTENT WITH THE STATE PROGRAM, THEY WILL BE PROTECTED AGAINST PROGRAM REVISIONS OR ADDITIONAL REQUIREMENTS FOR A REASONABLE PERIOD.

THE GOVERNORS BELIEVE THAT THIS CONCEPT COULD BE EXPANDED TO INCLUDE ENDANGERED SPECIES AS WELL AS OTHER NATURAL RESOURCE-RELATED PROGRAMS.

11.2.3 MARKET PROMOTION. PASSAGE OF THE NORTH AMERICAN FREE TRADE AGREEMENT AND THE URUGUAY ROUND OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT) GREATLY EXPANDS TRADE OPPORTUNITIES FOR THE AGRICULTURE INDUSTRY. TIMELY AND EFFECTIVE MARKETING AND DEVELOPMENT PROGRAMS MUST BE SUPPORTED AND MODIFIED TO MEET THE NEW DEMANDS AND CHANGES IN THE DOMESTIC AND INTERNATIONAL MARKETS AS THE NATION MOVES INTO THE NEXT CENTURY. THE GOVERNORS RECOMMEND THE FOLLOWING PRINCIPLES TO GUIDE THOSE EFFORTS.

- THE ROLE OF THE STATES AND USDA IN MARKET PROMOTION MUST BE CLARIFIED TO ENSURE COMPLEMENTARY WORK AND TO REDUCE DUPLICATION OF EFFORT.

- EMPHASIS SHOULD BE PLACED ON MARKETING HIGH-VALUE AND PROCESSED AGRICULTURAL PRODUCTS AND BUILDING A STRONG FOOD PROCESSING BASE.
- DOMESTIC AND FOREIGN MARKETING PROGRAMS SHOULD BE BETTER CONNECTED.
- APPLICATION AND REPORTING PROCESSES SHOULD BE STREAMLINED FOR EXPORT PROMOTION PROGRAMS.
- RESULTS-DRIVEN, LONG-TERM, SALES-ORIENTED PROGRAMS SHOULD BE ENCOURAGED.
- STATE AGRICULTURE AGENCIES SHOULD BE AUTHORIZED ON BEHALF OF USDA TO CERTIFY SHIPMENTS.
- THE ANIMAL AND PLANT HEALTH INSPECTION SERVICE AND FOOD SAFETY AND INSPECTION SERVICE SHOULD BE BETTER INTEGRATED INTO EXPORT EFFORTS.

WITH RESPECT TO PROGRAM FUNDING, THE GOVERNORS RECOMMEND THE FOLLOWING.

- FUNDING FOR THE EXPORT ENHANCEMENT PROGRAM (EEP) SHOULD BE MAINTAINED AT MAXIMUM GATT LEVELS AND USDA SHOULD BE ALLOWED TO SHIFT FUNDS FROM EEP TO THE MARKET PROMOTION PROGRAM AND FOREIGN MARKET DEVELOPMENT PROGRAM TO STIMULATE AND EXPAND THE COUNTRY'S VALUE-ADDED MARKET SHARE.
- AGRICULTURAL EXPORT CREDIT GUARANTEE PROGRAMS SHOULD INCLUDE SHORTER TERM (I.E., LESS THAN ONE YEAR) CREDIT GUARANTEES.
- SUPPORT FOR STATE MARKET DEVELOPMENT AND PROMOTION AND FOR REGIONAL MARKETING ASSOCIATIONS SHOULD BE INCREASED TO THE EXTENT ALLOWED UNDER INTERNATIONAL TREATIES.
- ADEQUATE SUPPORT SHOULD BE MAINTAINED FOR RESEARCH AND DEVELOPMENT OF NEW USES OF AGRICULTURAL PRODUCTS, INCLUDING THE CONTINUATION OF THE ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CENTER.

11.2.4 RURAL DEVELOPMENT AND FARM CREDIT. THE 1995 FARM BILL SHOULD LAUNCH A NATIONAL RURAL DEVELOPMENT POLICY THAT CLEARLY DEFINES RURAL AND ECONOMIC DEVELOPMENT INITIATIVES AND GOALS, INCLUDING MORE EFFECTIVE TARGETING OF FEDERAL RESOURCES THROUGH GREATER RELIANCE ON STATES, INCREASED FLEXIBILITY FOR STATES IN USING FEDERAL PROGRAMS, AND IMPROVED COORDINATION BETWEEN FEDERAL PROGRAMS AND STATE SERVICES. ONE IMPORTANT GOAL SHOULD BE THE ESTABLISHMENT OF A STABLE FARM CREDIT SYSTEM, BECAUSE A NEW GENERATION OF PRODUCERS IS ENTERING FARMING TODAY AND RURAL COMMUNITIES ARE WORKING TO ATTRACT NEW INDUSTRY.

SPECIFICALLY, THE FEDERAL GOVERNMENT SHOULD DO THE FOLLOWING.

- CONSOLIDATE TODAY'S INDIVIDUAL FEDERAL RURAL DEVELOPMENT PROGRAMS THAT ARE ADMINISTERED BY NUMEROUS FEDERAL AGENCIES INTO FEWER, MORE FLEXIBLE PROGRAMS TO PROVIDE STATES DEVELOPMENT GRANTS, LOANS, RESEARCH GRANTS, AND TECHNOLOGY TRANSFER SUPPORT FOR RURAL DEVELOPMENT. STATES CAN MORE EFFECTIVELY DIRECT FUNDS TO PRIORITY NEEDS THAT VARY ACROSS THE COUNTRY, BUT THAT REPRESENT THE BEST USE OF SCARCE PUBLIC RESOURCES.
- CONTINUE SUPPORT FOR THE NATIONAL RURAL DEVELOPMENT PARTNERSHIP, WHICH TODAY BOASTS MORE THAN THIRTY-NINE STATE RURAL DEVELOPMENT COUNCILS. THIS STATE-FEDERAL PARTNERSHIP CAN HELP TO MORE EFFECTIVELY TARGET BOTH STATE AND FEDERAL RESOURCES.
- PERMIT STATES TO UTILIZE REGIONAL PARTNERSHIPS IN THE USE OF FEDERAL RURAL DEVELOPMENT PROGRAMS. FEDERAL PROGRAMS SHOULD PERMIT FLEXIBILITY FOR "CROSS-BORDER" USES AND JOINT STRATEGIC PLANNING WHEN STATES SO CHOOSE.
- FEDERAL RURAL DEVELOPMENT PROGRAMS EXIST IN MORE THAN ONE FEDERAL AGENCY. CONSEQUENTLY, THE SECRETARY OF AGRICULTURE NEEDS TO BE GIVEN AUTHORITY TO ENSURE THAT ALL FEDERAL EFFORTS CAN BE COORDINATED AT THE STATE LEVEL. THE NATIONAL RURAL DEVELOPMENT PARTNERSHIP IS AN IMPORTANT STEP TOWARD COORDINATION, BUT USDA NEEDS GREATER AUTHORITY AS A LEAD

AGENCY TO ENFORCE THIS COORDINATION TO PROMOTE GREATER EFFICIENCY.

- THE BEGINNING FARMERS' LOAN PROGRAM SHOULD BE EXPANDED AND THE GUARANTEED LOAN PROGRAM'S QUALIFICATION REQUIREMENTS AND LOAN LIMITS SHOULD BE REVIEWED TO MEET CRITICAL NEEDS FOR CREDIT AT REASONABLE RATES. ALSO THE INTERNAL REVENUE SERVICE PROHIBITION ON INTRAFAMILY TRANSFERS OF FARM ASSETS UNDER THE BEGINNING FARMERS' AGRICULTURAL BOND PROGRAM SHOULD BE ELIMINATED.

11.2.5 RESEARCH AND DEVELOPMENT. BECAUSE SOUND SCIENTIFIC RESEARCH AND TECHNOLOGY TRANSFER ARE THE FOUNDATION FOR THE CONTINUED SUCCESS OF AMERICAN AGRICULTURE, THE GOVERNORS SUPPORT RENEWED EFFORTS TO STRENGTHEN AGRICULTURAL RESEARCH AND EXTENSION PROGRAMS AND URGE USDA TO MAINTAIN AN EMPHASIS ON ITS TECHNOLOGY TRANSFER MISSION TO FARMERS. THE GOVERNORS ALSO URGE THAT SUPPORT BE MAINTAINED FOR LAND-GRANT UNIVERSITIES AND AGRICULTURE EXPERIMENT STATIONS.

11.2.6 NUTRITION AND FOOD SAFETY. HUNGER CONTINUES TO BE A PROBLEM FOR MILLIONS OF AMERICANS, DESPITE ONGOING GOVERNMENT PROGRAMS AND PRIVATE EFFORTS. THE GOVERNORS BELIEVE THAT CHANGES ARE NEEDED TO IMPROVE THE FOOD STAMP PROGRAM AND HAVE ENDORSED A NUMBER OF RECOMMENDATIONS IN THEIR POLICY STATEMENT ON INCOME SECURITY.

THE GOVERNORS STRONGLY URGE THAT THE 1995 FARM BILL ALLOW ALL FOOD PRODUCTS, INCLUDING DAIRY, MEAT, AND POULTRY, TO BE SHIPPED INTERSTATE IF THEY HAVE BEEN APPROVED BY A STATE INSPECTION PROGRAM MEETING FEDERAL STANDARDS. THIS WILL ALLOW SMALL BUSINESS OWNERS TO ENJOY THE SAME MARKET BENEFITS ENJOYED BY LARGE CORPORATIONS.

FEDERAL STANDARDS SHOULD BE AMENDED TO ESTABLISH A NEGLIGIBLE RISK STANDARD FOR PESTICIDE RESIDUES IN PROCESSED FOODS. THIS STANDARD WOULD PERMIT THE SCIENTIFIC EVALUATION OF RISK IN DECISIONS FOR PROTECTING THE SAFETY OF THE FOOD SUPPLY AND WOULD BE COMPATIBLE WITH THE STANDARDS THAT EXIST FOR UNPROCESSED FOOD PRODUCTS.

11.2.7 PESTICIDES. THE DEBATE ON THE 1995 FARM BILL ALSO MAY ENCOMPASS ISSUES RELATED TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA). MODIFICATIONS TO THIS LAW SHOULD PRESERVE AND MAINTAIN THE CURRENT BALANCED COOPERATIVE PARTNERSHIP BETWEEN THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE STATES IN THE ADMINISTRATION AND ENFORCEMENT OF FIFRA. ANY EXPANDED OR ADDITIONAL REQUIREMENTS DELEGATED TO THE STATES SHOULD BE READILY ATTAINABLE BY THE STATES AND ACCOMPANIED BY SUFFICIENT FUNDING.

MINOR CROPS, INCLUDING MANY FRUIT, VEGETABLE, NURSERY STOCK, AND HORTICULTURAL PRODUCTS, CONTRIBUTE MORE THAN \$30 BILLION TO THE FARM-LEVEL AGRICULTURAL ECONOMY. BECAUSE SALES FROM MINOR USE PESTICIDES DO NOT PAY FOR THE HIGH COST OF GENERATING THE DATA REQUIRED BY EPA, FOR ECONOMIC REASONS, PESTICIDE MANUFACTURERS ARE VOLUNTARILY DROPPING SMALLER VOLUME MINOR USE PRODUCTS SCHEDULED FOR REGISTRATION UNDER THE COMPRESSED SCHEDULE OF FIFRA AND DEFERRING REGISTERING NEW PRODUCTS FOR USES FOR MINOR CROPS. THE MINOR CROP PESTICIDE ISSUE SHOULD BE RESOLVED BY CORRECTING THIS UNINTENDED CONSEQUENCE OF THE REREGISTRATION PROCESS ESTABLISHED IN THE 1988 PESTICIDE LEGISLATION. THE GOVERNORS RECOMMEND THAT THIS BE ACCOMPLISHED BY EXTENDING THE TIME PERIOD FOR GATHERING DATA REQUIRED FOR REREGISTRATION AND BY EXTENDING REGISTRANTS' EXCLUSIVE DATA RIGHTS TO SUCH PESTICIDES.

11.2.8 FORESTRY. THE GOVERNORS SUPPORT REAUTHORIZATION OF THE STATE AND PRIVATE FORESTRY TITLE OF THE FARM BILL. THE GOVERNORS HAVE FOUND THAT THE PROGRAMS AUTHORIZED UNDER THIS TITLE HAVE BEEN EFFECTIVE IN THE AREAS OF COMMUNITY AND LANDOWNER ASSISTANCE, FORESTRY INCENTIVES, AND FIRE PROTECTION.

11.2.9 STRATEGIC FARMLAND. FARMLAND THAT IS THE BASIS OF A HEALTHY LOCAL ECONOMY, PROVIDES CRITICAL ENVIRONMENTAL BENEFITS, OR IS OF EXCEPTIONAL VALUE FOR FOOD PRODUCTION SHOULD BE PROTECTED FROM CONVERSION TO NONAGRICULTURAL USES. THE GOVERNORS RECOMMEND THAT THE FARMS FOR THE FUTURE PROGRAM BE CONTINUED AND CHANGED TO AUTHORIZE ONE-TO-ONE FEDERAL MATCHING GRANTS TO STATES AND STATE-APPROVED LOCAL JURISDICTIONS. THESE FUNDS WOULD ENHANCE THE

IMPLEMENTATION OF THE FARMLAND PROTECTION POLICY ACT ACROSS ALL
FEDERAL DEPARTMENTS AND AGENCIES.

- 11.2.10 USDA STRUCTURE AND ORGANIZATION. THE GOVERNORS SUPPORT USDA'S ONGOING REORGANIZATION EFFORTS AND URGE THAT THE DEPARTMENT PLACE A HIGH PRIORITY ON IMPROVING FEDERAL COORDINATION IN THE DELIVERY OF SERVICE TO PRODUCERS AND THE PUBLIC. THE GOVERNORS ALSO RECOMMEND THAT THE 1995 FARM BILL ENCOURAGE THE USE OF ALTERNATIVE DISPUTE RESOLUTION TECHNIQUES FOR THE PROMPT AND INFORMAL RESOLUTION OF FINANCIAL AND ENVIRONMENTAL DISPUTES.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

NR-11. 1990 FARM BILL

11.1 Preface

~~The Food Security Act of 1985, with minor adjustments, provides an appropriate framework for agricultural legislation to lead this country through the first half of the 1990s. The Food Security Act has had a significant effect on both the domestic farm economy and on the world market. Programs provided for in that act have successfully retarded further soil erosion and degradation, enhanced environmental quality, and provided for the conservation of wetlands and rangelands. In light of growing concern about global climate change, nonpoint source pollution, and other environmental issues, these conservation programs are taking on increasing significance. The Food Security Act of 1985 provided the American consumer with an abundant and wholesome supply of food. The Governors are supportive of the principles embodied in that act; however, they do advocate certain revisions to the Food Security Act of 1985 when developing the 1990 Farm Bill.~~

11.2 Recommendations

~~The National Governors' Association called upon Congress to adopt a 1990 Farm Bill that included the following.~~

- 11.2.1 Farm Base Flexibility.** ~~The Governors believe that farm program requirements should provide for greater flexibility to allow farmers greater latitude in meeting consumers' needs, adjusting to optimum market opportunities, and addressing environmentally sound farm management practices. Proposals for increasing base flexibility must be formed with due consideration to the potential market distortion impacts of such changes. Current farm program base acreage provisions can unnecessarily limit maximum economic and environmental benefits. Greater flexibility will not resolve all current problems regarding farm price and income objectives, or agriculture and water quality impacts, but such flexibility will contribute to accomplishing national goals in these areas.~~

- 11.2.2 Conservation Programs.** ~~The Governors recommend promoting and expanding eligibility for the Conservation Reserve Program to:~~

- ~~• Include areas inhabited by endangered species and environmentally sensitive areas such as wetlands, riparian areas, and lands that influence water quality.~~
- ~~• Prioritize eligible environmentally sensitive acres in conjunction with areas identified in state nonpoint source pollution management plans submitted in accordance with Section 319 of the Clean Water Act.~~
- ~~• Provide additional incentives, as needed, to establish long-term conservation practices such as the planting of trees for windbreaks, wildlife, and other conservation purposes and to encourage the retention of existing trees and windbreaks.~~

- Provide additional incentives for restoration of wetlands and riparian habitats, and for establishment of native vegetation on other lands vital to water quality.
- Provide cost share for pilot projects in the establishment of artificial wetlands for the control and cleansing of runoff waters from feedlots, livestock operations, and packing plants.
- Conduct additional research and provide incentives to encourage the reduced use of energy, water, and agricultural chemicals in order to improve net farm income and protect the environment.
- Recognize and preserve the role of states in identifying and implementing conservation management programs, including targeting priority protection areas and developing sound agricultural chemical management programs.

11.2.3 Enhancing Competitiveness. The Governors favor enhancing competitiveness through the Export Enhancement Program and through agricultural research and extension systems.

- Continue the availability and use of the Export Enhancement Program as an export trade policy tool.
- Provide support for research on agricultural production systems that may reduce the use of energy, water, and agricultural chemicals. Research should include analysis of the impact of current farming practices on water quality, the economic impact of various "best management practices," and development of more efficient production systems. The research should be transferable to agricultural practices.
- Provide funding to agricultural research and extension systems to meet the constant economic and technical changes in agriculture and rural America.
- Place a higher priority on research programs regarding additional uses of agricultural products and on identifying potential new uses.

11.2.4 Water Quality Assessment. The Governors support the need for appropriate baseline and background databases on water quality. A comprehensive water quality database is essential in the development of pollution abatement programs and evaluation of ongoing efforts. Development and maintenance of such a database should be coordinated among ongoing state, local, and federal efforts.

11.2.5 Coordinating Programs. The Governors recommend that states retain the primary authority for water resource management. The efforts of the federal government must be conducted in concert with state activities. Duplication among programs run by different federal agencies must be eliminated and overall coordinated efforts should be implemented. The nation must approach ground and surface water resources as an integrated system and adopt a national ground and surface water quality protection strategy that utilizes this integrated approach.

11.2.6 Rural Development. The Governors recommend placing additional emphasis on rural development. Rural assistance programs must be directed toward the enhancement and creation of jobs in rural areas. This can be accomplished through education programs, infrastructure investment programs, and economic development projects.

11.2.7 Funding. The recommendations as presented should be implemented at a cost of no more than the total cost of the Food Security Act of 1985. Target prices should be adjusted for real farm inflation costs.

The Governors should work actively with the President and Congress to develop an effective and workable 1990 Farm Bill.



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MICHAEL W. KUHLMANN
Acting Director

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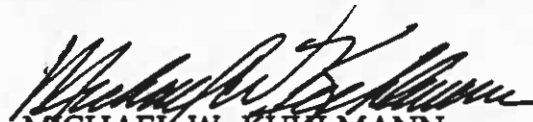
January 17, 1995

Memorandum

To: The Governor
Via: Director, Bureau of Planning
From: Director, Department of Agriculture
Subject: Briefing Papers on the Proposed 1995 Farm Bill

Transmitted herewith are the briefing papers on our position on the proposed 1995 Farm Bill for consideration by the Natural Governor's Association Committees.

Should you have any questions, please call on me at 734-3942/43.


MICHAEL W. KUHLMANN
Acting

Attachments



Commonwealth Now!

BRIEFING PAPERS

ON PROPOSED 1995 FARM BILL

As the Natural Governor's Association begins its deliberation on the 1995 Draft Farm Bill, there is an opportunity to consider such issues in the context of an overall agricultural policy for the United States and its insular areas.

The Territory of Guam is taking active steps to support our agricultural industry in a time of huge budget cutbacks and general fiscal austerity. Likewise, the Federal Government must continue to support research and development, education and farming, and marketing efforts for the agricultural industry. The 1995 Farm Bill should continue to support agriculture with programs giving equitable treatment to the agricultural industries of all States and Territories, particularly the crops grown in small distant insular areas like Guam.

Commodity Programs

On Guam, the Guam Department of Agriculture endorses farm support programs that includes family based production consistent with resources conservation goals to insure that productivity of the land is not sacrificed. In addition, we fully support the increased flexibility to allow farmers to make market responsive production and marketing decisions.

Natural Resources and Conservation Stewardship

We fully support the recommendation to re authorize the Conservation Reserve Program at current funding level. These programs has significant value to the Territory through the watershed project in Talofofo now being implemented and the proposed watershed project for Lot 7150, Yigo and Tract 1021, Dededo which encompasses over 1,000 acres. This project includes environmentally sensitive lands (northern aquifer) that requires a stringent farm resource management system to protect Guam's major drinking water resource. Since Guam's has limited land resources for housing and other needs, a greater consideration effort is required in expanding the Natural Resources Conservation and Stewardship concept to include endangered species.

Market Promotion

Although Guam's agricultural production in relation to the U.S., Mainland is significantly small, we support the principles to guide the efforts to expand trade opportunities. We have explored the opportunity to market cut orchids to Japanese tourists under a Federal Marketing Grant. We would like to explore more opportunities through better integrated export efforts with the animal and plant health and food and safety and inspection services.

Rural Development and Farm Credit

We are concern that with the consolidation of federal agencies, some agencies presently serving Guam may be absorbed by the regional office in Hawaii and may cause undue delay of services to our local farmers. Failure to provide needed allocation on a timely basis may stifle agricultural development and disrupt the local production of food for domestic consumption.

Research and Development

Environmental and economic issues are becoming increasing complex and are playing a more integral role in Guam's agricultural industry. We urge continued support for applied and basic research for land grant colleges and universities and agriculture experimental stations. However, while there should be a balance between these research goals, we must continue to address the applicability of research results at the local level. We support the continuation of research programs which are vital to agriculture on Guam.

Nutrition and Safety

We support the Governor's endorsement to allow all food products, including dairy, meat, and poultry to be shipped interstate if they have been approved by a state inspection program meeting federal standards.

Pesticides

Because Guam is in the tropics and majority of its crops are considered minor crops, we are being faced with pesticides with high usage being taken off the market because sales from minor use pesticides do not pay for the high cost of generating the data required by EPA. As a result, the lack of registered pesticides for use by the local agricultural industry is a major bottleneck to their further development. We support the Governor's recommendation to extend the time period for gathering data required for re-registration and by extending the registrant's exclusive data rights to such pesticides.

Forestry

We continue to support the program as is presently done.

Strategic Farmland

We fully support the recommendation of the Governors that the Farms for the future program should be changed to authorize one to one federal matching grant to states and state approved local jurisdictions to enhance the implementation of the farmland protection policy act. Across all federal

departments and agencies. Due to Guam's limited land resources for agriculture, this policy will enhance the protection of our valuable land resources from conversion to non-agricultural uses.

USDA Structure and Organization

We fully support USDA's ongoing reorganization efforts in the effort to improve federal coordination in the delivery of service to producers and the public.

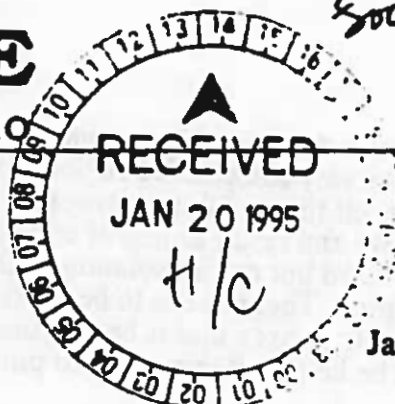


DEPARTMENT OF
COMMERCE

DIPATTAMENTON I KUMETSIO



DC-EDP-020-95a



January 18, 1995

MEMORANDUM

To: Director, Bureau of Planning

From: Director of Commerce

Subject: The 1995 Winter Meeting of the National Governor's Association;
Washington, D.C.; January 28-31, 1995

The documents provided regarding the upcoming NGA meeting are general and with no specific background on how they were developed nor details on possible changes in positions from the previous status on the specific topics. The Department of Commerce has not been involved in the federal programs indicated. Therefore, our comments are limited to general brief views concerning the issues.

The promotion of international trade is an area that Guam should support. With the increasing trans-Pacific trade, Guam can potentially play an important role. Guam's interest with APEC and GATT should be highlighted at the NGA meeting. We are currently looking at opportunities to develop new linkages with the rapidly growing Asian economies. It should be stressed that Guam provides an opportune location for U.S. companies entering and doing business in Asia. Guam should be promoted as a corporate regional base for servicing the Asian markets, since Guam, as the Western most U.S. territory, provides the stability of the U.S. as well as U.S. quality of life with education and medical services comparable to the continental U.S.

The fast track negotiation facilitates negotiations in trade agreements which could capture certain advantageous arrangements. However, in agreements that may impact directly or indirectly on Guam there should be an opportunity for Guam to provide input before adoption.

The economic and community development proposed block grants approach to programs would be desired in that it would provide greater flexibility to Guam in allocating the funds to critical areas. The issue of a highly regulated business

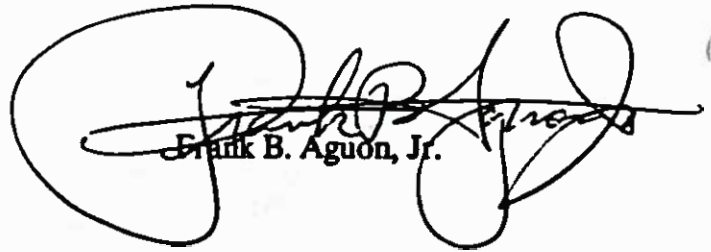


environment that is detrimental to economic development is an issue that should be addressed. In the very competitive region that Guam is associated with, namely Asia, it is important that regulatory procedures and requirements do not become counterproductive and result in loss of competitiveness. Environmental issues need to be fully addressed but not in isolation of the need for sustainable development of economic activities. There needs to be a balance between the two. The "one stop permitting" issue is an area that is being pursued by Guam at the local regulatory level. It would be helpful if this was also pursued at the federal level.

A uniform product liability code would limit the risk of businesses from potential legal action. This reduction of risk in doing business may stimulate economic activity that previously was considered too risky under U.S. regulatory structure.

The 1995 Farm Bill addresses issues of interest to Guam, but with our limited agriculture activity most of the programs would most likely not apply or are not designed for the scale of agriculture in Guam. In the area of research and development, Guam might want to emphasize some of its unique requirements as an island based agriculture industry. In addition, the inclusion of funding support for aquaculture industry development and research should be pursued for inclusion.

If you have questions regarding the above comments, please contact me at my office.



Frank B. Aguon, Jr.



GUAM ENVIRONMENTAL PROTECTION AGENCY

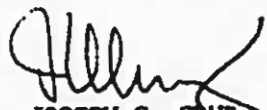
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AHEÑSIAN PRUTEKSION LINA'LA GUAHAN

INTER-AGENCY MEMORANDUM

TO: Chief Planner, Bureau of Planning
FROM: Administrator
SUBJECT: Review of NGA Proposed Policy Position

The Agency has reviewed the NGA proposed policy position. Although we are not involved with many of the Acts or Programs mentioned, the basic content of the proposed policy statement appears to be well written.

The only real concern we identified, with all the emphasis on the North American Free Trade Agreement, Export Enhancement Program, Foreign Market Development etc., is these efforts are more likely to benefit industry and Corporate Farms and have little economic benefit to the family-based farming operation. Special effort by the NGA is needed to ensure that family-based farmers benefit from this section of the 1995 Farm Bill.


JOSEPH C. CRUZ

"ALL LIVING THINGS OF THE EARTH ARE ONE"



Commonwealth Now!

TOTAL P.02

GOVERNOR'S BRIEFING BOOK

Committee on Natural Resources

4. NR-15: PROPOSED AMENDMENTS ON SAFE DRINKING WATER

BACKGROUND:

The amendments propose specific legislative recommendations consistent with the objectives of the state-local drinking water coalition to improve the drinking water statute by empowering state and local governments.

The positive fiscal benefit for states is by requiring the Environmental Protection Agency (EPA) to base future standards on an analysis of incremental costs and benefits and allowing states to target federal funds and requirements based on state and local priorities.

OBJECTIVES:

- Protect the quality of drinking water more cost-effectively by changing the current standard-setting process, allowing EPA to consider public health risk reduction benefits as well as costs.
- Allow states to establish monitoring requirements that reflect the conditions in a particular community, such as the extent to which contaminants have been found in water.

GUAM'S POSITION:

- ▶ No briefing papers were provided by agencies.

NR-15. SAFE DRINKING WATER

15.1 Preamble

The Governors are strongly committed to aggressively protecting public health and environmental quality. They consider full and effective implementation of environmental programs a PARTNERSHIP IN WHICH THE FEDERAL GOVERNMENT IS RESPONSIBLE FOR CONDUCTING RESEARCH AND SETTING STANDARDS AND THE STATES ARE RESPONSIBLE FOR PROGRAM IMPLEMENTATION ~~fundamental state responsibility.~~

The Governors, however, are troubled by ~~two increasingly prominent~~ obstacles to state compliance with federal environmental requirements. First, the Governors note a rapidly increasing disparity between demands PLACED ~~the federal government places~~ on states and localities and the resources PROVIDED ~~it provides~~ to meet those demands. Federal environmental programs delegated to states MUST ALLOW GOVERNORS THE FLEXIBILITY TO IMPLEMENT THEM IN ACCORDANCE WITH STATE AND LOCAL PUBLIC HEALTH PRIORITIES. IN ADDITION, FEDERAL PROGRAMS MUST PROVIDE ADEQUATE RESOURCES FOR STATE PROGRAM MANAGEMENT AND THE WATER SUPPLY COMMUNITY'S CAPITAL NEEDS TO COMPLY WITH NEW REQUIREMENTS. ~~all too often require significantly more resources than states and local governments have available.~~

Second, THE VALUES OF RISK-BASED RULEMAKING AND RISK ASSESSMENT PRINCIPLES HAVE NOT BEEN ADEQUATELY INCORPORATED INTO THE LAW. THIS HAS LED TO COSTS THAT OUTWEIGH BENEFITS AND TO REQUIREMENTS THAT ARE NOT JUSTIFIED BY THE RISKS TO PUBLIC HEALTH OR THE ENVIRONMENT.

~~Congress has been slow to recognize the value of risk-based rulemaking and to incorporate risk assessment principles into the law. As a result, some requirements are not justified by significant risks to public health or the environment, and the costs of a requirement sometimes outweigh its benefits.~~

The Safe Drinking Water Act program is an unfortunate illustration of these two obstacles to state compliance. Congress originally expected the act to apply to some 40,000 water systems, but by 1977 the states had identified more than 220,000 systems subject to federal regulation. AS OF SEPTEMBER 1993, STATE AND LOCAL GOVERNMENTS WERE REQUIRED TO IMPLEMENT U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) REGULATIONS CONTROLLING EIGHTY-FOUR CONTAMINANTS. THAT NUMBER WILL JUMP TO 111 BY DECEMBER 1995. ~~As of March 1992, states and local governments were required to implement~~

~~EPA regulations controlling thirty-five contaminants. That number will jump to sixty-two by December 1992; to eighty-four by November 1993; and to 111 by the beginning of 1997.~~

States and localities have made substantial progress in improving the protection of drinking water supplies. However, because of limited federal financial assistance, states currently are facing an annual shortfall of more than \$200 million in the funds needed to cover the regulatory costs of this program. The shortfall can only become more serious as the states attempt to respond to the additional rules. In addition, this figure does not include the program's capital or operational costs—significant expenses generally reflected in user fees.

States and localities are struggling to sustain the progress they already have made and to focus any additional available resources on contaminants that pose the greatest risk to users of public water supplies.

This challenge is particularly difficult now because implementation of the Safe Drinking Water Act must compete not only with other environmental programs required under, for example, the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act, but also with increasing demands for health care, education, correctional facilities, and other social programs at a time when most state budgets are shrinking or growing only modestly.

Despite these stresses, the states believe that it is possible to devise a drinking water program that protects public drinking water supplies but remains affordable. Such a program must revolve around risk-based priority setting, focusing on the most serious health risks and avoiding requirements that result in little health benefit; allow states increased discretion in allocating resources; and place a greater emphasis on pollution prevention.

15.2 RECOMMENDATIONS ~~Eight-Point Program~~

The Governors propose THE FOLLOWING RECOMMENDATIONS ~~an eight-point program~~ to revitalize implementation of the Safe Drinking Water Act. This program will require a new and stronger partnership among the states, EPA, and Congress.

ALTHOUGH EACH OF THE RECOMMENDATIONS WOULD HELP RESOLVE CURRENT PROBLEMS, THE ENTIRE PROPOSAL MUST BE ADOPTED TO ENSURE THE AMERICAN PUBLIC ADEQUATE PROTECTION OF DRINKING WATER SUPPLIES. IF ONLY SOME POINTS ARE ADOPTED, IMPLEMENTATION EFFORTS ARE LIKELY TO CONTINUE TO FALTER. IN PARTICULAR, THE GOVERNORS FEAR THAT THEIR DESIRE TO RETAIN PRIMACY WILL BE THWARTED UNLESS THESE RECOMMENDATIONS ARE ADOPTED IN FULL. IT WILL NOT BE POSSIBLE TO MAKE THE SAFE DRINKING WATER ACT WORK PROPERLY WITHOUT CONGRESSIONAL ACTION. THE GOVERNORS BELIEVE THAT CONGRESS SHOULD REAUTHORIZE THE SAFE DRINKING WATER ACT AS SOON AS FEASIBLE AND APPROVE AMENDMENTS TO PROVIDE FOR THE FOLLOWING:

- A REVISED PROCESS TO SELECT CONTAMINANTS FOR REGULATION BASED ON THEIR OCCURRENCE IN DRINKING WATER AND HEALTH EFFECTS DATA, AS OPPOSED TO EXISTING REQUIREMENTS FOR EPA TO REGULATE SPECIFIC CONTAMINANTS ON A SCHEDULE MANDATED IN THE STATUTE;
- A REVISED STANDARD-SETTING PROCESS TO ENSURE THAT EPA CONSIDERS RISK REDUCTION BENEFITS AND COSTS WHEN SETTING FEDERAL DRINKING WATER STANDARDS;
- ENHANCED STATE AUTHORITY TO PROVIDE MONITORING RELIEF TO SYSTEMS FOR CONTAMINANTS THAT DO NOT ACTUALLY OCCUR IN WATER AT LEVELS OF PUBLIC HEALTH CONCERN;

- ASSISTANCE FOR SMALL SYSTEMS BY REQUIRING EPA TO IDENTIFY THE "BEST AVAILABLE TECHNOLOGY" FOR SMALL AND MEDIUM DRINKING WATER SYSTEMS WHEN DEVELOPING DRINKING WATER REGULATIONS;
- A NEWLY CREATED DRINKING WATER STATE REVOLVING FUND (SRF) PROGRAM FOR STATES TO PROVIDE LOANS TO COMMUNITIES FOR DRINKING WATER INFRASTRUCTURE PROJECTS;
- GUBERNATORIAL AUTHORITY TO TRANSFER MONIES BETWEEN THE DRINKING WATER SRF AND THE CLEAN WATER SRF BASED ON STATE AND LOCAL PRIORITIES; AND
- FUNDING AUTHORIZATION FOR STATE MANAGEMENT OF DRINKING WATER PROGRAMS, BEGINNING AT \$100 MILLION.

Although each of the eight initiatives would help resolve current problems, the entire program must be adopted to ensure the American public adequate protection of drinking water supplies. If only some points are adopted, implementation efforts are likely to continue to falter. In particular, the Governors fear that their desire to retain primacy will be thwarted unless these recommendations are adopted in full.

The proposed eight point program demands action in three major areas: making statutory changes, improving program efficiency, and increasing the availability of resources.

15.2.2

Making Statutory Changes. It will not be possible to make the Safe Drinking Water Act work properly without congressional action. The Governors believe that the following three actions are the minimum necessary:

1. Until the Safe Drinking Water Act is reauthorized, Congress should freeze implementation of the national primary drinking water regulations at the thirty-five rules that states have implemented in full as of July 1992, and place a moratorium on promulgation of new rules. Congress should require that EPA conduct risk assessment studies of contaminants referenced in and listed pursuant to Safe Drinking Water Act section 1412. Congress should require that EPA promulgate and/or implement national primary drinking water regulations for any contaminants if the risk assessment studies indicate that regulation is justified by significant risk to public health.
2. Congress should reauthorize the Safe Drinking Water Act as soon as feasible and eliminate rigid provisions that require regulation of specified numbers of contaminants regardless of the risk they present. The law should allow EPA and the states to focus on the most significant remaining risks.
3. If the administrative proposals recommended in items 5 and 6 are not allowed under existing statutory authority, they should be incorporated in the reauthorization of the Safe Drinking Water Act. The goal is to have clear and simple standards and to allow states maximum flexibility in meeting these standards.

15.2.3

Improving Program Efficiency. The Governors believe the Environmental Protection Agency can make the Safe Drinking Water Program more efficient by modifying the way in which states and local governments implement their responsibilities, and make the following recommendations:

4. States should have flexibility to address the most serious environmental problems first and to shift funding between environmental programs to target the most significant risks.
5. In consultation with the states, EPA should examine existing administrative authorities to identify ways to allow states and localities to focus resources on the most significant public health risks. With appropriate public participation, states should be allowed flexibility to determine the scope of monitoring requirements. EPA should also streamline implementation of variance, exemption, and waiver procedures.
6. The Environmental Protection Agency should offer incentives to states and localities to encourage pollution prevention. For example, EPA should reduce expensive monitoring

and other regulatory requirements for water supply systems that have implemented effective wellhead and watershed protection initiatives.

-15.3.4

Increasing the Availability of Resources. No matter what other changes are made, adequately protecting the American public's drinking water supplies will require additional resources. Given the severe budget constraints facing all levels of government, each level must contribute. The Governors make the following recommendations:

7. If states have sufficient flexibility, an increase in federal government resources appropriated to states for implementation of the Safe Drinking Water Act to \$100 million will be adequate to help manage the present federal regulatory burden on primacy states. Future mandates should not be imposed unless federal resources are provided to meet 75 percent of the states' regulatory costs. The Governors note that federal monies cover strictly regulatory costs and will not help localities and water users meet significant system operation, monitoring, and capital costs.
8. The states should commit themselves to seeking additional resources from general funds or special fees to help close the remaining resource gap.

The Governors believe that, despite current resource limitations, these eight initiatives will shape a practicable program through which federal, state, and local governments can work together to ensure that public drinking water supplies are safer for all Americans in the most efficient possible manner.

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).

Adopted August 1992 (formerly Policy D-17).

GOVERNOR'S BRIEFING BOOK

Committee on Natural Resources

5. NR-16: PROPOSED POLICY POSITION ON RECREATION RESOURCES

BACKGROUND:

The new policy recommends consideration and support of recreation resource issue as addressed by the 1994 National Park Service committee report. As the issue is of importance to the Governors, the policy establishes guiding principles in support of a nationwide network of recreation, park, and open space areas.

The positive fiscal benefit for states is in the reevaluation and coordination of federal funds for the conservation and maintenance of recreation resources.

OBJECTIVE:

- The creation of a nationwide network of recreation, park, and open space areas should be guided by principles developed by the NGA committee on Natural Resources.

GUAM'S POSITION:

► Department of Parks and Recreation

The Department supports the new policy. Guam is currently participating in one of the programs of the National Park Service, that is, the Land and Water Conservation Fund (LWCF), receiving a yearly grant of \$25,000.

The Department recommends that a minimum amount should be guaranteed to each political subdivision of the U.S. (state, territory, or commonwealth) that receives the grant. Based on a goal nationwide of \$1 billion annually, the minimum we should get is \$1 million.

NR-16. RECREATION RESOURCES

16.1 PREAMBLE

DEMAND FOR OUTDOOR RECREATION OPPORTUNITIES HAS EXPANDED CONSTANTLY 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. MEETING THIS CHALLENGE ALSO IS INTEGRAL TO ADDRESSING OTHER NATIONAL PROBLEMS ASSOCIATED WITH CRIME, DELINQUENCY, DISINTEGRATION OF FAMILIES, EXPENSIVE HEALTH CARE, SEVERE YOUTH UNEMPLOYMENT, DETERIORATION OF COMMUNITIES, MISSED ECONOMIC DEVELOPMENT OPPORTUNITIES, AND ENVIRONMENTAL DEGRADATION.

16.2 A NEW VISION FOR AMERICA'S PARKS

IN JANUARY 1994, THE NATIONAL PARK SERVICE CONVENED A SPECIAL COMMITTEE TO REVIEW THE STATE AND LOCAL PORTION OF THE LAND AND WATER CONSERVATION FUND (LWCF) AND THE URBAN PARK AND RECREATION RECOVERY (UPARR) PROGRAM. THE COMMITTEE ISSUED ITS FINAL REPORT IN AUGUST 1994 WITH THREE MAJOR RECOMMENDATIONS. THE REPORT CALLED FOR THE COMBINATION OF THE LWCF AND UPARR PROGRAMS INTO A SINGLE NEW PROGRAM, FOR THE CREATION OF A NEW INSTITUTION TO MANAGE RECREATION ASSISTANCE PROGRAMS, AND FOR ANNUAL APPROPRIATIONS OF AT LEAST \$1 BILLION TO HELP MEET THE RECREATION AND CONSERVATION NEEDS OF THE NATION AND TO ADDRESS IMBALANCES IN FUNDING AVAILABLE TO STATE AND LOCAL GOVERNMENTS.

MOST IMPORTANTLY, THE REPORT SET FORTH A NEW VISION FOR AMERICA'S PARKS—A VISION OF A SAFE, CLEAN, PLANNED NETWORK OF PARKS, NATURAL AREAS, GREENWAYS, AND RECREATION SITES STRETCHING ACROSS THE NATION, TOUCHING ALL COMMUNITIES, AND ACCESSIBLE TO ALL AMERICANS. THIS DIVERSE NETWORK EMBRACES AREAS SUCH AS VERMONT'S KNIGHTS ISLAND STATE PARK; THE MOUNTAINS-TO-SOUND GREENWAY IN THE STATE OF WASHINGTON; THE JFK RECREATION CENTER IN NEWARK, NEW JERSEY; THE SALT PLAINS NATIONAL WILDLIFE REFUGE IN OKLAHOMA; POPULAR

RAIL-TRAILS IN NUMEROUS STATES; AND THOUSANDS OF OTHER PRIVATE, LOCAL, STATE, AND FEDERAL PARK AND OPEN SPACE AREAS AVAILABLE FOR PUBLIC USE AND ENJOYMENT. THIS NETWORK WILL BE CRAFTED BY NEW PARTNERSHIPS AMONG ALL LEVELS OF GOVERNMENT AND THE PRIVATE SECTOR AND WILL BE BASED UPON THE ACTIVE INVOLVEMENT OF A BROAD SPECTRUM OF CITIZENS.

THE GOVERNORS SUPPORT BOTH THE VISION SET FORTH IN THE BLUE-RIBBON COMMITTEE'S REPORT AND THE COMMITTEE'S THREE MAJOR RECOMMENDATIONS. THE GOVERNORS RECOMMEND THAT THE VISION AND RECOMMENDATIONS FORM THE BASIS OF A NEW AMERICAN PARKS INITIATIVE AND PROVIDE THE FOUNDATION FOR A RENEWED NATIONAL COMMITMENT TO PROVIDE QUALITY OUTDOOR RECREATION OPPORTUNITIES FOR ALL AMERICANS.

16.3 GUIDING PRINCIPLES

THE GOVERNORS BELIEVE THAT THE CREATION OF A NATIONWIDE NETWORK OF RECREATION, PARK, AND OPEN SPACE AREAS SHOULD BE GUIDED BY THE FOLLOWING PRINCIPLES OUTLINED IN THE COMMITTEE REPORT.

- PRIORITIES FOR SPENDING FUNDS MUST FLOW FROM CITIZENS INVOLVED IN LOCAL, STATE, AND NATIONAL PLANNING ACTIVITIES. PLANNING FOR THE NETWORK MUST ACTIVELY INVOLVE BROAD SEGMENTS OF THE PUBLIC IN DETERMINING THEIR FUTURE.
- PROGRAMS FOR LAND CONSERVATION, PRESERVATION OF CULTURAL LANDSCAPES, AND PARK DEVELOPMENT MUST REQUIRE A SHARED PARTNERSHIP AMONG CITIZENS, PRIVATE LANDOWNERS, AND ALL LEVELS OF GOVERNMENTS AND WITH PRIVATE NONPROFIT ORGANIZATIONS.
- THE EQUITY OF PRIVATE PROPERTY OWNERS MUST BE RESPECTED IN THE IMPLEMENTATION OF RECREATION AND CONSERVATION PROGRAMS.
- THE NATION MUST STRIVE FOR EQUAL ACCESS TO RECREATION OPPORTUNITIES AND EQUAL ENVIRONMENTAL QUALITY FOR ALL AMERICANS.
- NATIONAL STRATEGIES AND PROGRAMS THAT AID STATE AND LOCAL GOVERNMENTS SHOULD BE FLEXIBLE, EFFECTIVE, AND EFFICIENT.

16.4 FUNDING

THE GOVERNORS BELIEVE THAT CONGRESS SHOULD ESTABLISH A MECHANISM TO PROVIDE ADEQUATE AND PREDICTABLE FUNDING TO SUPPORT A NEW AMERICAN PARKS INITIATIVE. THE GOVERNORS SUPPORT THE PRINCIPLE THAT PROCEEDS FROM NONRENEWABLE NATURAL RESOURCES DEPLETION SHOULD BE REINVESTED IN NATURAL AND CAPITAL RESOURCES OF PERMANENT VALUE TO THE NATION.

THE GOVERNORS RECOMMEND THAT CONGRESS GIVE FULL CONSIDERATION TO THE ALLOCATION OF FUNDS TO FEDERAL AGENCIES, STATE GOVERNMENTS, AND URBAN AREAS, AS RECOMMENDED IN THE NATIONAL PARK SERVICE COMMITTEE'S REPORT. FURTHER, THE GOVERNORS SUPPORT RESERVING A PORTION OF THE FUNDING TO MEET NATIONAL PRIORITIES, AS DESIGNATED BY CONGRESS.

16.5 FEDERAL RESPONSIBILITY AND PARTNERSHIP

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 PROGRAM TO PROVIDE RECREATIONAL OPPORTUNITY FOR ALL CITIZENS. NEW FEDERAL INSTITUTIONAL ARRANGEMENTS ARE NEEDED TO GIVE GREATER VISIBILITY AND AUTHORITY TO RECREATIONAL PROGRAM ADMINISTRATION, ENSURE ADEQUATE FINANCIAL ASSISTANCE TO THE STATES, AND FOSTER INNOVATIVE STATE, LOCAL, AND PRIVATE PROGRAM PARTNERSHIPS. THE EFFICIENCY AND EFFECTIVENESS OF FEDERAL RECREATIONAL SUPPORT CAN BE ENHANCED.

16.6 RAILROAD RIGHTS-OF-WAY

THE GOVERNORS BELIEVE THAT WHERE IT IS CONSISTENT WITH STATE LAW AND RECOGNIZES THE CONCERNS OF ADJACENT LANDOWNERS, 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 DEPARTMENTS 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 AND INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT 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 . . . ACROSS THE COUNTRY."

Time limited (effective Winter Meeting 1995-Winter Meeting 1997).



DEPARTMENT OF PARKS AND RECREATION
GOVERNMENT OF GUAM
AGANA GUAM 96910

JAN 24 1995

MEMORANDUM

To: The Governor
From: Chief Planner, Bureau of Planning
From: Director, Department of Parks and Recreation
Subject: Request for Briefing Papers: The 1995 Winter Meeting of the National Governor's Association; Washington, D.C.; January 28-31, 1995

NR-16 RECREATION RESOURCES

According to the National Governors' Association briefing report, the National Park Service in their August, 1994 report, which the Department of Parks and Recreation has not seen, recommends merging the Land and Water Conservation Fund (LWCF) with the Urban Park and Recreation Recovery program (UPARR). The report further recommends creating a new institute to manage these programs and an annual appropriation of a least \$1 billion to help meet the recreation and conservation needs of the nation.

Guam participates in the LWCF receiving the minimum yearly of \$25,000. This amount is very small as compared to our needs, to stateside apportionments and even prior appropriations in the 1970s. However, the nationwide apportionment is based on population and considering the small nationwide annual appropriations, \$25,000 isn't that bad. Guam has not participated in the UPARR even though there was language in the law for a specific amount for territories.

Therefore, we recommend support of NR-16, but suggest that a minimum amount be guaranteed to each political subdivision of the United States (state, territory or commonwealth) that receives the grant. Based on a goal nationwide of \$1 billion annually, the minimum should be \$1 million.


A.J. SHELTON
Acting



Commonwealth Now!

GOVERNOR'S BRIEFING BOOK

Committee on Natural Resources

6. NR-17: PROPOSED REAFFIRMATION (WITH TECHNICAL AMENDMENT) ON GEOLOGIC MAPPING

BACKGROUND:

To reaffirm the existing policy confirms the importance of geologic mapping and the need to expand and update coverage. The Governors agreed that this could be accomplished through a partnership between state geological surveys and the federal government.

To prevent the negative fiscal impact for states is by reducing the potential duplication of effort by federal and state agencies in producing geologic maps.

OBJECTIVE:

- To build the nation's geologic map database through a state program in partnership with the federal government.

GUAM'S POSITION:

► Bureau of Planning

The Bureau fully supports the reaffirmation of the policy. Guam has realized the importance of the mapping data system and has invested into the Geographic Information System (GIS)/Land Information System (LIS) to better plan and manage the island's resources. Various applications of the mapping data system is quite costly, thus, the Bureau recommends federal programs that will assist state agencies through a cost sharing partnership that will expedite collection and conversion of mapping data.

NR-17. GEOLOGIC MAPPING**17.1 Preamble**

Geologic maps are a principal source of critical earth-related information required by federal, state, and local government agencies and the private sector. They are essential for numerous assessments, evaluations, and decisions related to the economic development and maintenance of the environment of the nation. These maps provide vital information needed for land-use planning. In particular, they are indispensable for locating disposal sites for municipal, hazardous, and radioactive wastes; locating and protecting surface water and groundwater resources; locating and developing mineral and energy resources; reducing the risks from earthquakes, landslides, and ground failure hazards; predicting hazards from volcanoes and from stream and shoreline erosion; siting critical emergency facilities; routing highways and public utility lines; and investigating basic earth science matters.

17.2 Recommendations

Geologic map coverage of the nation, however, is critically out of date and insufficient to meet the demands of private, industrial, and government agency users. The nation's Governors strongly support national legislation to build the nation's geologic map database through a program to be implemented in equity partnership between the states (through their Geological Surveys or other designated agencies) and the federal government (through the U.S. Geologic Survey). The program must be sufficiently funded at both the federal and state levels to permit achieving complete geologic map coverage for the nation at an appropriate level of detail within a reasonably short period of time.

*Time limited (effective Winter Meeting 1995-Winter Meeting 1997).
Adopted August 1991 (formerly Policy D-16).*

REAFFIRMATION OF THE GEOLOGIC MAPPING POLICY

The Bureau of Planning fully supports the reaffirmation of the Geologic Mapping policy. The Government of Guam has invested into Geographic Information Systems/Land Information Systems to better plan and manage the island's resources. The Bureau of Planning has taken an active role in converting the island's nature and manmade constraints, infrastructure and developing an island-wide parcel base map. We have also invested into digital orthophotography. This product will act as a backdrop for various other applications. We have realized the importance of maintaining mapping data that is accurate and up-to-date. Various applications have been created from the mapped geologic data. However, this effort has been quite costly.

To insure that this data remains a valuable resource and to meet the demands of the users, complete geologic map coverage is important. A program that will assist state agencies through a cost sharing partnership will expedite the collection and conversion of mapping data. Computerization and telecommunication has enabled data to be shared among various users. For this data to continue to be valuable, data needs to be complete, accurate and up-to-date.